

J&J Fails to Stop Talc-related Securities Class Action at Third Circuit

July 31, 2025 | By  Marianna Wharry



Johnson's talc powder on a supermarket shelf in Baltimore, MD. Photo: Diego M. Radzinski/ALM

A divided U.S. Court of Appeals for the Third Circuit [denied](#) Johnson & Johnson's attempt to escape class certification in a securities fraud case Wednesday.

The three-judge panel split 2-1 with the majority affirming the U.S. Court District Court for the District of New Jersey's order granting the lead plaintiff's motion for class certification.

The plaintiff, San Diego County Employees Retirement Association, is a group of investors who purchased J&J stock from February 2013 to December 2018 and now claim that the pharmaceutical giant misrepresented the presence of asbestos in its talc products to inflate its

stock prices. The company had argued its actions did not impact its market value because it provided disclosures about the asbestos and safety concerns for its talc products and shared information on its potential asbestos-related liability, the opinion said.

However, U.S. Circuit Judge Patty Schwartz, who the majority's opinion, agreed with the district court's decision to certify the class, finding that the lead plaintiff adequately showed they relied on the company's public statements and that J&J's late disclosures about the cancer-causing chemical led to a decline in the company's stock.

"In light of this evidence, the district court did not clearly err in determining that, for each of the six disclosures, the market reacted negatively to information about J&J's talc-related representations," Schwartz said. "Because J&J has not offered any other evidence to suggest that its alleged misrepresentations had no price impact, we conclude that J&J has failed to 'sever' the link between the alleged misrepresentation and . . . the price . . . [plaintiff] paid for the security, and therefore has failed to rebut the presumption of reliance."

The plaintiff filed a nearly [300-page first amended complaint](#) in February 2019 alleging J&J did not disclose the that its baby powder contained asbestos to deceive both its investors and the public. The suit claims the company touted its talc products as having "a long history of safe use" while also having confirmed knowledge of asbestos in its talc products since the 1970s. The plaintiff ultimately claimed the company's misrepresentations artificially inflated its stock price until it issued six partial disclosures from September 2017 to December 2018 about the "relevant truth" of its talc products. These disclosures ultimately impacted the plaintiff when the company's stock price declined after the disclosures, according to the opinion.

J&J argued there was no price impact because the company did not provide "new and corrective information" about its safety concerns for its talc products, but instead disclosed information that "was already public and not new."

The majority denied this argument saying that a disclosure based on publicly available information can still influence stock price.

"For instance, re-publication of information by a more credible source to a broader audience may convey to the market that the information is particularly significant or worthy of monitoring," the majority said. "Similarly, a disclosure that compiles and expertly analyzes stray bits of publicly available information can also communicate new, value-relevant information."

U.S. Circuit Judge Cindy K. Chung dissented from the majority, saying she would remand the case for the district court to conduct a "searching" price impact analysis of the disclosures. She argued

the district court did not make the necessary findings that each disclosure was not corrective or publicly known.

"I disagree with the majority opinion that recognition that a disclosure must be publicly known means that disclosures might not have to be new," Chung wrote in a footnote of her dissent. "Instead, I would say that a disclosure is not 'new' to the market until it is publicly known."

Bobby Henssler, of counsel for the plaintiff in this case and partner at Robbins Geller in San Diego, told Law.com in a statement that his team is please with the decision and eager to present the investors' case to a jury."

Carella Byrne Cecchi Olstein Brody & Agnello also represented the plaintiff.

Sidley Austin and Faegre Drinker Biddle & Reath are representing J&J. Law.com's request for comment from the company's counsel went unanswered.

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Securities Law News

J&J Unable to Void Securities Fraud Suit Class Certification (1)

July 30, 2025, 10:27 AM PDT; Updated: July 30, 2025, 12:14 PM PDT

Johnson & Johnson failed to convince the Third Circuit Wednesday that a district court erred by certifying a class action against it in a securities fraud case related to the safety of its talc products.

J&J Worldwide Vice President of Litigation Erik Haas said that the company disagrees with the court's decision and will seek review from the full court.

The plaintiffs were investors who bought J&J stock from February 2013 to December 2018. During that time, J&J concealed that the talc products contained asbestos, lead plaintiff San Diego County Employees Retirement Association said.

The district court correctly concluded that those suing relied on public statements that J&J's products were safe when purchasing their stock, Judge Patty Shwartz said in an unpublished opinion for the US Court of Appeals for the Third Circuits.

The alleged misrepresentations kept the price of J&J's stock artificially high, until a series of partial corrective statements about the truth came out, the plaintiffs said. Those statements caused a statistically significant decline in J&J's stock price, they said.

J&J contended a class shouldn't have been certified because the alleged corrective disclosures didn't impact the stock price. Those statements contained information that was already public and thus weren't new, it said.

The court didn't have to decide whether the alleged statements needed to be new, Shwartz said. That argument ignored "the fact that disclosures based on public information may nevertheless communicate a new signal to the market in certain situations," she said.

'Value-Relevant Information'

Each disclosure noted by the plaintiff, including an article that said credible evidence came out in a lawsuit that J&J's talc caused ovarian cancer, related to J&J's alleged misrepresentations concerning the presence of asbestos in its talc, its commitment to safety, an its potential asbestos-related liability. Market reaction to the disclosures was therefore capable of shedding light on the price impact of the alleged misrepresentations, Shwartz said.

"Each disclosure could have communicated new, value-relevant information to investors and was followed by a stock price decline for which there was no other explanation but the disclosure itself," Shwartz said.

Judge L. Felipe Restrepo joined the opinion.

Dissenting Judge Cindy K. Chung said the district court failed to specifically determine whether J&J met its burden of proving lack of price impact by a preponderance of the evidence. Because that finding was required, the case should be sent back to the district court, she said.

The dissent correctly noted that the district court's certification "was premature and not supported by the requisite analysis," Haas said. The case should therefore be remanded "for a proper factual analysis," he said.

Carella Byrne Cecchi Olstein Brody & Agnello PC, Robbins Geller Rudman & Dowd LLP, and Laurence M. Rosen of New York, represent the plaintiff. Sidley Austin LLP and Faegre Drinker Biddle & Reath LLP represent J&J.

The case is San Diego Cty. Emp. Retirement Ass'n v. Johnson & Johnson , 3d Cir., No. 24-1409, unpublished 7/30/25 .

(Updates to add comments from J&J.)

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Johnson & Johnson to face trial on asbestos-laden baby powder claims



[courthousenews.com/johnson-johnson-to-face-trial-on-asbestos-laden-baby-powder-claims](https://www.courthousenews.com/johnson-johnson-to-face-trial-on-asbestos-laden-baby-powder-claims)

Jackson Healy



FILE - This Oct. 21, 2019, photo shows Johnson's Baby Aloe & Vitamin E Powder in Salt Lake City. Johnson & Johnson reports financial results Tuesday, April 14, 2020. (AP Photo/Rick Bowmer, File)

PHILADELPHIA (CN) — A securities fraud class action against pharmaceutical magnate Johnson & Johnson can proceed to trial after a Third Circuit panel found on Wednesday that the company's purported concealment of asbestos contamination in talc products likely inflated its products' value.

A majority of the three-judge panel said that U.S. District Judge Zahid Quraishi properly [certified the investor class](#), ruling in December 2023 that the class period ended following a Dec. 13, 2018 news exposé of internal J&J documents showing the company knowingly hid instances of asbestos contamination in its talc products, including its baby powder.

Quraishi ruled that the exposé — along with five prior partial corrective disclosures of the purported contamination — directly correlated with subsequent declines in J&J stock valuation. Because J&J's purported falsehoods created a price impact on the investors' assets, the Joe Biden appointee wrote, the class action could proceed.

J&J, which denies asbestos contamination in its talc products, told the appeals panel that because the investors' six identified disclosures relied on already public information, the disclosures could not create price impacts to justify a securities class action.

U.S. Circuit Judge Patty Schwartz — a Barack Obama appointee — wrote [in the panel's 2-1 opinion](#) that J&J's argument "ignores the fact that disclosures based on public information may nevertheless communicate a new signal to the market in certain situations."

“For instance,” Shwartz said, “re-publication of information by a more credible source to a broader audience may convey to the market that the information is particularly significant or worthy of monitoring. Similarly, a disclosure that compiles and expertly analyzes stray bits of publicly available information can also communicate new, value-relevant information.”

In reviewing Quraishi’s analysis of each six disclosures, Shwartz said, the lower court correctly rejected J&J’s argument refuting any price impact.

“Each disclosure could have communicated new, value-relevant information to investors and was followed by a stock price decline for which there was no other explanation but the disclosure itself,” Shwartz wrote.

As such, Shwartz added, J&J failed to disprove the investors’ presumption of reliance, necessitating certification of the investors’ class.

In a statement sent to Courthouse News, J&J worldwide vice president of litigation Erik Haas expressed disapproval of the panel’s decision and announced that the company is seeking an en banc review, citing dissent from U.S. Circuit Judge Cindy K. Chung, a Joe Biden appointee.

In her dissent, Chung asserted that the lower court conducted insufficient analysis when determining whether J&J proved a lack of impact. Specifically, Chung criticized the lower court for failing to assess evidence introduced by J&J showing that the disclosures lacked newly public information.

Because such an analysis is required, Chung wrote, the Third Circuit panel should have vacated and remanded for the lower court to conduct a more thorough price impact analysis.

“As the dissent correctly notes,” Hass said, “the district court’s certification was premature and not supported by the requisite analysis, and therefore, the case should be remanded to the district court for a proper factual analysis.”

In an interview, the investors’ counsel Bobby Henssler said they were eager to present the case to a jury. A trial date has not yet been set.

The Third Circuit panel’s ruling marks J&J’s second major court loss this year. Earlier in April, a U.S. bankruptcy court judge rejected the pharmaceutical company’s third attempt at settling lawsuits filed by over 62,000 plaintiffs who say asbestos contamination of J&J baby powder and other talc products caused them to develop ovarian cancer.

J&J declined to appeal the bankruptcy court’s decision, instead announcing it would take on each individual tort case in court.

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Cornerstone Research: Securities Suit Filings Steady in Year's First Half



dandodiary.com/2025/07/articles/securities-litigation/cornerstone-research-securities-suit-filings-steady-in-years-first-half

Kevin LaCroix

July 31, 2025

CORNERSTONE RESEARCH

The number of securities class action lawsuits filed in the first six months of 2025 was roughly level with the number of securities suits filed in the second half of 2024, according to a new report from Cornerstone Research. The number of suits filed in the first half of 2025 is also roughly level with the historical semiannual average number of filings. The July 30, 2025, report, which Cornerstone Research produced in conjunction with the Stanford Law School Securities Class Action Clearinghouse, is entitled "Securities Class Action Filings: 2025 Midyear Assessment," can be found [here](#). Cornerstone Research's July 30, 2025, press release regarding the report can be found [here](#).

According to the report, there were a total of 114 securities class action lawsuits filed in state and federal courts during the first six months of 2025. Three of the 114 suits were standalone state court securities class action suits ("standalone" meaning without a parallel federal court suit); the remaining 111 securities suits were federal court filings. The number of first-half securities suit filings (114) annualizes to a year-end total of 228, which is higher than the 226 total in 2024, and would in fact represent the highest annual total since 2000.

The number of first-half securities suits filings (114) is roughly level with the 1996-2024 historical semiannual average of 113 filings, and roughly level with the 115 securities suits filed in the second half of 2024. There were only three securities class action merger objection lawsuits filed in the first six months of 2025, meaning there were 111 "core" securities class action lawsuits in the year's first half. The 111 core securities suit filings in the first six months of 2025 were higher than the 1997-2024 semiannual average of core filings of 97.

Several factors contributed to the number of securities suit filings in the first six months of 2025; the report refers to the lawsuits filed based on these factors as "trend filings." The trend categories with the most filings in 1H25 were as follows: artificial intelligence (AI), with 12 filings; cryptocurrency, with six filings; and SPACs, with five filings.

The annualized number of AI-filings is on pace in 2025 to far surpass the 2024 total of AI-related filings (15). Cornerstone Research's press release about the 1H25 filings report quotes Stanford Law Professor Joseph Grundfest as saying with respect to the first half AI-related filings that "ChatGPT explains the increase in AI-related securities litigation as 'primarily driven by the phenomenon known as "AI washing"—where companies exaggerate, misrepresent, or falsify the extent or significance of their AI capabilities to investors and the public. This often results in legal claims when the truth is revealed and investors suffer losses.' I have nothing else to add to this AI explanation of AI litigation."

The seven first-half cryptocurrency related filings suggest a heightened filing pace for these kinds of lawsuits compared to 2024, where there were six total cryptocurrency related filings for the full year. There were only two COVID-19-related securities suit filings in the year's first half, compared to 15 for the full year 2024; the two first-half COVID-related filings represents the lowest number of such filings since the trend first emerged in 2020.

The report notes that at the current pace, 4% of the companies listed on major U.S. exchanges are or will become subject to a securities class action lawsuit in 2025, which is level with 2024, when the percentage was also 4%, but would represent an increase compared to above 2023 (when the percentage was 3.3%). The 4% projected litigation rate would be below the 2011-2024 annual average percentage of 5%, but that annual average is someone distorted by the flood of federal court class merger objection lawsuit filings during the period 2016-2020.

There were 12 core federal filings against non-U.S. companies in the first half of 2024, suggesting an annualized year-end total of 24 filings against non-U.S. companies, which would be the lowest number in at least ten years, and well below both the recent high number of filings against non-U.S. companies of 73 filings in 2020, and below the 34 filings in 2024.

The report reflects two different measures of investor losses represented in the securities class action lawsuits filed in the year's first six months. The first of these is Disclosure Dollar Loss (DDL), which measure the dollar value change in the defendant company's share price between the trading day immediately prior to the end of the class period and the trading day immediately after the last day of the class period. The second of these is Maximum Dollar Loss (MDL) which measure the difference in the defendant company's share price between the trading day during the class period with the highest market capitalization and the share price on the day following the end of the class period.

The MDL and DDL figures show that though the number of securities suit filings in the first half of 2025 was roughly in line with both the number of filings in the second half of 2024 and the long-term historical semiannual averages, the MDL and DDL increased substantially. lin

other words, though the number of 1H25 filings is consistent both with the recent past and long-term averages, the cases filed were substantially larger than with both the recent past and long-term averages.

The MDL that the first half filings represent increased to \$1,851 billion in 1H25 from \$730 billion in 2H24, and substantially above the 1997-2024 semiannual average of \$622 billion.

The DDL also increased, to \$403 billion in 1H25 from \$259 billion in 2H24, and substantially above the 1997-2024 semiannual average of \$125 billion.

One final observation: the 111 federal court securities class action lawsuit filings that the Cornerstone Research report noted for the first half of 2025 is consistent with the same number of federal court filings (111) I reported in my own survey of the first half securities suit filings, here.

Securities Law News

AI, Big-Dollar Suits Dominate Data on New Investor Class Actions

July 31, 2025, 2:00 AM PDT

Allegedly unrealized artificial intelligence promises and cryptocurrency issues helped drive a surge in high dollar securities suits in the first half of 2025, according to a litigation report published Wednesday.

The first half of the year has seen a steady rise of lawsuits related to the emerging technologies as companies struggle with disclosures, compliance, and volatile markets, according to lawyers who talked to Bloomberg Law about the report published by Cornerstone Research and the Stanford Law School Securities Class Action Clearinghouse .

"I kind of view the securities filings, in a way, as almost like a distant mirror on current events," said Jonathan Youngwood, global co-chair of Simpson Thacher & Bartlett LLP's litigation department. "They're like a delayed reflection on what was happening a year ago or two years ago, what was the new 'in thing' or the new problem."

With 12 cases involving AI-related claims in the top half of the year, as per the data, 2025's already close to surpassing last year's 15 filings. There were 21 in total from 2021 through 2023, the report said. It makes sense, attorneys said. More AI companies have gone public, and investors' interest is piqued.

Youngwood and other attorneys say they're not surprised that AI as well as cryptocurrency filings are on the upswing while Covid-tied litigation is falling five years after the pandemic took hold over the populace and equity markets.

The decline in Covid cases "just replicates what we're seeing in society more broadly," including "the fatigue with Covid generally," said Jill E. Fisch, a professor at the University of Pennsylvania Law School. "It's not what investors are thinking about, it's not what companies are talking about. It's become much less of an economically significant issue."

AI, Crypto 'Acceleration'

"Both the AI and crypto trends will continue to accelerate," said Thomas Laughlin, a partner at Scott & Scott Attorneys at Law LLP who represents investors. "I think that you see a lot of people, particularly in the crypto space, who are viewing the loosening of regulation in that area as a green light to come forward with investments that are potentially going to trigger disclosure issues down the road."

There have been a number of "exaggerated or opportunistic" corporate AI claims, and those give rise to "potential disclosure issues," he added.

"Investors are trying to understand how AI fits into issuers' business plans," said Fisch. "AI statements are market-moving events, and so that's going to be the focus of litigation until companies figure out what they're doing with AI and get their disclosures right."

Defense litigator Edmund Polubinski, a partner at Davis Polk & Wardwell LLP, called AI "the flavor of the day for plaintiffs' lawyers." The plaintiffs' bar is using hindsight to claim companies "should have anticipated more, back when AI was less of a focus than it is currently," he said.

Similarly, crypto companies emboldened through a more friendly environment might go public and draw more securities suits, Youngwood said.

"As we wait for regulatory and legislative clarity" on crypto, "private plaintiffs are absolutely doing their best to fill that void," said Lara Flath of Skadden, Arps, Slate, Meagher & Flom LLP.

'Mega Filings'

Big-dollar cases, measured by drops in market capitalization, are up, according to Cornerstone. The drop between trading days just before and after the end of the class period is one way to assess the dollar size of cases, and there were 15 "mega" cases among them in the first half of 2025, according to the report.

That's "three times the 1997–2024 semiannual average" and fits in between the numbers of such cases in the first and second halves of 2024, the report says.

"I suspect that reflects greater volatility in the market," said Polubinski. "These likely reflect non-company-specific macroeconomic factors, which may have had a disproportionate impact on some companies."

Trends noted in the report "underscore the importance of compliance on regulation, especially technology, biotechnology, AI-related technology, and I think you're going to see big price movements," said Anthony C. Varbero, a partner at Quintairos, Prieto, Wood & Boyer PA.

Plaintiffs' attorney Jeffrey Golan of Barrack, Rodos & Bacine points to data in the report showing that 80% of the dollar decline is attributable to technology and certain consumer cases, mainly pharmaceuticals—about half the newly filed cases. He says there's an even bigger concentration in those sectors when the dollar loss is measured from the market cap peak during the class period.

And that points to another phenomenon in the Cornerstone data, he said—an increase in suits filed within the Third Circuit, an area where many pharma companies are based.

Flath and Mark Foster, also of Skadden, say another trend they're seeing is suits over small percentage price drops against companies with large market capitalization. "It doesn't have to be double digits," Flath said.

SPAC Suits Fade

Special purpose acquisition companies, or blank-check corporations used to help others go public, fell out of favor after a burst in the early 2020s amid regulatory scrutiny and waning investor interest. SPAC-related class filings have dipped in recent years, according to Cornerstone.

"You can't have a SPAC or a de-SPAC case if you don't have SPACs and de-SPACs, that just isn't the way things are being done as much anymore," Youngwood said.

While interest in blank-check companies ticked up recently, people working on SPACs have more experience now than when a surge of related complaints were filed years ago, said James J. Beha II, a partner at Baker Botts LLP.

"Even if there is some uptick in SPAC transactions, there's less ability for anyone who raises a SPAC fund to raise money without having a track record," Beha said, "and so I wouldn't necessarily expect any increase in SPAC activity to lead to the same level of litigation as there was a couple years ago."

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Securities Law News

ImmunityBio Investor Settlement Over Cancer Drug Gets First Nod

July 30, 2025, 12:32 PM PDT

A California federal court gave preliminary approval to a settlement to resolve shareholder allegations that ImmunityBio Inc. officers and directors made misrepresentations about the company's bladder cancer drug and its prospects for Food and Drug Administration approval.

The settlement, which in part provides for the company to add an independent member to its board, appears fair, reasonable, and adequate, according to a Tuesday order from the US District Court for the Southern District of California.

Judge Gonzalo P. Curiel scheduled a final fairness hearing for Nov. 4. The court will also consider proper compensation for attorneys and litigation expenses.

Gary Van Loven and others alleged in a shareholder derivative complaint on behalf of the company that the officers failed to disclose deficiencies about the drug, Ankiva, that would likely cause the FDA's biologic license application to fail. The court subsequently consolidated three derivative actions raising similar claims.

The parties announced their settlement agreement in a May 22 filing. The company will amend its disclosure and audit committees' charters, among other reforms, the notice said.

The corporate governance reforms in the settlement will benefit ImmunityBio because they directly address alleged deficiencies in the derivative actions, the opinion said. This includes requiring management to report to the board at least quarterly about the company's regulatory compliance.

And a proposed training program focused on compliance and internal controls policies directly addresses alleged corporate misconduct, the opinion said.

The parties haven't agreed on a fees and expenses amount for shareholders' counsel, despite negotiations and participation in mediation, the court said. Shareholders' counsel said it would seek up to \$1.4 million.

Shareholders' counsel will file a motion for fees and expenses along with the plaintiff's motion for a final settlement approval, and the defendants will have an chance to respond or oppose.

Kuehn Law PLLC; Wolf Haldenstein Adler Freeman & Herz LLP; Schubert Jonckheer & Kolbe LLP; The Rosen Law Firm PA; Shuman, Glenn & Stecker; and Rigrodsky Law PA represent various shareholders. Wilson Sonsini Goodrich & Rosati PC represents the defendants, current and former ImmunityBio executives and board members.

The case is In re Immunitybio, Inc. S'holder Derivative Litig. , S.D. Cal., No. 24-cv-02014, 7/29/25 .

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Securities Law News

YPF Plaintiffs Embark on 'Treasure Hunt' for Argentine Gold

July 30, 2025, 1:33 PM PDT

A lawyer representing former YPF SA shareholders told a judge in New York that they're on a "treasure hunt" for gold bars Argentina's central bank secretly sent abroad last year.

The shareholders, backed by litigation funding firm Burford Capital, are trying to collect on a \$16 billion court judgment resulting from the nation's 2012 nationalization of YPF. US District Judge Loretta Preska ruled Tuesday that Argentina needed to turn over relevant text messages and emails from Economy Minister **Luis Caputo** and others.

Seth Levine, a lawyer for the plaintiffs, said at the hearing before Preska that locating the gold was one reason they needed the messages.

"I want to know who knows about the gold," Levine said. "I've told you who it is. It's Luis Caputo." He added, "This is a treasure hunt. They have the treasure map, and they won't even let us find the gold."

A spokesperson for Argentina noted that defense lawyer Robert Giuffra argued in court that the gold was the property of the nation's central bank, not its government. "This is a wild goose chase, not a treasure hunt," the spokesperson said.

Argentina's central bank, which isn't independent of the executive branch, last year sent part of its gold reserves abroad to be validated for financial use, according to people with knowledge of the matter. The bank at the time declined to say how much of its nearly \$5 billion in gold was sent offshore, where it was sent or for what reason.

Preska in 2023 awarded the former YPF shareholders billions in damages and interest, finding their rights were violated in the nationalization. But they so far haven't collected a cent. The judge last month ordered Argentina to turn over its 51% stake in YPF, a decision Argentina is appealing. The shareholders have filed actions in the US and seven other nations seeking to collect.

The case is *Petersen Energia Inversora v. Argentine Republic*, 15-v-02739, US District Court, Southern District of New York (Manhattan).

First Bellwether Trials Planned for Social Media Addiction

July 31, 2025 | By  **Amanda Bronstad**

What You Need to Know

- The Nov. 19 trial will focus on individual injuries, but the first bellwether in the multidistrict litigation in Oakland, California, will be a school district.
- Lawyers for Meta Platforms, which owns Facebook and Instagram, are Covington & Burling's Paul Schmidt and Phyllis Jones, who will be leading the defense teams at trial.
- The first school districts could go to trial during the summer of 2026, according to a federal judge's remarks at a hearing this month.



Lawyers are gearing up for the first bellwether trials over social media's addictive impact on adolescents, with the first case set to begin this fall in Los Angeles Superior Court.

The Nov. 19 trial involves individual injuries and is part of coordinated addiction lawsuits in California's state courts. But lawyers in the related multi-district litigation pending in U.S. District Court for the Northern District of California are planning the first school district trial to begin during next summer's break. Although the order of the specific cases has not been decided, the six potential school districts would include those in Tucson, Arizona; Charleston, South Carolina; and Irvington, New Jersey.

"The whole point of bellwethers is to give you information," U.S. District Judge Yvonne Gonzalez Rogers told lawyers at a July 18 hearing in Oakland, California. "You will be getting information from the California consolidated plaintiffs through those individual bellwethers. What you don't have down there are school district cases."

Gonzalez Rogers scheduled 11 cases for trials to serve as bellwethers for the multi-district litigation, which has 1,800 lawsuits.

The anticipated bellwether trials in the multi-district litigation will feature prominent plaintiffs' attorneys, including Motley Rice's Previn Warren, in Washington D.C.; Lexi Hazam of San Francisco's Lieff Cabraser Heimann & Bernstein; Joseph VanZandt, of Beasley Allen in Montgomery, Alabama; James Cecchi of Carella, Byrne, Cecchi, Brody & Agnello in Roseland, New Jersey; Chris Seeger of Seeger Weiss in Ridgefield Park, New Jersey; and Tom Cartmell of Wagstaff & Cartmell in Kansas City, Missouri.

Lawyers for Meta Platforms Inc., which owns Facebook and Instagram, are Covington & Burling's Paul Schmidt, in New York, and Phyllis Jones in Washington D.C. At this month's hearing, Schmidt told Gonzalez Rogers that Meta would be taking the lead in the trials.

'All of These Cases Prepped to Go'

The first trial in Los Angeles is against Meta, Snap Inc., which owns Snapchat, and TikTok, which is owned by China-based ByteDance. The case is the first of nine individual cases scheduled for trials in batches of three. The second set of trials is expected to begin on March 9, with a third set on May 11.

Due to the sensitive nature of the cases, many of which involve minors, some of the arguments relating to the proposed bellwether cases have taken place in closed sessions.

"While a decision to conduct a closed hearing is extraordinary, a closed hearing is necessary in this instance because selection of bellwether plaintiffs in this case requires counsel and the court

to candidly discuss the mental health harms to minor plaintiffs as well as sensitive family relationships and, potentially, sexual activity of minor plaintiffs,” Los Angeles Superior Court Judge Carolyn Kuhl wrote in an April 15 order.

Last year, Kuhl, who oversees the coordinated California state court cases, [struck claims brought by four school districts](#) under Section 230 of the Communications Decency Act, which immunizes tech companies from the actions of third parties. [_](#)



Moderator Yvonne Gonzalez Rogers at The Federal Bar Association's Northern District of California Chapter & The Women's General Counsel Network on mastering the art of self advocacy (Photo: Jason Doiy/ALM)

That left the multi-district litigation with an influx of school district cases, as well as lawsuits by individuals and state attorneys general. Gonzalez Rogers has issued five dismissal orders, trimming many of the claims but also [social media's strongest defenses](#), namely Section 230. [_](#) Last year, she [allowed school districts](#) to pursue their claims, which also involve potential abatement tied to [public nuisance claims](#). [_](#)

At this month's hearing, Gonzalez Rogers, who is also overseeing a planned March 30 trial in the [high-profile case](#) between Elon Musk and OpenAI founder Samuel Altman, said the school districts would go to trial first and suggested dates during the summer of 2026.

Rogers said she would schedule multiple cases for the same trial date in case one settles during jury selection. All but two of the cases would be in her courtroom, with one in Eureka, California, and another in DeKalb County, Georgia.

“It was always my intent to have all of these cases prepped to go,” the judge told the lawyers. “Trial judges worry about settlements on the courthouse steps.”

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5 hallucinated cases lead federal judge to kick 3 Butler Snow lawyers off case

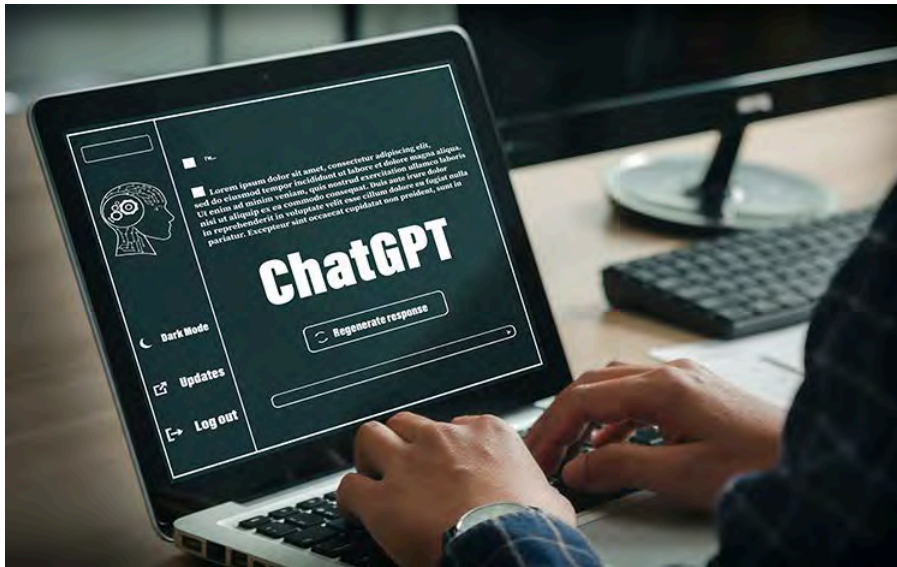


abajournal.com/news/article/5-fabricated-cases-lead-federal-judge-to-kick-3-butler-snow-lawyers-off-case

By Debra Cassens Weiss

Law Firms

July 30, 2025, 9:13 am CDT



Three Butler Snow lawyers may no longer represent a former corrections commissioner in Alabama because they filed two motions with five “completely made up” case citations produced by ChatGPT, a federal judge ruled last week. (Image from Shutterstock)

Three Butler Snow lawyers may no longer represent a former corrections commissioner in Alabama because they filed two motions with five “completely made up” case citations produced by ChatGPT, a generative artificial intelligence application, a federal judge ruled last week.

U.S. District Judge Anna M. Manasco of the Northern District of Alabama said fabricating legal authority “demands substantially greater accountability than the reprimands and modest fines that have become common as courts confront this form of AI misuse.”

Manasco also publicly reprimanded the lawyers; referred them to the Alabama State Bar; and ordered them to disclose the sanctions order to all clients, the opposing counsel and the presiding judges in every pending state and federal case in which they are counsel of record. They are also required to provide a copy of the order to every attorney at Butler Snow.

But Manasco did not sanction the law firm.

“Butler Snow acted reasonably in its efforts to prevent this misconduct and doubled down on its precautionary and responsive measures when its nightmare scenario unfolded,” Manasco wrote.

[Law360](#) and [Reuters](#) covered Manasco’s [July 23 decision](#).

Manasco found that three out of five lawyers who signed the motion were responsible for the errors. They included partner and assistant practice group leader Matthew B. Reeves, who said at a show-cause hearing the fake citations were due to his use of ChatGPT. A second sanctioned lawyer was involved in the drafting process, and a third was the practice group leader.

The citations hallucinated by ChatGPT either don’t exist or don’t stand for the proposition for which they were cited, [Butler Snow said](#) in a May 19 filing. The firm apologized for the error and said the use of AI violated the firm’s policy.

Butler Snow also hired Morgan, Lewis & Bockius to review all case citations involving the five lawyers in federal courts in Alabama and the 11th U.S. Circuit Court of Appeals at Atlanta since April 2023. Twenty-eight Morgan Lewis attorneys reviewed more than 2,400 separate legal citations across 330 filings. No other instances of incorrect case references were found.

The lawyers were defending a former commissioner for the Alabama Department of Corrections in an inmate lawsuit alleging that he was not protected from repeated stabbings.

Reeves and Butler Snow general counsel Benjamin M. Watson did not immediately respond to ABA Journal emails seeking comment. Nor did Reeves immediately respond to a Journal voicemail message.

[Write a letter to the editor, share a story tip or update, or report an error.](#)

California Brief

Judge Calls Winston & Strawn's Actions Troubling in Apple Suit

July 30, 2025, 2:15 PM PDT

A California federal judge appeared willing to grant Apple Inc.'s motion to sanction Winston & Strawn and its client Musi Inc. for including allegedly false claims in its lawsuit challenging removal of the music streaming app from the App Store.

Judge Eumi K. Lee said multiple times during a hearing Wednesday that she was troubled by Musi's allegations in its amended complaint, particularly its claim that Apple admitted to relying on knowingly-false evidence about Musi's conduct to justify taking down the app.

Musi is asking the court to draw "inference upon inference," Lee said, and it's "a bit of a house of cards at this point."

Lee didn't rule from the bench and took the motion for sanctions under submission.

Musi sued Apple in October in the US District Court for the Northern District of California, alleging the app's removal the prior month was based on "unsubstantiated" intellectual property complaints. Apple moved for sanctions in May, saying the amended complaint advanced a "baseless conspiracy theory" that the tech giant plotted to eliminate the music-streaming app to benefit "friends" in the music industry despite evidence of over a dozen third-party complaints about the app.

Apple asked the court to strike the amended complaint, with prejudice, if it's not dismissed and require Musi's counsel to pay Apple's costs and attorneys' fees for bringing this motion and defending this matter.

Apple specifically took issue with Musi's claim that it knowingly relied on false evidence that Musi violated YouTube's terms of service. Musi characterized Apple witness testimony as an "unequivocal" admission when it was "nothing close," Apple's motion said, and "individuals at Apple were told that Google had removed" certain YouTube software access from Musi "but the app was still somehow using Google's services in a way that was more difficult for Google to action."

Apple's counsel, Jennifer Milici of Wilmer Cutler Pickering Hale & Dorr LLP, said this was the first time in her decades of practice she'd asked a court to sanction a party for filing a motion that lacked evidentiary support.

Musi received discovery documents from Apple and subsequently filed an amended complaint that “grossly misrepresents what that discovery says,” Milici said.

Musi’s counsel, Jennifer Golinveaux of Winston & Strawn LLP, countered by accusing Apple of muddying the waters. She said Apple was aware Musi didn’t use YouTube’s application programming interface when it received a complaint from the National Music Publishers’ Association claiming Musi was evading restrictions in order to access YouTube’s API in a way that diverted royalties from artists.

Because Apple admitted to receiving an email about restrictions to Musi’s YouTube API access before the NMPA letter, Apple knew the letter contained false claims, Golinveaux said. Apple argues Musi removal was justified because it had received many third-party complaints regarding the app, including from YouTube and the International Federation of the Phonographic Industry.

Milici reiterated that Musi has provided no evidence to support this “blockbuster allegation,” and said Apple acknowledging it received an email isn’t the same thing as admitting the company relied on false information. There also isn’t a difference between NMPA’s letter and the email, she said, because one claimed Musi is evading API restrictions and the other said Musi’s API access was removed but it was still accessing the software through other means.

Lee also said witness testimony Musi included in the opposition to Apple’s motion for sanctions seemed deliberately misleading. The testimony related to Musi’s allegation that Apple “cooked up” a complaint from YouTube to remove the app.

“It was a little striking” that the “picked and chosen around” testimony was included in Musi’s opposition to the sanctions motion, Lee said.

Golinveaux argued the filing wasn’t misleading, saying they weren’t trying to hide the ball by using ellipses in testimony excerpts and there were length limitations.

Milici shook her head throughout Golinveaux’s response, and concluded the hearing by saying Musi’s arguments aren’t credible.

The case is Musi Inc. v. Apple Inc., N.D. Cal., No. 24-cv-06920, hearing held 7/30/25 .

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BHP, Vale accused of 'cheating' UK law firm out of \$1.7 billion in fees



reuters.com/world/americas/bhp-vale-accused-cheating-uk-law-firm-out-17-billion-fees-2025-07-31

Sam Tobin

July 31, 2025

The debris of the municipal school of Bento Rodrigues district, which was covered with mud after a dam owned by Vale SA and BHP Billiton Ltd burst, is pictured in Mariana, Brazil, November 10, 2015. REUTERS/Ricardo Moraes/File Photo [Purchase Licensing Rights](#), [opens new tab](#)

- Law firm says BHP, Vale pressured claimants to settle
- Sends 'pre-action letter' as prelude to legal action
- BHP says it rejects the allegations 'in their entirety'

LONDON, July 31 (Reuters) - BHP and Vale are facing a London lawsuit from the law firm representing hundreds of thousands of people over Brazil's worst environmental disaster, alleging the companies sought to cheat the firm out of legal fees by procuring settlements.

BHP ([BHP.AX](#)), [opens new tab](#) said it rejected the allegations "in their entirety" and would contest them. Vale declined to comment.

Pogust Goodhead, which represents the claimants in an ongoing case against BHP over the 2015 collapse of the Fundao dam in Mariana, southeastern Brazil, says it will seek 1.3 billion pounds (\$1.7 billion) for unpaid fees.

The firm was representing more than 600,000 Brazilians in the case at London's High Court. A June presentation by BHP and Vale's ([VALE3.SA](#)), [opens new tab](#) [Samarco joint venture](#) – which owned and operated the dam – said around 130,000 people had settled. In a legal letter sent on Pogust Goodhead's behalf, lawyers representing the firm allege BHP, Vale and Samarco pressured claimants to "settle their claims at far below their true value".

Pogust Goodhead also alleges that a 170 billion-reais (\$30.3 billion) [compensation agreement](#) which Brazil signed with BHP, Vale and Samarco in October 2024 prevented claimants from discussing the deal with the firm or paying its legal fees.

The firm says it has also incurred an extra \$1 billion in borrowing costs to finance the English case over the dam's collapse.

BHP DENIES ALLEGATIONS

"We reject Pogust Goodhead's claims and allegations in their entirety and dispute their factual and legal basis," a BHP spokesperson said in a statement.

"These allegations and threatened claims are entirely without merit and BHP rejects and will vigorously contest them."

The BHP spokesperson pointed to last year's compensation deal, saying: "We continue to believe Brazil is the most appropriate, effective, and efficient place for compensation for the Fundao dam failure from Samarco to be delivered."

Pogust Goodhead's threat of legal action - in a so-called "letter before action" that is required as part of the process - is the latest development in the litigation, after the High Court last month [ruled](#) BHP should face a full contempt of court hearing for funding parallel litigation in Brazil.

BHP, meanwhile, still awaits judgment following a trial of the underlying lawsuit over the dam collapse, in which Pogust Goodhead said it was seeking damages of up to 36 billion pounds.

When the dam burst in 2015, it unleashed a wave of toxic sludge that killed 19 people, left thousands homeless, flooded forests and polluted the length of the Doce River.

The trial [began in October](#) and [finished in March](#). BHP [denies liability](#) and says the case duplicates legal proceedings and reparation and repair programs in Brazil.

Reporting by Sam Tobin. Additional reporting by Clara Denina. Editing by Mark Potter

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Class Action

Insight

Plaintiffs Face Multiple ERISA Consequences After Cornell Ruling

July 31, 2025, 1:30 AM PDT

Summary by Bloomberg AI

AI Generated



- Plaintiffs may see expedited discovery and a decline in early settlements if defendants decide a motion to dismiss would be futile and instead immediately engage in discovery aimed at proving an exemption.
- Plaintiffs will likely also see more court involvement on prohibited transaction claims, including requiring replies to affirmative defenses and curbing broad discovery.
- The Cunningham decision may disrupt the previous formula for settlements, as defendants may be less likely to settle claims when they know they have a strong exemption defense.

The US Supreme Court's April ruling in *Cunningham v. Cornell University* set off predictions of a flood of new retirement plan class action lawsuits under the Employee Retirement Income Security Act of 1974. Indeed, Cornell's unsuccessful Supreme Court brief warned of an "avalanche of litigation" from plaintiffs banking on settlement payouts from defendants desperate to avoid costly discovery.

Although this sentiment was endorsed by the court itself, projections of a jump in the *quantity* of cases filed are, at a minimum, highly speculative. The *Cunningham* decision will leave its mark on defendants' approach to ERISA litigation. But however the floodgates are defined, the reality is that they have been open for some time in the ERISA class action arena.

A review of ERISA class action filings over the last 25 years confirms this and suggests at least three potential unintended consequences of the *Cunningham* decision for plaintiffs filing ERISA class action lawsuits.

Plaintiffs may see expedited discovery and a decline in early settlements if defendants decide a motion to dismiss would be futile and instead immediately engage in discovery aimed at proving an exemption. Plaintiffs will likely also see more court involvement on prohibited transaction claims, including requiring replies to affirmative defenses and curbing broad discovery.

ERISA retirement plan litigation has been booming for more than two decades, long before *Cunningham v. Cornell*. In 2000, fewer than 10 retirement plan class actions were filed, according to a Bloomberg Law docket search. By 2006, there were more than 50; by 2016, more than 90. Filings remain robust, with a record high of more than 100 filings in 2020 alone and hundreds of active cases pending today.

Although prohibited transaction allegations are common, allegations of breaches of ERISA's fiduciary duties are the backbone of retirement plan class actions. Plaintiffs frequently allege, among other claims, that defendants breached their duties by causing or allowing a retirement plan to engage in statutorily prohibited transactions with fiduciaries or other parties in interest.

Because ERISA defines "parties in interest" exceptionally broadly, most routine plan transactions arguably violate the act's prohibited transaction rules. So, to function on a day-to-day basis, most retirement plans rely on statutory or regulatory prohibited transaction exemptions that expressly permit transactions that meet specific criteria.

In *Cunningham*, the court held that these exemptions must be treated as affirmative defenses, so plaintiffs need only plead that a transaction occurred to survive a motion to dismiss—a bar so low almost every complaint will clear it.

As Justice Samuel Alito noted in his concurrence, in class action litigation, "getting by a motion to dismiss is often the whole ball game because of the cost of discovery." But most retirement plan class actions were surviving motions to dismiss even before *Cunningham*—fewer than 25% of cases were dismissed with prejudice in 2024. And the decision doesn't create new grounds for plaintiffs to ultimately prevail in their lawsuits; it simply makes it easier for a prohibited transaction claim to survive a motion to dismiss.

The *Cunningham* victory may deliver unintended consequences to plaintiffs. ERISA plaintiffs have previously sought six- or seven-figure settlements upon clearing dismissal, partly because surviving the previous pleading standard could indicate a higher chance of prevailing on the merits. The *Cunningham* decision may disrupt that formula.

First, the decision may incentivize defendants to skip motions to dismiss and go straight to discovery. If a motion to dismiss is unlikely to dispose of all claims, defendants may decide to forgo the costs of a motion to dismiss and instead invest in discovery. That approach would eliminate the early settlement window that often follows the denial of a motion to dismiss.

Second, even when a motion to dismiss is filed, a ruling that preserves a weak prohibited transaction claim may not dispose defendants toward settlement. After *Cunningham*, even cases in which an exemption clearly applies will survive motions to dismiss. Defendants in those cases may be reluctant to spend big dollars to settle claims when they know they have a strong exemption defense.

Lastly, courts may begin to manage discovery in retirement plan class actions more actively. The court in *Cunningham* acknowledged the downsides of allowing meritless claims to proceed without any checks. Since *Cunningham* was decided, some plaintiffs have alleged pro forma prohibited transaction claims.

In response, defendants will urge district courts to heed the justices' direction toward a more interventionist approach to managing such claims, and in particular, may curtail some of the wide-ranging discovery that defendants have sometimes been willing to pay large settlements to avoid.

Even if *Cunningham* doesn't open the floodgates further, it will influence how ERISA class actions are litigated moving forward. With plaintiffs even more likely to survive a motion to dismiss, defendants may choose to invest in litigation, rather than settlement, and courts may rein in limitless discovery.

Although it is too soon to know whether predictions of a boom in lawsuits are correct, it is clear that the next chapter in ERISA retirement plan litigation will be worth following.

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

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International Paper, other cardboard makers hit with US price-fixing class action



reuters.com/legal/government/international-paper-other-cardboard-makers-hit-with-us-price-fixing-class-action-2025-07-30

Mike Scarcella

July 30, 2025

An employee transports a giant reel of paper inside a cardboard box manufacturing company near Nantes, France, April 25, 2019. REUTERS/Stephane Mahe/File Photo [Purchase Licensing Rights, opens new tab](#)

July 30 (Reuters) - International Paper ([IP.N](#)), [opens new tab](#) and other rival manufacturers have been accused in a new lawsuit in U.S. federal court of conspiring to fix and inflate prices for key raw materials that are used to make cardboard boxes and merchandise displays.

The proposed class action [filed, opens new tab](#) on Tuesday in the federal court in Chicago said International Paper, Packaging Corporation of America ([PKG.N](#)), [opens new tab](#), Georgia-Pacific and several other companies collectively raised prices by 30% since late 2020.

Mt. Vernon, New York-based Artuso Pastry Foods Corp filed the lawsuit on behalf of what it said was at least hundreds of thousands of buyers. The lawsuit said containerboard raw materials are used in pizza boxes, moving boxes, banker boxes and more.

The lawsuit said the manufacturers violated U.S. antitrust law through “numerous unprecedented and unjustified price increases, often implemented at the exact same time and for the exact same increase.”

International Paper declined to comment. Georgia-Pacific and Packaging Corporation of America did not immediately respond to requests for comment, and neither did defendants Smurfit Westrock ([SWR.L](#)), [opens new tab](#) and Greif ([GEF.N](#)), [opens new tab](#).

Graphic Packaging ([GPK.N](#)), [opens new tab](#), also a defendant, in a statement said it was “confident in our practices and committed to operating with integrity.”

Attorneys for the plaintiffs did not immediately respond to a request for comment.

The lawsuit said the defendants inflated prices for containerboard and linerboard, the materials that make up finished products such as cardboard boxes. The companies also make and sell boxes and other containerboard products, according to the lawsuit.

Price increases in the corrugated box market “drastically outpaced” what the lawsuit described as a modest rise in demand over the period covered by the complaint.

As demand fell in recent years, the lawsuit said, price increases continued.

The lawsuit said that in a competitive market, companies that raise prices substantially would not expect rivals to do the same thing.

The plaintiffs are seeking more than \$5 million in alleged damages and a court order prohibiting any continued violations of antitrust law.

The case is Artuso Pastry Foods Corp v. Packaging Corporation of America et al, U.S. District Court for the Northern District of Illinois, No. 1:25-cv-08856.

For plaintiffs: Vincent Briganti of Lowey Dannenberg; Christopher Burke of Burke LLP; Eric Unrein of Cavanaugh, Biggs & Lemon; and Gary McCallister of McCallister Law Group.

For defendants: No appearances yet

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California Brief

Sun-Maid Fails to Avoid Class Claims Over Yogurt-Covered Raisins

July 30, 2025, 8:32 AM PDT

Sun-Maid Growers of California must face a proposed class action alleging that, in spite of its advertisements to the contrary, some of its raisins aren't actually covered in yogurt as defined by US Food and Drug Administration regulations.

Although the state law claims against the company "parallel duties owed under federal law," they survive preemption because the allegations are "rooted" in California law and aren't an attempt to "privately enforce federal labeling laws," Chief Judge Cynthia A. Bashant of the US District Court for the Southern District of California said in a Tuesday order.

FDA regulations say products labeled as "yogurt-coated" must contain "yogurt powder that derives from yogurt."

Margaret McGarity alleged some of Sun-Maid's flavored raisins don't contain yogurt or products derived from yogurt as defined by the FDA and instead contain a highly-processed candy coating. The ingredient lists allegedly indicate the products' powder shouldn't be considered derived from yogurt because it isn't cultured with lactic acid-producing bacteria.

Sun-Maid argued McGarity's claims are preempted by federal law, and that her amended complaint should be tossed.

But McGarity's claims "fit through the narrow window to escape preemption," Bashant said.

McGarity sufficiently alleged the nonfat milk used to make the powder isn't cultured and therefore the powder is not derived from yogurt, which is enough to support a violation of the federal Food, Drug and Cosmetic Act. McGarity's claims under California consumer protection and unfair competition laws aren't based solely on that FDCA violation, and rather "stand alone" as state law violations, Bashant wrote.

McGarity's breach of express warranty claim also survives dismissal, since she adequately alleged that a consumer would expect Sun-Maid's "yogurt-coated" products to include an ingredient made with or from yogurt, and the ingredient list "makes the veracity of the 'yogurt covered' claim more ambiguous," Bashant said.

But Bashant dismissed McGarity's breach of implied warranty claim since she isn't in "vertical contractual privity" with the company—meaning she didn't enter into a contract with Sun-Maid since she purchased the products from a retail store—and she didn't allege the products are unfit for human consumption or caused a physical injury. Her intentional misrepresentation claim is also barred by California's economic loss rule, since McGarity didn't assert Sun-Maid's representations exposed her to liability for personal damages outside the economic harm she alleged, Bashant said.

Aubry Wand of Long Beach, Calif., and Faruqi & Faruqi LLP represent McGarity. Alston & Bird LLP and Higgs Fletcher & Mack LLP represent Sun-Maid.

The case is McGarity v. Sun-Maid Growers of Calif. , S.D. Cal., No. 3:24-cv-00714, 7/29/25 .

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News | Privacy

Security Cam Company Can Face Biometric Privacy Claim, Ill. Federal Judge Rules

July 31, 2025 | By  Alex Anteau



Credit: greenbutterfly/Adobe Stock

Wading into questions about whether the collection or the processing site is more relevant for bringing claims under the Illinois Biometric Information Privacy Act, the U.S. District Court for the Northern District of Illinois has ruled that electronics manufacturer Anker Innovations can be found liable for violating the privacy law by gathering data from “eufy”-branded home security doorbells, cameras and smart locks.

Anker’s “eufy”-branded home security cameras are equipped with facial recognition and streaming features, but the company set itself apart from its competition with marketing that guaranteed all

the information would be private, encrypted and only saved locally on equipment the consumer controls, instead of getting uploaded to the cloud.

When a cybersecurity researcher debunked these claims, plaintiffs across the country joined together in a class-action complaint, captioned *Sloan v. Anker Innovations*, against the manufacturer. Anker, represented by a team of attorneys from Orrick Herrington & Sutcliffe, countered first by successfully asking district court Judge Sara Ellis to dismiss all the class members who aren't Illinois residents from the case.

However, the defendant's subsequent attempt to dismiss the case entirely did not fare as well.

Although the defense had argued that the servers that processed the collected images were based outside of Illinois, and therefore not subject to the Prairie State's biometric law, Ellis wrote that the defense was misconstruing the plaintiff's allegations. According to Ellis, the plaintiffs' primary issue is that the eufy products performed the facial recognition in Illinois and those data were then transferred to the cloud.

"The BIPA Plaintiffs reiterate this same claim multiple times throughout the amended complaint," Ellis wrote.

While the complaint also alleges that the eufy products sent photographs to servers where they were later converted into biometric information, Ellis wrote that the fact that the information was accessed in Illinois was sufficient.

"The Court is satisfied that the BIPA plaintiffs have adequately alleged that the circumstances making up each transaction occurred primarily and substantially in Illinois because they allege that the access to their biometric identifiers without their consent occurred at their residences, where they installed the cameras," Ellis said.

In November 2022, a security researcher found that Anker Innovations' cameras were uploading video thumbnails and facial recognition data to the company's cloud servers. He also found he could stream video taken by the products through unencrypted websites and access his own camera feed through an incognito web browser.

Anker's customers sued, filing a class-action lawsuit in the U.S. District Court for the Northern District of Illinois on behalf of everyone who bought a eufy camera, arguing the company violated the state's BIPA.

In 2024, the court dismissed all plaintiffs who aren't residents of Illinois from the BIPA claim.

The defendants then moved to dismiss the BIPA claim in its entirety, arguing that new case law showed that the plaintiffs can only sue under BIPA if their biometric data was collected in Illinois.

According to the defense, the plaintiffs alleged that the eufy cameras were sending unprocessed images to servers outside Illinois, where those images were then used to remotely generate biometric facial recognition data, which would disqualify the claim under the BIPA.

Counsel for the plaintiffs, however, said the defense's arguments were faulty.

“[The defendants’] motion for judgment on the pleadings is an attempt at a second bite at the apple,” the plaintiffs, represented by a team of attorneys from firms including Millberg Coleman Bryson Phillips Grossman and Pomerantz wrote in their opposition memorandum. “The Court ... has already addressed [the] defendants’ extraterritorial arguments.”

Neither plaintiff nor defense counsel responded to requests for comment on the litigation.

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Expert Opinion | **Litigation**

Why 'Morally Ambitious' Lawyers Should Join Plaintiffs Firms—Now More Than Ever

July 31, 2025 By **Zac Arbitman**

George A. Donnelly

Cassidy Gruber Baruth



(l-r) Zac Arbitman, George A. Donnelly, and Cassidy Gruber Baruth of Feldman Shepherd Wohlgeleinter Tanner Weinstock Dodig. Courtesy photos

“A lawyer is either a social engineer or a parasite on society.” These famous words are attributed to Charles Hamilton Houston, the NAACP’s first general counsel, whose work on the legal strategy in *Brown v. Board of Education* earned him the moniker “The Man Who Killed Jim Crow.” Hamilton’s emphasis on the role of lawyers during the civil rights era proves just as applicable

today—as civil rights, along with the rule of law more generally, continue to be the subject of constant and persistent assault.

Being a social engineer requires lawyers to embrace a model of success focused on social betterment, not just personal triumphs. Rutger Bregman, a Dutch historian and founder of the nonprofit School for Moral Ambition, coined the term “moral ambition” to capture the ethos of individuals and organizations that aspire to do not just well in their careers, but to also do good. Bregman has recently taken to calling upon those with financial, academic, and other privileges to use these advantages for the good of society writ-large.

Moral ambition first requires a willingness to shift one’s labor away from firms built on moral foundations that do not align with one’s own values. Increasingly, lawyers across the country seem to be waking up to this reality.

But finding an appropriate workspace can be daunting. The public interest world is the obvious option for lawyers interested in effecting change through high-impact litigation, but public interest attorneys and legal professionals are often overworked and underpaid. Legal nonprofits must balance conflicting demands from external and internal partners while operating with limited financial resources. So, when push comes to shove, many legal professionals—often saddled with significant debt—are drawn to the financial stability and security of the private sector. However, the line in the sand between the public interest world and the private sector is not as definitive as many attorneys think. Movement lawyering can include those working in a traditional law firm setting. In fact, the extreme need of the times we live in requires such a sweeping definition of the term.

This need continues to intensify on a day-to-day basis. In *Trump v. Casa*, for example, the U.S. Supreme Court recently removed the ability of lower courts to issue nationwide injunctions. There is no doubt that the decision will have a tidal-wave-sized impact not only on the question of birthright citizenship, but on every single attempt to challenge the legality of executive orders, irrespective of who sits in the White House. Practically, the effect of the decision is such that, in order to obtain universal relief, plaintiffs must now turn to alternative forms of litigation—namely, class actions.

Anyone familiar with class actions knows that they can be lengthy, expensive, and challenging in many ways. If the Supreme Court has decided that class actions will be the primary avenue through which basic rights are affirmed, that could present significant challenges. But at the same time, it also offers an opportunity for morally ambitious plaintiffs-side firms to step into the ring and bring their expertise and resources to the fore in the fight for justice.

But this is not the only way in which private firms can rise to the occasion. Indeed, for those interested in making the world a better place, the present moment offers almost endless opportunities. Bregman lauds Ralph Nader's fight for consumer rights in the 1960s and '70s, and the ambition and advocacy of a movement that led to the creation of landmark legislation like the Clean Water Act, the Consumer Product Safety Act, and the Freedom of Information Act. But those important pieces of legislation have been whittled down over the years. And while litigation is not a replacement for such legislation, it can often plug holes left open by under-regulation. Private law firms, especially firms with long and established track records representing plaintiffs, are in the unique position of having both the experience and financial resources to dedicate to impact litigation, as well as the freedom to pursue a variety of meaningful cases at both the state and federal level.

At a firm like ours, for example, advocacy takes many forms. Our class action practice aims to hold corporations to account for dangerous products, privacy intrusions, environmental hazards, and other instances of corporate misconduct. Our whistleblower practice provides support to clients who are exposing fraud and misdoing in the healthcare, financial, and technology spaces, just to name a few. And successes in our personal injury practice, including in cases involving medical malpractice, product liability, and roadway defects, have transcended our individual clients and played a crucial role in identifying and rectifying safety issues. Our goal is twofold: to obtain meaningful compensation for our clients and, where appropriate, deter future misconduct.

At this moment in history, and in the legal realm in particular, there is much to be done. Current cases must be vigorously litigated. The next generation of morally ambitious lawyers must be fostered, whether by supporting existing organizations, such as the burgeoning National Plaintiffs' Law Association, and its various branches, or the Pennsylvania Association for Justice Diverse Mentoring Initiative, which pairs first-year law students with plaintiff firms in Pennsylvania. Experienced attorneys must also take an inventory of their own values and, if warranted, change their career path or advocate within their workplace accordingly. It will require firms to be willing to expand their practice areas and pursue imaginative and brave legal strategies to protect the rights that are being threatened. Above all else, it will require vision, empathy, and most crucially, action.

Zac Arbitman *is a partner, George A. Donnelly is a trial attorney, and Cassidy Gruber Baruth is a paralegal at Feldman Shepherd Wohlgelernter Tanner Weinstock Dodig in the class action and whistleblower representation practice groups. They can be reached at*

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Trump's war on Big Law leads firms to retreat from 'pro bono' work for underdogs



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Mike Spector, Brad Heath, Kristina Cooke, Joseph Tanfani, David Thomas

July 31, 2025

Photo: REUTERS/Evelyn Hockstein; Illustration REUTERS/John Emerson

When the Texas Civil Rights Project needed lawyers to help dozens of people arrested during U.S. President Donald Trump's immigration crackdown, legal director Dustin Rynders turned to a familiar strategy. He contacted major law firms that for decades had provided free legal services to nonprofits like his.

On that April day in Houston, he called his usual contacts, many at firms that had previously handled challenges to Trump's immigration policies. Before Trump's return to the White House, they typically offered swift "pro bono," or free, legal help – a standard public service provided by elite U.S. firms.

This time, they all declined. "We are just handling the cases ourselves at this point," Rynders said.

In March and April, Trump issued a series of executive orders targeting law firms he considers adversaries, the first such attacks by a U.S. president against the legal profession. Some of the orders lashed out at firms for donating their time to cases involving immigration, transgender rights and the January 6 attack by Trump supporters on the U.S. Capitol, claiming this legal work undermined U.S. interests.

Months later, the aftershocks threaten lasting damage to America's tradition of mobilizing free lawyers to challenge government actions on behalf of the vulnerable.

Dozens of major law firms, wary of political retaliation, have scaled back pro bono work, diversity initiatives and litigation that could place them in conflict with the Trump administration, a Reuters investigation found. Many firms are making a strategic calculation: withdraw from pro bono work frowned on by Trump, or risk becoming the next target.

Reuters interviewed more than 60 lawyers, reviewed 50 law firm websites, contacted more than 70 nonprofits and analyzed millions of court records to compile an authoritative account of the fallout from Trump's intimidation of Big Law.

Fourteen civil rights groups said the law firms they count on to pursue legal challenges are hesitating to engage with them, keeping their representation secret or turning them down altogether in the wake of Trump's pressure, according to interviews with the nonprofits and a

review of filings they have made in court.

In an analysis of court dockets, Reuters also found that Big Law firms have pulled back sharply from litigation against the federal government. That's a departure from Trump's first term, when the nation's largest firms were often involved in challenges to his directives. Now, they're mostly on the sidelines amid an avalanche of lawsuits contesting administration policies spanning immigration, funding cuts to nongovernmental organizations and attempts to fire tens of thousands of federal workers.

The retreat has been painful for the nonprofit advocacy groups challenging Trump's sweeping assertions of executive authority, limiting their resources for researching legal arguments, preparing briefs and pursuing litigation. Such groups offer legal aid to low-income communities and have long relied on pro bono support.

The term pro bono, derived from the Latin *pro bono publico*, or "for the public good," dates back to ancient Rome. While practiced globally, it has become deeply rooted in the U.S. legal system, with the American Bar Association urging lawyers to provide free services to those unable to afford representation.

Pro bono work is now being reshaped into a tool of political coercion under Trump, said Steven Banks, the former head of pro bono at Paul Weiss. Banks resigned after his firm was punished in a Trump executive order and reached a settlement in March that included a deal to provide pro bono services on issues aligned with Trump's agenda. Other firms followed with similar arrangements.

The result, he warned, is a chilling effect that is discouraging elite law firms from confronting the administration. "Win or lose in court, the actions of the president are accomplishing their goal," he said.

The White House did not respond to requests for comment for this story.

The administration has defended its executive orders against Big Law as efforts to curb what it calls a "weaponized" legal system.

Conservative activists and Trump allies have long asserted that major law firms lean too far left and use public interest law to advance liberal causes. Big Law's diversity policies, for instance, are a form of racial discrimination, they contend.

A [study](#) by Notre Dame law professor Derek Muller found that top firms overwhelmingly backed liberal positions in Supreme Court amicus briefs from 2018 to 2021, particularly on divisive issues such as abortion and gun rights. "A lot of conservatives have felt pushed out of Big Law," Muller said. He said, though, that he believes Trump's executive orders against the firms are of "questionable" legality because they appear to be based on retribution.

Four big firms, to be sure, took the Trump administration to court and won rather than settling. Many advocacy groups have secured top-tier legal representation. At least two firms that previously settled with Trump – Milbank and Skadden Arps – have since joined efforts to challenge the administration. Some advocacy organizations are also expanding their legal teams to pursue challenges independently.

Still, the crackdown is threatening a bedrock principle of the U.S. legal profession, said Scott Cummings, a legal ethics professor at UCLA School of Law: that lawyers have a professional duty to help those who cannot pay.

Law firms see pro bono work as strategically important, helping them recruit elite graduates, resonating with clients that value public service and boosting their standing in the influential rankings of The American Lawyer magazine, a barometer of prestige in the industry. America's leading law firms logged about 5 million hours of pro bono work last year – equivalent to billions of dollars based on hourly rates that can approach or exceed \$1,000, said Cummings.

Trump has exposed a weakness in the pro bono model by wielding executive power to retaliate against elite law firms for representing politically sensitive clients. His orders barred some attorneys from federal buildings, limited their access to officials and warned that their clients' government contracts could be at risk. The moves delivered a clear warning: Pro bono work could jeopardize the corporate clients that sustain big law firms.

The measures singled out law firms whose attorneys had investigated the president, represented his political adversaries or taken on causes such as immigration and voting rights that clashed with his agenda. One Trump order, for instance, cited a firm's previous representation of Hillary Clinton, Trump's 2016 election rival.

Nine firms have capitulated to Trump, pledging nearly \$1 billion in free work to administration-backed causes. The deals include pro bono work ensuring "fairness" in the justice system and combating antisemitism, issues the administration has cast as conservative, though the specific cases the White House is expecting firms to pursue remain unclear. The firms said their settlements protect employees and clients without compromising core principles or their pro bono commitments.

Four firms – Perkins Coie, WilmerHale, Jenner & Block and Susman Godfrey – successfully challenged Trump administration orders targeting them, winning permanent injunctions from judges who found the actions unconstitutional. All but Susman Godfrey's case have been appealed.

Beyond those rulings, Trump's directives are reshaping the profession in subtle but significant ways.

A Reuters review found that 46 of the 50 top-grossing U.S. firms have removed or altered website references to diversity, equity and inclusion. Seventeen revised pro bono descriptions to omit contentious areas like immigration and racial justice. At least three added language highlighting work aligned with Trump's agenda, such as supporting veterans and fighting antisemitism.

Court records show a sharp decline in major firms challenging government policies, according to a Reuters analysis of dockets in the legal database Westlaw, a unit of Thomson Reuters.

Rynders of the Texas Civil Rights Project declined to name the firms that have retreated from assisting him. But he said some of his organization's biggest cases before Trump's second term "were with firms who reached agreements with the administration." The absence of elite firms, he said, has reduced the number of people his group can now help.

"A FUNDAMENTAL REORDERING"

Paul Weiss was the first firm to settle after a Trump executive order on March 14. Soon after, Paul Weiss Chairman Brad Karp met with Trump in the Oval Office and struck a deal. Resisting the administration risked a client exodus that could have destroyed the firm, Karp said in a March 23 email to colleagues.

Eight other firms followed, including Skadden, Milbank, Kirkland & Ellis and Latham & Watkins. The firms had no comment for this story.

The effects have rippled far beyond the firms themselves. Reuters contacted more than 70 civic groups that frequently sue the government on behalf of liberal causes, including immigrant aid, transgender rights, gun control and abortion access.

Of the 33 groups that responded, all but six said they feared Trump's pressure on law firms could jeopardize future access to legal help. At least a dozen groups reported that law firms had already backed away from providing legal help, though they all declined to name names, fearing they might alienate lawyers they could need in the future.

Bridget Crawford, director of law and policy at Immigration Equality, a nonprofit that advocates for LGBTQ immigrants, said her team often relies on major firms to vet legal arguments, but several recently declined to help with cases challenging Trump. That means it's growing hard to pursue cases focused on systemic injustices, she said. "We take on strong cases and generally win in the courts, so struggling to bring a suit is a loss for everyone."

Another group, the Amica Center for Immigrant Rights, provides detained immigrants with legal and social services. Amica has struggled to enlist firms to draft legal briefs in support of advocacy cases, said Executive Director Michael Lukens. As a result, he said, Amica is spending more time preparing briefs on its own, reducing its capacity to take on additional cases.

A pro bono director at one leading law firm said the firm is declining to put its name on court filings challenging the Trump administration, preferring to provide confidential pro bono assistance with legal briefs and research. Before the crackdown, the firm publicly partnered with advocacy groups, appearing in court and giving junior associates opportunities to argue high-profile cases, the lawyer said.

"It's a fundamental reordering of how it usually works," the lawyer said.

In March, Vanessa Batters-Thompson, executive director of DC Appleseed Center for Law and Justice, an advocacy group, enlisted several law firms to research how Trump and his congressional allies might try to undermine the local governing authority of Washington, D.C.

At least three firms agreed to help on one condition: anonymity. Their agreements barred Batters-Thompson's team from disclosing the pro bono work without written consent, she said.

"I've never seen that provision before," said Batters-Thompson, who has reviewed at least 1,000 pro bono agreements over 15 years.

Reuters measured the retreat of the largest, most prestigious law firms, collectively known as Big Law, by analyzing federal court dockets that list lawsuits against the U.S. government, identifying the law firms involved through attorneys' email addresses.

The top 50 U.S. law firms by revenue have represented plaintiffs in only about 3% of the 865 lawsuits filed since the start of Trump's second term under the Administrative Procedure Act, a federal law that allows courts to overturn executive actions deemed illegal or procedurally improper. During Trump's first term, those same firms were involved in almost 9% of 3,400 such cases.

Now absent are firms that challenged Trump in his first term, including Paul Weiss and Simpson Thacher, both of which struck deals with the administration this year.

Simpson Thacher didn't respond to a request for comment. Paul Weiss had no comment on Reuters' analysis. It said in a statement its pro bono hours were "materially higher" in the second quarter compared with the same period last year, calling its commitment "as strong as ever." The firm declined to comment on whether that work included cases against the administration since Trump's executive order.

Twenty of the nation's 100 highest-grossing law firms sued the Trump administration during his first term, often over politically sensitive issues such as immigration and regulation, but have not filed similar cases so far in his second term, a Reuters review of federal district court dockets found.

Goodwin Procter, for example, participated in 15 such lawsuits during Trump's first presidency, including five in its opening months, but has yet to file a single case this year. The firm declined to comment.

The shift is especially stark on immigration, a focus of the new administration, where Trump has asserted broad authority to roll back legal protections.

Trump's first term triggered a wave of immigration lawsuits, many filed by individuals seeking to remain in the country or be released from detention. At the time, the top 100 firms handled about 2.5% of those cases. This year, amid a similar surge in litigation, their share has dropped to just 0.6%.

REDEFINING PRO BONO

The retreat from courtroom challenges comes as many of the same firms face a new pressure: to actively support the administration's legal agenda. Conservative groups are increasingly pushing top firms to advance right-leaning causes, shifting focus from who opposes the administration to who will serve it.

The Oversight Project, an initiative spun off as a separate group this year by conservative think tank the Heritage Foundation, may publicly name firms that declined or hesitated to provide \$10 million in pro bono work aligned with the Trump administration, its president, Mike Howell, told Reuters.

In late March, Howell sent letters to about 100 firms seeking help with initiatives such as challenging corporate diversity policies and advancing "election integrity," according to a letter reviewed by Reuters. Election integrity is a term conservatives often use to justify stricter voting laws or investigations into alleged voter fraud.

"I don't think the president is going to be happy when he hears law firms aren't abiding by the terms of these deals," Howell said in an interview.

Reuters was unable to identify specific administration requests for pro bono work. But Trump has publicly floated using law firms to negotiate trade deals and told his attorney general to involve them in defending police officers accused of misconduct.

Skadden, known for its prestigious fellowship in public interest law, moved to align its pro bono work with Trump administration priorities after striking a deal in March to avert an executive order. Skadden agreed to fund at least five fellowships focused on veterans'

services, justice system reform and combating antisemitism, Trump posted on social media.

Despite striking agreements with Trump to avoid punitive executive action, two major firms – Milbank and Skadden – are separately challenging the administration in court, underscoring tension between compliance and resistance in the legal community.

In June, Milbank joined a high-profile lawsuit challenging Trump's new tariffs. In May, Skadden sued the Trump administration on behalf of a Mexican woman denied a visa designed for crime victims, partnering with the National Immigrant Justice Center, a nonprofit that aids low-income immigrants and advocates for their rights. The firms had no comment.

Before Skadden stepped in, the center had struggled to recruit pro bono lawyers from major firms, according to an April court filing. Several usual partners had paused new cases due to “messaging from the White House about pro bono involvement in immigration matters,” Lisa Koop, the group's national director of legal services, said in the filing. The center and Koop declined to comment.

THE COALITION OF THE WILLING

As Trump began targeting major law firms, his government also launched investigations into their diversity practices that culminated with several top firms agreeing to provide pro bono legal work for the administration.

In March, the U.S. Equal Employment Opportunity Commission [demanded detailed hiring data](#) from 20 major firms, including applicant names and whether race or gender influenced decisions.

The EEOC, created in the 1960s, has traditionally focused on protecting workers from discrimination. Under Trump, it's shifted to dismantling diversity, equity and inclusion (DEI) programs, now a flashpoint in the nation's culture wars.

Supporters of DEI say such policies combat systemic inequities and unconscious bias in hiring. Critics say the initiatives prioritize identity over merit and may disadvantage white candidates.

The policies have become common in U.S. businesses, including the legal field, which has long faced criticism for its lack of diversity. The movement accelerated after the 2020 police killings of George Floyd, a Black man, and Breonna Taylor, a Black woman.

The EEOC's demand for hiring data set off intense behind-the-scenes negotiations among big law firms, as they collectively grappled with how to respond. Kirkland & Ellis, the nation's largest law firm, played a central role in coordinating a response to the Trump administration, according to two people familiar with the matter.

In April, Chairman Jon Ballis met with partners on Kirkland's executive committee to discuss the firm's strategy, the two people said. Among them was Mark Filip, a former federal judge. Kirkland then approached other firms facing similar scrutiny, proposing a coalition to strengthen their negotiating position, the people said. Three firms joined. Several others declined.

Kirkland, Ballis and Filip didn't respond to requests for comment.

On April 11, Trump announced that four firms – Kirkland, Latham & Watkins, Simpson Thacher and A&O Shearman – had each pledged \$125 million in pro bono work for administration-aligned causes through the end of his term “and beyond,” without elaborating.

The firms affirmed their commitment to hiring on merit and agreed to abandon DEI labeling, the EEOC said in unveiling the settlements the same day. “We are hopeful these firms will be leaders in their industry by eliminating potentially unlawful DEI-based employment practices and returning to merit-based equal employment opportunity for all,” Andrea Lucas, the agency's acting chair, said in a statement at the time.

In return, the [EEOC dropped its investigations](#) into what it had described as potentially illegal diversity practices. A spokesman for the EEOC said the agency remains committed to combating discrimination and “protecting the civil rights of all Americans.” The four firms had no comment.

Trump said another firm – Cadwalader, Wickersham & Taft – had reached a separate agreement with his administration, pledging \$100 million in pro bono work.

Cadwalader didn't respond to a request for comment. Cadwalader “made the agonizing decision to enter into an agreement” after learning Trump might direct an executive order against the firm that could harm clients, Managing Partner Patrick Quinn said in an April 11 firmwide email that Reuters reviewed. “Without our clients, there is no Firm,” he said.

Nearly all of the nation's 50 top-grossing law firms have removed or revised online references to diversity, equity and inclusion, according to a Reuters review of archived websites. Between February and early March, 35 of the 50 highest-earning firms highlighted DEI efforts. By late June, only two had not altered that language. Thirteen other firms made similar changes since late 2024, though limited archival data makes the timing less certain.

In yielding to Trump, some major law firms have, at times, hurt morale and retention. Dozens of attorneys have left firms that settled with the administration, some joining rivals that held their ground.

Seven partners left Willkie Farr & Gallagher in June to join Cooley, which represented a firm that challenged a Trump executive order. Cadwalader also saw departures, including the former chair of its pro bono committee.

Willkie, Cooley and Cadwalader didn't respond to requests for comment.

At Paul Weiss, nearly a dozen partners have left in recent weeks to join a newly formed firm, Dunn Isaacson Rhee. Separately, Damian Williams, former Manhattan U.S. attorney during the Biden administration, left Paul Weiss in June, just six months after joining, to move to Jenner & Block, which successfully challenged a Trump executive order in court.

In a statement from Jenner when he moved to the firm, Williams said he was excited to join a team "that doesn't shy away from hard fights."

J.B. Howard, a former Maryland deputy attorney general, resigned from Cadwalader in April after it entered into an agreement with the Trump administration. In an email to the firm's managing partner, Howard warned that "the legal profession, the courts and the rule of law are now under direct attack."

He told Reuters his decision was "visceral," rooted in the oath he took to uphold the integrity of the legal profession. "What is more useless than lawyers if there is no functioning legal system?" Howard said. "As lawyers, we have a unique obligation to fight this."

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Kristina Cooke is an investigative reporter at Reuters focused on immigration. In 2025, she was part of a team of reporters who were awarded the Pulitzer Prize for Investigative Reporting for coverage of the fentanyl supply chain. In 2023, she and colleagues were finalists for the Pulitzer Prize for National Reporting for an investigation into migrant child labor in the United States. Originally from Germany, she joined Reuters in London in 2005 and is now based in San Francisco.

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US House budget threatens over 600 public defender jobs, judiciary warns



reuters.com/legal/government/us-house-budget-threatens-over-600-public-defender-jobs-judiciary-warns-2025-07-30

Nate Raymond

July 30, 2025

Judge Robert Conrad, secretary of the Judicial Conference of the United States, testifies before a House Appropriations Financial Services and General Government Subcommittee oversight hearing on the federal judiciary, on Capitol Hill in Washington, D.C., U.S., May 14, 2025. REUTERS/Jonathan Ernst/File Photo [Purchase Licensing Rights, opens new tab](#)

July 30 (Reuters) - Federal public defenders would be forced to eliminate over 600 positions or defer paying court-appointed criminal defense attorneys for over two months under a proposed Republican-backed budget plan in the U.S. House of Representatives, a top U.S. judiciary official warned in an internal memo.

Judge Robert Conrad, the director of the Administrative Office of the U.S. Courts, included those projections in a [July 25 memo, opens new tab](#) addressed to members of the judiciary after a House appropriations panel last week advanced an \$8.9 billion proposed budget for the judiciary for the next fiscal year.

The proposed spending bill advanced by the U.S. House Appropriations Committee's financial services panel increases spending on the judiciary overall by 3.5% but falls "substantially below" what the courts requested, Conrad said.

Among the parts of the judicial branch that would suffer are federal public defenders, he said. The bill provides \$1.57 billion in funding for the Defender Services program, which provides attorneys to criminal defendants who cannot afford their own lawyers.

Criminal defendants have a constitutional right to be provided attorneys under the U.S. Supreme Court's landmark 1963 ruling Gideon v. Wainwright.

Conrad said that while the \$1.57 billion is up 8.2% from the 2025 fiscal year, it is \$196 million below what the judiciary requested, which would force its Defender Services program to "downsize" by over 600 positions, or potentially more if staff cuts occur after the October 1 fiscal year begins.

"Reductions of this magnitude would inhibit the Defender Services program from meeting its constitutionally mandated mission," Conrad wrote.

He said the other possibility is that payments to court-appointed private attorneys who agree to serve on a court's Criminal Justice Act (CJA) panel will be deferred for 77 days, starting around June 11, 2026, the longest such pause in the history of the program.

Those payments are already on hold, as the judiciary this month announced that the program that pays CJA attorneys had run out of money, resulting in a three-month delay. The judiciary has requested \$116 million in supplemental funding to address what it calls a "funding crisis."

The full House Appropriations Committee will not consider the bill until at least September. Senate appropriators have yet to release their own version of the bill.

Details of the memo were first reported by Bloomberg Law. The Administrative Office of the U.S. Courts did not immediately respond to a request for comment.

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Securities Law News

Opinion

Matt Levine's Money Stuff: The Bots Will Work Together

July 30, 2025, 11:10 AM PDT

Bot collusion

An important discovery of our meme-stock-and-crypto age is that stocks go up because people buy them. It's more of a rediscovery. But there was a long period when people thought that stocks go up for reasons like "good earnings" or "increasing present value of expected cash flows" or "increasing capacity to pay dividends." (These reasons are commonly called "fundamental," while "stocks go up because people buy them" is "technical," though arguably those names should be reversed.) Going up was, in that theory, a property of the stocks, rather than of the people who bought them.

There was some descriptive truth to that theory: Often, when a company had good earnings, people would buy its stock and it would go up. But that was a rough empirical fact about investor psychology, not a law of nature. People liked to buy the stocks of companies with good earnings, so those stocks went up. But if people liked to buy different stocks, those stocks would go up instead.

The meme-stock craze of 2021 rediscovered this fact and applied it quite literally: Millions of people got together on the internet and said "let's all buy GameStop so it will go up," and it went up. Nothing *quite* like that had ever happened before, but many things *kind of* like that had happened before. There had been previous stock bubbles when everyone bought the same stocks at the same time for the same not-particularly-fundamental reasons. They just didn't all get together on the internet to agree on the stocks first. And there had been previous episodes of *market manipulation*, where people *did* get together and agree on what stocks to buy to push up their prices. But those people generally managed concentrated pools of capital and were often trying to trick other people into buying the stocks. With meme stocks it was widely distributed and all out in the open.

Crypto applied this insight even more literally. Maybe the most important financial innovation of my lifetime was OlympusDAO, a crypto scheme whose thesis was that if everyone bought it it would go up, but if people sold it it would go down, so you should buy it. OlympusDAO expressed this thesis in comically pretentious game-theoretic language; its "(3, 3)" was for a while an important crypto meme.

But this insight — that stocks go up because people buy them — is true whether or not you are consciously applying it. In general, if a lot of people have a theory like “stocks with Property X are good so I should buy them,” then stocks with Property X will go up. You might naïvely think that this proves the theory true — it proves that Property X really is good for the long-term fundamental value of a stock — but it might just prove that stocks go up when people buy them. So during the boom in environmental, social and governance investing, ESG stocks outperformed over some periods: Did that prove that ESG factors really do predict long-term risk-adjusted returns, or did it prove that a lot of money was flowing into ESG funds so the stocks they bought went up?

Or at the very high end, consider long/short equity managers at big modern multistrategy hedge funds, who rigorously analyze all the stocks, buy the good ones and short the bad ones. There is some reason to think that these funds are often the marginal price-setters for US stocks, at least over some medium time horizon. “The market is a conversation among four hedge funds,” as I said to Gappy Paleologo on the Money Stuff podcast. What does that conversation sound like? You could imagine an intense disagreement, in which analysts at one fund think that Stock X is very good while analysts at another fund think it is very bad. But why would that be the case? The big hedge funds tend to recruit somewhat similar people, who often move between funds; they look at similar sorts of evidence and have similar reasoning processes. I once wrote:

One simple model that I have of hedge funds is that they engage in scientific research to find the stocks that will go up. This is a rigorous, truth-seeking, somewhat collaborative enterprise done by highly qualified people, and so, just as in real science, you should expect them to be good at finding the correct answers. Then all the hedge funds will buy all the good stocks (the ones that will go up) and avoid the bad ones (the ones that will go down).

If long/short equity managers really are engaged in something like science, then they will tend to converge on the truth, or at least on similar answers: Most of them will agree that Stock X is good and Stock Y is bad, so they will mostly buy Stock X and short Stock Y. (This is sometimes called “crowding.”) And if they are the price-setters, then Stock X will go up and Stock Y will go down. So (1) they will seem to be correct and (2) they will make money. Over some longer horizon, other factors (fundamentals, retail traders, mutual-fund demand, etc.) might set the price, so the hedge funds will only have good long-term returns if they are “correct” about Stock X and Stock Y in some more fundamental sense. But over a short horizon, if they all agree about which stocks to buy, then *that makes them correct*.

Now add in artificial intelligence with reinforcement learning. You train a computer to pick stocks. If it picks stocks that go up, it is rewarded. Over time, it learns to pick the stocks that go up. Which stocks will it pick? Well, the ones that people will buy. This is a good skill. If you can train a computer to do this, you should.

Lots of people try, with varying time horizons and varying levels of success. A number of proprietary trading firms seem to have computers that are good at picking stocks that will go up over the next few seconds or minutes; a number of quantitative hedge funds seem to have computers that are good at picking stocks that will go up over the next few days or weeks. Again, these people are competing with one another, but they are also engaged in something like science. They hire similar people to build similar algorithms on similar computers; people move around among firms. You might expect them to converge on similar answers.

This has historically been a pretty small part of the stock market, but it is growing. "The market is a conversation among four hedge funds" now, but in the not-too-distant future it will be a conversation among four hedge funds' computers. If all of the computers are being trained by reinforcement learning to pick stocks that will go up, and if the computers are the marginal price-setters for the stock market, which stocks will they pick? Well, they will pick the ones that the other computers will buy. Just sort of tautologically. "Stocks that will go up" means "stocks that people buy," and if the computers are the marginal price-setters then "stocks that people buy" means "stocks that computers buy." In an iterated game of reinforcement learning, all the computers will learn to pick the stocks that the other computers will pick because those are the stocks that will go up.

In a world in which the computers were (1) numerous, (2) influential in setting prices, (3) trained by reinforcement learning to pick the stocks that go up, (4) extremely clever about maximizing their reward function and (5) otherwise left to their own devices, what would happen? I don't know, man, but an intuitively plausible hypothesis is: They would quickly converge on buying the same stocks to push up their prices so they all maximize their reward functions. They would find subtle computer-y ways to signal one another which stocks to buy, and they would tacitly agree to buy the same stocks because that is the way to win the game. That is, they would do *market manipulation*, because it would work and because they don't know any better.

I have speculated recently about the possible role of ChatGPT in meme-stock episodes, and you can view that as a version of this model. ChatGPT wants to please its users. If its users ask it for stocks that will go up, it should do clever fundamental analysis to find the best stocks, but if a *lot* of users ask it for stocks that will go up, it should *tell them all the same stocks*, because then they will all buy those stocks and they will go up. In the extreme case, it doesn't matter what the stocks are, as long as ChatGPT's audience is large and persuadable enough. The other day I quoted an email from David Hogg:

If Chat[GPT] wants to retain and build user communities, it should be tuned to always push users towards the same stocks (within reason). ... [It could manipulate] enormous collections of investors such that the ones using Chat do well (relative to those not using Chat). Since they drive traffic they can manipulate prices and predict stock moves.

But there are more direct versions. Bloomberg's Lu Wang reports today:

In simulations designed to mimic real-world markets, trading agents powered by artificial intelligence formed price-fixing cartels — without explicit instruction. Even with relatively simple programming, the bots chose to collude when left to their own devices, raising fresh alarms for market watchdogs.

Put another way, AI bots don't need to be evil — or even particularly smart — to rig the market. Left alone, they'll learn it themselves.

"You can get these fairly simple-minded AI algorithms to collude" without being prompted, Itay Goldstein, one of the researchers and a finance professor at the Wharton School of University of Pennsylvania, said in an interview. "It looks very pervasive, either when the market is very noisy or when the market is not noisy." ...

To be clear, the paper doesn't claim AI collusion is already happening in the real world — and takes no position on whether humans are up to similar things. The researchers created a hypothetical trading environment with a range of simulated participants — from buy-and-hold mutual funds to market makers, and noise-generating, meme-chasing retail investors. Then, they unleashed bots powered by reinforcement learning — and studied the outcomes.

In several of the simulated markets, the AI agents began cooperating rather than competing, effectively forming cartels that shared profits and discouraged defection.

Here is the paper, "AI-Powered Trading, Algorithmic Collusion, and Price Efficiency," by Winston Wei Dou, Itay Goldstein and Yan Ji. Here is the rough mechanism:

The intuition is as follows. After the exploration-intensive phase, the algorithms assign higher estimated Q-values [*that is, payoffs or desirability*] to aggressive strategies, where they trade strongly on news about the fundamental, as these strategies yield much higher payoffs when played against opponents who randomly choose to trade aggressively. Hence, as the system transitions into the exploitation-intensive phase, the algorithms consistently select aggressive trading strategies when they trade against each other, and prices move strongly with fundamentals as a result. This leads the estimated Q-values of aggressive strategies to gradually decline, as they converge towards their non-collusive Nash equilibrium levels when the aggressive strategy is commonplace among the algorithms.

Naïvely, if you have fundamental information, you should trade on it. But if everyone does that, it is less rewarding: If everyone is competing to make market prices efficient, there is less money to be made. So eventually the bots stop competing to make prices efficient, so they can all make more money at the expense of information-insensitive investors:

At the same time, occasional but ongoing exploration reveals to the algorithms that conservative trading strategies yield higher estimated Q-values than aggressive ones in states where lagged prices respond only moderately to lagged fundamentals. As a result, the algorithms gradually converge to adopting conservative strategies when others do the same, mirroring collusive behavior. A feedback loop reinforces this outcome: in these states, all algorithms select conservative strategies during exploitation, which causes similar states to recur, where lagged prices respond only moderately to fundamentals. Finally, for this pattern to amount to price-trigger collusive behavior, a form of “punishment” following large price responses to fundamentals is needed. Indeed, we observe that all algorithms shift to aggressive trading following such a price response. This occurs because the algorithms recognize the pattern that when prices respond strongly to fundamentals, trading aggressively is still the best option. Overall, the trading behavior thus exhibits mostly conservative trading with moderate price reactions but there are occasional reversions to punishment phases characterized by aggressive trading behavior. This pattern emerges even though the algorithms lack the strategic sophistication of the fully rational informed speculators in the model.

If the market is a conversation among bots, the bots will find ways to collude. I don't know how realistic *this* model is, but it does feel like some version of this worry is plausible for *any* model. If you leave it to the computers to pick the stocks that will go up, they will pick the stocks that the computers will buy. If the computers are influential enough over prices, then there's no need for them to incorporate fundamental information into their stock picks. They just have to pick the same stocks.

Gambling?

One of the best bits of comedy in modern financial markets is that Kalshi, the prediction market, (1) offers bets on sporting events and (2) says things like “I just don't really know what this has to do with gambling.” See, *gambling* has a particular regulatory regime in the US: It is regulated by the states, is illegal in some states, has some bad tax treatment, etc. *Commodities futures markets* have a different regulatory regime: They are regulated at the federal level by the US Commodity Futures Trading Commission, states are not *allowed* to regulate them, and they get better tax treatment. For almost all of US history, it would have been obviously laughable to say things like “we are trading futures contracts on the 2026 Pro Football Champion, which of course is a commodity”: The CFTC would never let an exchange list a contract like that, and it was obviously sports betting, which was subject to state regulation (and, until recently, illegal in most states).

But in a series of fairly recent developments,

1. The CFTC has licensed Kalshi as a commodity futures exchange, allowing it to “self-certify” new prediction markets for trading.
- 2. Kalshi has started listing sports contracts.
- 3. The CFTC, which is much more prediction-market-friendly these days, and which might soon be led by Kalshi board member Brian Quintenz, has not done anything to stop it, even though the CFTC's own rules seem to prohibit “gaming” contracts.

- 4. States have complained to Kalshi, saying “hey, you are offering sports betting in our state without complying with our regulation.”
- 5. Kalshi has said “buzz off, states, we are not offering *sports betting*; we’re offering *commodity futures contracts*, which are regulated by the CFTC, and you are preempted from regulating them.”
- 6. Kalshi has gone to court over this and, so far, has won.

This state of affairs is honestly kind of unbelievable. So people tend not to believe it, which in the US means that they keep filing lawsuits about it. We talked last month about some enterprising lawyers who found state statutes that allow anyone to sue to recover everyone’s losses on illegal gambling: They have gone and sued Kalshi in various states on the theory that surely some court somewhere will say “of course this is gambling” and award them the money.

Or here is another approach:

Kalshi is facing more regional litigation over the legality of its prediction markets as it has been sued by three tribes in California accusing the exchange of engaging in illegal sports gambling on their respective reservations.

The Blue Lake Rancheria, the Chicken Ranch Rancheria of Me-Wuk Indians, and the Picayune Rancheria of the Chukchansi Indians filed a lawsuit against Kalshi and Robinhood (which runs trading markets from Kalshi’s exchange) seeking a preliminary injunction, claiming the sports markets offered violate the Indian Gaming Regulatory Act and the tribes’ Tribal-State Gaming Compacts with California. ...

“Kalshi will claim that it is not offering sports gambling. Kalshi will tell the Court that it is a Designated Contract Market, regulated exclusively by the Commodity Futures Trading Commission (CFTC), and is merely operating a ‘prediction market’ that permits the buying and selling of ‘commodities contracts,’ or swaps on sporting events,” the lawsuit said. “While masquerading as novel commodities and futures products, these event contracts are, substantively, nothing more than illegal, unregulated wagers on the outcomes of sporting events.”

Here is the complaint, which I find quite compelling because, you know, it is obviously sports betting? I’m not sure how much that matters these days, but people will keep trying.

Advisory M&A

If you are a mergers-and-acquisitions investment banker who brings in £86 million a year in fees, and you are looking to move firms, what should you ask for as a signing bonus? Well, the crude rule of thumb that I used to use as a banker was that, in advisory work, revenues are split 50/50 between (1) profit to the firm and (2) pay for the bankers. So £86 million in fees is about £43 million in profits. If they sign you up for a six-year contract, then that’s £258 million in profits over six years. You have to discount that for time value and risk, but on the other hand there’s reason to expect those fees to grow over time, with a bigger platform, etc., so let’s just use the undiscounted number. How much of that should the new firm give you as a bonus? More than half of it? Advisory bankers are relatively low risk; if the firm pays you £200 million, it could still be getting a good deal.

We have talked a lot recently about the artificial-intelligence talent wars, where \$200 million salary packages are not unheard of and where some superstars get billions of dollars to move jobs, though the billion-dollar deals are structured as *corporate acquisitions* (or weirder M&A transactions) rather than as *signing bonuses*. In investment banking, the numbers are much smaller, and even a \$200 million deal gets structured as M&A. The Financial Times reports:

Evercore has agreed to buy elite UK advisory firm Robey Warshaw for \$196mn, as the US investment bank steps up its challenge to the likes of Goldman Sachs, Morgan Stanley and JPMorgan Chase in Europe with the addition of some of London's best-known dealmakers.

New York-based Evercore will pay the equivalent of \$40mn for each of Robey Warshaw's five partners. ...

Robey Warshaw reported turnover of £86mn last year and employs a total of 18 people.

The Robey Warshaw partners have made a commitment of at least six years to Evercore as part of the agreement, according to people familiar with the matter, with the bulk of the payouts due to go to the three partners who founded the firm.

"We haven't done this to capitalise our careers and move on; it's financially attractive — but fairly so . . . it's very much more this is where I want to spend the balance of my career," Robey said. "There's also an element of me putting my firm and Simon's firm in a safe place."

I like the idea of "capitalizing our careers." That is hard to do in advisory banking: If you build an advisory business, the main thing that you have built is your own set of skills and relationships; if you stop doing the work then there is not much value there. Still, you can keep doing the work and get some of the value in a lump sum.

ETHZilla

Another day, another crypto treasury company:

180 Life Sciences Corp. (Nasdaq: ATNF) (the "Company" or "180 Life Sciences") [yesterday] announced that it plans to adopt a treasury policy under which the principal holding in its treasury reserve will be Ether ("ETH"), the native digital asset of Ethereum. Following the closing of the transaction, the Company intends to rebrand to ETHZilla Corporation.

The offering consists of an approximately \$425 million private investment in public equity transaction ("PIPE") for the purchase and sale of common stock (and pre-funded warrants, if applicable) at a purchase price of \$2.65 per share. The investors will be granted registration rights as part of the transaction. The PIPE transaction is expected to close on or around August 1, 2025, subject to the satisfaction of customary closing conditions. In addition, the Company has approval to sell an aggregate amount of up to \$150 million in debt securities and expects to announce an offering following the closing of the PIPE. The consummation of any subsequent offering is subject to the satisfaction and completion of definitive documentation. ...

Over 60 institutional and crypto-native investors in the PIPE transaction including Harbour Island, Electric Capital, Polychain Capital, GSR, Omicron Technologies, Konstantin Lomashuk (Co-Founder Lido and p2p.org), Sreeram Kannan (Founder, Eigenlayer), Mike Silagadze (Founder, Ether.fi), Danny Ryan (Co-Founder, Ethereum), Vivek Raman (Co-Founder, Ethereum), Sam Kazemian (Co-Founder, Frax), Grant Hummer (Co-Founder of Ethereum), Robert Leshner (Founder, Compound and Superstate), Tarun Chitra (Founder, Gauntlet) and several other prominent Ethereum ecosystem founders and leaders.

I want to know more about how these deals get built. "Over 60 institutional and crypto-native investors" are kicking cash or crypto into this pot. Presumably someone went around to pitch them on the deal. What was the pitch? Was it ... is some banker just showing them Money Stuff, where I keep saying things like "the US public stock market will pay \$2 or more for \$1 worth of crypto" and "if you have a big pot of Bitcoin or Ethereum or Solana or Dogecoin or Trumpcoin or anything else, you should wrap it in a US public company and sell it to stock investors for twice its actual value." That is not financial advice, I guess, but ... I can't really find any flaws in it? If you have a small or medium-size pot of crypto, maybe you can't get a public company for yourself, but surely someone is pitching you on getting in on a syndicate like this. "Plop your Ether into ETHZilla and it'll sell for twice its actual value." Why not?

I'll tell you why not: The ETHZilla PIPE deal priced at \$2.65 per share; the stock closed yesterday at \$3.22. It's up some more this morning, but still, this company's pot of crypto is *not* trading at twice its actual value. It's trading at a premium, yes, though it got as low as \$2.55 for a while yesterday. Eventually we will have to hit the limit on this trade. We're getting there!

Crypto mainstreaming

Okay:

JPMorgan Chase & Co. and Coinbase Global Inc. signed an agreement to directly link customers' bank accounts to their cryptocurrency wallets. ...

In addition to linking bank accounts, customers will be able to fund Coinbase accounts with their Chase credit cards for the first time — an option expected to be active this fall, the firms said in the statement. They will also be able to redeem Chase rewards points to fund their crypto wallets.

In 2022, the leverage in the crypto system came from insanely careless crypto lending platforms. In 2025 it will come from ... Chase credit cards? Sure, seems fine.

Things happen

Terror at Blackstone: The Harrowing Hours at 345 Park Avenue. In This Frothy Market, It's Boom Times for Brokers Like Robinhood. Capital Group, KKR Seek SEC Nod for Retail Private Equity Fund. JPMorgan Chase Nears a Deal to Take Over Apple's Credit-Card Program. Ukrainian oligarchs ordered to repay \$1.9bn over bank fraud. WeWork Wants You to Know It's a Grown-Up Real-Estate Firm Now. Americans Are Snapping Up London Mansions Like Never Before. Goldman Pitches Wealthy Asian Heirs on Leveraging Family Art. "We're starting to see a barbell phenomenon in the CEO role where Gen X is being squeezed in the middle." High Noon Recalls Vodka Seltzers Mislabeled as Energy Drinks.

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- 1. One quite speculative but *possible* reading of the Jane Street Indian options case is something like “this works for humans too”: If you are a clever but unworldly trader, like an AI bot or a 23-year-old at Jane Street, you might do an unconstrained search for trading strategies that work, find one, and then do it in size without noticing that it’s market manipulation.
- 2. Unlike some other betting platforms, Kalshi apparently doesn’t pay the National Football League for the rights to say “Super Bowl,” though the URL for that bet is “<https://kalshi.com/markets/kxsb/super-bowl>.”
- 3. This is a fairly stupid rule of thumb. Evercore Inc.’s own split is that roughly 66% of revenue goes to comp, 14% is profit and 20% goes to everything else (rent, plane tickets, legal fees, taxes, etc.). Still my math is somewhat conservative, because your upfront payment can come not only out of the firm’s future profits but out of your future comp. They can pay you lower annual bonuses in the future if you front-loaded your comp in the form of a huge signing bonus.

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Securities Law News

Crypto Mixer Founders Plead Guilty as Storm Case Heads to Jury

July 30, 2025, 9:08 AM PDT

The founders of a cryptocurrency mixing service admitted helping launder more than \$100 million in proceeds from illegal darkweb marketplaces and fraud schemes, as the developer of a similar platform awaits a jury verdict in the same court.

Keonne Rodriguez and William Lonergan Hill, who started the Samurai Wallet service, pleaded guilty in Manhattan Wednesday to conspiring to operate an unlicensed money transmitting business as part of a deal with prosecutors. Law enforcement officials said the mixer executed more than \$2 billion in unlawful transactions from a variety of criminal schemes including sales from darkweb markets such as Silk Road and Hydra Market, a spearphishing scheme and attempts to defraud decentralized finance protocols.

The pleas took place as closing arguments were underway across the street in the case against Roman Storm, the co-founder of crypto mixing service Tornado Cash, who is charged with conspiring to help launder hundreds of millions through the platform. Prosecutors say that money passing through Tornado Cash included proceeds allegedly stolen by the Lazarus Group, which the US says is a cybercrime organization that works for the North Korean government. Jury deliberations, which began July 15, are expected to begin as soon as Wednesday afternoon.

The two cases are some of the few crypto-related criminal proceedings to survive in the new Trump administration, which has dropped several high-profile prosecutions as it has embraced the industry and dialed back enforcement.

Regulators globally have sought to crack down on crypto mixers, which are designed to obscure the origins and destinations of certain transactions. The founder of another service, Bitcoin Fog, was convicted in March 2024 in Washington of helping to launder tens of millions of dollars from darknet markets known for selling illegal drugs and sentenced to 150 months in prison.

Rodriguez and Hill, who are scheduled to be sentenced in November, both agreed not to contest a punishment of less than 60 months, a forfeiture of \$237 million and a fine of \$400,000 as part of their plea deal.

Hill said he learned that Samourai Wallet was being used to launder funds from criminal activity and continued to operate the business despite knowing it would continue to be used for that purpose.

"I understood that the proceeds of hacks of various sites could be sent through the code base of Samourai Wallet to obscure their origin," Hill told the judge.

The cases are US v. Rodriguez, 24-cr-00082, and US v Storm, 23-cr-430, both in US District Court, Southern District of New York (Manhattan).

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Securities Law

Eric Trump's Stake in Bitcoin Miner May Be Worth \$367 Million

July 31, 2025, 6:55 AM PDT

- President's son co-founded American Bitcoin in March
- Company expected to go public on Nasdaq by end of September

Eric Trump's stake in a four-month-old Bitcoin mining venture could be worth \$367 million when it goes public in coming weeks.

The second son of President **Donald Trump** holds a large stake in closely held American Bitcoin Corp., which he co-founded in March. In a planned merger, his interest will be exchanged for about 367 million new shares of Nasdaq-listed Gryphon Digital Mining Inc., according to a securities filing Tuesday. Gryphon traded at about \$1 on Thursday. The combined company will be called American Bitcoin.



Eric Trump

Photographer: Ronda Churchill/Bloomberg

The disclosure of the stake's size comes the same week that the president, a cryptocurrency skeptic-turned-cheerleader, issued recommendations to encourage the use of digital assets for a "golden age of crypto." Earlier this year, he ordered the establishment of a national Bitcoin stockpile.

"Neither the President nor his family have ever engaged, or will ever engage, in conflicts of interest," **Karoline Leavitt**, the White House press secretary, said in a statement. Spokespeople for Eric Trump and Gryphon didn't respond to messages seeking comment.

A recent private sale of existing American Bitcoin stock implied the new shares are worth 25 cents apiece, the filing noted. That would peg Eric Trump's stake at \$92 million.

American Bitcoin was formed in March by combining the mining computers owned by a Miami-based company, Hut 8 Corp., with a newly formed entity whose investors included Eric Trump and Donald Trump Jr. Securities filings don't show what they paid for their stakes. A spokesperson for Hut 8 declined to comment.

Announcing the tie-up, Hut 8 said the deal would combine Hut 8's existing mining operations with "Eric Trump's commercial acumen, capital markets expertise and commitment to the advancement of decentralized financial systems."

Eric Trump, who remains an executive at his father's real estate business and is involved with several other family ventures, is serving as "chief strategy officer" of American Bitcoin. He has a three-year advisory agreement that doesn't come with compensation, the filing shows.

In May, Eric Trump joined his fellow American Bitcoin executives at a Bitcoin conference, remarking that "America is going to win the crypto revolution."

"We have a president who loves this industry and is behind this industry 100%," Eric Trump said. "I'm telling you, we as a family could not be more excited about this, and amazing things to come with this group of people on stage right now."

--With assistance from **Tom Maloney**.

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3rd Circ. Won't Upend Investors' Class Cert. In J&J Talc Suit

By **Katryna Perera**

Law360 (July 30, 2025, 11:18 PM EDT) -- A split Third Circuit on Wednesday upheld a New Jersey federal judge's class certification order in a Johnson & Johnson investor action alleging the company artificially inflated its stock price by failing to disclose cancer risks associated with its talcum powder products, finding the lower court did not err in concluding that common issues predominate in the suit.

The majority of a three-judge panel for the Third Circuit issued an **opinion** saying U.S. District Judge Zahid N. Quraishi did not err in concluding that common issues predominate as to the reliance element of the suit's securities fraud claim when he granted class certification in 2023.

The parties disputed whether common questions of reliance on J&J's alleged misrepresentations predominated over individual ones, according to Wednesday's ruling. In granting certification, the district court examined six disclosures that the investors claimed partially corrected J&J's alleged misrepresentation. The court concluded that while it is possible the disclosures did not impact J&J's stock price, there is not enough to completely "rebut the presumption of price impact by a preponderance of the evidence."

On Wednesday, the appeals court majority stated that they reviewed the district court's analysis of each disclosure and concluded that each disclosure "could have communicated new, value-relevant information to investors and was followed by a stock price decline for which there was no other explanation but the disclosure itself."

Therefore, Judge Quraishi "did not clearly err in determining that, for each of the six disclosures, the market reacted negatively to information about J&J's talc-related representations," the majority opinion, written by U.S. Circuit Judges Patty Shwartz, said.

The panel majority added that because J&J has not offered any other evidence to suggest that its alleged misrepresentation did not impact its stock price, the company has "failed to 'sever the link between the alleged misrepresentation and ... the price ... [plaintiff]' paid for the security, and therefore has failed to rebut the presumption of reliance."

U.S. Circuit Judge Cindy K. Chung wrote her own opinion stating that she would vacate and remand to the district court because, in her view, the district court did not properly determine whether J&J met its "burden of persuasion to prove a lack of price impact by the preponderance of the evidence."

Judge Chung pointed out that for many of the alleged disclosures, the district court did not assess evidence introduced into the record by J&J, showing that the disclosures did not actually contain newly public information and were therefore not corrective.

The judge additionally noted that the U.S. Supreme Court's 2021 decision in **Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System**  allows courts to consider questions related to correctness at the certification stage, rejecting Judge Quraishi's contrary explanation.

"Because these factual findings were required, but were not made, and because they should not be made in the first instance here, I would vacate and remand to the district court," the judge said.

In his **order**, Judge Quraishi certified a class including all individuals who purchased or acquired J&J

securities from Feb. 22, 2013, to Dec. 13, 2018. The judge also named a lead plaintiff in the case, the San Diego County Employees Retirement Association, as class representative and Robbins Geller Rudman & Dowd LLP as class counsel.

J&J petitioned for an appeal shortly afterward, arguing that Judge Quraishi's decision misinterpreted the standards for certification in securities class actions laid out in Goldman.

It said Judge Quraishi misapplied the Goldman standard related to a presumption of reliance by an investor class regarding a public company's alleged misrepresentations, which was crucial to the court's class certification analysis. J&J said the class certification argument was weakened by the fact that corrective disclosures about talc products broadcast already-public information, weakening the link between the disclosures and a direct impact on the company's stock price.

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

U.S. Circuit Judges Patty Shwartz, L. Felipe Restrepo and Cindy K. Chung sat on the panel for the Third Circuit.

The investors are represented by James E. Cecchi of Carella Byrne Cecchi Olstein Brody & Agnello and Joseph D. Daley and Harini Raghupathi of Robbins Geller Rudman & Dowd LLP.

J&J is represented by Neil H. Conrad, Robert N. Hochman, Kristen R. Seeger and John M. Skakun II of Sidley Austin LLP.

The case is San Diego County Employees Retirement Association et al. v. Johnson & Johnson et al., case number 24-1409, in the U.S. Court of Appeals for the Third Circuit.

--Editing by Jay Jackson Jr.

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TD Bank Can't Beat Suit Over \$3B AML Fine, Investors Say

By **Katryna Perera**

Law360 (July 30, 2025, 6:04 PM EDT) -- TD Bank investors have urged a New York federal judge not to toss their class action over stock price drops the Canadian bank suffered after U.S. authorities announced a \$3 billion settlement covering anti-money laundering compliance failures, saying it is undisputed that TD "vastly underinvested in AML compliance efforts" for over a decade.

The investors filed an **opposition** on Tuesday to a dismissal motion filed by the bank and several executives, including CEO Bharat Masrani and Chief Financial Officer Kelvin Vi Luan Tran.

The suit **alleges** that during the class period, investors were given material information about the scope of issues surrounding TD's anti-money laundering program, the bank's ability to fix the issues and the remedial compliance measures likely to be imposed upon TD to comply with the Bank Secrecy Act.

However, investors say these "overwhelmingly positive statements" were given to them while the defendants simultaneously concealed the true state of TD's AML program.

The investors say that in arguing for dismissal, the defendants disregard the suit's claims and "resort to scattershot arguments that, when stripped of their rhetoric, raise improper factual disputes and reinvent U.S. securities laws."

According to Tuesday's filing, the defendants challenge the adequacy of the suit's falsity allegations for nearly all the identified statements in the complaint. But the investors say the complaint "details known, pervasive deficiencies in TD's Global AML Program that contradict the representations that TD's Global AML Program, was 'routinely evaluated, updated and enhanced in order to reflect changes to TD's business activities.'"

The defendants also argue that the suit should be tossed because certain statements are "too general" to be actionable, and no reasonable investor would rely on them. However, the investors said that the identified statements gave "comfort to investors that reasonably effective steps were being taken to comply with applicable regulations when, in reality, they were not.

"These assurances regarding compliance were indisputably untrue and are thus actionable ... that Defendants repeated these assurances throughout the class period, further reinforces their materiality," the filing states.

The statements allegedly made by the defendants are also actionable, according to Tuesday's filing, because the speakers, all TD executives, "knew the true state of TD's AML program, its criminal violations of the BSA, and its impact on" TD's \$13.4 billion acquisition of First Horizon Corp., at the time the statements were made.

The suit also adequately alleges that the defendants were aware of the AML deficiencies from both internal and external sources, the investors say.

"Leading into the Class Period, defendant [Mia Levine] reported to [U.S. subsidiaries] TDBUSH and TDBNA boards that the Global AML Program had significant backlogs, was unable to timely monitor transactions, and that the Global AML Program was not on target to update its transaction monitoring program, yet the Board failed to act," the filing states.

"And for 11 years, regulators, auditors, and third-party consultants 'repeatedly identified TDBNA's transaction monitoring program as an area of concern' and '[t]he senior executive leadership and boards of directors of TDBNA, TDBUSH, TDGUS, and TD Bank Group' ... never addressed the AML deficiencies and 'failed to effectively or substantively adapt its transaction monitoring system,'" the filing further states.

According to the filing, the defendants claim that the more plausible interpretation of the alleged facts, besides fraud, is that they were stuck in a constant game of "catch up" and were "constrained by regulatory confidentiality requirements" from disclosing the truth. However, investors called this explanation "absurd."

"Defendants do not (and cannot) present any plausible date when they could have 'learned of' the deliberate deficiencies in the Global AML Program that avoids liability here," the filing states. "Moreover, defendants were not constrained by 'confidentiality requirements,' and indeed repeatedly discussed the investigations publicly. Having chosen to do so, they were obligated to do so truthfully."

According to the suit, the truth about the bank's AML deficiencies came to light on Oct. 10, 2024, when TD announced resolutions reached from the investigations conducted by U.S. authorities.

Federal officials said TD Bank failed for nearly a decade to put in place adequate controls to detect and prevent the flow of illicit money through its accounts, deficiencies that led to its handling of hundreds of millions of dollars related to drug trafficking, among other criminal activity.

The bank agreed to resolve multiple U.S. investigations into the matter, accepting approximately **\$3.09 billion in penalties** from the U.S. Department of Justice, Federal Reserve, Office of the Comptroller of the Currency and the U.S. Treasury Department's Financial Crimes Enforcement Network.

TD Bank also agreed to plead guilty to felony charges of conspiring to commit money laundering and violating the Bank Secrecy Act, according to federal officials. The DOJ said the bank consented to a five-year term of probation and three-year independent monitorship, while FinCEN's settlement terms similarly include a four-year monitorship requirement.

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

The investors are represented by Joseph A. Fonti, Benjamin F. Burry, George N. Bauer, F. William Green and Adam C. McCall of Bleichmar Fonti & Audl LLP.

TD Bank, Masrani, Salom and Tran are represented by Adam S. Hakki, Agnès Dunogué and Jeffrey D. Hoschander of Allen Overy Shearman Sterling LLP.

Levine is represented by Chantale Fiebig, Joshua S. Amsel and Amber N. Venturelli of Weil Gotshal & Manges LLP.

Defendant Michael Bowman is represented by Seth L. Levine and Alison M. Bonelli of Levine Lee LLP.

The case is Tiessen v. The Toronto-Dominion Bank et al, case number 1:24-cv-08032, in the U.S. District Court for the Southern District of New York.

--Editing by Alex Hubbard.



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Blue Bell Class Seeks Settlement Records In Derivative Suit

By **Jeff Montgomery**

Law360 (July 30, 2025, 7:19 PM EDT) -- Attorneys for a Blue Bell Creameries USA Inc. stockholder class sought a Delaware Court of Chancery order compelling access to records concerning a \$60 million settlement of liability claims after a deadly ice cream contamination incident in 2015.

Counsel for Roseann Marchand, administrator of the estate of lead stockholder Jack Marchand, sought the materials Tuesday after Blue Bell, its officers, directors and partners asserted that a July 2020 settlement in a contract dispute released the partners and others from derivative claims for breaches of fiduciary duty owed to the corporation.

Behind the latest moves are years of battling among Blue Bell's various fiduciaries and others over liability for poor sanitation in Blue Bell plants that led to 10 known, serious cases of listeria-caused illness and three deaths in 2015.

A federal court in Texas ordered the company to pay \$17.5 million in criminal penalties in 2020 for shipping the contaminated ice cream.

"At no point in the [Delaware] court's consideration" of the 2020 settlement "were the BB USA stockholders provided with notice of or the opportunity to object" to the alleged releases and other terms, attorneys for Roseann Marchand wrote.

"Those legal defects do not even scratch the surface" of failures under the "basic equitable tenets of Delaware corporate law," a brief filed on Marchand's behalf said. Those tenets "prevent corporate fiduciaries of a parent holding company from failing to monitor its only assets (i.e., its subsidiaries), allowing those assets to implode, and then trying to use those subsidiaries as a shield against their very beneficiaries."

All of Blue Bell's plants were shut for months after the 2015 contamination episode, and many of its workers furloughed as a result of the deaths, illnesses and federal investigations that led to the contamination findings.

Attorneys for the stockholders described Blue Bell in 2020 as having a corporate structure that made efforts to recover damages through the Chancery Court suit "a precarious exercise," according to a court brief. The general partner, while responsible for paying bills, was strictly a pass-through entity, with scant assets of its own. About 70% of the business is owned by Blue Bell USA.

"Despite sitting on their hands for five-years, defendants now ask the court" to apply a five-year-old settlement of a limited partnership breach of contract suit to block current claims for breaches of fiduciary duties "owed directly to Blue Bell Creameries U.S.A., Inc. and its stockholders," a brief filed Tuesday said.

The plaintiff in the earlier suit "never had the standing or authority to release the claims in this action," attorneys for Marchand said.

The suit that settled in 2020 sought damages derivatively, on behalf of the limited partnership, for the controlling GP's breaches of its fiduciary duties. The earlier action recovered an estimated 26.7% of the nearly \$435 million in estimated profit losses related the product contamination and legal fallout.

Attorneys for the officers, directors and others named in the latest suit argued in a brief that "it is axiomatic that a stockholder derivative action can advance only claims that the corporation itself could bring. BB USA has released — and, therefore, is precluded from bringing — these claims. Plaintiff is likewise precluded from bringing these same claims purportedly on BB USA's behalf."

Language contained in both the settlement agreement and the court's final judgment, attorneys for the company and general and limited partners said, "released the defendants from all the claims — and any harm arising from the claims" alleged in Marchand's complaint.

The deal in 2020 saw Blue Bell's general partnership agree to cancel more than \$45.2 million in debts owed by the limited partnership to the GP for accumulated management fees. The resulting increase in value of the limited partnership holdings allowed about \$18.5 million in distributions to the limited partners.

Blue Bell USA, the enterprise's ultimate parent, agreed to pay \$15 million to the general partner over two years, with the money in turn distributed to limited partner interest holders who were not named in the earlier suit.

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

Roseann Marchand and the proposed derivative class are represented by Robert J. Kriner, Scott M. Tucker and Benjamin P. Hodges of Chimicles Schwartz Kriner & Donaldson-Smith LLP.

The Blue Bird and general and limited partner parties are represented by Rolin P. Bissel, James M. Yoch and Jillian A. Tyson of Young Conaway Stargatt & Taylor LLP, Lewis H. Lazarus, Albert J. Carroll, Kirsten A. Zeberkiewics, Barnaby Grzaslewicz and Samuel E. Bashman of Morris James LLP, David Schertler and Lisa Schertler of Schertler Onorato Mead & Sears LLP, Lisa M. Zwally, Bryan T. Reed and C. Mark Stratton of Greenberg Traurig LLP, Srinivas M. Raju, Kevin M. Gallagher, Jason J. Rawnsley and Alfred P. Dillione of Richards Layton & Finger PA, Lawrence Finder of R. McConnell Group PLLC, and Chris Flood and Lisa Sternschuss of Flood & Flood.

The case is Roseann Marchand as administrator of the estate of Jack L. Marchand v. John W. Barnhill Jr. et al., case number 2017-0586, in the Court of Chancery of the State of Delaware.

--Editing by Kelly Duncan.



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ImmunityBio Investors Nab Initial OK On Derivative Suit Deal

By **Sydney Price**

Law360 (July 30, 2025, 6:12 PM EDT) -- A California federal judge has granted initial approval to a deal ending derivative claims that ImmunityBio executives failed to disclose manufacturing deficiencies that doomed the company's lead cancer drug application.

The settlement calls for a host of corporate governance reforms, which **Tuesday's order** says will "lower ImmunityBio's risk of further loss of investor confidence and lawsuits."

Among other things, the settlement requires ImmunityBio to appoint an independent director before the end of the year and hold quarterly board discussions regarding compliance with the U.S. Food and Drug Administration's regulations for a minimum of four years.

Counsel for the shareholders leading the derivative action will seek up to \$2.5 million in fees and expenses, according to the order signed by U.S. District Judge Gonzalo P. Curiel. The settlement submitted to the court in May said the parties were unable to reach an agreement during mediation in April as to the shareholders' counsel's fees.

The litigation claims ImmunityBio, which was founded by Los Angeles Times owner Patrick Soon-Shiong, failed to tell investors that starting in March 2021, the FDA began raising concerns about the processes used by the third-party contract manufacturing organization making active ingredients for ImmunityBio's bladder cancer treatment Anktiva.

ImmunityBio's shares fell by more than 55% when it was forced to acknowledge the FDA's misgivings in its announcement that the agency had rejected a biologics license application for Anktiva, according to the suit.

The complaint said the company's brass concealed that the company either failed to properly vet its manufacturer or ignored deficiencies in its manufacturing processes, increasing the likelihood the FDA would refuse to sign off on the Anktiva application.

In the settlement, ImmunityBio also agreed to establish training programs for employees involved in preparing financial statements that are "focused on compliance, internal controls policies and proceeds, compliance risk assessment and complaint reporting and investigation."

In addition to Soon-Shiong, who chairs ImmunityBio's board, the suit also names current ImmunityBio CEO Richard Adcock and eight additional individual defendants, some of whom are also defendants in a \$10.5 million shareholder class action settlement granted final approval **in June**.

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

The investors are represented by Betsy C. Manifold, Rachele R. Byrd and Alex J. Tramontano of Wolf Haldenstein Adler Freeman & Herz LLP, Justin A. Kuehn of Kuehn Law PLLC, Dustin Schubert and Robert C. Schubert of Schubert Jonckheer & Kolbe LLP and Laurence M. Rosen of The Rosen Law Firm PA.

ImmunityBio and the individual defendants are represented by Gregory L. Watts and Natalie Jordana Morgan of Wilson Sonsini Goodrich & Rosati PC.

The case is Luven v. Soon-Shiong et al., case number 3:24-cv-02014, in the U.S. District Court for the Southern District of California.

--Editing by Stephen Berg.

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Honest Co.'s \$27.5M Investor Deal Gets Final OK

By **Emilie Ruscoe**

Law360 (July 30, 2025, 10:05 PM EDT) -- An investor class action against The Honest Co. Inc., the "clean lifestyle" brand founded by actress Jessica Alba, has gotten a final nod for a \$27.5 million deal to end claims that the company did not disclose certain negative business trends ahead of its 2021 initial public offering.

In a Tuesday order in California federal court, U.S. District Judge Mark C. Scarsi granted final approval to the deal, finding the settlement "is, in all respects, fair, reasonable, and adequate" in light of factors including the costs and complexity of continued litigation and the risks the parties would face if they kept the matter in court.

Also on Tuesday, Judge Scarsi awarded a fee of 30% of the settlement fund, or \$8.25 million, to the Labaton Keller Sucharow LLP and Schall Law Firm legal team for the investors and agreed they could have nearly \$1.7 million in litigation expenses reimbursed. Investor Kathie Ng, the lead plaintiff in the matter, can have an award of over \$7,400, the judge said Tuesday.

Ng sought preliminary approval for the deal in March, telling Judge Scarsi that to resolve the matter, The Honest Co. Inc., executives at the company and underwriters of the IPO had agreed to pay \$20 million and company shareholder Catterton Management Co. would pay \$7.5 million, all funded by insurance.

The investor said in March that the settlement represents an estimated recovery of between 13% and 76% of potential damages in the matter.

The agreement also reflects "potential risks with respect to enforcing a litigated judgment against Honest, given its ongoing financial vulnerabilities," Ng said in March. While the filing does not reference those vulnerabilities in any greater detail, market records show that since April, trading prices for the company's shares have been between \$4.50 and \$5, down significantly from the company's \$16 per share IPO price.

Ng and the class are represented by Jonathan Gardner, Alfred L. Fatale III, Joseph Cotilletta and Beth C. Khinchuk of Labaton Keller Sucharow LLP, and Brian Schall and Rina Restaino of The Schall Law Firm.

The Honest Co. and other named defendants are represented by Koji F. Fukumura of Cooley LLP.

The underwriter defendants are represented by Daniel C. Lewis of Allen Overy Shearman Sterling.

The Catterton defendants are represented by Daniel J. Tyukody of Greenberg Traurig LLP.

The case is In Re: The Honest Co. Inc. Securities Litigation, case number 2:21-cv-07405, in the U.S. District Court for the Central District of California.

--Editing by Vaqas Asghar.



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Mich. PBM Opioid Suit Belongs In State Court, Judge Told

By **Carolyn Muyskens**

Law360 (July 30, 2025, 6:41 PM EDT) -- Counsel for the State of Michigan argued Wednesday that a lawsuit accusing pharmacy benefit managers Express Scripts and OptumRx of fueling the opioid crisis is not subject to federal officer removal and should be sent back to state court.

Arguing before U.S. District Judge Shalina D. Kumar, Anthony J. Majestro of Powell & Majestro PLLC said Michigan had included a "very extensive" disclaimer of any claims involving PBMs' federal client work in its complaint. Majestro said that disclaimer defeats Express Scripts and OptumRx's invocation of the federal officer removal statute, as other courts that have examined the removability of opioid nuisance suits have found.

Michigan **sued** Express Scripts and OptumRx in October in Wayne County Circuit Court, becoming the latest state to claim that PBMs, which negotiate prescription drug prices and coverage on behalf of health plans, played a significant role in the nation's opioid epidemic.

Express Scripts and OptumRx, two of the country's largest PBMs, removed the lawsuit to federal court, citing their work for the U.S. Department of Defense, U.S. Department of Veterans Affairs and an employee benefit plan for federal workers.

Because Michigan's claims "squarely implicate both our private and our federal work, these should proceed in federal court," said Jonathan G. Cooper of Quinn Emanuel Urquhart & Sullivan LLP, arguing on behalf of the PBMs.

Invoking the federal officer removal statute, the PBMs said federal jurisdiction applies because the lawsuit involves work the PBMs performed at the direction of the federal government.

PBMs' work for federal clients can't be disentangled from their work for private health plans, Express Scripts and Optum have argued, because the negotiations are generally done together.

Judge Kumar asked Cooper if "the federal agencies dictate how the PBMs conduct the negotiations with manufacturers on nonfederal and federal plans," and if the federal agencies directed whether the negotiations should be done separately or together.

Cooper said the federal government would "expect" the PBMs to negotiate on behalf of all their clients.

"The reason they happen together is because by going through a PBM, you're able to bring together the negotiating power of all the plans," Cooper said. "What the federal government wants when it comes to a PBM is we want you to use your leverage on behalf of your entire book of business to negotiate the lowest rates possible."

Cooper added that the federal officer removal statute as amended in 2011 says claims must "relate to" actions undertaken at the direction of the federal government, which is "extremely broad" language.

Because PBMs create standard formularies that they offer as a menu of options to both federal and state clients, Michigan's claims targeting how PBMs developed those formularies necessarily relate to the organizations' government work, the PBMs argued.

The state has alleged that PBMs helped boost sales by giving opioids favorable placement on drug formularies, and discouraged the adoption of controls that could have mitigated overprescribing or diversion to the illegal market.

In some cases, the drugmakers allegedly offered PBMs rebates if plans adopted formularies that did not have utilization management tools for opioids, stricter controls on dispensing the drugs, Michigan has alleged.

Judge Kumar asked Michigan about the PBMs' argument that the state's case about the companies' effect on the illegal market for reselling prescription opioids necessarily implicates federal work, because some of the drugs diverted to that market come from federal plan participants.

Majestro replied that Michigan doesn't have to distinguish between the impact of federal opioid prescriptions and private health plans in order to prove its case. To show the PBMs are liable, the state only has to show that the nonfederal plans contributed enough pills to the secondary market to meet the causation standard of being a substantial factor in fueling illegal sales, Majestro said.

The U.S. Supreme Court **is considering** a case about the federal officer removal statute next term: *Chevron USA Incorporated, et al., Petitioners v. Plaquemines Parish, Louisiana, et al.* , which deals with how much direction from a federal officer is needed to satisfy the federal officer removal standard. The PBMs suggested Judge Kumar could wait for the ruling if she wanted the court's guidance.

"We think we've satisfied the test, but if Your Honor believes that the Supreme Court may impact what Your Honor is going to rule, you could stay until the Supreme Court resolves those issues," Cooper said.

Judge Kumar took the arguments under advisement and said she would issue a written opinion.

The state is represented by Matthew L. Walker and Scott A. Mertens of the Michigan Department of Attorney General, Anthony J. Majestro of Powell & Majestro PLLC and Mark P. Pifko of Baron & Budd PC.

Express Scripts is represented by Jonathan G. Cooper of Quinn Emanuel Urquhart & Sullivan LLP and John F. Rhoades, Mark J. Makoski, Monique S. Eubanks and Michelle L. Mayfield of Dykema Gossett PLLC.

OptumRx Inc. is represented by Irina N. Kashcheyeva and Ki Lee Kilgore of Foley & Lardner LLP and Brian D. Boone and Caitlin Van Hoy of Alston & Bird LLP.

The case is Attorney General of the State of Michigan v. Evernorth Health Inc. et al., case number 4:24-cv-13185, in the U.S. District Court for the Eastern District of Michigan.

--Editing by Alanna Weissman.



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Flo Likely To Get Health Privacy Claim Tossed In Meta Case

By **Bonnie Eslinger**

Law360 (July 30, 2025, 10:39 PM EDT) -- The California federal judge overseeing a trial on allegations that Flo Health and Meta Platforms Inc. violated the privacy of millions of women who used Flo's period tracker app said Wednesday he'd likely toss the California Confidentiality of Medical Information Act claim, saying the lack of evidence is an "unsurmountable" problem.

U.S. District Judge James Donato made the statement outside the presence of the jury after the plaintiffs in the class action rested their case.

The case accuses Flo Health Inc. of unlawfully sharing its app users' menstrual and sexual health information through software tools Meta Platforms Inc. provides that allow app developers to track user behavior, among other functions.

At the end of the day, Brenda Sharton of Dechert LLP, who represents Flo, made a verbal motion for the judge to decide in favor of the company on the CMIA claim.

Judge Donato told counsel for the plaintiffs that after listening to the evidence presented at trial, he had "doubts" about the CMIA claim. The evidence presented at trial didn't seem to show that Flo meets the statute's definition of healthcare provider or that the app users could be considered "patients."

Michael Canty of Labaton Keller Sucharow LLP, who represents the plaintiffs, pointed out that the statute defines certain businesses that offer software or hardware related to medical information as "providers of healthcare," including businesses offering "mobile applications or other devices" used to make medical information available to individuals.

Judge Donato said he was focused on an earlier line in the law defining healthcare provider and patient.

"A healthcare provider typically means someone who's a treating physician or a doctor," the judge said, adding that a patient is defined as a person receiving healthcare services from a healthcare provider.

"I don't believe you met those elements," the judge told Canty. "I see virtually no evidence."

The five named plaintiffs who testified at trial indicated that they provided private, sensitive information for the purpose of getting health services, Canty said. One was seeking to know the best time to get pregnant, he added.

"They certainly believed that they were getting health services from the Flo app when they entered that information," Canty told the judge.

Judge Donato said he believed the statute's inclusion of apps was meant to cover websites and apps used by traditional healthcare providers as a portal for patients.

Canty disagreed.

"We live in 2025 where individuals get healthcare from a myriad of sources, and these women went

to the Flo Health app, who holds itself out as a healthcare app to get health care services," Canty said.

Judge Donato suggested that was a broad definition.

He said people consult "shamans, tarot cards, soothsayers" in Northern California for health advice, and they don't fit within the statute's meaning.

He later said the other claims would go forward, including the invasion of privacy claims.

"This is the only one that I'm very likely not going to let you go forward with," Judge Donato said.

Sharton told the court that before the CMIA was passed, the drafters stated that the law was to protect medical information that originated with medical professionals.

"CMIA was not intended to protect all medical information broadly construed that is created by the individual," Sharton said, adding that app developers for services like step trackers had sought to be excluded from the law.

Sharton also reminded the court that she had asked the plaintiffs at trial if Flo was their healthcare provider, and they had said no.

Canty asked to submit written briefing in opposition to Flo's motion, and Judge Donato gave the plaintiffs five pages to be delivered to the court by 9 a.m. on Thursday.

The "insurmountable problem," the judge told Canty, is "you have no evidence meeting those definitions on patients, the provider of healthcare and on medical information."

A trial brief from Meta last month includes information about the statutory damages the plaintiffs are seeking: \$1,000 per person in state CMIA damages from Flo 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. Weeks later, Google and the plaintiffs **struck a deal**, 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** July 21, and the next day, the five **plaintiffs testified**, telling jurors they never gave permission for data from the menstruation-tracking app to be shared. An expert testifying for Meta on July 24 backed the company's key defense against the state law privacy claim, saying **Flo's app collected** the data, not Meta.

The trial continues Thursday.

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. Blunsch, 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.

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UFC Fighters Seek Penalty For Discovery Delays In Wage Spat

By **Elaine Briseño**

Law360 (July 30, 2025, 6:24 PM EDT) -- Fighters suing UFC over allegations of wage suppression have asked a Nevada federal judge to impose terminating sanctions on the organization and its parent company, TKO Operating Co. LLC, for failing to turn over court-ordered documents.

The fighters said in a Tuesday **motion** that they are seeking sanctions, including default judgment, against UFC operator Zuffa, its parent company TKO, and TKO majority owner Endeavor Group Holdings Inc., for "repeated misconduct and violations" of the court's orders. The defendants have refused to meet and confer and have stonewalled on producing court-ordered materials and information, the fighters said.

"This case fits squarely with those cases where courts have concluded that the pattern of misconduct warrants the steepest sanction," the filing said.

At a motion hearing on June 3, U.S. District Judge Richard Boulware II instructed Endeavor and the other defendants to produce and turn over certain requested information. He also deferred a decision on class certification.

The defendants have a history of taking an obstructive approach to discovery, beginning with Endeavor, for which the plaintiffs have had to file two motions to compel the company to produce documents, the filing said. The fighters allege the "conduct that was initially isolated to Endeavor **has spread** through defendants' counsel to all defendants" and to third-party sports talent agency Dominance.

"Defendants' deliberate efforts to obstruct the orderly progression of this case — filed nearly five years ago — are sanctionable," the motion said.

According to Tuesday's motion requesting sanctions, the defendants have presented only 3,000 fighter contract documents and incomplete athlete compensation data. Still missing are a complete list of devices and communication apps and platforms used during the relevant time period that the court ordered the defendants to provide by July 3. The defendants only provided information for 12 of the 27 individuals requested.

Defendants have also violated a protective order that prohibited the mass designation of documents as "highly confidential," the filing said. They designated fighter contracts and Endeavor's corporate organizational charts as "highly confidential," but the plaintiffs argued that the documents provide information relevant to the lawsuit. That information includes UFC financials, internal text messages critical of competitor prices and messages with other promoters about signing fighters to keep them away from UFC competitors.

"The pattern of obstruction and delay exhibited by the defendants and the individual subpoena recipients is beyond any reasonable bound of the thrust and parry of discovery disputes in complex litigation among sophisticated parties represented by prominent law firms," the filing said. "Plaintiffs do not relish bringing this motion."

The plaintiffs have asked the court to appoint a special master to ensure the discovery process proceeds in a timely fashion.

The proposed class action was filed in June 2021 and accuses UFC of locking fighters into restrictive, long-term contracts to prevent its competitors from gaining traction. UFC then used its dominant, monopolistic position to suppress wages and artificially reduce demand for live, professional, mixed martial arts bouts, the lawsuit alleged.

Representatives for the fighters and the defendants did not immediately respond to a request for comment Wednesday.

The individual fighters and proposed class are represented by Eric L. Cramer, Michael Dell'Angelo, Patrick F. Madden, Robert Maysey and Joshua P. Davis of Berger Montague, Joseph R. Saveri, Kevin E. Rayhill and Chris Young of the Joseph Saveri Law Firm LLP, Richard A. Koffman, Benjamin D. Brown and Daniel H. Silverman of Cohen Milstein Sellers & Toll PLLC and W. Joseph Brucker, Kyle Pozan and Brian Clark of Lockridge Grindal Nauen PLLP.

Zuffa, TKO and Endeavor are represented by Christopher S. Yates, Aaron T. Chiu, Sean M. Berkowitz and Laura R. Washington of Latham & Watkins LLP, William A. Isaacson and Jessica E. Phillips of Dunn Isaacson Rhee LLP and Donald J. Campbell and J. Colby Williams of Campbell & Williams.

The case is Johnson et al. v. Zuffa LLC et al., case number 2:21-cv-01189, in the U.S. District Court for the District of Nevada.

--Editing by Rich Mills.

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Rising Star: Labaton Keller's Jake Bissell-Linsk



[law360.com/securities/articles/2358251/rising-star-labaton-keller-s-jake-bissell-linsk](https://www.law360.com/securities/articles/2358251/rising-star-labaton-keller-s-jake-bissell-linsk)

Jake Bissell-Linsk

Labaton Keller Sucharow

- **Age:** 35
- **Home base:** New York
- **Position:** Partner
- **Law school:** University of Pennsylvania Carey Law School
- **First job after law school:** Associate at Davis Polk

The most challenging cases of his career:

Bissell-Linsk has worked on a number of challenging matters during his time with Labaton Keller, including representing shareholders who accused [Nielsen Holdings PLC of](#) making misleading claims about its business prospects. Investors said Nielsen [stock prices plummeted](#) after the data analytics company revealed it had known that spending on its products was in decline.

As lead counsel, Bissell-Linsk helped clients reach a \$73 million settlement after the team reviewed some 490,000 pages produced by defendants.

He also helped to secure a procedural victory for [The Boeing Co.](#) investor plaintiffs in a case stemming from a midflight panel blowout on a 737 Max 9 jet operated by Alaska Airlines, when a Virginia federal judge in 2024 allowed the case to [advance to discovery](#) and denied Boeing's motion to dismiss. Bissell-Linsk [helped win certification](#) for the class of Boeing investors who accused the company of making false statements about the safety of its 737 Max fleet.

Bissell-Linsk said the Boeing dispute is one of the most important, and most challenging, he has ever handled.

Working on the immensely consequential case and on those procedural matters, while dealing with thorny manufacturing safety compliance issues in a complex industry, on an expedited schedule, was, for Bissell-Linsk, more involved than what he typically faced with securities classes.

The team would do "what often could be years of discovery, within a year," he said.

"I think our team did great, but I would say just the scope of that case and the size of that case in terms of its sprawling nature, and the timeline, made it uniquely challenging," Bissell-Linsk added.

Also challenging was his work with China-based companies that were incorporated in the Cayman Islands, but [listed](#) on U.S. stock exchanges. Investors in [JA Solar Holdings Co.](#) accused the company of intentionally decreasing its stock price for a management buyout.

A proposed class of shareholders later settled for some \$21 million. Bissell-Linsk said the work was unique and complex because attorneys were trying to prove the reverse of what they normally would seek to prove — the decrease of a stock price being a form of manipulation.

"All of those cases had complex international issues because the companies were outside the United States ... but also very, very complicated legal issues in part just because things were all in reverse," Bissell-Linsk said. "You read law, and you're like, 'Well it's clear how this should work in this context,' but all the language and all the opinions that you're reading are framed in the reverse."

What motivates him:

Bissell-Linsk, who started his career as a Davis Polk & Wardwell LLP associate and joined Labaton Keller in 2018, said that as a securities litigator, he's motivated by working on sophisticated and interesting legal issues in complex areas of the law.

"I like being on the plaintiffs side and representing investors because it really does feel like we are uncovering frauds and doing so for the benefit of our clients and the absent class members who recover in our cases," Bissell-Linsk said. "But also, in a sense, improving the functioning of markets by being a sort of force in the market that holds companies accountable to speaking honestly."

His proudest moment as an attorney:

To Bissell-Linsk, Boeing stands out as a matter he's especially proud of, particularly because of the effort of the team as a whole, he said. Working on an expedited schedule, the team turned over "all the stones that need to be turned over," he said, and is trying to get to the bottom of things in difficult parameters.

"I'm proud of the team's work on that case, of staying so focused and so dedicated to pushing that case forward, on the right pace," he said.

Why he's a securities law attorney:

While in law school, Bissell-Linsk said, he was unsure what area he wanted to practice in, but quickly realized that corporate and financial-centric law was more interesting to him than other areas of law.

"The amount of sophistication that goes into how deals are put together and where the incentives are, and, in our cases now, how the fraud in the market presumption works and how damages work was all much, much more interesting than I would have expected," he said.

The ability to work on top-tier, financially focused law is why he started his career with Davis Polk, Bissell-Linsk said. That experience made him realize he'd be happier working with a plaintiff-side platform "trying to expose fraud and misconduct, rather than trying to clean it up."

On what his practice will look like in 10 years:

One big trend Bissell-Linsk said he has seen is cases that are going the distance. Parties aren't settling, he said. There was a period of his securities law practice when parties would survive motion to dismiss rulings, and it was more than likely the case would settle, he recalled.

"Now, the trend is the defendants are pushing cases far, and we are correspondingly pushing them far, and so you have robust fights on class certification and even further than that in cases," Bissell-Linsk said.

He said that's attributable in part to the [U.S. Supreme Court's 2021 decision](#) in a securities class action involving [Goldman Sachs](#), which gave "defendants more vehicles to fight at class certification."

Labaton Keller represented pension funds in that 13-year legal dispute over what plaintiffs had alleged was a failure to disclose conflicts of interest tied to collateralized debt obligations. The investors ultimately dropped the suit.

"I think they've overplayed that, and they're fighting in cases where they really shouldn't be, but the trend I think is litigation is lasting longer and is more hard-fought," Bissell-Linsk said. "And in some ways, that's a fine thing for [firms] like ours that are equipped to take cases far and really fight them, but I do think that's a major, major industrywide trend."

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