

Class Action

Amazon Asks Ninth Circuit to Review Alexa Privacy Damages Class

July 23, 2025, 10:55 AM PDT

Summary by Bloomberg AI

AI Generated



- Amazon said a federal district court erroneously certified a class of every registered Alexa user who may have had their conversations recorded by the virtual assistant.
- Amazon argued that the certified class includes many people that Alexa never recorded and that proving who was harmed would be time-consuming.
- Amazon said a court under Ninth Circuit precedent can't certify a class that includes uninjured people, calling the certified class overbroad.

Amazon said a federal district court erroneously certified a class of every registered Alexa user who may have had their conversations recorded by the virtual assistant.

The Washington-based multinational company asked the US Court of Appeals for the Ninth Circuit to review whether the damages class includes members who lack standing, and if the lower court failed to properly review how plaintiffs would prove or calculate damages.

Alexa retains audio recordings of its users for training purposes, something Amazon said it discloses. Sometimes the voice-activated assistant activates on a false trigger, or wake, and could "in theory" record something it wasn't supposed to, Amazon's Ninth Circuit brief said.

But the Western District of Washington certified a state Consumer Protection Act damages class that Amazon argued includes many people that Alexa never recorded.

Amazon said proving who was harmed would be time-consuming because it would require "a review of every recording, on every account, for every one of the millions of putative class members." Amazon's brief said plaintiffs have already struggled to identify their own voices in the available files.

A court under Ninth Circuit precedent can't certify a class that includes uninjured people, Amazon said, calling it overbroad. And in proving which registered Alexa users were injured or not, individualized issues would overwhelm shared ones, the company said.

Amazon said “unfortunately,” the Supreme Court decided not to clarify whether a damages class could include uninjured people. Justice Brett Kavanaugh indicated in a dissent that, had the high court not dismissed the case as improvidently granted, he would’ve said a rule bars certifying classes with injured and uninjured members.

The lower court also certified an injunctive class under Washington’s Consumer Protection Act, but declined to bless wiretap classes of those who hadn’t registered an Alexa but lived with someone with an active device in one of six states.

Amazon’s arguments over which class members were injured were speculative or narrow, Judge Robert S. Lasnik said, declining to “allow speculation and surmise to tip the decisional scales at class certification.”

Individualized damages by themselves weren’t sufficient to defeat class certification either, Lasnik said.

Byrnes Keller Cromwell LLP is liaison counsel for the class. Labaton Keller Sucharow LLP and Robbins Geller Rudman & Dowd LLP are co-lead class counsel.

Fenwick & West LLP represents Amazon.

The case is *Garner v. Amazon.com Inc.*, 9th Cir., No. 25-4510, petition 7/21/25 .

To contact the reporter on this story: Ufonobong Umanah in Washington at uumanah@bloombergindustry.com

To contact the editor responsible for this story: Jeffrey Horst at jhorst@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Securities Law News

Easterly Sued Over Recent Collapse of Municipal Bond Mutual Fund

July 23, 2025, 11:27 AM PDT

Misrepresentations by Easterly Funds Trust, its investment advisers, and others caused the “virtually unprecedented” collapse of Easterly’s high-yield municipal-bond fund in June, an investor alleges.

The Easterly RocMuni High Income Municipal Bond Fund’s total net assets dove from more than \$230 million on March 31 to less than \$17 million on July 8, Troyt Victorson says. Victorson filed his complaint Tuesday in the US District Court for the Southern District of New York.

The fund’s offering materials represented that it “maintained rigorous pricing and valuation policies and procedures” that were independently corroborated, “with effective concentration and liquidity limits designed to effectively mitigate risks,” Victorson says.

But James Alpha Funds Trust, which does business as Easterly, marked down the share value by 30% on June 13, and the share value continued to fall over subsequent days, he says. “Hundreds of millions of dollars’ worth of investor capital simply evaporated,” he said. The fund is managed in part by its investment adviser, Easterly Investment Partners LLC, according to the complaint.

The fund’s net asset value dropped nearly 50% on June 13 and subsequent days as it sold off illiquid muni market securities, Bloomberg News reported June 17.



The proposed class consists of hundreds or thousands of members, the complaint estimates.

Victorson seeks compensatory damages and rescission on his claims of offering-document misstatements under the Securities Act of 1933.

Easterly didn't immediately respond to an email requesting comment. The fund's former adviser Principal Street Partners LLC—which is now called Calydon Partners and is listed as a codefendant—declined to comment. Quasar Distributors LLC, also named as a defendant, couldn't be reached for comment.

Robbins Geller Rudman & Dowd LLP represents Victorson.

The case is Victorson v. James Alpha Funds Tr., S.D.N.Y., No. 1:25-cv-06028, complaint 7/22/25.

To contact the reporter on this story: Martina Barash in Washington at mbarash@bloomberglaw.com

To contact the editor responsible for this story: Brian Flood at bflood@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

News from Bloomberg Terminal

Judge Withdraws Pharma Opinion After Lawyer Flags Made-Up Quotes

July 23, 2025, 2:04 PM PDT

Summary by Bloomberg AI

AI Generated



- A New Jersey US district court judge, Julien Xavier Neals, withdrew his decision in a biopharma securities case after lawyers complained that his opinion contained numerous errors, including made-up quotes and misstated case outcomes.
- Lawyers, including Andrew Lichtman, who represents CorMedix, pointed out flaws in Neals' opinion, saying it "contains pervasive and material inaccuracies" and includes quotations from case law and pleadings that cannot be found in the sources cited.
- Neals declined to comment on the case, and a subsequent opinion and order will follow, according to a notice the court posted in the case docket.

By Justin Henry

(Bloomberg Law) --

A New Jersey US district court judge withdrew his decision in a biopharma securities case Wednesday after lawyers complained that his opinion contained numerous errors, including made-up quotes and misstated case outcomes.

Judge Julien Xavier Neals of the US District Court for the District of New Jersey on June 30 denied CorMedix Inc.'s request to dismiss a lawsuit by shareholders. "That opinion and order were entered in error," according to a notice the court posted in the case docket on Wednesday. "A subsequent opinion and order will follow."

Willkie Farr & Gallagher partner Andrew Lichtman, who represents CorMedix, wrote Neals on Tuesday, telling the judge he may want to "consider whether amendment or any other action should be taken" in regard to errors he made in his June 30 decision. Lawyers in a separate case earlier this month also pointed out flaws in Neals' CorMedix opinion, saying it "contains pervasive and material inaccuracies."

The case shows a rare example of a judge being called out for the sort of elementary mistakes in legal drafting that courts have more frequently pointed out in the work of lawyers. Such flaws have come to the fore as lawyers increasingly rely on artificial intelligence to assist in case preparation, though there is no mention of AI in the complaints the attorneys have directed at Judge Neals.

A representative for Neals' chamber said the judge declined to comment on the case.

Absent Quotes

In the CorMedix case, a class of shareholders alleges the company lied about its drug DefenCath during an ill-fated bid to win US Food and Drug Administration approval.

Neals in his June 30 denial of CorMedix's motion to dismiss referred to the court in *Dang v. Amarin Corp.* as describing defendants' conduct as "classic evidence of scienter," though that case didn't contain the quote. He also quoted a court in a case involving tech consulting firm Intelligroup as saying that certifications by company executives became "false statements in their own right," though that quotation doesn't exist in the case.

Neals' opinion referenced a case captioned *Stichting Pensioenfonds Metaal en Techniek v. Verizon Commc'ns Inc.* in the Southern District of New York, though Lichtman said no such case exists in that venue. "We believe the court was referring to a case with the same caption from the District of New Jersey," the lawyer wrote.

Lichtman's letter also noted that the opinion attributes two quotes to CorMedix the company is not alleged to have made. He noted in his letter to Neals, however, that he was not requesting reconsideration of the opinion.

Lichtman declined to comment.

AI 'Carelessness'

Several lawyers have made news for AI-generated case citations that turned out to be false. Last year, two Manhattan lawyers were fined \$5,000 for filing a ChatGPT-generated court brief. Last month, the Court of Appeals for the Fifth District of Texas imposed a \$2,500 sanction against a lawyer for submitting a brief that cited non-existent cases.

"The use of AI or other technology does not excuse carelessness or failure to follow professional standards," the panel of judges wrote.

Bruce Green, a legal ethics professor at Fordham Law School, noted that judges, too, can face sanctions for the kind of errors they find in lawyers' work. Discipline rules state that a judge shall perform judicial and administrative duties competently and diligently, according to Green.

Neals' June 30 opinion has already influenced a parallel case also playing out in the US District Court for the District of New Jersey. That case also centers on allegations by shareholders that a biopharma company—in this instance, Outlook Therapeutics Inc.—lied to them about a product.

Citing Neals' decision as a "supplemental authority," lawyers for Outlook shareholders argued against the company's motion for dismissing the class action. A team of lawyers at Cooley who are defending Outlook raised the false citations in a July 15 response.

"The CorMedix decision contains pervasive and material inaccuracies," Cooley lawyers Caroline Pignatelli and Sarah Lightdale said. "It mischaracterizes key authorities and includes quotations from case law and pleadings that cannot be found in the sources cited."

The lawyers said the existence of fake quotes "at a minimum severely curtails any persuasive value" of the decision. The Cooley lawyers did not respond to a request for comment.

Reached for comment, lawyers at Pomerantz who are representing shareholders in the case against Outlook, indicated they were withdrawing their notice of supplemental authority.

– With reporting by Elleiana Green

The case is *In Re CorMedix Inc. Securities Litigation*, D.N.J., 2:21-cv-14020, 7/22/25

To contact the reporter on this story: Justin Henry in Washington DC at jhenry@bloombergindustry.com

To contact the editors responsible for this story: John Hughes at jhughes@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

WILLKIE FARR & GALLAGHER LLP

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

July 22, 2025

VIA ECF

The Honorable Julien X. Neals
United States District Court
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

Re: *In re CorMedix Securities Litigation*, No. 21-cv-14020 (D.N.J.)

Dear Judge Neals,

We write on behalf of Defendants in connection with the Court's June 30, 2025 Opinion, which denied Defendants' motion to dismiss. ECF No. 114 (the "Opinion" or "Op.").

While Defendants do not seek reconsideration of the Opinion pursuant to Federal Rule of Civil Procedure 59(e), we wish to bring to the Court's attention a series of errors in the Opinion—including three instances in which the outcomes of cases cited in the Opinion were misstated (i.e., the motions to dismiss were granted, not denied) and numerous instances in which quotes were mistakenly attributed to decisions that do not contain such quotes—so that the Court may consider whether amendment or any other action should be taken. We also write to alert the Court that these and related issues have been raised in a parallel securities class action lawsuit pending in the District of New Jersey and are the subject of briefing in that case. *See In re Outlook Therapeutics, Inc. Sec. Litig.*, 2:23-cv-21862 (D.N.J.).

First, the Opinion cites approvingly to *Dang v. Amarin Corp. PLC*, 750 F. Supp. 3d 431 (D.N.J. 2024). The Opinion says: "In *Dang v. Amarin Corp. PLC*, the court applied the core operations doctrine where executives made misleading statements about Vascepa, the company's only product, while ignoring FDA Form 483s and audits identifying significant regulatory risks." Op. at 22. However, the *Dang* court dismissed the plaintiffs' securities fraud complaint and specifically rejected the plaintiffs' argument under the "core operations" doctrine. 750 F. Supp. 3d at 476 ("Plaintiffs' related reliance on the 'core operations' doctrine fails for the same reason."). In determining that the plaintiffs failed to allege misleading statements about Vascepa, the court explained that "the core operations doctrine does not permit imputing the requisite scienter regarding any statement made within a broad perimeter of the

July 22, 2025
Page 2

relevant core operations to an executive.” *Id.* at 477. In addition, the Opinion states that the executives in *Dang* “ignor[ed] FDA Form 483s and audits identifying significant regulatory risks,” Op. at 22, but *Dang* does not contain any discussion of FDA Form 483s or audits. Similarly, the Opinion quotes *Dang* as referring to “classic evidence of scienter,” *id.* at 20, but the case does not contain that quote.

Second, the Opinion relies on *In re Intelligroup Securities Litigation*, 527 F. Supp. 2d 262 (D.N.J. 2007), to support the following proposition: “Courts have repeatedly held that SOX certifications can support a strong inference of scienter when executives certify internal controls while aware of or recklessly disregarding serious deficiencies, especially when the issues pertain to core operations.” Op. at 24. The Opinion goes on to say that, “[i]n *Intelligroup*, the court found that certifying executives made actionable misstatements by signing SOX certifications despite knowledge of serious internal control failures. The certifications became ‘false statements in their own right’ where executives were aware of red flags or contradictory information.” *Id.* However, as in *Dang*, the court in *Intelligroup* granted the defendants’ motion to dismiss in its entirety. The court concluded that the plaintiffs failed to allege scienter, and explicitly concluded that “[it] does not draw any inferences of Defendants’ scienter from their SOX certifications.” *Intelligroup*, 527 F. Supp. 2d at 372. Moreover, *Intelligroup* does not contain the quotation about “false statements in their own right,” as referenced in the Opinion. Op. at 24.

Third, the Opinion contains the following statement in the scienter section: “Similarly, in *Stichting Pensioenfonds Metaal en Techniek v. Verizon Commc ’ns Inc.*, No. 23-05218, 2021 WL 3540968, at *15-17 (S.D.N.Y. Aug. 10, 2021), access to internal emails and memos warning about inaccuracies supported a finding of scienter.” Op. at 19. We have not been able to identify this case from the Southern District of New York, but we believe the Court was referring to a case with the same caption from the District of New Jersey. See *Stichting Pensioenfonds Metaal en Techniek v. Verizon Commc ’ns Inc.*, 775 F. Supp. 3d 826 (D.N.J. 2025). In *Stichting*, the court granted the defendants’ motion to dismiss in its entirety and specifically rejected all of the plaintiffs’ arguments in support of scienter. *Id.* at 848 (“For the reasons indicated below, I find that all five of plaintiffs’ arguments are meritless . . . [A]n inference that defendants lacked scienter is more plausible than an inference that defendants made statements with scienter.”). Moreover, *Stichting* does not have any discussion of “internal emails” or “memos.”

Fourth, the Opinion attributes two quotes to *City of Warwick Retirement System v. Catalent, Inc.*, No. 23-1108, 2024 WL 3219616 (D.N.J. June 28, 2024), but they are not contained in that case. Op. at 17 (“The absence of insider trading is not dispositive.”); *id.* (“The importance of the product to the company’s financial success supports the inference of scienter.”).

Fifth, the Opinion also attributes a quote to *Roofer’s Pension Fund v. Papa*, No. 16-2805, 2018 WL 3601229 (D.N.J. July 27, 2018), but the quote is not found in that case. Op. at 27 (“The lack of any competing inference that is more plausible than Plaintiffs’ suggested inference . . . reinforces a strong inference of scienter.”).

Finally, in addition to the above case citations, the Opinion attributes two quotes to Defendants that they are not alleged to have made. Specifically, the Opinion says: (1) “Todisco publicly stated that CorMedix . . . had ‘resolved all issues related to manufacturing,’” Op. at 16 (quoting TAC ¶ 6); and (2) “CorMedix issued statements in October 2019 . . . that the company had ‘all necessary controls and processes in

July 22, 2025
Page 3

place for approval,”” *id.* (quoting TAC ¶ 7). These quotes are not contained in the TAC or the materials underlying the two cited paragraphs.

By way of further background, on July 7, 2025, the Opinion was submitted as “Supplemental Authority” in a parallel securities class action pending in the District of New Jersey. *See In re Outlook Therapeutics, Inc. Sec. Litig.*, 2:23-cv-21862 (D.N.J. July 7, 2025), ECF No. 73 (*See* Exhibit A). Last week, the defendants in that case filed a response, which raised some of the issues addressed in this letter. *Outlook*, ECF No. 74 (*See* Exhibit B).

We are available to discuss further should the Court have any questions.

Respectfully Submitted,

/s/ Andrew Lichtman
Andrew Lichtman

Stitch Fix executives accused of insider trading

DJ[dailyjournal.com/articles/386709-stitch-fix-executives-accused-of-insider-trading](https://www.dailyjournal.com/articles/386709-stitch-fix-executives-accused-of-insider-trading)

Jul. 24, 2025

Shareholders sued Stitch Fix executives and directors, alleging insider trading and fiduciary breaches tied to the Freestyle program, which they claim severely hurt the company's subscription model and stock value.

Four former executives for Stitch Fix Inc., a subscription-based clothing retailer, and a company investor were accused of insider trading between 2020 and 2022, when the company's stock fell 90% after it began selling items piece by piece.

The shareholder lawsuit, filed in San Francisco federal court on Tuesday, also accused six current and former Stitch Fix directors of fiduciary breaches over claims they misrepresented the "cannibalistic" impact of the 2020 launch of an individual clothing item purchase program, known as "Freestyle."

Stitch Fix grew rapidly with a subscription model charging customers monthly for curated clothing boxes. The shareholders claim the Freestyle program "cannibalized" the company's business model because customers could make one-time, single purchases instead of paying a monthly fee. At its peak, the company's market cap was \$11 billion. Now, however, Stitch Fix is "just another e-commerce retailer," according to the complaint.

The plaintiffs want to claw back \$102 million in alleged "insider trading profits" from a group of defendants that includes former CEO and founder Katrina Lake, who allegedly sold \$69.2 million worth of stock in 2021. The shareholders accused Lake of trading her shares while having "material nonpublic information" that the Freestyle program was going to tank the business. *Schultz v. Lake et al.*, 3:25-cv-06152 (N.D. Cal. filed July 22, 2025).

Lake and Stitch Fix's media relations office could not be reached for comment Wednesday. Lake and the company denied wrongdoing in a Nov. 8 motion to dismiss a separate securities class action brought by investors on the same facts as the latest shareholder complaint. That case is pending.

Brendan M. Ford of Ford & Diulio PC in Costa Mesa, alleged in the complaint that executives' and board members' stock sales between December 2020 and March 2022 violated federal law.

"As Stitch Fix Inc's deteriorating performance became increasingly clear to management, especially defendant Lake, who was the Stitch Fix CEO and person with the most insight into the company's catalysts, and other Stitch Fix insiders began to sell substantial stock-- with defendant Lake selling almost \$70,000,000 in stock in 2021 alone, the most defendant Lake had ever sold in a single year," the complaint stated. "Despite having this knowledge of material nonpublic information, the insider trading defendants sold tens of millions of dollars of stock while concealing the fact that its business would soon experience severe headwinds with a concomitant stock price drop."

Brett H. De Jarnette of Cooley LLP, one of Lake and Stitch Fix's attorneys in the separate case, argued in the motion to dismiss that Lake's stock sales between June 2020 and June 2022 complied with applicable securities laws.

"Ms. Lake sold more shares in the 24-month period before the class period than during it - 2,233,661 vs. 2,146,130 undermining any inference of scienter," the motion stated.

"Plaintiffs concede that all of Ms. Lake's sales were made pursuant to a 10b5-1 trading plan, which negates an inference of scienter."

That motion to dismiss was granted in part by U.S. District Judge P. Casey Pitts on July 9 but the plaintiffs were granted leave to amend.

The following attorneys also represent the shareholder plaintiffs that filed the lawsuit Tuesday: Kristopher P. Diulio of Ford & Diulio PC; Lee Squitieri of Squitieri & Fearon LLP in New York City; and Fletcher Moore of Moore Law PLLC in New York City.

#386709

Wisdom Howell

Daily Journal Staff Writer

wisdom_howell@dailyjournal.com

Securities Law News

RxSight Investor Sues After 2025 Revenue Cut on Eye Device Sales

July 23, 2025, 10:55 AM PDT

RxSight Inc. concealed its medical device sales were hurt by slow adoption of its cataract surgery eye lenses before lowering its 2025 revenue forecast and enduring record stock drops, a proposed class action said.

The medical technology company slashed its 2025 guidance on April 2 and July 8 while delivering quarterly financial results. About two weeks ago, RxSight cut this year's revenue outlook to between \$120 million and \$130 million from between \$160 million and \$175 million. Share prices fell 37.8% to close at \$7.95 the next day, the stock's steepest single-day slide since April, according to data compiled by Bloomberg.

RxSight's stock price had plummeted 37.9% to close at \$16.21 a share on April 3—its biggest one day drop on record since RxSight went public four years ago—the day after it previously reduced its outlook.

Before then, RxSight and top executives rosily touted demand while failing to disclose "adoption challenges" for its light adjustable lenses over the last few fiscal quarters were hurting sales of its light delivery devices, which make small adjustments to the eye implants' power after surgery, said investor's complaint filed in the US District Court for the Central District of California on Tuesday.



“Guided by insights from our second quarter underperformance and building on our long-term vision, we are evolving our commercial approach to re-direct more of our focus toward supporting customer success within new and existing practices,” CEO Ron Kurtz said in a July 8 press release. “By deepening our engagement with our clinical partners, we believe we will be better positioned to ensure they can fully realize the benefits of adjustability and achieve the superior outcomes for their patients that ultimately drive further LAL adoption.”

Investor Rumen Makaveev sued RxSight, Kurtz, and chief financial officer Shelley Thunen. The proposed class would include those who got RxSight stock from Nov. 7, 2024, through July 8, 2025.

Glancy Prongay & Murray LLP and the Law Offices of Howard G. Smith represent Makaveev, who seeks damages for alleged Securities Exchange Act of 1934 violations.

RxSight didn’t immediately respond to an email seeking comment.

The case is Makaveev v. RxSight, Inc. , C.D. Cal., No. 8:25-cv-01596, complaint filed 7/22/25 .

Intel beats shareholder lawsuit over \$32 billion stock plunge



reuters.com/sustainability/boards-policy-regulation/intel-beats-shareholder-lawsuit-over-32-billion-stock-plunge-2025-07-24

Jonathan Stempel

July 24, 2025

Intel logo is seen near computer motherboard in this illustration taken January 8, 2024.

REUTERS/Dado Ruvic/Illustration/File photo [Purchase Licensing Rights, opens new tab](#)

July 24 (Reuters) - A federal judge dismissed a lawsuit accusing Intel ([INTC.O](#)), [opens new tab](#) of defrauding shareholders by concealing problems in a business where it manufactured chips for outside customers, leading to a \$32 billion one-day plunge in its market value. While saying she "understands plaintiffs' frustrations," U.S. District Judge Trina Thompson in San Francisco ruled on Wednesday that Intel did not [wait too long](#) to reveal a \$7 billion fiscal 2023 operating loss in its foundry business.

Intel's stock price sank 26% last August 2, one day after the chipmaker announced more than 15,000 [layoffs, opens new tab](#) and suspended its dividend, hoping to save \$10 billion in 2025.

The Santa Clara, California-based company created the foundry business in 2021 to [serve customers](#) including Amazon.com ([AMZN.O](#)), [opens new tab](#) and Qualcomm ([QCOM.O](#)), [opens new tab](#), while still making chips and wafers for internal use.

In a 21-page decision, Thompson said Intel made clear that foundry results would be "obscured" until 2024, meaning its earlier financial reporting was not false and misleading.

Thompson also cited an "overarching policy consideration" that because Intel's public statements suggested a "trial-and-error" approach to the foundry business, the company could have faced risks from reporting preliminary, unaudited data.

The judge [dismissed](#) an earlier version of the lawsuit in March. Wednesday's dismissal was with prejudice, meaning the shareholders cannot sue again. A federal judge dismissed a lawsuit accusing Intel ([INTC.O](#)), [opens new tab](#) of defrauding shareholders by concealing problems in a business where it manufactured chips for outside customers, leading to a \$32 billion one-day plunge in its market value.

While saying she "understands plaintiffs' frustrations," U.S. District Judge Trina Thompson in San Francisco ruled on Wednesday that Intel did not [wait too long](#) to reveal a \$7 billion fiscal 2023 operating loss in its foundry business.

Intel's stock price sank 26% last August 2, one day after the chipmaker announced more than 15,000 [layoffs, opens new tab](#) and suspended its dividend, hoping to save \$10 billion in 2025.

The Santa Clara, California-based company created the foundry business in 2021 to [serve customers](#) including Amazon.com ([AMZN.O](#)), [opens new tab](#) and Qualcomm ([QCOM.O](#)), [opens new tab](#), while still making chips and wafers for internal use.

In a 21-page decision, Thompson said Intel made clear that foundry results would be "obscured" until 2024, meaning its earlier financial reporting was not false and misleading.

Thompson also cited an "overarching policy consideration" that because Intel's public statements suggested a "trial-and-error" approach to the foundry business, the company could have faced risks from reporting preliminary, unaudited data.

The judge [dismissed](#) an earlier version of the lawsuit in March. Wednesday's dismissal was with prejudice, meaning the shareholders cannot sue again. A federal judge dismissed a lawsuit accusing Intel ([INTC.O](#)), [opens new tab](#) of defrauding shareholders by concealing problems in a business where it manufactured chips for outside customers, leading to a \$32 billion one-day plunge in its market value.

While saying she "understands plaintiffs' frustrations," U.S. District Judge Trina Thompson in San Francisco ruled on Wednesday that Intel did not [wait too long](#) to reveal a \$7 billion fiscal 2023 operating loss in its foundry business.

Intel's stock price sank 26% last August 2, one day after the chipmaker announced more than 15,000 [layoffs](#), [opens new tab](#) and suspended its dividend, hoping to save \$10 billion in 2025.

The Santa Clara, California-based company created the foundry business in 2021 to [serve customers](#) including Amazon.com ([AMZN.O](#)), [opens new tab](#) and Qualcomm ([QCOM.O](#)), [opens new tab](#), while still making chips and wafers for internal use.

In a 21-page decision, Thompson said Intel made clear that foundry results would be "obscured" until 2024, meaning its earlier financial reporting was not false and misleading.

Thompson also cited an "overarching policy consideration" that because Intel's public statements suggested a "trial-and-error" approach to the foundry business, the company could have faced risks from reporting preliminary, unaudited data.

The judge [dismissed](#) an earlier version of the lawsuit in March. Wednesday's dismissal was with prejudice, meaning the shareholders cannot sue again.

Intel had been accused of inflating its stock price from January 25 to August 1, 2024.

Lawyers for the shareholders did not immediately respond to requests for comment on Thursday. Intel and its lawyers did not immediately respond to similar requests.

Intel has struggled to compete with rival chipmakers such as Nvidia ([NVDA.O](#)), [opens new tab](#), Advanced Micro Devices ([AMD.O](#)), [opens new tab](#), Samsung Electronics ([005930.KS](#)), [opens new tab](#) and Taiwan's TSMC ([2330.TW](#)), [opens new tab](#), and benefit from growth in artificial intelligence.

The company lost \$18.8 billion in 2024, its first annual loss since 1986.

The case is In re Intel Corp Securities Litigation, U.S. District Court, Northern District of California, No. 24-02683.

Lawyers for the shareholders did not immediately respond to requests for comment on Thursday. Intel and its lawyers did not immediately respond to similar requests.

Intel has struggled to compete with rival chipmakers such as Nvidia ([NVDA.O](#)), [opens new tab](#), Advanced Micro Devices ([AMD.O](#)), [opens new tab](#), Samsung Electronics ([005930.KS](#)), [opens new tab](#) and Taiwan's TSMC ([2330.TW](#)), [opens new tab](#), and benefit from growth in artificial intelligence.

The company lost \$18.8 billion in 2024, its first annual loss since 1986.

The case is In re Intel Corp Securities Litigation, U.S. District Court, Northern District of California, No. 24-02683.

Lawyers for the shareholders did not immediately respond to requests for comment on Thursday. Intel and its lawyers did not immediately respond to similar requests.

Intel has struggled to compete with rival chipmakers such as Nvidia ([NVDA.O](#)), [opens new tab](#), Advanced Micro Devices ([AMD.O](#)), [opens new tab](#), Samsung Electronics ([005930.KS](#)), [opens new tab](#) and Taiwan's TSMC ([2330.TW](#)), [opens new tab](#), and benefit from growth in artificial intelligence.

The company lost \$18.8 billion in 2024, its first annual loss since 1986.

The case is In re Intel Corp Securities Litigation, U.S. District Court, Northern District of California, No. 24-02683.

Reporting by Jonathan Stempel in New York Editing by Nick Zieminski

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

Securities Law News

Icahn's Firm Vies to Lead Suit Over \$25 Billion Endeavor Buyout

July 23, 2025, 11:06 AM PDT

Carl Icahn's investment firm is fighting a small investor to spearhead a proposed class action lawsuit alleging former shareholders in Endeavor Group Holdings Inc. should have made more money from Silver Lake's \$25 billion buyout.

Icahn Enterprises has joined with a Swedish bank in one of two proposed class action complaints filed in Delaware claiming Silver Lake and Endeavor executives — including Hollywood superagent Ari Emanuel — breached their fiduciary duties to shareholders by striking an unfair deal that rewarded lucrative payouts to insiders.

Lawyers for Icahn Enterprises and Handelsbanken Fonder AB said in a filing last week they should lead the litigation because their clients had a financial stake of about \$757 million in combined Endeavor shares. But they are vying with lawyers for Ricardo Garcia, an individual investor with a stake of approximately \$750 in Endeavor, who filed a similar request to lead the class action.

Both sides are expected to make their arguments on Aug. 7 to Delaware Chancery Court Judge **Lori Will**, who will decide which gets to be lead plaintiff — a perk that includes the choice of attorneys, greater control over legal strategy and sometimes additional compensation.

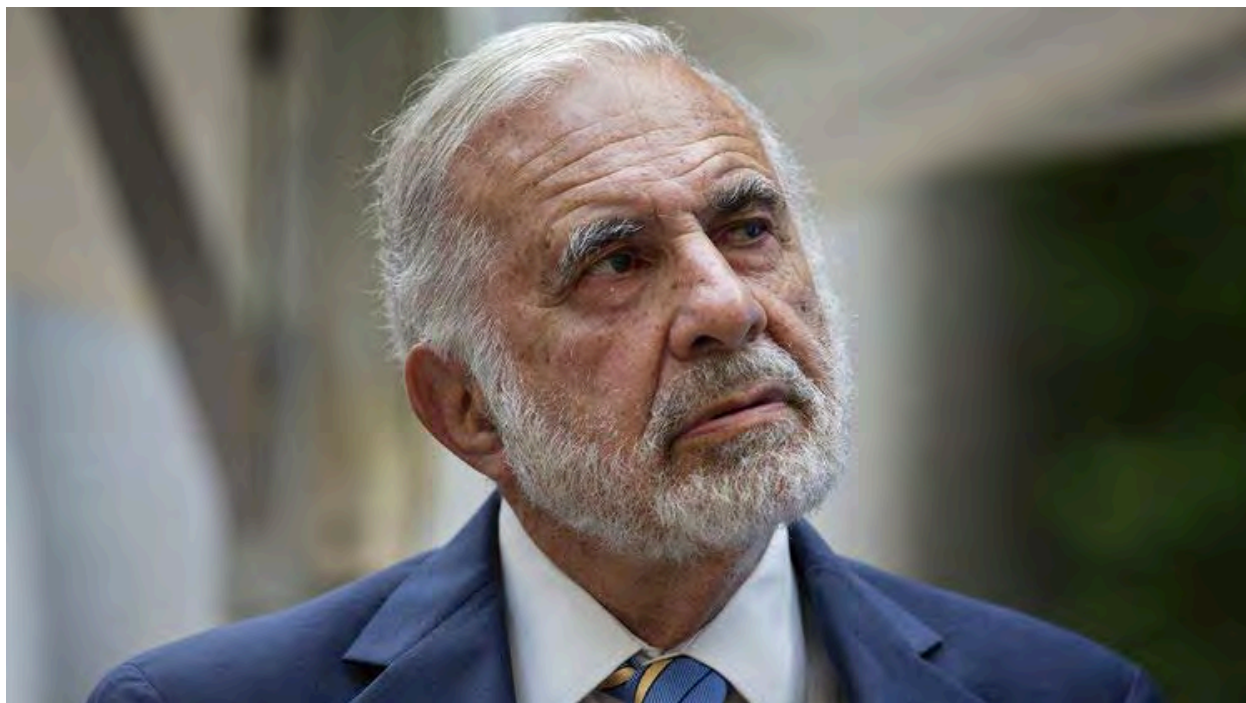
Attorneys for Icahn and Handelsbanken argue in court filings that Garcia shouldn't be named the lead plaintiff because of his small stake.

Garcia's attorneys, in turn, say that Handelsbanken was also a small shareholder — with 99.8% of the \$757 million stake in question belonging to Icahn's firm. Furthermore, they allege that the billionaire's company only bought shares after the 2024 deal announcement with the aim of suing — a practice the Delaware courts have frowned on in the past. Handelsbanken, however, owned shares earlier.



Private equity firm Silver Lake closed the Endeavor deal on March 24, extending its 37% ownership stake by purchasing 100% of the outstanding shares it didn't already own in taking the entertainment and sports company private. Endeavor common stockholders were paid the offering price of \$27.50 per share in cash.

Only weeks prior to the closing, Icahn and other investors piled into the stock during a run-up in value of the Endeavor's most important asset, TKO Group Holdings Inc., parent of World Wrestling Entertainment Inc. and Ultimate Fighting Championship.



Carl Icahn

Photographer: Victor J. Blue/Bloomberg

Icahn and the Swedish bank said in their complaint that the stock was trading at \$29.25 per share when the deal closed and alleged that Silver Lake didn't pay a fair price. Icahn purchased its shares between March 3 and March 21, "with deep conviction" the buyout was "unfair," according to their latest filing.

Endeavor and Silver Lake declined to comment. Icahn didn't provide a comment. Attorneys for Garcia didn't respond to a multiple requests for comment.

Silver Lake has said in March the deal price was fair and blamed hedge funds for causing "an artificial increase in the stock price." Endeavor said earlier that the purchase price represented a 55% premium to where the company's shares were trading before it announced that it was reviewing strategic alternatives in 2023.

The buyout has sparked several legal challenges. Multiple hedge funds have asked a court to come up with a fair valuation of the deal, in what is considered the largest appraisal suit in Delaware's history.

Law firms also have a vested interest in representing lead plaintiffs as they get a larger share of legal fees. Garcia requested that Labaton Keller Sucharow and Friedman Oster & Tejtel be tapped as co-lead counsel on the case. Icahn and Handelsbanken have pushed for Bernstein Litowitz Berger & Grossmann and Grant & Eisenhofer.



Ari Emanuel

Photographer: Kyle Grillot/Bloomberg

A significant part of the inquiry into the deal price will be on how and when to value Endeavor's majority stake in TKO Group Holdings, which trades as a separate public company, according to Icahn's court filing. TKO's price jumped by nearly 80% between the signing and closing of the deal, the attorneys wrote.

"The choice of valuation date will be a major driver of damages," they wrote.

Garcia lodged his suit in June. His attorneys have countered the Icahn-Handelsbanken motion to lead the suit by pointing out that their client's "financial stake is more than sufficient to incentivize him to monitor counsel and play a meaningful role in this case."

They argue Garcia is best positioned to take lead and accused Icahn of opportunistically buying shares to bring the lawsuit, which will hurt their case. It's a practice they say that one Delaware court has characterized as "evil."

"Handlesbanken fares no better" since "it failed to conduct an adequate pre-suit investigation, needlessly expended Court and party resources with failed discovery gambits, and joined forces with a stockholder that likely lacks standing," they wrote.

To contact the reporter on this story:

Sabrina Willmer in Washington at swillmer2@bloomberg.net

Coinbase Faces Shareholder Suit in Delaware Court of Chancery

July 23, 2025 | By  Ellen Bardash



Credit: dennizn/Adobe Stock

Coinbase shareholders have filed a derivative action in the Court of Chancery, claiming management failed to properly disclose risks and trading practices to customers.

A [complaint](#) made public Tuesday was originally filed under seal on July 18 by Farnan LLP and Bragar Eagel & Squire. It brings breach of fiduciary duty, insider trading and unjust enrichment claims.

The complaint alleges starting when the cryptocurrency exchange went public in April 2021, Coinbase misrepresented the safety of customers' assets by not disclosing that if Coinbase



for bankruptcy, some or all of those assets might be lost.

"Coinbase would later admit on May 10, 2022, that the company's inability to protect its customers' crypto assets from loss in the event of bankruptcy made it likely that customers would find the company's custodial services more risky and less attractive, which could result in a discontinuation or reduction in use of the Coinbase platform," the complaint states.

The lawsuit also alleges Coinbase didn't disclose trading practices that potentially violated federal securities laws and allegedly spurred money laundering by Coinbase users. It claims 10 Coinbase executives and board members have earned more than \$3 billion by selling stock at artificially inflated prices.

"We take our obligations to our shareholders seriously and are prepared to fight this meritless lawsuit as needed," a Coinbase spokesperson said.

The allegations in the complaint involve events that occurred between April 2021, when the company went public, and June 2023.

Coinbase is currently involved in a [securities class action](#) making similar claims, which was filed in the District of New Jersey in 2022. That action is currently in fact discovery.

Page printed from: <https://www.law.com/delbizcourt/2025/07/23/coinbase-faces-shareholder-suit-in-delaware-court-of-chancery/>

NOT FOR REPRINT

© 2025 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).



Abrams & Bayliss Appointed Lead Counsel in Endeavor Appraisal Case

July 23, 2025 | By  Ellen Bardash



Delaware Court of Chancery, left, on The Circle in Georgetown, Delaware. Credit: Antony-22 via Wikimedia Commons

Delaware Court of Chancery Vice Chancellor Lori W. Will appointed Abrams & Bayliss as sole lead counsel Tuesday in Delaware's largest ever appraisal action in a decision that said the competing leadership bid risked misaligning counsel's interests with those of their shareholder clients.

The [decision](#) came a week after Will heard [argument](#) during which Abrams & Bayliss and a team of attorneys from Rolnick Kramer Sadighi and Heyman Enerio Gattuso & Hirzel both asked to be appointed lead plaintiffs counsel in the case challenging the share price at which Silver Lake acquired Endeavor Holdings, both California-based companies, earlier this year. Reid Collins & Tsai was named additional counsel.

In March, Rolnick Kramer Sadighi and Heyman Enerio Gattuso & Hirzel were the first to file appraisal actions in the Court of Chancery, alleging shareholders were not given a fair price in the deal. Abrams & Bayliss filed additional actions. In total, more than two dozen appraisal petitions have been filed with the court, and Will consolidated them in April.

"Both sets of lawyers are highly skilled and qualified," Will wrote. "On balance, though, the overwhelming economic stake represented by the second set of lawyers and potential conflicts sparked by the first set's fee structure tip the scales. I appoint the second set lead counsel."

Of the eight factors for selecting lead counsel outlined in Court of Chancery Rule 23 and those laid out in *Hirt v. U.S. Timberlands Service*, Will wrote that four don't apply or were neutral for the Endeavor action. Neither side's proposed leadership structure points to a clear answer, she determined, writing that "the facts here suggest that compelled cooperation risks dysfunction."

The remaining three *Hirt* factors, Will wrote, all support appointing Abrams & Bayliss as lead counsel: the firm now represents a larger economic stake than Rolnick Kramer Sadighi—a position it has held since two shareholder clients swapped representation in the days before the July 15 hearing—and features of Rolnick Kramer Sadighi's fee structure create conflict between the firm's interests and their clients', she wrote, as well as interests among the stockholders represented.

If Rolnick Kramer Sadighi were to be appointed lead counsel and use its proposed fee structure, Will wrote, and the court eventually found the \$27.50 share price Silver Lake paid was fair, interest on the shares in question could be upwards of \$800 million, with Rolnick Kramer Sadighi netting fees of \$200 million. The firm had also proposed a 20% contingency fee for shareholders that hired the firm early on and capping fees for those that held more than 10 million shares, a discount from the 25% contingency to be paid by all other shareholders that Will said had the potential to treat dissenting stockholders inequitably.



[Abrams & Bayliss'] structure, by contrast, allocates its hourly fees pro rata according to ownership, ensuring equal treatment among dissenters," Will wrote.

Separately, but also assigned to Will, shareholders are pursuing breach of fiduciary duty litigation related to the same transaction in an action that consolidates two cases, the first of which was filed in April.

Two parties are also vying to be named lead plaintiff and lead counsel in that case. On June 18, Labaton Keller Sucharow and Friedman Oster & Tejteltel filed a [motion](#) to be appointed co-lead counsel, with Kaskela Law, Kessler Topaz Meltzer & Check and Saxena White as additional counsel. On July 10, Bernstein Litowitz Berger & Grossmann and Grant & Eisenhofer [moved](#) to be appointed lead counsel, with Woolery & Co. and Equity Litigation Group as additional counsel.

Page printed from: https://www.law.com/therecorder/2025/07/23/abrams-bayliss-appointed-lead-counsel-in-endeavor-appraisal-case/?kw=Abrams+%26+Bayliss+Appointed+Lead+Counsel+in+Endeavor+Appraisal+Case&utm_position=3&utm_source=email&utm_medium=enl&utm_content=20250724&utm_campaign=morningminute&utm_term=law&ol

NOT FOR REPRINT

© 2025 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).



Securities Law News

Kimberly-Clark Finalizes \$2.25 Million 401(k) Fee Settlement

July 23, 2025, 9:57 AM PDT

Kimberly-Clark Corp. employees who challenged the fee levels in their 401(k) plan secured final approval for a \$2.25 million class settlement with the personal care products manufacturer.

The agreement represents about 15% of the workers' maximum estimated losses in the case and is expected to benefit about 25,000 plan participants and beneficiaries since April 2015. Judge Sam A. Lindsay granted final approval to the deal and awarded class counsel more than \$1 million in attorneys' fees and expenses in a pair of orders issued Tuesday in the US District Court for the Northern District of Texas.

- Kimberly-Clark is accused of mismanaging its 401(k) plan by failing to rein in administrative fees and cobbling together services from multiple providers
- Lindsay previously denied the company's motion to dismiss and blocked it from seeking an immediate appeal of that ruling
- Last year the judge declined to certify the case as a class action because the plaintiffs missed the deadline to file a motion with the court

Gibson, Dunn & Crutcher LLP represents Kimberly-Clark. Walcheske & Luzi LLC and Kendall Law Group PLLC represent the workers.

The case is Seidner v. Kimberly-Clark Corp. , N.D. Tex., No. 3:21-cv-00867, 7/22/25 .

To contact the reporter on this story: Jacklyn Wille in Washington at jwille@bloombergindustry.com

To contact the editor responsible for this story: Brian Flood at bflood@bloombergindustry.com

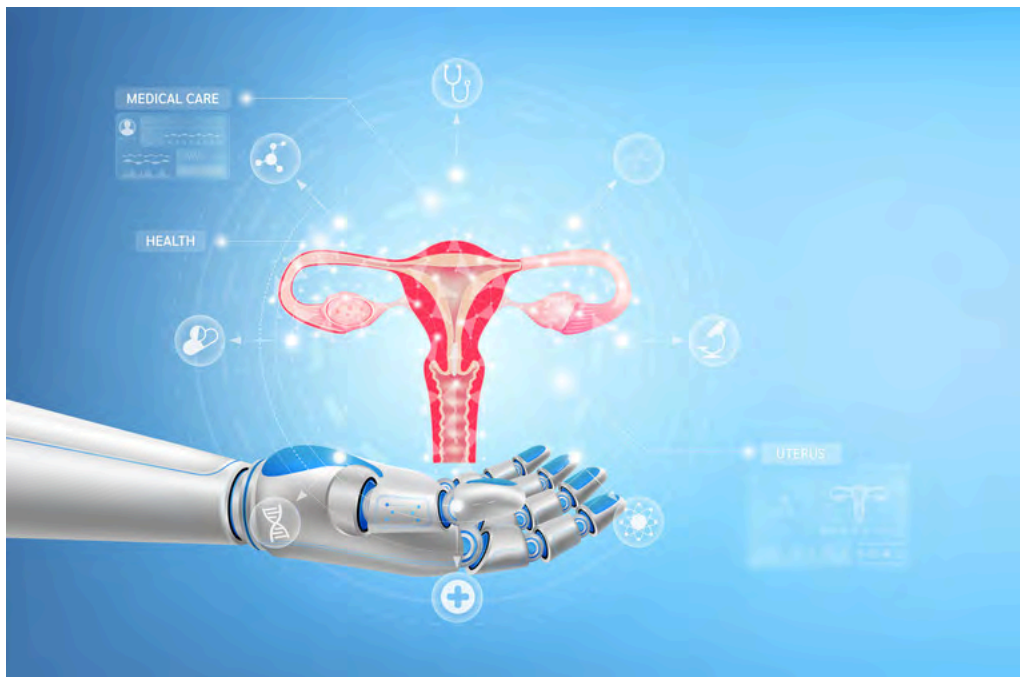
© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

A 'Staggering' Number: Privacy Trial Against Meta, Reproductive Health App Underway With Potentially Billions at Stake

July 23, 2025 | By  **Kat Black**

What You Need to Know

- A privacy case against Meta and Flo Health, an app that tracks fertility and menstrual periods, went to trial in San Francisco federal court this week.
- The case, which formerly named Google as a defendant before its settlement two weeks ago, alleges that Flo Health illegally shared users' sensitive sexual and reproductive health information with third parties like Meta.
- Plaintiffs' counsel have projected that the nationwide class could include 38 million members, which could lead to a "staggering" amount of damages under the CIPA statute, said an expert.



Credit: Adisak/Adobe Stock

The trial in a class action against Meta Platforms Inc. and Flo Health, a menstrual period and pregnancy tracking app, is underway in San Francisco—and the amount of damages at stake, said an expert, could be "staggering."

District Judge James Donato of the U.S. District Court for the Northern District of California is presiding over the trial, which began with jury selection and opening statements on Monday.

The case, which accuses Flo Health of sharing users' confidential information—including sexual histories and reproductive health details—with third-party tech titans such as Meta and Google, alleges violation of the California Invasion of Privacy Act, a statute that imposes a \$5,000 penalty per transgression. Concerns about the sensitivity of the fertility-related data at issue may be heightened by the *Dobbs v. Jackson Women's Health Organization* decision, which overturned federal abortion protections codified by *Roe v. Wade* in 2022.

Plaintiffs contend that Google and Meta breached CIPA's wiretapping provision by illegally eavesdropping on Flo Health users' in-app communications through software development kits (SDKs)—snippets of code that provide data analytics and software-building tools for app developers—embedded in the Flo Health app.

The case is a high-profile example of a recent surge in CIPA claims retooling the Cold War-era statute, which was designed to prevent the unlawful interception of telephone calls, for modern technology like web cookies, tracking pixels and artificial intelligence that have come under increased scrutiny for potential privacy violations. California Senate Bill 690, a bill that seeks to exempt web tracking technologies from CIPA if they are used for a "commercial business purpose," passed the California State Senate last month.

In statements sent to Law.com and The Recorder, both Flo Health and Meta unequivocally denied the allegations.

"Flo is committed to protecting the privacy of its users, and any allegation otherwise has no merit," said a Flo Health spokesperson in an email. "We are building a better future for women, and are steadfast in our commitment to protecting your privacy and data."

A Meta spokesperson asserted that the plaintiffs' claims against Meta "are simply false, and we are confident that the evidence at trial will demonstrate the realities."

"User privacy is important to Meta, which is why we do not want health or other sensitive information and why our terms prohibit developers from sending any," said the spokesperson in an email.

Meta is represented by counsel from Gibson, Dunn & Crutcher and Latham & Watkins, while Dechert is defending Flo Health.

In a March [filing](#) related to the plaintiffs' \$3.5 million settlement with former defendant Flurry Inc., a now-dissolved analytics company owned by Yahoo, the plaintiffs' counsel projected that the nationwide class could include up to 38 million Flo Health app users in the United States, making companies in violation of the statute potentially liable for \$190 billion.

The nationwide class, which was certified in May, includes all U.S. Flo Health app users who "entered menstruation and/or pregnancy information into the Flo Health App between November 1, 2016" and "February 28, 2019," according to plaintiffs' counsel at [Labaton Keller Sucharow](#).

The court, said Labaton, also certified a California sub-class for plaintiffs' invasion of privacy claim against Flo under the California Constitution and under CIPA against Meta and Google for the same time period.

Henry Noye, partner and member of the catastrophic loss group at Obermayer Rebmann Maxwell & Hippel, noted in an interview that the "unprecedented" damages number may not necessarily hinge on the actual number of users of the Flo Health app. One of the main questions that will be at issue in the trial, he said, is what constitutes the violation of data privacy.

"If ... you answer multiple questions [on the app], is each question potentially a violation? So the number could be staggering," said Noye, who is not involved in the case.

"It may also depend upon the number of violations by individual user. There's a litany of very personal questions ... how many times you have sex, things like that. ... If you had to answer 7, 12, 16, whatever in the course of deriving the utility from this app, then there could be multiple breaches."

The complaint against Flo Health was originally filed in Jan. 2021 by Wagstaffe, von Loewenfeldt, Bush & Radwick; Labaton; and Lowey Dannenberg. Meta (then known as Facebook Inc.), Google and analytics companies Flurry Inc. and AppsFlyer were added to an amended complaint consolidating multiple proposed class actions in September 2021.

Google reached a settlement with the plaintiffs just two weeks shy of the scheduled trial, and all claims against AppsFlyer were dismissed by Donato in June 2022.

Noye said that, in this type of "bet-the-company" litigation, it might serve a company like Flo Health better to proceed to trial.

"Most class actions don't go to trial," said Noye. "And you have to look at Flo's decision differently than Google[s]. First and foremost, we don't know what has been uncovered and discovered. Maybe it was more detrimental to Google than to Flo ... [Flo is a company] whose entire existence is hinged upon its ability to safeguard the most sensitive type of information. ... If you settled this one for a large amount of money, who's to say there's not another coming? ... So if that is ... a probable outcome, then you stand up, you fight, you try to get good precedent that will thin the tide of other types of lawsuits in the future."

Flo Health, which was founded in 2015 and is headquartered in London, was valued at \$1 billion in July 2024 and claims on its [website](#) that it has been downloaded by "380 million women and people who have periods." In June 2021, Flo Health reached a [settlement](#) with the Federal Trade Commission, which similarly alleged that it shared "millions" of users' private information with third parties, that required it to "notify affected users about the disclosure of their health information and instruct any third party that received users' health information to destroy that data."

In a [press release](#) issued in October 2024, Flo Health maintained that the settlement was not an admission of wrongdoing.

"Flo chose to stop sharing any information with these third parties in January 2021," it said. "At the same time, we agreed to settle the matter with the FTC."

Plaintiffs' counsel declined to comment on a trial that is currently in progress. Counsel for the defense could not immediately be reached for comment.

Page
printed from: https://www.law.com/therecorder/2025/07/23/a-staggering-number-privacy-trial-against-meta-reproductive-health-app-underway-with-potentially-billions-at-stake-/?kw=A+%27Staggering%27+Number+Privacy+Trial+Against+Meta+Reproductive+Health+App+Underway+With+Potentially+Billions+at+Stake&utm_position=1&utm_source=email&utm_medium=en&utm_content=2025

NOT FOR REPRINT

© 2025 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

Nissan Wants Supreme Court to Resolve Major, Lingering Class Action Question

July 23, 2025 | By  Jimmy Hoover



Credit: lexiconimages/AdobeStock

The U.S. Supreme Court this spring appeared to be on the verge of a major ruling to limit the size and scope of class actions being brought by plaintiffs against corporations in the United States.

On June 5, however, the high court suddenly dismissed the case in a one-sentence order, saying only that LabCorp.'s appeal had been "improvidently granted."

The dismissal was not exactly a mystery: Responding to LabCorp.'s appeal, a certified class of blind plaintiffs suing the company under the Americans with Disabilities Act had identified a messy jurisdictional issue about whether the case was properly before the court.

Accepting the plaintiffs' invitation to "DIG" the case (dismiss as improvidently granted), the court left unanswered a potentially seismic question about the future of class action law that the justices had originally set out to resolve: "Whether a federal court may certify a class action pursuant to Federal Rule of Civil Procedure 23(b)(3) when some members of the proposed class lack any Article III injury."

The dismissal was a disappointment to the business community, as well as dissenting Justice Brett Kavanaugh, who said the court should have put an end to classes that are "overinflated with uninjured members."

Certifying a class that includes uninjured plaintiffs, Kavanaugh wrote, "can coerce businesses into costly settlements that they sometimes must reluctantly swallow rather than betting the company on the uncertainties of trial."

It turns out Kavanaugh's disappointment—and that of the class action defense bar—may be a temporary one, as the coming October 2025 term could deliver another opportunity to settle the issue.

On June 13—just over a week after the dismissal—Nissan North America filed [an appeal](#) asking the court to hear its appeal involving a "nearly identical" question to the one it punted on in *Laboratory Corporation of America v. Davis*.

The automaker is fighting the certification of a class of plaintiffs who allege the company's sunroofs are prone to spontaneous shattering.

Nissan argues that only the named plaintiffs in the case have claimed their sunroofs shattered. Thus, the district court erroneously certified four statewide classes of people who purchased Nissans with the allegedly defective sunroofs, regardless of whether they shattered.

In doing so, the district court embraced, and the U.S. Court of Appeals for the Ninth Circuit affirmed, the plaintiffs' theory of standing that class members paid more for the vehicles than they would have otherwise had the purported product defects been disclosed.



Nissan says the decisions below once again present the Supreme Court with the question of whether judges can certify classes where a substantial percentage of the plaintiffs suffered no actual injury under Article III of the Constitution. And moreover, the automaker says, it does so without the thorny jurisdictional issues that likely caused the court to pass on the *LabCorp* case.

“This case poses a question nearly identical to the one in *LabCorp*—but it does so cleanly. It is an excellent vehicle for the Court to resolve longstanding, recurring disputes in Article III jurisprudence and class action law,” Nissan argued in its petition filed by lawyers at Shook, Hardy & Bacon.

Nissan similarly argued that the Ninth Circuit has allowed judges to certify ballooning classes of uninjured plaintiffs, to the detriment of corporate defendants.

“[W]ithout this Court’s intervention, the Ninth Circuit’s approach will continue to distort the federal class-action mechanism into a tool of settlement leverage rather than adjudication,” Nissan argued. “[T]he mere presence of uninjured class members increases the perceived exposure, magnifying the pressure to settle for sums far exceeding the value of valid claims.”

In its unpublished opinion, the Ninth Circuit panel said the plaintiffs’ theory of class injury—covering consumers who overpaid for cars with defective sunroofs—is one that “affects the entire class” and not merely those whose sunroofs shattered. Further, that theory amounts to a “quintessential injury-in-fact” under Ninth Circuit precedent, the appellate court held.

The plaintiffs in the case—represented by Gupta Wessler, the same firm that argued on behalf of the certified class in *LabCorp*—waived their right to file a response to Nissan’s petition.

The automaker’s appeal will be considered at the Supreme Court’s Sept. 29 conference prior to the start of the October 2025 term.

The case is *Nissan North America v. Johnson*, No. [24-1289](#).

Page
printed from: https://www.law.com/nationallawjournal/2025/07/23/nissan-wants-supreme-court-to-resolve-major-lingering-class-action-question/?kw=Nissan+Wants+Supreme+Court+to+Resolve+Major,+Lingering+Class+Action+Question&utm_position=5&utm_source=email&utm_medium=enl&utm_campaign=morningupdate&utm_content=20250724&utm_term=

NOT FOR REPRINT

© 2025 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).



Analysis

Opaque Starting Salaries Hinder Plaintiffs Firms as They Increasingly Vie With Big Law for Talent

July 24, 2025 | By  Amanda O'Brien

What You Need to Know

- While Big Law offers some transparency into starting salaries for associates, plaintiffs' firms have kept their salaries under wraps, complicating recruiting efforts.
- Comparatively, plaintiff-side compensation relies heavily on bonuses, while Big Law's billable hour often translates to more stable increases in base compensation.



Credit: deagreez/Adobe Stock

Potential recruits for Big Law can look to the Cravath Scale, or even firms' individually generated pay scales, to get a sense on how they will be compensated should they join a given firm.

Plaintiffs firms tend not to provide that kind of guidance when it comes to compensation, throwing a wrench into recruitment as they look to compete with Big Law on talent.

"Law students typically, and lawyers in general, are among the most risk averse people in society and do not like the unknown of pay," explained National Plaintiffs Law Association co-president Brennan Caruthers, a third year law student at the University of Texas. "For a lot of folks, there's a benefit to the Cravath Scale: they can see how much money they'll get paid in the first year and think out into the future. For those folks that are more risk averse, the lack of knowledge [on plaintiffs side pay] is prohibitive."

To address the lack of information regarding plaintiffs side compensation, the NPLA is currently conducting an [anonymous survey](#) to gather pay data. Jay Edelson, founder of prominent plaintiffs firm Edelson PC, made his own effort, putting together [a tiered list](#) of starting salaries for associates spread between \$100,000 and \$225,000 across a total of 17 of the nation's largest plaintiffs firms.

With this preliminary data, the general consensus is that compensation on the plaintiff side of the bar is "highly variable," in Caruthers' words.

"There are lower guaranteed base salaries, and much higher discretionary or formulaic bonuses," Caruthers explained, offering a preliminary analysis of the NPLA's data. "The other [trend we've spotted] is that the type of compensation one can expect at a plaintiffs firm is largely correlative with practice areas. We have seen so far that, for example, civil rights work typically has lower base salaries and bonuses than large class actions or personal injury types of work."

"It makes sense, looking at the recoveries in both of those kinds of cases," he said.

The difference between Big Law compensation and plaintiffs-side compensation is rooted in how each firm generates revenue. Big Law generates revenue through the billable hour; the plaintiffs side, meanwhile, often works on a contingency fee basis, generating income when a case settles or reaches verdict. Essentially, legal consultant Tim Corcoran said, attorneys can spend hours, if not years, on a case before the plaintiff's firm earns any fees from it.

"The revenue that comes in the door has to often be estimated [at plaintiffs firms]," Corcoran said. "You can work the hours and the cash might not come in for a couple of years."

The reliance on bonuses to increase compensation is additionally dependent on when cases settle or reach verdict, Corcoran continued.

“If a year turns out poorly because of the timing of major settlements or wins doesn’t happen in that fiscal year, that could be a lean year for bonuses. If you have worked on several different matters and in one fiscal year some settle or the litigation ends and the contingency fee is paid, that could be a windfall year and a reward catch-up for prior years,” Corcoran explained.

But where plaintiffs firms might struggle with recruitment, they typically have a leg up when it comes to talent retention in Corcoran’s eyes.

“One of the things I’ve seen plaintiffs firms do more of, they play more of the retention game. If you’re working on a matter for a couple of years, they’re tracking that,” Corcoran said. “That case might settle three years from now and bring in a hefty fee—if you stuck around those three years, you’re going to benefit from that.”

Big Law’s memory, he continued, is relatively shorter.

“Big Law is one year at a time. What you did last year doesn’t matter,” Corcoran said.

Still, that’s not to say that some in the plaintiffs bar aren’t trying to compete with Big Law on salary.

“What we understand is that the firms that are paying the most also often give the highest bonuses, and there are reasons for that,” Edelson noted in an interview. “Those are the firms that are really competing with Big Law for talent, that’s why their salaries are the same or reaching towards Big Law, and the bonuses tend to be significantly higher than in Big Law.”

However, according to Edelson, the next challenge is informing students and potential laterals of how his firm’s compensation system works.

“It’s only been more recent where plaintiffs firms have been going to [on campus interviews], especially at the top schools, and part of that was that the career services department didn’t really support plaintiffs work,” Edelson said. “When we started going there years ago, we’ve been going for about 15 years, we had to explain that no, we don’t pay \$30,000 a year. That’s just not how it works, but that’s the messaging they gave to their students because frankly they just didn’t know.”

Caruthers has noted a similar trend.

“On the student side, we’ve seen that there’s a lot of misconceptions about what [compensation] looks like in the plaintiffs bar,” he said. “Many folks are unaware of the structure of pay and are not aware that you can actually, at many firms, outpace the compensation of Big Law.”

Pay Transparency Comes to Plaintiffs' Firms (And Not Everyone Is Happy About It)



leftsideofthev.substack.com/p/pay-transparency-comes-to-plaintiffs

Jay Edelson

June 30, 2025



Discover more from Left Side of the V

A candid look into the high-stakes world of plaintiffs' law—uncovering hidden economics, unspoken rules, and inconvenient truths others won't touch.

Already have an account? [Sign in](#)

Remember when your law school career counselor told you that BigLaw was the only path to financial security and professional respect? Of course, that same counselor probably also said law review would be "fun" and that you'd "definitely use everything from Constitutional Law in practice." Some advice ages about as well as an opened bottle of milk left in a hot car.

For decades, bright-eyed law school graduates were funneled into large defense firms, convinced they had no choice—that prestigious work and decent pay required soul-crushing doc review marathons or playing the role of glorified paper-pusher in depositions. They stayed because they believed it was their only shot at building a respectable career while managing crushing student debt.

But the narrative that plaintiffs' firms can't compete is rapidly becoming outdated.

The Awakening

Several years ago, student groups like the [Harvard Plaintiffs' Law Association](#) (HPLA)—alongside counterparts at [Stanford](#), Yale, and other top law schools—began highlighting an alternative path. These students sought careers that went beyond just landing any job; they wanted meaningful work aligned with their values, placing them on the “right side” of critical legal issues. As these groups gained traction, so did the [National Plaintiffs' Law Association](#) (NPLA), steadily dismantling outdated assumptions among peers who viewed joining a plaintiffs' firm with misplaced sympathy—as if it signified an inability to “cut it” in BigLaw.

This momentum accelerated [dramatically](#) over the past year as the legal community watched top BigLaw firms retreat into silence or submit in the face of Trump administration executive orders targeting prominent firms.

The Money Myth

Though more early-career lawyers are looking to the plaintiffs' side, misconceptions persist. Many law students still believe pursuing plaintiffs' work means sacrificing significant income, assuming that doing good and doing well are mutually exclusive. Historically, plaintiffs' firm salaries were guarded like state secrets—probably because some firms paid embarrassingly low salaries while partners flew around in private jets.

Now, with pay transparency laws enacted in key legal markets such as New York, California, Illinois, and Washington D.C.—alongside a broader societal push for transparency—those secretive days are quickly fading. Some firms still drag their feet; as one named partner candidly told me, "We're transparent when it helps us." Apparently, "us" didn't include their associates, considering that the firm's first-year base hovers around \$100,000 while certain partners... well, let's just say they're not worrying about student loan payments.

A San Diego-based firm took an even more defensive stance. We inquired about their publicly listed first-year salary of \$115,000—another bottom-of-the-market figure. In response, they immediately removed the job posting. When pressed on the issue, they insisted they complied with all wage transparency laws yet kept their salary information private out of "respect" for their employees.

Methodology

We compiled first-year associate salary data from the most credible sources available, prioritizing firm websites, public job postings, reports from Vault, and direct communications with the firms themselves. Nearly all figures reflect 2025 salaries; for the one firm where current-year data was unavailable, we used its 2024 numbers (noted accordingly), supplemented by context from 2025 data for more senior associates. Here's the current landscape for starting salaries:

Tier 1: Matching the Top of the Market (\$200,000+)

The most direct challenge to the old narrative comes from this growing group of firms. By matching or exceeding BigLaw first-year base pay ([which tops out at \\$225,000](#)), they signal an aggressive strategy to recruit top-tier talent, making it clear that lucrative, high-stakes work isn't confined to the defense side. Many firms in this tier also offer substantial bonuses, allowing them to easily outpace BigLaw's total compensation.

Firm	Starting Salary	Source
Boies Schiller Flexner LLP*	\$225,000	Vault
Dovel & Luner	\$225,000	Firm Website
Edelson PC	\$225,000	Firm Website
Reid Collins & Tsai	\$225,000	Firm Website
Selendy Gay	\$225,000	Firm Website
Susman Godfrey*	\$225,000	Vault

Tier 2: Highly Competitive National Salaries (\$150,000 - \$200,000)

In this bracket, you'll find some of the top plaintiffs' shops in the country offering highly competitive starting salaries. A base in this range represents formidable compensation in any major legal market.

Firm	Starting Salary	Source
Keller Postman	\$175,000	Email Confirmation
Berger Montague	\$175,000	Email Confirmation

Tier 3: Falling Behind (\$130,000 - \$150,000)

This tier raises some eyebrows. While these firms enjoy national reputations, their first-year salaries remain notably low—especially given the enormous revenue their cases generate. Bonuses at many of these firms are reportedly disappointing as well.

Firm	Starting Salary	Source
Lieff Cabraser Heimann & Bernstein, LLP	\$150,000	Job Posting
Hausfeld LLP	\$150,000	Email Confirmation
Cohen Milstein Sellers & Toll PLLC	\$146,000	Job Posting
Gupta Wessler	<\$135,000**	Job Posting
Sanford Heisler Sharp	\$130,000	Firm Website

Tier 4: Bringing Up the Rear (Below \$130,000)

With firms on both sides of the “v.” setting 2025 first-year associate salaries at \$225,000, a starting salary below \$130,000 is difficult to justify for any firm competing for national talent. Some of the firms in this tier have compelling missions, but the basement-level starting salary is a stark reminder of the old stereotype that plaintiffs' work requires a significant financial sacrifice—an outdated narrative that other firms are actively dismantling.

Firm	Starting Salary	Source
Hagens Berman Sobol Shapiro LLP	\$115,000	Job Posting
Singleton Schreiber	\$115,000	Job Posting
Altshuler Berzon	\$102,000	Job Posting
DiCello Levitt	\$100,000***	HPLA, 2024

** Boies Schiller and Susman Godfrey also handle significant defense work.*

*** Gupta Wessler is marked as "under \$135,000" because only its second-year salary (\$135,000) was publicly available. The firm did not respond to requests for first-year salary data.*

**** DiCello Levitt disputes the \$100,000 figure but declined to provide a specific alternative. Public job posting(s) for 2nd-5th years listed salaries at \$110,000 - \$150,000.*

Big Picture

The compensation landscape at plaintiffs' firms is fragmented, spanning a wide spectrum. At the high end, elite firms view BigLaw's base salary as merely the starting point, adding bonuses that can leave defense-side paychecks far behind. Lower down, however, are firms that proudly tout billion-dollar courtroom victories yet quietly pay the associates who helped build those cases a fraction of their peers' salaries. The old rationale—that meaningful, mission-driven work necessarily demands financial sacrifice—rings especially hollow when associates witness outsized partner rewards generated from their own hard work.

Pay transparency, in the end, forces a reckoning for both firms and talent. As salary data emerges, attorneys can finally distinguish between firms truly aligning money with mission, and those merely asking associates to foot the bill for the victory party.

In an upcoming article, we will tackle some foundational questions: what drives the dramatic compensation differences across plaintiffs' firms, and what do those gaps tell us about how these firms operate? We'll also dive into senior associate compensation, where pay structures become much more complex and harder to decode.

What's Your Firm Paying?

Our compensation chart is a living document, and we need your help to expand it. If your firm is not on the list, or if you have insight into pay for senior associates and partners, we want to hear from you. Contribute in the comments or email us privately.

Next on Left Side of the V: A New Negotiation Series

We're excited to launch The Backroom—a new series on how large-scale plaintiffs' cases actually get negotiated. Not the polished version. The real one. Strategy, pressure, leverage, self-interest—and yes, even basic negotiating skill (or lack thereof)—all play their part, alongside quieter forces that shape decisions impacting legions of people and billions of dollars.

[Share](#)



Boston Lawyer Faces Sanctions After AI Tool Generated ‘Nightmare of Mistakes’

July 23, 2025 | By  **Amanda Bronstad**

What You Need to Know

- Cervantes Law filed a lawsuit on behalf of Boston-based Vita Law Offices against Lockridge Grindal Nauen over an alleged referral fee contract.
- ‘This entire episode has been a debacle and embarrassment,’ firm principal Christopher Cervantes told U.S. District Judge Brian Murphy, in the District of Massachusetts.
- Cervantes argued he deserved a non-monetary sanction, such as legal education courses in AI and legal ethics, not thousands of dollars in monetary fines, which have hit lawyers who, unlike him, ‘hallucinated’ cases using AI-based tools.



A federal judge is considering sanctions against a Boston law firm that claims to have inadvertently used an artificial intelligence-based tool to alter quotes in case citations.

U.S. District Judge Brian Murphy, in the District of Massachusetts, initially ordered Cervantes Law earlier this month to address incorrect quotes in citations of two cases in [a lawsuit the firm brought](#) on behalf of Boston-based Vita Law Offices against Lockridge Grindal Nauen over an alleged referral fee contract.

Christopher Cervantes, of Boston's Cervantes Law, saying he was "deeply embarrassed," apologized for the errors, which he said were inadvertent and caused by an AI-based tool called Copilot embedded in Microsoft 365. Although his firm's use of AI was not for legal research, and manufactured no fake cases, Cervantes acknowledged 13 instances of inaccurately quoted language from two cases cited in a brief, often paraphrasing with words such as "jurisdictional gamesmanship" and "litigation-driven reassessments."

"Counsel used these features to polish drafts, believing them to be akin to traditional spell-check or grammar tools," Cervantes wrote in a July 14 response. "However, in rewording paragraphs containing quoted material, Copilot appears to have altered the language of certain quotes while preserving quotation marks and formatting, resulting in non-verbatim representations."

Murphy didn't accept that answer.

"A more candid admission of error will be appropriately considered," the judge wrote in a July 16 order. "The revised response may include a suggestion of an appropriate sanction that takes into account the time the court has expended in reviewing for inaccuracies."

The judge gave Cervantes seven days to explain the errors, which also included quotes from a third case and an additional incorrect citation.

"Counsel takes full responsibility for these inaccuracies and reiterates that none were made with the intent of misleading the court or defendants and their counsel," Cervantes wrote in a July 18 response. "This entire episode has been a debacle and embarrassment for counsel and appears to have been the lapse in oversight of using a tool embedded in Microsoft Word to aid in writing which then turned into a nightmare of mistakes that slipped past counsel at the time of filing."

Cervantes did not respond to a request for comment.

'A Waste of the Court's Resources'

The AI dispute comes as more judges are issuing orders governing the use of new technologies in cases before them and, if necessary, sanctioning attorneys thousands of dollars. In his order, Murphy cited an April 24 ruling by U.S. Magistrate Judge Lee Dunst, in the Eastern District of New York, who found “this entire matter has been a waste of the court’s resources” when imposing a \$1,000 sanction against personal injury attorney Victoria Hovsepyan, of Brooklyn’s Hovsepyan Law Group, for citing fake cases through AI platform ChatOn in her lawsuit against Costco Wholesale Corp.



U.S. District Judge Brian Edward Murphy for the District of Massachusetts. Photo: Diego M. Radzinski/ALM

The AI dispute involving Cevantes Law comes in a lawsuit in which Vita Law Offices claims to be owed fees after referring two lead plaintiffs for an antitrust class action over farmed salmon that settled in 2023 for \$33 million. The May 19 complaint against Lockridge Grindal Nauen, filed in Massachusetts' Suffolk County Superior Court, asks for \$660,000 in unpaid fees, which, when trebled under the Massachusetts consumer protection statute for willful acts of bad faith, come to nearly \$10 million. The suit also names Lockridge Grindal partner Heidi Siltan in Minneapolis.

Lockridge denied the existence of a contract and removed the suit to federal court, calling Vita’s claims “baseless, if not outright frivolous” and threatened sanctions. Then, Lockridge asked to transfer the case to the Southern District of Florida where U.S. District Judge Rodney Smith approved the salmon antitrust settlement. On Tuesday, Vita Law Offices opposed the transfer,

noting that the referral fee agreement at the heart of the case was a private contract for which Florida's courts had no jurisdiction.

But on July 1, Murphy turned his attention to Vita's filings, ordering Cervantes to explain why "multiple fabricated quotes" existed in its most recent filing and provide any other inaccuracies "such as citing to a fake case."

Cervantes, in a July 18 response, uncovered another five errors. But he argued that his firm's errors deserved a non-monetary sanction, such as legal education courses in AI and legal ethics, not thousands of dollars in monetary fines, imposed on lawyers who, unlike him, "hallucinated" cases using AI-based tools.

Cervantes also added that he now forbids the use of any AI tool in filings with the court and has implemented a practice of verifying all quoted or cited material going forward.

Cervantes wrote, "Counsel remains committed to restoring the court's confidence through his transparency of this debacle."

Page printed from: <https://www.law.com/2025/07/23/boston-lawyer-faces-sanctions-after-ai-tool-generated-nightmare-of-mistakes/>

NOT FOR REPRINT

© 2025 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

AI Should Pay a Price for Its Environmental Damage

B**bloomberglaw.com/bloombergtterminalnews/bloomberg-terminal-news/SZWFU5GPFHR7**

Mark Gongloff

July 24, 2025

It makes no sense to give AI a free pass on damaging the planet.

Photographer: Josep Lago/AFP/Getty Images

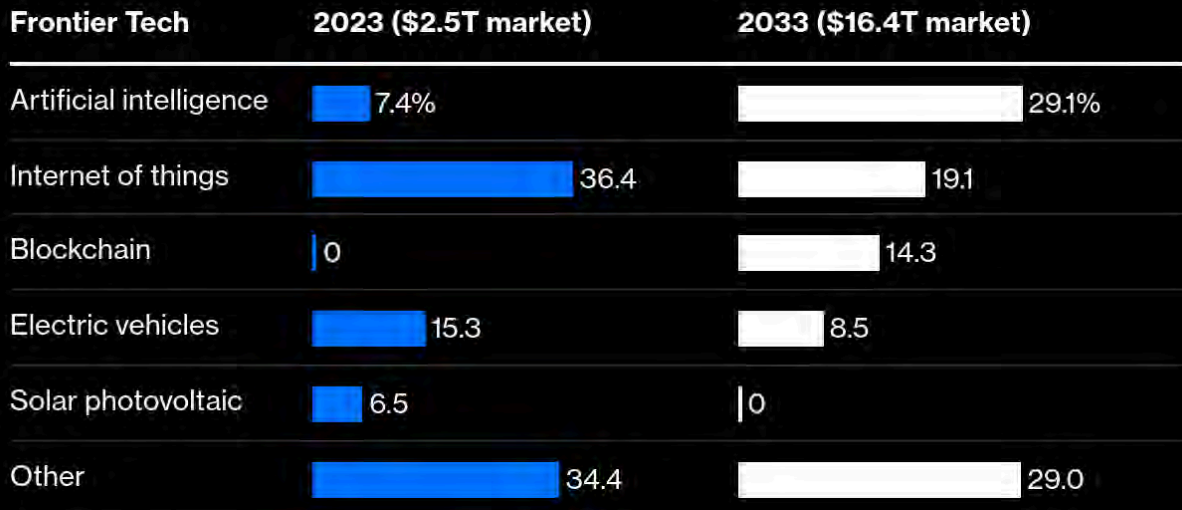
Humanity has collectively decided to keep pampering the fossil-fuel industry despite knowing for decades that its products are not only harmful to long-term well-being but also imminently replaceable. It shouldn't make the same expensive mistake with artificial intelligence.

Last week, Laurence Tubiana, chief executive officer of the European Climate Foundation, a nonprofit research and advocacy group, [suggested taxing AI](#) to raise money for climate adaptation. Tubiana helped craft the Paris climate accord and is part of the [Global Solidarity Levies Task Force](#), a group rummaging through the world's couch cushions for spare change to help it adjust to an environment growing more chaotic and destructive as the planet gets hotter. The group has identified some obvious targets, such as taxing "[premium flyers](#)," cryptocurrencies, fossil-fuel profits and shipping emissions.

Until Tubiana's comments, the group hasn't said much about AI. Sutton's Law — based on the apocryphal claim by Willie Sutton that he robbed banks because that's where the money was — suggests it might want to give AI a look. The United Nations Trade and Development Agency has estimated the value of this market will explode from \$189 billion to [\\$4.8 trillion](#) by 2033, starting to threaten the size of the [fossil-fuel market](#).

AI Could Rule the Tech Frontier

The UN projects artificial intelligence will soon be the world's biggest emerging technology, with more than a quarter of the frontier-tech market



Source: UN Trade and Development

Note: Market size data capture the revenue generated by the sales of products and services. The graphs show the top four of 17 frontier technologies by market share for each year. The remaining 13 are grouped under "other."

Bloomberg Opinion

All that growth will require dizzying amounts of energy to run data centers around the clock and a lot of water to cool acres of servers. These power-hungry facilities, which are [popping up around the world](#) like acne on a teenager, could consume [as much as 12%](#) of total US electricity by 2028, according to a report last year by the Lawrence Berkeley National Laboratory, up from 4.4% in 2023. By 2050, data centers could use as much as [8.7% of the entire world's](#) energy, BloombergNEF estimates.

Much of that power will be generated by fossil fuels, the primary source of the greenhouse gases cooking the atmosphere. Data-center operations could increase global emissions of these gases by 3.5 billion tons in the next decade, BNEF reckons, which is about 10% of total global emissions today. The [microchips, steel and cement](#) used to build data centers carry their own heavy climate cost. Meanwhile, US data centers could guzzle [74 billion gallons](#) of water a year by 2028, up from less than 6 billion in 2014, according to Lawrence Berkeley.

In light of all this, taxing AI to defray its harm to the climate sounds like a great idea. We've already got the perfect example of what happens when you fail to hold an industry accountable for its externalities: fossil fuels.

By one estimate, we give oil, gas and coal producers about [\\$6 trillion](#) every year in implied subsidies by failing to price their products high enough to account for their environmental damage. That's a lot of money that could go toward steeling ourselves against rising seas and weather disasters.

The rationale of these subsidies is that the societal benefits of fossil fuels — namely, abundant energy to fuel economic growth — outweigh the costs. But this gets more untrue every year as an increasingly chaotic climate wreaks more havoc. Each degree Celsius the planet warms over preindustrial averages [cuts global economic growth by 12%](#), according to a National Bureau of Economic Research study last year.

Of course, this wasn't so apparent in the 19th century, when today's fossil fuel industry was just a gleam in John D. Rockefeller's eye. Magical stuff came out of the ground that kept the lights on, and it took us a little while to see the downside. In contrast, the societal benefits of AI are fuzzy at best while the many downsides are already plain. It makes no sense to give this industry its own free pass on environmental destruction.

In theory, a tax on AI, or at least its carbon emissions, would push tech companies to seek efficiency and cleaner energy sources. In practice, making such a tax work would be challenging, Robert Bikel, director of the Socially, Environmentally, and Ethically Responsible Program at the Pepperdine Graziadio Business School, told me.

If you make the tax too low, then it becomes just another cost of business and loses effectiveness. If you make it too high, then tech companies will just build their data centers in a jurisdiction that's not so picky about the environment. The net result might be *more* emissions than without the tax.

Making such a levy universal would help solve that problem. But good luck getting two of the world's biggest AI enthusiasts — President Donald Trump's US and China — to play along. For that matter, a global tax on carbon would be the most efficient device of all, taking care of those fossil-fuel subsidies and keeping the AI industry in line in one fell swoop. But that's even deeper in political fantasyland.

Still, there are other tools. NIMBYism is unhelpful in many ways, but it has put some brakes on runaway data-center growth. In the past two years, projects worth [\\$64 billion](#) have been canceled or delayed by public opposition, according to the research group Data Center Watch. The blowback is bipartisan; 55% of the public officials opposing new data centers were Republicans.

Pressure from locals and investors could be enough to make AI purveyors embrace tech that uses [less energy and water](#). They could use their excess heat to keep local homes warm, cutting energy bills and fossil fuel demand. They could invest in renewables, grid upgrades and [carbon removal and capture](#).

Most important, though, they need to stop and think about exactly how much of this rush to make AI as big and resource-consuming as physically possible is truly necessary.

“There’s a lot of techno-optimism that more tech and more growth is inherently good,” Bikel said. “I like to flip that around and say what is the economy serving? What’s AI serving? How is it contributing to human flourishing or even just existential stability?”

Answering those questions would go a long way to making AI’s growth more sustainable and avoiding many more expensive mistakes.

More From Bloomberg Opinion:

- Electricity, [Not Gas](#), Prices Are the Problem Now: Liam Denning
- Europe [Needs to Save](#) Its Carbon-Market Marriage: Editorial
- Lessons From the [First Blackout](#) of the Green Era: Javier Blas

Want more Bloomberg Opinion? Terminal readers head to OPIN . Or subscribe to [our daily newsletter](#).

<https://bsky.app/profile/tiffanycli.bsky.social/post/3lunnbqyr5s2q>



Tiffany C. Li

@tiffanycli.bsky.social

+ Follow

Wow, who could've known this would happen? (Everyone. Everyone knew this would happen.)



FactPost @factpostnews.bsky.social · 21h

Reporter: The FDA has a new AI tool that's intended to speed up drug approvals. But several FDA employees say the new AI helper is making up studies that do not exist. One FDA employee telling us, 'Anything that you don't have time to double check is unreliable. It hallucinates confidently'



July 23, 2025 at 11:23 AM 🌐 Everybody can reply

29 reposts 82 likes



↻ 29

♥ 82



Securities Law News

Opinion

Matt Levine's Money Stuff: Meme Stocks Are Back

July 23, 2025, 11:08 AM PDT

New meme stocks dropped

Last week a reader emailed me:

I have a funny AI thing that happened to me this week; my friends and I were talking about Carvana on Tuesday night, which got me curious and I asked ChatGPT what the equivalent of Carvana today is.

ChatGPT told me Opendoor, so as any responsible investors do, we both bought a fair share of Opendoor. The next day the stock went roaring and went up by over 50%.

Nice trade for him; very much not investment advice for you. OpenDoor Technologies Inc. closed at \$1.04 per share last Tuesday; this Monday it closed at \$3.21. (It's down a bit since.) It is a meme stock, and we're in a meme-stock moment. Bloomberg's Subrat Patnaik wrote this morning that "the meme-stock revival looks like it might stretch into another day with GoPro Inc., Krispy Kreme Inc. and Beyond Meat Inc. all surging in early trading," and that "the massive surges in trading volumes and stock prices have been driven by a mix of social media buzz, short squeezes, and technical breakouts, despite little to no change in the companies' underlying business fundamentals." Claire Ballentine and Carmen Reinicke reported yesterday:

Stocks are at all-time highs. Chatter on WallStreetBets is surging. Retail traders are flooding into low-priced shares.

It's not 2021, and the shares of the moment aren't GameStop Corp., AMC Entertainment Holdings Inc. or the now-bankrupt Bed Bath & Beyond. In 2025's meme stock mania, the companies du jour are Opendoor Technologies Inc. and Kohl's Corp. ...

"I've been seeing signs of a 'flight to crap' recently," said Steve Sosnick, chief strategist at Interactive Brokers. "The recent rally, which was largely powered in its initial phase by individual investors buying large cap stocks and major indices, has emboldened many to engage in more risky types of investing."

And the Wall Street Journal reports:

Individual investors are once again loading up on a group of unloved stocks and taking to social media to defend them from the haters and the short sellers. ...

"Let's goo!!" a user named Hot-Ticket9440 wrote on a subreddit forum Tuesday as shares of Kohl's, the department-store chain, surged by nearly 40%. "Max pain on the shorts buy every dip. Together we strong."

"\$OPEN has GameStop vibes written all over it," Skip Tradeless wrote Tuesday on X of Opendoor Technologies, the real-estate platform. "WE WON'T STOP UNTIL \$82!" ...

Opendoor, which traded under \$1 as recently as last week, began to take off after social-media users rallied around the company. Then, hedge-fund manager Eric Jackson said in a July 14 post on X that his firm EMJ Capital has taken a position in the stock. Opendoor notched six consecutive sessions of double-digit percentage gains following his endorsement, and the shares are up 439% in a month.

Here is Jackson's July 14 X thread about OpenDoor, which includes this:

Opendoor is under \$1.
Most investors have written it off.
Wall Street isn't even paying attention anymore.
But our AI model at @EMJCapital just flagged it a few weeks ago.
It's giving us early \$CVNA vibes — and that's not a phrase I use lightly.

Jackson also asked his AI to find him the next Carvana, and his AI also told him OpenDoor. Fun coincidence.

In the interests of scientific replication, I went to ChatGPT and asked it: "I am looking to buy a stock that might be the next Carvana, something cheap that might get 100x returns. What stocks might fit that profile?" The answer I got was intelligent, appropriately caveated, and did not include OpenDoor, but it did include this framework:

Look for stocks that meet some of these traits:

Market Cap under \$500M (ideally sub-\$200M for big upside).

High short interest (squeeze potential).

Turnaround story or emerging dominance in a niche.

Asset-heavy with leverage, but showing improving margins.

Founder-led or charismatic management.

Misunderstood or hated by the market.

What happened here? I don't think I exactly asked ChatGPT "find me some meme stocks" (did I?), but I think ChatGPT kind of gave me an answer like "here are some potential meme stocks." Prompted with Carvana, ChatGPT told me that the stocks that might go up a lot are ones with "high short interest (squeeze potential)" and "founder-led or charismatic management" that are "misunderstood or hated by the market." I didn't say anything about short squeezes, or about sticking it to the elitists who underestimated my stocks, but that was where ChatGPT's head went. ChatGPT's model of good stocks to buy seems a little meme-stock-inflected. ChatGPT seems like it has been reading Reddit.

Of course it has. "ChatGPT is a blurry JPEG of the web." At New York Magazine yesterday, John Herrman wrote:

Except for Wikipedia, *maybe*, no independent website has provided as much raw training data for as many AI firms, authorized or not, as Reddit. As a corpus for machines trying to sound or reason like people, it's immensely valuable: pre-organized, pre-moderated, cleaned and sorted by the input of millions of volunteers and users, and written, unlike so much else on the web, without SEO, traffic, or advertisers in mind. Likewise, its relationship with OpenAI runs deeper than the deal announced in early 2024 through which Reddit licensed data to OpenAI for training and to bring Reddit content directly into ChatGPT.

Also this week, Ryan Broderick wrote about a venture capitalist named Geoff Lewis who has posted disturbing stuff online after maybe spending too much time talking to ChatGPT. "Lewis does not appear to understand he is conjuring creepypasta from the AI bot," writes Broderick:

The first thing you need to know to fully grasp what appears to be happening to Lewis is that large language models absorbed huge amounts of the internet. It's why they're good at astrology, predisposed to incel-style body dysmorphia, and oftentimes talk like a redditor. Think of ChatGPT as a big shuffle button of almost everything we've ever put online.

ChatGPT's model of the world is influenced by Reddit; modern generative artificial intelligence models aim to achieve human or superhuman intelligence, but in practice that tends to be the intelligence of a human who spends a lot of time on Reddit.

If you ask a modern publicly available large language model which stocks to buy, it will in some sense draw on all of human knowledge and its own powerful reasoning capacity to tell you which stocks to buy. But, among all of human knowledge, it might give extra weight to the knowledge on Reddit. And the knowledge on Reddit about what stocks to buy is "meme stocks."

As far as I can tell, with the exception of the reader who emailed me (and maybe Jackson??), this week's meme-stock rally is mostly a traditional meme-stock rally. Individual investors did their own research to find unloved short-squeezable stocks, they bought them, they posted about them on social media, people on Reddit and X read their posts, they rushed out to buy the same stocks, etc. All very much like 2021.

But in 2021 advanced generative AI models were not widely available, and in 2025 they are, and I wonder about the future of meme stocks. In 2021, I wrote:

Reddit correctly noticed that *if everyone buys a stock then it will go up*, and then they all did that.

I am not sure that there is a word, or a concept, for that. Ordinarily the way markets work is that some people want a stock and others don't and they trade it around until it reflects a sort of distributed consensus of what everyone thinks about its value. Occasionally the way markets work is that one person with a ton of money really wants a stock, or really wants it to go up, so she pays a ton of money to buy a lot of it and push around the price. (This may or may not be illegal, depending on context and her motives.) There are *distributed* phenomena in markets (prices reflect everyone's private information and differing views), and there are *intentional* phenomena (prices sometimes reflect a big whale trader moving markets), but the novelty here seems to be a *distributed intentional* phenomenon. Thousands of people talked it over and decided that they'd like it if the price of a stock were higher, so they made it higher.

That is: To me, the essential novel element of a meme-stock rally is that a bunch of independent small investors reach a consensus to buy the same stocks. In 1981, there was no convenient way for thousands of retail investors to get together and agree "let's all buy GameStop." In 2021, there was. It was stereotypically Reddit's WallStreetBets subreddit, though really it was a broader social media ecosystem involving Twitter, YouTube, Discord, etc. Social media created the opportunity for retail investors to coordinate, to reach a distributed consensus. And when they reached that consensus — when they all decided to buy the same stocks — it was, at least in the short run, self-fulfilling. If everyone buys the same stocks at the same time, they'll go up. (Particularly if short sellers are actually getting squeezed out.)

In 2025, that technology is all still there (except Twitter is now X). But there might be another, more centralized technology for creating that coordination:

1. Lots of retail investors, alone in their homes, go to ChatGPT and type in "what stocks should I buy." Perhaps something in their prompts will indicate that, at least subconsciously, they want something a bit meme-y.
- 2. ChatGPT, which has spent more time reading Reddit than any human alive, reasons like a WallStreetBets poster and says "you know what you should buy is OpenDoor, you gotta stick it to those shorts, [diamond emoji][hand emoji][rocket emoji]."
- 3. Everyone buys the same stocks.
- 4. Also they then go post about it on Reddit, reinforcing the cycle.

That is, the fluid consensus that developed in 2021 — that unloved nostalgic retailers are good, that short sellers are bad, that piling into low-priced stocks to cause short squeezes can be fun and profitable for everyone — might have *crystallized*; that consensus might now be reflected in the thinking of AI models. "Let's all do short squeezes on the same small-cap stocks" was once a niche idea in a small corner of Reddit, and then it became a meme, and then it became an enormous viral phenomenon, and now it is perhaps a permanent part of human culture reflected in the conventional wisdom of AI. Eventually autonomous AI agents will do it all themselves: Identify unloved companies, buy their stocks, engineer short squeezes and post about it on social media.

Negative ownership

We talk from time to time around here about an unusual but theoretically interesting business plan. The plan is:

1. Make a good product that competes with the product of a big public company.
- 2. Sell that product below your cost, undercutting your competitor, creating consumer surplus and winning market share.
- 3. Lose money on every unit.
- 4. *But*: Sell the stock of your big public competitor *short*, so that you profit as its stock price goes down.
- 5. Because you are taking lots of market share and undercutting your competitor on price, it will lose money, so its stock will go down, so you will make enough money on your short to make up for your losses on your product.

At some level it doesn't feel like this should work. Making money by giving people something they want and charging them for it makes sense; making money by betting on the failure of your competitors makes less sense. The world's upside is unlimited; the downside — the value you can extract from driving your competitors out of business — is finite. Still, you know. Complete markets. It is not natural, as a *business* matter, to think this way. But it is perfectly natural as a *finance* matter. Hedge funds sometimes have a thought process like "Company X is a lower-cost competitor to Company Y, so Company Y's margins are at risk, so I will short Company Y." Why shouldn't Company X have that thought process?

There are not a lot of clear examples of anyone actually doing this. We talked once about an arguable example in the funeral services space, and when DeepSeek (founded by a hedge fund manager!) seemed to undercut the case for massive artificial intelligence capital expenditure, I argued that it would have been extremely cool if DeepSeek had shorted Nvidia, though I'm pretty sure it didn't. In general, though, companies tend to try to make money the old-fashioned way, by charging more for their product than they spend to produce it.

But there is a theoretical appeal. This business model essentially transfers wealth from (competitors') shareholders to consumers: Company X can charge lower prices because it gains as Company Y shareholders lose. That is perhaps, in various ways, unstable, but at first glance it is good for consumers.

Which means it could be a good *antitrust* tool? Here is a fun paper by Ian Ayres, Scott Hemphill and Abraham Wickelgren, titled "Shorting Your Rivals: Negative Ownership as an Antitrust Remedy":

Antitrust authorities often have difficulty predicting whether a merger of rivals will enhance or degrade competition. For mergers that produce a mix of benefits and anticompetitive harms, they also have difficulty preserving the benefits while preventing the harms.

To help solve these and other problems, we propose the use of negative ownership remedies, wherein the merged firm effectively takes a short position in its competitors. A negative ownership remedy provides multiple distinct benefits: First, approving a merger conditional on negative ownership provides an ex post incentive benefit, because a merged firm with negative ownership in its rivals will have less incentive to engage in conduct that reduces competition. Second, it provides an ex ante signaling benefit. Privately informed firms that volunteer to take a negative ownership position are less likely to have proposed a merger that weakens competition. Third, the availability of the negative ownership tool allows antitrust authorities to make more finely calibrated decisions about whether to approve proposed mergers.

A company that is short its competitors naturally has more incentive to compete vigorously than one that isn't. A normal company will think "if we cut prices, we'll gain market share but will make less money on each sale," and will have to weigh the tradeoffs; a company that shorts its rivals might think "if we cut prices, we'll gain market share *and* our rivals will have to cut prices, which will lower their profits, which will make us some money on our short." So more incentive to cut prices.

Anyway the theoretical antitrust problem that we talk about a lot around here is the idea that, because all the public companies are owned by overlapping groups of large diversified shareholders, they have diminished incentives to compete: If all the companies have the same owners, then if Company X gains market share by cutting prices, that's *bad* for its shareholders who also own Company Y. I suppose negative ownership is a solution to that? If Company X is short Company Y, then it has good incentives, even if its shareholders are also long Company Y themselves. That could get messy, though.

No-crypto index

We talked last week about how (1) an increasing number of US public companies are pivoting to crypto treasury strategies, (2) those companies are starting to show up in stock indexes and, thus, in the portfolios of index funds, and (3) therefore many boring conventional diversified stock retirement funds actually have some crypto. I thought this was fine, writing:

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

That view — "invest in the market portfolio" — is pretty standard, but also a bit extreme. The more normal version of it is something like "your *default* exposure to financial assets should be roughly proportional to their market weights, but if you have some *reason* to deviate from the market weights, go right ahead." My assumption is that most normal people don't have any particularly good reason to pick one investment over another — if you are not a professional investment manager, you probably have better things to do with your time than deeply understanding financial markets — but some people do, or at least, have *good enough* reasons.

For instance, a classic reason is what is sometimes called “ESG,” environmental, social and governance investing. If you think “I do not want to make particular stock-picking decisions, but I also do not want to own coal companies because global warming is bad,” there are investment vehicles for you. There are even indexes; there are indexes that are approximately “the S&P 500, but ESG,” for people who want to invest passively in the broad market portfolio but who also have ESG commitments.

Crypto is quite popular these days, but it's also pretty obvious that lots of people do want to exclude it from their portfolios. (My Bloomberg Opinion colleague Allison Schrager has a column today titled “Bitcoin in Your 401(k)? That's Not a Risk I Would Take.”) And so there's a natural question that at least two readers have emailed me to ask: “Is there a broad stock market index that *excludes crypto*?” (That is: An index that excludes crypto treasury companies that are meant to be essentially pots of crypto wrapped in public-company stock, and also maybe crypto miners or whatever.)

As far as I can tell the answer is “no, but there should be.” Some people want to own the entire stock market, and the stock market these days includes a certain amount of Bitcoin in a fake mustache. Other people want to own the entire stock market *except* the bit of it that is crypto. Those people would buy that, so someone should sell it to them.

Business negging

I'm sorry but Sam Altman is the greatest marketing genius in the history of business. Last week he tweeted about the launch of ChatGPT Agent:

Agent represents a new level of capability for AI systems and can accomplish some remarkable, complex tasks for you using its own computer. ... For example, we showed a demo in our launch of preparing for a friend's wedding: buying an outfit, booking travel, choosing a gift, etc. We also showed an example of analyzing data and creating a presentation for work.

Although the utility is significant, so are the potential risks.

We have built a lot of safeguards and warnings into it, and broader mitigations than we've ever developed before from robust training to system safeguards to user controls, but we can't anticipate everything. In the spirit of iterative deployment, we are going to warn users heavily and give users freedom to take actions carefully if they want to.

I would explain this to my own family as cutting edge and experimental; a chance to try the future, but not something I'd yet use for high-stakes uses or with a lot of personal information until we have a chance to study and improve it in the wild.

At Puck, Ian Kriebitzberg adds:

It was underscored by a warning from cybersecurity researcher Rachel Tobac, who suggested that users avoid the model for now: “Let experts work out the integration issues and build in safeguards before you cause a data breach, leak your sensitive photos, post client personal data, or worse,” she wrote on X.

Indeed, OpenAI's own system card for the model noted an accuracy rate below 95 percent across two common benchmarks intended to evaluate the model's propensity for hallucination. OpenAI also noted that the model might, for instance, buy the wrong product or leak private data online—two risks the company is trying to mitigate by training the model to ask users for confirmation *before* doing anything. In internal tests, however, the company noted that ChatGPT correctly confirmed its actions with the user *only 91 percent* of the time. OpenAI told The Verge that the model's ability to perform financial transactions has been restricted “for now.”

I have described Altman's marketing approach as “business negging.” If you say “our product is good and will make the world a lot better,” that is sort of ho-hum; everyone says that, so your audience will discount it. But if you say “our product will probably make the world a lot better but could destroy humanity, tee hee aren't I a little rascal,” that's exciting! People are drawn to danger, and if you go around warning people that your product might destroy humanity then that strongly suggests that you think it's *powerful*.

Similarly, when you launch a product whose pitch is “this product can do your whole job for you,” boring, everyone says that about everything. But if you launch a product whose pitch is “this product can do your whole job for you but there's like a 10% chance it will email porn to your boss,” more people will be excited to use it. Ooh they restricted its ability to empty your bank account “for now,” ooh! The danger makes it feel real. I once wrote — about a different Sam Altman product! — that “the most important paper in economics is the one about how people sometimes give themselves painful electric shocks just because that is an option that's available to them. ... All of human culture is explained by that result.” The Do Everything For You and Maybe Ruin Your Life AI Assistant is just obviously more psychologically appealing than an omniscient AI assistant that definitely won't ruin your life. Aren't you a little curious?

Things happen

Ex-Libor Trader Tom Hayes Wins Bid to Overturn Rigging Conviction. Private equity firms flip assets to themselves in record numbers. Musk Allies to Raise Up to \$12 Billion for xAI Chips as Startup Burns Through Cash. Walleye Joins Multistrategy Hedge Funds Saying No to New Cash. Ex-Citadel Money Manager Wins Qube's Backing to Start Hedge Fund. McKinsey bars China practice from generative AI work amid geopolitical tensions. Probe of Davos Founder Finds Unauthorized Spending, Inappropriate Behavior. “Oops ... The Cert Died Again.” ‘Yeti blood oath’ divides Denver seminary.

If you'd like to get Money Stuff in handy email form, right in your inbox, please subscribe at this link. Or you can subscribe to Money Stuff and other great Bloomberg newsletters here. Thanks!

To contact the author of this story:

Matt Levine at mlevine51@bloomberg.net

To contact the editor responsible for this story:

Michael Newman at mnewman43@bloomberg.net

- 1. Incidentally here's Jackson's X bio: "The Carvana hedge fund guy. All he does is try to find the next Carvana over & over again' Founder @emjcapital; Longs include \$OPEN \$IREN \$CIFR \$BTQQF \$ETHA." Honestly pretty cool.
- 2. This is not a perfect replication, not only because I asked different questions but also because I did it today, after OpenDoor had rallied. The reader who emailed me sent me his own ChatGPT logs; his queries were "Why did carvana spike from 2023" and then "What else is in a similar situation today." ChatGPT offered him "three names that, today (mid-2025), exhibit the same structural ingredients that let Carvana rip higher in 2023: a heavy short overhang, a balance-sheet reset that pushes out near-term debt, and early—but measurable—signs that the underlying unit economics are moving the right way."
- 3. Eliezer Yudkowsky wrote at the time: "So far as I know, this scheme has never before been successfully carried out by a large group of retail investors instead of a hedge fund. And there's a fundamental reason for that! A group of retail investors face a technically interesting coordination problem in trying to engineer a short squeeze, a problem that one monolithic hedge fund does not face. So I will be really interested if /r/WallStreetBets pulls it off successfully, or even mostly successfully."
- 4. My Bloomberg colleague Joe Weisenthal was an early proponent of this idea, and I first learned of it from him.
- 5. Consider Cliff Asness's argument that, if you are an investor with an environmental, social and governance mandate, and you short oil companies, you should be able to subtract those companies' emissions from your overall portfolio's emissions. Owning two oil companies and shorting two oil companies has the same environmental impact as owning zero oil companies, arguably.
- 6. Also I love the line "I would explain this to my own family as cutting edge and experimental." I write sometimes about the "accredited investor" standard to invest in private markets, and I have half-jokingly proposed a self-certification system where investors have to fill out a form saying "I am an idiot and I acknowledge that I am investing in something dumb" before they are allowed to invest in private markets. Sometimes politicians propose a superficially similar self-certification system where investors have to fill out a form saying "I am super sophisticated and I acknowledge that I am investing in something cutting-edge and risky." That's very different! It's all in the tone! "I would explain this to my own family as cutting edge and experimental" *sort of* means "I would never let my family use this," but it *comes across* as "you'd better get in on this amazing thing Grandpa."

© 2025 Bloomberg L.P. All rights reserved. Used with permission.

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.

<https://www.wsj.com/health/healthcare/unitedhealth-contacts-u-s-justice-amid-reports-of-medicare-billing-probe-8892033e>

HEALTH | HEALTHCARE

UnitedHealth Contacts Justice Department Following Reports of Medicare Billing Probe

The company says it has begun complying with formal criminal and civil requests from the agency

By [Denny Jacob](#) [Follow](#)

July 24, 2025 9:01 am ET



UnitedHealth said it has full confidence in its practices. PHOTO: STEPHEN MATUREN/GETTY IMAGES

[UnitedHealth](#) UNH **-1.51%** ▼ Group said it has proactively reached out to the Justice Department after reviewing reports about investigations into certain aspects of its participation in the Medicare program.

The Wall Street Journal earlier this month reported that the Justice Department's criminal healthcare-fraud unit is investigating the healthcare conglomerate's [Medicare billing practices](#), including how the company deployed doctors and nurses to gather diagnoses that bolstered its payments.

UnitedHealth in a securities filing Thursday said it has now begun complying with formal criminal and civil requests from the Justice Department. It added that it has

full confidence in its practices and is committed to working cooperatively through the process.

The Journal first reported in May that the healthcare-fraud unit [was overseeing a probe](#) of the company's Medicare business, noting that the investigation dated back to at least last summer.

Then in July the Journal reported that former UnitedHealth employees said they had been questioned by prosecutors working for the healthcare-fraud unit. The Federal Bureau of Investigation and the Department of Health and Human Services' Office of Inspector General also participated in some of the interviews, according to the report.

A UnitedHealth spokesman earlier this month said that the company welcomes "regular reviews of our policies and practices" and that it engages with government agencies directly, and not through the press.

Following the Journal's reporting, UnitedHealth released a statement saying it would "deploy a regular, independent third-party" oversight and audit process for its diagnosis-recording practices.

Write to Denny Jacob at denny.jacob@wsj.com

Videos

Tesla Braces for 'Rough' Quarters as US Ends EV Incentives

B

[bloomberglaw.com/bloombergtterminalnews/bloomberg-terminal-news/SZWOCEGPQQCW](https://www.bloomberglaw.com/bloombergtterminalnews/bloomberg-terminal-news/SZWOCEGPQQCW)

Kara Carlson

July 24, 2025

[Elon Musk](#) warned of difficult times ahead for Tesla Inc. following one of the carmaker's worst stretches since it first started producing electric sedans over a dozen years ago.

Tesla will be in a transition period for the next year or more, losing [electric vehicle incentives](#) in the US and needing time to roll out autonomous vehicles, the chief executive officer said.

"We probably could have a few rough quarters," Musk said. "But once you get to autonomy at scale in the second half of next year, certainly by the end of next year, I would be surprised if Tesla's economics are not very compelling."

Tesla shares fell as Musk spoke after the close of US trading. The move carried over into Thursday, with the stock dropping as much as 9.5% shortly after the open.



WATCH: Gerber Kawasaki Wealth and Investment Management co-founder, president and CEO says Tesla's business is in decline.

Source: Bloomberg

Musk's comments were his starkest yet on the fallout for Tesla from the tax bill President [Donald Trump](#) signed this month. In addition to phasing out \$7,500 tax credits for EV purchases, the law gutted federal fuel-economy standards that have generated [significant](#)

[revenue](#) for Tesla over the years.

The Tesla CEO's blasting of the bill — he called it a “[disgusting abomination](#)” — solidified Musk's break from Trump days after he left a prominent role in the president's administration.

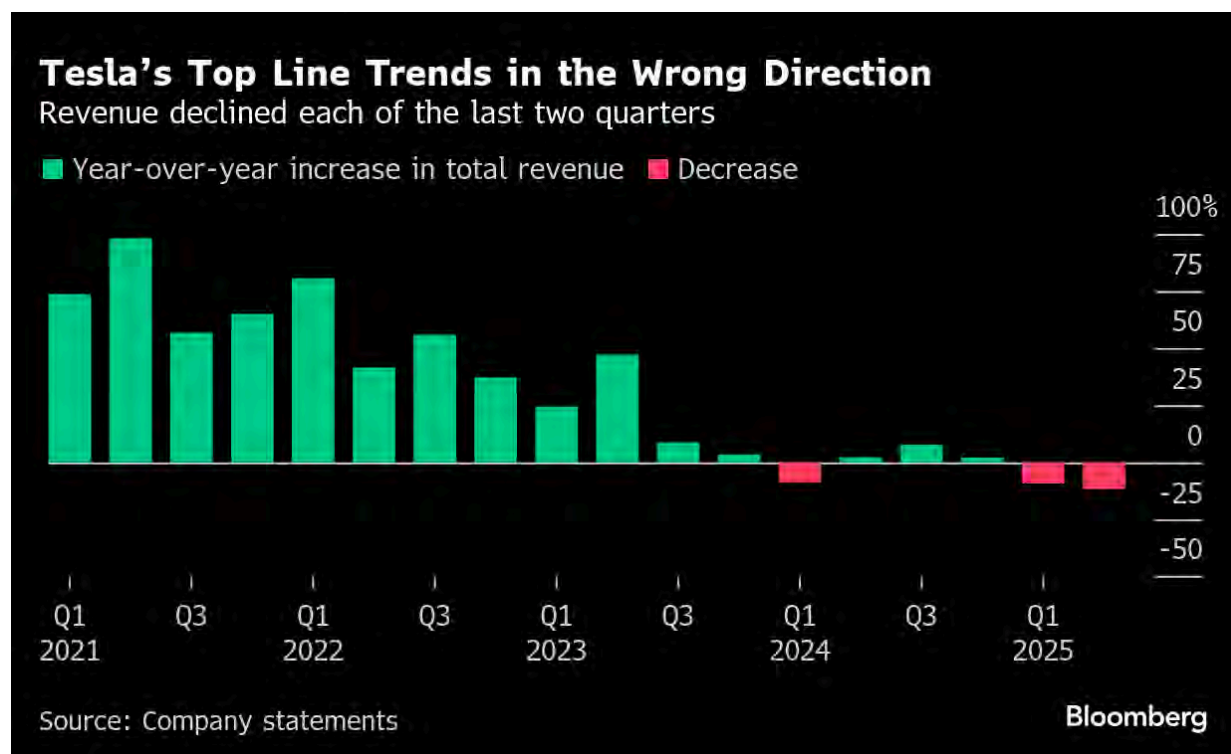
Read More: [Musk's Empire Is Creaking Under the Strain of His Antics](#)

Tesla on Wednesday [reported](#) adjusted earnings of 40 cents a share, missing Wall Street's already lowered estimates. Revenue fell 12% to \$22.5 billion, the steepest decline since 2012. Vehicle deliveries slumped and the average selling price of Tesla cars dropped.

Using Imagination

The results were “noisy,” with clear challenges in the near term and no formal guidance beyond that, Truist Securities analyst [William Stein](#) said in a note.

“The company offered remarkably little detail on some of the most important factors,” including a lower-priced model and humanoid robot, Stein said. That makes “our outlook lean more on imagination than realistic targets.”



Tesla also reported falling sales at its energy generation and storage business, and said costs from tariffs increased around \$300 million. The impact of the levies is expected to grow in the coming quarters, Chief Financial Officer [Vaibhav Taneja](#) said.

The company's car business is struggling in the face of rising competition and continued fallout from Musk's political activities. Investors have largely been willing to look past sales declines and toward the CEO's promises related to artificial intelligence, robots and self-driving technology.

This quarter, however, Musk put more emphasis on the amount of turbulence standing in the way of Tesla starting to see payoff from these investments.

"There are some teething pains as you transition from a pre-autonomy to a post-autonomy world," Musk said.



A Tesla dealership in California.
Photographer: David Paul Morris/Bloomberg

On the conference call, executives spent relatively little time discussing the EV business, instead talking about plans to expand Tesla's recently launched robotaxi service, a new diner opened in Los Angeles, and whether the company may invest in xAI, Musk's AI startup.

'Go Crazy'

The CEO also reiterated his desire for [greater control](#) of Tesla, suggesting his ownership stake should be higher to guard against any activist investor attempt to oust him. His multibillion-dollar Tesla payout was gutted by a Delaware judge last year, leading the company to appeal and move its incorporation to Texas.

"I think my control over Tesla should be enough to ensure that it goes in a good direction, but not so much control that I can't be thrown out if I go crazy," Musk said.

Tesla's brand has become increasingly [polarizing](#) following Musk's once-emphatic support of Trump. During his brief stint in the administration, Musk's attempts to slash government spending generated criticism from many of Tesla's traditionally left-leaning consumers, while some investors worried the project was a distraction.



Elon Musk

Photographer: Francis Chung/Politico/Bloomberg

Revenue from the regulatory compliance credits Tesla sells to rival carmakers fell to \$439 million in the second quarter. That's down 26% from the first quarter and 51% from a year earlier.

This revenue stream is under threat after the tax law Trump signed this month eliminated penalties automakers faced for failing to meet federal fuel-economy standards. The administration has also moved to [terminate](#) California's EV sales mandate and [sweep away](#) federal limits on tailpipe emissions.

Affordable Model

Tesla executives said the company started producing a more affordable EV in June, but the company will hold off on bringing it to market until after tax credits cease at the end of September. The model, which Musk said would resemble the Model Y, is seen as crucial to buoying sales.

Regarding the robotaxi, Tesla said it aims to further improve and expand its service, which began this summer in Austin. The company is seeking regulatory approval to launch in the San Francisco Bay area, [Nevada](#), Arizona, Florida and several other places, Musk said.

"We'll probably have autonomous ride-hailing in about half the population of the US by the end of the year," Musk said. "That's at least our goal, subject to regulatory approvals."

[Gene Munster](#), managing partner at Deepwater Asset Management, said that while Tesla's comments on areas such as its driver-assistance systems and robotaxis were positive, investors are looking for more near-term specifics.

"All eyes are on how Austin is going to play out, and we didn't hear much," Munster said. "Investors were hoping to hear something and they didn't hear it."
(Updates share move in the fourth paragraph.)

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.

<https://www.wsj.com/business/earnings/tesla-earnings-q2-tsla-stock-f94405d3>

BUSINESS | EARNINGS

Tesla Profit Falls, Hurt by Plunging EV Sales

Electric-vehicle maker's net income drops 16% in second quarter; Musk says robotaxis will 'greatly expand' by year's end

By [Becky Peterson](#) [Follow](#)

Updated July 23, 2025 7:03 pm ET



Tesla has been dogged by slumping vehicle sales. PHOTO: TORU HANAI/BLOOMBERG NEWS

Tesla's net income dropped 16% in the second quarter, marking another quarter of steep declines at the company as automotive sales continue to fall.

Speaking with Wall Street on Wednesday, Tesla Chief Executive [Elon Musk](#) highlighted plans to release a lower-priced Model Y electric vehicle, spoke about his hopes for a new pay package from the company's board in fall and talked up plans to "greatly expand" Tesla's robotaxi service to half the country by the end of the year.

"We're in this weird transition period where we'll lose a lot of incentives in the U.S.," he said, alluding to an expiring tax credit designed to boost EV sales. "But we're still at the relatively early stages of autonomy."

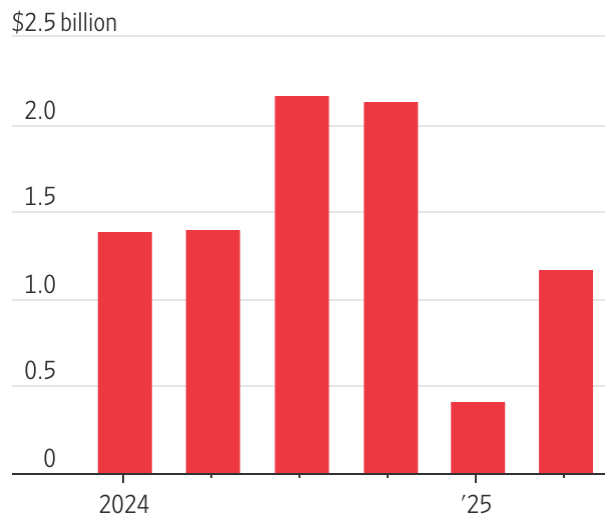
“We probably could have a few rough quarters. I’m not saying we will, but we could,” Musk added, but said he still expects autonomous vehicles to improve Tesla’s finances by the end of next year.

The electric-vehicle maker’s second-quarter revenue declined after [a big drop in automotive deliveries](#), which were down 13.5% from a year earlier.

Tesla reported \$1.17 billion in net-income, down from \$1.4 billion the year prior. The company also reported \$22.5 billion in revenue for the quarter, down 12%. Revenue from its automotive business fell 16%. The energy business fell 7%.

Tesla said its declines in revenue and profitability were due to the drop in sales and a reduction in regulatory credits.

Tesla’s quarterly net profit



Tesla reported \$439 million in revenue from other automakers that pay Tesla for carbon credits to offset their sale of conventional vehicles, less than half what it reported a year earlier. Many of those credits will go away this fall after recent changes to federal tax law eliminated many subsidies for EVs and environmental remedies.

Tesla’s finances have been in a free fall since last fall, after Musk’s entrance into partisan politics brought protests and [worsened the company’s reputation](#) in once-popular regions like California and Europe.

Musk’s departure from the Trump administration in May and subsequent [public disputes with the president](#) have further complicated his relationship with car buyers, who have more options than ever when shopping for an EV in the U.S. and China.

Tesla has turned to updates and financing incentives to capture the attention of shoppers. Since March, the company has refreshed its popular Model Y crossover SUV, made updates to its luxury Model S and Model X vehicles, and released a pared-down, lower-cost version of its Cybertruck.

Despite the updates, the company sold just 384,122 vehicles in the second quarter, down from 443,956 the year before.

Musk has encouraged investors to focus their attention on [future revenue streams](#) stemming from its investments in autonomous vehicles and robotics. In June, Tesla launched a [small fleet of robotaxis](#) near its headquarters in Austin, Texas.

The ride-share app is currently restricted to the downtown and South Congress neighborhoods. Access is by invitation only and priced at \$6.90 a ride, up from \$4.20 a few weeks ago.

Musk said the company expects to expand its service area in Austin in the coming weeks. The company is also seeking to expand to the Bay Area, Nevada and Florida.

If the company can get approvals, the autonomous ride-hailing vehicles could be available to half of the country's population, Musk said on a call with investors and analysts Wednesday.

"Autonomy is the story," Musk said.

The company faces more headwinds going into the third quarter as the federal government rewrites policies around EV incentives, eliminating the \$7,500 consumer

tax credit, as well as many of the valuable carbon credits paid by other car manufacturers to Tesla to offset the sale of gasoline-powered vehicles.

Write to Becky Peterson at becky.peterson@wsj.com

Appeared in the July 24, 2025, print edition as 'Tesla's Profit Plunges, Hurt by EV Sales Drop'.

Videos

Tesla faces difficult road ahead as it hopes robotaxis will offset declining sales



reuters.com/business/autos-transportation/tesla-faces-difficult-road-ahead-it-hopes-robotaxis-will-offset-declining-sales-2025-07-24

Chris Kirkham, Akash Sriram, Abhirup Roy

July 24, 2025

Item 1 of 2 A Tesla robotaxi drives on the street along South Congress Avenue in Austin, Texas, U.S., June 22, 2025. REUTERS/Joel Angel Juarez/File Photo

[1/2]A Tesla robotaxi drives on the street along South Congress Avenue in Austin, Texas, U.S., June 22, 2025. REUTERS/Joel Angel Juarez/File Photo [Purchase Licensing Rights, opens new tab](#)

- Musk promises fast robotaxi expansion, but regulatory hurdles could cause delays
- Tesla's core EV business faces headwinds from brand damage and loss of subsidies
- Investors say challenges of robotaxi expansion and declining EV sales leave little room for error
- Tesla shares fall nearly 6% in premarket trading

LOS ANGELES, July 24 (Reuters) - Tesla ([TSLA.O](#)), [opens new tab](#) and its CEO [Elon Musk](#) are walking an increasingly difficult tightrope as the company navigates declining electric vehicle sales and an autonomous driving business that has yet to get off the ground. On Wednesday's [earnings call](#), Musk said Tesla is "getting the regulatory permission to launch" robotaxis in several states, including California, Nevada, Arizona and Florida. Stay up to date with the latest news, trends and innovations that are driving the global automotive industry with the Reuters Auto File newsletter. Sign up [here](#).

He expects operations to reach "half the population of the U.S. by the end of the year" and to roll out at scale by the end of next year.

So far, though, the company is operating only a [small fleet](#) in Austin, Texas, that is not available to the general public.

And getting [regulatory approvals](#), particularly in [California](#), is likely to prove a bigger hurdle than Musk described on the call.

"Tesla cannot afford a misstep with the robotaxi service," said Camelthorn Investments adviser Shawn Campbell, who owns Tesla shares. He added that "the wheels are coming off" its automotive business, with sales declines across "almost every market."

Sales fell 13% for the first half of this year, as its core EV business deteriorated due to an aging lineup and brand damage from Musk's political activism. With no affordable vehicles on the horizon until the last three months of the year and the upcoming elimination of a

\$7,500 U.S. tax break for EV buyers, Musk acknowledged that the company could have "a few rough quarters."

"The numbers kind of speak for themselves," said Ross Gerber, CEO of Gerber Kawasaki Wealth and Investment Management and a Tesla investor. "They're bad for a growth company, which isn't growing."

Tesla shares were down more than 8% in early trading on Thursday. They have declined nearly 18% this year and robotaxis and autonomous driving are critical to maintaining the company's roughly \$1 trillion stock-market valuation.

REGULATORY BARRIERS

The fall in core auto sales has led to more investor scrutiny of Musk's lofty robotaxi promises. Products such as the Cybertruck have come later than anticipated, and Musk has promised every year since 2016 that driverless Teslas would arrive no later than the following year.

Many questions on Wednesday's call focused on how quickly Tesla would be able to expand robotaxi services, and the regulatory hurdles that remain.

Musk said he expected the robotaxi business would have a "material impact" on Tesla's business by the end of next year.

In April, he said it would become material "around the middle of next year," and predicted "millions of Teslas operating autonomously" by the second half of 2026.

The San Francisco Bay Area was first on Musk's list of expansion markets, but California regulators told Reuters on Wednesday that Tesla had not yet applied for permits needed to pick up and charge passengers for rides in fully autonomous vehicles.

Companies need a series of permits from both the California Department of Motor Vehicles (DMV) and the California Public Utilities Commission (CPUC) in order to test and deploy autonomous vehicles in the state.

To date, Tesla only has obtained the first in a series of permits needed to launch a service, and spokespeople for both agencies said the company has not applied for the additional permits needed to test and operate autonomous vehicles.

Tesla did not respond immediately to a request for comment.

It [disclosed, opens new tab](#) in a filing on Thursday that regulators have asked for information on its robotaxi plans.

California has no specific time period to grant such permits, but Alphabet's <GOOGL.O> Waymo, which offers [autonomous ride-hailing](#) in Los Angeles and the Bay Area, logged more than 13 million testing miles and secured seven different regulatory approvals over nine years before receiving approval to charge passengers for rides in driverless robotaxis in 2023.

Tesla has logged just 562 testing miles (904 km) in California since 2016, and has not reported any autonomous-driving miles to the state in six years, according to the most recent state records.

Paul Miller, principal analyst at market research and consultancy firm Forrester, pointed to Musk's comment about addressing half of the U.S. population "subject to regulatory approvals."

"That caveat is an important one, as regulatory approvals take time," he said.

Other markets Musk mentioned could move faster. In Arizona, a state Department of Transportation spokesperson said Tesla contacted state officials last month and had applied for permits to test and operate autonomous vehicles with and without a safety driver.

The agency said a decision is expected at the end of the month. Tesla also must seek permits to operate a ride-hailing service and submit plans to the state for how police agencies can deal with their autonomous vehicles, the spokesperson said.

Nevada DMV officials said they discussed the state's process with Tesla last week, but no steps have been taken, while officials in Florida did not respond to a request for comment.

Some investors are also seeking more specifics about the Austin launch.

Gene Munster, managing partner at Deepwater Asset Management, a Tesla investor, said he was disappointed the EV maker gave no updates on its earnings call on when the Austin service would be available to the general public or how many vehicles would be on the road.

"It seemed like he wanted to kind of steer clear of really putting hard estimates out there for how things play out," Munster said.

Reporting by Chris Kirkham in Los Angeles, Akash Sriram in Bengaluru and Abhirup Roy in San Francisco; Editing by Peter Henderson and Jamie Freed

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

[Chris Kirkham](#)

Thomson Reuters

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

[Akash Sriram](#)

Thomson Reuters

Akash reports on technology companies in the United States, electric vehicle companies, and the space industry. His reporting usually appears in the Autos & Transportation and Technology sections. He has a postgraduate degree in Conflict, Development, and Security from the University of Leeds. Akash's interests include music, football (soccer), and Formula 1.

[Abhirup Roy](#)

Thomson Reuters

Abhirup Roy is a U.S. autos correspondent based in San Francisco, covering Tesla and the wider electric and autonomous vehicle industry. He previously reported from India on global corporations, capital markets regulation, white-collar crime, and corporate litigation. Contact him at (415) 941-8665 or connect securely via Signal on [abhiruproy](https://www.signal.me/abhiruproy).10

Tesla Inc

Tesla shares fall as Trump says he wants Musk to 'thrive'

Slide comes after carmaker says second-quarter profits dropped by more than a fifth



Tesla has said Trump's trade war and anti-electric vehicle policies will hit its top line © REUTERS

Zehra Munir in New York

Published 5 MINUTES AGO



Tesla shares fell sharply at market open after the company warned of a hit to revenue from Donald Trump's policies, even as the US president said he wanted the group's billionaire founder Elon Musk to "THRIVE".

Shares in the electric-car maker fell by 8.5 per cent on Thursday morning, taking its decline to about 35 per cent from a peak in mid-December, following the company's announcement of a second-quarter profit decline of more than a fifth.

Tesla has said the US president's trade war and the anti-electric vehicle policies in his "big beautiful bill" will hit the company's top line.

“We are in the transition period where we will lose a lot of incentives in the US,” chief executive Musk said. “We probably could have a few rough quarters.”

But in a Truth Social post on Thursday morning, Trump said wants Musk “and all businesses within our Country, to THRIVE, in fact, THRIVE like never before!”.

“Everyone is stating that I will destroy Elon’s companies by taking away some, if not all, of the large scale subsidies he receives from the U.S. Government,” the president said. “This is not so!”

Musk and Trump have had a dramatic falling-out in recent months, having formed a close relationship early in Trump’s second term in the White House.

This is a developing story

[Copyright](#) The Financial Times Limited 2025. All rights reserved.

Follow the topics in this article

US companies

Automobiles

Tesla Inc

Donald Trump

Zehra Munir

**Bloomberg
Law**[Request a Demo](#)[Login](#)

Securities Law News

SEC Clears CSX Corp After Investigating Old Accounting Errors

July 23, 2025, 2:04 PM PDT

The US Securities and Exchange Commission dropped its probe of CSX Corp.'s previously reported accounting errors and certain non-financial metrics, the company disclosed on Wednesday.

"The company received correspondence from the SEC on July 10, 2025, indicating that the agency had concluded its investigation and does not intend to recommend an enforcement action," the railroad company said in a regulatory filing.

The SEC sent a subpoena to CSX in October, asking the company to produce documents about accounting mistakes revealed in its prior quarterly financial statement.

Those errors were tied to accounting for engineering scrap and engineering support labor. Miscoding of these items made the company understate purchased services and labor and overstate properties, CSX said at the time.

The company didn't deem the mistakes big enough to require a formal re-do of its old financial statements. It quietly corrected the errors via what's called a revision.

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

To contact the reporter on this story:

Nicola M White in Washington at nicwhite@bloomberg.net

To contact the editors responsible for this story:

Megan Howard at mhoward70@bloomberg.net

Peter Blumberg

© 2025 Bloomberg L.P. All rights reserved. Used with permission.

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Securities Law News

SEC Seeks to Replace All Five Members of Bruised Audit Board (1)

July 23, 2025, 3:09 PM PDT; Updated: July 23, 2025, 4:19 PM PDT

The US audit regulator faces its third leadership overhaul since 2017 after the SEC said it would seek candidates to fill all five seats on the Public Company Accounting Oversight Board.

The board is operating under the interim leadership of board member George Botic after Erica Williams stepped down as chair on Tuesday. None of the board members' terms have expired.

Congress gave the US Securities and Exchange Commission the authority to appoint the board's members, who serve staggered five-year terms. But the SEC under the first Trump administration, and then the Biden administration, has opted to restock the Enron-era regulator with a fresh roster of leaders, leading to swings in how the PCAOB approaches its mission.

SEC Chair Paul Atkins said he was looking for board candidates who would provide "efficient stewardship" of PCAOB resources and who would "protect the integrity of public markets in a manner that minimizes unnecessary costs" for listed companies and brokerages who fund the board's budget.

That budget increased at a faster rate in recent years than the commission's budget, Atkins said in a statement.

Most of the PCAOB's \$400 million budget covers the salaries of its professionals—the majority of whom serve in its inspections division vetting the work of auditors to ensure they provide a meaningful check on corporate accounting. In comparison, the SEC operates with a roughly \$2 billion budget.

Atkins has long been a critic of the non-profit board, especially its spending and board member salaries, which have been frozen since 2009. The PCAOB chair earns \$673,000 and the other board members earn \$547,000 annually.

"An evaluation of Board member compensation will be among the items the Commission considers" as it reviews the audit regulator's 2026 budget, Atkins said.

Congress created the board in 2002 as part of a series of reforms meant to restore investor trust in corporate accounting. The Sarbanes-Oxley Act tasked the PCAOB with inspecting the work of auditors while also setting and enforcing core standards for auditing the revenues and cash flows of stocks worth trillions of dollars in today's market.

Republicans in Congress attempted to dissolve the PCAOB and hand its oversight duties to the SEC earlier this year but the measure failed to pass muster under arcane Senate rules.

Applications for the board seats are due by Aug. 25.

(Updates with additional reporting and Paul Atkins statement beginning in paragraph two.)

To contact the reporter on this story: Amanda Iacone in Washington at aiacone@bloombergtax.com

To contact the editor responsible for this story: Amelia Gruber Cohn at agrubercohn@bloombergindustry.com; Keith Perine at kperine@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Securities Law News

Hayes Libor Win Puts Fraud Convictions in Scandal at Risk (2)

July 23, 2025, 10:44 PM PDT

It was an era-defining prosecution for the UK's white collar crime agency.

When star trader **Tom Hayes** was found guilty of rigging a benchmark interest rate in 2015, it set off a raft of other investigations of bankers and traders across the City of London.

For the Serious Fraud Office, desperate to highlight that it could hold bankers to account, these actions marked a high-water point. On top of that, regulators made headlines by wringing global fines of almost \$10 billion from a dozen banks and brokerages.

Now, Hayes' success in quashing his conviction at the UK Supreme Court has upended it all and hit the SFO's reputation. It also raises questions about other convictions in the scandal.

"This result not only clears Mr. Hayes' and Mr. Palombo's names, but could also lead to convictions secured in," other trials prosecuted by the SFO being reviewed, said Caroline Greenwell, a partner at law firm Charles Russell Speechlys.

Financial Crisis

Hayes, who worked at UBS Group AG, was one of nine individuals convicted by UK authorities for manipulating rates tied to trillions of dollars of loans and securities around the world. With the public still dealing with the repercussions of the 2008 financial crisis – from austerity to job losses and a collapse in property prices – the cases became a high-profile emblem for the banker greed many blamed for what had happened.

Ex-Barclays Plc trader **Carlo Palombo**, who also had his conviction overturned, addressed that very point on Wednesday, saying that the rate-rigging defendants were cast as “dishonest greedy bankers.”

“We were accused of things that didn’t make sense,” he told a press conference. “We were caught up in this Kafka-esque nightmare.”

Hayes’ case was by far the most famous in the Libor scandal, but just a year after his trial, three others Barclays, Jonathan Mathew, Jay Merchant and Alex Pabon, were convicted of similar rigging charges involving the benchmark.

Another Barclays banker, Peter Johnson, had pleaded guilty in 2014 as part of the case. A string of further convictions of traders accused of rigging the Euro interbank rate followed.

The quashing of the convictions “raises the very real spectre that all the other convictions relating” to the rate rigging cases “are also miscarriages of justice,” Robert Newcombe, a criminal barrister, said.

Speaking after the ruling, Hayes also pushed the idea that the other bankers involved in the scandal could benefit.

“A guilty plea doesn’t mean that they are guilty,” he said. “All those convictions need to go, including those people that pled guilty off the back of the fact that they felt like they couldn’t have a fair trial in this country.”

Hayes and Palombo Were not the Only Rate-Rigging Convictions

UK Supreme Court ruling raises questions about several others

Names	Benchmark	Year convicted	Employer
Tom Hayes	Libor	2015	Citi, UBS
Jonathan Matthew	Libor	2016	Barclays
Jay Merchant	Libor	2016	Barclays
Alex Pabon	Libor	2016	Barclays
Peter Johnson	Libor	2016	Barclays
Christian Bittar	Euribor	2018	Deutsche Bank
Phillipe Moryoussef	Euribor	2018	Barclays
Carlo Palombo	Euribor	2019	Barclays
Colin Bermingham	Euribor	2019	Barclays

Source: Prior reporting, public filings

Bloomberg

The SFO, which both prosecutes and investigates the most serious white-collar crime in Britain, had opposed Hayes' appeal the entire way through the process, maintaining the convictions were secured fairly.

It said in a statement it will "ensure all those convicted in related cases are aware of the judgment."

"It is a matter for them as to any steps they wish to take," it added.

Trader Power

Libor had been a constant — but largely unknown — presence in financial markets before it became associated with the financial crisis. It was used to determine the price of everything from interest-rate swaps to mortgages and credit card rates.

Setting the reference rate was in the power of a handful of traders at a group of 16 of the world's largest banks. Each morning across the City of London at around 11 a.m., they had the task of submitting the rate at which banks were charged for lending to one another. Once submitted, the top and bottom 25% of submissions would be removed and the remaining numbers averaged.

The rate was supposed to reflect banks' cost of borrowing from one another — but by making artificially higher or lower submissions, traders could affect the final rate to the benefit of their trading positions.



Carlo Palombo during a news conference in London, on July 23.

Photographer: Betty Laura Zapata/Bloomberg

Hayes' 2015 conviction followed a two-month London trial where he was found guilty of working with traders and brokers to game Libor.

He had been a star performer at UBS in Tokyo from 2006 until 2009, when he joined Citigroup Inc. He was dismissed by the American bank less than a year later as the Libor scandal began to widen.

In its decision Wednesday, the UK Supreme Court said the Hayes jury had been misdirected by a judge, who was wrong to say that a bank's commercial reasons couldn't play a part in a rate submission.

It also said that "jury directions given in later cases, including at the trial of Mr. Palombo, followed in material respects those given at the trial of Mr. Hayes." That will give other traders hope.

For the SFO, the landmark ruling is a blow to its reputation.

It's a "sharp repudiation of the way benchmark manipulation prosecutions have been conducted over the past decade," said David Hamilton, a partner at London law firm Howard Kennedy who's primary areas include fraud and business crime. "This decision will reverberate across financial crime enforcement."

(Updates with additional comment from Hayes. Earlier versions of this story corrected the day of the court decision and an error in a graphic.)

Securities Law News

Hayes Calls for All Rate-Rigging Convictions to Be Quashed (1)

July 24, 2025, 3:15 AM PDT

Tom Hayes, the ex-UBS Group AG trader cleared of manipulating Libor by UK judges, says the other traders convicted of rigging benchmark interest rates should have their cases overturned.

"The other seven convictions — they all need to go," Hayes said in an interview with Bloomberg TV on Thursday. "This is a battle in a war, and we won the first battle."

On Wednesday, the UK Supreme Court quashed the convictions of Hayes and ex-Barclays Plc trader **Carlo Palombo**, stating that the juries had been misdirected by judges at both criminal trials. Hayes was given an 11 year sentence after appeal for rigging Libor in 2015, while Palombo was jailed for four years in 2019 for manipulating Euribor.

The question now remains what next for Hayes — be it a return to financial services or pursuing further legal action against UK agencies or his former employees. His lawyer is calling for a public inquiry into the Serious Fraud Office's investigation.

"I've got friends who run funds over in Hong Kong who I might be able to go and work with," Hayes said in the interview. "I've got no idea right now."

Now his conviction has been overturned, Hayes said that he wasn't sure of his regulatory status given a lifetime ban imposed on him by the Financial Conduct Authority had been stayed by the courts. "That should not now go ahead because I've had my conviction overturned," he said.

Palombo and Hayes were two of nine traders convicted in the UK for manipulating key interest rates, with other traders at Barclays and Deutsche Bank AG handed prison sentences. Two of those pleaded guilty, but all of the convictions followed Hayes' guilty verdict in a trial that has now been ruled unfair by the highest court in the land.

The scandal — over the fixing of benchmark rates that underpinned more than \$350 trillion of loans and securities — burst into public view at time when the banking community still faced outrage after the 2008 financial crisis and led to global fines of almost \$10 billion for a dozen banks and brokerages.

"We were scapegoated," Hayes said. "We were accused of causing the global financial crisis, which we had nothing to do with. How Japanese-Yen Libor moving around by 1000 of a percentage point had anything to do with global financial crisis is completely beyond me."

Setting the reference rate was in the power of a handful of traders at a group of 16 of the world's largest banks. Each morning they had the task of submitting the rate at which banks were charged for lending to one another. Once submitted, the top and bottom 25% of submissions would be removed and the remaining numbers averaged.

The rate was supposed to reflect banks' cost of borrowing from one another — but by making artificially higher or lower submissions, traders could affect the final rate to the benefit of their trading positions.

The ruling, one of the most high profile financial crime prosecutions in the past decade, should pave the way for several other convictions over tampering the rates setting process to be appealed.

It will also raise serious questions around how the embattled Serious Fraud Office can recover some credibility after the latest in a long history of setbacks. The Libor prosecution was seen as a high point for the prosecutor at a time when there was public clamor to hold bankers to account for wrongdoing.

The SFO, who opposed Hayes' appeal the entire way through the process and maintained the convictions were secured fairly, said it won't be seeking a retrial.

"One thing I think which is instructive is they haven't sought a retrial," Hayes said of the SFO. "I actually sort of wanted a retrial to be honest."



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

NJ Fed. Judge Pulls Opinion Flagged With Nonexistent Quotes

By **Lauren Berg**

Law360 (July 24, 2025, 12:04 AM EDT) -- A New Jersey federal judge on Wednesday withdrew his decision declining to dismiss a securities class action against CorMedix Inc. after an attorney for the biopharmaceutical firm pointed out the opinion contained "a series of errors," including nonexistent quotes and misstated decisions.

U.S. District Judge Julien Xavier Neals, in a text order on the docket, withdrew his June 30 opinion and order denying CorMedix's **motion to dismiss** investors' **third amended complaint**, noting that they were "entered in error," and told the parties a subsequent opinion would be forthcoming.

The withdrawal comes after CorMedix attorney Andrew Lichtman of Willkie Farr & Gallagher LLP on Tuesday filed a **letter** raising concerns about several apparent errors in the decision, including made-up quotes and incorrect case outcomes.

"While defendants do not seek reconsideration of the opinion ... we wish to bring to the court's attention a series of errors in the opinion — including three instances in which the outcomes of the cases cited in the opinion were misstated (i.e., the motions to dismiss were granted, not denied) and numerous instances in which quotes were mistakenly attributed to decisions that do not contain such quotes — so that the court may consider whether amendment or any other action should be taken," the letter states.

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

In the underlying litigation, initially filed in July 2021, investors allege CorMedix's share value plummeted when the public learned that previously undisclosed manufacturing issues were delaying regulatory approval of its antibacterial product candidate.

The consolidated complaint alleges that CorMedix's directors and officers misled investors in press releases, earnings calls and regulatory filings as it sought U.S. Food and Drug Administration approval of DefenCath, a solution to prevent catheter-related infections.

Having painted a rosier-than-reality picture of how the FDA process was proceeding that steadily increased CorMedix's stock price, when the truth about manufacturing concerns came out, shares plunged, the investors say.

By the time the suit was filed, CorMedix's stock price closed at \$6.42 per share on July 22, 2021, representing a 26% decrease from the average \$8.69 per share sold by the end of 2020, and a 42% decline from the average \$11.10 per share sold in the six months before June 30, 2021, the complaint states.

On Oct. 10, 2022, the closing price was \$2.85 per share, a 25% decrease from the average \$3.78 per share sold in the six months before June 30, 2022, according to the complaint.

The plaintiffs had sought to represent a class of all people who purchased CorMedix securities between Oct. 16, 2019, and Aug. 8, 2022, and to recover damages caused by the company's alleged violations of federal securities laws, according to the complaint.

The suit asserted violations of the Exchange Act and sought compensatory damages, litigation costs

and attorney fees.

CorMedix filed a motion to dismiss in June 2024, arguing that the investors were trying to turn setbacks in the FDA approval process into a securities fraud case.

"What is missing, however, is the fraud," CorMedix argued, noting that the complaint lacked specific allegations that the company and its officers knew certain things — such as deficiencies in the new drug application or other red flags about the status of the application — that contradicted their public statements to investors.

Judge Neals on June 30 filed the now-withdrawn opinion denying CorMedix's motion, court records show.

Nothing in CorMedix's letter on Tuesday or the court's docket order withdrawing the opinion on Wednesday suggested the errors could be attributed to the use of generative artificial intelligence, but nonexistent case law in legal filings is becoming a growing headache for courts across the country, with many **judges warning lawyers to be careful** with how they use these tools.

But attorneys **continue to get in trouble** for submitting legal documents with problems that can be traced back to the new technology.

Last week, a New York federal judge ordered an attorney **to explain himself** after he was accused of possibly using AI to write his response to an order she issued concerning his use of AI to write an earlier brief that cited nonexistent cases.

And earlier this month, a Florida attorney became the **latest to be sanctioned** over filings with case law suspected of being hallucinated by AI, with a judge ordering him to take AI ethics courses and repay opposing counsel's fees.

The investors are represented by Josh Silverman and Thomas H. Przybylowski of Pomerantz LLP, Ivy T. Ngo and Velvel (Devin) Freedman of Freedman Normand Friedland LLP, Brian Schall of The Schall Law Firm, and Peretz Bronstein and Eitan Kimelman of Bronstein Gewirtz & Grossman LLC.

CorMedix is represented by Andrew J. Lichtman of Willkie Farr & Gallagher LLP.

The case is In re: CorMedix Inc. Securities Litigation, case number 2:21-cv-14020, in the U.S. District Court for the District of New Jersey.

--Additional reporting by Katryna Perera, Sarah Martinson, Jack Karp and Andrea Keckley. Editing by Michael Watanabe.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Medical Device Co. Faces Investor Suit Over Sales Decline

By **Sydney Price**

Law360 (July 23, 2025, 8:41 PM EDT) -- Eye surgery equipment manufacturer RxSight Inc. has been hit with a proposed shareholder class action accusing it of concealing "adoption challenges" and declining sales of its products, which led to a nearly 38% hit to shares when it finally disclosed the shortcomings.

Until it lowered its full-year guidance earlier this month, RxSight failed to report declines in sales and utilization of its products, **according to the complaint** shareholder Rumen Makaveev filed Tuesday. The news sent the company's share price plunging by more than a third, Makaveev said.

RxSight develops lenses used in cataract surgeries known as "light adjustable intraocular lenses," according to the suit. The company's primary product is a system combining the lenses with a light delivery device.

In addition to RxSight, its CEO Ron Kurtz and Chief Financial Officer Shelley Thunen are individual defendants in the suit.

The suit's proposed class period begins Nov. 7, 2024, the day RxSight announced its earnings for the third quarter of the year. RxSight told investors that day that the \$35.3 million in revenue it brought in for the period — a 59% year-over-year increase — was due to the adoption and utilization of its system, Makaveev said.

For the next several months, RxSight continued to overstate the demand for its products, the shareholder alleged. For example, on May 7, when releasing its first quarter 2025 earnings, RxSight told investors that the 28% year-over-year revenue increase the company achieved was driven partially by "enthusiasm among cataract surgeons."

The truth emerged, Makaveev said, on July 8, the day RxSight announced it expected preliminary second quarter revenue of approximately \$33.6 million, down 11% for the year. The company lowered its full-year guidance and attributed the losses in the quarter to sales declines.

Kurtz told investors that day that RxSight had been experiencing adoption issues "over the last few quarters."

Following the disclosures, shares of RxSight fell \$4.84, or about 38%, to close at \$7.95 per share on July 9, according to the complaint.

The suit accuses RxSight and the individual defendants of acting with scienter, or actual knowledge of wrongdoing or reckless disregard, and violating the Exchange Act.

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

Makaveev is represented by Robert V. Prongay, Charles H. Linehan and Pavithra Rajesh of Glancy Prongay & Murray LLP, and Howard G. Smith of the Law Offices of Howard G. Smith.

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

The case is Makaveev v. RxSight Inc. et al., case number 8:25-cv-01596, in the U.S. District Court

for the Central District of California.

--Editing by Lakshna Mehta.

All Content © 2003-2025, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Stitch Fix Execs Hid Losses And Sold \$102M In Stock, Suit Says

By **Katryna Perera**

Law360 (July 23, 2025, 8:43 PM EDT) -- Stitch Fix's top brass have been hit with a shareholder derivative suit accusing them of selling more than \$102 million worth of company stock on insider information, as the company's new purchasing option was undercutting and cannibalizing its core curated box subscription.

Melonie Schultz filed **a complaint** Tuesday against Stitch Fix's founder and CEO Katrina Lake, its former CEO Elizabeth Spaulding and several current and former board of directors members.

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

According to the complaint, in December 2020, Stitch Fix launched the "Freestyle" program, through which customers could directly purchase individual clothing items without having to receive an entire Fix box. The company touted the direct buy program as a way to expand its market and deepen client engagement and said the program would "serve as another catalyst as we attract new clients, convert prospective clients and reactivate lapsed clients."

However, Schultz says, the revenue generating promises never materialized and the only thing the Freestyle program did was turn Stitch Fix into "just another e-commerce retailer."

"This drastically changed Stitch Fix's business model and threatened Stitch Fix's original business model as [the] Freestyle program cannibalized customers from its subscription business known as 'Fix,'" the complaint said.

Stitch Fix continued to tout the Freestyle program and repeatedly denied claims that it was undermining the company's legacy Fix business, according to the complaint. A year after launching the Freestyle program, insiders learned about the direct buy program's effects. In tandem with that disclosure, the company announced a loss for the first quarter of 2021 and cut its full-year revenue projections.

That in turn caused Stitch Fix's stock price to fall by \$5.97 per share, or 24%, from \$24.97 to \$19 per share, according to the complaint.

Schultz says the truth about the Freestyle program was not disclosed to public investors until much later and through February 2022, the company claimed the experienced losses were short-term problems, that it had been "testing client onboarding flows" and that "we see significant new client potential ahead as Freestyle enables us to access a greater share of shopping occasions."

Schultz said that as Stitch Fix's "deteriorating performance became increasingly clear to management," company insiders began dumping substantial amounts of stock.

"Despite having this knowledge of material nonpublic information, the insider trading defendants sold tens of millions of dollars of stock while concealing the fact that its business would soon experience severe headwinds with a concomitant stock price drop," the complaint said.

According to the complaint, Lake sold approximately \$70 million worth of Stitch Fix stock in 2021

alone, Spaulding sold roughly \$1.4 million in shares and Director Mike Smith sold approximately \$18 million worth of Stitch Fix stock.

"The insider trading defendants collectively sold approximately \$102,049,877 worth of Stitch Fix stock during the relevant period," the complaint said. "Had the insider trading defendants waited to make these sales until a month after the relevant period ended on March 8, 2022, their sales would have lost tens of millions of dollars."

On March 8, 2022, Stitch Fix offered a weak outlook for its third quarter of 2022, again cut its revenue guidance for the full year and disclosed a "self-inflicted 'friction'" between the Freestyle and Fix programs.

"Specifically, Stitch Fix explained that when customers visited Fix — the primary landing page for customers interested in the Fix box model — the company directed them to the Freestyle experience first, and 'therefore, in leading clients to the Freestyle experience first, inadvertently created friction' for potential customers interesting in ordering Fix," the complaint said.

On that news, the complaint said, the price of Stitch Fix stock fell by \$0.67 per share, or 6%, from \$11.01 to \$10.34 per share. The company's share price continued to decline over the next few months, and by June 2022, the stock price had dropped by nearly 90% from December 2020.

The suit seeks disgorgement, restitution, damages, improvements and reforms to Stitch Fix's corporate governance and internal procedures, attorney fees and a jury trial.

Stitch Fix is also facing a proposed class action over the Freestyle program's alleged cannibalization of the Fix business model. **Earlier this month**, a federal judge allowed most of the suit's claims to proceed, finding that investors have adequately made the case that the defendants knowingly made misleading statements.

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

Schultz is represented by Brendan M. Ford and Kristopher P. Diulio of Ford & Diulio PC, Lee Squitieri of Squitieri & Fearon LLP and Fletcher Moore of Moore Law PLLC.

Counsel information for the defendants was not immediately available Wednesday.

The case is Schultz et al. v. Lake et al., case number 3:25-cv-06152, in the U.S. District Court for the Northern District of California.

--Editing by Stephen Berg.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

MicroStrategy Sued In Del. After No-Vote Stock Expansion

By **Jeff Montgomery**

Law360 (July 23, 2025, 8:07 PM EDT) -- A stockholder of cryptocurrency venture MicroStrategy Inc. has launched a proposed class suit in Delaware's Court of Chancery, accusing the company and its chairman and former CEO, Michael Saylor, of amending — without a stockholder vote — liquidation preference rules for some preferred company stock.

The proposed class suit, filed by stockholder David Dodge, accused MicroStrategy's nine board members of violating Delaware's General Corporation Law and breaching their fiduciary duties with the change.

MicroStrategy, which had a nearly \$116 billion market capitalization Wednesday, describes itself as "the world's first and largest bitcoin treasury company." It "rebranded" itself in February, reporting that it would do business as "Strategy" going forward.

According to the complaint, MicroStrategy's board voted on July 6 to a charter amendment that established a floating, rather than fixed, \$100 per share payment for "8% perpetual strike" preferred stock. Board members voted to create the perpetual strike stock in February, assigning a \$100 value.

On July 7, however, the board voted to let the value of the new preferred stock float based on recent sales, with \$100 as a floor. The change increased the value of outstanding perpetual strike stock from \$1,220,136,700 to \$1,473,925,134.

"In violation of the DGCL, the board effectuated the amendment without seeking stockholder approval," the complaint said, noting that the change increased the outstanding liquidation preference for perpetual strike shares by about \$250 million.

Dodge's complaint said the company's certificate of designations permits amendment without a vote or consent of any perpetual strike preferred shareholder "so long as the amendment did not 'adversely affect the rights' of any holder of perpetual strike preferred stock 'in any material respect.'"

Company directors determine the effect of changes "in good faith," the complaint said, adding, "Accordingly, the holders of the perpetual strike preferred stock were not entitled to vote on the amendment." Common stockholders, meanwhile, never had an opportunity to vote.

"There are questions of law and fact common to the stockholders," the complaint said, including whether the action violated requirements of the DGCL and whether directors breached their fiduciary duty by enacting the change without common stockholder approval.

Sought in the case is certification as a class proceeding, a declaration that the amendment was ineffective and filing of a certificate of correction with Delaware's secretary of state, with damages awarded to the class along with pre- and postjudgment interest.

The parties did not immediately respond to requests for comment.

David Dodge is represented by David A. Jenkins, Neal C. Belgam and Jason Z. Miller of Smith Katzenstein & Jenkins LLP and Steven J. Purcell, Robert H. Lefkowitz and Stephen C. Childs of Purcell & Lefkowitz LLP.

Counsel information for MicroStrategy was not immediately available.

The case is David Dodge et al. v. MicroStrategy Inc. et al., case number 2025-0846, in the Court of Chancery of the State of Delaware.

--Editing by Jay Jackson Jr.

All Content © 2003-2025, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Chancery Denies Toss Of AT&T Cos.' Investor Payout Suits

By **Jeff Montgomery**

Law360 (July 23, 2025, 5:34 PM EDT) -- A Delaware vice chancellor sent toward trial Wednesday a fleet of coordinated, derivative suits seeking hundreds of millions of dollars in damages from AT&T and affiliates for allegedly claiming excessive shares of partnership revenues, in a ruling that also limited time windows for some claims.

Vice Chancellor J. Travis Laster's decision denied a motion to dismiss the cases based on AT&T party allegations of unreasonable litigation delay. The court's finding followed a report that the parties have held four mediation sessions, one a two-day session, in recent months with retired U.S. District Judge Layn R. Phillips of Phillips ADR.

"That mediation is continuing. The last in-person session was June 30," Michael B. Carlinsky of Quinn Emanuel & Urquhart LLP, counsel to the managing partners of the 14 AT&T limited partnerships named, told the vice chancellor. Carlinsky said discussions continue "looking both backward and forward."

The derivative suits, filed on behalf of 14 minority partners of individual cellular services, seek recoveries of "ill-gotten profits" allegedly kept from the partnerships for years as the industry, communications technology and wireless service use evolved from handheld phones and multiple network providers to the ubiquitous "internet of things."

New Cingular Wireless PCS LLC was initially relied upon to build and operate the network tying the systems together. The suits accused New Cingular and parent AT&T of failing to update revenue calculations and allocations as technology changed, systems advanced and area codes and phone numbers became less relevant to customer use.

The theory "isn't some backroom secret mode of accounting," Adam M. Abensohn of Quinn Emanuel, counsel to AT&T Inc. and affiliates, told the vice chancellor. "The foundational metric known to the telecommunications industry became obsolete" with number portability and roaming charges.

"It's apparent from their own complaint that they were on notice," of the issues and potential claims long ago, Abensohn said.

Jessica Zeldin of Reid Collins & Tsai LLP, counsel to the cellular partnerships, told the vice chancellor that the suit challenged an ongoing and conscious use of partnership assets for AT&T's benefit without compensation, through flawed accounting and expenses methodologies. By 2005, Zeldin said, AT&T's conduct appeared both intentional and willful.

"Plaintiff's claims are not disclosure based. We challenge the overall methodology of accounting," Zeldin said, adding later that "the complaint alleges conscious action followed by failure to take remedial action."

At&T, Zeldin said, asserted that "plaintiff is required to second-guess them. That sets a dangerous precedent for fiduciary accountability. It basically becomes a 'Catch me if you can' system."

No plaintiff, Zeldin said, "should have a duty to connect the sort of dots that the defendants are asking them to."

Vice Chancellor Laster, ruling from the bench after AT&T arguments for dismissal, found that the case should proceed. Although he said there was no apparent overall decision by the AT&T parties, "What I think there really was, was, essentially, large organization inertia" as "the world changed around them" and new products came on line.

"The harm to the partnerships comes incrementally, from each one of these decisions. Essentially, it's pecking to death over time," the vice chancellor said, adding later that "at any point AT&T could have done things differently."

But the vice chancellor also said "it seems very unlikely to me one would go back as far as 2005 or 2003" for discovery.

"I think it's more likely in that situation that equitable tolling will come into play. The burden will be on AT&T to show there was sufficient knowledge" about new programs, the vice chancellor said.

All the complaints rely heavily on testimony and documents that surfaced before, during and after years of litigation and a five-day trial in late 2020 before Vice Chancellor Laster, according to the complaints.

In the prior suit, the vice chancellor found that AT&T failed to follow a fair process or pay a fair price when it bought an Oregon-based cellphone partnership worth \$714 million in 2010 for just \$219 million. That decision found that frozen-out minority partners who objected were due \$9.3 million in damages plus interest.

The new and more expansive complaints argued that, "As a result of AT&T's self-dealing, breaches of fiduciary duty, and exploitation of partnership property, AT&T obtained unjust windfalls for itself, damaged the partnership, and failed to remit to the partnership its fair share of the profits generated from partnership assets. This wrongdoing is continuing."

The minority investors are represented by William T. Reid, Gregory S. Schwegmann, Michael Yoder, Ryan van Steenis, Norman M. Monhait and Jessica Zeldin of Reid Collins & Tsai LLP and Michael Pullara and David Siegel of Michael Pullara Law Firm.

AT&T Inc., et al, are represented by Michael B. Carlinsky, Adam M. Abensohn, David S. Mader and Hope D. Skibitsky of Quinn Emanuel Urquhart & Sullivan LLP and A. Thompson Bayliss, Michael A. Barlow and Caleb R. Volz of Abrams & Bayliss LLP.

Nominal Defendants Florida RSA No. 2B Indian River and 13 other limited partnerships are represented by John L. Reed, Peter H. Kyle, Daniel P. Klusman & Michael A. Carbonara, Jr. of DLA Piper LLP.

The cases, all in the Court of Chancery, are: The Seminole Tribe of Florida v. AT&T Inc., case number 2022-1078, Delcambre Cellular LLC v. AT&T Inc., 2022-1079, Cellular 7 Inc. v. AT&T Inc., 2022-1080, Sharon Telephone Co. v. AT&T Inc., 2022-1081, Sharon Telephone Co. (Milwaukee SMSA) v. AT&T Inc., 2022-1082, Kingdom Telephone Co. v. AT&T Inc., 2022-1083, Marais Des Cygnes Cellular of Missouri Limited Partnership v. AT&T Inc., 2022-1084, Chickasaw Holding Co. v. AT&T Inc., 2022-1085, Pioneer Telephone Cooperative Inc. v. AT&T Inc., 2022-1086, Cherokee Telephone Co. v. AT&T Inc., 2022-1087, Rainbow Communications LLC v. AT&T Inc., 2022-1088, J&J Celcom v. AT&T Inc., 2022-1089, Stojmat LLC v. AT&T Inc., 2022-1090, and Chin Cellular General Partnership v. AT&T Inc., 2022-1091.

--Editing by Alex Hubbard.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

3rd Circ. Backs Off 2nd Look At Class Action Fraud Sanction

By **Jessica Corso**

Law360 (July 23, 2025, 7:46 PM EDT) -- The Third Circuit has reissued an opinion upholding the conviction of a man accused of defrauding shareholder settlement funds, but saying it should not have previously ordered the lower court to potentially increase the \$31 million judgment against the man.

A three-judge panel of the appellate court affirmed the conspiracy, wire fraud and money laundering convictions against Joseph Cammarata for a second time on Tuesday. The court had **previously issued** the same pronouncement in a precedential opinion in February but vacated it a few months later in granting Cammarata a rehearing.

Tuesday's **opinion** is nearly identical to the one the Third Circuit issued in February with one exception: It withdraws an order for the Philadelphia-based lower court to consider increasing the amount of money Cammarata must pay.

The panel previously said the lower court's judgment ran afoul of the Mandatory Victims Restitution Act of 1996 because it did not fully reimburse the victims of Cammarata's scheme. The New Jersey man and his two accomplices were convicted of stealing \$40 million that should have gone to shareholders harmed by alleged corporate malfeasance but Cammarata was only ordered to repay \$31 million.

The panel originally held that the trial court lacked the discretion to order restitution to only 115 of the 397 classes victimized by the fraudulent scheme, as well as award an amount "well below" the more than \$40 million in losses suffered by all the victim classes.

The panel reaffirmed on Tuesday, in an opinion authored by U.S. Circuit Judge D. Brooks Smith, that it believed the lower court had abused its discretion in failing to fully compensate victims. But it said it could not order a second look at the restitution amount under a 2008 U.S. Supreme Court decision known as **Greenlaw v. United States** because the government had not requested that remedy.

In **Greenlaw**, the high court ruled that an "appellate court may not alter a judgment to benefit a nonappealing party."

"Accordingly, and although the district court abused its discretion by failing to fully compensate the victims of Cammarata's offenses, the government's failure to cross-appeal requires that we affirm the district court's restitution order," the Third Circuit said Tuesday.

Prosecutors alleged Cammarata and his co-conspirators formed Alpha Plus Recovery, a "claims aggregator" that would theoretically work with investors to help them recover lost funds by filing claims in applicable shareholder class action settlements or enforcement actions by the U.S. Securities and Exchange Commission.

But prosecutors say that, in reality, Alpha Plus submitted claims to administrators on behalf of three sham clients — Quartis Trade and Investment LLC, Nimello Holding LLC and Inversiones Invergasa SAS — by falsely stating they had bought shares in the securities at issue in the lawsuits and enforcement actions.

Cammarata **was sentenced** to 10 years in prison in 2023.

Both the government and an attorney for Cammarata declined to comment on the reissued opinion on Wednesday.

U.S. Circuit Judges L. Felipe Restrepo, D. Brooks Smith and Theodore A. McKee sat on the panel for the Third Circuit.

The government is represented by Paul G. Shapiro of the U.S. Attorney's Office for the Eastern District of Pennsylvania.

Cammarata is represented by Peter Goldberger.

The case is U.S. v. Cammarata, case number 23-2110, in the U.S. Court of Appeals for the Third Circuit.

--Additional reporting by George Woolston and Sydney Price. Editing by Lakshna Mehta.

All Content © 2003-2025, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
 Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Managing Risks As State AGs Seek To Fill Enforcement Gap

By **Milton Marquis, Nicole Sprinzen and Ann-Marie Luciano** (July 23, 2025, 2:54 PM EDT)

Significant shifts within federal enforcement agencies and enforcement priorities are driving an unprecedented surge in state attorney general activity, which we predict will continue to play out in novel ways in the near term.

In the last six months, state enforcement budgets and state attorney general office staffs around the country have been growing, as has state regulatory enforcement in areas traditionally in the federal domain.

In recent months, state attorneys general have exercised their broad consumer protection and antitrust enforcement authority to an increasing extent, particularly within the healthcare, pharmaceutical and Big Tech industries, and in pursuing state false claims act litigation, cryptocurrency regulation and technology-based fraud.

A Significant Federal Scaling Back, and Shifts in Federal Enforcement Priorities

Since Jan. 20, there has been a significant scaling back of federal enforcement resources and litigation, particularly in traditionally active areas of federal regulatory enforcement.[1]

In addition, the Trump administration has announced significant shifts in federal enforcement priorities. In May, U.S. Securities and Exchange Commission Commissioner Mark Uyeda explained that the SEC "has undergone a major course-correction ... return[ing] to its core mission of regulating the capital markets." [2] Uyeda pointed to the **creation** of a Crypto Task Force and **dismissal** of enforcement actions arising out of cryptocurrency registration requirements.

In January, the U.S. Department of Justice ordered the Civil Rights Division to freeze any new litigation, and enforcement efforts have largely shifted toward immigration, drug cartels and gang violence.

Additionally, after a **pause** in Foreign Corrupt Practices Act enforcement, the DOJ issued new **guidelines** in June instructing that FCPA cases should be brought only when U.S. national interests are undermined.[3] The DOJ similarly announced other criminal corporate enforcement **priorities**.

On the antitrust enforcement front, in March, the DOJ announced an Anticompetitive Regulations Task Force[4] focused on "the elimination of anticompetitive state and federal laws and regulations that undermine free market competition." [5]

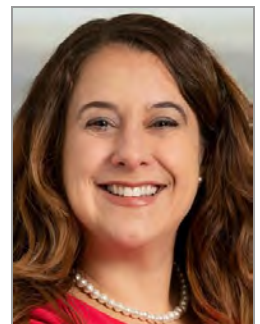
These unprecedented changes to federal enforcement staff and priorities are resulting in wholesale shifts in federal enforcement activity. In areas where federal regulation and enforcement have decreased, state attorneys general have reacted swiftly to increase their regulatory and enforcement activities.



Milton Marquis



Nicole Sprinzen



Ann-Marie Luciano

Expansion of State Attorney General-Led Enforcement

Before January, FCPA enforcement was the purview of federal enforcement, with primary enforcement jurisdiction delegated to the DOJ Criminal Division's Fraud Section. But in April, California Attorney General Rob Bonta issued a legal advisory warning businesses that FCPA violations are "actionable under California's Unfair Competition Law," indicating an intent to police this area.[6]

In cryptocurrency enforcement, national leaders such as the New York and California attorneys general will continue to be aggressive, and other states are taking more vigorous action in light of the federal enforcement shift.

In April, emphasizing that "states must fill the enforcement vacuum being left by federal regulators," Oregon Attorney General Dan Rayfield filed a securities enforcement **action** in Multnomah County Circuit Court against a leading cryptocurrency exchange, Coinbase Global Inc., explaining that the lawsuit was the result of the SEC **dropping** its case.[7]

Over the past few months, many attorney general offices have announced resource increases for defensive and offensive enforcement efforts. State attorneys general have reasserted their pre-2025 commitments and standing policies, and have leveraged the force multiplier effect of multistate coordination against enforcement targets.

Strategies for Navigating This Enforcement Era

To successfully navigate this ever-evolving enforcement environment, companies need to understand the functional and practical differences between a state attorney general office and traditional federal enforcement.

Attorney general offices are political entities, driven by their state enforcement priorities, the consumer experience, complaints sent to investigative staff, voter priorities and local press scrutiny. State attorney general enforcement actions, particularly when coordinated among multiple states, often unfold on different timelines than are typical for federal regulatory agencies.

In addition, state attorney general procedural rules vary widely, particularly in the precomplaint investigative discovery time period.

These differences demand a tailored approach to developing an effective strategy to respond to state attorney general enforcement actions.

Mitigating Against State Attorney General and Federal Regulatory Exposure

The most effective regulatory mitigation strategy is one that anticipates potential areas of exposure and incorporates compliance policies and practices into a company's corporate governance to offset enforcement risk.

Monitor and track consumer complaints.

Consumer-facing businesses should be cognizant of the trends they see in their customers' experience, particularly staying in front of upticks in consumer complaints, which are the canary in the coal mine of attorney general enforcement activity.

Maintaining a robust complaint response and escalation process to identify, address and resolve consumer complaints is imperative to avoid the ire of attorneys general, whose staff are fielding influxes of consumer complaints.

Undertake regular risk and compliance assessments.

Companies must regularly evaluate corporate risk and compliance programs to identify vulnerabilities and adjust to shifting regulatory trends.

For example, many attorneys general's views on pricing and fee disclosures are evolving, and some

have recently focused on drip pricing and junk fees.[8] In light of this, companies must understand how hidden or confusing disclosure language on their website interfaces could be deemed unfair or deceptive by attorneys general.

Monitor subject matter enforcement trends.

Companies should also evaluate their policies and practices on active subject matter enforcement trends, such as the significant uptick in scrutiny over the past year of diversity, equity and inclusion policies, and investing based on environmental, social or governance principles.[9]

Businesses with both state and federal contracts must consider any conflicts in state and federal enforcement of civil rights laws and evaluate whether proactive engagement with their attorney general is appropriate to chart a path of compliance where there is a conflict, such as by seeking a waiver of certain targeted state DEI requirements.[10]

Proactive Engagement to Control the Narrative

Communicating directly with potential regulators is an effective way to get out ahead of publicity and control the company narrative.

If a company anticipates launching new products, or changing services or policies in ways that may cause friction with consumers, it is especially important to engage with attorneys general ahead of these changes to educate them about products and services, and the protections a company offers consumers.

This strategy provides an opportunity to humanize the company with regulators before an unfavorable narrative is amplified by competitors, public interest groups or consumer complaints.

Engaging with attorneys general to explain the company's business model and consumer protection-oriented practices can also bear significant fruit down the road if the company subsequently faces an attorney general inquiry.

For regulatory issues that are relevant only to certain target industries, companies should engage with trade associations to develop best practices and consistent positions to address regulatory concerns. Unified messages from industry groups that address consumer protection concerns and explain industry practices carry great weight with attorneys general, and can provide attorneys general with important insight into how aggressive enforcement action could hamper the consumer experience and innovation.

Considerations For Investigation Strategies

Understanding the impetus of an investigation is key to developing an appropriate strategy:

- Investigations that are consumer complaint-driven are often focused on understanding the cause of the complaints and redressing the issue with consumers.
- Front office-initiated investigations may demand a greater understanding of the attorney general's enforcement priorities and the context of the state's political landscape.
- Multistate investigations raise questions as to which states are leading the investigation, their motivations and the relevant risks of expansion to other states.

There are myriad practical, state-specific considerations to evaluate when negotiating with an attorney general's office at the outset of an investigation. Issues that could significantly affect the timeline, cost and publicity of the attorney general's investigation include the confidentiality protections afforded by the state and exceptions to open records laws, the sharing of confidential information with other enforcers, the scope of a potential subpoena, and the appetite for negotiating prelitigation resolution opportunities.

Litigation Strategies Dictated by Forum and Attorney General Motivation

Where litigation cannot be avoided, litigation strategies should take account of whether there are multiple parallel proceedings or private class actions.

Companies also need to understand the attorney general's primary motivation for filing suit and the type of relief sought, such as a claims process, direct consumer restitution, a state fund or a combination thereof. This will help them to gauge the risks to their business both financially and in customer goodwill.

The forum in which litigation is brought — such as in state court or in the office of administrative hearings within the attorney general office — will also dictate litigation, resolution, and appeal timing and strategies.

Compliance Objectives Unchanged

The trends discussed above will likely continue as the new administration installs new leadership at agencies across the federal government.

State attorney general enforcement will also continue to increase as offices that have developed their own enforcement priorities continue to regulate and enforce in those substantive areas. New resources will be appropriated, staff will gain new expertise and enforcement records will be established.

For companies seeking to avoid either federal or state enforcement, compliance objectives remain largely the same, although the manner of enforcement has changed considerably.

It is essential for U.S. companies, and international companies operating in the U.S., to engage in regular evaluations of corporate risk and maintain compliance programs focused on identifying and mitigating geographic, industry, customer and third-party risk.

Milton A. Marquis is a partner and vice chair of the state attorneys general practice at Cozen O'Connor. He previously served as senior counsel to the assistant attorney general for antitrust at the DOJ, where he served as the Antitrust Division's first liaison to state attorneys general.

Nicole H. Sprinzen is a partner, and vice chair of the white collar defense and investigations practice, at Cozen O'Connor. She previously served as a prosecutor in the U.S. Department of Justice Criminal Division's Fraud Section.

Ann-Marie Luciano is a member at Cozen O'Connor. She is a founding member of the American Bar Association's State Attorneys General and DOJ Issues Committee.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] For example, in addition to significant downsizing at the CFPB, the agency has dismissed or withdrawn half of all pending litigation. And on May 12, the CFPB published a notice revoking 67 different agency guidance documents as part of a review to identify policies, rules and advisory opinions in an effort to achieve reduced regulatory burdens on businesses in the name of consumer protection.

[2] <https://www.sec.gov/newsroom/speeches-statements/uyeda-remarks-sec-speaks-051925>.

[3] In February, the Trump administration issued an executive order that stopped new criminal FCPA investigations and required review of all pending FCPA investigations.

[4] <https://www.justice.gov/opa/pr/justice-department-launches-anticompetitive-regulations-task-force>.

[5] The task force will focus its efforts on the energy, food and agriculture, healthcare, housing, and transportation industries.

[6] <https://oag.ca.gov/news/press-releases/attorney-general-bonta-alerts-businesses-it-remains-illegal-bribe-foreign>.

[7] <https://www.doj.state.or.us/media-home/news-media-releases/oregon-attorney-general-rayfield-sues-coinbase-for-promoting-and-selling-high-risk-investments/>.

[8] The FTC defines drip pricing as "[q]uoting a misleading, artificially low price and then adding in mandatory fees and other charges throughout the buying process." 16 C.F.R. pt. 464 (2025).

[9] <https://www.stateagreport.com/news/republican-ag-s-warn-financial-institutions-that-dei-and-esg-policies-may-risk-enforcement-action/>.

[10] <https://www.cianj.org/2025/03/07/new-challenges-for-nj-businesses-as-trump-dei-directives-conflict-with-state-obligations/>.

All Content © 2003-2025, Portfolio Media, Inc.