

Securities Law News

Lincoln National Fends Off Investor Suit Over Insurance Reserves

July 25, 2025, 9:44 AM PDT

Lincoln National Corp. will escape, for now, a proposed class action over statements the company made before it took a nearly \$2.2 billion charge in 2022, a federal court ruled.

The investors failed to adequately allege that statements by Lincoln and its top executives about factors affecting reserves for two types of universal life insurance were misleading when made, Judge John F. Murphy said Thursday for the US District Court for the Eastern District of Pennsylvania.

They also didn't show the necessary level of intent for securities fraud, Murphy said. The complaint doesn't adequately set out "what data Lincoln had at the time of each alleged statement, undermining any inference of fraudulent intent," he said. "As a result, it falls short of the demanding bar for securities fraud cases." But the plaintiffs will have another chance to plead their claims.

The investors alleged Lincoln withheld information from the public about its life insurance business. The amended version of the complaint focused on a phenomenon during the Covid-19 pandemic of a higher percentage of older policyholders continuing to hold onto guaranteed universal life insurance, rather than let it lapse, even as time passed from the beginning of the pandemic.

With fewer lapsed policies—and low interest rates driving down income from no-lapse policies with "secondary guarantees"—insurance companies need to increase reserves to cover potential payouts, according to the complaint. That's what a competitor of Lincoln's did in response to an industry report that Lincoln had access to, the investors said. Lincoln also had the data it submitted to the industry study and conducted its own independent study, but continued making statements indicating that its decisions were still in the future, they said.

But Murphy said the lead investor, a union pension fund, "encounters two critical problems: it does not know when Lincoln possessed all lapse rate data, nor does it have the data."

The judge said he wasn't "persuaded that the industry study was necessarily dire for Lincoln." Similarly, the pension fund "provides no basis for us to infer that Lincoln's internal data submitted to the industry study" was "dire on its own," he said. And Lincoln's independent study may not have been complete when the targeted statements were made, he said.

The fund's failure to plead that Lincoln had all the information when it made the challenged statements weighs against intent, Murphy said. It's more plausible that Lincoln was still conducting its own review when it made the statements, he said.

Robbins Geller Rudman & Dowd LLP is lead counsel for the investors. Faegre Drinker Biddle & Reath LLP and Jenner & Block LLP represent Lincoln.

The case is Meade v. Lincoln Nat'l Corp. , 2025 BL 259896, E.D. Pa., No. 24-1704, 7/24/25 .

(An incorrect AI summary previously at the top of this story was removed.)

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

Securities Law News

This Week in Chancery Court: eXp Parties, Goldman Investor Award

July 28, 2025, 2:00 AM PDT

A Goldman Sachs Group Inc. stockholder will explain in Delaware Chancery Court why she should have an award of attorneys' fees and expenses reinstated while an objector to the approximately \$4.6 million settlement of a shareholder's derivative suit makes a case for his own.

Here's a look at more from the court's calendar:

Monday: L.A. City Emp. Ret. Sys. v. Sanford, Del. Ch., No. 2024-0998, hearing 7/28/25.

At issue: eXp World Holdings Inc. senior leaders have asked the court to dismiss claims they turned a blind eye while some of its top "influencers" drugged and raped real estate agents at alcohol-soaked company events. "This case represents a classic instance of stockholders seizing on misconduct that occurred within a company and using it to assert (without the requisite particularity and with the benefit of hindsight) that the board of directors must have failed in its duty of oversight," they said in a brief seeking to toss the *Caremark* claims. The pension funds who filed suit say their allegations are "sourced from Defendants' own documents, sustained complaints filed in federal district court on behalf of survivors, and Lead Counsel's interviews of multiple former employees with first-hand knowledge."

Court action: A hearing on the pending motions will be held in Wilmington, Del.

eXp Board Sued Over Sex Assaults at Booze-Fueled Company Parties

Tuesday: Nielsen Holdings Ltd. v. Nielsen Consumer, Inc., Del. Ch., No. 2025-0651, post-trial argument 7/29/25.

At issue: Vice Chancellor Nathan A. Cook fast-tracked some claims in a multi-pronged bid by Nielsen Holdings Ltd. affiliates to close the sale of a segment to Circana LLC, which is allegedly trying to pull back over meddling by a former Nielsen affiliate. The media analytics giant is suing both Circana and Nielsen IQ, a consumer intelligence company—and direct competitor of Circana—that spun off in 2021. There was a one-day trial July 22.

Court action: A post-trial argument will be held over Zoom.

Nielsen Opens Two Legal Fronts in Effort to Close Circana Deal

Tuesday: CHP III LP v. Cravatt, Del. Ch., No. 2024-0867, hearing 7/29/25.

At issue: A Vividion Therapeutics Inc. co-founder and two associates seek to toss a lawsuit alleging they looted valuable intellectual property and used it to launch a competing business as they were selling the biotech company to Bayer AG for \$2 billion. The venture capital firm Cardinal Partners is leading the litigation, which doesn't name Bayer as a defendant. Cardinal owned 12.5% of Vividion before the sale to Bayer, according to court documents.

Court action: A hearing on the pending motion will be held in Wilmington, Del.

Vividion Co-Founder Sued for Fraud Tied to \$2 Billion Deal (1)

Wednesday: Stein v. Blankfein, Del. Ch., No. 2017-0354, oral argument 7/30/25.

At issue: After back and forth and a trip to the Delaware Supreme Court, Vice Chancellor Sam Glasscock III approved a third proposed settlement in a shareholder derivative lawsuit alleging that Goldman Sachs overpaid its board. The investor, Shiva Stein, and an objector, Sean J. Griffith, are now seeking a fee award associated with getting that accord, which included a reduction of \$4.6 million in total compensation and governance reforms. Stein wants the court to reinstate a prior award of \$612,500 in attorneys' fees and expenses, which was granted in after the court had approved a previous accord. Griffith, a law professor, wants \$509,220 in attorneys' fees and \$7,727.56 in expenses. Vice Chancellor Bonnie W. David will hear the oral argument.

Court action: Oral arguments will be held in Georgetown, Del.

Goldman Sachs Board Pay Deal Rejected by Delaware High Court (1)

Goldman Investor Gets Fees for Negotiating Board Pay Settlement

Wednesday: Hesham M. Gad v. Paragon Techs., Inc., Del. Ch., No. 2024-1195, hearing 7/30/25.

Ousted Paragon Technologies Inc. chairman Hesham Gad will ask for an advancement of attorneys' fees and expenses that he claims is his right as a former CEO and director. Paragon announcing an investigation and threatening litigation against him kickstarted his need to seek enforcement of this right, he said. Gad had separately sued Samuel Weiser and Jack Jacobs in the Delaware court, claiming the co-directors allegedly staged a board coup relieving him of the conveyor company's chairmanship.

Court action: A telephonic hearing on a first interim application for advancement of fees and expenses will take place.

Paragon Technologies Board Sued Over 'Coup' by Ousted Chairman

Securities Law News

Fiserv Misrepresented Growth's Sustainability, Investor Says (1)

July 25, 2025, 2:28 PM PDT; Updated: July 25, 2025, 2:36 PM PDT

Fiserv Inc. falsely represented that new customers, rather than cost-conscious users of its discontinued payment processing system, were driving revenue growth for the software maker, an investor alleges.

"Fiserv misled investors by artificially inflating its growth numbers through compelled migration of legacy customers" from its older system, Payeezy, to an "expensive and feature-heavy" point-of-sale platform called Clover, a shareholding police officers' retirement fund says. The Hollywood, Fla., fund filed its proposed class action Thursday in the US District Court for the Southern District of New York.

The company and its top executives continued to tout the growth prospects for the Clover product, inflating the company's share price, the fund says.

"The market learned that this growth was unsustainable when a substantial portion of these migrated customers abandoned Fiserv altogether in favor of less-expensive competing products like Square and Toast," the fund says.

Revelations about the issue brought the stock price down 19% on April 23, closing at \$176.90; 16% on May 15, closing at \$159.13; and 14% on Wednesday, closing at \$143.00, the fund says.

"Fiserv disagrees with the claims and will vigorously defend itself in the lawsuit," the company said in an email Friday.

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

The fund seeks damages on its securities fraud claims.

Labaton Keller Sucharow LLP and Klausner Kaufman Jensen & Levinson represent the retirement fund.

The case is City of Hollywood Police Officers' Ret. Sys. v. Fiserv, Inc. , S.D.N.Y., No. 1:25-cv-06094, complaint 7/24/25 .

(Updated with response from company in sixth paragraph.)

Coinbase Faces Shareholder Suit in Delaware

July 24, 2025 | By  Ellen Bardash



Credit: dennizn/Adobe Stock

This story was first published by Delaware Business Court Insider.

Coinbase shareholders have filed a derivative action in the Delaware 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 filed 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/therecorder/2025/07/24/coinbase-faces-shareholder-suit-in-delaware/>

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](#).

Litigation Trends to Watch: Cases Surge over AI Business Solutions, Drug Trial Miscues and Sporting Goods Price Fixing

July 25, 2025 By **Mike Neighbors**



Credit: 69/Adobe Stock

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

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

Here are some noteworthy litigation patterns surfaced by the platform this week:

- Major software companies are facing patent claims over their use of AI to combat cyberattacks.
- A class action firm is suing drug companies for hiding issues during clinical trials.
- A swarm of copyright lawsuits centers on tornado footage.
- Sporting goods retailers are under fire for allegedly agreeing to set price floors.
- Johnson Controls was sued by data breach victims two years after a cyberattack.

► **Litigation Surge - Technology | Patent**

Law.com Radar detected a swarm of patent cases targeting major tech companies in Delaware during the week of July 14. Seven patent lawsuits were filed against entities on Radar's sector watchlist, three of which were brought by Conexus LLC. The suits, backed by Rabicoff Law and the Garibian Law Offices, allege cybersecurity platforms which use AI-powered machine learning and other automated processes to detect and mitigate cyberattacks infringe the plaintiff's patent. Businesses under fire include [Palo Alto Networks](#), [Rapid7](#) and [Splunk](#).

The suits are part of a broader trend of patent cases targeting businesses over AI solutions: Major entities like [Coca-Cola](#), [H&R Block](#) and [Johns Hopkins University](#) have been sued for using AI-powered customer service and call-routing platforms, while [Apple](#), [Nvidia](#) and [Qualcomm](#) are facing patent claims over chips used in AI applications.

[View Surge Data](#)

► **Litigation Surge - Securities | Pomerantz LLP**

Class action firm Pomerantz LLP launched a cluster of securities cases during the week of July 14. At least three federal securities class actions were brought by the firm, all accusing pharmaceutical companies of concealing issues with clinical drug trials. For instance, [Rocket Pharmaceuticals](#) was sued following the death of a clinical trial participant allegedly caused by an undisclosed change to the trial protocol, and [PepGen](#) is accused of failing to disclose that its drug candidate for the treatment of muscular dystrophy was not as effective as anticipated. Plus, a suit against [Biohaven](#) claims the company concealed shortcomings in a Phase 3 trial for its bipolar

disorder and spinocerebellar ataxia treatment troriluzole which caused the FDA to reject Biohaven's New Drug Application.

[View Surge Data](#)

► **Litigation Surge - Copyright | Univision Communications**

Univision Communications, the largest provider of Spanish-language programming in the U.S., was hit with a surge of copyright cases on July 22 in New York Southern District Court. At least four suits were filed, all by professional videographers; the suits accuse Univision of posting tornado footage from Texas and Iowa on the YouTube and Facebook accounts 'Univision Noticias' without permission. All four lawsuits were brought by the Sanders Law Group, which is backing a wave of similar cases across several states including [Arizona](#), [Oklahoma](#) and [Texas](#).

[View Surge Data](#)

► **Litigation Surge - Class Actions | Antitrust**

Dick's Sporting Goods was hit with a cluster of federal antitrust class actions during the week of July 14. At least four suits were filed, all alleging collusive conduct in the \$1.2 billion retail archery equipment market. The complaints accuse the Archery Trade Association of orchestrating coordination among Dick's and other retailers by enforcing Minimum Advertised Price policies and actively discouraging discounting practices. The suits contend the policies act as de facto price floors, suppressing competition and resulting in artificially inflated prices for bows, arrows and related accessories. Kirkland & Ellis is representing Dick's in the proceedings.

[View Surge Data](#)

► **Litigation Surge - Data Breach | Johnson Controls International**

Johnson Controls International, a provider of building products as well as engineering and manufacturing services, was hit with a flurry of data breach class actions in Wisconsin Eastern District Court on July 15, 16 and 18. At least three suits were filed over a cyberattack which allegedly exposed the sensitive personal and employment information of millions of individuals. According to the complaints, the breach occurred between Feb. and Sept. 2023, but affected individuals did not receive notice until July 2025. The suits are backed by several firms including Wolf Haldenstein Adler Freeman & Herz, Schott Bublitz & Engel and Cole & Van Note.

[View Surge Data](#)

Get the latest trends and surges by visiting Radar for real-time [results](#).



Law.com Radar

About Law.com Radar: *With coverage across more than 2,900 state and federal courts, Law.com Radar is the industry's leading new suit alerting platform where unlimited alerts and free complaints are included with a subscription. [Contact us](#) for more information and to learn how Law.com Radar powers business development, client service and risk mitigation.*

Page printed from: <https://www.law.com/2025/07/25/litigation-trends-to-watch-cases-surge-over-ai-business-solutions-drug-trial-miscues-and-sporting-goods-price-fixing/>

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](#).

Geopolitical Developments, Visa Policies, and D&O Risk



[dandodiary.com/2025/07/articles/securities-litigation/geopolitical-developments-visa-policies-and-do-risk](https://www.dandodiary.com/2025/07/articles/securities-litigation/geopolitical-developments-visa-policies-and-do-risk)

Kevin LaCroix

July 27, 2025



Rising geopolitical tensions are having an impact across a wide variety of issues, including, in particular, issues having to do with the cross-border movement of people. These issues include changes within respect to immigration and visa policies. These changes not only affect the individuals involved but also companies whose business operations are connected in some way to immigration and visa issues. A recently filed securities lawsuit against a company whose money transfer business is directly linked to the cross-border movement of students for education and study shows not only how changing visa policies, for example, can not only affect companies' operations and financial results but can also translate into securities litigation.

Background

Flywire operates a payments-enablement platform, facilitating payments between clients and payees in a variety of industries. The company's largest industry focus is on education. The volume of the company's business and its revenues rely on international enrollments. Because of the importance of the sector to the company's performance, its education business is of particular importance to investors and analysts.

In January 2024, Canada announced intake caps on international student permit applications, resulting in a reduction in the number of international students coming to Canada, and, in turn, in a reduction in payment flows, with an adverse effect on Flywire's business. Similarly, in 2023, Australia tightened international student visa rules, which has also had an adverse impact on the company's business.

Notwithstanding these development affecting the cross-border movement of students for education and study, the subsequently filed securities suits alleges, the company "consistently touted the sustainability of Flywire's revenue growth and financial condition, while downplaying the anticipated negative impacts of permit- and visa-related headwinds on the Company's business."

On February 25, 2025, when the company announced its fourth quarter and full year 2025 results, the company reported an operating loss, which the company's CEO blamed on "a complex macro environment with significant headwind." In a conference call the same day, the company disclosed that the company's business in the education sector had significantly deteriorated due to worsening permit and visa-related headwinds, including "double digit declines in student visa issuance in our big four geographic markets," with "continued visa policy restrictions" anticipated in 2025. Among other things, company officials cited anticipated revenue declines due to "recent policy changes" and "new visa rules that are starting to affect demand."

According to the securities lawsuit complaint, the company's shares declined nearly 38% on this news.

The Lawsuit

On July 25, 2025, a plaintiff shareholder filed a securities class action lawsuit in the Eastern District of New York against Flywire and certain of its directors and officers. The complaint purports to be filed on behalf of investors who purchased the company's securities between February 28, 2024, and February 25, 2025.

The complaint alleges that during the class period, the defendants failed to disclose that: "(i) the strength and sustainability of Flywire's revenue growth was overstated; (ii) the negative impact that permit and visa-related restrictions were having and were likely to have on Flywire's business was understated; and (iii) as a result, Defendants' public statements were materially false and misleading at all relevant times."

The plaintiff alleges that the defendants violated Sections 10(b) and 20(a) of the Securities Act of 1934 and Rule 10b-5 thereunder. The complaint seeks to recover damages on behalf of the class.

Discussion

Geopolitical tensions in 2025 – driven by conflicts, rising nationalism, and shifting alliances — are significantly reshaping government practices and policies in a number of different areas. One area in particular that these changes are affecting is [global mobility](#). These developments and the resulting changes in the cross-border movement of people can have a significant impact on business operations and financial results, as this case illustrates. And as this case shows, these developments and the associated risks can translate into securities litigation.

I have [long thought](#) that the geopolitical risk potentially represents an important and growing potential source of director and officer liability. Developments in a number of different areas, such as, for example, [with respect to tariffs and trade sanctions](#), present companies with

significant levels of risk of a kind that can not only affect financial results but can also lead to D&O claims. In prior posts (for example, [here](#) and [here](#)), I have noted earlier cases in which geopolitical developments have led to securities class action lawsuit filings. As this case shows, changes to immigration and visa policies as a result of geopolitical tensions can not only pose challenges for at least some companies, but at least potentially can lead to securities litigation.

These developments have significant implications for D&O insurance underwriters. Along with key underwriting factors such as financial performance and business stability, underwriters must be prepared to assess how the changing geopolitical environment might affect that company and its operations. Companies' susceptibility to changing governmental policies and practices may represent a new area of underwriting analysis, but as this case shows, this kind of susceptibility may become more important in an increasingly fraught world.

Class Action**LuxUrban Must Defend Against Investors' Hotel Lease Accusations**July 28, 2025, 6:15 AM PDT

LuxUrban Hotels Inc. must fight against allegations that former executives of the short-term rental company misled shareholders about its growth and hotel deals.

The investors leading the lawsuit plausibly pleaded that the executives knew or recklessly disregarded that their announcements of adding four hotels to LuxUrban's portfolio were misleading, Judge Paul A. Engelmayer said for the US District Court for the Southern District of New York July 25.

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

To contact the editor responsible for this story: Carmen Castro-Pagán at ccastro-pagan@bloomberglaw.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Securities Law News

UpHealth, Leaders Beat Cloudbreak Investor Suit Over SPAC Merger

July 25, 2025, 12:07 PM PDT

A Delaware judge tossed a lawsuit by Cloudbreak Health LLC's early investors against architects of a blank-check merger between the telehealth company and UpHealth Holdings Inc., saying it suffered "numerous defects."

The Delaware Court of Chancery lacks jurisdiction over the merger's transfer agent, a New York corporation with its sole place of business there, Vice Chancellor Lori W. Will said Friday. Some claims of fraud, negligent misrepresentation, and related civil conspiracy tied to the deal were time-barred, given the lawsuit was filed more than three years after Cloudbreak's merger agreement was executed in 2020.

Cloudbreak was founded in 2015 to improve health outcomes for non-English speaking patients through HIPAA-compliant remote interpretation and translation services. GigCapital2 Inc., a special purpose acquisition company, and UpHealth Services, which later became UpHealth Holdings, were created in 2019.

GigCapital2 merged with Cloudbreak and UpHealth to ultimately bring a combined public company in 2021. The combined company filed for Chapter 11 bankruptcy in 2023.

The early investors lack standing to sue for breach of UpHealth's deal agreement, given they were Cloudbreak members, not UpHealth stockholders.

And the rest of their claims about representations of UpHealth's financial wellbeing going into the special purpose acquisition company combination aren't conceivable, Will said while dismissing the lawsuit with prejudice.

The investors never identified what "deceptive trade practices" under Delaware law were implicated in alleged misstatements about UpHealth's business, nor a pattern of misconduct, Will said.

The events they alleged "are isolated ones in the past; none involve continuing harm." She rejected their argument of ongoing harm based on post-merger UpHealth recently profiting from selling its Cloudbreak unit to a private equity firm because the investors couldn't explain how the sale revealed a pattern of deceptive conduct.

She said their civil conspiracy claim about delaying their right to obtain their per-share merger consideration to cover up UpHealth's financial struggles was speculative. And they didn't adequately link impoverishment for an unjust enrichment claim.

Spiro Harrison & Nelson and Ballard Spahr LLP represent the former stockholders.

DLA Piper LLP US represents UpHealth, SPAC, and related dealmakers. Quinn Emanuel Urquhart & Sullivan LLP represents UpHealth cofounder Dr. Chirinjeev Kathuria. Chiesa Shahinian & Giantomasi PC and Bayard PA represent the transfer agent, Continental Stock Transfer & Trust Company.

None of these law firms immediately responded to emails seeking comment.

The case is Edwards v. GigAcquisitions2, LLC , Del. Ch., No. 2024-0591, dismissed 7/25/25 .

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

To contact the editor responsible for this story: Carmen Castro-Pagán at ccastro-pagan@bloomberglaw.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

News

Software Business Secures Dismissal of Stock-Drop Case Over Alleged Faltering Push Into AI

July 24, 2025 By Alyssa Aquino



John Cronan testifies before the Senate Judiciary Committee during his confirmation hearing to be U.S. District Judge for the Southern District of New York, on Wednesday, March 4, 2020. Photo: Diego M. Radzinski/ALM

Automation software company, UiPath Inc., has secured dismissal of a shareholder suit filed after the abrupt resignation of the CEO who spearheaded an “aggressive push into artificial intelligence.”

U.S. District Judge John Cronan for the Southern District of New York found that investors represented by Bleichmar Fonti & Auld hadn’t sufficiently alleged that UiPath or ex-CEO Robert

Enslin had deliberately misled the public about the success of the “sweeping turnaround strategy” adopted in 2023 to stave off stagnating growth.

UiPath was represented by a Davis Polk & Wardwell team led by partner Edmund Polubinski and counsel Patrick Blakemore.

The plaintiffs, Cronan explained, hadn’t properly alleged that Enslin or his co-defendant, Chief Financial Officer Ashim Gupta, knew that the strategy wasn't working.

“Federal securities laws... do not guarantee smooth sailing in turbulent markets. Nor do they permit disappointed investors to recast business setbacks as actionable fraud,” Cronan said [on Wednesday](#). “The question here, then, is not whether UiPath’s strategy succeeded, but whether Plaintiffs have plausible alleged that Defendants misled the market. They have not.”

Although Cronan dismissed the case, he gave the investors leave to amend their suit.

Representatives for both sides didn’t respond to Thursday requests for comment.

UiPath is a software firm started by Microsoft alumni, Daniel Dines and Marius Tirca, that creates tools automating routine work-related tasks, such as data entry. Shortly after going public in 2021, the company was valued at \$35 billion. But its prospects dimmed quickly thereafter. Just one year later, the company was worth \$10 billion, according to court records.

Amid that tableau, Enslin was recruited in 2023 to lead the company. Under his watch, UiPath rebranded itself as an AI-powered “Business Automation Platform” and restructured its sales model. While that strategy produced some success, UiPath disclosed disappointing financial results at the end of May 2024 and Enslin announced he was stepping down as CEO.

Investors then sued New York City-based UiPath for securities fraud, alleging that the company had covered up declining sales and layoffs by issuing statements touting new customer contracts and investments in its sales support staff.

But Cronan said those statements couldn’t support a securities claim.

He found that the investors hadn’t identified any specific report or communication that Enslin or Gupta had seen that contradicted their statements about the sales contracts. Enslin and Gupta’s statements on UiPath’s sales and customer success teams also weren’t actionable, as the investors hadn’t properly alleged the existence of a corrective statement, the judge said.

“Dines did not repudiate or even reference the prior statements about UiPath’s investments in its sales team and focus on customer success. He did not say that those investments were not

made, nor did he suggest— either explicitly or implicitly—that they were somehow materially different than what Enslin and Gupta had previously represented,” Cronan said.

Page printed from: <https://www.law.com/newyorklawjournal/2025/07/24/software-business-secures-dismissal-of-stock-drop-case-over-alleged-faltering-push-into-ai/>

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

Gritstone Executives Escape Investors' Covid Vaccine Suit (1)

July 25, 2025, 8:38 AM PDT; Updated: July 25, 2025, 10:25 AM PDT

Two executives of bankrupted Gritstone Bio Inc. defeated shareholder allegations that they overhyped its ability to launch a government-funded study of its potential Covid-19 vaccine.

CEO Andrew Allen was more likely focused on the bigger picture of putting together the study of the candidate vaccine's efficacy than intentionally or recklessly concealing from investors third-party manufacturing problems that would prevent its start, said Judge Charles R. Breyer as he tossed the lawsuit.

Investors didn't sufficiently link testimony from a director of quality assurance to Allen in efforts to establish the former Gritstone executive knew or should've known about those contractors' noncompliance with regulatory manufacturing standards, the US District Court for the Northern District of California judge said Thursday.

And descriptions of job experience and titles weren't enough to support an inference of intent or reckless disregard of deceit by Allen or CFO Vassiliki Economides.

Investors can replead their claims against Allen, but not Economides.

"We're very pleased with, although not surprised by, the Court's thorough analysis of the Plaintiffs' allegations and the Court's ultimate ruling that, as a matter of law, all claims against Ms. Economides must be dismissed with prejudice," said one of her attorneys Constantine P. Economides, a partner at Dynamis LLP, in an email. "Plaintiffs' claims were baseless, and after reviewing our briefing, the Court ruled wholly in favor of Ms. Economides."

Investors did adequately allege that Gritstone misrepresented manufacturers' compliance, Breyer said. Presenting risks as hypothetical when knowing about contractors' noncompliance was plausibly misleading.

But other statements about Gritstone's use of third-parties weren't misleading in context, the judge said. Not sharing that the lack of compliance would inhibit the start of its vaccine study was unactionable and "fraud by hindsight."

Gritstone, which the investors dropped from the lawsuit following the company's 2024 filing for Chapter 11 bankruptcy, has been delisted from the Nasdaq.

Vaccine Study

A year before the bankruptcy filing, a government initiative awarded the struggling shotmaker a \$433 million contract to evaluate its potential Covid vaccine in a second-stage study.

But the FDA told Gritstone it wouldn't let it start that trial, sending the company a clinical hold letter that said it must use up-to-snuff raw materials to make the vaccine, the suit said. Gritstone said it was delaying the trial, and in February 2024, that it would lay off 40% of its workers as a result.

Its stock price plummeted almost 28% the day after the company announced the workforce reduction. In April 2024, Gritstone announced an underwritten public offering to improve its cash position. Share prices fell almost 49% to close at \$1.20 the following day.

Gritstone started working on a Covid-19 vaccine in 2021. Its small, phase 1 trials offered promising results of efficacy and safety in humans, but the company was already struggling to find vaccine components that complied with FDA standards, the suit said.

Pomerantz LLP represents the investors, Richard Rodriguez and Tammy Beal, who seek to represent a group of those who got Gritstone securities from March 9, 2023, through April 2, 2024. Fenwick & West LLP represents Allen. None of these law firms immediately responded to emails seeking comment. Adams, Duerk & Kamenstein LLP also represents Economides.

The case is In re Gritstone Bio, Inc. , N.D. Cal., No. 3:24-CV-03640, 7/24/25 .

(Updates with an attorney comment in the sixth paragraph.)

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

To contact the editor responsible for this story: Andrew Harris at aharris@bloomberglaw.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

FTX Promoters Seek Dismissal in Florida MDL

July 28, 2025 | By  **Michael A. Mora**

What You Need to Know

- The motion follows a May order that narrowed the claims brought by the plaintiff class members.
- Motion argues no direct link between celebrity promotions and specific investor decisions.
- Defendants cite Second Circuit precedent limiting liability for platform advertising alone.



U.S. District Court for the Southern District of Florida in Miami. Photo: Michael A. Mora/ALM.

A group of athletes, celebrities and entertainment entities accused of aiding the sale of unregistered securities tied to the FTX cryptocurrency exchange, moved to dismiss the

consolidated claims against them in the multidistrict litigation in the Southern District of Florida on Sunday evening in response to a court order that dismissed a majority of the claims.

And the motion to dismiss served as a show of force with regional law firms like the [MNR Law Firm](#) for defendants including Kevin O’Leary; and Am Law 100 firms like [Weil, Gotshal & Manges](#) for the Los Angeles Dodgers’ Shohei Ohtani and the MLB Players Inc.; [Gibson, Dunn & Crutcher](#) for defendants including the Golden State Warriors; and [Latham & Watkins](#) for defendants, including Mercedes-Benz Grand Prix Ltd., Tom Brady and Larry David.

“Although the bankruptcy recovery process remains ongoing, Plaintiffs admit that the FTX estate has recovered and paid out billions of dollars to FTX customers,” the defendants alleged. “Indeed, certain customers—including some of the Plaintiffs here—have already been reimbursed 120% of the value of their FTX holdings. Plaintiffs have nevertheless forged ahead with a 516-page amended complaint, seeking ‘billions’ from individuals and entities who in some cases did little more than display FTX’s logo or satirically tell Super Bowl viewers that FTX was a ‘bad’ idea.”

Adam M. Moskowitz, managing partner at the [Moskowitz Law Firm](#), is lead class counsel in the MDL with David Boies, founding partner at [Boies Schiller Flexner](#), for the members of the class who purchased or held legal title to cryptocurrencies deposited on the FTX platform.

“We look forward to again addressing these same rejected arguments, as well as some new grounds, and for discovery to begin,” Moskowitz said in a statement. “The good news for all victims is that, after almost 3 years since the FTX bankruptcy, the price of bitcoin—and the damages of our certified class—are now in excess of many billions of dollars, and these FTX defendants are all collectible.”

Following the collapse of FTX, there were primarily two avenues for recovery: the bankruptcy estate and the class-action lawsuit. The class-action lawsuit has since evolved into multidistrict litigation, comprising seven litigation tracks, according to lead class counsel. These tracks include banking, lawyers, domestic and international funds and sports and entertainment.

In May, U.S. District Judge K. Michael Moore of the Southern District of Florida ruled that, for purposes of the motion to dismiss, the plaintiffs plausibly alleged that FTX products, including yield-bearing accounts and its proprietary cryptocurrency token, were unregistered securities under state laws and that sports and entertainment defendants materially aided in their sale.

Specifically, Moore found that the promotion of the FTX platform was inseparable from the promotion of the underlying securities, allowing the Florida and Oklahoma securities law claims to survive the motion to dismiss. Lawyers often include as many claims as they can when bringing cases as a litigation strategy. The remaining claims were denied.

An amended complaint followed, and in the Sunday evening filing, approximately half of the sports and entertainment defendants who had not yet had the opportunity to challenge the plaintiffs' claims joined in the motion to dismiss. Their core argument is simple: Advertising isn't selling.

The defendants argued that new precedent by the U.S. Court of Appeals for the Second Circuit in [Risley v. Universal Navigation](#) holds that solicitation of a trading platform, like FTX, does not constitute solicitation of any specific product available on that platform, like the interest-bearing accounts, called YBAs, or the cryptocurrency FTX minted, called the FTX Token.

They also argue that misconduct by FTX's executives behind the scenes cannot transform the platform into a security or impose liability on third-party promoters.

Now, the defendants filed their Federal Rules of Civil Procedure 12(b)(6) motion, teeing up a formal response by class counsel to the following five arguments.

First, plaintiffs do not allege they purchased FTX's token, YBAs or the platform itself. Second, plaintiffs failed to connect any defendant's promotion to a specific investment decision. Third, no direct solicitation of securities is alleged. Fourth, plaintiffs do not show any actual losses, especially given the recovery of billions of dollars from the bankruptcy estate. And fifth, there is no state-specific nexus alleged to support the application of Florida or Oklahoma securities laws.

In addition to dismissal under Rule 12(b)(6), defendants asked the court to compel arbitration based on FTX's user agreement and class action waiver, since plaintiffs could not have transacted on FTX without agreeing to those terms. And if the court denies dismissal or arbitration, the defendants requested a stay "pending resolution of the bankruptcy proceedings."

Page printed from: <https://www.law.com/dailybusinessreview/2025/07/28/ftx-promoters-seek-dismissal-in-florida-mdl/>

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](#).

Caremark Oversight Duties in Tennessee?



businesslawprofessors.com/2025/07/caremark-oversight-duties-in-tennessee

Joan Heminway

July 28, 2025

Business lawyers understand that corporate directors and officers owe fiduciary duties to the firm. These duties include responsibilities to provide oversight, which are colloquially known under Delaware law (and beyond) as *Caremark* duties, based on a flagship Delaware Supreme Court opinion, [In re Caremark Int'l Inc. Derivative Litig.](#), 698 A.2d 959 (Del. Ch. 1996). Although historically understood by many (yours truly included) as either a separate fiduciary duty of good faith or a component of the fiduciary duty of care, oversight obligations under Delaware law currently are classified as a component of the fiduciary duty of loyalty. According to the Delaware Supreme Court, “because a showing of bad faith conduct ... is essential to establish director oversight liability, the fiduciary duty violated by that conduct is the duty of loyalty.” [Stone ex rel. AmSouth Bancorporation v. Ritter](#), 911 A.2d 362, 370 (Del. 2006).

Successful *Caremark* claims are difficult to plead and prove, given the relatively high burden of showing bad faith conduct. Historically, almost all claims alleging a breach of *Caremark* duties in Delaware courts have been dismissed before trial for failure to state a claim. Recently, [a case involving Meta Platforms, Inc. directors and officers, including Mark Zuckerberg, came close to making it to trial but settled at the eleventh hour](#). Nevertheless, with *Caremark* claims in the news, it seems like a good time to ask whether Tennessee law incorporates *Caremark* duties in the way Delaware law construes those duties.

A review of decisional law on Westlaw reveals only one published opinion, a federal trial court opinion, citing to the *Caremark* doctrine in relation to claims involving a Tennessee corporation. That opinion, [Lukas v. McPeak](#), No. 3:11-CV-422, 2012 WL 4359437 (E.D. Tenn. Sept. 21, 2012), *aff'd*, 730 F.3d 635 (6th Cir. 2013), relates to whether demand may be excused in a shareholder derivative action. In his opinion in *Lukas*, Judge Thomas Varlan uses *Caremark* to describe the relevant duties as a basis for articulating the applicable burden of proof involved in assessing demand futility.

Should a court applying Tennessee corporate law be citing to Delaware corporate jurisprudence in relation to a Tennessee corporation, even though Tennessee's corporate law is based on the Model Business Corporation Act, not the Delaware General Corporation Law? Although the policy underpinnings of the statutes can be different, citations to Delaware law are certainly not unusual. “[I]n matters of corporate law, Tennessee courts often look to Delaware law.” [Athlon Sports Commc'ns, Inc. v. Duggan](#), 549 S.W.3d 107, 125 (Tenn. 2018). In his opinion in *Lukas*, Varlan maintained that “a plaintiff can only overcome the demand requirement with ‘well-pleaded facts to suggest a reasonable inference that a

majority of the directors consciously disregarded their duties over an extended period of time,” citing to *Kenney v. Koenig*, 426 F.Supp.2d 1175, 1182 (D.Colo.2006) (quoting *David B. Shaev Profit Sharing Account v. Armstrong*, 2006 WL 391931 at * 1 (Del.Ch., Feb.13, 2006)). He found that the plaintiff failed to meet this burden of proof and dismissed the case.

One might simply conclude from Varlan’s opinion in *Lukas* that Tennessee recognizes and applies Delaware’s *Caremark* doctrine. Yet, the *Lukas* opinion — a federal district court ruling made in a specific procedural context — assumes the existence of the *Caremark* doctrine as a descriptive matter without reasoning through its general applicability under Tennessee law. It would be interesting to see how a Tennessee state court judge might reason through whether Tennessee corporate law expressly recognizes director and officer oversight duties in the same way Delaware does, including whether the same standard of conduct would apply and whether oversight duties are classified as separate fiduciary duties or as components of the duty of care or the duty of loyalty. The Tennessee Business Corporation Act (TBCA), in [§ 48-18-301\(a\)](#), specifically articulates three duties applicable to directors of a Tennessee corporation, separating good faith out from care and loyalty: “A director shall discharge all duties as a director, including duties as a member of a committee: (1) In good faith; (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) In a manner the director reasonably believes to be in the best interests of the corporation.” An officer having “discretionary authority” over a matter is charged with the same duties in discharging that authority under TBCA [§ 48-18-403](#).

Of note in this regard, the Utah Supreme Court expressly rejected Delaware’s categorization of oversight duties as subsidiary elements of the fiduciary duty of loyalty in [Rawcliffe v. Anciaux](#), 2017 UT 72, ¶ 18, 416 P.3d 362, 370 (2017). Utah’s corporate law (the URBCA), as applied in the case, was based on an earlier version of the Model Business Corporation Act. The court in *Rawcliffe* found that the duties of good faith and loyalty are separate (but sometimes overlapping) fiduciary duties that require different standards of conduct, rejecting the Delaware Supreme Court’s characterization in *Stone v. Ritter*.

While it may seem like a pedantic exercise (and therefore unimportant) to ask whether Tennessee courts would follow Delaware courts in defining and categorizing director and officer oversight duties, the relevant standards of conduct and the availability of, for example, the business judgment rule, exculpation, indemnification, or director and officer liability insurance may hang in the balance based on the classification of a claim against a director or officer for a breach of their fiduciary duties. Along those lines, the *Rawcliffe* court in Utah expressly noted that “the URBCA allows corporations to indemnify their directors for a breach of the statutory duty of care identified in Utah Code section 16-10a-840(1)(b), but does not allow them to indemnify their directors for a breach of the duty of good faith identified in section 16-10a-840(1)(a), or a breach of the duty of loyalty identified in section 16-10a-840(1)(c),” recognizing that the classification of a specific breach claim may have substantive effect. *Rawcliffe*, 416 P.3d at 370.

And so we must wait to know for sure whether Tennessee fully embraces Delaware's law on director and officer oversight. However, the Utah Supreme Court's opinion in *Rawcliffe* may offer important persuasive authority in that regard. The statutory references in that opinion parallel those that could be made under Tennessee law.

Parenthetically, while there has been debate and discussion over whether corporate officers owe the same oversight duties as corporate directors, a 2023 Court of Chancery opinion in Delaware, [*In re McDonald's Corp. S'holder Derivative Litig.*, 289 A.3d 343 \(Del. Ch. 2023\)](#), held that officers effectively owe the same fiduciary duties of oversight as directors in context. Vice Chancellor Travis Laster's opinion in the case was clear: "Failing to confirm that officers owe oversight duties would undermine the directors' ability to fulfill their statutory obligation to direct and oversee the business and affairs of the corporation." *Id.* at 367. The *In re McDonald's* opinion also "concludes that oversight liability for officers requires a showing of bad faith. The officer must consciously fail to make a good faith effort to establish information systems, or the officer must consciously ignore red flags." *Id.* at 375. Although the TBCA sets forth the same fiduciary duties for officers as for directors, the contextual analysis of officer oversight duties also is an open issue in Tennessee.

Claims of director and officer malfeasance persist. Many of these claims sound in breaches of fiduciary duty. As a result, litigation involving director oversight duties in Tennessee corporations may receive future judicial attention. In that event, this article may establish foundation for any claim in that regard. However, even absent relevant litigation, the analysis shared here may be useful to those advising Tennessee directors and officers on the nature and extent of their fiduciary duties under Tennessee law.

[Republished from the Tennessee Bar Association's . The original publication is only available to Tennessee Bar Association Business Law Section members.]

Talc Leadership to Add Lead Negotiation Counsel: ‘We Will Be Reshuffling’

July 28, 2025 | By  **Amanda Bronstad**

What You Need to Know

- Singh ordered the appointment despite denying Johnson & Johnson’s motion to remove Beasley Allen from the plaintiffs’ steering committee.
- Talc leadership has suggested Chris Seeger, but several other lawyers have suggested assisting him in settlement negotiations.
- Earlier this month, Singh appointed mediator Fouad Kurdi, of Resolutions LLC in Boston, in the talc multidistrict litigation.



Christopher Seeger of Seeger Weiss. Courtesy photo

A federal magistrate judge ordered a reshuffling of the plaintiffs' leadership team in the Johnson & Johnson talcum powder multidistrict litigation, prompting lawyers to submit several names on Friday to help steer the cases toward settlement.

At a July 17 hearing, U.S. Magistrate Judge Rukhsanah Singh in the District of New Jersey denied Johnson & Johnson's request to remove Montgomery, Alabama-based Beasley Allen from the talc plaintiffs' steering committee. But, noting that many of the issues raised in the motion focused on settlement, the court ordered that another lawyer be appointed as lead negotiation counsel for the plaintiffs.

"Settlement discussions for purposes of the mediation shall be led by a different plaintiffs' attorney from the plaintiffs' side," Singh said, according to a transcript of the July 17 hearing. She gave Johnson & Johnson until Aug. 1 to weigh in on the new pick for negotiation counsel.

“But we will be reshuffling what we’re doing,” Singh said. “And I think in that way we could move along some of these issues that have been happening in regards to the settlement discussions.”

On Friday, Beasley Allen principal Leigh O’Dell and Michelle Parfitt, of Washington D.C.’s Ashcraft & Gerel, both co-lead counsel in the talc multidistrict litigation, suggested Chris Seeger of Seeger Weiss in Ridgefield Park, New Jersey.

Liaison counsel Christopher Placitella of Cohen, Placitella & Ruth, in Red Bank, New Jersey, who also had suggested Seeger, asked in a separate letter on Friday to be included in the settlement due to "widespread concern" from lawyers with state court cases, some of whom have contacted him with questions about Singh’s order.

Two other lawyers, Hunter Shkolnik, of Napoli Shkolnik, based in San Juan, Puerto Rico, who is on the plaintiffs’ executive committee, and R. Bryant McCulley, of Washington, D.C.’s Ashcraft & Gerel, filed separate applications on Friday to assist Seeger.

Both touted their prior roles attempting to reach a settlement during Johnson & Johnson’s third talc bankruptcy in the U.S. Bankruptcy Court for the Southern District of Texas. While Johnson & Johnson proposed a \$10 billion settlement if more than 75% of talc claimants participated, Beasley Allen led opposition against the proposed bankruptcy plan, which ultimately crumbled when U.S. Bankruptcy Judge Christopher Lopez [dismissed the case](#) on March 31.

In Friday’s filing, Shkolnik stated that the massive talc litigation necessitated a settlement committee, not just a single negotiation counsel. In his filing, Shkolnik noted that he was involved in mediation sessions with Fouad Kurdi, of Resolutions LLC in Boston, whom Singh had appointed earlier this month as a mediator in the talc multidistrict litigation.

McCulley, in his Friday filing, noted that his firm also played a key role in the negotiations of the talc bankruptcy settlement.

“While many lawyers contributed to this result, I acted as the scrivener and was the lead negotiator that met directly with defense counsel to iron out the details of the draft settlement,” McCulley wrote.

‘Both Sides Cannot Come Together’

Johnson & Johnson Worldwide Vice President of Litigation Erik Haas and Assistant General Counsel Andrew White both attended this month’s hearing on the [motion to remove Beasley Allen](#) from the plaintiffs’ steering committee.

“It is abundantly clear that Beasley Allen has completely eroded any ability to work cooperatively with counsel for Johnson & Johnson, with the company,” Johnson & Johnson attorney Steve Brody, an O’Melveny & Myers partner in Washington, D.C., told Singh, according to the transcript. “It is clear that both sides cannot come together if Beasley Allen remains on the plaintiffs’ steering committee.”

Johnson & Johnson’s motion focused on Birchfield’s testimony during a key bankruptcy hearing earlier this year, stating that more than 11,000 of his talc clients had consented to vote against Johnson & Johnson’s proposed bankruptcy plan when, in fact, only 3,000 had responded.



Steve Brody, with O’Melveny & Myers. October 2021. Photo: Andrew Zinn

“This is obviously problematic from an informed consent standpoint,” Brody told Singh at the hearing. “It’s also problematic from the standpoint of a firm with a leadership position in the MDL tasked with representing the interests of others from that leadership position.”

Brody also referenced [lawsuits between Beasley Allen and The Smith Law Firm](#)

[Firm](#), in Ridgeland, Mississippi, which shared the 11,000 talc clients.

When Singh inquired about the potential impact of those lawsuits on the talc leadership, Jeffrey Pollock of Pollock Law in Trenton, New Jersey, representing Beasley Allen, responded that both firms are still in discussions.

“And do they have disagreements? Yes,” Pollock said. “I disagree with my wife sometimes.”

Pollock also noted that Lopez had found numerous voting irregularities when dismissing the Chapter 11 case, but concluded that neither Beasley Allen nor any other firm had acted in bad faith. And he insisted the removal motion was one of numerous attempts by Johnson & Johnson to unseat a “powerful advocate” in the talc litigation. Among them is Johnson & Johnson’s motion to disqualify Beasley Allen from the talc litigation. In the New Jersey state court cases, Porto rejected that motion, which Johnson & Johnson appealed, but Singh hasn’t yet ruled.

At this month's hearing, Parfitt and Placitella told Singh that removing Beasley Allen from the leadership team would be detrimental, according to the transcript.

Although Singh denied its motion, Johnson & Johnson touted her order as a win.

"We appreciate the court's recognition that Beasley Allen's leadership role must be curtailed, and we look forward to the decision on our pending motion whether its ethical breaches warrant disqualification," Haas wrote in a statement.

In a statement, Beasley Allen wrote, "Our focus remains where it has always been, on securing justice for our clients who have suffered serious harm. We are confident in our legal team's dedication and expertise in representing these brave women."

Page printed from: [https://www.law.com/njlawjournal/2025/07/28/talc-leadership-to-add-lead-negotiation-counsel-we-will-be-reshuffling-/](https://www.law.com/njlawjournal/2025/07/28/talc-leadership-to-add-lead-negotiation-counsel-we-will-be-reshuffling/)

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](#).

Anthropic asks court to pause AI copyright class action

DJ[dailyjournal.com/articles/386756](https://www.dailyjournal.com/articles/386756)

Jul. 28, 2025

Anthropic seeks to pause a major copyright lawsuit over claims it illegally used millions of books to train its AI, Claude, arguing the case's class certification exposes it to massive liability.

Anthropic PBC asked a federal judge in San Francisco to pause proceedings to allow appeal of a class certification ruling in the high-stakes copyright case filed by authors who say the company's AI was wrongly trained on their work.

The motion filed on July 24 centers on Anthropic's argument that the classification order conflicts with other rulings in the Northern District of California, that the company would be prejudiced, and face billions of dollars in liability over copyright claims related to its AI powered chatbot, Claude.

A Dec. 1 trial date looms in a case potentially involving millions of rightsholders. Two orders from U.S. District Judge William Alsup set the stage for the upcoming trial. On July 17, Alsup granted class certification. On June 24, he granted partial summary judgment on the plaintiffs' claims that Anthropic committed copyright infringement by pirating more than 7 million books to train Claude.

Alsup will hear the stay motion on Aug. 28 and may pause the proceedings if Anthropic files its appeal by July 31.

Alsup ordered the plaintiffs Friday to file their response to the stay motion by Monday. The plaintiffs' attorneys from Susman Godfrey LLP, Lieff Cabraser Heimann & Bernstein LLP, and Cowan Debaets Abrahams & Sheppard LLP declined to comment. *Bartz v. Anthropic PBC*, 3:24-cv-05417 (N.D. Cal. filed Aug. 19, 2024).

"Allowing the case to go forward would be confusing for millions of people who might receive erroneous class action notices and waste significant resources on a case that may not be certified," Anthropic's media relations department wrote in an email Friday. "This ultimately does not serve the interests of justice, which is why we're asking the district court to pause proceedings while we seek review of the class certification order with the court of appeals."

The company seeks a stay while it petitions the 9th U.S. Circuit Court of Appeals for review of Alsup's orders. Anthropic argues his rulings conflict with others in the same district and expose the company to billions in potential damages without appellate clarity.

Kathleen R. Hartnett of Cooley LLP in San Francisco, one of Anthropic's attorneys, criticized Alsup's recent rulings in the motion to stay.

"Late last month, the Court issued a Summary Judgment Order reaching novel legal conclusions on these topics that starkly conflict with a summary judgment ruling in another case in the District," she wrote. "And just last week, the Court certified a massive and uncertain damages class, likely numbering in the millions, and ordered a novel notice plan that, among other things, involves class members identifying and giving notice to competing class members. To date, the Court has made clear it intends to hold trial under this framework in just four months, thereby exposing Anthropic to potentially billions of dollars in liability."

Rachel Geman, a New York partner for Lieff Cabraser Heimann & Bernstein and one of the lead attorneys for the plaintiffs, on the other hand argued that class certification is "the superior method of adjudication" because damages recovered under the Copyright Act from her clients' individualized claims would be insufficient.

"Few if any class members could afford on their own to bring an expensive copyright case against a well-funded artificial intelligence company with extensive litigation resources, especially when compared to the available damages for any one copyright owner. While not insignificant, the damages available under the Copyright Act are insufficient to compensate the average rights holder for the time and cost required to bring an action against a multi-billion-dollar corporation."

The following attorneys also represent Anthropic: Douglas A. Winthrop, Joseph Farris, Jessica Lim Gillotte, Angel T. Nakamura of Arnold & Porter Kaye Scholer LLP; Joseph Wetzel, Andrew M. Gass of Latham & Watkins LLP; Daralyn J. Durie, Whitney R. O'Byrne of Morrison & Foerster LLP; and Mark Lemley of Lex Lumina LLP.

The following attorneys represent the plaintiffs: Rohit D. Nath, Justin A. Nelson, Alejandra C. Salinas, Jordan W. Connors, J. Craig Smyser, and Collin Fredricks of Susman Godfrey LLP; Rachel Geman, Jacob S. Miller, Danna Z. Elmasry, Daniel M. Hutchinson and Reilly T. Stoler of Lieff Cabraser Heimann & Bernstein LLP; Scott J. Sholder and CeCe M. Cole of Cowan, DeBaets, Abrahams & Sheppard LLP.

#386756

California Brief

Anthropic to Appeal Class Certification in AI Copyright Case

July 25, 2025, 12:52 PM PDT

Anthropic PBC wants to pause a copyright lawsuit over its training of generative AI until the Ninth Circuit addresses its appeal of the judge's recent certification of some plaintiff authors as a class.

Anthropic said Thursday it will petition the US Court of Appeals for the Ninth Circuit for permission to make an early appeal of the July 17 ruling, which certified a class of authors whose books were downloaded from pirated websites. That comes 10 days after it asked District Judge William Alsup for leave to appeal his June 23 ruling granting only part of its summary judgment motion on fair use.

The filings represent the latest legal maneuver in the pivotal battle over the legitimacy of training AI using copyright-protected works without permission. The underlying question presents existential ramifications for both the AI and content industries, and is being litigated in dozens of cases across the country.

Alsup's ruling certified authors whose books were allegedly illegally downloaded from "shadow" libraries called LibGen and PiLiMi, but not from another dataset, Books3. It marked the first certification order among a slew of class actions over generative AI. His mixed fair use ruling held that training on legally owned works was "spectacularly" transformative and didn't usurp the market for the books, but said copying from illegal libraries may have crossed a line.

Anthropic's Thursday filing at the US District Judge for the Northern District of California told Alsup it would file its bid over the class certification at the appeals court by July 31. It sought a stay until the court rules and, if granted, the conclusion of the appeal.

Days after Alsup's fair use ruling, another judge in the same district, Vince Chhabria, found another group of authors failed to demonstrate Meta Platforms Inc.'s generative AI training harmed their market. But he also expressed doubt about the legality of the practice in general. He called it "hard to imagine" that using copyrighted works to build a tool worth billions that creates "a potentially endless stream" of market competition could be fair use.

Lieff Cabraser Heimann & Bernstein LLP, Cowan Debaets Abrahams & Sheppard LLP and Susman Godfrey LLP represent the authors. Arnold & Porter Kaye Scholer LLP, Cooley LLP, Latham & Watkins LLP, and Lex Lumina LLP represent Anthropic.

The case is Bartz et al v. Anthropic PBC , C.D. Cal., No. 3:24-cv-05417, Motion for Stay 7/24/25 .

To contact the reporter on this story: Kyle Jahner in Raleigh, N.C. at kjahner@bloomberglaw.com

To contact the editor responsible for this story: Kartikay Mehrotra at kmehrotra@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Litigation

Meta Sued for Collecting Sensitive Data Through Third-Party Site

July 25, 2025, 10:21AM PDT

Done Global Inc. filed a third-party complaint against Meta Platforms Inc. seeking to hold it liable for privacy violations originally alleged in an underlying consumer complaint against Done.

The plaintiff in the underlying suit, M.H., alleged that Done aided and abetted Meta in violating common law and the California Invasion of Privacy Act by allowing Meta's tracking tool to intercept users' private medical information on Done's website without consent.

Done denies wrongdoing but argues that if any violation occurred, Meta committed the primary offense by willfully intercepting and using the data for its own financial gain through targeted advertising. Done claims it was unaware Meta would access users' sensitive information, contrary to Meta's representations.

Done asserts claims against Meta for violating the CIPA, intrusion upon seclusion, and negligent misrepresentation.

Done's complaint, filed July 24 in the US District Court for the Northern District of California, seeks indemnification, defense, apportionment of liability, and attorneys' fees and costs, among other relief.

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

Done is represented by Mound Cotton Wollan & Greengrass LLP.

The case is Done Global, Inc. v. Meta Platforms, Inc. , N.D. Cal., No. 3:24-cv-03040, 7/24/25 .

This story was produced by Bloomberg Law Automation.

To contact Bloomberg Law Automation: automation@bloombergindustry.com

To contact the editor responsible for this story: Nicholas Datlowe at ndatlowe@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

California Brief

Meta, Insurers File Dueling Motions in Social Media Dispute (1)

July 25, 2025, 10:59 AM PDT; Updated: July 25, 2025, 2:25 PM PDT

Units of Hartford Insurance Group Inc. and Chubb Ltd. are seeking a ruling that they have no duty to cover Meta Platforms Inc.'s legal costs in litigation alleging the social media giant got kids hooked on its platforms.

The insurers filed a motion for summary judgment in the Delaware Superior Court on Thursday, after successfully getting the case punted back to the state court following a transfer to the underlying multidistrict litigation before a federal judge in California. Meta on Thursday filed its own motion, asking the Delaware court to throw out or pause the case.

The underlying suits allege harm stemming from the deliberate design of Meta's platforms, but the insurance policies only cover damages for injury caused by an accident, the carriers said, arguing that litigation brought by state attorneys general, school districts, and individuals wasn't covered. Additionally, the insurers' brief said, the school district and attorney general suits were outside the scope of coverage since they didn't seek damages "because of bodily injury or property damage."

Hartford and Chubb's arguments mirrored those made by insurers in other public nuisance cases, including disputes involving opioids and ghost guns. Their brief cited a favorable 2024 ruling for carriers in an opioid-related coverage dispute, where the US Court of Appeals for the Ninth Circuit held that insurers had no duty to defend pharmaceutical distributor McKesson Corp. under California law in litigation alleging the pharmaceutical distributor contributed to the opioid crisis.

Meta has argued California law should apply to the case. The insurers in their brief didn't stake out a clear position, instead writing that California and Delaware law didn't conflict on the relevant coverage issues, and drawing on case law from both states throughout.

In its motion to dismiss, the social media company reiterated its position that the case should be litigated in California.

"The only reason this case is pending in Delaware is because Hartford jumped Meta by filing suit the same day that it agreed to defend Meta in the underlying cases—including under policies it had previously denied existed," Meta said. "Hartford's maneuver, with Chubb's joinder, aimed to avoid a California forum and application of California law."

Adjudicating the coverage dispute prior to the underlying litigation would "improperly force Meta to fight a two-front war" and result in prejudice because the insurance case turns on the same facts as the social media suits, the brief said.

Hartford in April also sued online chat platform Discord Inc. in Delaware state court over coverage for the underlying social media suits.

Ruggeri Parks Weinberg LLP and Bayard PA represent Hartford. Holwell Shuster & Goldberg LLP and Stamoulis & Weinblatt LLC represent Chubb. Covington & Burling LLP and Berger McDermott LLP represent Meta.

The case is Hartford Casualty Ins. Co. v. Instagram LLC , Del. Super. Ct., No. N24C-11-010, motion for summary judgment 7/24/25 .

(Updates throughout with Meta's motion to dismiss.)

To contact the reporter on this story: Olivia Alafriz in Washington at oalafriz@bloombergindustry.com

To contact the editor responsible for this story: Michael Smallberg at msmallberg@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Litigation

Climate Youths' Fresh Claims Target Trump Orders as Overreach

July 28, 2025, 2:30 AM PDT

Summary by Bloomberg AI

AI Generated



- The *Lighthiser v. Trump* lawsuit challenges President Donald Trump's executive orders on energy, alleging they violate kids' constitutional rights to life by eroding climate stability.
- The lawsuit also brings "ultra vires" claims, which challenge executive actions that exceed presidential authority by breaking laws set forth by Congress, according to the complaint.
- Michael Gerrard, director of Columbia Law School's Sabin Center for Climate Change Law, said "the ultra vires kinds of claims are getting a lot of traction," but some court watchers still see *Lighthiser* as a long-shot.

President Donald Trump's pro-energy agenda is confronting a new challenge from a constitutional youth climate lawsuit that is using a legal theory that has already seen success disrupting the administration in court.

Legal nonprofit Our Children's Trust recently launched *Lighthiser v. Trump*, which like many of the group's other cases centers around the argument that the US government is affirmatively violating kids' constitutional rights to life by eroding the stability of the climate.

The Justice Department's motion for dismissal in Montana federal court said the *Lighthiser* complaint only "recycled" the failed claims of its predecessor, constitutional rights case *Juliana v. US*.

But *Lighthiser* plaintiffs are also bringing "ultra vires" claims, which challenge executive actions that exceed presidential authority by breaking laws set forth by Congress. At issue in this case: three of Trump's executive orders declaring an energy emergency, altering agency science, and promoting coal production.

"I don't know that the constitutional theories will do any better than they did in *Juliana*," said Michael Gerrard, director of Columbia Law School's Sabin Center for Climate Change Law. "However, the ultra vires kinds of claims are getting a lot of traction."

There have been more than 50 cases that raise ultra vires claims against the second Trump administration, according to a Sabin Center analysis. It found 13 of the 27 cases that met its criteria for study already have preliminary determinations—rulings on whether the party is likely to succeed on the merits—12 of them in favor of plaintiffs.

One such case, *Metropolitan Transportation Authority v. Duffy*, challenges the Federal Highway Administration's bid to end congestion pricing in New York City. The presiding judge in May handed down a preliminary injunction in favor of plaintiffs, blocking the Trump administration from taking any more action on the program's termination while litigation presses on.

A federal judge in northern California also granted a temporary restraining order in federal workforce cuts in *Am. Fed'n of Gov't Emps. v. Trump*, but the Supreme Court ultimately let Trump continue with the mass firings.

Ultra Vires

Some court watchers, though, still see *Lighthiser* as a long-shot.

Juliana was first rejected in 2020 because the US Court of Appeals for the Ninth Circuit ruled plaintiffs couldn't meet standing requirements. The split panel's decision found a court couldn't provide the remedy they sought against the US government—partly because the challenge targeted federal inaction rather than action.

The injury *Lighthiser* plaintiffs are "claiming ultimately results from the inaction that would result from following the affirmative directive of the executive order," said Donald Kochan, a law professor at George Mason University. "So both cases actually are going after inaction."

The slate of ultra vires cases against the Trump administration give courts plenty of opportunities to further probe the limits of how far executive orders can go, according to the Sabin Center.

Trump has issued more than 170 of these directives for federal agencies and employees so far. "Unleashing American Energy" and "Declaring a National Energy Emergency," which are targeted in *Lighthiser*, were among the first of them.

"The question, I think, will turn on whether the courts want to accept that anything the president says is an emergency is an emergency, or whether there are some boundaries on what the president can declare, and thus, allocate to himself certain powers to take action," Yale Law School professor Daniel Esty said.

The Environmental Protection Agency has been implementing Trump's energy orders with gusto, which *Lighthiser* alleges is causing an unconstitutional upending of EPA's statutory mandates.

"Pursuant to the EOs, Defendants are methodically acting to 'unleash' fossil fuel energy and the GHG pollution that accompanies it by dismantling government policies and restrictions that prevent GHG pollution," according to the complaint.

Implementation Begins

Agencies including the EPA and the Department of Energy have been faithfully following Trump's directives since January, most recently with EPA proposing to rescind strong emission limits for power plants. A proposal rescinding the 2009 endangerment finding for greenhouse gases is also expected any day.

The EPA has collected or plans to take public comment submissions on those proposals, but some actions have made big changes without any notice and comment rulemaking procedure at all.

The Trump administration also has been steadily issuing compliance exemptions for heavy industry, based on an obscure and previously unused Clean Air Act provision granting presidential reprieves if "the technology to implement such standard is not available and that it is in the national security interests of the United States to do so."

Ultra vires claims may be gaining traction in lower courts, but climate law experts including Lewis & Clark Law School professor Lisa Benjamin are discouraged by what she said feels like an unpredictable legal environment.

The ultra vires theory makes *Lighthiser* "much more attractive" for lower courts to adjudicate and probe further, Benjamin said, but she is worried that US Supreme Court trends of ruling in Trump's favor from its emergency docket may also dull the chances for the case's ultimate success.

"It's just a really difficult time to predict how the Supreme Court is going to interpret the way that agencies are acting, and to this point, at least in shadow docket decisions, they have not restrained the administration from acting strictly in accordance with an executive order," Benjamin said.

To contact the reporter on this story: Jennifer Hijazi in Washington at jhijazi@bloombergindustry.com

To contact the editors responsible for this story: Tonia Moore at tmoore@bloombergindustry.com; Zachary Sherwood at zsherwood@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Class Action

Lytx's \$4.25 Million Biometric-Privacy Settlement Gets Final Nod

July 25, 2025, 9:28 AM PDT

Summary by Bloomberg AI

AI Generated



- Lytx Inc. will pay \$4.25 million to settle allegations it collected the biometric identifiers of truck drivers without their consent.
- The settlement fund will be allocated 50% to a sub-class of Illinois residents and 50% to a sub-class of non-Illinois residents.
- Class counsel requested one-third of the settlement fund in fees, expenses of \$63,496, and service awards of \$10,000 for each of the three class representatives.

Driver-monitoring services provider Lytx Inc. will pay \$4.25 million to settle allegations it collected the biometric identifiers of truck drivers without their consent, under a deal given final approval by a federal court.

The deal will allocate 50% of the settlement fund to a sub-class of Illinois residents, and 50% to a larger sub-class of non-Illinois residents whose claims were subject to challenge on extraterritoriality grounds, according to the plaintiffs' motion for final approval of the deal. Judge Nancy J. Rosenstengel granted the motion at a July 24 hearing, according to a docket entry.

- The plaintiffs alleged in two proposed class actions filed in the US District Court for the Southern District of Illinois that Lytx, a maker of dashboard cameras and software used to monitor truck drivers, collected their face scans without obtaining their written consent as required under the Illinois Biometric Information Privacy Act
- Members of the Illinois sub-class will receive around \$631 each based on the number of claims received, and members of the non-Illinois sub-class around \$845 each
- Class counsel requested one-third of the settlement fund in fees, or \$1,416,667, expenses of \$63,496, and service awards of \$10,000 for each of the three class representatives

Carney Bates & Pulliam PLLC, Lieff Cabraser Heimann & Bernstein LLP, Werman Salas PC, Workplace Law Partners PC, Milberg Coleman Bryson Phillips Grossman PLLC, and J. Dominick Larry of Chicago represented the plaintiffs and the classes. Cozen O'Connor PC represented Lytx.

The case is Lewis v. Maverick Transp. LLC, S.D. Ill., No. 3:22-cv-00046, 7/24/25 .

To contact the reporter on this story: Christopher Brown in St. Louis at ChrisBrown@bloombergindustry.com

To contact the editor responsible for this story: Kiera Geraghty at kgeraghty@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Class Action

Limited Run Games Settles Video-Privacy Lawsuit for \$2.7 Million

July 25, 2025, 8:19 AM PDT

Limited Run Games Inc. would pay \$2.72 million to settle a proposed class action alleging it disclosed consumers' video-watching behavior to Meta Platforms Inc. and Google LLC in violation of the Video Privacy Protection Act, under a proposed deal filed in federal court.

Class members would receive a pro rata share of the net settlement fund after deduction of attorneys' fees and expenses, service awards for the class representatives, and administrative costs, according to a motion for preliminary approval of the deal filed Thursday in the US District Court for the Eastern District of New York.

- The two lead plaintiffs alleged that the video game distributor incorporated tracking technology from Meta, Google, TikTok Inc., and X Corp. on its website, allowing the tech companies to obtain information arising from consumers' interactions there, including information about the videos they've watched
- The VPPA prohibits providers of video content from disclosing information to third parties allowing consumers to be linked to the videos they've watched or requested, without the users' consent
- The plaintiffs' attorneys intend to ask Judge Nusrat J. Choudhury for an award of up to one-third of the settlement fund for fees, and service awards of \$2,500 each for the two class representatives

Gucovschi Rozenshteyn PLLC and Levi & Korsinsky LLP represent the plaintiffs and the proposed class. Markowitz Herbold PC represents Limited Run Games.

The case is *Carbone v. Ltd. Run Games Inc.*, E.D.N.Y., No. 2:24-cv-08861, motion filed 7/24/25 .

To contact the reporter on this story: Christopher Brown in St. Louis at ChrisBrown@bloombergindustry.com

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

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Law firm Milbank cuts Katyal's \$3,250 rate in defending NJ cities against Trump



[reuters.com/legal/government/law-firm-milbank-cuts-katyals-3250-rate-defending-nj-cities-against-trump-2025-07-25](https://www.reuters.com/legal/government/law-firm-milbank-cuts-katyals-3250-rate-defending-nj-cities-against-trump-2025-07-25)

Mike Scarcella

July 25, 2025

Attorney Neal Katyal is seen in front of the U.S. Supreme Court building after arguing a case before the court in Washington, U.S., November 4, 2014. REUTERS/Gary Cameron/File Photo [Purchase Licensing Rights, opens new tab](#)

July 25 (Reuters) - Prominent lawyer Neal Katyal of law firm Milbank will charge a sharply reduced hourly rate and not his standard \$3,250 as he helps to defend two New Jersey cities sued by President Donald Trump's administration over their immigration policies, according to a contract obtained by Reuters.

Milbank's lawyers, including Katyal, will each charge \$300 an hour — a fee that will be split evenly by the cities of Newark and Hoboken for the litigation in federal court in New Jersey, the contract showed.

The Trump administration in May [sued](#) Newark, Hoboken and two other New Jersey cities, accusing them of being so-called sanctuary jurisdictions and obstructing federal immigration agents.

Katyal in the July 11 contract said he normally charges \$3,250 an hour, and that some other partners at his 1,000-lawyer firm bill hourly between \$1,865 and \$2,475.

New York-headquartered Milbank is one of nine firms that [reached deals](#) with Trump in March and April, after he began issuing executive orders against law firms that restricted their access to government officials and federal contracting work.

Milbank, which had not been hit with an order, in its deal said it earmarked \$100 million in free legal services for mutually agreed-upon initiatives with the White House.

Four other law firms [successfully sued](#) to block Trump's orders against them.

Here, Milbank in defending the two cities said it agreed to reduce its standard rates because a third-party — the nonprofit Goodnation Foundation — is picking up part of the legal tab. Hoboken said it will not pay more than \$53,000 in any calendar year to Milbank.

In a statement on Friday, the Goodnation Foundation said it may help underwrite legal defense "in select cases where the public interest is served and community needs are paramount."

The foundation said it does not typically disclose details of its funding, which it said comes from "donors committed to advancing access to justice."

Milbank and Katyal did not immediately respond to requests for comment. A Newark official had no immediate comment, and Hoboken did not immediately respond to a request for one.

Large law firms commonly reduce their hourly rates, or sometimes bill at no cost, for legal work for state and local government clients.

As hourly rates have steadily increased across the profession, at least two other law firms, Quinn Emanuel Urquhart & Sullivan and Susman Godfrey, also have hit the [\\$3,000 an hour](#) milestone.

A January report by the Thomson Reuters Institute and the Georgetown Law Center on Ethics and the Legal Profession said clients have been willing to accept “dramatic increases” in rates. The institute and Reuters share the same parent company.

Katyal, a former acting U.S. solicitor general during President Barack Obama's administration, in 2022 was billing at [\\$2,465 an hour](#) when he was at law firm Hogan Lovells. He joined Milbank in February, and now leads the firm's appellate team. He has argued more than 50 cases before the U.S. Supreme Court.

Milbank's team [defending](#) Newark and Hoboken also includes Gurbir Grewal, who is a former New Jersey attorney general and enforcement head at the U.S. Securities and Exchange Commission, and appellate specialist Colleen Roh Sinz dak.

Read more:

[US judge slashes fees for IBM lawyers in billion-dollar software contract fight](#)

[Lawyers in banking cases take a loss despite \\$35 million fee award](#)

[US judge rejects lawyers' \\$94 million fee bid in auto parts pricing case](#)

[Lawyers defend \\$205 million legal fee in US auto class action settlement](#)

[More lawyers join the \\$3,000-an-hour club, as other firms close in](#)

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

Litigation

Whistleblower Attorneys Told to Explain 'Fabricated' Quotations

July 28, 2025, 7:58 AM PDT

Attorneys representing the plaintiff in a whistleblower retaliation suit against Athena Construction Group Inc. must explain by Aug. 1 why a federal court shouldn't sanction them for making false statements.

Vickie Smith's July 23 court filing to oppose Athena's motion to continue trial cites cases for a false proposition of law, has case citations "accompanied by quotations that are fabricated," and has one case citation that doesn't exist and has a fabricated supporting quotation, Judge Amit P. Mehta of the US District Court for the District of Columbia said in a July 26 order.

- Smith's attorneys must explain the role each attorney had in drafting the brief supporting the motion, the process for citing authorities, whether any counsel performed a cite check, and why counsel didn't take steps to make corrections or withdraw the brief, Mehta said
- One of the attorneys July 27 sought withdrawal from the case
- Former Athena employee William Smith alleged in this suit that his former employer filed lawsuits against him in retaliation for calling attention to the construction management company's alleged fraudulent certification to win contracts set aside for HUBZone companies. Vickie Smith took over the case upon William's death

Glen Ellis Law PLLC and Baron & Budd PC represent Smith. Fluet Huber & Hoang PLLC, Executive Law Partners PLLC, and Wilmer Cutler Pickering Hale and Dorr, and Foley Hoag LLP represent Athena

The case is Smith v. Athena Constr. Grp. Inc. , D.D.C., No. 1:18-cv-02080, 7/26/25 .

To contact the reporter on this story: Daniel Seiden in Washington at dseiden@bloombergindustry.com

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

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

News from Bloomberg Terminal

Convicted Ex-Ohio House Speaker Denied Full 6th Circuit Review

July 25, 2025, 12:30 PM PDT

Summary by Bloomberg AI

AI Generated



- The full Sixth Circuit won't rehear arguments by former Ohio House Speaker Larry Householder, who's serving 20 years in federal prison for a racketeering conspiracy involving FirstEnergy Corp.
- The full US Court of Appeals for the Sixth Circuit also won't rehear arguments to overturn the racketeering conspiracy conviction of former Ohio Republican Party Chairman Matthew Borges.
- Eight people have been charged because of the myriad investigations; FirstEnergy paid hundreds of millions of dollars in settlements with state and federal authorities.

By Eric Heisig

(Bloomberg Law) --

The full Sixth Circuit won't rehear arguments by former Ohio House Speaker Larry Householder, who's serving 20 years in federal prison for a racketeering conspiracy involving FirstEnergy Corp.

None of the active judges on the Cincinnati-based appeals court requested a full court rehearing on Householder's overtures to overturn his criminal conviction, a one-page order said Friday. The order is another blow to the 66-year-old, who unsuccessfully argued that the evidence against him didn't support his conviction and that there were multiple errors at his 2023 trial.

- The full US Court of Appeals for the Sixth Circuit also won't rehear arguments to overturn the racketeering conspiracy conviction of former Ohio Republican Party Chairman Matthew Borges, who's serving five years after a jury found him guilty at the same trial as Householder, a separate order said
- Borges and Householder were convicted in a case that involved \$60 million of FirstEnergy bribe money pumped into Householder-controlled nonprofits to get the speaker elected and to ram through a \$1.3 billion legislative package to bail out two nuclear power plants the utility owned at the time
- Eight people have been charged because of the myriad investigations; FirstEnergy paid hundreds of millions of dollars in settlements with state and federal authorities

Householder is represented by Marein & Bradley. Borges is represented by Dennis C. Belli of Columbus, Ohio. The government is represented by the US Attorney's Office for the Southern District of Ohio.

The cases are *United States v. Householder*, 6th Cir., No. 23-3565, 7/25/25 and *United States v. Borges*, 6th Cir., No. 23-3566, 7/25/25.

To contact the reporter on this story: Eric Heisig in Cleveland at eheisig@bloombergindustry.com

To contact the editor responsible for this story: Patrick L. Gregory at pgregory@bloombergindustry.com

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved

Court denies Larry Householder a rehearing in bribery case



10tv.com/article/news/local/larry-householder-request-denied-for-second-look-at-case/530-4f0e55e9-b325-4082-9656-8ccc7893a552

10TV Web Staff

July 26, 2025



[Local News](#)

The Sixth Circuit Court denies a rehearing on Larry Householder's conviction in the \$60 million bribery case involving FirstEnergy and House Bill 6.

COLUMBUS, Ohio — The Sixth Circuit Court of Appeals ruled Friday it will not take a second look at former Ohio House Speaker Larry Householder's case in the \$60 million bribery scheme involving FirstEnergy and House Bill 6.

In a filing submitted June 27, Householder's attorneys asked the court to reconsider [a May decision](#) upholding his racketeering conspiracy conviction. Householder argued that the jury received faulty instructions on Ohio's state bribery law.

The Sixth Circuit denied the request, stating that "the issues raised in the petition were fully considered upon the original submission and decision of the case." Additionally, no judge has requested a vote on rehearing the case.

Householder, lobbyist Matt Borges and three others were arrested back in 2020 for charges related to bribery and money laundering for their efforts to push through a nuclear plant bailout measure known as House Bill 6.

Householder, who was removed from his role as state House speaker days after his arrest and eventually expelled from the chamber altogether, was convicted for his role in the scandal in 2023 and is currently serving a 20-year prison sentence.

Borges, the former chairman of the Ohio Republican Party, was sentenced to five years in prison and three years of probation for his part in the scandal.

FirstEnergy admitted to its role in the operation and agreed to pay a \$230 million fine, while a number of top executives, including CEO Chuck Jones, were fired.

© 2025 WBNS-TV. All Rights Reserved.

NewsRoom

7/26/25 Plain Dealer (Clev.) 9
2025 WLNR 18658362

Cleveland Plain Dealer

Copyright (c) 2025 The Plain Dealer. All Rights Reserved. Used by NewsBank with Permission.

July 26, 2025

Section: A

A radical plan to make FirstEnergy stockholders feel pain Stockholders -
not customers - should bear the financial burden of FirstEnergy's historic...

Cleveland.com and The Plain Dealer

A radical plan to make FirstEnergy stockholders feel pain Stockholders - not customers - should bear the financial burden of FirstEnergy's historic corruption scandal, forcing owners to demand change from within.

Note: Artificial intelligence was used to help generate this story from Today in Ohio, a news podcast discussion by cleveland.com editors. Visitors to cleveland.com have asked for more stories based on podcast discussions.

FirstEnergy doesn't think it should have to pay for orchestrating the largest corruption scandal in Ohio history - at least not much.

The stark disconnect between what the utility believes it owes customers and what consumer advocates demand was laid bare in Friday's episode of Today in Ohio, where hosts say hitting stockholders might be the only route to reforms.

"FirstEnergy doesn't think it should really have to pay out that much money," Laura Johnston said. The utility is arguing for a \$7 million penalty, compared to the \$390 million sought by the Ohio Consumer Counsel, the utility watchdog.

The staggering \$383 million gap reveals everything about corporate accountability in America today.

Even more outrageous? The meager

\$6.6 million FirstEnergy has already offered to refund customers has been built into its new rate proposal currently before the Public Utilities Commission of Ohio.

This means customers would essentially pay for their own refund through higher rates.

"I really wonder where the pitchforks and the torches are," Johnston said of the outrageous proposal.

The podcast highlighted four key issues: more than \$450 million collected from customers for grid modernization with questionable accounting; \$6.6 million in questionable payments; compliance with corporate separation requirements; and a secret \$13 million payment arranged by former PUCO chairman Sam Randazzo to drop opposition to FirstEnergy's rate plan.

But it was host Chris Quinn who proposed the most radical solution - one that would fundamentally shift the power dynamics within corporate utilities.

"I think what they should do is a novel thing where you say your stockholders get no return on their investment until you pay this back," Quinn argued. "You're not taking it from the customers. Take it from the people who own the company, the stockholders. So they start to insist on integrity from this filthy, stinking utility that has wrecked Ohio for years."

The core principle is simple but revolutionary: when companies engage in corruption, their owners - not their customers - should bear the financial consequences. Only then will stockholders demand the kind of ethical leadership that could transform a company from within.

"The only way we're going to get change is that the people who own that thing force the executives to do it," Quinn continued. "As long as they can rape the customers for money and continue to apply cash to their stockholders, nothing's going to change."

But Quinn said the best thing for Ohio would be to get rid of FirstEnergy altogether.

"I won't be happy until this company's disbanded," Quinn added. "We need a different utility to provide us. I'm stuck. You know, we're all customers of this thing. We hate it. They're terrible. They've wrecked our state government, and yet we continue to have to give them cash that they give to their stockholders. It's terrible."

Find the podcast discussion at tinyurl.com/CLETodayInOhio. Listen to full "Today in Ohio" episodes where Editor/President Chris Quinn hosts our daily half-hour news podcast, with Editorial Board member Lisa Garvin, Impact Editor Leila Atassi, Content Director Laura Johnston and Trends Editor Courtney Astolfi.

---- Index References ----

Company: FIRSTENERGY CORP.; Ohio Consumer Financial Solutions, LLC

Industry: (Electric Utilities (1EL82); Electric Utilities Distribution (1EL02); Energy & Fuel (1EN13); Internet (1IN27); Internet Media (1IN67); Internet Media Content (1IN04); Utilities (1UT12))

Region: (Americas (1AM92); North America (1NO39); Ohio (1OH35); U.S. Midwest Region (1MI19); USA (1US73))

Language: EN

Other Indexing: (Public Utilities Commission of Ohio; FirstEnergy; Ohio Consumer)

Edition: PDMS Business

Word Count: 578

End of Document

© 2025 Thomson Reuters. No claim to original U.S. Government Works.

NewsRoom

Tesla to roll out human-driven chauffeur service in Bay Area, California regulator says



reuters.com/business/autos-transportation/tesla-roll-out-human-driven-chauffeur-service-bay-area-california-regulator-says-2025-07-25

Chris Kirkham, Abhirup Roy

July 25, 2025

Item 1 of 3 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

[1/3]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](#)

July 25 (Reuters) - Tesla plans to offer a chauffeur-style service operated by human drivers to a limited number of people in the San Francisco Bay Area, a California regulator said on Friday, contrary to a media report that the EV maker would offer a robotaxi service.

Unlike Alphabet's ([GOOGL.O](#)), [opens new tab](#) Waymo unit, Tesla cannot operate its service using autonomous vehicles because the EV maker does not have the required permits and has not applied, according to a spokesperson for the California Public Utilities Commission. Tesla did not respond to a request for comment.

This week, Tesla CEO Elon Musk said on an earnings call that the company was "getting the regulatory permission to launch" robotaxis in several markets, including the San Francisco Bay Area. Business Insider reported on Friday that the service would be a robotaxi operation with humans in the driver's seat who would be able to control the car.

Ashok Elluswamy, who leads Tesla's self-driving efforts, said on Tesla's Wednesday earnings call that the company would launch a robotaxi service in the Bay Area "with the person in the driver's seat, just to expedite, while we wait for regulatory approval."

Last month, Tesla launched a trial robotaxi service in Austin, Texas, using about a dozen Model Y SUVs. Tesla invited a few passengers to use the service, where human safety monitors sat in the front passenger seat. Tesla's autonomous-driving software controlled the vehicle.

With the Bay Area service, Tesla "is not allowed to test or transport the public" in an autonomous vehicle, even one with a human safety driver, according to the CPUC spokesperson, who added Tesla can only transport people using a human driver in a "non-autonomous vehicle."

The spokesperson said Tesla told the CPUC on Thursday that it plans to offer rides to "friends and family of employees" and "select members of the public" under a permit the company has that allows a human driver to transport passengers in a "traditional vehicle" for "charter services."

For the Bay Area service, Tesla may be able to use its Full Self-Driving (Supervised) feature, which can perform many driving tasks but requires a human driver to pay attention and be ready to take over at all times.

The CPUC spokesperson did not respond to a question on whether Tesla could use that feature, but such technology does not require an autonomous vehicle permit in California because the human driver is expected to be in control at all times.

Companies need a series of permits from both the CPUC and the California Department of Motor Vehicles (DMV) in order to test and deploy autonomous vehicles in the state. To date, Tesla only has a DMV permit to test autonomous vehicles with a safety driver.

A DMV spokesperson said Tesla recently met with the agency but has not applied for additional permits that would be needed to collect fares or test without a safety driver.

The next step in the process for Tesla would be to apply for a CPUC license for an autonomous vehicle to pick up passengers with a safety driver, according to a review of California's autonomous driving regulations. But companies must first operate in a pilot phase, where they cannot charge customers.

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 in California over nine years before receiving the go-ahead to charge passengers for rides in driverless robotaxis in 2023.

Reporting by Zaheer Kachwala in Bengaluru, Abhirup Roy in San Francisco and Chris Kirkham in Los Angeles; Additional reporting by Harshita Mary Varghese; Editing by Tasim Zahid, Arun Koyyur and David Gregorio

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.51](https://signal.me/#xmoaiioqkxh51)

[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.10](#)

Tesla Sued Over AI-Powered Self-Driving Technology

July 24, 2025 By Laura Lorek



Tesla electric vehicle, Jan. 17, 2025, Abu Dhabi, UAE. Credit: EdNurg/Adobe Stock

Perceptive Automata LLC, which makes artificial intelligence-powered autonomous driving systems, filed a lawsuit alleging patent infringement on Wednesday against Tesla Inc., in the U.S. District Court for the Eastern District of Texas.

Perceptive Automata alleges that Tesla has infringed on five of its patents related to autonomous vehicle technology, specifically systems and methods for predicting human interactions and behavior in traffic scenarios.

Tesla is a Texas corporation with its global headquarters in Austin.

The patents in question are U.S. Patent Nos. 10,614,344, 11,126,889, 11,467,579, 11,520,346 and 11,753,046.

The complaint alleges Tesla willfully infringed these patents through its full self-driving, or FSD, software and hardware, as well as its autonomous vehicles and related systems.

Perceptive Automata, a Texas limited liability company, claims Tesla used its patented technologies without fair compensation, causing harm to the company.

The plaintiff seeks damages, enhanced damages for willful infringement, ongoing royalties, and attorney fees, among other relief.

This action was surfaced by [Law.com Radar](#), which delivers real-time alerting on new litigation across more than 2,900 state and federal courts. Click here to get started and be first to act on opportunities in your region, practice area, or client sector.

Perceptive Automata seeks damages that adequately compensate for Tesla's alleged infringements, which by law cannot be less than a reasonable royalty, along with interest, costs, and potentially enhanced damages up to three times the amount found or assessed under 35 U.S.C. § 284, according to the lawsuit.

The lawyers representing Perceptive Automata are Patrick J. Conroy, lead counsel, with Nelson Bumgardner Conroy; and Andrea L. Fair, with Miller Fair Henry. They did not immediately respond to a request for comment.

Tesla's lawyer has not yet presented in court, and the company did not immediately respond to a request for comment.

Securities Law News

Trump Media's Bitcoin Options Trade Opens Quicker Path to Profit

July 25, 2025, 6:00 AM PDT

The Trump family has pushed into just about every corner of the crypto industry, from a decentralized finance project to memecoins and Bitcoin mining to exchange-traded funds.

Its latest foray provides yet another route to gain from the boom in digital assets — potentially in a bigger and faster way.

Trump Media & Technology Group Corp., the company behind Truth Social, said this week it devoted \$300 million to an options acquisition strategy tied to Bitcoin-related securities. While details remain scarce, it suggests President Donald Trump's namesake social media company is moving toward trading instruments that could allow for leveraged exposure to Bitcoin prices. The strategy could help the firm profit from the kind of dramatic price swings that Trump can spur with his social media posts.



Donald Trump speaks at the Bitcoin 2024 conference in Nashville.

Photographer: Brett Carlsen/Bloomberg

A growing number of public companies have begun stockpiling cryptocurrencies as the Trump administration eases industry curbs. Trump Media itself has amassed about \$2 billion in Bitcoin and related assets. Yet buying and selling options — binary, time-sensitive contracts that offer the prospect of outsized returns — remains a relatively novel approach for firms looking to seize on crypto's momentum.

Nic Carter, a general partner at Castle Island Ventures, which invests in virtual asset companies, said he voted for Trump and still supports him as a champion of crypto. But the president's financial ties to the industry create potential conflicts of interest that cast a broader pall, he said. And options specifically can introduce different kinds of risks and rewards.

Trump has been "getting more aggressive with market calls this year," Carter said in an interview. "The existence of the businesses, which are conflicted, is a persistent thorn in our side as an industry. It embitters the Democrats, raises the risk of reprisals and creates a partisan tinge to what should be non-partisan."

The president "has never engaged, and will never engage, in conflicts of interest," Harrison Fields, a spokesman for the White House, said in an emailed statement.

A representative for Trump Media didn't respond to requests for comment.

Crypto Wealth

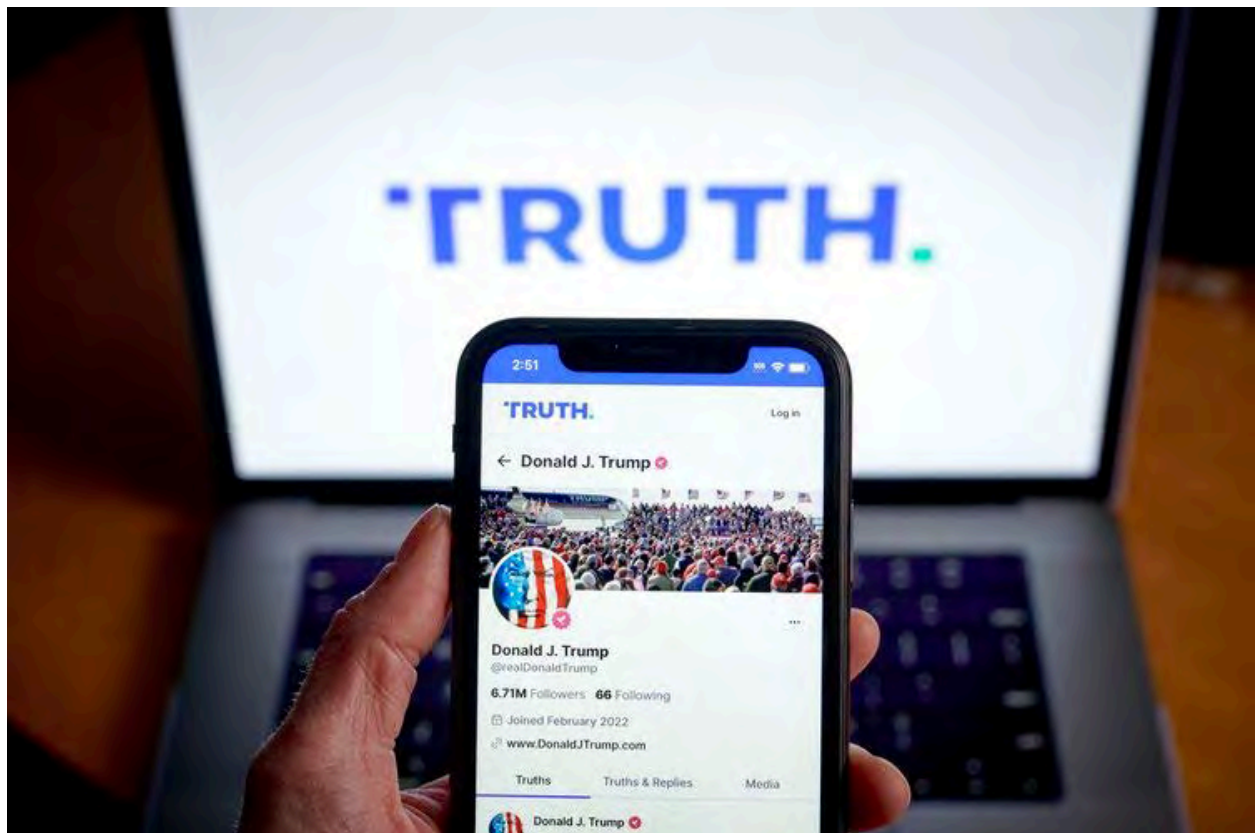
The president's Trump Media stake makes up \$2.2 billion of his \$6.6 billion fortune, according to the Bloomberg Billionaires Index. While his shares are in a trust administered by **Donald Trump Jr.**, Bloomberg's wealth index rolls up the family's various interests to the patriarch because he continues to personally benefit from their success.

Crypto has bolstered Trump's fortune in the past year, adding at least \$620 million to his wealth over a span of months. Once a Bitcoin skeptic, Trump and his family are now linked to several crypto-related ventures, including the platform World Liberty Financial. His sons backed a crypto-mining business created this year called American Bitcoin.

Read More: Trump's \$620 Million of Quick Crypto Riches Reshapes His Fortune

From MARA Holdings to CleanSpark, crypto miners have enhanced returns by moving into the derivatives markets. In Trump Media's case, the strategy may also bring renewed scrutiny. Buying or selling time-sensitive options contracts can offer a way to generate outsized returns from crypto's momentum.

Trump's policies and proclamations have a history of influencing crypto prices. Digital assets rallied in March, for instance, when Trump posted on Truth Social about setting up a US crypto reserve of digital assets including Bitcoin, Ethereum, Solana, XRP and others.



President Donald Trump's Truth Social posts can move markets.

Photographer: Gabby Jones/Bloomberg

The timing involved in the options strategy is particularly notable given Trump Media runs Truth Social, where the president drives traffic with his posts.

"You add a timing and pricing element that are just not there when you're holding only the underlying asset," said **Steve Sosnick**, chief strategist at trading platform Interactive Brokers.

Key aspects of the options strategy remain undisclosed, including what the underlying assets will be. Bitcoin-related securities can be anything from the shares of spot exchange-traded funds, common shares of crypto firms to convertible bonds issued by companies such as billionaire **Michael Saylor's** Strategy. Still, the options can act as leveraged bets on price gains, or become worthless if prices fail to reach a preset strike.

The corporate model of hoarding crypto was popularized by Strategy, formerly known as MicroStrategy. That approach — sometimes referred to as a crypto treasury — has inspired a wave of similar strategies across public companies.

--With assistance from **David Pan**.

To contact the reporter on this story:

Annie Massa in New York at amassa12@bloomberg.net

To contact the editors responsible for this story:

Brian Chappatta at bchappatta1@bloomberg.net

Sid Verma

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

© 2025 Bloomberg Industry Group, Inc. All Rights Reserved



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

In New Twist, W.Va. Judges Suddenly At Odds In Opioid Suits

By **Jeff Overley**

Law360 (July 25, 2025, 11:47 PM EDT) -- A new ruling in West Virginia opioid crisis litigation is revealing sharp divisions among the Mountain State's federal judges regarding a pivotal legal theory, potentially boosting a Fourth Circuit appeal by beleaguered municipalities aiming to erase a landmark win for drug distributors.

Wednesday's ruling by U.S. District Judge John Preston Bailey preserved a suit accusing divisions of Cigna Healthcare and UnitedHealth Group Inc. of exacerbating rampant narcotic abuse, and it did so by breaking with U.S. District Judge David A. Faber, who in 2022 **authored a bombshell opinion** favoring drug wholesalers after the first opioid trial in federal court.

Judge Bailey's ruling on a motion to dismiss began by observing that the "defendants rely primarily" on Judge Faber's opinion. After that introduction, Judge Bailey focused on refusing to embrace his fellow jurist's rejection of the "public nuisance" theory of liability. The theory, traditionally deployed against bothersome businesses and properties, has been ubiquitous in thousands of opioid lawsuits, with mixed results.

"Limiting the doctrine of public nuisance solely to damage to public property runs contrary to the [West Virginia Supreme Court of Appeals'] prior decisions," Judge Bailey observed early in his ruling, which devoted many of its 15 pages to excerpts from other decisions critiquing Judge Faber's holding.

The case before Judge Bailey targets Cigna unit Express Scripts Inc. and UnitedHealth unit OptumRx — pharmacy benefit managers that handle drug reimbursement — and is proceeding in the Northern District of West Virginia without much fanfare. In contrast, the case before Judge Faber targeted three drug distributors — AmerisourceBergen Corp., Cardinal Health Inc. and McKesson Corp. — and proceeded in the Southern District of West Virginia under a national media spotlight.

The case in the Southern District was brought by West Virginia's Cabell County and its largest city, Huntington — the setting for an Oscar-nominated Netflix documentary, "Heroin(e)," about the opioid epidemic. After Judge Faber's decision, the local governments appealed to the Fourth Circuit, where they flagged Judge Bailey's ruling in a Thursday notice.

That ruling has several "notable features," including the fact that Judge Bailey "rejected the district court's decision in this case," Cabell County and Huntington told the Fourth Circuit. The circuit in early 2024 **sought the views** of the West Virginia Supreme Court on the public nuisance claims, but the state's high court recently **declined to weigh in**, saying that "disputed factual findings" prevented it from tackling the legal issue.

When Fourth Circuit judges solicited the state court's input, they acknowledged that "public nuisance cases in West Virginia traditionally have addressed hazards or inconveniences affecting property." But the judges added that they would "hesitate to infer such limits ... in light of the broad language used" by the state's high court to describe public nuisance claims in past cases.

Roughly one-third of Judge Bailey's Wednesday ruling was an excerpt of the Fourth Circuit's solicitation, including portions that voiced skepticism about arguments the distributors have advanced. One such argument is that Judge Faber's opinion is buttressed by the Oklahoma Supreme Court's decision in favor of Johnson & Johnson in **another opioid case** involving public nuisance claims.

"We do not think that the authorities cited by the defendants ... control the outcome of this case," Fourth Circuit judges wrote in the excerpt.

Judge Bailey's ruling also used bold-face font when quoting from an order by U.S. District Judge Dan Aaron Polster, who has supervised multidistrict opioid litigation in Ohio and previously called Judge Faber's opinion an outlier.

"Every West Virginia state court that has addressed identical public nuisance claims against opioid defendants has come to a different conclusion than Judge Faber on the scope and contours of West Virginia public nuisance law," Judge Polster **wrote in 2022** , the Wednesday ruling noted.

One example of a different conclusion came from West Virginia's Mass Litigation Panel, where **jurists in 2022 wrote** that Judge Faber placed "an artificial external constraint on the common law cause of action for public nuisance," which panel members dubbed "a flexible area of the law that is adaptable to a wide variety of factual situations." Distributors have warned against excessive flexibility, saying that it could **open a Pandora's box** of public health lawsuits against sellers of "alcohol, fatty foods, lead paint, guns, cell phones" and other products.

In Wednesday's ruling, Judge Bailey also quoted from **a 2024 order** by U.S. District Judge Charles R. Breyer in opioid litigation involving McKinsey & Co., which has paid out hundreds of millions of dollars to resolve suits over its consulting for opioid manufacturers. In his order, Judge Breyer observed that the Fourth Circuit had requested feedback from the West Virginia Supreme Court, and in a reference to Judge Faber, he averred that the circuit's request "reflects doubt about the district court's narrow view of West Virginia nuisance doctrine."

Shortly after that excerpt, Judge Bailey discussed the West Virginia Supreme Court's decision not to address the public nuisance theory. That decision "is not without relevance," the judge wrote, because it described factual issues as essential to the legal issue.

"If, as defendants argue, an action against defendants for the damage caused by the opiate epidemic under the doctrine of public nuisance is categorically banned, there would be no reason to consider the underlying facts," Judge Bailey wrote at the end of his ruling. "The fact that the [West Virginia Supreme] Court felt that it needed the underlying facts is evidence that such a claim may be brought under the doctrine of public nuisance."

Optum, Express Scripts and fellow pharmacy benefit managers specialize in administering health insurance coverage and reimbursement for prescription drugs. For many years, PBMs avoided actively litigating opioid cases, but after national settlements with the primary defendants — drugmakers, distributors and large pharmacy chains — plaintiffs **turned their attention to the so-called middlemen**.

The distributors have agreed to pay more than \$20 billion to resolve opioid cases across the country. But Judge Faber's decision was still important, as Cabell County and Huntington sought more than \$2 billion to alleviate opioid abuse and related troubles.

Although public nuisance claims are the focal point at the Fourth Circuit, the appeal also presents other issues, including whether Cabell County and Huntington failed to show that the distributors actually caused a crisis of illicit narcotic use. In Thursday's notice, the local governments said the circuit "should reverse the district court's ruling rejecting Cabell/Huntington's public nuisance claims and proceed to resolve the other issues on appeal."

The Fourth Circuit is not alone in seeking a state court's help regarding public nuisance claims. The Sixth Circuit, for example, **wiped out a \$650 million verdict** against pharmacies after seeking the Ohio Supreme Court's views and being told that the Buckeye State doesn't permit opioid suits under a public nuisance theory.

Attorneys for the three distributors didn't immediately respond to requests for comment Friday.

Cabell County and Huntington have been represented by Powell & Majestro PLLC and Motley Rice LLC, respectively, and by Kellogg Hansen Todd Figel & Frederick PLLC.

AmerisourceBergen has been represented by Reed Smith LLP.

Cardinal Health has been represented by Williams & Connolly LLP.

McKesson has been represented by Covington & Burling LLP.

The cases are City of Huntington, West Virginia et al. v. AmerisourceBergen Drug Corp. et al., case number 22-1819, and Cabell County Commission v. AmerisourceBergen Drug Corp. et al., case number 22-1822, both in the U.S. Court of Appeals for the Fourth Circuit, and Ohio County Commission et al. v. Express Scripts Inc. et al., case number 5:24-cv-00142, in the U.S. District Court for the Northern District of West Virginia.

--Editing by Michael Watanabe.

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 Tosses UpHealth Affiliate's Suit For SPAC Damages

By **Jeff Montgomery**

Law360 (July 25, 2025, 6:21 PM EDT) -- Pointing to "numerous defects" in the complaint, a Delaware vice chancellor on Friday tossed every count in a suit filed by investors who alleged they were misled in the run-up to a multi-business special purpose acquisition company deal to take public now-bankrupt UpHealth Holdings and Cloudbreak Health.

The ruling by Vice Chancellor Lori W. Will shut down an eight-count Chancery suit filed by four physician stockholders of Cloudbreak, described as a telemedicine venture heavily focused on providing remote diagnoses and health care for non-English-speaking patients. The four who sued included the company's chief medical officer, Dr. Bruce Hensel.

The SPAC — GigCapital2 LLC — combined with Cloudbreak and UpHealth Holdings Inc. in November 2020 in a \$1.35 billion deal that included five other portfolio companies on UpHealth's side. Vice Chancellor Will observed in the decision that "Cloudbreak was high performing; UpHealth was struggling. The combined company went bankrupt."

Claims in the Cloudbreak suit that followed, the vice chancellor ruled, "suffer from numerous defects. This court lacks jurisdiction over the [corporate] transfer agent. The plaintiffs lack standing to sue for breach of UpHealth Holdings' merger agreement. Several claims are time-barred. And the remainder are not reasonably conceivable. The case is dismissed in full."

She shut down Cloudbreak's investor claims accusing parties behind GigCapital2 and its affiliates of misleading the Cloudbreak parties. Counts included allegations of fraudulent inducement, negligent misrepresentation, breach of the Delaware Deceptive Trade Practices Act, civil conspiracy, breach of contract, negligence and unjust enrichment.

Vice Chancellor Will also tossed claims against stock transfer agent Continental Stock Transfer & Trust that alleged that delivery of their merger consideration was delayed, leaving them unable to sell their shares "at a favorable time."

Five claims, meanwhile, were filed too late, the vice chancellor concluded, with time running out on a three-year statute of limitations "no later" than November 2020, several months before the stockholder position that the clock began ticking in early June 2021. Unjust enrichment and deceptive trade practices claims were separately found to "lack merit."

"The plaintiffs maintain that their claims are timely for two reasons. First, they argue that their claims accrued either on June 9, 2021 when the merger closed, or on June 2, 2021 when Cloudbreak's members voted for the merger. I disagree and conclude that the claims accrued no later than November 2020," the vice chancellor wrote.

Founding investors of Cloudbreak argued in part that GigCapital2 and the other Gig parties were motivated to close a deal even under poor terms.

"The plaintiffs plead no link" between the alleged enrichment of the SPAC's sponsor and founding member Avi Katz in the form of low-cost sponsor shares and management fees charged during the SPAC's search for a merger target, the vice chancellor wrote.

"The plaintiffs likely cannot make this connection because they are not associated with Katz or the

sponsor," the decision found. "Although the doctrine of unjust enrichment is one of 'substantial flexibility,' it is axiomatic that there must be some relationship between the parties."

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

The doctors who sued are represented by Elizabeth A Sloan of Ballard Spahr LLP and David B. Harrison and Shomik Ghosh of Spiro Harrison & Nelson.

GigAcquisitions2 LLC, GigCapital2 Inc., UpHealth Inc. and Avi Katz are represented by Ronald N. Brown II, Kelly L. Freund, Melanie E. Walker and Emma C. Peplow of DLA Piper LLP (US).

Continental Stock Transfer & Trust Co. is represented by Peter B. Ladig and Abraham Schneider of Bayard PA and Mark A. Harmon and James Van Splinter of Chiesa Shahnian & Giantomasi PC.

The case is Irv Edwards, M.D. et al. v. GigAcquisitions2 LLC, case number 2024-0591, in the Court of Chancery of the State of Delaware.

--Editing by Kelly Duncan.

Correction: A previous version of this article misstated the number of counts in the suit. The error has been corrected.

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

Health Data Co. Investor Fraud Suit Headed To Mediation

By **Brian Steele**

Law360 (July 25, 2025, 3:55 PM EDT) -- The parties in a putative class action claiming a healthcare technology company misled investors about a data platform it claimed to operate, but which didn't actually exist, told a Connecticut federal court that they "agree this case is well suited for mediation."

In a Thursday report describing a July 21 meeting among the parties' counsel, the putative class and defendants including Sema4 Holdings Corp. — now known as GeneDx Holding Corp. — said they plan to hold a mediation session before the end of January 2026.

According to the second amended complaint filed in September 2024, Sema4 **announced** in May 2022 that it had completed a \$623 million acquisition of disease diagnostics company GeneDx Inc. The company told investors the transaction would significantly enhance the power of its AI-driven data and analytics platform, Centrellis, "by adding more than 2.1 million expertly curated phenotypes and over 300,000 clinical exomes GeneDx has generated."

"Sema4 claimed that combining Centrellis with GeneDx's services would allow Sema4 to become one of the largest genomic screening providers in the U.S. and would allow it to greatly increase revenues to \$350 million in 2022 for the combined companies," the complaint said.

But in August 2022, Sema4 announced it would cut about 250 employees and hire two new research and development directors, causing shares to fall over 33%, according to the suit. The company represented at the time that it would shift its strategy for Centrellis, but former employees cited in the suit claim the platform never existed.

Also Thursday, Sema4 and current and former executives named as defendants filed their answer to the complaint, denying the allegations and asserting six affirmative defenses. They claimed that they acted in good faith and the case is based on inactionable forward-looking statements that included cautionary language or were made without knowledge of any falsity.

The lawsuit brought by investor Nabil Helo seeks to certify a class of anyone who purchased the company's securities between Jan. 18, 2022, and Aug. 15, 2022. Sema4 changed its name in January 2023.

The defendants said the class cannot be certified "because the alleged misstatements did not have the required impact on the price of Sema4's common stock" and any damages were caused by other factors.

"Defendants are not liable because the information they allegedly concealed was in fact already disclosed and/or was in the public domain at the time any challenged statements were made and, as such, was at all times reflected in the price of Sema4's securities," the filing said. "Defendants are not liable because plaintiff and members of the putative class had actual or constructive knowledge of any alleged misstatements or omissions purportedly constituting the violation."

On June 23, U.S. District Judge Vernon D. Oliver denied a motion to dismiss the case under a standard that accepts all factual allegations in the complaint as true and draws all reasonable inferences in favor of the plaintiff. Under that rubric, he held that in each of the allegedly forward-looking statements, the "speaker necessarily represents that Centrellis presently exists."

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

The investors are represented by Ex Kano S. Sams II and Christopher Fallon of Glancy Prongay & Murray LLP and David A. Slossberg and Kristen L. Zaehringer of Hurwitz Sagarin Slossberg & Knuff LLC.

GeneDx is represented by Dean S. Kristy and Catherine D. Kevane of Fenwick & West LLP and Joseph W. Martini and Leslie A. Cahill of Spears Manning & Martini LLC.

The case is Helo v. Sema4 Holdings Corp. et al., case number 3:22-cv-01131, in the U.S. District Court for the District of Connecticut.

--Additional reporting by Sydney Price. Editing by Patrick Reagan.

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

NGM Biopharma Investors Take \$6M Deal To End Sale Suit

By **Jeff Montgomery**

Law360 (July 25, 2025, 8:56 PM EDT) -- The Column Group and former stockholders of NGM Biopharmaceuticals have agreed to settle for \$6 million a Delaware Court of Chancery lawsuit challenging NGM's \$135 million, \$1.55-per-share sale to The Column Group, its pre-deal venture capital controller.

As proposed, the deal, docketed with the court on Wednesday, would end a stockholder suit filed on Dec. 19 that branded the take-private deal as unfair and uninformed. The allegations were based in part on a post-closing announcement that NGM had secured \$122 million in financing — led by TCG — for clinical trials of a new drug prospect that the suit alleged was assigned negative value prior to the proposed settlement.

The stockholder complaint brought breach of fiduciary duty claims against TCG, NGM CEO David Woodhouse, and David Goeddel, managing partner of buyer TCG and a director of NGM.

"The settlement provides an immediate benefit in the form of the \$6 million settlement amount without the risk that continued litigation could result in obtaining no recovery," a notice filed with the court said, "or a smaller recovery from defendants after continued extensive and expensive litigation, including trial and appeals."

The court filing included a notice that a settlement hearing is scheduled for 3:15 p.m. on Oct. 21 before Vice Chancellor Morgan T. Zurn.

Stockholder Charles Bryant's complaint described the presettlement sale plan as a "take-under," allowing TCG, which held 26% of the company, to acquire NGM "for less than the value of its net cash and substantially less than the company's trading price before the transaction was announced."

Bryant demanded access to NGM's books and records in March and launched a stockholder class complaint about nine months later. The parties reached an agreement in principle to settle the suit on June 3, with terms now calling for an attorney fee of up to 20% of the settlement fund.

NGM was described as having taken a "broad approach" to drug research, with a drug pipeline stretching from solid tumors to retinal disease and disorders of the liver and metabolism.

The company was described as having advanced "multiple candidates to clinical trials. Prior to going public in the spring of 2019, NGM raised a few hundred million dollars in private funding."

As early as 2023, the complaint said, controlling stockholder TCG and its principal, David Goeddel, shared with company CEO David Woodhouse that TCG believed the company would be "better positioned for success" as a privately held venture.

In 2023, the company had \$170 million in net cash, according to the complaint, but its market capitalization was listed at \$71 million.

"In other words, the market was irrationally ascribing negative value to NGM's significant pipeline of other assets," the complaint said. "TCG moved swiftly to take advantage,"

Although the company formed an independent special committee for consideration of the sale, it

allegedly allowed TCG "to undermine its role as a bargaining agent by negotiating directly with significant minority stockholders. It delegated substantial responsibility to Woodhouse, who was conflicted" and rolled his shares into the take-private deal along with TCG, the complaint said.

In late January 2024, TCG submitted a final offer of \$1.55 per share and later indicated it would not support a higher bid from a third party.

"Without TCG's willingness to support a higher bid or vote in favor of an alternative transaction, all efforts to find another third-party buyer were effectively meaningless," the complaint said, noting TCG had the support of stockholders representing 55% of the company's shares.

By Feb. 23, 2024, NGM was trading at \$1.91 per share, putting the deal in the position as a "take-under" based on the \$1.55-per-share offer backed by TCG, the complaint said, adding: "The special committee recognized that stockholders would be unhappy."

The deal closed on April 5, 2024, with the complaint docketed on Dec. 19, 2024.

Stockholder Charles Bryant is represented by Kurt M. Heyman, Aaron M. Nelson, Brendan Patrick McDonnell and Elena M. Sassaman of Heyman Enerio Gattuso & Hirzel LLP, Amanda Crawford and Joel Fleming of Equity Litigation Group LLP, and Brian Schall and Rina Restaino of The Schall Law Firm.

The Column Group LP, David V. Goeddel and David J. Woodhouse are represented by Matthew D. Stachel, Sabrina M. Hendershot and Andrew G. Gordon of Paul Weiss Rifkind Wharton & Garrison LLP.

The case is Charles Bryant v. The Column Group et al., case number 2024-1314, in the Court of Chancery of the State of Delaware.

--Editing by Philip Shea.

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

NY Court Sides With Junior Investors In RMBS Trust Dispute

By **Grace Dixon**

Law360 (July 25, 2025, 7:57 PM EDT) -- A New York state court resolved a dispute between bondholders in 34 residential mortgage-backed securities trusts about how to handle repayment of principal amounts deferred during the 2008 financial crisis, siding with junior bondholders after a 17-day bench trial.

New York Supreme Court Justice Andrew Borrok weighed in on a dispute over how to classify belated mortgage payments made on loans that received some form of principal forbearance during the financial crisis, via programs like the U.S. Treasury's Home Affordable Modification Program.

Despite senior bondholders' arguments to the contrary, the court ruled that servicer Wells Fargo was correct to treat the payments as "subsequent recoveries," Justice Borrok ruled.

Under an earlier court ruling in separate litigation brought against JPMorgan for its **handling of RMBS investments** in the lead-up to the financial crisis, New York appellate courts had already clarified that the language in functionally identical contracts stipulated that subsequent recoveries should be paid out to subordinate bondholders, not senior bondholders.

The court clarified that pooling and serving agreements governing the 34 RMBS trusts laid out a process for how to handle realized losses stemming from liquidating mortgages, bankruptcy losses or servicer modifications.

The governing contracts stipulate that in cases where the servicer recovers a previously realized loss, as was the case when homeowners made deferred principal payments, this is done via subsequent recovery, per the ruling.

"Subsequent recoveries are the 'only mechanism' to 'write up certificates after a realized loss,'" Justice Borrok said.

In order to establish that the deferred principal payments were, in fact, subsequent recoveries of realized losses, the servicer had to believe that it would not receive the funds down the road from the homeowner and the loan had to have been liquidated, per the ruling.

At the time, the industry understood the forborne principal to be "worth pennies on the dollar" amid massive defaults and recurring defaults, per the ruling.

"When servicers reported the extinguished interest and deferred principal as a realized loss, they did not expect repayment," Justice Borrok ruled.

Ratings agencies and servicers treated the deferred portion of the loan as a partial liquidation. Though homeowners were obligated to pay this portion, forbearance could be extended up to 40 years, and the industry did not have high hopes for repayment, the court noted.

Robert Scheef, counsel to the subordinated certificateholders, told Law360 on Friday that the court rejected senior certificateholder's arguments that there had to have been a full liquidation similar to a foreclosure.

"The court rejected that because he recognized that partial liquidations existed beforehand, and

that's what the Treasury was essentially doing, and that's how the industry understood things at that time," Scheef said.

Senior certificateholders had also argued that they were not made aware Wells Fargo was treating the deferred principal payments as subsequent recoveries, but Justice Borrok refuted this argument.

The ruling pointed to stipulations, a lawyer's affidavit and briefing in the JPMorgan litigation which explicitly acknowledged Wells Fargo's treatment of the deferred principal payments as subsequent recoveries, as well as monthly reports prepared by the servicer.

"Wells Fargo's treatment of deferred principal payments as subsequent recoveries was not a secret," Judge Borrok ruled. "There simply was not credible evidence adduced at trial that any certificateholder did not understand that the payment of previously deferred principal was being treated as a subsequent recovery by Wells Fargo."

Courtney Statfeld, also counsel to junior certificateholders, told Law360 that the dispute over whether Wells Fargo made clear its approach to handling the deferred principal payments was one of the "more fun" parts of the nearly four-week trial.

"You had these senior holders who were effectively saying ... 'We didn't know they were treating them like this,'" Statfeld said. "And then we had evidence after evidence after evidence that got admitted, including letters from their own counsel, including briefings and prior cases that said you knew."

Counsel for Wells Fargo and the senior certificate holders did not return requests for comment on Friday.

Wells Fargo is represented by Clay J. Pierce, Julie R. Landy, Paige A. Naig, Mark D. Taticchi, Elizabeth M. Casey and Kyle E. Darch of Faegre Drinker Biddle & Reath LLP.

DW Partners LP and the Reliance parties are represented by David I. Greenberger of Bailey Duquette PC and Isaac M. Gradman, Michael E. Tracht and Alexander A. Wiegel of Perry Johnson Anderson Miller & Moskowitz LLP.

Deer Park Road Management Co. LP, STS Master Fund Ltd., Deer Park 1850 Fund LP, Northern Lights Fund Trust — Deer Park Total Return Credit Fund, One William Street Capital Master Fund Ltd., OWS Credit Opportunity I LLC, Baldr Sherwood Fund Inc., OWS ABS Master Fund II LP and 1WS Credit Income Fund are represented by Samuel J. Lieberman, Frank S. Restagno and Lily Cron of Sadis & Goldberg LLP.

Axonic Capital LLC and Axonic Funds are represented by Justin M. Ellis and Alex Eynon of MoloLamken LLP.

PIMCO is represented by Kenneth E. Warner of Warner Partners PC, Caitlin Halpern, Peter J. McDonald and Nick Beachy of Gibbs & Bruns LLP and David Sheeren of Sheeren Law PLLC.

Solula LLC, La Verdad Holdings LLC, Robert Dechert and 400 Capital Credit Opportunities Master Fund Ltd. are represented by Robert W. Scheef, Courtney B. Statfeld, Daniel I. Hendler, Hal M. Shimkoski and Lauren H. Simenauer of McKool Smith PC.

HBK Master Fund LP is represented by Uri A. Itkin, Richard D'Amato, Michael Chen, Andrew McWhorter and Rebecca Kanner of Akin Gump Strauss Hauer & Feld LLP.

The case name is Wells Fargo Bank NA v. All Respondents for this Special Proceeding, case number 154984/2021, in the Supreme Court of the State of New York, County of New York.

--Editing by Dave Trumbore.



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

AI Tech Co. Execs Sued Over Insider Trading, Related Claims

By **Katryna Perera**

Law360 (July 25, 2025, 10:22 PM EDT) -- A UiPath stockholder has sued the company's current and former top brass in Delaware Chancery Court, alleging they schemed to discount UiPath's artificial intelligence-related services to pump up business while trading on insider information and reaping more than \$500 million in total proceeds.

Scott Rudolph filed a derivative **complaint** Thursday against UiPath's co-founder and former co-CEO, Daniel Dines, its chief financial officer and chief operating officer, Ashim Gupta, and several current and former directors.

According to the complaint, UiPath provides businesses with automation services and software designed to automate high-volume, repetitive digital tasks.

"UiPath's platform contains an embedded AI which possesses machine learning capabilities to continually improve user experience. As such, the company represents itself as being 'at the forefront of technology innovation and thought leadership in automation,'" the complaint states. "The company also represents that its software is an 'end-to-end' solution, meaning customers are allowed to utilize the software to build and create their own automations they may need for their specific circumstances."

During the COVID-19 pandemic, the complaint states that automation software was in high demand, prompting major software companies such as Microsoft and IBM to invest in and develop their own automation software. But Rudolph said the defendants claimed that Microsoft was not a significant competitor of UiPath.

However, in May 2020, Microsoft announced that it had acquired Softomotive, a robotic process automation company, to help jumpstart its existing process automation offering, Microsoft Power Automate, according to the complaint.

"At this point in time, UiPath had been generally regarded as the category leader of automation software, given the substantial functionality of its purported 'end-to-end' platform. Microsoft's acquisition of Softomotive, however, expanded its 'low-code' automation offerings, making it easier for consumers to work with Microsoft to create automation capabilities," the complaint states.

"Additionally, Microsoft was well-positioned to bundle its automation offerings to existing customers through Microsoft Suite packages for much lower prices than UiPath could offer," the complaint further states.

UiPath began to experience "substantial issues" before the start of the relevant period, according to the complaint, with plateauing customer demand and growth.

The relevant period begins in April 2021, when UiPath conducted its initial public offering. According to the complaint, UiPath's board structured the IPO to allow board members and company insiders not to be subjected to a traditional lock-up period, and they were able to sell their shares immediately.

Through this structure, Rudolph alleged the defendants schemed to artificially inflate the price of UiPath's stock to maximize their own profits and collectively reaped more than \$500 million.

"The scheme worked to a substantial degree. Following the IPO, company insiders sold 18,853,999 shares of Company common stock to the tune of \$1.055 billion in returns," the complaint states. "The sales continued following the IPO; indeed, between November 2021 and September 2022, defendant Dines, Gupta, [Philippe Botteri], and [Richard Wong] sold a collective 645,322 shares of company common stock for \$25,381,493 in returns."

The complaint also states that the defendants caused UiPath to spend more than \$43.7 million to repurchase roughly 2.3 million of its own shares at artificially inflated prices from April 2021 through September 2022, resulting in the company overpaying for its own stock repurchases by more than \$24.7 million.

Rudolph further alleged that throughout this time, the defendants failed to disclose to investors that UiPath had implemented a substantial discounting program before the IPO, which temporarily boosted UiPath's revenue, that the company's total addressable market was not as large as portrayed, and that UiPath was losing customers to competitors, among other things.

The complaint states that the truth began to emerge in September 2022 when UiPath issued its earnings report for the period ending July 31, 2022, and it revised its annualized renewal run-rate guidance to a range of "\$1.153 billion to \$1.158 billion which indicated a new low growth rate."

Rudolph says on this news, UiPath's common stock price fell \$1.75, or roughly 11.22%, from \$15.59 per share on Sept. 6, 2022, to \$13.84 on Sept. 7, 2022.

The stock price fell again in late September when UiPath hosted an investor day presentation, and executives conceded that the company was experiencing issues with its sales volume, according to the complaint.

Rudolph said on this news, the price of UiPath's common stock fell 87 cents, or roughly 6.47%, from \$13.44 to \$12.57 per share on Sept. 27, 2022.

The suit seeks damages, restitution, attorney fees, and reforms and improvements to UiPath's corporate governance and internal procedures.

UiPath declined to comment Friday and counsel for Rudolph did not immediately respond to requests for comment.

Rudolph is represented by Kurt M. Heyman and Gillian L. Andrews of Heyman Enerio Gattuso & Hirzel LLP.

Counsel information for the defendants was not immediately available.

The case is Scott Rudolph Inc. v. Daniel Dines et al., case number 2025-0835, in the Court of Chancery of the State of Delaware.

--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

CME Floor Traders Lose Membership Value Trial

By **Lauraann Wood**

Law360, Chicago (July 25, 2025, 2:59 PM EDT) -- An Illinois jury on Friday sided with CME Group Inc. in a suit brought by longtime commodities traders who claimed the company violated their contractual trading floor access and proximity rights by opening a data center that accommodates high-speed and algorithmic trading, rejecting their request for \$2 billion in damages.

Jurors in Cook County Circuit Court deliberated for about four hours before ultimately siding with the exchange over members' assertion that the data center with co-location access that the exchange built in Chicago suburban Aurora in 2012 constitutes a trading floor to which they are contractually entitled to exclusive and the best proximate access.

Those rights, the members alleged, were enshrined in the charter they approved to let the Chicago Mercantile Exchange and Chicago Board of Trade demutualize in 2000 and 2005, respectively. The two exchanges merged to create CME Group in 2007.

The traders' counsel Stephen Morrissey of Susman Godfrey LLP told Law360 that he and his clients were surprised and disappointed by the jury's verdict. "It's not what we were expecting," he said.

"It's been a long battle with very capable and smart lawyers on the other side who put up every obstacle they could to getting here and preventing us from getting the verdict we wanted," Morrissey said. "We will consider what next steps are and what appropriate motions or appeals may be, but for today we're just going to process this and thank the jury for their service and the judge for all his great work in letting the parties put on the cases they wanted to put on."

Representatives for CME Group didn't immediately respond Friday to a request for comment.

The traders asserted the value of their Class B memberships, which were designed to preserve their exclusive floor access alongside other trading rights, have significantly decreased because the Aurora center's setup essentially allows any trader to access on-site servers — and thus its electronic trading floor — for high-frequency and algorithmic trading.

CME Group argued that the demutualization plans were fair, and that it has honored members' core rights as promised, but trial evidence instead proves the leaders who were already members of the exchange and helped craft the demutualization transaction "entrenched themselves and enriched themselves at members' expense," Morrissey argued for the traders **during closings**.

"We have a lot of opportunities in life to show people who we really are," and trial evidence proved that CME and CBOT have time after time "fallen on the wrong side of the ledger," he asserted.

CME Group, however, asserted during trial that the traders simply regret selling the Class A shares they received in the demutualization. The members' A shares could be traded openly and are worth several millions today, and they served as a hedge in case electronic trading hurt their Class B shares, whose value was based on members' trading rights and could be traded only among Class B shareholders, the exchange's counsel has argued.

The members are simply looking to collect more exchange profits than they're entitled to under the demutualization charters they approved at the turn of the century, CME Group Albert Hogan III of Skadden Arps Slate Meagher & Flom LLP told the jury during closings. That, however, is "antithetical to everything the exchange has done and every reason why they set up the demutualization," he argued.

Jurors heard from several current and former CME leaders and board members during trial, including board member and lead director Charles Carey, who testified that the exchange opened the Aurora center to bring high-volume market makers closer to its match engine, and that asking members' approval for such a setup **"wasn't required"** under the demutualization charter.

The charter did not give members a core right to exclusive or preferential electronic trading because "it would have destroyed the value of our electronic trading, and users would have found a different way to get their trading done," testified Carey, who was a CBOT executive before the 2007 merger.

CME Group CEO Terry Duffy also defended the exchange's membership values on the stand, calling demutualization "a windfall for every single person who owned membership on the exchange."

Duffy denied that any "broad understanding" existed at the time that electronic trading's popularity was on the rise, saying **increased efficiency** was the exchange's broader focus. And members' demutualization-related concerns centered on preserving open-outcry trading, he said.

Jurors also heard that members were using electronic trading connectivity tools alongside nonmembers, and paying equal access fees, for **at least a decade** before the Aurora center opened. One of two access options available when electronic trading access opened in 2000 involved using a terminal members and nonmembers alike could pay to install and use for home or office trading, even though terminals on the exchange's trading floors remained exclusive to members, according to testimony from Elizabeth Gisch, CME's managing director of global market solutions and services.

And while the exchange's electronic trading technologies have evolved to continue accommodating industry trends and demands, every connectivity option it has offered since implementing the open-access structure has given members and nonmembers an opportunity for direct yet remote access to its central trading engine, Gisch testified.

Even CBOT's electronic traders were executing trades distances away from the exchange's match engine at the time of demutualization, as the machine was in London at the time, jurors heard from former CME Group President Brian Durkin. The exchange's electronic trading technology allowed traders to connect directly from anywhere, but members did not have any special access rights to it, he testified.

The traders are represented by Stephen Morrissey, Robert Safi, Mark Hatch-Miller, Nick Carullo, Sarah Hannigan, Amanda Bonn and Bianca Rey of Susman Godfrey LLP and Suyash Agrawal of Massey & Gail LLP.

CME Group is represented by Albert Hogan III, Marcella Lape, Manuel Cachán and Amanda Brown of Skadden Arps Slate Meagher & Flom LLP.

The case is Langer et al. v. CME Group Inc. et al., case number 2014-CH-00829, in the Circuit Court of Cook County, Illinois.

--Editing by Brian Baresch.

Update: This story has been updated with additional counsel information and comment from plaintiffs' counsel.



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

7th Circ. Erases Class Cert. Over Progressive's Car Valuation

By **Ganesh Setty**

Law360 (July 24, 2025, 9:37 PM EDT) -- The Seventh Circuit on Thursday reversed a policyholder's class certification win against Progressive Insurance over certain adjustments the insurer makes when calculating a totaled vehicle's actual cash value, finding that whether Progressive paid insureds the proper amount is a primarily individualized inquiry.

Siding with Progressive Paloverde Insurance Co. and Progressive Southeastern Insurance Co., a **unanimous three-judge panel** said its ruling aligns with decisions from the Eighth Circuit in 2017 and the Third Circuit **earlier this month** in similar disputes over the adjustments, called "projected sold adjustments."

To calculate a totaled vehicle's actual cash value, or ACV, Progressive told the appellee, Heather Schroeder, in her standard-form auto policy that it would specifically look at the "market value, age, and condition of the vehicle at the time the loss occurs." For market value, Progressive made the projected sold adjustments to the listed prices of comparable vehicles to account for buyer-seller negotiations, which Schroeder said allowed Progressive to "systemically" underpay insureds for the ACV of their vehicles.

Although Schroeder maintained that there was a common evidentiary question for her proposed class — whether a comparable vehicle's listed price equates to market value — U.S. Circuit Judge Amy J. St. Eve wrote for the panel Thursday that resolving the question would still not answer if Progressive properly paid insureds their ACV.

"It would remain possible that the comparable cars ... were more valuable than the totaled car in ways that Progressive's other adjustments did not capture, offsetting any negative effect from applying Progressive sold adjustments," she said. "To evaluate such an argument, which Progressive has asserted that it intends to make as part of its defense in this case, the jury would need to consider individualized evidence about each putative class member's car and each comparable car included in her car's valuation report."

According to court filings, Schroeder first sued Progressive Paloverde in May 2022, but most recently amended her claims in April 2023. The latest suit included another Progressive policyholder as a plaintiff, Misty Tanner, who brought claims against another Progressive unit, Progressive Southeastern Insurance Co.

By December 2023, however, only Schroeder brought class-related claims against Progressive Paloverde, whereas Tanner only asserted her claims individually. U.S. District Judge Jane Magnus-Stinson granted Schroeder class certification in January 2024, and both units appealed thereafter, records show.

On Thursday, the panel further rejected Schroeder's position that aside from a duty to pay insureds the ACV of their totaled vehicles, Progressive had a duty to calculate ACV using a particular method or formula.

"We conclude, however, that Progressive's policy does not preclude Progressive from applying projected sold adjustments in calculating actual cash value payments, so long as it ultimately pays its insureds the actual cash value of their totaled cars as defined under the policy and Indiana law," Judge St. Eve said.

Indiana law, meanwhile, defines "fair market value" as the "price at which property would change hands between a willing buyer and seller, neither being under any compulsion to consummate the sale," she added.

Progressive's specific contractual duty was therefore to compensate an insured for such a price while also accounting for other factors such as age and condition, along with the deductible, the panel ruled.

As for the particular methodology Progressive adopted, it made the projected sold adjustments based on a valuation system designed by Mitchell International Inc. and J.D. Power called WorkCenter Total Loss.

"Projected sold adjustments never project that a car will sell for more than its list price — and until mid-2021, they projected that every car would sell for less than its list price," Thursday's decision further states. It added that after that point, the system no longer deemed records with an equivalent sold and listed price as outliers and has started removing records from "no haggle" dealers.

Even if a jury rejects Schroeder's position that vehicles always sell for their listed price but otherwise finds that the projected sold adjustments are statistically biased, class certification is still not appropriate, the panel further held.

They said a jury would still then have to weigh individualized evidence on how a given adjustment was calculated, since each has different inputs.

And, they concluded, Schroeder pointed to no other policy language or Indiana insurance regulation requiring Progressive to use a specific methodology.

Jeff Cashdan, an attorney representing Progressive, praised the panel's "rigorous analysis," telling Law360 in a statement that the ruling "highlights the importance of properly understanding the elements of plaintiff's claims in evaluating commonality and predominance."

Representatives of Schroeder did not immediately respond to a request for comment.

U.S. Circuit Judges Diane S. Sykes, Ilana Diamond Rovner and Amy J. St. Eve sat on the panel for the Seventh Circuit.

Heather Schroeder is represented by Jacob L. Phillips of Jacobson Phillips PLLC and by Hank Bates and Lee Lowther of Carney Bates & Pulliam PLLC.

Progressive is represented by Jeffrey S. Cashdan, Zachary A. McEntyre, James Matthew Brigman, Allison Hill White, Erin Munger, Paul Alessio Mezzina, Amy R. Upshaw, Christine Carletta and Nicole Bronnimann of King & Spalding LLP.

The case is Heather Schroeder et al. v. Progressive Paloverde Insurance Co. et al., case number 24-1559, in the U.S. Court of Appeals for the Seventh Circuit.

--Additional reporting by Dorothy Atkins. Editing by Nick Petruncio.



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

Insurers Seek Quick Win Over Meta Social Media Suits

By **Ganesh Setty**

Law360 (July 25, 2025, 9:17 PM EDT) -- Various Hartford and Chubb units told a Delaware state court they should have no duty to defend Meta Platforms Inc. in thousands of pending lawsuits accusing the social media giant of deliberately designing its platforms to be addictive to adolescents, arguing there was no insurable "accident" that allegedly occurred.

After winning a protracted **jurisdictional battle** with the Facebook and Instagram parent in May to litigate coverage in Delaware state court **rather than** California federal court, where numerous underlying lawsuits have been consolidated, the units **added Thursday** that many lawsuits don't seek damages "because of" bodily injury either, as required.

"No one alleges Meta designed key features of its products or encouraged children and teens to compulsively use its products accidentally," the units argued, pointing to a December 2023 master complaint filed by individual plaintiffs. "Rather, the underlying plaintiffs allege 'a direct line between' Meta's 'conscious, intentional design choices and the youth mental health crisis gripping our nation.'"

The insurers said that both Delaware and California law support their position.

The insurers in Thursday's motion are Hartford units Hartford Casualty Insurance Co. and Sentinel Insurance Co. Ltd., while the Chubb units are Federal Insurance Co., Westchester Surplus Lines Insurance Co., Westchester Fire Insurance Co., and Ace Property and Casualty Insurance Co.

According to court filings the Hartford units **kicked off** the present coverage dispute in November, prompting Meta to file **its own** coverage action in California federal court and further remove the present case to Delaware federal court in December, albeit unsuccessfully.

Of the "thousands" of underlying lawsuits, the "majority" have been consolidated in either the multidistrict litigation in California or an analogous consolidated California state court proceeding, the insurers in Thursday's motion said. But after the coverage litigation was **conditionally transferred** to the California MDL, U.S. District Judge Yvonne Gonzalez Rogers ultimately ruled in May that the coverage over the underlying lawsuits had to be litigated in Delaware state court, rejecting Meta's bid to let the coverage litigation remain in the MDL.

The at-issue policies only provided covered damages Meta incurred "for" or "because of" bodily injury during a given policy period that was caused by an "occurrence," the insurers continued Thursday, adding that "occurrence" was further defined as an accident.

They further classified the underlying plaintiffs into three groups — individuals, state attorneys general, and lastly, school districts and municipal governments.

While the insurers argued that no group alleged harms caused by an "accident," the carriers also noted that unlike the individual plaintiffs, the school districts, municipal governments and state attorneys general don't seek damages "because of" bodily injury.

Instead, the state attorneys general assert claims under consumer protection statutes, while the school districts and municipal governments seek damages for increased economic costs incurred from responding to the youth mental health crisis, the insurers said.

Their argument mirrors a successful one that three Chubb units raised before the Delaware Supreme Court in a dispute with Rite Aid over their duty to defend underlying opioid lawsuits. In January 2022,

the Delaware high court said in a 4-1 ruling that the plaintiff Ohio counties' claimed economic damages were **too far removed** from individual opioid injuries, further noting they "specifically disclaim[ed] recovery for personal injury or any specific treatment damages."

The Ninth Circuit, meanwhile, similarly **sided with** insurers in January 2024 over their duty to defend McKesson Corp. against claims it oversupplied opioids, the Hartford and Chubb units further noted, finding the suits at issue there "describe purely deliberate conduct."

The units also maintained Thursday that "many" individual plaintiffs' injuries fall outside their respective policy periods, and that "information laws" exclusions apply to the state AG lawsuits, which barred coverage in part for loss "arising from" any violation of any statute relating to communicating or transmitting information.

Representatives of Meta, Chubb and Hartford did not immediately respond to a request for comment Friday.

The Hartford units are represented by James P. Ruggeri and Sara K. Hunkler of Ruggeri Parks Weinberg LLP, and by Thad J. Bracegirdle, Sarah T. Andrade and Emily L. Skaug of Bayard PA.

The Chubb units are represented by Blair E. Kaminsky, Daniel M. Horowitz and Brian T. Goldman of Holwell Shuster & Goldberg LLP, and by Stamatios Stamoulis of Stamoulis & Weinblatt LLC.

Meta Platforms Inc. and Instagram LLC are represented by David J. Baldwin, Peter C. McGivney and Periann Doko of Berger McDermott LLP.

The case is Hartford Casualty Insurance Co. et al. v. Instagram LLC et al., case number N24C-11-010, in Delaware Superior Court.

--Additional reporting by Dorothy Atkins, Hope Patti and Shane Dilworth. Editing by Leah Bennett.



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

'May The Flow Be With You': Meta Team Made Menstrual Jokes

By **Bonnie Eslinger**

Law360 (July 24, 2025, 11:03 PM EDT) -- A Meta legal vice president defending the company in a California federal trial over allegations it illegally gathers users' data from menstrual-tracking app Flo acknowledged Thursday that members of Meta's communications team made "inappropriate" menstruation-related jokes while discussing the issue, with one employee telling another: "May the flow be with you."

The joke was disclosed during the plaintiffs' direct questioning of Steve Satterfield, a Meta Platforms Inc., vice president and associate general counsel.

Michael Canty of Labaton Keller Sucharow LLP asked Satterfield if he took data privacy seriously.

"You would agree with me that sensitive health data is probably the area that you should take most seriously?" Canty asked. "You don't think it's something to joke about, do you?"

Satterfield agreed.

Canty asked if Satterfield was aware that in 2019, when the Wall Street Journal was investigating allegations that Flo Health Inc. had been sharing information with third-parties, that Facebook employees were joking about the matter.

One employee said in an internal text chat, "So, I'm the keeper of everyone's ovulation and menstruation data" and another responded "Wow, that's such a great gig," Canty said.

Satterfield said he learned about the comments during his deposition for the case.

"Another employee responded, 'May the flow be with you,'" Canty added.

Satterfield said the exchange happened in a chat among members of the communications team who were responding to a Wall Street Journal detailing the claims about Flo.

"It was a stressful situation," Satterfield said. "People made inappropriate jokes."

The suit accuses Flo of unlawfully sharing its Flo App users' menstrual and sexual health information through software tools that Meta and its subsidiary Facebook provide to app developers that allow them to track user behavior, among other functions. The companies deny the claims.

Earlier in the direct examination, Canty asked Satterfield about the tool that Flo Health used that's at issue, Facebook's software development kit, commonly called an SDK.

He asked the Meta executive to confirm that the company received information from the Flo health app through the SDK's analytics feature.

"I don't have a basis to have an opinion on that. It's possible that they were, but I wouldn't know for sure," Satterfield replied, later adding that Meta built filters to discard certain data.

Canty asked if a filter that excluded sensitive health data from apps was in place during the class period, between Nov. 1, 2016, and Feb. 28, 2019.

Satterfield said the filter was built in 2019.

"So, during the class period, you had no filter or safety or procedure in place to filter out sensitive health data that you were collecting from health apps," Canty asked.

Satterfield said the companies had policies that advised developers not to send such information.

Later, when Elizabeth McCloskey of Gibson Dunn & Crutcher LLP, who represents Meta, questioned Satterfield, she asked him to consider all the evidence that has been presented in the case and at trial.

"Have you seen any evidence at all that Facebook received any sensitive health information from the Flo app?" McCloskey asked.

Satterfield said no.

"If Flo had indeed sent sensitive health information to Facebook, would that have violated the contractual agreement that was entered into between Facebook and Flo?" McCloskey then asked.

Satterfield said yes, reiterating that when developers use Meta tools, they have to promise not to send sensitive health information.

Earlier in the day, an expert testifying for Meta bolstered the company's key defense against the one state law privacy claim it faces, saying Flo's app collected the data, not Meta.

The California Invasion of Privacy Act prohibits "eavesdropping upon or recording" of any confidential communication, and Meta has maintained that it didn't do that — it only received data from the period and ovulation tracker after it had been collected by the Flo app.

Goergios Zervas, a Boston University associate professor and expert in computing and data sciences, compared the process to the Flo app putting data into an envelope already addressed to Meta before sending it off.

"The data has been generated. It has not been transmitted yet," Zervas said. "When it's full, it's transmitted."

Andrew Clubok of Latham & Watkins LLP, who represents Meta, asked if it mattered whether that transmittal process takes "milliseconds or seconds or days," and Zervas said it didn't matter.

Christian Levis of Lowey Dannenberg PC, who represents the plaintiffs, pressed Zervas during cross-examination, saying the use of the Facebook SBK resulted in the transmission. Zervas insisted that the Facebook tool doesn't do the sending.

"We'll have to agree to disagree about that," Levis said.

On Thursday, Meta additionally called to the witness stand a mobile app development expert who disputed testimony from an expert from the plaintiffs who said as soon as women start using the Flo app, the Facebook SDK starts transmitting information about them back to Meta's servers.

Chris Karkanias, who worked for Microsoft Corp. for over a decade earlier in his career, also disagreed with the assessment that Flo shared personally identifiable information with Facebook Analytics.

"The data was encrypted and de-identified," Karkanias said, adding that it was also "unreliable and indecipherable."

A trial brief from Meta last month includes information about the statutory damages the plaintiffs are seeking: \$1,000 per person in state Confidentiality of Medical Information Act damages from Flo Health for 13 million members of a nationwide class. In addition, they're seeking California Invasion of Privacy Act damages against Meta of \$5,000 per violation. The number of California subclass members was not provided in the court filing, but in the trial brief, Meta said the CIPA subclass

damages add up to "billions."

The dispute dates to 2021 when several app users sued Flo, Google LLC, Meta and a pair of mobile app analytics providers that were subsequently consolidated. The lawsuits were lodged in the wake of a **settlement** between Flo and the Federal Trade Commission that requires Flo to gain affirmative consent before sharing personal health information with ad companies.

In May, the court **certified** a nationwide class and California subclass of Flo app users who entered menstruation or pregnancy information into the app between Nov. 1, 2016, and Feb. 28, 2019.

Google and the plaintiffs **struck a deal** less than two weeks before trial, telling the court that they had reached an "agreement in principle on the terms of a settlement that will resolve all claims against Google."

The trial **kicked off** Monday, and Tuesday, the five plaintiffs **testified**, telling jurors they never gave permission for data from the menstrual-tracking app to be shared.

During their cross-examination, Flo and Meta's counsel focused on language in the terms of service that said certain information would be collected for analytics and other purposes. They also underscored that the litigation was filed in 2021, years after each plaintiff started using the Flo app, which states in its terms of service that users have only one year to bring any legal claims.

The trial continues July 30.

The app users are represented by Carol C. Villegas, Michael P. Canty, Jake Bissell-Linsk, Danielle Izzo and Gloria J. Medina of Labaton Keller Sucharow LLP, Christian Levis and Amanda Fiorilla of Lowey Dannenberg PC, Diana J. Zinser and Jeffrey L. Kodroff of Spector Roseman & Kodroff PC, James M. Wagstaffe of Adamski Moroski Madden Cumberland & Green LLP, Ronald A. Marron, Alexis M. Wood and Kas L. Gallucci of The Law Offices of Ronald A. Marron, Kent M. Williams of Siri & Glimstad LLP, and William Darryl Harris II of Harris Legal Advisors LLC.

Meta is represented by Andrew B. Clubok, Melanie M. Blunschi, Kristin Sheffield-Whitehead and Michele D. Johnson of Latham & Watkins LLP, and Elizabeth K. McCloskey and Abigail A. Barrera of Gibson Dunn & Crutcher LLP.

Flo Health is represented by Brenda R. Sharton, Benjamin M. Sadun and Clare Putnam Pozos of Dechert LLP.

The case is Frasco et al. v. Flo Health Inc. et al., case number 3:21-cv-00757, in the U.S. District Court for the Northern District of California.

--Additional reporting by Allison Grande, Craig Clough and Andrew Karpan. Editing by Kristen Becker.