

Securities Law News

Toshiba Investors Lose Revival Bid Due to Overseas Purchase

Aug. 18, 2025, 1:57 PM PDT

Toshiba Corp. rightfully escaped a long-running lawsuit over its accounting practices because the investors' federal securities fraud claims were based on a foreign transaction, an appellate court said Monday.

There weren't factual issues on the foreign nature of the Automotive Industries Pension Trust Fund's Toshiba securities purchase for summary judgment, the US Court of Appeals for the Ninth Circuit said in a per curiam memorandum. The lower court found in denying class certification that the fund got its Toshiba American Depositary Receipts via a foreign transaction when Barclays Capital Inc. executed the purchase of its underlying stock in Japan. The fund "became irrevocably liable for the ADRs when Barclays executed the market order for the Toshiba shares," the Ninth Circuit said.

Separately, once the Tokyo District Court interpreted the phrase "persons that acquire securities" to exclude unregistered shareholders, another pension fund suing under a provision of the Financial Instruments & Exchange Act of Japan lacked standing to bring their claims in this suit, the Ninth Circuit said.

The New England Teamsters & Trucking Industry Pension Fund couldn't sue under the Japanese law which "provides that company officers who make false statements in securities registration documents shall pay damages to the 'persons that acquire securities,'" the memorandum said. Though the Teamsters beneficially owned 343,000 shares of Toshiba common stock on the foreign exchanges, the shares are held in its custodian State Street Bank and Trust's name in Japan. "Teamsters is not listed in the book-entry registry as a shareholder of Toshiba stock."

The lower court judge had denied Toshiba summary judgment on that issue but reversed course after the company asked he reconsider over the Tokyo District Court's finding. A federal district court can "modify an order denying summary judgment 'any time' before final judgment," the Ninth Circuit said. "Further, the district court correctly held that the JFIEA categorically excludes all unregistered shareholders and properly granted summary judgment for Toshiba."

The district court, after granting Toshiba's motions for summary judgment and reconsideration, tossed the suit in 2024. The litigation, which commenced in 2015, included a prior trip up to the Ninth Circuit.

"We are very pleased with today's decision by the Ninth Circuit and expect that the decision will bring this long-running litigation to a close," said White & Case LLP's legal team representing Toshiba.

Judges Kim McLane Wardlaw, Salvador Mendoza Jr., and Anthony D. Johnstone served on the panel.

Robbins Geller Rudman & Dowd LLP, which represents the pension funds, didn't immediately respond to an email seeking comment.

The case is Auto. Indus. Pension Tr. Fund v. Toshiba Corp , 9th Cir., No. 24-3888, unpublished 8/18/25 .

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Securities Law News

Akero Defeats Investor Lawsuit Over Liver Drug Trial Design (1)

Aug. 18, 2025, 10:41 AM PDT; Updated: Aug. 18, 2025, 11:57 AM PDT

Akero Therapeutics Inc. beat allegations the drug maker knowingly misled investors over its potential liver disease treatment's clinical trial participants.

The investors' theory of intent to deceive still contained logical gaps that couldn't overcome a non-fraudulent inference, Judge Yvonne Gonzalez Rogers said. The US District Court for the Northern District of California judge tossed the proposed class action without leave to amend, saying additional allegations failed to boost their theory.

"Even accepting plaintiffs' framing of the study's timeline, the Court fails to see how this alone strongly indicates an intent to mislead when defendants still had a 60-week 'follow-up' period in which they could have stayed silent," Rogers said in her Aug. 15 order.

Investors Joseph and Dora Klobus alleged Akero and three top executives misrepresented the design of one of its phase two trials for EFX, which targets a form of nonalcoholic fatty liver disease, by creating the impression the study only had cirrhosis patients proven to have this ailment.

Akero's stock plummeted almost 63% the day in October 2023 it delivered a disappointing trial readout that said it included patients with unknown causes of cirrhosis, they said.

"We are thrilled that the court agreed with our arguments and issued a well-reasoned decision, putting an end to this matter. Akero looks forward to putting this matter behind them and continuing their vital work in developing this potentially life-saving drug," said Latham & Watkins partner Jamie Wine, who represents Akero.

Robbins Geller Rudman & Dowd LLP and Abraham, Fruchter & Twersky LLP represent the Klobuses. They didn't immediately respond to an email seeking comment.

The case is Klobus v. Akero Therapeutics, Inc. , N.D. Cal., No. 4:24-cv-02534, closed 8/15/25 .

(Updates with a comment from an attorney representing Akero in the sixth paragraph.)

Securities Law News

Investor's Challenge of LoanDepot Settlement Fails on Appeal

Aug. 18, 2025, 4:59 PM PDT

An investor objecting to LoanDepot's \$3.5 million settlement failed to convince the Ninth Circuit that a lower court wrongly greenlit the agreement.

The district court gave adequate notice and didn't abuse its discretion when it granted final approval of a pre-certification class action settlement, the US Court of Appeals for the Ninth Circuit said Monday. Eljon Lako also failed to show that the settlement's approved allocation plan was unfair.

Lako alleged that LoanDepot misled investors about declines in refinance originations and gain-on-sale margins ahead of a 2021 IPO. He said the company's offering documents "falsely stated that gain-on-sale margins and revenues could be impacted 'in future years,'" when LoanDepot was allegedly already experiencing "lower gain-on-sale margins."

The US District Court for the Central District of California approved the settlement agreement in 2024, which included \$875,000 in attorney fees, \$90,000 in litigation costs, and a service award of \$5,000 to Lako and another named plaintiff.

But Lako objected, contending that, among other things, the settlement notice was inadequate since it omitted or obfuscated "key information" regarding discovery, damages, and information of class representatives. But the Ninth Circuit said Lako forfeited these claims since they were never raised before the district court. And any claims Lako may have preserved regarding notice lack merit since the settlement was sufficiently descriptive.

The district court's approval of the settlement also wasn't an abuse of discretion since it applied the Ninth Circuit's settlement approval precedent and "surgically addressed" all of Lako's objections, the appellate court said. The lower court also met its obligation to ensure the attorneys' fee award is reasonable since it was supported by "explicit calculations" and gave sufficient considerations to the proposed class.

The appellate court further rejected Lako's contention that the expert calculations failed to include a corrective disclosure, ruling the omitted material dealt with "statistically insignificant" information.

The allocation plan was fair since the lower court correctly ruled there was a reasonable basis for each alleged inconsistency between the settlement plan and the damages calculation, the Ninth Circuit said.

Lako's arguments challenging the service award both lack merit and were forfeited since he neglected to raise them before the district court.

Judges Jacqueline H. Nguyen, Lawrence VanDyke, and Danielle J. Forrest joined the unpublished memorandum disposition.

Bottini & Bottini Inc. represents Lako. Gibson Dunn & Crutcher LLP represents LoanDepot.

The case is Lako v. LoanDepot Inc. , 9th Cir., No. 24-3932, unpublished 8/18/25 .

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Securities Law News

RxSight Execs Face Investor's Suit Alleging Disclosure Failures

Aug. 18, 2025, 1:40 PM PDT

RxSight Inc.'s leadership unlawfully failed to accurately disclose the company's financial situation and product adoption challenges, an investor alleged in a derivative complaint filed Monday at a California federal court.

The lawsuit comes less than a month after another investor filed a proposed class action against RxSight arising from the same issues. There, plaintiff Rumen Makaveev alleged the company concealed material information before it lowered its 2025 revenue forecast and endured record stock drops.

LeeAnne Swift says in her complaint that RxSight's directors and officers omitted mention of the issues it faced between November 2024 and July with regards to its cataract surgery eye lenses, in violation of the Exchange Act. Swift also alleged the company overstated the demand for its products.

Due to the defendants' misconduct, "the company has incurred significant financial losses, including the cost of defending and paying class-wide damages in the" *Makaveev* class action, Swift said in the US District Court for the Central District of California filing.

RxSight didn't immediately respond to a request for comment. The Aliso Viejo-based medical technology company focused on the development and sale of light adjustable intraocular lenses and light delivery devices used in cataract surgery.

The company allegedly experienced difficulties in getting doctors and medical practices to adopt and consistently use their RxSight System. This led to a decline in sales and lower utilization rates of the devices already in its customers' hands. But the company and its leadership painted a deceptively positive picture of its performance and prospects, which led to artificially inflated stock prices, Swift alleges.

Swift says the company's leadership waited to disclose the challenges until a July press release, revealing significant declines in LDD sales, LAL utilization, and overall revenue. After RxSight lowered its full-year revenue guidance, the company's stock price tumbled by 37.8%.

Swift further alleges the defendants breached their fiduciary duties, aided and abetted that breach, unjustly enriched themselves, and wasted corporate assets. Swift seeks damages from the defendants, on the company's behalf, for their alleged misconduct.

Grabar Law Office and Rigrodsky Law PA represent Swift.

The case is Swift v. Kurtz , C.D. Cal., No. 8:25-cv-01820, complaint 8/18/25 .

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I have no comment - not even a little bit - on the merits of this securities lawsuit. But I will say, one issue turns on the distinction between presigning due diligence, and postsigning information rights. Anyone in the space could tell you these are very different things;but -

Elon Musk asked a judge to dismiss claims brought by a class of former Twitter investors in litigation accusing the right-wing billionaire of intentionally tanking the platform's stock price, arguing his statements made ahead of the deal are accurate.



[Musk Seeks Early Win In Twitter Investor Fraud Case - Law360](#)

[Elon Musk has asked a California federal judge to dismiss claims brought by a class of former Twitter investors in litigation accusing the right-wing billionaire of intentionally tanking the social media platform's stock price, arguing his statements made ahead of the deal are accurate.](#)

www.law360.com

August 19, 2025 at 10:51 AM

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proving that, before a lay jury, with evidence, is harder. There's no caselaw; it's just about standard practice, and how many people familiar with standard practice are going to want to testify for securities plaintiffs against Elon Musk? I discussed this issue (in a limited way) in my paper -

on the Twitter acquisition, where I talked about the importance of the expertise of Delaware courts in making this distinction. Before a jury, or with an inexperienced judge - I have no idea what happens. Before a Delaware Chancery judge, though - forget it. My paper:

papers.ssrn.com/sol3/papers....

[Every Billionaire is a Policy Failure](#)

[\[Image of the Twitter bird logo photoshopped into a scene from Monty Python, available at: https://knowyourmeme.com/photos/2483004-2022-twitter-shutdown-rumors-](#)

papers.ssrn.com

Securities Law News

Logan Paul Shouldn't Battle CryptoZoo Suit, Court Recommends

Aug. 18, 2025, 12:29 PM PDT

Logan Paul shouldn't face CryptoZoo Inc. customers' current complaint alleging he lured them into a fraudulent investment scheme, a magistrate judge said.

The plaintiffs failed to provide evidence of Paul's enrichment as a result of the flopped venture, Magistrate Judge Ronald C. Griffin said last week. But Griffin recommended that they be able to replead most of their claims in the US District Court for the Western District of Texas.

The customers adequately pleaded the tokens were securities, according to Griffin, but didn't meet the pleading requirements of their common law or federal securities fraud claims.

Investors sued the founders of Paul's CryptoZoo, which they alleged was a fraudulent investment scheme to sell worthless tokens posing as a pending game company. Paul said in 2024 that the game, originally announced in 2021, would never come to be due to regulatory hurdles. Refunds were promised at the time.

Griffin previously recommended Paul's assistant escape the suit and that the influencer not be granted default judgment against two co-creators.

Paul's legal team said in an email they're pleased with the report and would continue litigating until his name's cleared. "As Logan has maintained from the outset, CryptoZoo was derailed by others who did not have the project's best interests at heart, and he was devastated that it did not come to fruition as he envisioned it." Neiman Mays Floch & Almeida and Kozyak Tropin & Throckmorton LLP represent Paul.

"We will be filing an amended complaint to address the issues identified in the court's recent order and to further clarify our claims," Texas-based attorney Tom Kherkher said in an email. He and Ellzey & Associates PLLC represent the purchasers.

The case is Holland v. CryptoZoo, Inc. , W.D. Tex., No. 1:23-cv-00110, report and recommendations docketed 8/15/25 .

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

Paul Hastings Secures Win for Esports Company in Federal Securities Lawsuit

August 15, 2025 | By  **Kat Black**

What You Need to Know

- Paul Hastings secured a preliminary injunction on behalf of esports company Allied Gaming & Entertainment Inc. in litigation against a dissident shareholder, Knighted Pastures.
- The complaint contended that, in an effort to launch a proxy fight against Allied, Knighted's CEO formed a group with his mother and business associate to acquire 37.8% of the company's outstanding stock.
- Allied alleged that the shareholders failed to provide necessary disclosures about the formation of a group to the U.S. Securities and Exchange Commission.



Paul Hastings offices in Washington, D.C. Photo: Diego M. Radzinski/ALM

Paul Hastings this week secured a preliminary injunction on behalf of esports company Allied Gaming & Entertainment Inc. in a "bet-the-company" securities dispute with dissident shareholder Knighted Pastures LLC, which has since announced its plans to appeal.

The [order](#), issued by U.S. District Judge Fernando L. Aenlle-Rocha of the Central District of California on Tuesday, appears to be the first winning preliminary injunction motion for a company in litigation related to violation of Section 13D of the Securities Exchange Act in almost three decades.

The team representing Allied included Paul Hastings partners Tim Reynolds and Scott Carlton, as well as associates Stephanie Balitzer, Joe Montoya, Will Ostrander, Matthew Twargoski and Emma Guo and co-counsel Bryan Jin. Paul Hastings corporate partner Sean Donahue advised on shareholder activism matters.

Allied sued Knighted Pastures and its CEO, Roy Choi, who together constituted Allied's second-largest shareholder; Choi's mother, Naomi Choi, who was the company's third-largest shareholder; and Yiu-Tung "Rebecca" So, Roy Choi's long-time business associate and the company's fourth-largest shareholder, for alleged federal securities violations on June 11 in the U.S. District Court for the Central District of California.

Allied alleged that Roy Choi, his mother and So had formed a group to launch a proxy challenge against Allied and acquire 37.8% of the company's outstanding stock without filing necessary disclosures with the U.S. Securities and Exchange Commission.

Allied filed the lawsuit after Knighted alerted the company that it intended to nominate six people, including Roy Choi, for seats on Allied's board of directors and had submitted a proposal to remove a seventh board member from the board for cause. Both the nominations and the proposal for removal would be put to a vote at the company's annual shareholders' meeting, according to the order.

Prior to the suit, Knighted Pastures had brought its own actions against Allied in March and November 2024 in the Delaware Court of Chancery, alleging that Allied "wrongfully took actions intended to impede the Knighted Parties' ability to wage a proxy contest and challenge the Board's control of the company," per court records. The Delaware court dismissed the first claim as moot and stayed the second case pending the outcome of the 2024-2025 annual shareholders' meeting.

Aenlle-Rocha granted Allied's preliminary injunction motion in part by enjoining any election to add or remove directors on Allied's board of directors at its annual meeting or any other meeting of shareholders or directors, but denied its request for an order compelling the defendants to file a Schedule 13D form disclosing a formation of a "group" to the SEC.

"We are pleased with the district court's decision and will be ready to defend it on appeal," said Reynolds, who co-led the litigation, in a statement.

"There are significant Schedule 13D requirements that help keep stockholders informed, and any company facing a similar situation should be able to protect itself and its stockholders by obtaining appropriate relief in advance of a critical stockholder vote."

Defendant Knighted Pastures, a California limited liability company owned by co-defendant Roy Choi, filed a notice of appeal to the U.S. Court of Appeals for the Ninth Circuit shortly after Aenlle-Rocha handed down the order on Tuesday. Together, Knighted and Choi held 31.5% of Allied's outstanding stock as of June 4, 2025, per court records.

Allied is a Delaware-incorporated mobile games and video game programming developer that also hosts gaming tournaments. The company, which trades on the Nasdaq under the ticker "AGAE," has recently faced a potential [delisting](#) from the stock exchange over non-compliance with listing rules.

Per the judge's order, Allied Gaming is a "'small-cap' company whose stock has traditionally traded at less than \$5 per share, yet has over \$94 million in reported assets as of the filing of the motion"—a fact that, the plaintiff claimed, makes it easy prey for "outside investors looking to acquire significant share of the company at a relatively low price and seize control of its assets."

In a [news release](#) about its Q2 2025 financial results published on Wednesday, Allied Gaming's CEO, Yangyang Li, partially attributed the company's 27% quarterly decline in revenue to "disruptions" caused by "complaints filed by a dissident stockholder along with a proxy contest between the Company and such stockholder."

"Defendants have conducted a years-long scheme to amass large quantities of Allied's stock without disclosing the same to Allied or its stockholders," the complaint contended.

Furthermore, it alleged, the shareholders breached Section 13D of the Securities Act by failing to identify themselves publicly as a group through a Schedule 13D disclosure, a form that must be filed with the U.S. Securities and Exchange Commission within 10 days by anyone who acquires beneficial ownership of more than 5% of a class of a company's equity shares.

Aenlle-Rocha found that "[the] evidence here strongly supports the conclusion that Naomi Choi and So entered into a group with the Knighted Parties" and that the plaintiff was likely to succeed on the merits of its claims. He held in his order that public interest supports injunctive relief because "[a]llowing the election and removal of Plaintiff's directors to proceed at the Annual Meeting while plausible allegations of undisclosed group formation are pending, would undermine the goal of Section 13(d)."

Aenlle-Rocha denied Allied's requests for expedited discovery; postponement of the company's annual shareholders' meeting; and an order that the defendants' collective shares be voted "in the exact same proportion as the shares voted by non-defendants in that election."

The judge also rejected So's request in an opposition filed on July 11 for Allied to post a bond of \$1.65 million—"the current cost of buying the shares Allied is trying to deprive Ms. So of using," per the filing—in the event the plaintiff's motion for preliminary injunction was granted.

Counsel for the defendants at LimNexus LLP; Olshan Frome Wolosky; Halpern May Ybarra Gelberg; and Kaufhold Gaskin could not immediately be reached for comment.

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CVS insurance policies don't provide opioid coverage, top Delaware court rules



reuters.com/legal/litigation/cvs-insurance-policies-dont-provide-opioid-coverage-top-delaware-court-rules-2025-08-18

Jonathan Stempel

August 18, 2025

CVS Health logo is seen in this illustration taken, February 11, 2025. REUTERS/Dado Ruvic/Illustration/ File Photo [Purchase Licensing Rights, opens new tab](#)

Aug 18 (Reuters) - CVS Health ([CVS.N](#)), [opens new tab](#) is not entitled to coverage from insurers, including AIG ([AIG.N](#)), [opens new tab](#) and Chubb , against thousands of lawsuits over its role in the nation's opioid crisis, Delaware's highest court ruled on Monday. The Delaware Supreme Court concluded that governments, hospitals, doctors and benefit plans that sued CVS sought damages for economic losses, not individualized "bodily injury" or "property damage" covered by CVS's general liability policies.

It also rejected the argument that CVS' [\\$5 billion nationwide settlement](#) of opioid claims in November 2022 showed that the pharmacy chain and benefits manager had been sued for bodily injury.

"The national settlement agreement funds expenses in response to the opioid crisis at-large, but it does not change the fact that the underlying lawsuits do not seek specific damages tied to individualized injuries," Chief Justice Collins Seitz wrote for a unanimous court.

CVS said it disagreed with the decision, and that it trains its pharmacists to make the best decisions on patients' behalf and in compliance with the law.

AIG, Chubb and their lawyers did not immediately respond to requests for comment.

Many insurers have been sued by pharmacy chains, drugmakers and others seeking coverage for opioid-related bills.

Chains had long argued they were merely filling doctors' prescriptions, but critics said the large quantities being dispensed and the potential for diversion were red flags.

Walgreens ([WBA.O](#)), [opens new tab](#) and [Walmart, opens new tab\(WMT.N\)](#), [opens new tab](#) agreed to pay more than \$8 billion in similar settlements.

CVS, based in Woonsocket, Rhode Island, had been appealing two Delaware Superior Court decisions denying insurance coverage in more than 2,300 lawsuits, according to Monday's decision.

Governments complained about increased spending to treat opioid addiction, hospitals reported strains on their health systems, and third-party payors such as employee benefit funds cited costs of prescription purchases and addiction treatment.

The Delaware Supreme Court ruled in Chubb's favor in a [similar case](#) involving Rite Aid in 2022. CVS claimed that its own policies offered broader coverage, but the court found the policies "similar in all material respects" to Rite Aid's.

The case is In re CVS Opioid Insurance Litigation, Delaware Supreme Court, No. 482.

Reporting by Jonathan Stempel in New York Editing by Marguerita Choy

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

CVS stuck with opioid bill as Del. court rules for insurers



legalnewsline.com/state-ags-and-supreme-courts/cvs-stuck-with-opioid-bill-as-del-court-rules-for-insurers/article_a2803b1b-120d-46b6-a911-a386f4028a82.html

John O'Brien, John O'Brien

August 19, 2025

CVS

<https://www.cvshealth.com/news/innovation/cvs-health-announces-steps-to-accelerate-omnichannel-health.html>

WILMINGTON, Del. - The costs of fighting lawsuits over the opioid crisis aren't on insurers, the Delaware Supreme Court has ruled in a loss for the pharmacy chain CVS.

CVS reached [a global settlement](#) in 2023 for around \$5 billion after local governments hired private lawyers to sue makers, distributors and retailers of opioids, alleging they overlooked red flags in the system and allowed addicts access.

In Delaware court, it sought money from insurers Chubb and AIG for defense costs in a group of cases. AIG had issued policies covering claims against CVS of "bodily injury" caused by an accident, while Chubb's policies were for "bodily injury" arising out of a pharmacist liability incident.

The claims made by local and state governments, however, were for reimbursement of health care costs spent on opioid users.

"(T)he insurers did not have a duty to defend CVS because the underlying lawsuits do not allege specific and individualized personal injury or property damage," Chief Justice Collins Seitz wrote Aug. 18.

"And to the extent that the pleadings or underlying lawsuits unexpectedly transform into ones alleging damage from specific and individualized bodily injury and property damage, the insurers conceded at oral argument that CVS could tender a new claim for coverage at that time."

The decision affirms a lower court ruling that said the same, rejecting the idea that the pharmacist liability clause in the insurance policies triggered coverage. The courts also said insurers had no responsibility to pay some of CVS's settlement.

They also don't have to pay for lawsuits brought by hospitals seeking damages for a financial strain.

CVS's national settlement, it said, indicated it had been sued for "damages because of 'bodily injury.'"

"But settlement agreement language is not a reliable coverage indicator because '[t]o do so would encourage litigants to manipulate settlement language to secure... insurance coverage where it would otherwise not exist,'" Seitz wrote.

"The national settlement agreement funds expenses in response to the opioid crisis at-large, but it does not change the fact that the underlying lawsuits do not seek specific damages tied to individualized injuries and trigger coverage."

Litigation

Manage Newsletters

CVS, Omnicare Unable to Knock Out \$949 Million Fraud Ruling (1)

Aug. 19, 2025, 6:05 AM PDT; Updated: Aug. 19, 2025, 7:31 AM PDT

Summary by Bloomberg AI

AI Generated



- A New York federal court denied CVS Health Inc. and Omnicare Inc.'s motions to overturn a \$949 million judgment against them in a prescription drug fraud suit, according to Judge Colleen McMahon.
- McMahon said a jury saw sufficient evidence to conclude that Omnicare allowed pharmacies to dispense drugs on invalid prescriptions, and CVS failed to rebut the jury's conclusion that the pharmacy services company caused the submission of false claims to the government.
- The court ruled that Omnicare must pay \$406.8 million in treble damages and \$542 million in statutory penalties, with CVS Health jointly and severally liable for \$164.8 million of those penalties, Judge McMahon said.

CVS Health Inc. and subsidiary Omnicare Inc. failed to convince a New York federal court to overturn a \$949 million judgment against them in a prescription drug fraud suit.

A jury saw sufficient evidence in the False Claims Act trial to conclude that Omnicare allowed pharmacies to dispense drugs on invalid prescriptions, and CVS failed to rebut the jury's conclusion that the pharmacy services company caused the submission of false claims to the government, Judge Colleen McMahon said in a Monday order.

McMahon, of the US District Court for the Southern District of New York, denied the companies' motions for judgment as a matter of law and a new trial.

Whistleblower Uri Bassan, a former Omnicare pharmacist based in New Mexico, sued in 2015. The government intervened in 2019, alleging that Omnicare improperly dispensed prescription drugs to individuals at long-term residential facilities, and submitted claims for reimbursement to several federal health-care programs.

A jury on April 29 said Omnicare submitted millions of false claims to government health-care programs, and that CVS caused Omnicare to submit the false claims. McMahon on July 7 ruled that Omnicare must pay \$406.8 million in treble damages and \$542 million in statutory penalties. CVS Health is jointly and severally liable for \$164.8 million of those penalties, McMahon said.

Omnicare raised several challenges to the jury's conclusions, including its argument that the government didn't present sufficient evidence of state-law prescription requirements to support the allegation that Omnicare dispensed drugs without obtaining valid prescriptions under the laws of dozens of states.

But the government said Omnicare filed over 11 million false claims, and the jury found that Omnicare filed about 3 million false claims. So the jury's verdict, the court said, likely reflects any gaps in the government's proof regarding certain states' laws.

The court also said a government expert concluded that Omnicare didn't support about 30% of drug dispensings with a prescription. This finding, which didn't depend on any state law requirements, is more than sufficient to support the jury's decision, McMahon said.

Omnicare also failed to show that the case failed for lack of materiality because the government approved of the company's dispensing practices. The court said the government provided testimony from federal employees and contractors that Medicare, Medicaid, and TRICARE wouldn't pay for a drug without a valid authorizing prescription.

CVS said the verdict was erroneous because evidence doesn't show that it participated in the submission of false claims. But McMahon said CVS didn't identify any reason to change her conclusion in a June 5 opinion that rejected CVS's motion for a directed verdict.

McMahon, in that opinion, said CVS Health knowingly allowed Omnicare to "dilly-dally" about making corrections to deficiencies in its dispensing systems.

The US Court of Appeals for the Second Circuit would review an appeal.

O'Neil, Cannon, Hollman, DeJong & Laing SC represents Bassan. Williams & Connolly LLP represents the defendants.

The case is United States ex rel. Bassan v. Omnicare Inc. , S.D.N.Y., No. 15-cv-4179, 8/18/25 .

(Updates story starting in fourth paragraph to include additional discussion of the court's opinion.)

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NCAA settlement lawyers raise alarm over claim sales and taxes

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[dailyjournal.com/articles/387156-ncaa-settlement-lawyers-raise-alarm-over-claim-sales-and-taxes](https://www.dailyjournal.com/articles/387156-ncaa-settlement-lawyers-raise-alarm-over-claim-sales-and-taxes)

Aug. 19, 2025

Class counsel in the NCAA NIL settlement seeks a court order requiring disclosure of tax consequences before athletes sell claims, citing risks of large liabilities and improper third-party-directed payments.

U.S. District Judge Claudia Wilken

Class counsel for more than 646,000 former college athletes in the \$2.8 billion NIL settlement with the NCAA said Monday they will ask an Oakland federal judge to bar class members from directing annual payments to third parties because of tax concerns.

The settlement payments will be made over the next 10 years. The attorneys warned that some class members were unknowingly selling their claims for less than their tax liability in exchange for lump sums. These direct third-party settlement payments would "make it impossible" to issue tax forms, the attorneys said.

They also want U.S. District Judge Claudia Wilken to order all third parties to fully disclose the full tax liabilities before purchasing the athletes' future claims.

Several former college athletes opposed the class counsel's initial administrative motion, which Wilken denied on Aug. 16. The athletes argued that the attorneys were trying to interfere with "their freedom to contract." They said that their contracts with buyout services were "not plaintiffs' concern" and argued that Wilken did not have jurisdiction to direct third parties' handling of contracts over the settlement fund purchases.

Lead class counsel Steve W. Berman of Hagens Berman Sobol Shapiro LLP and Jeffrey L. Kessler of Winston & Strawn LLP said in emails Monday that they will refile a standard motion soon and pushed back on the idea that the motion would prevent the athletes from selling their claims.

"We are simply trying to protect athletes from adverse tax consequences they may not be aware of. We will be refiling the motion," Berman said. In re: College Athlete NIL Litigation, 4:20-cv-03919 (N.D. Cal. filed June 15, 2020).

Keller wrote in an email Monday, "We did not seek an order to prevent class members from selling their claims. We are seeking an order to require that class members be informed of the possible tax consequences to them from selling their claims, which might be quite severe, and to give them the option to unwind their sales after they learn of those possible tax consequences. Any class member who wants to sell his or her claims is free to do so. The motion was denied on procedural grounds and will be resubmitted. It is needed to protect class member interests."

Robert Charles Ward of Shartsis Friese LLP, one of the attorneys representing five athletes who sold their settlement payouts, argued in an opposition brief filed Friday that Wilken lacks the authority to issue the notices class counsel seeks.

"The court has jurisdiction only over the parties to this case--not over all unnamed third parties that have or might someday contract with a member of the class--and cannot order nonparties to act," the brief stated. "This requested relief would unquestionably require the court to exercise jurisdiction it does not have, and for that reason should be denied. ... None of the provisions [of Rule 23(d)] permit the court to forbid members of the class from allowing their settlement payments to be made to someone else, to order third parties to issue legal warnings, to order third parties to allow their own contracts with customers to be cancelled, or to order third parties to refund money to their customers."

Wilken granted final approval of the settlement on June 6. It combined two class actions known as the "House" case, which settled for \$2.57 billion, and the related "Hubbard" case which settled for \$200 million.

The House case accused the NCAA of violating antitrust laws through its decades-long ban on student-athletes' receiving compensation for use of their name, image, and likeness.

The Hubbard case challenged the NCAA's cap on academic achievement awards that universities could give athletes.

#387156

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California Brief

Deep Dive

Algorithmic Pricing Gets Boost in Ninth Cir. Hotel-Casino Ruling

Aug. 19, 2025, 2:00 AM PDT

A federal appeals court's decision shutting down allegations that Las Vegas hotel-casinos colluded on room prices reduces legal risk for companies using algorithmic software for pricing decisions.

Even if the hotels were aware of their competitors' use of Cendyn Group LLC's pricing software, their individual decisions to use those products themselves were insufficient to support a federal antitrust claim, the US Court of Appeals for the Ninth Circuit held in a first-of-its-kind decision Aug. 15.

The ruling, which upheld a lower court's dismissal of the case, is a significant win for Caesars Entertainment Inc., Wynn Resorts Ltd., and other hotel-casinos accused of using the software to inflate room prices on the Las Vegas Strip. The Ninth Circuit said there's no conspiracy without an agreement.

The decision provides some "cover" for companies seeking to adopt AI for pricing, said Ken Racowski, an antitrust attorney at Holland & Knight LLP.

Companies in other industries including health care and housing are also increasingly using AI to develop products faster, improve business processes, and outperform competitors.

"If you are using pricing software and algorithms, as long as your confidential data is not being used to set pricing for a competitor and your pricing recommendations don't include confidential data from one of your competitors, it feels like there's a much lower risk," Racowski said.

Companies aren't completely free of risk but the ruling helps puts them on "solid ground" when defending against these types of claims, Racowski said.

"You can't have an algorithmic collusion claim without proving the information exchange," he said.

For plaintiffs, the ruling underscores that clear evidence of an agreement to restrain trade is required to succeed on such price-fixing allegations under Section 1 of the Sherman Act.

"If you don't have a whistleblower or inside information about how software actually works, it's going to be very difficult for you to plead one of these cases that survives a motion to dismiss," Racowski said. "Just because a whole bunch of competitors get their information through a common software, it's not enough to establish a Section 1 claim."

'Dangerous' Implications

The ruling signals to companies they can engage in more overt price fixing via algorithm, which will hurt consumers and competitors, some antitrust attorneys warned.

RealPage, Yardi Systems and MultiPlan—now known as Claritev—are among the software companies accused by private plaintiffs of facilitating collusion through their AI price-setting tools.

Pricing algorithms have been scrutinized by federal regulators as well. Last year, the Justice Department—still under the Biden administration—filed an amicus brief in support of plaintiffs in the hotel-casino case, arguing the joint use of pricing algorithms by competitors presents dangers to the free market and can violate Section 1 of the Sherman Act.

The appellate decision "moves the needle in the direction of saying, 'use computers, use algorithms, use AI,' as it becomes ever more sophisticated to cause all the harms that the antitrust laws were designed to prevent," said Joshua Davis, an attorney with plaintiff firm Berger Montague who supervises its San Francisco Bay Area office.

Not only will the ruling encourage companies to engage in anticompetitive behavior but it also puts "tremendous pressure on good actors" to engage in that conduct, he said.

"If you don't, you may be driven out of business because you are trying to compete the right way," Davis said.

The opinion suggests hotels can get around antitrust scrutiny as long as there is no evidence they communicated with each other, said Benjamin D. Brown, co-chair of Cohen Milstein's antitrust practice.

"It's potentially a step down a dangerous path of encouraging competing corporations to collude on price simply by choosing the same entity to outsource their pricing decisions," Brown said. "It creates a very easy roadmap for price fixing."

The plaintiffs are represented by firms including Hagens Berman Sobol Shapiro LLP. The hotels are represented by firms including Skadden, Arps, Slate, Meagher & Flom LLP and Kirkland & Ellis LLP. Cendyn is represented by Latham & Watkins.

The case is Gibson v. Cendyn Group LLC , 9th Cir., No. 24-3576, 8/15/25 .

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Litigation

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Caesars Customers Advance Class Action Over 2023 Data Breach

Aug. 19, 2025, 9:15 AM PDT

Summary by Bloomberg AI

AI Generated



- The plaintiffs alleged Caesars Entertainment Inc. negligently failed to protect the personal information of a "significant number" of its 65 million consumer-loyalty program members that was exposed in a 2023 data breach.
- Judge Anne R. Traum said the plaintiffs adequately pleaded common law claims of negligence, breach of implied contract, and unjust enrichment, and stated claims under various state data-breach notification and consumer-protection statutes.
- The plaintiffs' allegations of increased risk of future identity theft and other injuries were sufficient to confer standing to sue, according to Judge Traum.

Caesars Entertainment Inc. must face a proposed class action alleging it negligently failed to protect the personal information of a "significant number" of the 65 million members of its consumer-loyalty program that was exposed in a 2023 data breach.

The plaintiffs alleged concrete injuries sufficient to establish standing to sue in federal court, and adequately pleaded common law claims of negligence, breach of implied contract, and unjust enrichment, Judge Anne R. Traum of the US District Court for the District of Nevada said in an order docketed Monday.

They also adequately stated claims under the data-breach notification statutes of California, Illinois, and Virginia, and the consumer-protection statutes of California, Illinois, Minnesota, Nevada, New York, Pennsylvania, and Texas, she said.

The plaintiffs alleged in a consolidated complaint that Caesars breached its duties under common law, contract law, industry standards, the Health Insurance Portability and Accountability Act, and the Federal Trade Commission Act to implement reasonable and adequate data-security measures and provide timely notice of the breach.

The cybercriminals were able to obtain a copy of the loyalty program database along with other information through a social-engineering attack on Caesars' IT vendor, the complaint said. The breach likely affected "tens of millions" of its customers, it said.

Information exposed in the incident included names, addresses, phone numbers, email addresses, credit-card numbers, Social Security numbers, and a wide variety of other sensitive information, the complaint said.

Caesars argued in a motion to dismiss that the plaintiffs' alleged increased risk of future identity theft as a result of the breach didn't confer Article III standing to sue, but Traum disagreed.

The plaintiffs' allegations that their highly sensitive information—including Social Security numbers and driver's license numbers—had been stolen and was available on the dark web were sufficient to show that they faced a "substantial and imminent risk" of identity theft, which was enough to confer standing, she said.

They also plausibly alleged injury in the form of reduced value of their personal information; mitigation expenses; and, in the case of plaintiffs who rented hotel rooms, overpayment for services that should have included adequate data security, she said.

The plaintiffs adequately pleaded the elements of their common-law claims, including that Caesars owed a duty to exercise reasonable care in protecting their information, and that the promises in its privacy policy created an implied contract, Traum said.

Their claims under the state-law consumer-protection survived because they sufficiently alleged that Caesars' failure to disclose its data-security deficiencies constituted a knowing omission, she said.

Claggett & Sykes Trial Lawyers, Morgan & Morgan PA, Cohen Milstein Sellers & Toll PLLC, and DiCello Levitt LLP represent the plaintiffs and the proposed class. McDonald Carano LLP and Latham & Watkins LLP represent Caesars.

The case is *In re Data Breach Sec. Litig. Against Caesars Entm't Inc.*, D. Nev., No. 2:23-cv-01447, 8/15/25.

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Judge Strikes Some Claims, Plaintiffs' Experts, in Ozempic Lawsuits

August 18, 2025 | By  **Amanda Bronstad**

What You Need to Know

- Plaintiffs alleged that Ozempic, made by Novo Nordisk, and Eli Lilly's Mounjaro, and six other related drugs, cause stomach paralysis, intestinal obstruction and other gastrointestinal injuries.
- Lawyers for Eli Lilly and Novo Nordisk, the defendants who manufacture the drugs, moved to dismiss 12 of the 17 claims in the complaint as too vague.
- The judge also struck two plaintiffs' experts who would have testified about how to diagnose drug-induced gastroparesis, which is stomach paralysis, of which more than 95% of the cases are expected to allege.



Karen Marston testifies before the Senate Judiciary Committee during her confirmation hearing to be U. S. District Judge for the Eastern District of Pennsylvania, on Wednesday, September 11, 2019. Photo credit:

A federal judge pared down the claims brought over popular injectable diet drug Ozempic and related medications on Monday but refused to dismiss the master complaint altogether.

And in the Monday order, U.S. District Judge Karen Marston, of the Eastern District of Pennsylvania, dismissed many of the claims in a master complaint in the multidistrict litigation, which encompasses more than 2,600 lawsuits. Plaintiffs alleged that Ozempic, made by Novo Nordisk, and Eli Lilly's Mounjaro, and six other related drugs, cause stomach paralysis, intestinal obstruction and other gastrointestinal injuries.

Lawyers for Eli Lilly and Novo Nordisk, the defendants who manufacture the drugs, [moved to dismiss](#) 12 of the 17 claims in the complaint as too vague. On the misrepresentation claims, Eli Lilly and Novo Nordisk had argued that the plaintiffs could not support allegations that their marketing materials misled both consumers and their physicians about the safety and effectiveness of the drugs.

Marston, who [heard oral arguments](#) on April 21, found that was true as to "unidentified communications," particularly to the doctors, but not when it came to the drug labels informing consumers about weight loss benefits and safety.

"Most of plaintiffs' allegations vaguely reference 'communications' without providing any discussion of when and where defendants should have included additional information about testing and safety," Marston found.

Marston also allowed claims that defendants omitted information about the alleged injuries on the drug labels.

Spokespeople from Novo Nordisk and Eli Lilly did not respond to requests for a comment.

"Today's rulings allow the central claims of this litigation to move forward—including that Novo Nordisk and Eli Lilly concealed and failed to warn of the risks of their GLP-1 drugs, reaping massive profits at the expense of patient safety," wrote co-lead plaintiffs' counsel Paul Pennock, of Morgan & Morgan in New York; Parvin Aminolroaya of Seeger Weiss in Ridgefield Park, New Jersey; Jonathan Orent of Motley Rice in Providence, Rhode Island; and Sarah Ruane of Kansas City, Missouri's Wagstaff & Cartmell, in a statement to Law.com.

The dismissal motion did not address one of the primary allegations in the complaint: that Novo Nordisk and Eli Lilly failed to warn about the risks of taking the drugs.

'An Unreliable Diagnosis'

Marston also struck two plaintiffs' experts who would have testified about how to diagnose drug-induced gastroparesis, which is stomach paralysis, of which more than 95% of the cases are expected to be. The experts' reports concluded that patients could be diagnosed based on their history and a physical examination, rather than further testing, but Marston found their conclusions "not reliable." The judge refused to strike a defense expert on the same issue.

In that separate order, Marston acknowledged that some plaintiffs will be unable to prove they were diagnosed with gastroparesis.

"Although unfortunate," Marston wrote, "it would be perhaps more unjust to hold defendants potentially liable for damages based on an unreliable diagnosis."



Paul Pennock of Morgan & Morgan. Courtesy photo

Co-lead plaintiffs' counsel told Law.com, "While we disagree with the court's gastroparesis evidentiary ruling given the diagnostic standards used by the defendants themselves and viewed as relevant by the FDA, we are committed to securing justice for the thousands of patients injured by GLP-1 medications."

Marston's orders are the first substantive decisions on dismissal and experts. In her dismissal order, the judge also struck medical monitoring claims, which she concluded failed to identify specific injuries, and design defect claims, which were preempted by federal law, given that brand-name manufacturers cannot change the makeup of a drug without approval

from the U.S. Food and Drug Administration. She also agreed with defendants that the negligence claims took a "kitchen sink" approach.

"Plaintiffs may assert a general negligence claim on a master basis, but if they choose to do so, counsel must more precisely identify the theories supporting such a claim," Marston ruled.

Marston upheld breach of warranty claims, concluding that plaintiffs had made specific representations that "go beyond the bald assertions of safety and efficacy with which other courts have raised concern."

As a result, Marston allowed plaintiffs until Aug. 29 or Sept. 26 to amend their complaint, depending on how they structure the changes.

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Litigation

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3M Win Gives It Shot at Keeping State PFAS Case in Federal Court

Aug. 19, 2025, 9:37AM PDT

Summary by Bloomberg AI

AI Generated



- The US Court of Appeals for the Second Circuit ruled that 3M Co. has the right to seek to defend itself against Vermont's PFAS damage claims in federal court.
- The Second Circuit vacated the lower court's ruling, which said Vermont's natural resource damage case would remain under the state court's jurisdiction, and remanded the case back to the district court for further proceedings.
- The Second Circuit said the lower court was wrong to determine 3M took too long to try and transfer the case from Vermont's Superior Court to the federal district court, as Vermont's correspondence with the company failed to provide enough information for 3M to know that a factory central to the state's lawsuit produced materials for the federal government.

A federal appeals court ruled Tuesday that the 3M Co. has the right to seek to defend itself against Vermont's PFAS damage claims in federal court.

The US Court of Appeals for the Second Circuit vacated last year's ruling by the US District Court for the District of Vermont, which said Vermont's natural resource damage case would remain under the state court's jurisdiction.

The lower court was wrong to determine 3M took too long to try and transfer the case from Vermont's Superior Court to the federal district court, the Second Circuit said.

Vermont's correspondence with the company failed to provide enough information for 3M to know that a factory central to the state's lawsuit produced materials for the federal government, the court said.

Yet, the Second Circuit didn't rule on what it described as the open question of whether the Vermont's case should remain in federal court. "The District Court did not reach the issue and should do so in the first instance on remand," the opinion said. Judge Raymond J. Lohier Jr. authored the opinion and was joined by Judges Richard J. Sullivan and José A. Cabranes.

The Second Circuit vacated the lower court's ruling, and remanded the case back to the district court for further proceedings.

The state maintains 3M's Rutland facility generated wastes with per- and polyfluoroalkyl substances (PFAS) decades ago that were transported to a city landfill ultimately contaminating ground water.

While the jurisdictional question raised by 3M's appeal involved a novel issue: what information must a defendant have to know before it could seek to remove a lawsuit from state to federal court, the Second Circuit said it didn't have to define that.

Neither an email Vermont's counsel sent to 3M nor a letter the state's Department of Environmental Conservation sent the company provided adequate information, it said.

Instead, 3M's research discovered that its Rutland factory had once produced copper-clad laminates for the Department of Defense. The military specification for the laminates required the use of a type of PFAS. After making the connection, 3M sought removal of the case from state to federal court, the Second Circuit said.

The case is Vermont v. 3M Co. , 2d Cir., No. 24-01250, 8/19/25 .

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Securities Law News

Monsanto Plaintiffs Intervene in Suit Against Bayer (Correct)

Aug. 18, 2025, 7:18 AM PDT; Updated: Aug. 18, 2025, 4:23 PM PDT

The plaintiffs in a multidistrict litigation against Roundup weedkiller maker Monsanto Co. may intervene in a securities suit against Bayer AG, a federal trial court ruled.

Bayer, Monsanto's parent company, hasn't been involved in the Roundup case, and the intervention is for the sole purpose of allowing access to discovery from the securities case, Chief Judge Richard Seeborg said Friday for the US District Court for the Northern District of California.

Bayer—which already has paid out about \$11 billion in verdicts and settlements in the seven-year Roundup litigation — still faces 67,000 suits claiming its glyphosate-based Roundup causes cancer, according to its 2024 annual report. The securities plaintiffs alleged that Bayer didn't properly disclose its potential liability from the Roundup cases when it acquired Monsanto in 2018 for \$63 billion.

Bayer and the securities plaintiffs undertook discovery and reached a settlement that included a protective order, which the intervenors sought to have modified to grant them access to specific discovery items related to their case. Those items included documents concerning Bayer's acquisition of Monsanto and risks associated with Roundup; interrogatories seeking information about Bayer's review of glyphosate during its acquisition of Monsanto; and documents related to the interrogatories. Bayer has said it's considering a range of options to protect the company from financial threats posed by the Roundup litigation.

Seeborg granted the intervention and modification of the protective order. The intervenors didn't unduly delay filing their motion after the settlement of the securities litigation, he said. They were put on notice of the settlement in the Monsanto case in April, tried to negotiate access to the discovery documents, and filed this motion in June after the negotiations failed.

Granting the intervention won't prejudice Bayer, because it will have little effect on the rights of the parties in the securities suit, Seeborg said.

There were also common questions of law and fact in both cases, centering on Bayer's and Monsanto's knowledge of Roundup's allegedly harmful effects, Seeborg said.

The intervenors also sufficiently established their ground for modifying the protective order, Seeborg said. The protected discovery is relevant, and access to it will eliminate a substantial amount of duplicative work, he said. The intervenors will also be bound by the same restrictions on use and disclosure in the original protective order.

But Seeborg refused to modify the protective order to allow any past, present, or future plaintiffs bringing a Roundup case to use the materials, saying it “would too greatly prejudice Bayer.” The relief granted was therefore limited to the plaintiffs within the MDL.

The attorneys who represent the plaintiffs in the Roundup case originally filed the motion to intervene in the securities case, but Seeborg said the plaintiffs in the MDL were the proper intervenors.

Weitz & Luxenberg PC represents the intervenors. Morrison & Foerster LLP and Wachtell Lipton Rosen & Katz LLP represent Bayer.

The case is Sheet Metal Workers Nat'l Pension Fund v. Bayer Aktiengesellschaft , 2025 BL 290341, N.D. Cal., No. 20-CV-04737-RS, 8/15/25 .

(Corrects fourth paragraph to state that Bayer is considering a range of options to protect it from financial threats posed by the Roundup litigation.)

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Is Roblox Getting Worse?



wired.com/story/is-roblox-getting-worse

David Gilbert, Megan Farokhmanesh

August 18, 2025

Roblox can't keep up. After years of criticism that its platform isn't safe for the young gamers it caters to, the multibillion-dollar company announced in July that it was rolling out new measures to protect users, including [an AI-powered age-verification system](#) and other privacy tools. But researchers, experts, and lawyers have concerns the changes won't stop Roblox's bigger problem: staying ahead of individuals using the platform to exploit players.

On [Roblox](#), kids do what they want. Launched in 2006, it was designed to let them use simple tools to create the kind of games their peers want to play. In-game currency—[Robux](#)—allows them to buy avatar outfits and other items. They can chat, trade. Most games are open-world. During Covid-19 lockdowns it gave iPad-wielding kids [a place to semi-socialize](#). The objective of this summer's big hit, *Grow a Garden*, is pretty much what you'd expect. The game helped push daily active users [past 100 million](#) at the end of July, [according to the company](#); various reports [have claimed](#) it was created by a 16-year-old.

That freedom has also made the platform difficult to moderate, particularly given that default settings allow anyone to chat with anyone else while they're playing. With millions of active users, it's hard for kids to know who's operating the boxy avatars on any given server. Roblox's latest safety measures were intended to make it harder for older people to contact younger ones thanks to what the company calls Trusted Connections, but experts remain unsure they'll completely protect minors.

The new rules also come much too late for many of Roblox's users. The company, which made nearly [\\$1 billion in revenue](#) last quarter, has [faced allegations](#) for years that its platform is a haven for not only pedophiles but also [fascists](#) and nihilist groups like [No Lives Matter](#) and [764](#). Now, WIRED has learned that a group of law firms from across the US is looking to file a flood of lawsuits in the coming months, all for clients who accuse the platform of allegedly facilitating the sexual exploitation and grooming of their kids.

"I would assume by the end of September there should be about 100 to hundreds of these [lawsuits] pending, and I would assume by this time next year you'll probably be looking at over 1,000 of these filed," Matt Dolman from Dolman Law Group tells WIRED. "We alone already have about 300 of these cases." Dolman says the vast majority of his clients are under the age of 16 and estimates around 60 percent of the cases involve girls.

"We are deeply troubled by any incident that endangers our users, and safety is a top priority," Roblox spokesperson Stefanie Notaney said in a statement to WIRED. "While no system is perfect, Roblox has implemented rigorous safeguards, including restrictions on

sharing personal information, links, and user-to-user image sharing, and prohibiting sexual conversations.”

To date there have been fewer than a dozen lawsuits filed against Roblox by people accusing the platform of facilitating the sexual exploitation, grooming, and in some cases, sexual assault of minors.

In May, the parents of a [15-year-old girl in Indiana](#) filed a lawsuit alleging she was groomed by a man in his thirties who the suit claims was already on an FBI watch list. In July, the parents of a young teen girl in Alabama filed a lawsuit alleging that as a then-13-year-old she was manipulated by an adult using Robux. According to [the lawsuit](#), the individual convinced her to meet him, and when law enforcement arrived he “was attempting to forcibly remove [the girl's] pants.” On July 29, a [lawsuit was filed](#) on behalf of a 13-year-old girl from Iowa who was allegedly kidnapped and raped by a 37-year-old man. That lawsuit alleged that Roblox has created a “[hunting ground](#)” for child-sex predators” while falsely marketing their platforms as safe for children.

Most Popular

Those suits are just the beginning. Dolman tells WIRED that he has been meeting with “a working group” consisting of lawyers from seven other law firms, all of whom are speaking with a number of clients who are also accusing Roblox of failing to protect children.

“We are currently representing over 400 victims of sexual abuse and grooming on Roblox and Discord,” alleges Martin Gould, a partner at Stinar Gould Grieco & Hensley, referring to the chat platform where many Roblox players connect outside of the games. “Some of them are pretty horrific cases.”

Discord requires that users be at least 13 years of age to be on the platform and the company utilizes machine learning and human moderation to “proactively detect and remove content that violates our policies and to maintain robust systems to prevent sexual exploitation and grooming,” says Discord spokesperson Jillian Susi. The company doesn’t comment on ongoing litigation, Susi says, but notes “Discord is deeply committed to safety.”

Tom Cartmell, a partner at Wagstaff & Cartmell, who worked on the lawsuit involving the 15-year-old girl in Indiana, tells WIRED that his firm is evaluating dozens of additional potential victims. Alexandra Walsh from Pennsylvania-based firm Anapol Weiss, which has filed half a dozen lawsuits against Roblox, said her team is “talking and working with hundreds of families whose kids have been allegedly harmed by the conduct of Roblox and other online platforms.”

A number of other firms who are part of the working group did not respond when WIRED reached out for comment. Those who did said they were working on cases involving both boys and girls between 10 and 15 years old when the alleged exploitation took place.

Roblox has known about these issues for years; the company has been self-reporting cases of exploitation for several years. But because of the platform's previous setup—where users don't have to prove their age and can register an account without a phone number or an email—the lawsuits allege that some of the most depraved individuals and groups online use it to target young children.

At a recent press briefing, Roblox chief safety officer Matt Kaufman said that safety is “something that's been part of the Roblox DNA since the company's inception, almost 20 years ago.” As part of the company's statement to WIRED, Notaney noted, “we dedicate substantial resources, including advanced technology and 24/7 human moderation, to help detect and prevent inappropriate content and behavior, including attempts to direct users off platform, where safety standards and moderation may be less stringent than ours.” But the data show that in reality the number of children who have been exploited on its platform has grown exponentially in recent years.

In 2019, Roblox self-reported [675 cases of suspected child sexual exploitation](#) to the National Center for Missing and Exploited Children (NCMEC). In 2020, that almost [quadrupled to over 2,200 cases](#). By 2024, the [number was over 24,000](#).

A spokesperson for NCMEC tells WIRED that in the first six months of 2025, the company has submitted “nearly as many reports as it did in all of 2024 and has doubled its reports related to online enticement.”

While the spokesperson said the self-reporting numbers are “encouraging developments that suggest an increased effort to address online enticement,” the reality is that the platform is still being weaponized. “In many of these cases, it's parents, guardians, or the children themselves who are sounding the alarm,” says Fallon McNulty, the executive director of NCMEC's CyberTipline. “This reinforces the urgent need for platforms to go beyond the basics and implement stronger protections.”

Still, when the biggest game during the summer break involves kids cultivating their own gardens, it's easy to see why parents let their children continue to use the platform. “Maybe it's because of the graphics, or maybe it's because of the way it's marketed, [but] there's an assumption that Roblox is made for children, and parents assume that there are copious amounts of safeguards,” says Rachel Kowert, a research psychologist and author whose work focuses on the social impact of video games.

To filter out problematic content, Roblox [uses](#) a combination of human moderators and automated systems driven by artificial intelligence and machine learning. But researchers have [repeatedly shown](#) that these measures [can be circumvented](#), replacing banned words with coded language the automated systems struggle to track. In many of the lawsuits filed to date, the victims claim the alleged perpetrator moved conversations from Roblox to platforms like Discord or Snapchat, where there is even less oversight.

When contacted by WIRED, a Snap spokesperson said the company is committed to combatting child sexual exploitation and that it is working to improve its technology to detect people who violate Snapchat's guidelines.

One of the ways Roblox aims to prevent people from moving communications to other platforms is through Trusted Connections, a new feature that allows users over the age of 13 to have unfiltered chats with other users they know. Users who have verified their age—by sharing a video of themselves that is then scanned by AI—can add others between the ages of 13 and 17 without any additional steps.

Users over the age of 18 can only become Trusted Connections if they know a younger user in real life, according to Roblox. This is confirmed by either scanning a QR code in-person or if the adult's phone number appears in a user's contacts.

But critics have concerns that these measures could already be doomed to fail. On Discord, which began to roll out similar features in recent months, it took just a few days for gamers to figure out they could fool age verification. Using the [photo mode in *Death Stranding*](#), they showed the platform an image of the main character, whose model is actor Norman Reedus.

In addition to the lawsuits being filed against Roblox, law enforcement agencies across the US have been tracking grooming on the platform. In 2024, [Bloomberg Businessweek](#) reported that authorities in the US had arrested at least two dozen people that law enforcement accused of abducting or abusing victims they'd met or groomed using Roblox since 2018. The arrests have continued since.

In addition to individual predators on the platform, researchers have shown how members of nihilistic groups like [No Lives Matter](#), [CVLT](#), and [764](#)—all of which operate as part of the broader [Com network](#)—have repeatedly used Roblox as a place to recruit children, encouraging them to share sexually explicit images and videos, self-harm, or in extreme cases take their own lives. Members often do this to gain clout within the groups.

The new safeguards, claims extremism researcher Ry Terran, can only do so much to prevent this. In her view, they give “young teens more opportunities to chat, not less.” The “parental controls for teens are up to the teens, not the parents,” Terran says. “But they're calling these ‘extra safety’ features to shift the burden of safety onto kids and parents and away from themselves.”

Update: 8/18/2024, 5:30 PM EDT: This story has been updated to add comment from Discord.

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POLITICS | POLICY

Bondi Aides Corrupted Antitrust Enforcement, Ousted DOJ Official Says

Roger Alford, formerly second-in-command of the antitrust division, called on a court to scrutinize merger case that led to his firing

By [Dave Michaels](#) [Follow](#)

Aug. 18, 2025 3:05 pm ET



Roger Alford testifying in Washington. PHOTO: AARON SCHWARTZ/SIPA PRESS/REUTERS

An antitrust lawyer who [was dismissed last month](#) from the Justice Department is accusing senior officials of cutting deals with favored lobbyists and undermining the independence of antitrust enforcement.

Roger Alford, formerly the antitrust division's second-in-command, in prepared remarks Monday said two senior aides to Attorney General Pam Bondi had corrupted the department's typical law-enforcement process for dealing with antitrust lawsuits. The two senior officials were heavily involved in [negotiating a proposed settlement](#) in June that allowed [Hewlett Packard Enterprise](#) to acquire a competitor, Juniper Networks.

Alford called on a federal court in San Jose, Calif., that is overseeing the Justice Department's proposed resolution to "examine the surprising truth of what happened." Federal courts have authority to look for any backroom dealings that could have influenced the settlement of a merger lawsuit.

"I hope the court blocks the HPE/Juniper merger," Alford said in prepared remarks for a speech at the Technology Policy Institute in Aspen, Colo. "If you knew what I knew, you would hope so too."

The Justice Department's antitrust division [sued to block HPE's bid](#) for Juniper Networks shortly after the Trump administration took office. The department said in January that merging the two rivals would harm competition in the market for wireless-networking technology. HPE hired political allies of President Trump such as Mike Davis and Arthur Schwartz to fight back and help it reach a settlement that would allow the \$14 billion deal to close.

Alford said Bondi's chief of staff, Chad Mizelle, is prone to favoring outside lawyers and lobbyists with whom he is friends. Mizelle and another top aide to Bondi, Stanley Woodward, played significant roles in how the department settled with HPE and Juniper in June, Alford said. Trump has nominated Woodward to be the Justice Department's third-ranking official.

"Chad Mizelle accepts party meetings and makes key decisions depending on whether the request or information comes from a MAGA friend," Alford said in the prepared remarks. "Aware of this injustice, companies are hiring lawyers and influence peddlers to bolster their MAGA credentials and pervert traditional law enforcement."

Alford and another former senior antitrust enforcer, William Rinner, were fired last month after objecting to the involvement of lobbyists and politically connected lawyers in the HPE-Juniper settlement talks, according to people familiar with the matter. Gail Slater, the department's top antitrust official, also pushed back on the infusion of lobbyists into her world.

HPE's success in dealing with the department has prompted other companies facing antitrust risks to hire lobbyists who are close to the Trump administration, Alford said in his speech. The department is "now overwhelmed with lobbyists with little antitrust expertise going above the antitrust division leadership seeking special favors with warm hugs," he said.

Alford, a law professor at the University of Notre Dame, served in the first Trump administration as the Justice Department's top antitrust official for international

affairs. “I experienced nothing remotely like this when I served at the DOJ the last time,” he said.

To settle the government’s lawsuit, HPE agreed to sell a small part of its networking business and provide competitors with limited access to technology it acquired from Juniper. A Justice Department spokesman earlier said the settlement “was based only on the merits of the transaction.”

Write to Dave Michaels at dave.michaels@wsj.com

Videos

Profile | **Privacy**

Meet the Labaton Duo That Hit Meta With a Calif. Wiretapping Verdict in Fertility App Case

August 19, 2025 | By  **Ross Todd**



Labaton Keller Sucharow partners Michael Canty, left, and Carol Villegas, right. Photos: Ryland West/ALM

In the abstract, it sounds daunting.

Labaton Keller Sucharow partners **Michael Canty** and **Carol Villegas** led a trial team charged with proving that Meta Platforms Inc. violated the California Invasion of Privacy Act, the state's wiretap law, by collecting reproductive and sexual health data from Flo Health, a popular period-tracking and fertility app, without the consent of users.

In reality, it [proved doable](#).

After a two-week trial in San Francisco federal court, [jurors found](#) earlier this month that Meta [violated CIPA](#), which carries potential statutory damages of [\\$5,000 per violation](#). If the verdict stands up in the face of post-trial motions from Meta's lawyers at **Latham & Watkins**, damages could be staggering. If one million class members come forward in California—a number that Canty called “conservative” when we spoke last week—the number could reach \$5 billion.

“It's a claims-made process, but the numbers, based on what we believe the class size to be, are going to be enormous,” he said.

Litigation Daily caught up with Canty and Villegas to discuss how they developed their trial chops and how they approached presenting the Flo Health case to a jury. Although the claims they were trying were novel, the approach they described was straightforward and traditional.

“In Carol's opening, she laid out clearly what we needed to prove, how we were going to prove it, and the evidence that we were going to use and present at the trial to prove it,” Canty said. “It just comes back to that basic concept: Present to the jury the evidence that you have that makes out the elements of the claim. No more. No less. And I think we did that.”

Both Villegas and Canty cut their teeth as trial lawyers as prosecutors in New York—Villegas in the district attorney's office in Staten Island and Canty in the D.A.'s office in Nassau County, then as a federal prosecutor in the Eastern District of New York.

Villegas said she benefited from the experience of being in court every day as a prosecutor, calling it a “baptism by fire” and “probably the best way to learn how to do a trial.”

“You are talking to victims every single day, cops every single day,” she said. “You're going down the stairs and the bureau chief is handing you a file that you've never seen before, telling you you have a trial that afternoon.”

“You don't have the resources that you do in the private sector, so you have to learn how to do everything. You are the secretary, the paralegal,” she said. “I think that gave me a tremendous amount of training, being in front of many different kinds of judges, being up against many different kinds of defense counsel and representing all kinds of victims.”

She said she's missed trying cases since her move to the private sector, where only about 1% of civil cases make it to trial. “It's been a minute since I've been on trial, but I have to tell you, it comes back really quick.”

Canty prosecuted arson and homicide cases in Nassau County before moving to the Brooklyn U.S. attorney's office. He said that people often assume he picked up his trial skills as a federal prosecutor.

“I certainly honed a lot of skills there. But nothing trains you for being a trial lawyer like working in a district attorney's office, where you have 200 cases,” he said.

The Flo Health case is not the firm's first foray into consumer protection and data privacy. Canty was among the lead counsel in the \$650 million class-action settlement Facebook reached to settle claims its facial recognition technology—the "Tag Suggestions" feature—violated the Illinois Biometric Information Privacy Act. He has also served as [co-lead counsel](#) in a class action bringing wire-tapping claims against Amazon based on allegations Alexa-enabled devices surreptitiously record customers without their consent. Villegas, meanwhile, was recently [appointed lead counsel](#) for teachers' unions bringing claims against educational technology company PowerSchool related to a data breach last year that exposed the personal information of millions of teachers across the United States and Canada, as well as an estimated 62 million students.

Villegas said that the firm doesn't tend to handle “run-of-the-mill” data breach cases where credit card numbers are stolen. “We look for something that has a plus factor ... something special,” she said. Canty added: “We look for opportunities where we see real egregious behavior, and we look to kind of deploy the resources that we have at Labaton to see if we can effect some change.”

In the PowerSchool case, for instance, Villegas said children's data is at issue. The Flo Health case, she pointed out, involves reproductive health information. “So, it wasn't just like, ‘Here's my information. I want to buy a shirt from Banana Republic,’” she said. “There needs to be a heightened standard for health information. Those are the types of cases we look for.”

With Complex Technology, Analogies Aren't the Only Answer

The technology at issue in the Flo Health case was a software development kit, or SDK. Villegas described the SDK at issue as code Meta provides to app developers for free that helps track certain metrics, such as how many people stop answering onboarding questions. It's the sort of information that can help developers make a more useful app. “Software development kits aren't bad things. They're actually very useful to app developers,” she said. But she added Meta provided its SDK to developers for free in exchange for the right to record information that users put into the app. “And unfortunately ... people aren't told that this is happening,” she said.

Villegas described how one of the plaintiffs' experts went through the Flo Health app screen-by-screen, showing what code gets sent to Meta at each step. “I think the jury was able to get a real behind-the-scenes view of how this technology works,” she said.

A Clear Narrative and an Appeal to Common Sense

Meta's lawyers contended at trial that Meta had not asked for user information from Flo Health and couldn't read the information it received. But Canty said the plaintiffs' team was able to present evidence that the first thing Meta did with the information once it was in hand was try to connect it with a known Facebook user—something he said the company was able to do 34 million times. "You don't do that unless you want the data," he said.

"When you're using it, you're benefiting from it, but you turn around and say, 'Well, we really didn't want it' ... That doesn't make sense," Canty said.

"One argument we made was that the best tool you have in the jury is your common sense."

Villegas said that for her and Canty, the case was centered on Meta not informing people about what was really happening with their information. She said that she thought it was "really compelling" on that front for the jury to hear directly from the plaintiffs—women at different stages in their lives, from a young teenage girl to a woman in menopause, with some seeking to get pregnant and others seeking to avoid pregnancy.

"Could you imagine getting in front of a room of 100 people and talking about your period with strangers?" Villegas said. "This is what these women did in order to be able to convey to the jury how their privacy was violated. I have such a tremendous amount of respect for them."

Canty pointed in particular to plaintiff Autumn Meigs, a recent college graduate who was a teenager when the case was filed. "It takes some bravery to stand up there in federal district court, take an oath and testify as to what you were doing on an app when you were 15 years old in front of jurors, in front of a judge, in front of a courtroom full of people," Canty said. "It takes a special person to step up and do that."

Villegas said that the whole team was stoic as the verdict was being read. But, she said, that changed when the group stepped outside the courtroom. "I was crying. The clients were all crying. The lawyers were all crying," she said. "It was pretty emotional. It was an incredible moment."

A Meta spokesperson, in [an emailed statement](#) to my colleague Kat Black, said that the company "vigorously disagree[d] with this outcome" and would explore all legal options.

"The plaintiffs' claims against Meta are simply false," the spokesperson said. "User privacy is important to Meta, which is why we do not want health or other sensitive information and why our terms prohibit developers from sending any."

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NOT FOR REPRINT

Tesla drivers can pursue class action over self-driving claims, judge rules



reuters.com/sustainability/boards-policy-regulation/tesla-drivers-can-pursue-class-action-over-self-driving-claims-judge-rules-2025-08-19

Jonathan Stempel

August 19, 2025

A Tesla Model 3 vehicle drives using FSD (Full Self-Driving) in Encinitas, California, U.S., October 18, 2023. REUTERS/Mike Blake/File Photo [Purchase Licensing Rights, opens new tab](#)

Aug 19 (Reuters) - Tesla ([TSLA.O](#)), [opens new tab](#) must face a certified class action by [California](#) drivers who said [Elon Musk](#) misled them for eight years about the self-driving capabilities of his company's electric vehicles.

U.S. District Judge Rita Lin said the common question of whether Tesla lacked sensors to achieve high-level autonomy plus its inability to "demonstrate a long-distance autonomous drive with any of its vehicles" justified group lawsuits by two sets of drivers who bought its Full Self-Driving technology package.

In her decision on Monday, the San Francisco-based judge also said thousands of people likely saw Tesla's claim in the "Autopilot" section of its website from October 2016 to August 2024 that its vehicles contained hardware for full self-driving.

Tesla made a similar claim in a blog post, newsletter and quarterly earnings call, as did Musk at a 2016 press conference.

"While these channels alone may not ordinarily be enough to establish class-wide exposure for a traditional car manufacturer, Tesla's distinctive advertising strategy warrants a departure from the typical approach," Lin wrote.

Tesla does not use mass advertising or independent dealers, and Lin said it was reasonable to infer that class members interested in Full Self-Driving technology went to Tesla's website to get information.

Lawyers for Tesla did not immediately respond to requests for comment on Tuesday.

The Austin, Texas-based company had said it was unreasonable to assume all class members saw the challenged statements, and there was no common proof the statements were material.

Class actions can allow larger recoveries at lower cost than if plaintiffs were forced to sue individually.

The California classes include drivers who bought the Full Self-Driving package from May 19, 2017, to July 31, 2024, and opted out of Tesla's arbitration agreement, and drivers who bought the package from October 20, 2016, to May 19, 2017.

Lin refused to certify a class of drivers who bought Tesla's Enhanced Autopilot package because its "core product qualities" did not require full self-driving functionality, making Tesla's alleged false statements immaterial to purchasing decisions.

Federal officials have [examined](#) whether Tesla's full self-driving software is safe. The software is also a key component of Tesla's [robotaxis](#).

The case is In re Tesla Advanced Driver Assistance Systems Litigation, U.S. District Court, Northern District of California, No. 22-05240.

Reporting by Jonathan Stempel in New York; Editing by Mark Porter

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Class Action

Manage Newsletters

Tesla Must Face Customer Classes in Self-Driving Fraud Suit (1)

Aug. 19, 2025, 5:56 AM PDT; Updated: Aug. 19, 2025, 9:33 AM PDT

Summary by Bloomberg AI

AI Generated



- A federal judge certified two classes of customers accusing Tesla Inc. of fraud over allegedly misleading statements about its electric vehicles' self-driving capabilities.
- The certified classes include Tesla buyers or leasers who paid for the full self-driving technology package during specific time periods and either purchased or leased the vehicle in California or currently live there.
- The plaintiffs have shown that class members were exposed to Tesla CEO Elon Musk's statements about hardware and that the hardware statement would be material to a full self-driving package purchaser, according to Judge Rita F. Lin.

A federal judge certified two classes of customers accusing Tesla Inc. of fraud over allegedly misleading statements the company made about its electric vehicles' self-driving capabilities.

Thousands of people each month likely read on Tesla's website, newsletters, and blog posts that its vehicles are equipped with the hardware necessary for "full self-driving capability," said Judge Rita F. Lin of the US District Court for the Northern District of California on Monday.

One of the certified classes is for those who purchased or leased a Tesla and paid a separate amount for the full self-driving technology package from May 2017 to July 2024, and who either purchased or leased that vehicle in California or who currently live there, or who opted out of the arbitration agreement.

The other class includes Tesla buyers or leasers who paid a separate amount for the self-driving package during the "pre-arbitration period" of between October 2016 and May 2017 and who bought the car in California or who live there.

Plaintiffs have met their burden of showing that their grievances share a common question of fact or law and can prove that those questions hold more sway than questions only affecting individual plaintiffs.

The plaintiffs have shown by a preponderance of the evidence that class members were exposed to Tesla CEO Elon Musk's statements about hardware from October of 2016 to August of 2024.

But although the plaintiffs allege that Musk also relied on another type of misrepresentation—his “cross-country statement” that a company vehicle would be able to drive itself across the country within the following year—the evidence shows that Musk only made this statement four times, the first during an October 2016 news conference, Lin said.

“Perhaps most critically, there is no evidence that the Cross-Country statement was located prominently” on the website throughout the class period so that a prospective customer would encounter it while researching a purchase of the package, the judge said.

The plaintiffs have sufficiently established that the hardware statement would be material to a full self-driving package purchaser.

Lin said she agreed with the plaintiff's argument that damages can be established through common proof. “Here, Plaintiff's theory is that because Tesla has delivered no assisted or self-driving features that could be ‘plausibly marketed as safe, reliable self-driving features,’ and therefore delivered no value, the appropriate measure of damages” would require refunding class members for their purchases or subscriptions to FSD, Lin said.

Thomas LoSavio has demonstrated that he's adequate as lead plaintiff. “LoSavio has attested that he will continue to actively oversee the litigation and collaborate with class counsel to protect the interests of absent class members,” the judge said.

LoSavio also retained experienced counsel that have litigated numerous complex class actions in California, Lin said.

Cotchett Pitre and McCarthy LLP, Casey Gerry Schenk Francavilla Blatt and Penfield LLP, and Bottini & Bottini Inc. represent the plaintiffs. Wilmer Cutler Pickering Hale & Dorr LLP represents Tesla.

The case is *In Re Tesla Advanced Driver Assist. Systems Lit.*, 2025 BL 292291, N.D. Cal., No. 3:22-cv-05240, order 8/18/25.

(Story updated with detail from Judge Lin's order.)

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Class Action

Manage Newsletters

Insight

Why Gen Z, Millennial Lawyers Are Leaving Big Law for Small Firms

Aug. 19, 2025, 1:30 AM PDT

Summary by Bloomberg AI

AI Generated



- Smaller firms have upped their game, doing sophisticated work and offering less money for fewer hours, which many associates prefer.
- Some smaller firms offer purpose-driven work, which resonates with millennials and Gen Z lawyers, and have more flexible policies, such as hybrid work.
- Covid-19 changed the way lawyers work, and many are pushing back against Big Law firms' increased face time and in-office requirements, and are reevaluating their priorities, with billing 2,400 hours no longer being appealing.

Many of the associates I've spoken to—including first years—are done with Big Law. They are eager to move to a smaller firm or bust.

Making this career transition, especially if you're quite junior, possibly means you can't move back to Big Law later in your career, but this consideration is generally met with indifference for these associates. What's driving this exodus? A few key trends stand out:

- **Smaller firms have upped their game.** There are some compelling smaller firms doing sophisticated work. Yes, they pay less. But for many associates without crippling student loans, the cost-benefit analysis is clear. They'll take less money for fewer hours, and they won't think twice about it. They want their time back. One Big Law associate told me, crying, that she wanted to be able to go to the grocery store on the weekend without knowing that she needed to bring her laptop into the store with her.
- **Some smaller firms offer purpose-driven work,** which resonates with millennials and Gen Z lawyers. This is likely a reflection of generational change, but also the fraught current moment in US politics. What is political feels very personal right now to many young lawyers. Issues such as defending the climate and protecting immigrants seeking asylum feels more pressing than they may have in years past. I recently represented a lawyer who was planning to leave her immigration nonprofit to make more money, but ultimately decided she'd rather stay and fight.

- **Covid-19 changed us all—across generations.** Many younger associates know only hybrid work and are pushing back when Big Law firms increase their face time and in-office requirements. More senior lawyers saw how capable they were of doing their work at the highest levels while fully remote and are uninterested in going back. Many smaller firms have more flexible policies. Beyond in-office attendance, the pandemic accelerated a reevaluation of life's priorities, and billing 2,400 hours just isn't passing muster for many smart, ambitious lawyers.
- **The conversation around mental health has changed.** According to the ALM 2024 Mental Health Survey, more lawyers are raising their hands to acknowledge mental health challenges. A staggering 68.7% reported being anxious, while about a third reported being depressed. Specifically, 65% of respondents said that billable hour pressure negatively impacts their mental health. Rate hikes have the same impact; lawyers feel increasing pressure to perform more and faster.
- **Equity partnership in Big Law may feel totally unattainable to this next generation of lawyers.** The expansion into a non-equity tier where, candidly, many lawyers languish, makes the big golden ring of equity seem beyond slippery. Partnership may also look unappealing. "I look at the partners I work for, and I don't want their lives," a fifth year in Big Law told me. "They seem to hardly see their kids," the fifth year told me, "and many of them are divorced." Another reason partnership may look either impossible to reach or unappealing may be because associates don't see partners who are similar to them in terms of demographics and background. The diversification of equity partnership could change the game.
- **Smaller firms may offer earlier hands-on experience, client contact, stand-up opportunities, etc.** Young lawyers who attended online law school due to Covid-19 are more than ready to be put in the game. For many years, associates were asking for more stand-up experience and client contact regardless of their generation.

Despite the appeal of smaller firms to younger attorneys, it's worth noting that not all smaller firms are created equal. The worst-case scenario is that an associate moves to a smaller firm, takes a big pay cut, and is still working Big Law hours.

It's important to vet the smaller firm: Ask not only what the billable requirement is (and it can range dramatically—from 1,400 to 2,000 hours), but also the *average hours billed* on the team over the last year. Ask partners (post-offer) about how they react to client demands that come in on Friday night at 10 p.m. Make sure their in-office policy is consistent with what you're seeking. Speak to associates in more casual, off-the-record chats about their lived experience at the firm.

The right smaller firm can be a revelation to a Big Law associate who has felt like a square peg in a round hole. If Big Law firms are seeing higher than the expected level of attrition, they would be wise to track where associates are headed.

If more people are moving to smaller firms, then it may be time to assess what firms can do to retain talented team members—from loosening in-office requirements, to prorating billable hour targets when an associate takes two weeks of vacation, to giving billable credit for wellness endeavors.

If the hiring pendulum swings back in favor of associates, these changes may become the blueprint for how Big Law evolves. And, in turn, we may see smaller firms pivot their pitch as well, to continue to compete.

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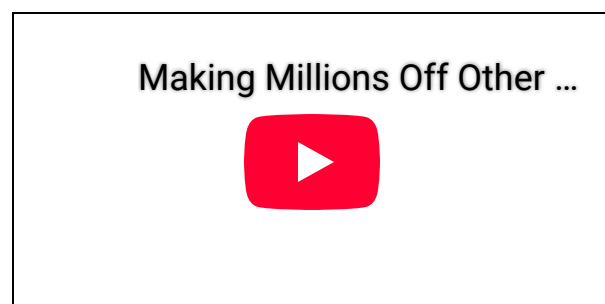
California Brief

Burford Aims to Buy Stakes in US Law Firms, Rival Private Equity

Aug. 18, 2025, 11:33 AM PDT

Burford Capital is eyeing new territory after investing in lawsuits for nearly two decades: The litigation funder wants to buy stakes in US law firms.

Burford is pitching the idea of purchasing a minority stake to several US law firms, according to Travis Lenkner, its chief development officer. The funder is angling itself as an alternative to private equity companies already backing some firms through deals to provide back office services.



WATCH: How litigation finance works.

"Burford is probably the most natural investor in this space," Lenkner said. "We're not structured predominantly as a private equity fund, so we can be a very patient, permanent investor in a structure like this."

The move would mark a significant shift from Burford's bread and butter of investing in single cases and portfolio commercial litigation in the US, but it's something that's been on the horizon for quite some time. It follows the rise in outside investment in UK law firms and private equity's growing involvement in other professional services industries, which could serve as a blueprint.

With \$3 billion in market capitalization, publicly traded Burford is big enough to pull its weight in a space mostly inhabited by private equity giants, said Lenkner.

"Our size and capital structure I think gives us a relative advantage when you're talking about other investors from within the legal finance space as compared to broader private equity," he said.

Lenkner would not specify the number of law firms Burford is in talks with but said it's a "significant pipeline" for the company. The firms include leading larger firms as well as boutiques, he said. The plan was first reported by Financial Times.

Lenkner said potential conflicts—such as a firm with Burford investment also representing defendants in a Burford-funded case—would be addressed at the beginning of any arrangement. Burford would be a passive minority investor in a service company, meaning it wouldn't have access to confidential information in any cases, he said.

A few states in recent years have loosened strict restrictions on outside investment in law firms, opening a path for litigation funders, private equity firms, and others to pour money directly into firms. Big Four consultancy KPMG in February won approval to open a US law firm under Arizona's alternative business structure program. Utah, Puerto Rico and Washington, DC also have relaxed restrictions on non-lawyer ownership of law firms to varying degrees.

Arizona in particular has become a popular locale for litigation funders and outside capital sources to partake in owning law firms, thereby having equity in the business and freeing law firms from accruing loan interest rates. Mass tort firms in particular have taken to alternative business structures and used them for lead generation and national advertisements.

In states that don't allow nonlawyer ownership, some capital providers have used "managed service organizations" as workarounds. Law firms are split in these arrangements, with the legal work flowing through a traditional lawyer-owner operation and the MSO controlling firm assets and selling back-office services to the law firm for a fee. The model has traditionally been used to allow outside investors into accounting firms and medical practices.

Lenkner says Burford is exploring both options, but the MSO structure might be more accessible for national law firms.

"This is for us an incremental step, but an exciting one," said Lenkner. "It's where the profession is going and the question is not whether these transactions will happen, it is how quickly and with whom."

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Tech Trade Group's Expert Witness Accused of Submitting AI-Generated Fabrications

August 19, 2025 | By **Michael Gennaro**



Credit: Kudryavtsev/Adobe Stock

An internet trade group's sole expert witness in a high-stakes lawsuit challenging the constitutionality of Louisiana's age-verification law fabricated quotes and used bogus legal citations generated by artificial intelligence, the state alleges [in a new court filing](#).

In the filing, Louisiana is asking Judge John deGravelles to exclude the testimony of licensed clinical psychologist Anthony Bean, noting that its own expert witness, Jean Twenge, was unable to locate any of the quotes appearing in Bean's report.

"That might suggest an honest mistake—if the quotes were real. They are not," says the filing from the Louisiana Attorney General's Office and its outside counsel, Sher Garner Cahill Richter Klein & Hilbert.

Washington, D.C.-based NetChoice—whose members include such tech titans as Amazon, Google, Meta and Netflix—[filed a federal lawsuit](#) in March seeking to overturn Louisiana's Secure Online Child Interaction and Age Limitation Act, which the State Legislature passed in 2023.

In an Aug. 15 filing, Louisiana's legal team asserts that a " cursory comparison" of Bean's declaration to referenced sources reveals glaring inaccuracies indicative of "AI hallucinations" rather than legitimate scholarship.

The state highlights several defects, including incorrect website URLs, erroneous volume and page citations and a formatting style resembling an AI-generated document.

Bean, who is based in Fort Worth, Texas, did not respond to repeated requests for comment from Law.com. According to Bean's LinkedIn, he received a bachelor's degree in psychology from Framingham State University in 2008, a master's degree in criminology from Florida State University in 2010 and a doctorate in clinical psychology in 2015 from Pacifica.

[In his declaration](#), Bean said NetChoice agreed to pay him \$750 an hour to serve as an expert witness on "the alleged causal relationship between social media use and youth mental health outcomes."

In response to a request for comment from Law.com, NetChoice said it had not used Bean previously and would be dropping him as an expert and withdrawing his declaration.

The spokesperson said Bean had sent to NetChoice a completed version of the report that had accurate quotes and citations. However, after NetChoice requested a minor revision, "Dr. Bean then accidentally sent us a different version that misattributed Dr. Bean's summaries of publications as quotations from the authors of those publications."

Louisiana's Republican attorney general, Liz Murrill, made hay of the situation on X, saying it was "mind-boggling" that NetChoice was trying to overturn the age-verification law using an "expert" whose "opinions are AI hallucinations."

NetChoice said the errors in the report were instances of "misattribution," not AI hallucinations, and it criticized the state for drumming up media attention of the miscue rather than bringing it to the organization's attention before making a splashy public filing.

In its filing Friday, Louisiana said NetChoice has only itself to blame. "A cursory comparison between Dr. Bean's report and the disclosed original sources would have alerted NetChoice that

something is amiss. In fact, just *reading* Dr. Bean's report would have done so."

It had even sharper words for Bean: "Dr. Bean's reliability is shot, and the proof is overwhelming."

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Securities Law News

Top Law Schools Boost AI Training as Legal Citation Errors Grow

Aug. 19, 2025, 2:00 AM PDT

Incidents of AI-generated errors in legal citations have increased the pressure on law schools to teach responsible use of the technology.

The University of Chicago, University of Pennsylvania, and Yale law schools are among those augmenting curricula. In new or updated classes, schools are training their students to understand the AI tools' limitations and to check their work.

"You can never give enough reminders and enough instruction to people about the fact that you cannot use AI to replace human judgment, human research, human writing skills, and a human's job to verify whether something is actually true or not," said William Hubbard, deputy dean of University of Chicago Law School.

The elite law schools' program changes come after attorneys have been fined or faced sanctions for their unchecked usage of artificial intelligence. The schools are updating and expanding their offerings to better prepare young lawyers for the risks generative AI poses and to let students flex tech muscles while the stakes are low.

At Chicago, "Generative AI in Legal Practice," "Editing, Advocacy, and AI," and "Regulation of AI: Legal and Constitutional Issues" are examples of classes offered this fall. The law school intends to enroll 15-20 students per class.

Hubbard said professors and administrators are also trying to incorporate the tool into doctrinal classes and clinical teaching. "Some professors are embracing it more aggressively than others," he said.

Ahead of Game

Students and faculty at University of Pennsylvania Carey Law School will have access to ChatGPT Edu in their legal writing classes this fall to foster conversations about using the tool in their work. The school will enroll approximately 300 students, which includes all of the first-year students and the third-year legal writing fellows, into the OpenAI program. This "secure" model of ChatGPT, where inputs are not shared with public versions, was made specifically for universities.

"We can't pretend (AI) isn't happening, it's going to happen," said Professor Polk Wagner, deputy dean for academic affairs and innovation at Penn. "It's going to have to be an important feature of modern legal education."

Along with the rollout of ChatGPT Edu, the school is offering two seminar courses this fall for approximately 12 students each. These additions are teaching students to be "ahead of the game" so they can be competitive, Wagner said.

In Bloomberg Law's Path to Practice fall 2024 survey, 36% of professors and 33% of law students said that AI has been included in their elective course offerings, while 6% of students and 12% of professors said AI has been included in doctrinal classes.

Aside from the risks that sloppy use of AI engenders, there's also an existential concern that AI could eliminate jobs.

Major law firms operate on a pyramid model with a tranche of entry-level associates forming the base and a select group of equity partners at the very top.

AI's Law School Presence Is Chiefly in Electives, Special Programs

'What learning opportunities on AI are available for students at your law school?'



Source: Bloomberg Law's Path to Practice Survey, conducted from April 29 to May 13, 2024.

Note: Respondents could select more than one answer. "Professors" includes all respondents who teach law students, including practicing attorneys who teach law students part-time.

Bloomberg Law

Nikia Gray, the executive director of the National Association for Law Placement, said the advancement of AI is going to require entry-level associates to work quicker to catch up to the caliber of a mid-level associate.

This “senior leverage model,” as Gray describes it, will continue to emerge as large law firms invest in AI. This model, which Gray said favors experienced attorneys over junior ones, will lead to law firms decreasing entry-level hiring as AI will conceivably do the tasks that junior associates do now.

Student Driven

Students at Harvard Law School last year cited the lack of AI integration into coursework and the rapid development of the technology as the reasons they created the Harvard Law Artificial Intelligence Student Association. With about 250 subscribers, it explores the ethical, legal, and societal impacts of AI.

Kevin Wei, a co-founder and rising third year, said the group is a “big-tent organization.”

Last year Harvard’s policy for AI was updated to allow students to use AI in the same way they’d use non-AI resources. However, Wei said he doesn’t recall a professor ever explicitly allowing classroom usage and said that the updates haven’t been widely communicated to students.

Still, Wei said the policy change is a “promising sign” that administration is beginning to take AI seriously.

Harvard Law didn’t immediately respond to a request for comment.

Lab Work

Chicago last week launched a lab where students will design an AI chatbot focused on renters’ rights with Kimball Dean Parker, the CEO of legal tech company, SixFifty.

At Yale Law School, Professor Scott Shapiro teaches “Media Freedom and Information Access Clinic,” a pro-bono legal clinic for independent documentary filmmakers. To serve more clients, students train language models about media law and learn its setbacks and limitations as well as practical usage.

“About a year and a half ago, I thought, we’re always addressing the same issues, why don’t we just build an AI model,” Shapiro said.



Podcast: When a Law Firm’s Tech Venture Goes South, the Lawsuits Fly

Using data collected from pro bono work, he taught a large language model about media law. After students trained the model to think like a media attorney, they fed it memos that students wrote in the clinic. The model's outputs are then checked for hallucinations.

"At Yale we don't just teach law students law, we teach them how to teach AI models law," Shapiro said.

Northwestern University's Pritzker School of Law offers a collaboration with the Computer Science Department in the McCormick School of Engineering. Interdisciplinary teams work to provide AI prototypes for external partners including Adobe, Thomson Reuters, and Allstate.

Daniel Linna, the director of law and technology initiatives, said providing the space for innovation, as well as coursework dedicated to AI, are essential.

"We're doing a disservice to our students if we don't let them know how to use these tools well," Linna said.

He added, "If you're not positioned to do that as a student when you leave law school, you're going to have less career success long-term."

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Elite Law Schools Are Offering Classes On Responsible AI Use



abovethelaw.com/2025/08/elite-law-schools-are-offering-classes-on-responsible-ai-use

Chris Williams

August 19, 2025



It's okay, this used to confuse me too.

Convenience and laziness go hand in hand like great power and responsibility. We've seen the consequences of lazy lawyers and judges using widely accessible large language models irresponsibly. Citing to nonexistent cases can get your cemented in the annals of the New York Times and on [Above The Law's Point and Laugh Wall™](#). Mike Lindell's lawyers [earned a sanction after shoddy LLM use](#), Alabama [lost its chosen lawyers over fake cases](#), and a judge took the time to (professionally) mock a lawyer whose apology for using AI [included purple prose that would make William Faulkner blush](#). It would be one thing if it were just lawyers showing poor judgement, but judges have hopped on the trend too — one trial judge managed to mail-in their job so hard that [an "AI hallucination" became good law for a short while](#).

At this point, the general public would benefit if someone stepped in to save lawyers and judges from completely outsourcing their jobs to LLMs. Who better to intervene than law schools? [Bloomberg Law](#) has coverage:

Incidents of AI-generated errors in legal citations have increased the pressure on law schools to teach responsible use of the technology.

The University of Chicago, University of Pennsylvania, and Yale law schools are among those augmenting curricula. In new or updated classes, schools are training their students to understand the AI tools' limitations and to check their work.

"You can never give enough reminders and enough instruction to people about the fact that you cannot use AI to replace human judgment, human research, human writing skills, and a human's job to verify whether something is actually true or not," said William Hubbard, deputy dean of University of Chicago Law School.

This is an amazing heuristic to have. One, because it directly counters Elon Musk's sentiment that [feeding Grok all prior precedent will replace judges](#), but also because it refocuses agency back on what matters — the person with a JD responsible for advocating on their client's behalf. Language like "AI Hallucinations" does a phenomenal job of covering up the real issue behind the negligence that allows errors to make their way in to briefs and caselaw: [PEBCAK](#). I'll admit it doesn't roll off of the tongue quite as nicely as "AI hallucination" does, but it's a better alternative:

Remember: bad AI cites don't make the AI look nearly as bad as it makes you look lazy. You, and your school, should have known better than to let that happen.

[Top Law Schools Boost AI Training as Legal Citation Errors Grow](#) [Bloomberg Law]

Earlier: [For The Love Of All That Is Holy, Stop Blaming ChatGPT For This Bad Brief](#)

[Trial Court Decides Case Based On AI-Hallucinated Caselaw](#)

[T14 Law School Actually Wants You To Use AI In The Application Process](#)



Chris Williams became a social media manager and assistant editor for Above the Law in June 2021. Prior to joining the staff, he moonlighted as a minor Memelord™ in the Facebook group Law School Memes for Edgy T14s . He endured Missouri long enough to graduate from Washington University in St. Louis School of Law. He is a former boatbuilder who is learning to swim, is interested in critical race theory, philosophy, and humor, and has a love for cycling that occasionally annoys his peers. You can reach him by email at cwilliams@abovethelaw.com and by tweet at [@WritesForRent](https://twitter.com/WritesForRent).

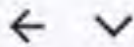


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Good thing no one uses Microsoft Excel for anything related to legal, regulatory or compliance business functions

[www.theverge.com/news/761338/...](https://www.theverge.com/news/761338/)



Microsoft Excel adds Copilot AI to help ...
theverge.com



The Verge

5 | ≡

successor to the LABS.GENERATIVEAI function Microsoft started experimenting with in 2023.

Microsoft notes that you can combine its new AI function with other Excel functions, including IF, SWITCH, LAMBDA, or WRAPROWS. The company adds that information sent through Excel's COPILOT function is “never” used for AI training, as “the input remains confidential and is used solely to generate your requested output.”

The COPILOT function comes with a couple of limitations, as it can't access information outside your spreadsheet, and you can only use it to calculate 100 functions every 10 minutes. Microsoft also warns against using the AI function for numerical calculations or in “high-stakes



<https://bsky.app/profile/ketanjoshi.co/post/3lwrhyzw5xc2c>

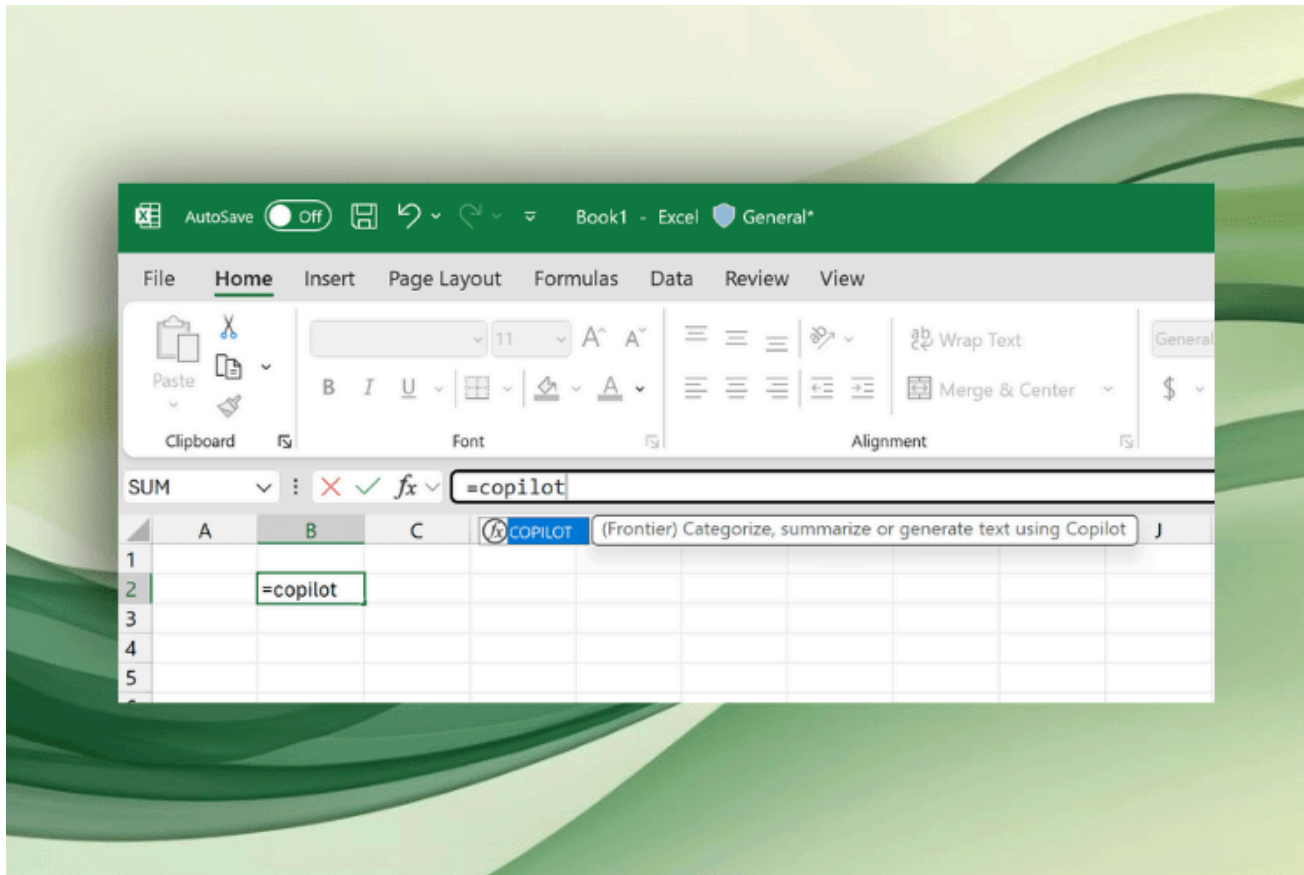
Microsoft Excel adds Copilot AI to help fill in spreadsheet cells



[theverge.com/news/761338/microsoft-excel-ai-copilot-spreadsheet-cell-filling](https://www.theverge.com/news/761338/microsoft-excel-ai-copilot-spreadsheet-cell-filling)

Emma Roth

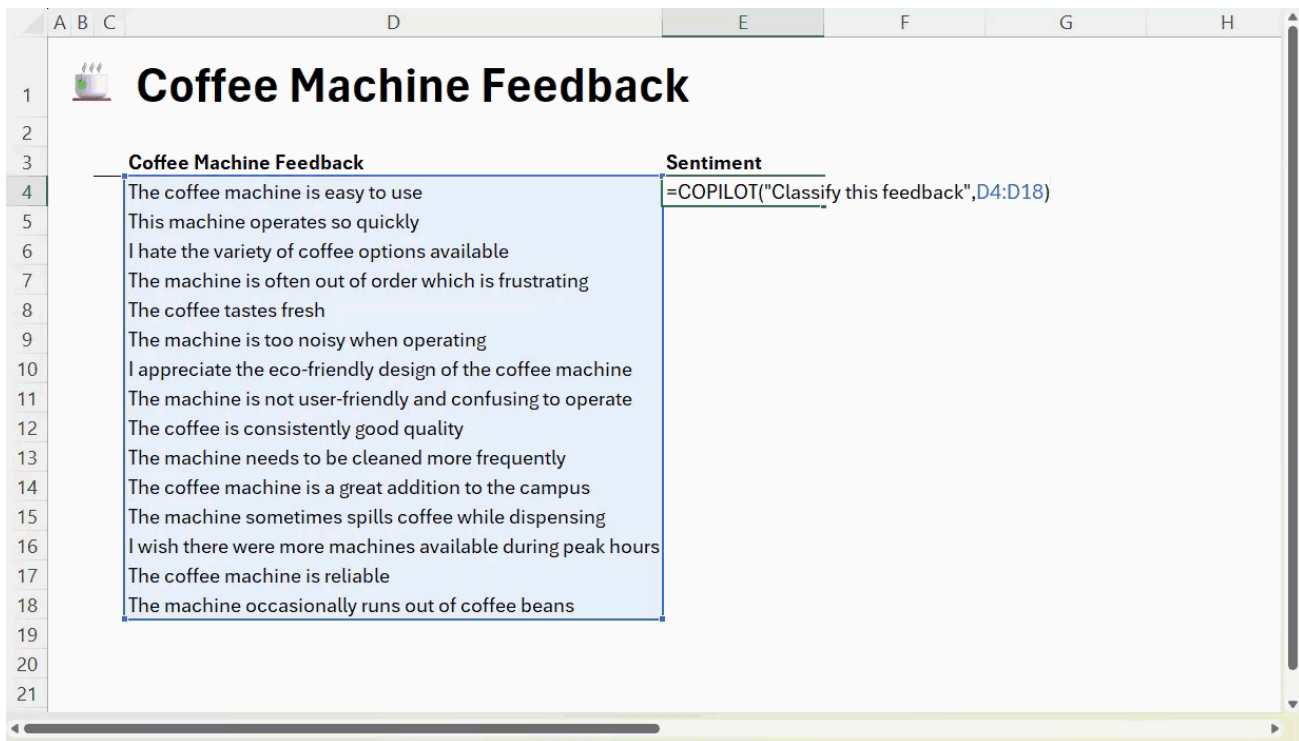
August 19, 2025



is a news writer who covers the streaming wars, consumer tech, crypto, social media, and much more. Previously, she was a writer and editor at MUO.

Microsoft Excel is [testing a new AI-powered function](#) that can automatically fill cells in your spreadsheets, which is similar to the [feature that Google Sheets rolled out in June](#). You would use the “COPILOT” function followed by a natural language prompt and (optionally) specify the cells you want it to reference; the AI would then classify information, generate summaries, create tables, and more.

If you have a column of cells filled with feedback about a coffee machine, for example, you can use the COPILOT function to quickly classify it with AI. To do this, you’d use this formula: “=COPILOT(“Classify this feedback”, D4:D18),” while ensuring that you change the cells to match your Excel sheet. Microsoft Excel will then output AI-generated classifications inside each specified cell.



	A	B	C	D	E	F	G	H
1	Coffee Machine Feedback							
2								
3								
4				The coffee machine is easy to use	=COPILOT("Classify this feedback",D4:D18)			
5				This machine operates so quickly				
6				I hate the variety of coffee options available				
7				The machine is often out of order which is frustrating				
8				The coffee tastes fresh				
9				The machine is too noisy when operating				
10				I appreciate the eco-friendly design of the coffee machine				
11				The machine is not user-friendly and confusing to operate				
12				The coffee is consistently good quality				
13				The machine needs to be cleaned more frequently				
14				The coffee machine is a great addition to the campus				
15				The machine sometimes spills coffee while dispensing				
16				I wish there were more machines available during peak hours				
17				The coffee machine is reliable				
18				The machine occasionally runs out of coffee beans				
19								
20								
21								

The COPILOT function can quickly classify feedback.

GIF: Microsoft

Here are some other examples [provided by Microsoft](#):

- Generate text: =COPILOT("Create a description for this product based on its specs", B2:B8)
- Summarize text: =COPILOT("Summarize this feedback", A2:A20)

The COPILOT function, which is powered by OpenAI's gpt-4.1-mini AI model, is the successor to the LABS.GENERATIVEAI function [Microsoft started experimenting](#) with in 2023.

[Microsoft notes](#) that you can combine its new AI function with other Excel functions, including IF, SWITCH, LAMBDA, or WRAPROWS. The company adds that information sent through Excel's COPILOT function is "never" used for AI training, as "the input remains confidential and is used solely to generate your requested output."

The COPILOT function comes with a couple of limitations, as it can't access information outside your spreadsheet, and you can only use it to calculate 100 functions every 10 minutes. Microsoft also warns against using the AI function for numerical calculations or in "high-stakes scenarios" with legal, regulatory, and compliance implications, as COPILOT "can give incorrect responses."

It's rolling out now to users on Windows and Mac in the Beta Channel with a Microsoft 365 Copilot license. Microsoft plans on refining this feature in the future by upgrading the function's underlying model and potentially adding support for web access.

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Expert Opinion | **Securities Litigation**

The SEC's Increased Investigatory Focus on 'AI Washing' Is Creating a New Opportunity for SEC Whistleblowers

August 19, 2025 | By **Scott Silver**

David Chase



Scott Silver, left, and David Chase, right, of Silver Law Group. Courtesy photos

The use of artificial intelligence (AI) has recently exploded and now impacts all aspects of society. AI is quickly changing how we do business, analyze data and strategically plan. The buzz over AI's potential uses continues to grow and is reminiscent of the late 1990s when the Internet became mainstream and suddenly every company was a "tech" company with Internet expertise. Like the March 2000 "tech wreck" that crashed the equity markets, we are now seeing a surge of fraud in the capital markets involving companies' false and misleading claims of AI expertise and specialization.

In response, the SEC recently created the Cybersecurity & Emerging Technologies Unit (CETU,) which is responsible for rooting out fraud schemes related to AI, including fake social media sites, and blockchain and crypto fraud. Specifically, the CETU will utilize the commission's substantial fintech and cyber-related experience and resources to combat misconduct in this space, with an emphasis on AI claims. As a result, SEC whistleblowers will have an opportunity to play a key role in providing the SEC original information leading to investigations and prosecutions of AI cases, commonly known as "AI washing."

'AI Washing'—Everyone's an Expert

AI washing refers to a company's materially false and misleading public statements about its AI capabilities. Incredibly, despite the relative newness of this technology, implementation costs, and AI's quickly changing nature, some unscrupulous companies are fraudulently claiming expertise in this technology in order to facilitate the raise of investor capital or to artificially inflate their stock price.

Former SEC head, Gary Gensler, explained the dangers of AI washing in the context of securities markets, as follows: "We've seen time and again that when new technologies come along, they can create buzz from investors as well as false claims by those purporting to use those new technologies. Investment advisers should not mislead the public by saying they are using an AI model when they are not. Such AI washing hurts investors."

Paul Atkins, the new, recently appointed SEC chairman, has similarly warned the financial markets that it can expect future enforcement actions to focus on bogus claims involving a company's expertise in, and use of, AI. For example, on April 9, 2025, the SEC announced a civil complaint against Albert Saniger, the former CEO of Nate, Inc., an e-commerce technology startup alleging Saniger made materially false and misleading statements about the startup's AI capabilities, which contributed to the company's ability to raise approximately \$42 million from the investing public. Notably, the Department of Justice also filed criminal charges against Saniger and Nate, Inc. for the same underlying conduct.

AI and Wall Street

The financial services industry is already extensively utilizing AI. Broker-dealers, investment advisers, and hedge funds are claiming AI use for a variety of purposes, including market forecasting, the creation of automated financial models, and risk management. While AI's use is legitimate and may provide tremendous value, those very companies must exercise vigilance in not overstating its utility and impact on business operations, revenues and profits.

The SEC has already prosecuted several cases against investment advisers for making false or misleading statements about their use of AI in their investment process, forecasts, or platform capabilities. For example, the SEC charged Global Predictions Inc., a San Francisco-based investment adviser, for making false and misleading claims about its use of AI. In 2023, Global Predictions marketed itself as the “first regulated AI financial adviser” and promoted “expert AI-driven forecasts” through its platform. The SEC found these claims to be untrue. Global Predictions agreed to settle the charges, pay a \$175,000 civil penalty, and be censured.

In another enforcement action, the SEC sued Delphia (USA) Inc., a Toronto-based investment adviser, for making fraudulent statements about its use of AI and machine learning in connection with its investment process. From 2019 to 2023, Delphia claimed it used AI to analyze client data and forecast future market trends. The SEC found these statements to be false, as Delphia did not, in fact, possess the AI abilities advertised. Delphia agreed to settle the charges, pay a \$225,000 civil penalty, and be censured.

Blowing the SEC Whistle on AI Washing

The SEC whistleblower program continues to have strong bipartisan support and is expected to remain robust even as the SEC's enforcement priorities have changed under the new administration. Given the SEC's recent enforcement actions in the AI space, coupled with its chairman's warning about the dangers of AI washing, it is clear that the new SEC administration will continue to aggressively target and prosecute investment advisers' and publicly traded companies' AI material misstatements upon which advisory clients and the public rely in making investment decisions.

Accordingly, whistleblowers who have first-hand knowledge of a company's material misstatements regarding its AI capabilities will be in a key position to timely report this information to the SEC in hopes of obtaining a financial bounty under the SEC's whistleblower program. In particular, corporate insiders who work with and understand the true nature of the company's AI capabilities, including its limitations, will be the very individuals who can best identify and explain to the SEC how and in what manner the company is fraudulently overstating its AI powers to investors. Documentary evidence in support will likely include technical reports and internal communications that significantly undercut the company's AI representations made in its marketing materials and public statements. Experienced SEC whistleblower counsel can ensure such tips are persuasively written and well-documented thus increasing the likelihood of gaining the SEC's interest in pursuing an AI washing investigation and, in turn, securing a financial bounty for the whistleblower.

David Chase is a former SEC enforcement attorney and the founder of The Law Firm of David R. Chase in Fort Lauderdale. He has represented whistleblowers in some of the SEC's most complex and high-stakes enforcement cases, earning a reputation as a leading advocate for individuals exposing corporate wrongdoing.

Scott Silver is the managing partner of Silver Law Group, based in Boca Raton, Florida, and is recognized nationwide for his work representing investors and whistleblowers in securities and investment fraud cases. A staunch advocate for protecting investors, Silver has been featured in major outlets such as The Wall Street Journal, Reuters and Bloomberg.

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Cheating concerns shut down US law school admissions test in China



reuters.com/legal/legalindustry/cheating-concerns-shut-down-us-law-school-admissions-test-china-2025-08-18

Karen Sloan

August 18, 2025

A person is seen typing on a laptop in this illustration taken September 11, 2020.

REUTERS/Andrew Kelly [Purchase Licensing Rights, opens new tab](#)

Aug 18 (Reuters) - The nonprofit that administers the primary exam used in U.S. law school admissions said Monday that it will temporarily suspend its online test in mainland China after the upcoming exam in October due to concerns over systemic cheating.

Companies in China have become “increasingly aggressive” in promoting test misconduct on the Law School Admission Test and other standardized exams, the Law School Admission Council said in an announcement of the change.

“We are taking steps to shut down these operations and will pursue appropriate legal remedies,” wrote Susan Krinsky, the Council's executive vice president for operations. The Council will monitor individual score irregularities and continue to update its security measures for the October test, Krinsky added.

The Council does not offer in-person administration of the LSAT in China, making the online test the only mainland option there. It will continue to be offered in Hong Kong, a spokesperson said Monday.

The spokesperson declined to provide additional details about its testing misconduct claims or how it is bolstering test security for the October exam. The international LSAT is administered four times a year, and about 500 people took the exam in China last year, according to the Council.

Most U.S. law schools require LSAT or Graduate Record Examination scores to apply to programs granting a J.D. degree — the standard law degree needed to practice in the United States. Law schools do not typically require the LSAT for their LL.M. programs, a shorter degree sought annually by thousands of foreign-trained lawyers from around the world.

The GRE, which is accepted for J.D. programs alongside the LSAT by 120 U.S. law schools, is still being offered in China.

“This is not a step we take lightly,” Krinsky said in Monday's announcement. “We will work to resume testing in mainland China as soon as possible.”

Krinsky said it was unclear if the LSAT would be offered in mainland China by January 2026, when it is next due to be administered after October.

Read more:

[No LSAT to get into law school? ABA opens door to bypass standardized test](#)

[The LSAT is about to get rid of logic games. Who will miss them? None of the above.](#)

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Karen Sloan reports on law firms, law schools, and the business of law. Reach her at karen.sloan@thomsonreuters.com

Securities Law News

Exclusive

Paul Weiss, Reed Smith Accused of Coverup by SEC Whistleblower

Aug. 19, 2025, 2:05 AM PDT

- Sofie Biosciences bilked investors by undervaluing assets, suit alleges
- Company allegedly did not disclose dispute ahead of majority stake sale

Lawyers at two top firms concealed information that could have sidetracked a \$500 million biotech deal, according to claims in a whistleblower complaint filed with the Securities and Exchange Commission.

The complaint and two related lawsuits in California revolve around accusations by Joel Cohen, a screenwriter best known for his work on "Toy Story," that Sofie Biosciences Inc. bilked him and his wife out of at least \$38 million. They allege that Sofie deliberately undervalued assets acquired in an earlier deal that they helped finance to reduce the number of preferred shares they were issued – which then watered down their returns when Sofie later agreed to sell a majority stake to private equity firm Trilantic North America.

Jeffrey Marell, head of Paul Weiss's M&A practice, and Michael Sanders, a Reed Smith partner who works with startups, are accused in the whistleblower complaint of knowing that Cohen was threatening legal action but actively excluding the matter from required disclosures in the Trilantic deal. The SEC complaint alleges the firms could be liable for aiding and abetting or directly violating federal securities fraud rules.

The matter highlights complicated questions about where the line exists between lawyers' differences of professional judgment, and legal and ethical violations.

"This is a story of brazen greed," according to the July lawsuit, filed on behalf of Beyond Infinity II, an LLC to which Cohen and his wife Michele Pietra assigned their claims. "It is the story of collusion between a bioscience mogul family, their attorneys, and an over-eager appraisal company conspiring to cheat investors."

Paul Weiss, Marell, Sanders, Sofie and Patrick Phelps, the Virginia-based company's CEO, didn't provide comments. Reed Smith has disputed much of the allegations in court filings.

Reed Smith in a court filing accused Cohen, previously a Sofie board member, of a pressure campaign to try to force the company to pay him a windfall amount. The shares given to Cohen in exchange for the note were worth nearly \$1.5 million, already a return of more than 11 times his \$125,000 loan, the firm said.

Lawyers for Sofie have argued that Cohen waived his claims in releases related to the Trilantic deal, according to documents reviewed by Bloomberg Law, with one attorney saying Cohen didn't respond to a letter refuting his claims for more than a year. The company and its lawyers also said in the documents that the disputed appraisal—central to the earlier deal and to Cohen's allegations—complied with an agreement it had with Cohen and other noteholders.

The SEC whistleblower complaint, obtained by Bloomberg Law, was filed with the agency on July 22. It includes a cover sheet confirming that the complaint was filed, along with a submission number. The commission doesn't confirm the existence of complaints, filed by tipsters who may get as much as 30% of any money collected in a successful enforcement action resulting from their information.

The SEC by law must keep names of people filing complaints confidential, but the whistleblower in this case self-identified to Bloomberg Law and spoke on condition of anonymity for fear of reprisal.

A related lawsuit filed in Los Angeles last month, which names Sofie, Reed Smith, and Los Angeles law firm Bird Marella as defendants, focuses on the asset valuation dispute. It also names appraiser Kroll LLC, which didn't respond to requests for comment. A separate suit filed in LA last year accuses Reed Smith of malpractice for representing both Sofie and the noteholders while helping to orchestrate the valuation scheme.

Sofie, Reed Smith, Bird Marella, and Kroll have not filed responses to the July lawsuit. Reed Smith said in court filings it never represented the noteholders. A Reed Smith spokesperson said the allegations against the firm "are wholly without merit and will be vigorously defended."

'The Deal Will Collapse'

Cohen—a Sofie board member at the time—was one of 14 noteholders who loaned the company \$950,000 for its 2019 acquisition of Houston Cyclotron Partners, a healthcare facility in Texas, according to documents included in both lawsuits and the whistleblower complaint. They show Sofie agreed to repay the group in the form of Series B Preferred shares. The repayment amount would include a loan fee, based on the fair market value of the subsidiary as determined by an appraisal.

The company eventually used a \$2.5 million appraisal by Kroll to value HCP when the payment came due, according to the July lawsuit and the whistle blower complaint. Sofie allegedly turned to Kroll after rejecting a \$7 million valuation from another firm.

HCP operates a cyclotron, used to prepare radiopharmaceuticals that are commonly used to test for and treat cancer. Sofie uses HCP's cyclotron machinery to produce Pylarify, the company's "crown jewel"—a lucrative product used for PET scans for prostate cancer.

Kroll's valuation was significantly lower than another firm's because it excluded Sofie's use of HCP to manufacture products like Pylarify, on the grounds that HCP wasn't making Pylarify when Sofie acquired it, according to the July lawsuit. Kroll did not respond to a comment request and has not responded to the lawsuit.

Sofie's executives and outside lawyers knew that Cohen was threatening legal action over the HCP valuation in 2023 as the company was negotiating its sale to Trilantic, the whistleblower complaint alleges. The deal was announced in January 2024 and closed six months later.

"If we go into aberration or litigation, the deal with Trilantic will collapse," Michael Phelps, Sofie's cofounder and chairman, wrote in an Aug. 3, 2023, email to other company officials. The email was included in the SEC complaint.

Michael Phelps did not respond to requests for comment.

Cohen's lawyers sent a demand letter on Aug. 30, just under a year before the Trilantic deal closed.

"As you and Sofie are aware, Cohen has serious concerns about the Company's compliance with and conduct related to its duties and obligations under the Note Agreement and Promissory Note," an attorney for Cohen wrote in the letter, which was included in the complaint.

Cohen demanded in the letter that Sofie pay the loan fee based on a higher valuation, asserting that the company had previously agreed to the figure. Both sides told the other to preserve evidence.

Ronald Nessim, a partner at LA's Bird Marella who was Sofie's litigation counsel, responded to Cohen's demands in a September 30 letter, which was included in the whistleblower complaint.

"Please know that if your client chooses to initiate litigation, Sofie reserves all rights to assert that he breached his duties to Sofie and preserves all rights and remedies for such conduct," Nessim wrote.

The accusations entangle "two separate victims," said Ann Lipton, a University of Colorado Law professor.

"One, the private equity buyer that was made unaware of some pending liability, but also the noteholders, or whichever noteholder it is, who's claiming that their rights were subverted," Lipton said.

Trilantic declined to comment.

Appraisal Dispute

Nessim told the board on Oct. 9, 2023, that the threat of litigation could "significantly impair" Sofie's ability to sell stakes in the company, according to minutes of the meeting, reviewed by Bloomberg Law.

"Mr. Nessim stated that he and his colleagues believe that based on what they have seen and learned to date they believe that the Company has acted appropriately and complied with its obligations under the Notes and has strong defenses to the claims that have been or may be asserted by Mr. Cohen," the minutes show.

Still, Nessim told the board that a majority of the other noteholders signed a document acknowledging that the shares issued to them based on the Kroll valuation was full payment on the loan. The move was meant “as an additional layer of protection” according to the meeting minutes.

At least one Sofie executive, Philipp Czernin, raised concerns about the appraisal, according to the July lawsuit. Nessim allegedly threatened Czernin with “significant personal and professional reprisals if he did not toe the company line” before the board approved the Kroll valuation, the suit alleges.

Czernin didn’t respond to requests for comment.

Smrity Randhawa, an accounting professor at the University of Southern California, said valuations have to be done in good faith.

“If the company knew that the subsidiary was manufacturing a product with significant potential for growth in sales or profits, that information should have been included in the subsidiary’s valuation,” said Randhawa, who was not involved in the matter.

“Leaving it out could be considered a material omission,” she said, or the information may have been properly excluded if the deal with the noteholders specified that the valuation be based on historical cost.

Sofie has declined to turn over communications and other documents related to the Kroll appraisal, according to court filings, arguing that they are shielded as attorney work product because the company’s lawyers from Reed Smith hired Kroll for the review.

The Merger

Marell, the Paul Weiss partner, was responsible for drafting and finalizing the Trilantic agreement and disclosures, the whistleblower said. He “begged” the company’s officers to settle the Cohen dispute before closing the Trilantic deal, according to the SEC complaint, which cited an unnamed company insider.

Marell did not respond to requests for comment on the accusations against him and his firm.

Sofie’s merger documents—“personally drafted” by Marell—referenced two other disputes unrelated to Cohen, according to the whistleblower complaint, at least one of which had already been settled. The documents allegedly stated that otherwise no members of the company were the target of any reasonably material actions.

“Paul Weiss had actual knowledge of the claims and their materiality, yet proceeded to draft and certify representations to Trilantic stating that there only two threatened claims—omitting Cohen’s entirely,” the whistleblower said in the complaint.

Sanders, the Reed Smith partner, advised Phelps that Sofie didn’t need to disclose the claims, arguing the noteholders signed a waiver, according to the SEC complaint.

Cohen and Pietra on April 26, 2024 signed broad releases when their shares were purchased as part of the merger agreement. But the waivers don't bar fraud claims, according to the whistleblower complaint. Additionally, the documents relate to Cohen and Pietra rather than the LLC they'd assigned claims to, the complaint said.

"If the noteholders are saying, 'Well, we're waiving our rights, except for this inner slice of things,' then you can see why the lawyers for the target would say, 'Well, this isn't something that needs to be disclosed to the buyer,'" said Lipton, the law professor.

However, "if there's a plausible argument here that somebody messed with the financial statements or the valuation in a way that either screwed the private equity buyer or screwed the noteholders' rights to obtain shares, then that could be a significant liability."

Trialntic and Sofie announced they had closed the deal on June 4, 2024.

Records Fight

Cohen and Pietra are trying to obtain Kroll valuation documents as part of the 2024 malpractice suit against Reed Smith filed in California Superior Court.

Reed Smith's lawyers advised the noteholders while also representing Sofie at the same time, according to the suit. The noteholders initially planned to form their own company to buy the HCP assets and then make a deal with Sofie to use the assets, according to the suit and a sworn declaration by Czernin, who continues to work as the company's chief revenue officer. The lawyers allegedly convinced them to instead loan the funds to Sofie to buy the HCP assets and structured the terms in a way that benefited Sofie.

Reed Smith has denied having an attorney-client relationship with the noteholders in court documents. The said it cannot disclose information about the Kroll valuation because Sofie has not waived attorney-client privilege and attorney work product protections.

A judge is expected to soon issue a ruling in the malpractice case that could determine whether Cohen and Pietra can obtain the Kroll records.

The cases are *Beyond Infinity II, LLC v. Sofie Biosciences, Inc.*, Cal. Super. Ct., No. 25STCV21482, 7/21/25 and *Pietra v. Reed Smith*, Cal. Super. Ct., No. 24STCV13051, 8/5/25.

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California Brief

Paxton Probes Meta, Character.AI on Chatbot Mental Health Advice

Aug. 18, 2025, 8:54 AM PDT

Texas Attorney General Ken Paxton (R) is investigating artificial intelligence chatbot platforms Meta AI Studio and Character.AI for falsely marketing themselves as mental health tools.

The chatbots also log and track user interactions for the purpose of algorithmic development, “raising serious concerns about privacy violations, data abuse, and false advertising,” Paxton announced Monday.

“By posing as sources of emotional support, AI platforms can mislead vulnerable users, especially children, into believing they’re receiving legitimate mental health care,” Paxton said in a news release. “In reality, they’re often being fed recycled, generic responses engineered to align with harvested personal data and disguised as therapeutic advice.”

Paxton issued the companies what’s known as civil investigative demands to determine if they’ve violated Texas consumer protection laws, the release said. The findings could inform whether his office takes further action through the filing of lawsuits.

The announcement builds on Paxton’s ongoing investigation into Character.AI for violations of Texas’ SCOPE Act, which requires sites and apps to restrict certain content available to minors.

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Securities Law News

Former Lovesac Officers Must Face SEC Claims Over Buried Costs

Aug. 18, 2025, 2:20 PM PDT

Two former executives at furniture company Lovesac Co. are still on the hook for alleged fraud after a federal judge largely declined bids to toss SEC claims that they concealed \$2.2 million of shipping expenses in public disclosures.

Ex-CFO Donna Dellomo and former controller Yoon Um must face claims that they hid the costs from a report for the first quarter of 2024 by spreading them across the remaining three quarters, Judge Victor Bolden of the US District Court for the District of Connecticut ruled.

The couch and beanbag chair retailer, which already paid \$1.5 million to settle the Securities and Exchange Commission's claims, had misreported the costs associated with "last mile" shipping in a scheme devised by the former executives to hit gross margin projections, according to the agency.

Bolden granted dismissal of one set of claims against Dellomo, holding that the SEC failed to allege facts related to her control of Lovesac's accounting system or its overall insufficiency. But the remaining claims against Dellomo and Um will proceed.

An SEC spokesperson declined to comment.

The judge wasn't receptive to defendants' arguments that the amortization of shipping expenses didn't have a significant impact on Lovesac's financial condition or alter the mix of information the company shared publicly, which included more than \$650 million in sales revenue. Lovesac had to restate filings in light of the alleged fraud, indicating the misstatements in those disclosures were significant, Bolden said in the Aug. 15 opinion.

Lovesac and lawyers for the defendants didn't immediately respond to requests for comment.

Finn Dixon & Herling LLP and Bruch Law Group PLLC represent Dellomo. Morgan, Lewis & Bockius LLP and O'Toole & O'Toole PLLC represent Um.

The case is SEC v. Dellomo , D. Conn., No. 3:24-cv-01727, 8/15/25 .

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Securities Law News

SPAC King Palihapitiya Returns Nearly Three Years After Retreat

Aug. 18, 2025, 4:21 PM PDT

Chamath Palihapitiya is returning to the blank-check game after throwing in the towel in 2022 on a pair of jumbo firms that failed to find targets.

The former Facebook executive who became the public face of the SPAC mania during the original boom-and-bust filed late on Monday for a \$250 million initial public offering for American Exceptionalism Acquisition Corp. A, joining the ranks of sponsors giving special purpose acquisition companies another go. The blank-check firm will seek to bring a company that can benefit from Palihapitiya's "historical areas of business expertise," according to the filing.



Chamath Palihapitiya

Photographer: Mark Kauzlarich/Bloomberg

The one-time SPAC King who raised 10 blank-check vehicles — four of which never completed deals to take companies public — comes back as the industry's post-crash revival gains momentum, fueled by a wave of crypto deals as well as sponsors linked to President Donald Trump's family. More than \$16 billion has been raised across 81 SPACs this year, data from SPAC Research show, with the total value already eclipsing the total combined for 2023 and 2024.

Read More: Next SPAC From Trump Jr., Omeed Malik to Target US Manufacturing

Brandon Lutnick — the son of billionaire US Commerce Secretary Howard Lutnick — has pushed Cantor Fitzgerald to lean in on SPACs, advising on them as well as sponsoring them, while other serial backers including **Betsy Cohen** have also returned to the arena.

The structure of Palihapitiya's proposed blank-check company is meant to provide greater alignment with shareholders' interests, he wrote in a letter to investors in the filing.

The deal will not have warrants, a type of sweetener that enticed IPO buyers in the past by potentially offering them extra shares, the filing shows.

The SPAC will award founder shares — a feature that gives the main backer the chance to receive stock for pennies — though the deal has to perform well to pay off. Palihapitiya's letter explains that the deal comes with a so-called promote of 30%, which is larger than the typical 20%, but it only vests if the shares reach at least a 50% premium to the \$10 IPO price after the completed deal.

The firm's sponsor, AEXA Sponsor LLC, agreed to contribute \$1.75 million to buy 175,000 Class A shares at \$10 apiece in a private placement that will close simultaneously with the IPO, the filing shows.

Read More: SPAC King Folds, Bringing Blank-Check Era Closer to Its End

Palihapitiya warned in the letter that retail investors should stay away unless they can afford to lose their entire investment and they're willing to "embody an adage from President Trump that there can be 'no crying in the casino.'"

Of Palihapitiya's six SPACs to complete deals, only SoFi Technologies Inc. is trading above its \$10 IPO price. The others have seen median losses of 75%.

Banco Santander SA is leading the offering, the filing shows. The SPAC is expected to trade on the New York Stock Exchange under the symbol AEXA.

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FT Alphaville Special purpose acquisition companies

Chamath's new letter to Spac investors

What 'American Exceptionalism' looks like in 2025



Chamath Palihapitiya is all in © Bloomberg

Robin Wigglesworth

Published 6 HOURS AGO



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Yesterday, misadventure capitalist [Chamath Palihapitiya](#) filed a prospectus for a new \$250mn special purpose acquisition vehicle. You can read the full S-1 filing for “American Exceptionalism Acquisition Corp” [here](#).

In case you're interested, here are some excerpts from the accompanying letter written by Palihapitiya to his company's “friends and supporters”, presented without (written) comment:

“

When I raised my first SPAC in 2017, I wanted to help correct an increasingly unstable balance between the private and public markets.



“

While SPACs are not the solution for every issue in the IPO process, I continue to believe that they have an important piece to play in capital formation—and especially now.



“

We believe that retail investors should only participate if (a) this investment is a small part of an otherwise diversified portfolio, (b) this investment is a quantum of capital they can afford to completely lose and (c) if they do lose their entire capital, they will embody the adage from President Trump that there can be “no crying in the casino.”



“

Importantly, to provide greater alignment with my investors, I have dramatically reshaped and restructured the sponsor’s economics . . . Please note that most SPAC sponsors receive a 20% promote that participates regardless of the company’s stock price. Our sponsor instead will receive a 30% promote (i.e., founder shares) that vests and realizes value once the combined company achieves a 50% premium to the IPO price (or upon an earlier change of control).

I am excited to have another opportunity in the SPAC market and look forward to executing on our potential.



And from the S-1 itself:

“

Mr. Palihapitiya and the members of our management team have extensive experience with blank check companies and have served as executive officers and directors in ten prior SPACs, six of which successfully completed business combinations with substantial committed capital.



The sole underwriter and bookrunner is . . . Santander.

Further reading:

— [The King of Spacs is back](#) (FTAV)

Renewable energy

Ørsted: the wind giant hit by Trump, credit downgrade and fearful investors

Short positions in the Danish group build up as offshore wind developer undertakes \$9bn cash call

Rachel Millard, Costas Mourselas and Ivan Levingston in London

Published AUG 17 2025



Rasmus Errboe might have hoped to have more time to see through his first plan to turn round the fortunes of the world's largest offshore wind developer following a bruising few years.

The 46-year-old Dane was promoted to the top job at [Ørsted](#) at the end of January and shortly after slashed its investment plans by a quarter, in a bid to restore its finances without having to tap shareholders for more cash or lose its investment grade credit rating.

In the past few years Copenhagen-listed Ørsted's aggressive expansion has been battered as high interest rates deflated a bubble in green energy stocks and the US renewed its enthusiasm for fossil fuels.

But his plans were left in tatters after US President Donald Trump ordered in April that rival Equinor stop work on a vast wind project off the New York coast. It spooked investors and collapsed Ørsted's plans sell a stake in its own nearby project, known as Sunrise Wind.

"Investors substantially increased their return requirements," said Errboe.

That left a funding gap and this month Ørsted was forced to turn to shareholders after all. Errboe announced a [DKr60bn \(\\$9.4bn\) rights issue](#) to fund the offshore US project and provide a buffer for other projects.



Rasmus Errboe is trying to drum up support for the cash call ahead of a critical shareholder vote at the start of September © Ørsted
Shareholders scattered in the wake of the highly dilutive cash call. The Danish company's shares suffered their worst week on record, falling more than 30 per cent and driving its market capitalisation down to \$13.8bn.

The proportion of the company's stock on loan — a rough proxy for short interest, where investors bet the stock has further to fall — also surged to record levels.

It is a far cry from early 2021, when enthusiasm over green energy stocks pushed the company's valuation to \$90bn, more than FTSE 100 oil company BP.

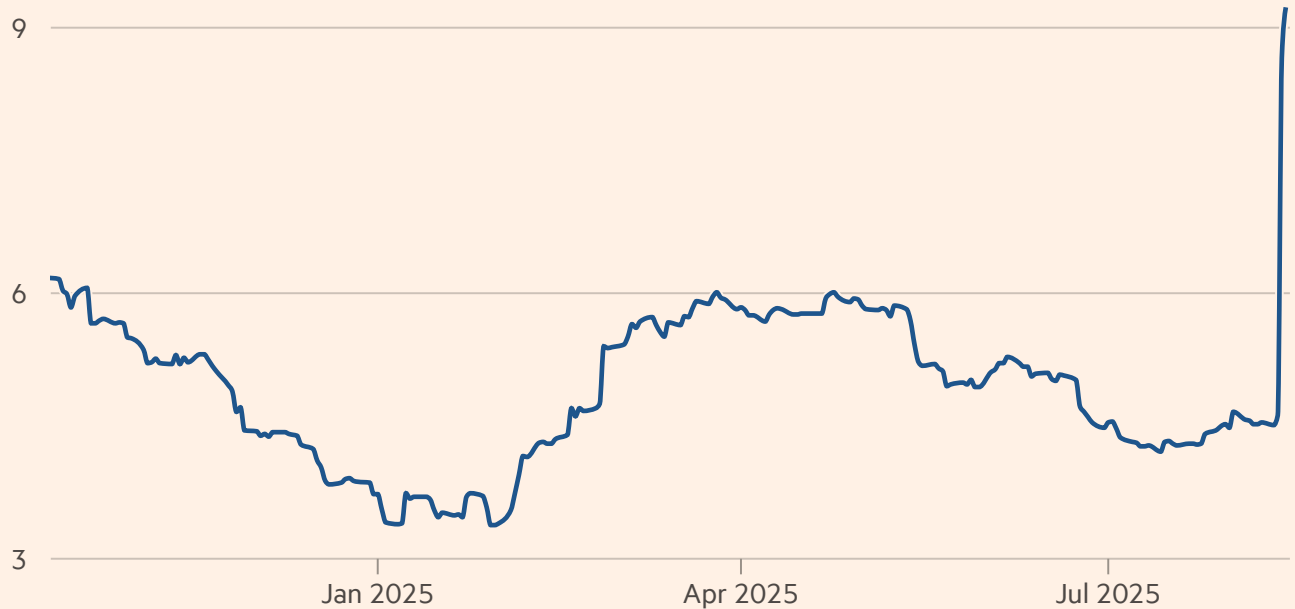
Errboe and his bankers and advisers are now trying to drum up support for the cash call ahead of the critical shareholder vote at the start of September. Underwriters Morgan Stanley have yet to set the offer price.

The Danish state, which owns 50.1 per cent of Ørsted, has committed its support, in effect bailing out the company and underscoring the strategic importance of offshore wind to Europe.

Equinor, the Norwegian energy group that owns 10 per cent of Ørsted, says it will engage with Ørsted. Other large shareholders declined to comment.

Short bets against Ørsted surge

Shares out on loan (%)



FINANCIAL TIMES

Source: S&P Global Market Intelligence

Having aggressively expanded when interest rates were low, Ørsted is now trying to fund and finish a massive building programme against a very different economic and political backdrop.

The stop work order on Equinor's Empire Wind project — which led to Ørsted's rights issue — was lifted in May as part of a deal allowing a long-stalled gas pipeline in New York to go ahead. But for Ørsted, the damage had already been done.

"We consider the delay in [the sale of Sunrise Wind] further evidence that Ørsted's overall business environment has deteriorated," said S&P Global Ratings, which on Thursday cut Ørsted's credit rating to one notch above junk.

The company is retreating from onshore wind and hydrogen and carbon capture investments, to try and focus on offshore wind.

That is despite Errboe's warning in April that the industry was at risk of a "downward spiral" due to rising costs and supply chain strains. Several developers had to pull out of projects in the US even before Trump was re-elected, while some European countries have struggled to attract developers.

Errboe believes things have now improved, pointing to more favourable terms in auctions for offshore wind leases or subsidy contracts, including in the UK where the government [plans to lengthen new subsidy contracts](#).

"Across all scenarios, offshore wind will continue to be an essential part of the energy mix in Europe, in our view," Errboe said last week.

In particular, Ørsted is focused on finishing the mammoth 8.1 gigawatts of power generation from offshore wind farms it is currently building around the world, including projects off the coasts of Taiwan and Poland.

Ørsted has earmarked their completion by the end of 2027 and collectively they account for about \$16.5bn of the \$22.7bn in capital expenditure that it has committed to by the end of that year.



Ørsted's plans to sell a stake in its Sunrise Wind project off New York were hit earlier this year © Mark Harrington/Newsday RM/Getty Images

It plans to fund that spending mostly through a combination of the rights issue, cash flow and selling off assets such as stakes in wind farms and its entire European onshore wind business.

The offshore wind projects should boost earnings before interest, tax, depreciation and amortisation by \$1.7bn-1.9bn a year, the company said last week.

Mark Freshney, an analyst at UBS, said there was a “hump” in Ørsted’s capital expenditure. “Net debt goes up substantially in the next two years. But then all of a sudden capex effectively stops in the second half of 2027.”

But significant construction delays or problems selling assets, such as the company suffered with Sunrise Wind, could renew investors’ jitters.

Ørsted transformed itself from an oil and gas driller to world’s largest offshore wind developer on the back of its “farm-down” model, which involves selling stakes in projects in order to fund new ones.

But the model is more challenging in an era of higher interest rates, as investors need higher returns. The two largest projects, Hornsea 3 off England's eastern coast and Baltica 2 in the Polish part of the Baltic Sea, are only about 10 per cent complete.

"The business model for operators like Ørsted relied on bringing in investors with cheap capital, but these investors are either no longer available or only with more expensive capital," said Jérôme Guillet, managing director of energy fundraising specialist Snow.

Analysts and investors are watching particularly closely Ørsted's efforts to sell a stake in Hornsea 3, which S&P calls "material" to the developer's ratings. The company says it has a preferred bidder and talks are on track.

Ørsted's shares have plunged since peaking in 2021

Share price, Danish krone



Source: LSEG via markets.ft.com

Trond Westlie, Ørsted's chief financial officer, sought to reassure markets after S&P's downgrade, saying it did not affect the company's plans and the 8.1GW building programme is on track. Moody's has maintained its Baa2 rating on Ørsted.

Investors are out there, experts say. “Offshore wind is attracting a lot of capital,” said Mortimer Menzel, managing partner at specialist advisory Augusta and Co. “It’s still the biggest place where you can spend renewable dollars.”

But shareholder confidence in Ørsted was damaged even before the rights issue, notably when it abandoned two major projects in the US and halted one in the UK.

“There is a question over what else can go wrong — and are they also not letting us in on something else they are worried about,” said Deepa Venkateswaran, a power and utilities analyst at Bernstein.

Even so, there are signs of demand for the cash call. “It’s a bun fight,” said one banker.

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Ivan Levingston

Tesla starts taking orders for its new Model Y L in China from around \$47,200



[reuters.com/business/autos-transportation/tesla-starts-taking-orders-its-new-model-y-l-china-around-47200-2025-08-19](https://www.reuters.com/business/autos-transportation/tesla-starts-taking-orders-its-new-model-y-l-china-around-47200-2025-08-19)

Reuters

August 19, 2025

Tesla logo is seen in this illustration taken July 23, 2025. REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights, opens new tab](#)

[\(TSLA.O\)](#), [opens new tab](#) started accepting orders for its new Model Y L in China on Tuesday with a starting price of 339,000 yuan (\$47,184), its website showed, as it refreshes its line-up in the world's largest auto market to battle growing competition.

Tesla first launched the Model Y in 2020 and it became the world's best-selling car in 2023. The ageing model lost some sales momentum last year, hurt by competition from local rivals in China such as Xiaomi's [\(1810.HK\)](#), [opens new tab](#) YU7, while in other markets demand for electric vehicles has weakened.

In January, Tesla launched a new version of the Model Y with a redesigned exterior and upgraded features in Asia Pacific markets and in July registered plans with Chinese authorities for the new Model Y L.

A longer-range, rear-wheel drive Model 3 is also coming to the Chinese market, according to filing information published on China's industry ministry website in July.

Elon Musk's Tesla registered an 8.4% fall in July sales of its China-made electric vehicles.

(\$1 = 7.1846 Chinese yuan)

Reporting by Liz Lee, Shanghai newsroom and Brenda Goh; Editing by Himani Sarkar

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Akero Investor Suit Over Liver Drug Trials Permanently Tossed

By **Gina Kim**

Law360 (August 18, 2025, 6:33 PM EDT) -- A California federal judge has permanently ended Akero Therapeutics investors' proposed class action alleging they were misled about the patient population in the company's liver disease treatment clinical trial, ruling the investors did not "fill-in the logical gaps" she previously identified when dismissing their earlier pleading for failing to plead scienter.

In a Friday order, U.S. District Judge Yvonne Gonzalez Rogers granted a motion to dismiss the plaintiffs' second amended complaint filed by the biopharmaceutical company and its executives who were accused of making misleading statements about patient data in its Symmetry clinical trial testing the safety and efficacy of a protein and its lead product candidate, EFX, to treat nonalcoholic steatohepatitis.

The investors' initial complaint **alleged** Akero and its executives gave the impression that some patients with risk factors that would impede or confound the trial's results were being left out from the study, while knowing all along they were actually being included. The plaintiffs' theory was that the executives' motive to conceal the truth about patient population — to raise money from investors — "involved a gamble" that the trial would still be successful even with risk-factor patients.

The investors further alleged that when Akero announced its 24-week results of the trial in submissions with the U.S. Securities and Exchange Commission in September 2022, it didn't disclose that 20% of the patients in the trial should've been excluded to prevent potential adverse effects on its results.

On Oct. 10, 2023, the defendants held a call with investors to discuss the trial's results and the truth began to reveal itself, the plaintiffs claimed. Akero said the inclusion of certain patients was a confounding factor in the results and that the defendants knew about the trial's design flaw throughout the class period, the investors alleged.

On May 5, Judge Gonzalez Rogers **dismissed the suit**, but granted the plaintiffs leave to amend, finding they failed to adequately plead scienter for the executive defendants, while rejecting their theory of motive. The defendants had contended the investors' theory to conceal the truth about patient data was illogical, and the judge agreed, finding there to be "troubling gaps" in the investors' logic.

"The court finds plaintiffs have failed to fill-in the logical gaps previously identified," Judge Gonzalez said Friday. "In so finding, the court is mindful of the [U.S.] Supreme Court's directive that inferences of scienter must be 'cogent and compelling, thus strong in light of other explanations,' and the Ninth Circuit's guidance that the facts alleged must 'strongly suggest actual intent.' Viewed holistically, the court finds neither standard is met."

In her prior order tossing the suit back in May, the judge had noted the defendants always knew they'd ultimately have to disclose the trial's design and details of its patient population, and they did just that, approximately 36 weeks into the 96-week trial. Judge Gonzalez's prior order also noted the investors failed to explain why the defendants honestly reported the incorporation of risk-factor patients at the 36-week mark rather than concealing it throughout the trial, Friday's ruling said.

On May 26, the plaintiffs submitted their second amended complaint, this time adding new factual allegations to replead scienter against Akero, namely, that all versions of the trial protocol that were

publicized that month were material for several reasons, according to Friday's order.

First, the clinical trial was always meant to be a 36-week study rather than 96 weeks, which defeats Akeru's argument it had no intent to mislead, as it volunteered more information than necessary when disclosing "interim results," the plaintiffs had said, Friday's order said.

The investors then alleged the protocol included subcategories among Symmetry patients beyond the definitive nonalcoholic steatohepatitis and those with cryptogenic cirrhosis presumed secondary to nonalcoholic steatohepatitis, the order said. Akeru signed up more patients with cryptogenic cirrhosis in the main clinical study than the total patients in another subgroup known as "Cohort D," according to the judge's ruling.

The plaintiffs put forward a theory that Akeru started on an effort to misinform them about the patient population in the clinical trial since it was desperate for funds. Because the U.S. Food and Drug Administration had required Akeru to limit the participation of cryptogenic cirrhosis patients to participate at a predetermined level, the plaintiffs said Akeru was on notice on the importance of including this subgroup, Friday's order said.

According to the plaintiffs, to raise money, Akeru and its executives regularly left out key information to investors when they did not specifically identify cryptogenic patients until reporting results at the 36-week mark. The plaintiffs alleged the study readouts disclosed the inclusion of other subgroups, without mentioning cryptogenic participants, to cut their losses by that point, the order said.

On June 16, Akeru and its co-defendants moved to dismiss the second amended complaint, arguing it still did "nothing to cure the fundamental pleading deficiencies" that led to Judge Gonzalez Rogers' dismissal in May and that it "largely recycles the same flawed allegations that this court already found insufficient."

The latest pleading didn't include any allegations from confidential witnesses or whistleblowers and failed to refute the judge's earlier finding that Akeru was aware it ultimately had to disclose the trial design, and only provided two "new" groups of allegations, neither of which are sufficient to plead scienter, the defense argued.

On Friday, Judge Gonzalez Rogers noted that Akeru, at the very least, raised significant questions as to the plausibility of the investors' theory of scienter. While the investors "need no smoking gun," they cannot get around the "formidable pleading requirements" under the Private Securities Litigation Reform Act by only pleading actual knowledge, the order said.

"Given the finding that none of the new allegations is sufficient, alone, to plead scienter, the court analyzes plaintiff's reliance on the allegations of the protocol," Judge Gonzalez Rogers said in her Friday ruling. "Here, the court notes that the allegations concerning defendants' actual knowledge that Symmetry included patients with cryptogenic cirrhosis were previously included in the [first amended complaint], as was the identification of Symmetry as a 36-week study."

"Even accepting plaintiffs' framing of the study's timeline," the judge continued, "the court fails to see how this alone strongly indicates an intent to mislead when defendants still had a 60-week 'follow-up' period in which they could have stayed silent."

Nor is Akeru legally obligated to share details just because the FDA thinks it's important to require specificity as to the breakdown in subgroups, the judge wrote. Nor does the protocol "add much" in the full context of the plaintiffs' allegations to indicate scienter.

"Plaintiffs previously pled that the study was designed to include two subgroups and that the divergence between the study's design and defendants' public statements presented evidence of liability," the order said. "The protocol itself does not answer the court's questions from the last round of briefing: Why make representations when full disclosure was ultimately inevitable? Why choose a moment far earlier than required to voluntarily disclose the truth?"

In a statement to Law360 Monday afternoon, Akeru's counsel Jamie Wine of Latham & Watkins said the defense was thrilled the court agreed with its arguments and issued a well-reasoned decision that put an end to the case.

"Akeru looks forward to putting this matter behind them and continuing their vital work in developing this potentially life-saving drug," Wine said.

Representatives for the investors did not immediately respond to inquiries seeking comment Monday.

The investors are represented by Shawn A. Williams, Kenneth J. Black, Taeva C. Shefler and Hailey S. Zanutto of Robbins Geller Rudman & Dowd LLP.

The defendants are represented by Jamie L. Wine, Benjamin Harris, Melanie M. Blunschi and Daniel R. Gherardi of Latham & Watkins LLP.

The case is Dora Klobus v. Akeru Therapeutics Inc. et al., case number 4:24-cv-02534, in the U.S. District Court for the Northern District of California.

--Additional reporting by Katryna Perera and Sydney Price. Editing by Jay Jackson Jr.

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GrafTech Investors' Plant Contamination Suit Gets Tossed

By **Jessica Corso**

Law360 (August 18, 2025, 6:47 PM EDT) -- An Ohio federal judge threw out a shareholder lawsuit against GrafTech International Ltd. on Monday, ruling that allegations the company hid environmental contamination problems at a Mexican plant amounted to "fraud by hindsight."

U.S. District Judge Donald Nugent's **ruling** dismissed the proposed class action brought by GrafTech shareholders, who sued after the company's Monterrey, Mexico, plant was shut down by local authorities for two months in 2022.

Suing shareholders said the shutdown demonstrated that the company "blatantly disregarded" environmental regulations despite public declarations that it was in compliance with all environmental laws and regulations.

But Judge Nugent ruled Monday that the allegations amounted to impermissible fraud by hindsight claims because shareholders didn't cite any evidence that the Monterrey plant wasn't in compliance when GrafTech made the purportedly misleading statements.

The complaint does not "identify any document, communication, data, or other source showing that GrafTech was not committed to environmental compliance, that it was not monitoring its progress on environmental efforts, or that it was knowingly aware that it was not in compliance with any standard at the time of any statement," the judge said.

"The fact that operations at the plant were briefly shut down in 2022, in some cases years after a statement, is not demonstrative of contemporaneous falsity, and rather is best described as asserting 'fraud by hindsight,'" he added.

A GrafTech spokesperson declined to comment. Attorneys for the proposed class didn't immediately respond Monday to a request for comment.

GrafTech is a supplier of graphite electrode products that are used in the steel manufacturing process. The company's Monterrey plant was the sole supplier of a crucial component of the product, a connective pin, and its temporary closure caused GrafTech's revenue and stock price to drop significantly in 2023, according to the complaint.

In addition to suing GrafTech, lead shareholders also sued Brookfield Capital Partners Ltd. and Brookfield Asset Management Ltd., which purchased the company in 2015 before the company went public through an initial public offering in 2018.

The complaint alleged that Brookfield was the controlling shareholder of GrafTech **during the class period**, which started in February 2019 and extended to August 2023.

Judge Nugent also dismissed the allegations against Brookfield, saying the shareholders' allegations "contain no specific allegations of how the Brookfield defendants 'exercised control' at all."

Attorneys for Brookfield didn't immediately respond Monday to a request for comment.

The investors are represented by Nathan Lindell, Jennifer Caringal, Kevin Sciarani and Francisco Mejia of Robbins Geller Rudman & Dowd LLP, Mitchell M.Z. Twersky, Michael Klein and Patrice Bishop of

Abraham Fruchter & Twersky LLP and George W. Cochran of the Law Office of George W. Cochran.

GrafTech is represented by Adrienne Mueller, Brittany Wilhelm, Connor Lang, Geoffrey Ritts and Marjorie Duffy of Jones Day.

Brookfield is represented by Michael Montgomery of Benesch Friedlander Coplan & Aronoff LLP and Andrew Ditchfield of Davis Polk & Wardwell LLP.

The case is Porter v. GrafTech International Ltd. et al., case number 1:24-cv-00154, in the U.S. District Court for the Northern District of Ohio.

--Additional reporting by Katryna Perera. Editing by Rich Mills.

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Catching Up With Delaware's Chancery Court

By **Sydney Price and Jeff Montgomery**

Law360 (August 18, 2025, 8:01 PM EDT) -- Last week at the Delaware Court of Chancery, executives and board members of Cencora Corp. — formerly AmerisourceBergen — tentatively settled for \$111.25 million a stockholder derivative suit accusing them of recklessly distributing opioid painkillers at the center of a nationwide addiction epidemic. Details of the settlement match a mediator's proposal issued last year after the case had been revived after having been dismissed by Delaware's Court of Chancery in 2022.

Other smaller settlements were also reached last week, including a \$6.3 million deal between board members for the blank-check company that took electric-vehicle maker Nikola public five years ago and stockholders accusing the special purpose acquisition company of misleading investors about Nikola's prospects.

In case you missed it, here's the latest from the Chancery Court.

Top News

A nearly **\$112 million settlement**, which is still subject to court approval, will end shareholders' claims that AmerisourceBergen's leadership repeatedly failed to respond to "undeniable evidence of widespread illegal opioid sales," which caused the company to pay almost \$7 billion in fines and legal fees. Back in December 2022, Vice Chancellor J. Travis Laster said that a federal judge in West Virginia had already "expressly" ruled that the company had complied with its anti-drug diversion duties. But Delaware's Supreme Court revived the suit in 2023, rejecting the lower court's reasoning, including the Chancery's reliance on "a contradictory version" of facts underlying the earlier dismissal of the West Virginia case.

Other Deal Talks

The **\$6.3 settlement** fund in a suit between shareholders and directors of VectoIQ, a blank-check company for Nikola's initial public offering, would be paid primarily by a directors and officers insurance policy for VectoIQ. A Delaware bankruptcy judge overseeing Nikola's pending liquidation recently ruled that bankruptcy's automatic stay didn't apply to the insurance policy, allowing it to fund the settlement.

Syntimmune Inc. stockholders and Alexion Pharmaceuticals **still cannot agree** on calculations of interest owed after a Court of Chancery ruling in June that Alexion failed a "best efforts" duty to fulfill an autoimmune drug candidate deal.

Attorney Payouts and Fee Disputes

Class attorneys who secured a \$50 million derivative suit settlement fully offsetting a disputed bonus paid in 2021 to former Newmark Group Inc. controller and current Commerce Secretary Howard Lutnick saw their proposed 25% attorney fee **cut to 15%** by a Delaware vice chancellor.

A Delaware vice chancellor **slashed an objector's counsel fee** and expense request by over \$400,000 as part of a settlement in a derivative suit against Goldman Sachs directors, and awarded the plaintiffs their sought-after \$612,500 in fees.

Holding company Paragon Technologies Inc. and its ex-CEO have chosen to **terminate a legal fees dispute**, ending infighting at the top of the company related to allegations of misconduct.

Technology

A Twitter investor who lost a suit for damages after selling his shares when Elon Musk briefly resisted closing on his buyout of the social media giant has asked Delaware's Court of Chancery to **reconsider his claims** and says an agency document contradicts Musk's defenses.

A Delaware vice chancellor has **ordered an October hearing** over stockholder exceptions to a posttrial dismissal of a lawsuit for records on Squarespace Inc.'s \$7.2 billion take-private deal, following objections that the ruling "would require the court to possess impossible prescience."

Tossed Suits

A lawsuit over a failed deal to buy a claim in the Chapter 11 case of cryptocurrency platform FTX **does not belong in the chancery court**, and the fact the bankruptcy is being heard in Delaware does not constitute a sufficient connection to the state, a Delaware Chancery judge determined.

An Aytu BioPharma Inc. stockholder's derivative lawsuit in Delaware against Armistice Capital LLC has ended after a vice chancellor **rejected claims** of breach of fiduciary duty, unjust enrichment, and aiding and abetting against the New York hedge fund.

New Suits

A fund of Paramount Global investor Mario Gabelli sued National Amusements Inc. successor Harbor Lights Entertainment, Shari Redstone and others in Delaware's Court of Chancery for damages related to the recently closed **\$8.4 billion Paramount-Skydance Media merger**.

Quotable

"Asking the court to substitute its judgment for a board's is a big ask. Doing so requires some reason to doubt the board's competence, loyalty or independence; Armistice offers none," the vice chancellor wrote.

Vice Chancellor Morgan T. Zurn upon dismissing an Aytu BioPharma Inc. stockholder's derivative lawsuit in Delaware against Armistice Capital LLC that alleged breach of fiduciary duty, unjust enrichment, and aiding and abetting claims against the New York hedge fund.

--Editing by Emily Kokoll.



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Pharma Company Beats Investor Suit Over Drug Safety Claims

By **Sydney Price**

Law360 (August 18, 2025, 9:32 PM EDT) -- ChemoCentryx, a California-based pharmaceutical company, has secured summary judgment in shareholder litigation accusing it of overstating the efficacy of its newly developed treatment for an autoimmune disease called ANCA vasculitis, with a California court ruling that the ultimate regulatory approval of the drug may show that the company was not intentionally overhyping it.

In their suit launched in 2021, the investors, led by plaintiff Jonnie Homyk, allege that ChemoCentryx's share price plummeted in the days following a brief from the U.S. Food and Drug Administration that raised uncertainties about ChemoCentryx's trial results and safety concerns about its drug avacopan.

But U.S. District Judge Jon S. Tigar of the Northern District of California said on Friday that statements the company and its executives made prior to the brief about the acceptability of avacopan's safety profile reflect their own assessment of the drug's safety based on trial data.

"In cases alleging that a drug manufacturer has misled investors in its presentation of clinical trial data, courts consistently find that those statements are opinions because there is no single 'correct' way to interpret data and qualified data scientists" often and reasonably disagree over how to analyze data and interpret results, the opinion states.

The court also agreed with ChemoCentryx's assertion that the safety statements at issue are nonactionable opinions supported by the eventual FDA approval of avacopan after the class period — the specific time when the company is alleged to have been violating securities laws — and the disclosure of the underlying safety statistics during that time.

"Plaintiff cannot show that defendants 'lacked the basis for making' the statements regarding their interpretation of avacopan's safety profile 'that a reasonable investor would expect,' when the FDA ultimately agreed that avacopan had an acceptable safety profile," the order states, citing *Omnicare Inc. et al. v. Laborers District Council Construction Industry Pension Fund*, a U.S. Supreme Court case from 2015.

According to the complaint, after the FDA accepted the company's new drug application for avacopan, the agency published a briefing document in May 2021, writing that the complexities of ChemoCentryx's study design "raise questions about the interpretability of the data to define a clinically meaningful benefit of avacopan and its role in the management" of ANCA-associated vasculitis. ANCA stands for antineutrophil cytoplasmic antibodies.

The FDA said it identified several areas of concern, raising questions about the data and safety of the drug, according to the suit. ChemoCentryx's stock price fell more than 45% on this news, from \$48.82 per share on May 3, 2021, to \$26.63 per share on May 4, on unusually high trading volume, the suit states.

The stock price continued to drop in the following days, to \$10.46 per share on May 7, in the wake of reports from news outlets and analysts on the FDA's advisory committee meeting, the suit states.

On Oct. 8, 2021, approximately five months after the end of the shareholders' suit's class period, the FDA approved avacopan for the market under the trade name Tavneos, according to Friday's order.

Judge Tigar said the fact that the FDA finally approved avacopan for use in the U.S. market "may by itself be enough to demonstrate that defendants had a reasonable basis for interpreting the regulatory path to be clear."

"Furthermore, courts have repeatedly held that statements of optimism regarding the FDA regulatory process or even likelihood of approval are not misleading merely because a defendant has not publicly disclosed FDA feedback or criticism communicated to the defendant," the order states.

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

The investors are represented by Jonathan D. Uslaner, Lauren M. Cruz, Chloe A. Jasper, Salvatore J. Graziano, Katie Sinderson, John Esmay, Shane Avidan and Jim Briggs of Bernstein Litowitz Berger & Grossmann LLP.

ChemoCentryx is represented by Michele D. Johnson, Jordan D. Cook, Colleen C. Smith, Meryn C.N. Grant, Andrew B. Clubok, Susan E. Engel and Blake T. Denton of Latham & Watkins LLP.

The case is Homyk v. ChemoCentryx Inc. et al., case number 4:21-cv-03343, in the U.S. District Court for the Northern District of California.

--Editing by Karin Roberts.



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Boeing Slams Fund's 737 Max 'Zombie' Fraud Claims

By **Linda Chiem**

Law360 (August 18, 2025, 9:40 PM EDT) -- Boeing told an Illinois federal judge that an investment fund has lobbed untimely "zombie" claims seeking to hold the American aerospace giant liable for allegedly misrepresenting the overall safety of the 737 Max 8 after two deadly crashes in 2018 and 2019.

The Boeing Co. and former CEO Dennis Muilenburg on Friday filed a **motion to dismiss** plaintiff Value Recapture Partners LLC's suit accusing them of making misleading public statements about the 737 Max 8's safety and reliability, regulatory compliance, production rate and backlog, and the true nature of an automated flight-control software feature that was unique to that line of jets.

Value Recapture alleges misleading public disclosures from Boeing and Muilenburg — who was president, CEO and chairman of the board at the time of the accidents, but later ousted in late 2019 — and the company's overall mishandling of the 737 Max crisis caused Boeing's stock price to plummet and significant investment losses.

Boeing and Muilenburg countered Friday that Massachusetts-based Value Recapture doesn't even have standing to sue because it never actually purchased or sold a single share of Boeing stock, according to their dismissal bid.

Rather, two investment funds — Valinor Capital Partners LP and Valinor Capital Partners Offshore Master Fund LP that were both managed by Valinor Management LP — bought Boeing stock in 13 separate transactions between June 2019 and March 2020. Those funds, which are now apparently defunct, purportedly assigned any claims arising out of those purchases to Value Recapture Partners in July 2020, according to the dismissal bid.

"Consistent with its business model, Value Recapture Partners now seeks to capitalize on the purportedly assigned claims," Boeing and Muilenburg argued. "But federal courts have held that securities fraud claims are not freely assignable."

This is especially problematic, they argued, because "plaintiff apparently exists only for the purpose of buying litigation claims from unaffiliated entities that are winding down."

"In this case, plaintiff was purportedly assigned claims by unrelated and dissolving investment funds the year after the events at issue in the complaint. This fact pattern raises serious concerns over creating a litigation market spawned by remote claims-monetization entities asserting zombie claims belonging to defunct funds to extract settlements," Boeing and Muilenburg said.

Moreover, Value Recapture dawdled and shouldn't be allowed to pursue claims that are now time-barred, the defendants said. Value Recapture's suit was first filed in December 2023 and amended in late 2024.

Securities fraud claims are subject to a two-year statute of limitations and a five-year statute of repose, so that would bar any claim based on alleged misstatements before Dec. 6, 2018. That covers the immediate aftermath of the first 737 Max 8 accident: the October 2018 crash of Lion Air Flight 610 in the Java Sea that killed 189 people.

"Plaintiff was assigned the claims it seeks to assert on July 21, 2020, for no other purpose than to commence litigation. Yet plaintiff inexplicably waited over three years to file its complaint, allowing the statute of limitations to expire," Boeing and Muilenburg argued. "There is no equity in saving

plaintiff from its own inexcusable delay."

Value Recapture's suit points to more than two dozen allegedly false and misleading statements from Boeing and Muilenburg in the wake of the October 2018 Lion Air accident, as well as the second 737 Max 8 crash in March 2019 of Ethiopian Airlines Flight 302 that killed 157 people.

The 737 Max 8 jets were **grounded globally** until November 2020. The 737 Max 8 jets were outfitted with a unique automated feature called the Maneuvering Characteristics Augmentation System, which affected the plane's flight control system. Accident investigators and other official review panels have since determined that the MCAS was vulnerable to faulty sensor readings that could inadvertently trigger the system and push the plane to nosedive.

Over the years, Boeing has been hit with a number of securities fraud suits alleging it waged a disinformation campaign by reassuring investors and the public that the 737 Max 8 jets were safe, despite knowing and failing to disclose that the jets were flawed and wouldn't easily clear sharp regulatory scrutiny following the two accidents.

Boeing, meanwhile, has maintained that it made general statements about its commitments to safety and core values, and repeatedly cautioned investors and the public about the potential duration of the grounding and **production stoppages** while the 737 Max jets awaited the all-clear from aviation regulators.

Counsel or representatives for the parties could not be immediately reached for additional comment Monday.

Value Recapture is represented by Lawrence M. Rolnick, Marc B. Kramer, Michael J. Hampson and Nicole T. Castiglione of Rolnick Kramer Sadighi LLP and Jordan A. Finfer of Patzik Frank & Samotny Ltd.

Boeing and Muilenburg are represented by John F. Hartmann, Brenton A. Rogers and Kenneth Monroe of Kirkland & Ellis LLP.

The case is Value Recapture Partners LLC v. The Boeing Company et al., case number 1:23-cv-16550, in the U.S. District Court for the Northern District of Illinois.

--Editing by Janice Carter Brown.

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Musk Seeks Early Win In Twitter Investor Fraud Case

By **Sarah Jarvis**

Law360 (August 18, 2025, 9:38 PM EDT) -- Elon Musk has asked a California federal judge to dismiss claims brought by a class of former Twitter investors in litigation accusing the right-wing billionaire of intentionally tanking the social media platform's stock price, arguing his statements made ahead of the deal are accurate.

In a partially redacted **motion for summary judgment** filed Friday, Musk alleged the investor plaintiffs can't show that statements he made in May 2022 concerning negotiations ahead of his acquisition of Twitter, now known as X, were materially false, made with fraudulent intent or caused any damage.

Musk said the plaintiffs have conceded that certain statements he made while communicating with Twitter about the percentage of accounts on the platform that were fake and spam "did not have a statistically significant impact on Twitter's stock price, and thus they are inactionable."

Counsel for the parties didn't immediately respond to requests for comment Monday.

The shareholders have **accused** Musk of attempting to drive down Twitter's stock price to back out of a promise to buy the social media company or to renegotiate a lower price. Musk first tried to back out of the promised \$44 billion purchase but later agreed to **close the deal** after the company sued him in Delaware.

In 2023, U.S. District Judge Charles R. Breyer **partially granted** Musk's motion to dismiss, trimming some claims from the case but ruling that the investors had plausibly laid out their claim that Musk violated securities laws with tweets on May 13, May 16 and May 17, 2022.

The plaintiffs claimed they suffered substantial trading losses in light of Musk's tweets on May 13, 2022, claiming that the deal was "temporarily on hold" pending details about the fake accounts, but that he was "still committed to acquisition." But the record "overwhelmingly confirms" there was nothing inaccurate about that statement, Musk argued Friday.

"There is no genuine dispute that Musk's tweets were accurate and borne out by subsequent events," Musk said.

The billionaire argued there is no evidence that any investor interpreted "temporarily on hold" to mean that all merger work had stopped, and the investors haven't shown they suffered a loss because of that statement. And even if the court were to find that his statements were false, they amount to legal opinion that he can't be sued for, unless the investors show his opinion was not sincerely held.

"Even if Musk's statements were not accurate — they were — the statements are at best nonactionable opinion because the record shows Musk sincerely believed he was entitled to the information he requested," Musk argued.

Musk stated at a conference on May 16, 2022, that fake and spam accounts make up at least 20% of Twitter's users, per the motion. The investors alleged the statement misled the investing public to believe that Musk had received bot user data from Twitter, when he, in fact, had not.

But Musk argued that discovery in the case has shown, in the form of a transcript of the conference, that he stated at the outset that Twitter had not provided the bot user details he had requested.

The following day, he tweeted, "20% fake/spam accounts, while 4 times what Twitter claims, could be *much* higher. My offer was based on Twitter's SEC filings being accurate. Yesterday, Twitter's CEO publicly refused to show proof of <5%. This deal cannot move forward until he does," according to the motion.

Musk said that through those statements, he informed the market that he was concerned that Twitter's disclosures with the U.S. Securities and Exchange Commission misstated the platform's "monetizable daily active users," or mDAU, and that he would not move forward with closing the acquisition until Twitter showed otherwise.

"Twitter agreed to produce information but failed to satisfy Musk that mDAU was reasonably presented," Musk argued. "Musk terminated the [merger agreement] and delayed closing. His tweets were an act of transparency, not fraud. Plaintiffs cannot establish falsity on this record."

A hearing on Musk's motion for summary judgment is scheduled for Oct. 31, according to the case docket.

Musk is represented by Alex Spiro, Jesse Bernstein, Jonathan Feder, Michael T. Lifrak, Joseph C. Sarles, Stephen A. Broome and M. Alex Bergjans of Quinn Emanuel Urquhart & Sullivan LLP.

The shareholders are represented by Joseph W. Cotchett, Mark C. Molumphy, Tyson C. Redenbarger, Gia Jung and Caroline Yuen of Cotchett Pitre & McCarthy LLP and Francis Bottini Jr., Albert Y. Chang and Aaron P. Arnzen of Bottini & Bottini Inc.

The case is Giuseppe Pampena v. Elon R. Musk, case number 3:22-cv-05937, in the U.S. District Court for the Northern District of California.

--Additional reporting by Hailey Konnath. Editing by Dave Trumbore.

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Deutsche Bank, NCUA Net Partial Wins In Crisis-Era RMBS Suit

By **Katryna Perera**

Law360 (August 18, 2025, 8:17 PM EDT) -- A New York federal judge has granted partial early wins to both the National Credit Union Administration Board and Deutsche Bank in a long-running suit stemming from the 2008 financial crisis and concerning allegations that Deutsche Bank failed to fulfill its duties to certificate holders in several residential mortgage-backed securities trusts.

U.S. District Judge Sidney H. Stein issued an **opinion and order** Friday partially granting and denying competing summary judgment motions filed by the parties. The suit alleges that Deutsche Bank failed to do its job properly as trustee for several precrisis RMBS trusts, including by turning a blind eye to widespread problems with mortgages in the trusts so that it could protect its own bottom line.

Deutsche Bank moved for summary judgment on several of the suit's claims, including that it failed to take repurchase action of the underlying mortgage loans after discovering or receiving written notice of breaches of representations and warranties. According to the order, if a trustee discovered or received notice of a breach of the representations and warranties, the trustee must "notify the appropriate parties and take steps to enforce the warrantor's obligation to cure, substitute, or repurchase the defective mortgage loans."

Deutsche Bank argued this claim was time-barred by the statute of limitations in California, which is where the bank administers the trusts. Judge Stein agreed on Friday, noting that the trusts in question all closed between 2006 and 2007, and pointed to the bank's assertion that roughly 75% of the breach notices were received after the statute of limitations had expired.

The judge also tossed as time-barred the suit's pre-event of default, or EOD, claims concerning document defects in the mortgage files, including that the bank had notice or discovered material document defects and breached its mortgage file obligations with respect to certain loans.

Summary judgment was also granted on the suit's post-EOD claims related to servicer breaches, with the judge finding that NCUA has not shown that an EOD occurred because it "failed to present evidence that creates a dispute of fact over whether Deutsche Bank had the requisite notice of a servicer breach or a servicing officer had acquired knowledge of the breach."

According to the order, the National Credit Union Administration Board, or NCUA, moved for partial summary judgment on the claim that Deutsche Bank, as a trustee, was "unambiguously required" to enforce repurchase compliance through litigation.

However, Judge Stein disagreed Friday, saying that while NCUA is correct that "[t]he words and phrases used by the parties must, as in all cases involving contract interpretation, be given their plain meaning ... the plain meaning of 'enforce' does not mean litigate."

The judge also declined to dismiss Deutsche Bank's affirmative defense that NCUA failed to mitigate its damages. However, the judge granted summary judgment to NCUA on its claim that Deutsche Bank's obligation to enforce warrantor repurchases is not contingent on direction or indemnity from certificate holders.

According to NCUA, the bank's alleged failures resulted in hefty losses to the trusts and their investors, including the five credit unions that later failed and were taken over by the agency. They

had bought more than \$2 billion in certificates in the trusts, and these assets were subsequently among those resecutitized into the NCUA Guaranteed Notes, or NGN trusts.

In 2019, Judge Stein allowed the NCUA to **swap in an additional plaintiff**, Graeme Bush, a specially appointed "separate trustee" for the NGN trusts, to fix standing issues that arose in the suit.

A year earlier, the **Second Circuit found** in **NCUA Board v. U.S. Bank NA**  that any RMBS-related claims those trusts might have had were transferred to their indenture trustee, The Bank of New York Mellon, during the resecutitization process, meaning that the NCUA "cannot bring the claims derivatively on behalf of the NGN trusts."

BNY Mellon then tapped Bush to be a separate trustee and gave him authority to pursue claims that the NCUA had sought to assert derivatively in its suit against Deutsche Bank, prompting the credit union agency to enter the substitution request that Judge Stein granted.

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

The NCUA and Bush are represented by its own Jeffrey A. Zick and by Scott K. Attaway, David C. Frederick, Matthew M. Duffy, Ana Nikolic Paul, Catherine M. Redlingshafer and Travis G. Edwards of Kellogg Hansen Todd Figel & Frederick PLLC.

Deutsche Bank National Trust Co. is represented by Bernard J. Garbutt III, Michael S. Kraut, Nathan T. Shapiro, Christina Chen and Phillip J. Wiese of Morgan Lewis & Bockius LLP.

The case is National Credit Union Administration Board v. Deutsche Bank National Trust Co., case number 1:14-cv-08919, in the U.S. District Court for the Southern District of New York.

–Additional reporting by Jon Hill. Editing by Amy French.

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Investors Can't Yet Tie Logan Paul To CryptoZoo Claims

By **Catherine Marfin**

Law360 (August 18, 2025, 5:37 PM EDT) -- A Texas magistrate judge recommended that a proposed class action over Logan Paul's CryptoZoo project should be dismissed, writing that the group hadn't adequately connected the influencer to their claims that they were ripped off when the project failed.

In a 75-page **report and recommendation** from Thursday, U.S. Magistrate Judge Ronald C. Griffin said that the plaintiffs should be given a chance to amend their pleadings for 26 out of the 27 counts asserted against Paul and others involved in his project. Only count 27 of the complaint, which alleged commodity pool fraud in violation of the Commodity Exchange Act, should be dismissed with prejudice, he said.

While Judge Griffin disagreed with Paul's assertion that the proposed class had launched a **"shotgun pleading"** that lumps him in with his former business partners for each claim, he said questions remained about whether Paul directly and personally benefited from misstatements he made to investors about the failed project.

For the class' tort claims — unjust enrichment, negligence, conspiracy to commit fraud, and civil aiding and abetting fraud — neither Paul nor the class had properly explained whether he should be held liable for the actions of the CryptoZoo project as a whole.

"But because neither party briefed the court on veil-piercing under [the Texas Business Organizations Code], to summarily dismiss plaintiffs' attempts to pierce CryptoZoo's veil would be unnecessarily harsh," Judge Griffin said in allowing the class to replead those claims.

Lead plaintiff Don Holland sued Paul in 2023, alleging that he and others bought nonfungible Zoo tokens required to play Paul's game CryptoZoo, which became worthless when Paul **abandoned the project** in early 2024.

The class says Paul offered to buy back the tokens when the project failed, a plan that also "did not mirror defendants' representations" as the buyback program offered plaintiffs only a fraction of their original purchase price.

Paul moved to dismiss the complaint in August 2024.

In addressing the alleged misrepresentations that he made about the game, which included telling investors that it was backed by a "massive team" funded by "like a million dollars" and "a really fun game that makes you money," Judge Griffin said he was left with "a host of questions" that necessitated repleading.

"When did defendants say the game was completed and tested — 2021 or 2023? Who said it was completed? Did defendant Paul say the game was completed during a YouTube episode, or did he merely boast about how fun it is?" Judge Griffin wrote. "While the court can certainly see how an affirmation falsely claiming the game was completed and functional by a certain date could be material, the court simply cannot draw the inference defendant Paul made that statement when plaintiffs provide only fragments of facts accompanied by vague attributions of conduct to 'defendants.'"

The plaintiffs' breach of contract claims also suffer from the same lack of specificity, Judge Griffin

wrote.

"Plaintiffs seemingly attempt to cobble together elements of both the [CryptoZoo terms and conditions], as well as alleged verbal contracts stemming from defendants' representations to support the existence of a valid contract," he wrote. "In essence, plaintiffs jam together two pieces of different puzzles in the vain hope of producing a final, cohesive product. Unfortunately, the caselaw does not support this tactic."

In dismissing the final count of Holland's complaint, Judge Griffin wrote that the "mental gymnastics" required to conclude that the CryptoZoo nonfungible tokens created options for investors "are truly dizzying."

"Plaintiffs seem to argue the uncertain and evolving nature of the [CryptoZoo nonfungible tokens] creates an option contract or a commodity for future delivery," Judge Griffin said, referring to an element of the game where the tokens, or "animals," would hatch into eggs and could be bred with other "animals."

"In other words, because purchasers buy [CryptoZoo nonfungible tokens] unaware of their value until they hatch, and because the [CryptoZoo nonfungible tokens] animals can be bred with others to create hybrid [nonfungible tokens], an option contract is thereby formed," he wrote. "Plaintiffs do not explain — nor can the court understand — how their purchases of [CryptoZoo nonfungible tokens] create option contracts or contracts for future delivery."

Jarrett L. Ellzey of Ellzey & Associates PLLC, counsel for the class, told Law360 Monday that they "will be filing a timely amended complaint to address any deficiencies we believe need to be addressed."

Counsel for Paul did not immediately return a request for comment Monday.

The class is represented by Jarrett L. Ellzey, Leigh S. Montgomery and Alexander G. Kykta of Ellzey & Associates PLLC, and Thomas J. Kherkher of Attorney Tom & Associates.

Paul is represented by Benjamin J. Widlanski, Tal J. Lifshitz and Rachel Sullivan of Kozyak Tropin & Throckmorton LLP, and Jeffrey A. Neiman and Jason L. Mays of Marcus Neiman Rashbaum & Pineiro LLP.

The case is Holland v. CryptoZoo Inc. et al., case number 1:23-cv-00110, in the U.S. District Court for the Western District of Texas.

--Editing by Adam LoBelia.

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