Grand Forks City Council moves ahead on updated alcohol compliance penalties

grandforksherald.com/news/grand-forks-city-council-moves-ahead-on-updated-alcohol-compliance-penalties

Hannah Shirley

September 9, 2025

Grand Forks City Hall

Comments

News Reporting

GRAND FORKS – The Grand Forks City Council on Monday gave preliminary approval to a change to the city's penalties for businesses that serve alcohol to minors.

Council members were initially presented with the change last week, but requested more time to compare the proposed penalties with other North Dakota cities.

City Attorney Dan Gaustad presented his findings to the council Monday, recommending a list of escalating penalties that closely mirrors the city's penalties for establishments that sell tobacco to minors. That penalty schedule would have establishments paying a fine for a first violation and license suspensions for subsequent violations.

Several council members – as well as multiple on- and off-sale business owners in the audience – were concerned that basing the alcohol compliance ordinance on the tobacco compliance ordinance isn't a fair comparison. Council President Dana Sande said that suspending an establishment's license and prohibiting a bar or liquor store from selling alcohol for a day is a much steeper penalty than directing a convenience store to not sell cigarettes for a day.

“Comparing us to the tobacco situation, I think that’s comparing apples to oranges,” Mike McMenamy, owner of McMenamy’s Tavern, told the council. “I mean, if you shut us down for a day or three days, we’re out of business for those days.”

After discussion, council members agreed to adjust the proposed change so that license suspensions would begin at the third violation in 12 months instead of the second. The proposed penalties, which will be considered for a final vote at the Monday, Sept. 15, council meeting, are as follows:

- For a first offense, businesses will be fined $500 to $700.
- For a second offense in 12 months, businesses will be fined $700 to $1,000.
- For a third offense in 12 months, businesses will be fined $1,000 to $1,500 and their license will be suspended for eight to 24 hours.
- For fourth and subsequent offenses in 12 months, businesses will be fined $1,500 and their license will be suspended for five to 10 consecutive days.

Multiple council members also suggested that perhaps the city should consider requiring servers to take an in-person course, rather than relying on the online training currently required.

“The city of Grand Forks hasn’t updated its alcohol compliance training in years,” Sande said. “I think that’s something we as a city should look at.”

In other news, the council:

- Voted to preliminarily accept two opioid litigation settlements from Purdue Pharma’s bankruptcy proceedings. Attorney Aelish Baig of Robbins, Geller, Rubman and Dowd, who has represented the city throughout opioid litigation, said it’s not clear exactly how much the city will receive through the new settlements, but she expects they won’t be as significant as settlements previously received by the city. Since 2022, the city has received more than $309,400 from Purdue and the Sackler family as part of a multi-billion-dollar settlement for misleading the public about the addictive nature of OxyContin.
- Preliminarily financed a slate of infrastructure projects around the city using $15.965 million in Refunding Improvement Bonds, which will be paid back through special assessments at a true interest cost of 4.516%. The city will call for bids, which will be considered at a sale meeting at 5:30 p.m. Monday, Oct. 20, at City Hall.

- Preliminarily signed off on an agreement with the North Dakota Department of Transportation for improvements to the “very large, confusing” intersection at North Sixth Street and DeMers Avenue near The Beacon, said city engineer Al Grasser. According to Grasser, the updates will tighten up the area and “make it look more like an intersection” to improve safety. The cost of the project is expected to be around $2.4 million and will be 90% paid for by the state, with a city cost share of $238,737.
- Preliminarily approved a final Americans with Disabilities Act Transition Plan for Public Right of Way. The updated plan is required for federal funding.
- Preliminarily approved a letter of no objection to a group of farmers who hope to take on a project that will improve the drainage capacity of areas along Merrifield Road. During spring flooding, farmers have reported multi-million-dollar damages to crops in that area when the fields are inundated by water.
- Requested more information on a potential landfill gas feasibility study. Public Works Director Sharon Lipsch said the city was approached by a startup interested in installing a methane gas collection system at the city’s landfill. The study would evaluate the potential costs and revenues associated with the project. Council member Rebecca Osowski raised a number of concerns about landfill gas collection, including the possibility of worse emissions, combustion and other safety hazards and negative health impacts for people who live near whatever processing plant the collected gas is transported to. She also questioned whether Grand Forks would see any meaningful cost benefit from the gas collection, and noted Fargo has had a similar system since 2002. Council members voted 5-1 to pursue more information, with Osowski dissenting.
- Awarded a number of annual public works bids. Gowan Construction was awarded $99,720 for snow hauling and spring cleanup; $58,240 was awarded to Diamond Vogel and $52,320 to Sherwin Williams for street marking painting; and NSC Minerals was awarded $131.44 per ton of rock salt to be used in street maintenance.

Comments

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Securities Law News

Dow Shareholder Sues Its Top Brass Over Trade Fears Earnings Hit

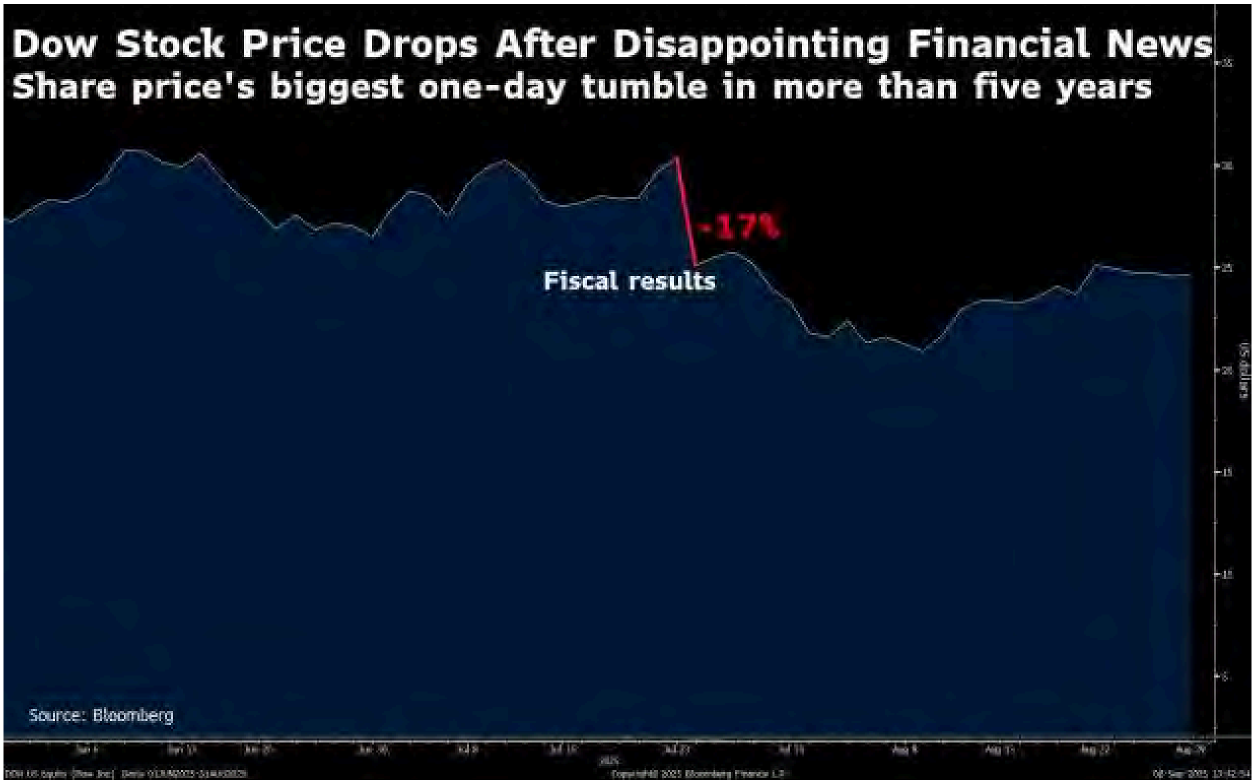
Sept. 8, 2025, 11:54 AM PDT

Dow Inc. leadership overhyped its strength against tariff turmoil and macroeconomic trends before disclosing a wider-than-expected quarterly earnings loss and halved its dividend, a shareholder lawsuit said.

The chemical company's stock price plunged more than 17% on July 24, the day it dropped disappointing second quarter of 2025 sales and earnings figures, the stockholder told the US District Court for the Eastern District of Michigan. That was the stock's steepest single-day slide since March 2020, according to data compiled by Bloomberg.

Leading up to this, top brass rosily touted Dow's unique strength while downplaying trade regulation uncertainties and an industry-wide slump, said the shareholder derivative complaint filed Sept. 5. Executives and board members hurt Dow's reputation and wallet by having it mislead shareholders and lacking adequate internal controls, stockholder Justin Potter said.

Potter's complaint echoes an investor's proposed class action filed against Dow, CEO Jim Fitterling, chief financial officer Jeffrey L. Tate, and chief operating officer Karen S. Carter last month. Potter targets those three executives and Dow's board in his derivative suit.



Potter alleges breach of fiduciary duties, gross mismanagement, waste of corporate assets, and unjust enrichment by all the defendants.

He says the board violated federal securities laws by issuing a misleading proxy statement seeking shareholder votes on members' reelection and other proposals, saying the proxy falsely stated directors "adequately monitored macroeconomic trends and were thus equipped for any macroeconomic headwinds."

Gainey McKenna & Egleston and Michigan-based The Miller Law Firm PC represent Potter, who seeks damages and corporate governance reform for Dow.

Dow didn't immediately respond to an email seeking comment.

The case is Potter v. Fitterline , E.D. Mich., No. 1:25-cv-12821, complaint filed 9/5/25 .

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Peeved iRobot investors urge First Circuit to revive suit over botched Amazon takeover

courthousenews.com/peeved-irobot-investors-urge-first-circuit-to-revive-suit-over-botched-amazon-takeover

Josh Russell September 8, 2025

BOSTON (CN) — A panel of federal appeals judges on Monday morning signaled an openness toward resuscitating a civil class action against the robot vacuum cleaner company iRobot from investors who say the Roomba maker hid red flags about Amazon's since-abandoned buyout of iRobot.

Amazon scrapped its planned $1.4 billion takeover of iRobot in January 2024 amid signs of disapproval to the deal from the European Union's antitrust regulator, the European Commission, related to concerns over privacy and competition in the online marketplace.

First announced in 2022, the merger would have been one of Amazon's largest-ever acquisitions.

Led by investment firm Premca Extra Income Fund, a group of investors brought a class action against Roomba's parent company in Boston federal district court in March 2024, but suffered defeat when U.S. District Judge William G. Young tossed out the suit for failing to sufficiently establish inferences that iRobot expected the merger to fail.

Young, a Ronald Reagan appointee, found in his opinion that even if iRobot's agents made misleading statements, the investment firm could not show they did so knowingly.

The investors then brought an appeal before the First Circuit Court of Appeals in April, seeking to overturn Young's dismissal on grounds that the lower court wrongly disregarded accounts from confidential witnesses in "high-level positions with firsthand knowledge" who they say confirmed their claims that Amazon refused to cooperate with the European antitrust regulators' requests for information.

The investment firm Premca Extra Income Fund LP said in an appeals brief that iRobot and Amazon internally pivoted away from the merger starting in the summer of 2023, but did not disclose that turn of events to investors.

"They terminated all nine tracks of integration planning meetings between the companies, and iRobot shifted to planning to operate independently instead of as a merged company," iRobot argued. "Throughout the remainder of the class period, defendants hid those facts from investors, making their statements so incomplete as to mislead, and even affirmatively misrepresented that Amazon was cooperating with regulators, despite knowing otherwise."

U.S. Circuit Judge Seth Aframe seemed sympathetic to the investors' case during oral arguments Monday.

"As the situation gets less rosy, nothing really changes other than announcing the objectives and saying, 'We think we can still win,'" the Joe Biden appointee said. "But the situation on the ground seems to be darkening, and there's nothing here about that."

The Bedford, Massachusetts-based iRobot Corp. argued that company announced the merger but also warned investors that regulatory approval was not guaranteed, and subsequently provided tailored and updated disclosures about the Federal Trade Commission's and European Commission's reviews.

The company also noted in its appeals brief that its forward-looking statement discussing iRobot's belief and expectation that the merger would receive regulatory approvals, accompanied by adequate risk disclosures, are independently not actionable under the Private Securities Litigation Reform Act.

During oral arguments on Monday, iRobot attorney Alisha Nanda pushed back against the plaintiffs' assertions that company was surreptitiously formulating plans to move forward independently from the deal with Amazon while misleading investors about the viability of the acquisition.

"It's not planning for abandonment. No [confidential witness] says that. They just say they started to contingency plan," the Skadden Arps lawyer argued. "Well, that's wholly consistent with the risk disclosures that were made to investors throughout the period, and certainly in August."

Aframe was joined on the First Circuit panel by fellow Biden-appointed U.S. Circuit Judge Julie Rikelman and Senior U.S. Circuit Judge Sandra Lea Lynch, a Bill Clinton appointee.

The three-judge panel did not immediately rule from the bench on the appeal Monday morning.

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Expert Opinion | Securities Litigation

Short Seller in the Crosshairs: Material Omissions, Market Commentary, and the Expanding Boundaries of Securities Fraud

Courts are increasingly scrutinizing short sellers and influencers, ruling that misleading statements or omissions about trading intentions can be illegal, even if labeled as opinions. Undisclosed schemes like contra-recommendation trading are considered fraudulent, and First Amendment protections do not apply to securities fraud.

September 08, 2025 at 08:39 PM By **Joshua Newville**

Hadassa Waxman

social media influencer

Recent federal court decisions have placed activist short sellers and financial influencers under heightened scrutiny, clarifying the legal standards for liability when market commentary crosses into deceptive conduct.

Rulings on motions to dismiss in ongoing government litigation against Andrew Left and Citron Capital LLC—both civil and criminal—offer a detailed roadmap for how courts are likely to treat public statements, trading intent, and undisclosed conflicts in the social media era.

The Civil Fraud Case: Material Omissions and the Motion to Dismiss

The Securities and Exchange Commission (SEC) has filed a civil complaint alleging that short seller Andrew Left and his firm, Citron Capital LLC, made public statements about their trading positions and intentions that misrepresented their true conduct, including rapid reversals of positions and undisclosed compensation arrangements with hedge funds.

The complaint details a pattern: Left would take a position in a stock, publish reports and social media posts recommending that others trade in the same direction (often with specific target prices), and then quickly reverse his own position to profit from the market movement he induced.

The SEC further alleges that Left concealed his true trading intentions and financial motivations and misrepresented Citron's independence.

In April 2025, the U.S. District Court for the Central District of California denied Left and Citron's motion to dismiss the SEC's fraud complaint. *Sec. & Exch. Comm'n v. Left,* No. 2:24-cv-06311 (C.D. Cal. Apr. 23, 2025).

The court found that the SEC's allegations, if proven, could constitute material omissions under the federal securities laws, specifically Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5.

The court's analysis relied heavily on the principle that statements to investors must not only be literally true, but must also not omit material facts necessary to make those statements not misleading. This "half-truth" doctrine is central to modern securities fraud jurisprudence.

The Parallel Criminal Case: DOJ Prosecution Moves Forward

In a parallel criminal proceeding, the Department of Justice charged Left with securities fraud and related offenses, alleging a scheme to manipulate market prices through misleading commentary and undisclosed trading. *United States v. Left*, No. 2:24-cr-456 (C.D. Cal.).

Left moved to dismiss the indictment based on selective prosecution, arguing that he was improperly prosecuted for expressing negative opinions regarding stocks (but not false facts), in violation of his First Amendment rights.

In July 2025, the district court denied Left's motion to dismiss the indictment, allowing the case to proceed to trial, which is currently scheduled for March 2026.

The Court's Ruling in the SEC Civil Case

A. Pleading Standards and Sufficiency of the Complaint

In its April 2025 decision denying Citron's motion to dismiss, the court applied the heightened pleading standard of Federal Rule of Civil Procedure 9(b), which requires fraud to be stated with particularity.

The court found that the SEC's complaint met this standard, noting the detailed allegations regarding the timing, content, and context of Citron's publications, as well as the specific acts of "contra-recommendation trading." The court emphasized that the complaint provided sufficient notice of the alleged misconduct, including the "who, what, when, where, and how."

B. Treatment of Extrinsic Documents and Judicial Notice

A notable aspect of the ruling is the court's careful approach to extrinsic documents. Citron sought to introduce disclaimers, SEC orders, stock price data, and news articles to refute the SEC's theory.

The court largely declined to consider these materials at the motion to dismiss stage, citing Ninth Circuit precedent cautioning against using judicial notice or incorporation by reference to resolve factual disputes or create defenses to well-pleaded allegations. *See Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988 (9th Cir. 2018).

For example, the court refused to consider a "Legal Disclaimer" from Citron's website that Citron argued negated any duty to disclose trading intentions. The court noted that it would not allow the use of extrinsic documents to create a defense on a factual dispute at the motion to dismiss stage.

The court did allow judicial notice of historical stock price data and the content of a Citron report extensively quoted in the complaint (for notice purposes, not for the underlying facts), but refused to consider the Citron disclaimer for the truth of its content.

C. Actionable "Opinions" and Half-Truths

Citron argued that its negative publications regarding stocks were mere opinions, not actionable misrepresentations. The court rejected this categorical distinction, relying on Supreme Court precedent and Ninth Circuit authority that opinions can be actionable if they omit material facts or are misleading in context. *See Omnicare, Inc. v. Laborers Dist. Council Constr. Indus. Pension Fund*, 575 U.S. 175, 186–90 (2015); *City of Dearborn Heights Act 345 Police & Fire Ret. Sys. v. Align Tech., Inc.*, 856 F.3d 605 (9th Cir. 2017).

In *Omnicare*, the court held that a sincerely held opinion, even if ultimately incorrect, is not an "untrue statement of fact" under Section 11 or Rule 10b-5(b) merely because it was mistaken.

However, the court clarified that an omission of material facts about the basis for the opinion—if that omission would lead a reasonable investor to a false conclusion—can render the statement misleading and actionable.

The Supreme Court's recent decision in *Macquarie Infrastructure Corp. v. Moab Partners, L.P.*, 601 U.S. 257 (2024), further clarified the boundaries of Rule 10b-5(b) liability. The court unanimously held that "pure omissions"—failing to disclose information when no misleading statement is made—are not actionable under Rule 10b-5(b). However, liability arises if the omission renders an existing statement misleading—a classic "half-truth" scenario.

The court found that the SEC plausibly alleged that Citron's recommendations and target prices were presented as sincere projections, while Left actually intended to trade against them, rendering the statements misleading "half-truths."

D. Scheme Liability and "Scalping"

The court recognized the SEC's theory as a form of "scalping" or "contra-recommendation trading," where a publisher recommends a trade to the public while secretly planning to trade in the opposite direction.

The court found that such conduct, if proven, could constitute a fraudulent scheme under the "scheme liability" provisions of Section 10(b) and Rule 10b-5(a) and (c), as well as Section 17(a)(1) and (3) of the Securities Act of 1933.

E. First Amendment and Due Process Arguments

Citron contended that the SEC's action chilled protected speech and was novel, lacking fair notice. The court rejected these arguments, reiterating that the First Amendment does not shield fraudulent conduct and that the SEC's theory was not unprecedented.

The court further found that the action did not result in any "chilling effect" on the flow of truthful information. The court distinguished between a situation where an analyst genuinely changes his mind and alleged premeditated deception, finding the latter actionable.

IV. Practical Implications

The Citron litigation signals that the SEC and the courts will closely scrutinize statements by market commentators, especially when those statements purport to disclose trading intent, independence, or compensation.

The court's ruling is notable for several reasons:

1. **Clarification of "Opinion" Liability:** The decision reinforces that market commentary, even when couched as opinion or prediction, can be actionable if it omits material facts or is misleading in context. This has important implications for activist short sellers, financial influencers, and research publishers. Undisclosed compensation or coordination with third parties can transform otherwise protected speech into actionable fraud.
2. **Limits on Judicial Notice at the Pleading Stage:** The court's refusal to consider extrinsic evidence to resolve factual disputes underscores the importance of discovery and the adversarial process in securities litigation.
3. **Recognition of "Scalping" as Fraud:** By treating "contra-recommendation trading" as a potentially fraudulent scheme, the court aligns with prior SEC enforcement actions and clarifies the boundaries of lawful market conduct.
4. **Rejection of First Amendment Shield for Fraud:** The ruling affirms that securities fraud is not protected speech, even when it takes the form of market commentary.

Conclusion

The ongoing Citron litigation, informed by Supreme Court precedent, marks a significant development in the regulation of activist short sellers and financial influencers.

Courts are increasingly willing to treat material omissions and half-truths in market commentary as actionable under the securities laws, especially when those statements are paired with undisclosed trading reversals or compensation.

Joshua Newville *and* **Hadassa Waxman** *are partners at Proskauer Rose*.

Litigation

Manage Newsletters

Short-Seller Culper Sued by Firm It Said Had Drug Cartel Ties

Sept. 9, 2025, 8:32 AM PDT

Summary by Bloomberg AI

AI Generated

- Tecnoglass Inc. was sued by Culper Research for defamation over a report alleging links to the Sinaloa drug cartel.
- Tecnoglass said the report was based on fabricated documents and accused Culper of trying to destroy its market value.
- Tecnoglass denied the allegations, stating it and its founders are not connected to the Sinaloa cartel or its operations.

Short seller Culper Research was sued for defamation over a report that alleged Tecnoglass Inc., a Colombia-based manufacturer of architectural glass, had links to the founders of the Sinaloa drug cartel.

In a suit filed Tuesday in New York federal court, Tecnoglass said the report was based on fabricated documents by a "hacktivist group" and accused Culper and its founder, Christian Lamarco, of trying to destroy its market value.

Culper didn't immediately respond to a call a seeking comment.

The short-seller's Aug. 21 report said leaked Mexican government intelligence memos showed that Tecnoglass' founders, brothers Jose and Christian Daes, were among a group of Colombian businessmen who laundered cartel funds to finance elections in the South American country. In a post on X, Colombian president **Gustavo Petro** asked whether the allegations should be investigated.

Though Tecnoglass denied the allegation, the release of the report sent the company's shares down as much as 3.3%.

"Tecnoglass, José Daes, and Christian Daes are not, and never have been, connected to or involved in any way with, the Sinaloa cartel or its operations," Tecnoglass said in its lawsuit. The company said it provided Culper with a Mexican court decision showing that the memos weren't authentic.

New York-based Culper Research, whose name pays homage to a spy ring formed by George Washington to report on the movements of British forces during the American Revolution, has been increasingly active this year, issuing short reports on companies including the mobile advertising company AppLovin Corp. and air-taxi company Archer Aviation Inc. In May, it challenged *Tonight Show* host Jimmy Fallon to a $1 million bet over Archer's progress after he had Chief Executive Officer Adam Goldstein on as a guest.

Both AppLovin and Archer have denied Culper's allegations.

Tecnoglass' suit was filed by high-profile lawyer **Alex Spiro**, who was also hired by AppLovin earlier this year to investigate allegations by Culper and other short sellers that the company fraudulently juicing ad performance numbers on its platform.

The case is Tecnoglass Inc. v Lamarco, 25-cv-7450, US District Court, Southern District of New York.

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Anthony Aarons, Amanda Cantrell

News | **Artificial Intelligence**

Judge Skewers $1.5B Settlement Between Anthropic and Authors Over Use of Pirated Books

Judge William Alsup's main concern centered on how the claims process will be handled in an effort to ensure everyone eligible knows about it so the authors don't "get the shaft." He set a Sept. 22 deadline for submitting a claims form for him to review before the Sept. 25 hearing to review the settlement again.

September 08, 2025 at 05:16 PM By **Michael Liedtke**

Matt O'Brien

Thriller novelist Andrea Bartz is photographed in her home, in the Brooklyn borough of New York, Thursday, Sept. 4, 2025 Photo: Richard Drew/AP

SAN FRANCISCO (AP) — A federal judge on Monday skewered a $1.5 billion settlement between artificial intelligence company Anthropic and authors who allege nearly half million books had been illegally pirated to train chatbots, raising the specter that the case could still end up going to trial.

After spending nearly an hour mostly lambasting a settlement that he believes is full of pitfalls, U.S. District Judge William Alsup scheduled another hearing in San Francisco on Sept. 25 to review whether his concerns had been addressed.

“We'll see if I can hold my nose and approve it” then, Alsup said before adjourning Monday's hearing.

The judge's misgivings emerged just a few days after Anthropic and attorneys who filed the class-action lawsuit announced a $1.5 billion settlement that is designed to resolve the pirating claims and avert a trial that had been scheduled to begin in December.

The proposed settlement — the largest publicly reported copyright recovery in history, according to court documents — would be a landmark action likely to reverberate among dozens of other copyright cases pending against AI developers.

Alsup had dealt the case a mixed ruling in June, finding that training AI chatbots on copyrighted books wasn’t illegal but that Anthropic wrongfully acquired millions of books through pirate websites to help improve its Claude chatbot.

The proposed settlement would pay authors and publishers about $3,000 for each of the books covered by the agreement.

Justin Nelson of Susman Godfrey, an attorney for the authors, told Alsup that about 465,000 books are on the list of works pirated by Anthropic. The judge said he needed more ironclad assurances that number won't swell to ensure the company doesn't get blindsided by more lawsuits “coming out of the woodwork.”

The judge set a Sept. 15 deadline for a “drop-dead list” of the total books that were pirated.

Alsup's main concern centered on how the claims process will be handled in an effort to ensure everyone eligible knows about it so the authors don't “get the shaft.” He set a Sept. 22 deadline for submitting a claims form for him to review before the Sept. 25 hearing to review the settlement again.

The judge also raised worries about two big groups connected to the case — the Authors Guild and Association of American Publishers — working “behind the scenes” in ways that could pressure some authors to accept the settlement without fully understanding it.

Both Authors Guild CEO Mary Rasenberger and Association of American Publishers CEO Maria Pallante attended Monday's hearing, but didn't speak. The trio of authors — thriller novelist Andrea Bartz and nonfiction writers Charles Graeber and Kirk Wallace Johnson — who sued last year also sat in the front row of the court gallery, but didn't address Alsup.

Before the hearing Johnson, author of “The Feather Thief” and other books, described the settlement as the “beginning of a fight on behalf of humans that don’t believe we have to sacrifice everything on the altar of AI.”

Nelson, the lawyer for the authors, sought to ensure Alsup that he and other lawyers in the case were confident the money will be fairly distributed because the case has been widely covered by the media, with some stories landing on the front pages of major newspapers.

“This is not an under-the-radar warranty case,” Nelson said.

Alsup made it clear, though, that he was leery about the settlement and warned he may decide to let the case go to trial.

“I have an uneasy feeling about all the hangers on in the shadows,’” the judge said.

In addition to Susman Godfrey, the plaintiffs are represented by Lieff Cabraser Heimann & Bernstein and Cowan DeBaets Abrahams & Sheppard. Anthropic's counsel include teams from Arnold & Porter Kaye Scholer, Cooley LLP, Morrison & Foerster and Latham & Watkins.

A representative for plaintiff Bartz did not immediately respond to a request for comment from Law.com.

—

O'Brien reported from Providence, Rhode Island.

The Recorder contributed to this report.

Anthropic's $1.5 billion copyright settlement faces judge's scrutiny

reuters.com/legal/government/anthropics-15-billion-copyright-settlement-faces-judges-scrutiny-2025-09-09

Blake Brittain September 9, 2025

Anthropic logo is seen in this illustration taken May 20, 2024. REUTERS/Dado Ruvic/Illustration Purchase Licensing Rights, opens new tab

Sept 9 (Reuters) - A federal judge in San Francisco has declined, for now, to approve a landmark $1.5 billion settlement announced Friday between artificial intelligence company Anthropic and a class of authors suing it for copyright infringement.

U.S. District Judge William Alsup during a hearing on Monday ordered both sides to provide more details, a court filing said. The judge in a Sunday order, opens new tab had said he was "disappointed" the parties had left important questions about the settlement unanswered.
The settlement fund amounts to $3,000 for 500,000 downloaded books. The parties said this could grow if more works are identified. Alsup ordered the parties on Monday to provide fuller lists of the works and authors affected by the settlement by September 15 and other clarifications by September 22.

Leaders of the Association of American Publishers and the Authors Guild attended the Monday hearing. AAP's president, Maria Pallante, said in a statement that Alsup had "demonstrated a lack of understanding of how the publishing industry works."

"It's critical that the number of works included in the settlement is complete, and the Court's reluctance to give the parties time to do that — without any explanation — is troubling," Pallante said. "Similarly, the Court seems to be envisioning an administratively challenging claims process that would be unworkable for the class members, and lead authors and publishers into collateral litigation for years to come."

Authors Guild CEO Mary Rasenberger said in a separate statement that she was "shocked by the court's offhand suggestion" during the hearing that the groups were "working behind the scenes in ways that could pressure authors, when that is precisely the opposite of our proposed role as informational advisors" representing author and publisher interests in the settlement.

Author Andi Bartz, one of the writers suing Anthropic, said in a statement on Tuesday that the settlement was "an initial, corrective step in a critical battle" against AI companies. Another plaintiff, Kirk Johnson, said the settlement marked "the beginning of a fight on behalf of humans that don't believe we have to sacrifice everything on the altar of AI."

Spokespeople for Anthropic did not immediately respond to a request for comment on Tuesday.

Bartz, Johnson and writer Charles Graeber filed the class action against Anthropic last year. They argued that the company, which is backed by Amazon (AMZN.O), opens new tab and Alphabet (GOOGL.O), opens new tab, unlawfully used millions of pirated books to teach its AI assistant Claude to respond to human prompts.
The proposed deal announced Friday marked the first settlement in a string of lawsuits targeting tech companies including OpenAI, Microsoft (MSFT.O), opens new tab and Meta Platforms (META.O), opens new tab over their alleged misuse of copyrighted material to train generative AI systems.
Our Standards: The Thomson Reuters Trust Principles., opens new tab

Blake Brittain reports on intellectual property law, including patents, trademarks, copyrights and trade secrets, for Reuters Legal. He has previously written for Bloomberg Law and Thomson Reuters Practical Law and practiced as an attorney.

Anthropic pays $1.5B to end authors' suit; Lawyers get $375M

legalnewsline.com/northern-california-record/anthropic-pays-1-5b-to-end-authors-suit-lawyers-get-375m/article_90734fc2-6866-4884-86a6-f59fc11978bf.html

Jonathan Bilyk, Jonathan Bilyk September 8, 2025

Attorney Justin Nelson, of Susman Godfrey, was a Democratic candidate for attorney general of Texas in 2018.
X.com/nelsonfortexas

SAN FRANCISCO - A group of class action lawyers could take home at least $375 million in fees for their work leading a lawsuit on behalf of authors against artificial intelligence research company Anthropic, as part of a $1.5 billion settlement to end the litigation.

The deal was announced in federal court in San Francisco on Sept. 5.

Under the arrangement, Anthropic would pay at least $1.5 billion to potentially thousands of authors whose works were allegedly pirated and used by Anthropic to train its so-called "large language models" (LLMs) variety of AI to respond more like humans in text.

The lawsuit landed in federal court in the spring of 2024, when attorneys from the prominent class action law firms of Susman Godfrey and Lieff Cabraser Heimann & Bernstein filed suit on behalf of thousands of authors and copyright holders.

Attorneys representing plaintiffs in the action include: Justin A. Nelson, Alejandra C. Salinas, Rohit D. Nath, Michael Adamson, Jordan W. Connors, J. Craig Smyser and Samir Doshi, of the Susman Godfrey firm, with offices in New York, Los Angeles and Seattle; and Rachel Geman, Jacob S. Miller, Danna Z. Elmasry, Daniel M. Hutchinson, Jalle Dafa, Amelia Haselkorn and Betsy A. Sugar, of the Lieff Cabraser firm, of New York, San Francisco and Nashville, Tennessee.

Attorneys Scott Shoulder and CeCe M. Cole, of the firm of Cowan Debaets Abrahams & Sheppard, of New York, also have been identified in court documents as representing plaintiffs.

The action was led by named plaintiffs Andrea Bartz, Charles Graever, Kirk Wallace Johnson, all of whom are identified as authors and journalists.

The lawsuit specifically accused Anthropic of violating federal copyright protections by allegedly downloading at least 500,000 books and other copyrighted works from online datasets of pirated works and then fed those works into programs designed to help the company develop and refine its Claude family of AI models.

According to court documents, Anthropic sought to specifically help the Claude AIs better respond to queries with "lifelike, complex, and useful text responses."

According to the complaint, Anthropic allegedly used its alleged online piracy to build a company that was worth an estimated $18 billion in late 2023.

"Anthropic has attempted to steal the fire of Prometheus," the plaintiffs wrote in their complaint. "It is no exaggeration to say that Anthropic's model seeks to profit from strip-mining the human expression and ingenuity behind each one of those works."

After nearly a year and a half in court, Anthropic has apparently agreed to pay $1.5 billion to end the lawsuit.

Under the deal, authors would receive $3,000 per work allegedly pirated by Anthropic.

In a motion seeking preliminary approval of the settlement, attorneys said they are preparing to request 25% of the settlement funds for themselves as fees.

If approved, that would amount to $375 million in legal fees.

A hearing on the request for preliminary approval of the settlement was scheduled for Sept. 8.

However, in an order filed in response to the motion for preliminary approval, U.S. District Judge William Alsup indicated he had significant problems with certain aspects of the proposal, particularly "that counsel have left important questions to be answered in the future."

"Those critical choices will need be confirmed ... before preliminary approval can be granted," Alsup said.

California Brief

Anthropic Record AI Copyright Pact Sets Bar for OpenAI, Meta (2)

Sept. 8, 2025, 10:59 AM PDT; Updated: Sept. 9, 2025, 6:20 AM PDT

Anthropic's landmark agreement to pay authors a combined $1.5 billion for downloading pirated book libraries sets a floor for artificial intelligence giants to resolve similar copyright lawsuits.

"This is very sobering for other AI companies," said Chad Hummel, an attorney at McKool Smith who's not involved in the litigation. "The content-licensing market will accelerate, and the dollars will be bigger" now that the settlement has been reached. OpenAI Inc. and Meta Platforms Inc. are involved in similar litigation.

Anthropic PBC last week agreed to pay roughly $3,000 for each of nearly 500,000 registered books the authors showed were in pirate libraries the company downloaded and said were maintained in a "research" library of millions of books. California federal Judge William Alsup in August said Anthropic had "refused to come clean" about which pirated works it used to train its Claude model and why it retained them all.

Alsup on Monday blasted the parties at a hearing in San Francisco, calling the proposed settlement "nowhere close to complete" and expressing concern class lawyers are striking a deal behind the scenes that will be forced "down the throat of authors." In a minute order after the hearing, he postponed preliminary approval until the parties provide "further clarifying information."

The agreement—believed to be one of the largest in US copyright litigation history—is among the first to be reached in a litany of disputes in which artists and content owners accuse AI companies of illegally snatching up troves of data—books, movies, song lyrics, or news articles—then feeding that data to build generative AI tools that have created multibillion-dollar valuations. Now those rival AI firms must decide whether to follow Anthropic's lead or continue fighting legal claims over the seemingly ubiquitous use of the same shadow libraries.

OpenAI is confronting a complex legal challenge defending against a dozen cases from news outlets, including the New York Times, over infringement and trademark dilution. Meta and Midjourney Inc. face their own copyright claims, while music publishers have filed a separate suit against Anthropic over its alleged wholesale copying of lyrics.

The agreement “makes it more likely that authors have rights against OpenAI, Meta, and others” because they’ve admitted to downloading books from the same pirate libraries Anthropic used, Manatt, Phelps & Phillips, LLP partner Tod Cohen said.

A Watershed

The settlement marks the latest watershed moment to force AI companies to evaluate their approach to content acquisition and use of copyrighted content. Earlier this year, Anthropic convinced Alsup that training AI on legally-obtained material qualifies as fair use. A trial was set for December on the authors’ claims related to using Bit Torrent to download pirate libraries.

“It’s definitely started to put guardrails around what can or can’t be done,” said intellectual property attorney Vivek Jayaram.

The deal’s structure—namely the $3,000 per book—establishes a potential benchmark for valuing that content.

“A price tag has been set,” said Peter Henderson, a professor at Princeton University. "$2,000 to $3,000 a book is a recurring theme across the contracting space, across the settlement.”

One challenge in adopting this benchmark is its origins. While the parties may disclose the source of the valuation in settlement hearings, “we don’t know how they arrived at it,” Hummel said. The starting price for literary works may be higher than that for other types of content, he said, such as news articles, which some AI companies argue cover non-copyrightable facts.

The settlement is also limited in scope, covering only “past claims” while separately excluding claims of reproduction, distribution, or the creation of “derivative works” through LLM outputs. The deal would also only cover instances of infringement predating Aug. 25, when the deal was finalized.

It makes sense the authors didn’t release claims regarding outputs, Desai said, because they’re “an evolving and moving target,” and courts haven’t yet weighed on copyright liability for generative AI outputs.

It also requires Anthropic to destroy the “original files” it obtained from the pirate libraries LibGen or PiLiMi, and any copies that originated from the pilfered files, within 30 days of final judgment.

Cohen noted the pact doesn’t require Anthropic to “break” its models and called it a win for the company.

The deal also serves as both a warning and potential roadmap for companies that actually used pirated material in training and is part of the output, a distinction that wasn’t definitively established in Anthropic’s case. Those companies could face even greater exposure if cases go to juries, said Hummel.

Music publishers suing Anthropic have already adapted their strategy, seeking to add piracy claims after discovering the shadow libraries it downloaded included books containing song lyrics.

While AI companies already defending suits weigh changes to their strategies, the settlement's immediate impact may be a surge in new litigation. Cohen predicted a "rush of additional copyright lawsuits filed against Anthropic and others" now that the payment details are public.

The case is Bartz et al v. Anthropic PBC , N.D. Cal., 24-cv-05417, 9/5/25 .

(Updates fourth paragraph of story published Sept. 8 with minute order.)

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News | **Class Actions**

'The Court Has Concerns': Another Judge Looks at Claims Administrator Angeion's Contract With Prepaid Card Provider

U.S. District Judge Edward Davila, of the Northern District of California, sought more information about the arrangement between Angeion Group, the claims administrator, and Blackhawk Engagement Solutions, which manages prepaid digital Mastercards to class members.

September 09, 2025 at 07:58 AM By **Amanda Bronstad**

What You Need to Know

- The order comes less than a month after U.S. District Judge Vince Chhabria, of the Northern District of California, ordered Angeion to disclose the same arrangement as part of Facebook's $725 million class action settlement.
- Davila ordered Angeion to disclose the arrangement to class members and reduced class counsel's request for $3.86 million in expenses by $260,000 – the maximum amount Angeion will receive from Blackhawk in the case.
- Angeion, in a statement to Law.com, praised judges in both the Google and Facebook cases for allowing settlement distribution to go forward.

Judge Edward J. Davila. Photo: Diego M. Radzinschi/ALM

A federal judge overseeing a $100 million settlement with Google ordered the claims administrator to disclose its financial relationship with a company that manages prepaid digital Mastercards to class members.

U.S. District Judge Edward Davila, of the Northern District of California, sought information about the arrangement between Angeion Group, the claims administrator, and Blackhawk Engagement Solutions, before granting final approval of the Google settlement. Class counsel first disclosed the matter last month, referencing lawsuits alleging the arrangement was part of a racketeering and antitrust scheme.

"The court has concerns with Angeion's failure to disclose its relationship with Blackhawk," Davila wrote in his Aug. 29 order approving the deal. "But the court is also cognizant of the fact that the parties have engaged fourteen years for resolution of their case. The significant fact is that Angeion's agreement with Blackhawk will not impact the value of the settlement fund. Most importantly, class members will still receive 100% of their damages."

He ordered Angeion to post the disclosure on the settlement's website and send additional information in an email to class members who opted to receive their payments through a digital Mastercard. He also reduced class counsel's request for $3.86 million in expenses by $260,000 – the maximum amount Angeion will receive from Blackhawk in the case.

"The court finds that the class has not suffered additional costs or penalties because of this undisclosed information at this time," Davila wrote. "However, as discussed above, perhaps class counsel would have chosen a different administrator, or perhaps Angeion could have offered a prepaid card with a different company who might have been more favorable to the class."

Class counsel Matthew Mustokoff, of Kessler Topaz Meltzer & Check in Radnor, Pennsylvania, and Nix Patterson's Andrew "Drew" Pate, in Austin, Texas, did not respond to a request for comment. But in an Aug. 22 reply supporting the settlement, they offered to reduce their expenses and make further disclosures to class members.

"While we do not believe that any revenue to be paid by Blackhawk to Angeion would have any negative impact on the settlement fund, class counsel is nevertheless willing to reduce its fee or expense award by that amount," they wrote. "The reason class counsel is willing to make this concession is as follows: while we were previously unaware of the details of the financial arrangement between Angeion and Blackhawk, we believe it is in the best interest of the classes to avoid further delay of the distribution of the settlement proceeds to class members."

Davila's order is the second to address the financial relationship between Angeion and Blackhawk. On Aug. 18, U.S. District Judge Vince Chhabria, also in California's Northern District, ordered

Angeion to provide information about the arrangement *in camera* before approving a $725 million class action settlement with Facebook's Meta Platforms Inc. In the Facebook case, class counsel submitted two options for Chhabria to approve that would resolve the Angeion/Blackhawk matter. On Aug. 27, Chhabria chose the first path: to allow the prepaid digital Mastercard payments to go forward but remain in a qualified settlement fund, which would earn interest, until a class member registers his prepaid Mastercard.

In a statement to Law.com, Angeion said, "We are pleased that after reviewing the submissions in each of these settlements, including Angeion's explanations of the issues and the relevant contract with the Mastercard vendor, both courts authorized the final distribution to the class, including through the prepaid Mastercard payment option that a significant percentage of class members previously elected."

"Angeion looks forward to proceeding with the remainder of these administrations and distributions pursuant to the court orders," the statement continued. "These settlements are complex and are a testament to the hard work and professionalism of the parties and their counsel."

Mayer Brown partners Edward "Ward" Johnson, in San Francisco, and Andrew Pincus, in Washington D.C., referred emails to Google's press department, which did not respond.

'Disappointing' Timing

The first of five lawsuits, filed on April 24, alleged Angeion and two other claims administrators, JND Legal Administration and Epiq Systems Inc., failed to disclose revenue sharing agreements they received for using digital payments to compensate class members. That suit, brought by Pennsylvania's Edelson Lechtzin and Seeger Weiss, was later amended to include two banks, Huntington National Bank and Western Alliance Bank. Plaintiffs' attorney Liberato Verderame, of Edelson Lechtzin, filed an Aug. 13 motion before the U.S. Judicial Panel on Multidistrict Litigation to coordinate all five cases in the Eastern District of Pennsylvania, where their case is located and Angeion is based in Philadelphia.

Boies Schiller & Flexner's three lawsuits alleged a "deceptive and anticompetitive scheme" in violation of the Sherman Antitrust Act and the U.S. Racketeer Influenced and Corrupt Organizations Act. On Sept. 5, partner David Boies supported coordination but in the Northern District of California, where one of his firm's lawsuits, and another filed by Los Angeles-based LTL Attorneys, is pending before U.S. District Judge Jacquelyn Scott Corley.

"California generally and the Northern District of California specifically, has been the forum that has approved the largest portion of class action settlements," Boies wrote. "This is also true of the class actions at issue in this litigation, with the Northern District of California having the most."

David Boies, partner with Boies Schiller Flexner. Photo: Clark Hodgin

The Google settlement before Davila resolved claims alleging defects in the search engine's AdWords program for advertisers. After an Aug. 21 final approval hearing, the judge held a status conference to discuss the financial relationship between Angeion and Blackhawk.

"The timing of this recent discovery is disappointing for several reasons, most importantly transparency," he wrote in his final approval order, which awarded $30 million in fees to class counsel. "Transparency in a class action is crucial to not only the class, but to the public's trust in the judicial system and to preserving the spirit of Rule 23."

Class counsel and the judge should have been aware of the arrangement earlier in the proceedings, he wrote. He cautioned class counsel and claims administrators in future class actions before him that they would be required to disclose such arrangements.

He wrote, "Going forward, where any party proposes the appointment of an administrator in other cases in this court, the court will require the administrator to make a full disclosure of all financial arrangements the administrator has with third parties that are related to the administration of the class action."

Judge denies mistrial motion as Uber sex assault bellwether trial starts

DJ
dailyjournal.com/articles/387398-judge-denies-mistrial-motion-as-uber-sex-assault-bellwether-trial-starts

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Sep. 9, 2025

A mistrial motion was denied at the start of a bellwether Uber sexual assault case, as attorneys clashed over pretrial rulings, evidence limits and the company's handling of passenger safety allegations.

San Francisco Superior Court Judge Ethan P. Schulman

The plaintiff moved for a mistrial Monday, right after Uber's opening statement in a bellwether trial of 600 cases claiming the company's drivers have committed hundreds of thousands of sexual offences against passengers

San Francisco Superior Court Judge Ethan P. Schulman denied the motion for mistrial, saying the plaintiff's attorneys had "not accurately read my rulings."

Following the opening statement by Allie Brown of Kirkland & Ellis LLP, an attorney for the plaintiff -- John Taylor of Taylor & Ring -- claimed she had breached a pretrial order that limited the admissibility of the plaintiff's other sexual encounters, including assaults, before or after the alleged incident at trial with the Uber driver. Taylor cited California's rape shield statutes -- Evidence Codes 1106 & 783.

"I don't bring it lightly," Taylor said of his mistrial motion. "We discussed pre and post sexual abuse or conduct was not admissible. That has been undone by defense counsel's opening statement."

Brown had made multiple references to previous trauma suffered by the plaintiff, presenting a slide show timeline of several traumatic incidents and a cartoon doctor's clipboard of her mental health symptoms. But Brown did not appear to mention the plaintiff's other alleged sexual encounters.

"The jury has been told she had other traumatic incidents," Taylor added. "It could've been the murder of a family member or that she was burned with hot coffee. They just defeated the whole purpose of 1106."

The judge responded, "Nothing in Section 1106 would preclude Uber from including evidence of traumatic events in her life ... provided it may not disclose details."

Taylor claimed Uber had also violated the order by mentioning attorney advertising for the mass tort action against Uber and references as to why no criminal charges were brought against the driver accused of sexually abusing the plaintiff.

Schulman disagreed.

Before the surprise of the mistrial motion, the trial got off to what Schulman called a "frustrating" start, as he admonished counsel for a flurry of motions over the weekend.

"This is not an auspicious beginning," said Schulman. "It's frustrating to see a buildup of disputes over the weekend. It's time to try the case. We're beyond the motion stage at this point. Let's buckle down and go to trial."

In her opening statement to the jury, attorney for the plaintiff Natalie Weatherford of Taylor & Ring sought to characterize Uber as a company that prioritized growth "at all costs," at the expense of the safety of its customers.

"This is part of Uber's business philosophy," Weatherford said. "They do nothing to prevent assault if it impacts their ability to grow and make money."

Weatherford accused Uber of keeping the number of sexual assault reports a secret and displayed communications between Uber executives. Uber Rideshare Cases CJC21005188 (S. F. Super. Ct. filed Aug. 12, 2021).

Weatherford showed the jury graphs and tables detailing the number of sexual assaults reported by Uber passengers, with hundreds of thousands of "sexual violence" incidents allegedly reported across the United States each year since 2017. Weatherford added the "numbers were incorrect" and likely to be much higher.

"Uber's policy and instruction at headquarters to its executives and employees was to keep the numbers a secret," Weatherford said, "to discredit, diminish and deny numbers when they were asked about them."

Using a whiteboard to present numbers and artfully designed slides, Brown attempted to diminish the plaintiff's ability to accurately recollect the details of the incident, downplayed the number of incidents reported by passengers and rejected plaintiff's counsel's use of the term "sexual violence" to describe some reported incidents in her opening statement.

"Uber is exceptionally safe," Brown said. "In the United States there are 2.5 million Uber trips made per day. Only 0.002% end in a report. You're five times more likely to be struck by lightning than be assaulted in an Uber."

Brown ended her opening statement with a slide of a picture of a manicured fingernail next to an image of popstar Taylor Swift, saying to the jury, "If I showed you the tip of my fingernail, I might be able to convince you that I am Taylor Swift. But [when you look at the bigger picture] the judge, my daughter and you know that I am not."

The bellwether trial selected by counsel detailed an alleged sexual assault reported in December 2016 by a woman who was a student at UC Santa Cruz at the time.

Trial continues this week.

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#387398

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California Brief

Uber Understated Thousands of Sexual Assaults, Victims Tell Jury

Sept. 8, 2025, 2:43 PM PDT

Uber Technologies Inc. underreported thousands of passenger sexual assaults by drivers over the past decade and declined to implement a host of safety policies that would have helped prevent those incidents, attorneys for the victims told a San Francisco jury on the first day of trial.

"Uber referred to its drivers as supply and its riders as demand," attorney Natalie Weatherford of Taylor & Ring, who represents one of the victims, said during opening statements. "Anything that slowed down either supply or demand was not implemented by Uber, and the sexual violence reports increased significantly."

The opening statements Monday at the jury trial in California Superior Court, San Francisco County marks the culmination of four years of litigation involving hundreds of consolidated lawsuits from Uber passengers who allege the ridesharing platform failed to provide the highest duty of care to protect them from sexual assaults by drivers.

The trial, expected to last all month, is the first bellwether case among 600 lawsuits consolidated before Judge Ethan P. Schulman, and the verdict on Uber's liability and damages will give an indication of how future trials or settlements could play out. The state court proceedings mirror a similar group of consolidated cases in California federal court, with the first of those bellwether trials expected to start in December.

Uber will argue throughout the trial that it leads the ridesharing industry in safety standards and technology, with thorough background checks and live GPS tracking. Assaults make up less than 1% of all Uber rides, it says.

Weatherford said during opening statements that Uber's 2019 transparency report identifying instances of sexual violence and sexual misconduct by drivers massively under counted the total number of incidents. The report said there were almost 6,000 incidents over 2017 and 2018, but Weatherford said that was based on Uber's selection of only five categories of sexual violence.

The report left out 16 other categories of sexual violence, including masturbation and verbal threats of sexual assault, Weatherford said. “Uber decided that these did not need to be released to the public,” she said.

Counting all categories, Uber received around 71,000 sexual violence reports in 2017 and around 95,000 reports in 2018, the attorney told the jurors.

First Bellwether Case

The bellwether trial involves a 2016 incident of an 18-year-old woman, proceeding in the litigation as Jessica C., who said she was forcibly kissed and groped by a driver who was giving her a ride to the San Jose, Calif., airport.

Jessica, a first-year student at the University of California Santa Cruz at the time, was traveling back home to San Diego on a Friday evening after her final exams. After drinking some alcohol in her dorm, she took a bus from campus to a San Jose bus terminal where she ordered an Uber to the airport for the very first time.

Jessica will testify that her driver, Farrukh Kazim, at some point during the ride pulled over on a side street, turned off the Uber app, and started to grope and kiss her while she sat in the front passenger seat. He allegedly restrained her by her hair and attempted to take her pants off.

“Jessica thought in that moment she was going to be raped or killed,” Weatherford said.

After her phone started ringing, Jessica said her parents were calling her because they had her GPS location, even though they didn’t, and that she needed to go to the airport. Kazim dropped her at the airport but told Jessica, “I’m going to come find you,” Weatherford said.

Jessica returned to school the next semester and received treatment for PTSD, but she ultimately dropped out.

The same year as Jessica’s assault, Uber was considering pilot programs for audio and video recording of drives as an effort to deter assaults by either drivers or passengers, according to Weatherford. An internal Uber slide deck said equipping vehicles with cameras—which is already required by law in California buses and taxicabs—"will make everyone think twice before causing trouble.”

During Uber’s opening statement, attorney Allison Brown of Kirkland & Ellis LLP told the jury that the plaintiff’s narrative focused on a small number of cherry-picked facts.

Although the reports of tens of thousands of incidents of sexual violence appear concerning, Uber’s transparency report made clear that the excluded reports were unsubstantiated, or based on events as casual a driver looking at a passenger in an odd way or slamming the door too hard, Brown said.

Uber also facilitates over one billion trips per year, so the reported serious safety incidents amounts 0.0002% of all rides, she said. “It’s five times more likely to be struck by lightning than to be sexually assaulted in an Uber,” Brown said.

The law doesn’t say Uber most prevent 100% of all sexual assaults, the attorney said.

Brown also said the company had conducted a thorough background check on Kazim, returning no criminal history, and much of the trauma Jessica experienced was the result of previous instances of non-sexual abuse by her parents. Her recollection of the 2016 incident six days after it occurred is very different from her recitation of the event when she filed the lawsuit in 2021, Brown said.

“We cannot guarantee that nothing bad is going to happen in an Uber, no one can,” Brown said. “We don’t operate our cars in a bubble free from bad people or accidents.”

The case is In Re: Uber Rideshare Cases, Cal. Super. Ct., No. CJC21005188, 9/8/25 .

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Class Action

Manage Newsletters

US Seeks Pause in PFAS Superfund Case as EPA Weighs Rule (2)

Sept. 9, 2025, 3:43 AM PDT; Updated: Sept. 9, 2025, 8:03 AM PDT

Summary by Bloomberg AI

AI Generated

- The Department of Justice is asking a federal court to pause litigation seeking to recover costs for cleaning up two specific PFAS, indicating the EPA may decide that the chemicals are no longer hazardous Superfund substances.
- The DOJ says spending time on CERCLA claims could be a "futile" use of the court's time and efforts due to uncertainty over the EPA's potential withdrawal of the 2024 rule that made PFOA and PFOS hazardous substances.
- The government is seeking to pause cost-recovery claims to ensure that plaintiffs aren't paid twice for the same tasks and to allow time for discovery and investigation into the claims, including potential duplicate payments.

The Department of Justice is asking a federal court to pause litigation seeking to recover costs for cleaning up two specific PFAS, indicating the EPA may decide that the chemicals are no longer hazardous Superfund substances.

The motion submitted Monday to the US District Court for the District of South Carolina sends the strongest signal to date that the Trump administration may seek to withdraw last year's regulation that made perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or Superfund law.

No decision has been made, DOJ told the court that's overseeing multidistrict litigation over aqueous film forming foam (AFFF), a fire suppressant made with per- and polyfluoroalkyl substances (PFAS) such as PFOA and PFOS.

But, spending time on CERCLA claims could be a "futile" use of the court's time and efforts, wrote Sanya Shahrasbi, a Department of Justice attorney representing the federal government.

"The litigation of the CERCLA cost recovery or contribution claims should not proceed while there is uncertainty as to such a material element of those claims," Shahrasbi wrote.

Focusing on the possibility that the EPA may seek to withdraw the 2024 rule could be a tactic to delay resolution of the CERCLA claims, Michael London of Douglas & London P.C., co-lead counsel for plaintiffs, told Judge Richard M. Gergel during a June status conference in the AFFF case.

But the DOJ said in Monday's motion that an abeyance also would give the government time to ensure that plaintiffs aren't paid twice for the same tasks, Shahrasbi wrote.

Cost Recovery, Discovery

CERCLA allows third parties to seek to recover costs they spend addressing hazardous substances provided the money is spent on tasks that meet criteria set by the National Contingency Plan (NCP). That plan lays out the types of actions that responsible parties must take to properly investigate and ultimately clean up contaminated Superfund sites. The statute, however, prohibits double recovery.

Two plaintiffs—the state of New Mexico and dairy farmers Art and Renee Schaap—have filed summary judgment motions asking the court to direct the US government to pay them recovery money they say qualifies for reimbursement. Additional CERCLA cost-recovery claims are expected.

In a separate motion also filed on Monday, the DOJ asked the district court to deny or defer ruling on the Schaaps' request to recover an initial $80,000 spent testing soil, crops, water, and other materials to determine the extent of PFOA and PFOS contamination on their property, which abuts Cannon Air Force Base in New Mexico.

The Schaaps' also asked the court to find the government liable for CERCLA-response costs they may seek in the future that meet the NCP's criteria.

"The United States has not yet had a chance to conduct any discovery in this case," wrote DOJ attorney Shari Howard, in the motion focused on the Schaaps' claim. "Discovery is needed to obtain facts required to inform a proper response to plaintiffs' motion for partial summary judgment."

For example, the Schaaps assert the US is liable for 100% of their past CERCLA response costs and all future costs, Howard wrote. Yet plaintiffs' released PFOA and PFOS through their actions including dumping milk and burying cow carcasses, DOJ's motion said.

The Schaaps dumped the milk because it was contaminated with PFOA and PFOS and couldn't be sold. They worked with the US Department of Agriculture in an ultimately unsuccessful attempt to see whether the chemicals could be removed from the dairy herd. With the US government's permission, the Schaaps eventually killed their cows and buried them on their property, according to information the dairy farm has previously provided the South Carolina and other courts.

The government needs time to investigate whether funds the Schaaps received from the USDA and the New Mexico Environment Department, for example, would duplicate payments the farm now seeks to recover under CERCLA, DOJ's motion said.

The government did not, however, ask the court to grant discovery, because it wants all cost-recovery claims to be paused until the EPA decides whether it wants to withdraw the rule that make PFOA and PFOS hazardous substances.

The EPA is scheduled to tell the US Court of Appeals for the District of Columbia Circuit by Sept. 17 how it would like to proceed in a separate lawsuit, *Chamber of Commerce v. EPA*, that challenges the 2024 hazardous substances rule. The agency has repeatedly sought abeyances in that lawsuit to give the agency's new leadership time to familiarize themselves with the Biden-era regulation.

The case is In Re Aqueous Film-Forming Foams Products Liability Litigation MDL 2873 , D.S.C., No. 18-02873, US Government's Motion Filed, 9/8/25 .

(Updated with additional reporting beginning in the eighth paragraph.)

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News | In House Moves

Snap General Counsel Who Settled Barrage of Litigation Moving On

During Michael O'Sullivan's eight years as legal chief, revenue increased six-fold, and the company doled out hundreds of millions of dollars to settle litigation.

September 08, 2025 at 08:03 AM By Trudy Knockless

Michael O'Sullivan, general counsel of Snap. Courtesy photo

Michael O'Sullivan, who has served as Snap's general counsel since 2017, notified the company last week that he will step down at the end of the year.

The Santa Monica, California-based parent of Snapchat said [in a Securities and Exchange Commission filing] that O'Sullivan "confirmed that his decision is not related to any disagreement with us on any matter relating to our accounting, strategy, management, operations, policies, or practices (financial or otherwise)."

It's not clear why O'Sullivan, 59, is leaving. The SEC filing did not provide a reason, and he did not respond to Law.com's request for comment.

A Snap spokesperson added in an email: “After many years at Snap, Mike decided that the end of the year is the right time for him to move on from the company. We’re grateful for his extraordinary leadership and contributions. ... We have initiated a search for our next General Counsel.”

O’Sullivan joined Snap four months after the company went public. He came from Munger, Tolles & Olson in Los Angeles, where he'd worked for 21 years.

During O'Sullivan's tenure as GC, Snap grew annual revenue six-fold, to $5.4 billion, while also experiencing significant legal turbulence. For example, in 2020, the company agreed to pay $187 million to settle litigation that it misled investors before going public by failing to disclose the full competitive threat posed by Instagram.

Two years later, Snap paid $35 million to settle a class action lawsuit alleging it collected users' biometric data without proper consent, and last year it paid $15 million to settle a California Civil Rights Department gender-discrimination lawsuit. The case alleged Snap discriminated against female employees through unequal pay and promotions, retaliation and sexual harassment.

Snap still has a full plate of legal matters. It's one of the social media defendants in multidistrict litigation over the alleged harmful and addictive nature of their platforms for minors, for instance, and a shareholder lawsuit filed this month alleges the company made misleading statements about its ad revenue growth, which the suit says slowed because of "execution failures."

The legal tangles—along with other challenges, including the rise of TikTok and privacy changes Apple instituted in 2021 that limited ad targeting—have sent Snap shareholders on a stomach-churning roller coaster ride.

Shares debuted at $17 apiece eight years ago and rose above $75 in the summer of 2021. But they plunged that fall and never have recovered. The stock now trades about $7.25, giving Snap a stock market value of $12.4 billion.

Sullivan was Snap's highest-paid employee in 2024, earning $11.0 million. That included a salary of $1 million and stock awards valued at $10 million.

The company's CEO, co-founder Evan Spiegel, does not take a salary. The bulk of his compensation, $3.3 million, came in the form of personal security services provided by the company.

News from Bloomberg Terminal

Stablecoin Treasury Company

Sept. 9, 2025, 11:05 AM PDT

By Matt Levine

(Bloomberg Opinion) --

Stablecoin treasury strategy?

Here's a trade:

1. You start a company and sell 100 shares of stock for $1 each, $100 total.
2. You use the $100 to buy ______. Now your company has $100 worth of ______ and nothing else, for a net asset value of $100.
3. The stock market is enthusiastic about ______, so your stock trades up to $2 per share (a 100% premium to net asset value), for a $200 market cap.
4. You sell 50 more shares of stock for $2 each, raising another $100.
5. You use the $100 to buy more ______. Now you have $200 worth of ______, for a net asset value of $200. And you have 150 shares outstanding, for a net asset value per share of $1.33.
6. Your stock trades up to $2.66 per share (still a 100% premium to net asset value), giving you a market cap of $400.
7. You sell 50 more shares of stock for $2.66 each, $133 total, and use the money to buy more ______.
8. Shareholders are ecstatic. "This company keeps increasing its ______ per share, using a smart capital markets strategy to compound shareholder value. Therefore it should trade at a durable premium to net asset value, because if you buy ______ yourself you just get a static amount of ______, but if you buy shares of the company you get an ever-increasing amount of ______."

Are there any flaws in this logic? Discuss. If you fill in the ______ with "Bitcoin," you get the Strategy strategy, which has worked pretty well in large size for a long time, though the premium has come down recently. It worked so well for Strategy that it spawned many imitators, some of whom also put Bitcoin in the ______, but others have used Ethereum or Trumpcoin or Dogecoin or gold or GameStop stock.

Ideally you would put something jazzy and fun in the ______; I have said that it should be "crypto-adjacent." But the main point that I want to make, in laying out this strategy, is that *it barely matters what you put in the* ______. The *entire* trade here is the capital markets strategy: If you can issue stock at a premium to buy more assets, you can increase your net asset value per share, which circularly justifies the premium. It is a nice tailwind if the assets you are buying go up in value, but it is not essential. [1] The strategy can work with anything valuable.

For instance, most straightforwardly, money is valuable. What about like “I will sell stock at a premium and put the cash in a bank account, and because I am selling stock at a premium my cash value per share will keep increasing, so I can continue to sell stock at a premium”? Discuss! Is this too cute? What about stablecoins? Stablecoins are surely at least crypto-adjacent. What about “I will sell stock at a premium to pursue a crypto treasury strategy, and the crypto token that I will put in my treasury is a US dollar stablecoin”? What about it? What about it!

I hope someone will do that because it is the single best and stupidest trade that I have ever proposed in this column. I should quit my job and launch a Tether treasury company. As far as I can tell no one has done this yet. I did get a press release today from a company called StableX Technologies Inc., which changed its name from AYRO Inc. two weeks ago “to better reflect its strategic transformation and new primary focus on investing in foundational tokens that power the rapidly growing stablecoin industry.” And I got my hopes up! But, no, it’s like this:

StableX Technologies, Inc., formally AYRO, Inc. (NASDAQ:SBLX) ("StableX" or the "Company"), today announced that it initiated a purchase of FLUID tokens, which marks the Company's first purchase since announcing its focus on investing in foundational tokens that power the rapidly growing stablecoin industry.

"Our first token purchase of FLUID signifies the beginning of an important new chapter for StableX," said James Altucher, StableX's Digital Treasury Asset Manager. "In less than a year, FLUID has gone from zero to being a market leader in stablecoin trading, generating millions in monthly fees and growing its community at an extraordinary pace. Due to the sharp increase in fee volume, FLUID announced it will begin using all of its revenue to buy back tokens as of October 1, 2025, which we believe will be a major catalyst for FLUID's token price growth. While the purchase of FLUID represents StableX's first investment into a portfolio of tokens that power the fast-growing stablecoin industry, we look forward to providing updates to stakeholders as we begin to execute our planned expansion of this portfolio with additional purchases of high-value assets within the stablecoin industry. The launch of our previously announced strategy using FLUID as our first purchase underscores the benefit in acquiring tokens that are foundational to the stablecoin industry. As the industry continues its acceleration, we believe that our token purchase strategy will be a major beneficiary, delivering value to all of our stakeholders."

FLUID is, crushingly, not a stablecoin; it’s the, you know, equity/governance token of a decentralized crypto lending and trading protocol. StableX is not *quite* a stablecoin treasury company; it doesn’t sell stock to buy stablecoins, it sells stock to buy “tokens that power the fast-growing stablecoin industry.” Still! We’re so close.

Elsewhere, sure:

Traders are piling into a corrugated packaging company that will buy tokens linked to OpenAI chief Sam Altman’s iris-scanning crypto group, sending its shares soaring 3,000 per cent in a single day.

Eightco Holdings, which sells custom packaging products and also has a unit focused on ecommerce inventory management, said on Monday it would implement a “first-of-its-kind” strategy to scoop up Worldcoin tokens, which form a key part of Altman’s World digital identity project.

It’s going to change its ticker symbol to ORBS.

Blockchain rollup!

One theme that we have discussed around here recently is the “AI rollup.” A “rollup” is where one buyer buys up a bunch of different small companies in the same industry, with the theory being that (1) scale is good but also (2) the buyer has some sort of general-purpose skill or technology that it can apply to each company to make them all more efficient. Classically rollups are done by private equity firms, on the theory that the private-equity playbook — financial leverage, cost-cutting, incentive alignment, putting recent Harvard MBAs in charge of plumbing businesses — is broadly applicable and can make many businesses better.

But the recent trend is for *AI* rollups, often done by venture capital firms, where instead of throwing Harvard MBAs at a bunch of small companies, you throw generative artificial intelligence models at them. More abstractly, the point is that if you have a powerful general-purpose business technology that requires some scale and sophistication to implement — like AI or leveraged finance — then you can create value by being big and sophisticated enough to apply the technology and *buying* firms that aren’t.

Another theme that we used to discuss a lot around here, but not for years and years and years, was “blockchain blockchain blockchain.” The idea, as I dimly remember it, is that “the blockchain” — the set of distributed ledger technologies popularized by Bitcoin — was going to revolutionize business and technology. With blockchain technologies, banks would be able to … transfer money … and stock exchanges would be able to … trade stocks … I don’t know, people really were excited about all of this but for the life of me I can’t remember why. The conventional wisdom now is that everyone forgot about the blockchain the minute ChatGPT was released. Blockchain had some theoretical revolutionary potential that was always just around the corner, but generative AI gave you a chat window where you could ask questions and get answers. It’s a lot more tangible. So all the crypto VCs became AI VCs.

But if you took the blockchain stuff seriously, there is a way to combine these two themes. The combination is: blockchain rollup. You start a private equity fund, you raise money, and you go out and buy small accounting or pest-control or plumbing or whatever businesses. And then you apply your powerful sophisticated general-purpose technology — in this case, blockchain — to making those businesses more efficient. And because blockchain is *so* powerful, and hard for plumbers or accountants to deploy, you can create a lot of value this way.

This particular idea had never occurred to me, for reasons, but here’s a Wall Street Journal story about someone doing a blockchain rollup:

New York-based Inversion Labs plans to acquire low-margin companies, outfit them with blockchain to juice efficiency and then reap the profits that follow. …

"This technology is powerful, but the reality is crypto doesn't have that many active users," Inversion co-founder and Chief Executive Officer Santiago Roel Santos said. "Our North Star is to make crypto invisible to our users. They won't see how the technology works, but they'll feel the impact. It's going to be faster, better and cheaper." …

Inversion will target both private and public companies with large user bases that have internal infrastructure they believe is ripe for a blockchain overhaul, Dannheim said.

"You can acquire and either bolt in a product that's going to grow revenue or you can rip out a bad, poor operating system and plug in a better one that lives on a blockchain," Dannheim said.

Inversion has initially targeted South American telecommunications companies and has submitted several acquisition bids. Blockchain could allow these companies to lower their data purchasing costs, among other improvements, Dannheim said.
Why not. Back in the glory days of blockchain blockchain blockchain (2017), I got several press releases a week from Dentacoin, the blockchain for dentists. Perhaps there's a rollup play there too.

Retail ECM

Investment banking is a business-to-business business. Mergers-and-acquisitions bankers help companies acquire other companies, or sell themselves to other companies; good M&A bankers have good relationships with the big companies and private-equity sponsors in their coverage industry. Capital markets bankers help companies raise money by selling stock or bonds to institutional investors; good capital markets bankers know the companies they cover and also the institutional investors who might want their securities.

But they don't know everyone. Your dentist might want to buy 10 shares of Stripe, if Stripe ever goes public. The tech equity capital markets bankers at Goldman Sachs and Morgan Stanley don't know your dentist. They don't take her out to dinner to get her thoughts on the market; they don't put her picture or the logo of her dental practice on the "Targeted Investors" page in the pitchbook they use to try to win the mandate to lead Stripe's initial public offering. They put, like, Fidelity. Fidelity will buy more shares than your dentist.

When I was an equity capital markets banker myself, the efficient way for companies to sell stock was to institutional investors:

1. The institutions have a lot of money, so you can get an IPO done by selling to a few dozen institutions rather than a few thousand dentists.
2. The banks cover the institutions and have salespeople who know them well, so if you want to do an IPO, the banks can call up the institutions and say "hey buy some of this stock," which they can't necessarily do with thousands of dentists.
3. The institutions are skilled at valuing companies, so the banks can call them and say "would you buy this stock at $40" and they will say things like "yes seems fair" or "that looks a little rich compared to recent comps, I could do $38," and you can have an informative discussion about pricing. Retail investors will often get allocated some sliver of an IPO, but they are generally considered price takers: They buy the stock at the price that the institutions agree on, rather than participating in price negotiations themselves.

That wasn't always the case: 100 years ago, there were fewer institutional investors, so investment banks' sales forces really would go out and hand-sell IPOs to a lot of retail clients. (That's part of why IPO syndicates traditionally included a lot of banks: They all had different retail clients, and you needed all of them.) But when I was an ECM banker, there was a many-decades-long trend of increasing institutionalization, and I never thought much about retail.

Since then, uh, that trend has reversed? Not entirely. But with the rise of Robinhood and meme stocks, retail investors are more active than they used to be, and we have all become accustomed to the fact that retail investors sometimes do set the price of big stocks. And that is particularly true in initial public offerings: Partly for supply-constraint reasons that we discussed recently, many IPOs get done at a relatively low institutional price and then pop to a much higher retail price when they open for trading.

And so now companies that are doing IPOs have to consider retail. For one thing, there's the pop: If institutional investors would buy your stock at $40 but retail would buy it at $80, you might prefer to sell it at $80, because that's more. [2] For another thing, retail investors make up an increasingly important part of the investor base, and when you go public you have to figure out how to cater to them. If you want to raise money later at meme-stock prices, or if you need to get shareholder votes on things, you will need to have some sort of retail investor relations strategy. Might as well start it early, by making retail investors feel included in the IPO.

Bloomberg's Bailey Lipschultz and Anthony Hughes report:

Retail traders, long considered dumb money by Wall Street, have changed investment dynamics in everything from individual stocks to crypto to one-day options. Now they're throwing their weight around in the IPO market — and companies are welcoming them with open arms.

Take Bullish, the crypto firm that went public last month in a supersized $1.1 billion debut. The company gave retail investors direct access to the initial public offering — a privilege usually reserved for early investors, institutions or wealthy customers of the Street's biggest banks — via online brokerages like SoFi and Robinhood. And demand was so sharp from those venues, according to people familiar with the deal, that Bullish was able to price the offering at $37 per share, up nearly 20% from the top end of the range it first proposed.

Even that wasn't high enough, as the stock popped 143% from the IPO price in its opening trade, delivering a paper windfall to a group that's traditionally been shut out of market debuts.

The Bullish example showed Wall Street and the private companies looking to enter public markets that retail traders, who make up more than 20% of all US equity trading and weigh heavily on newfangled markets like crypto, can bring enough demand to change the dynamics of an IPO pricing. The surge in retail participation at online brokerages also means bankers don't have to exclusively rely on pre-existing relationships with clients — they can offer IPO shares to virtually anyone, broadening the demand pool.
Yes look I will say that "Wall Street considers retail dumb money" and "Wall Street wants to sell to retail" are not *precisely* opposite statements. Similarly:

Wall Street has long viewed retail buyers as price insensitive, essentially deeming them reliable buyers of IPOs in hopes of getting in on any initial pop. As a result, mom and pop traders often bought high and watched as IPO participants offloaded shares at a profit, leaving them with steep losses.

Now private companies see retail as less of a mark and more as a reliable partner worthy of reward during the IPO marketing. The desire to sell to them at the IPO can provide a sense of loyalty, while other deals may tap individual investors given the steady trend of retail trading in the market.

"Less of a mark and more as a reliable partner," yes. Anyway I guess my question here is: How committed are the ECM bankers to courting retail? It is an entirely new skill set; pitching IPOs to institutional clients (by buying them dinners, talking about valuation) and pitching IPOs to self-directed retail clients (by … being on Reddit a lot?) are very different processes. If you are pitching for an IPO now, do you have to include your Reddit username on the team page? Do you have to talk about your ability to generate retail enthusiasm? If IPOs are becoming more of a direct-to-consumer business, shouldn't the approach of capital markets bankers change?

Long term

Conversely. One thing that I think about a lot is that, in the US, the pool of "accredited investors" (people who are *legally* allowed to buy private-company stocks) is roughly the same size as the pool of people who actually invest in individual stocks. (They're both on the order of 20% of the population.) Those pools do not perfectly overlap — lots of accredited investors don't buy single stocks, and lots of Robinhood traders are not accredited — but it can be clarifying to think of them as highly overlapping. The audience for "stocks" is very close to the audience for "private company stocks."

In practice, though, most accredited investors don't actually have much ability to buy stocks in hot private companies, as we often discuss. Those companies, for various reasons, don't actually *want* to raise money from the mass of retail-ish accredited investors. They want to have a relatively small shareholder base, and to keep control over it. They want to be able to restrict stock sales by employees, and to prevent stock from falling into the hands of activists. They *like* not having a fluctuating stock price. And they don't want to have a lot of responsibility to thousands of retail-ish investors. Generally speaking there is a pretty sharp divide between public companies (in which anyone can invest) and most private companies (where the shareholders are mostly just employees and big institutions). And when a private company decides it wants a lot of retail-ish investors, it will go public, so it can sell its stock to all of the retail investors on the stock exchange.

But in principle there *could* be a huge middle ground. In principle you could imagine a private-company exchange where:

1. Companies could sign up to allow their stock to trade on the exchange, though they wouldn't have to.
2. Investors could sign up to trade stock on the exchange, but they would have to be institutions or individual accredited investors.
3. The companies would *not* be subject to the disclosure obligations that US securities law imposes on public companies, because they would not be public companies. [3] They'd be private companies with lots of dentists as shareholders.
4. The exchange could, if it wanted, have listing standards. It could impose its own disclosure requirements, requiring that companies, say, disclose annual financial statements to investors on the platform. These would not have to be the same rules that apply to US public companies. But it would be good customer service for the investors, and might improve liquidity, if the investors had some disclosure.
5. The exchange could, if it wanted, include various company-friendly rules that don't exist in public markets. It could ban short selling. It could impose ownership limits, or let companies blacklist certain investors, or otherwise make activism hard. It could … require that all trades occur at a price equal to or higher than the previous trade? Those rules would be bad for liquidity, but that might be a tradeoff that the companies want.

Companies would sign up for this if (1) they wanted to access more investors, to increase liquidity and/or raise money and (2) they didn't mind the downsides (more disclosure, less control over the shareholder base) that come with being a little more public. But not public public.

There *are* private-company exchanges sort of like this, though my sense is that their traction is somewhat limited and SpaceX and Stripe are not actually clamoring to get their shares listed for trading by accredited dentists. (We talked recently about Forge and EquityZen, two such platforms, which display prices for some of the big hot private companies but don't always trade them.) I think that empirically the demand *from companies* for "let us sell stock to retail-ish investors without being fully public" is somewhat limited. (The demand from *alternative asset managers* to do it is absolutely insatiable.) But obviously some companies want that. And Robinhood is enthusiastically trying to "tokenize" the stocks of big private companies so it can sell them to retail.

If you started a stock exchange where the pitch to companies was (1) you don't have to go public, (2) we'll let you sell to retail-ish accredited investors, a pool that overlaps quite a bit with the pool of retail stock investors, (3) our disclosure requirements will be the same as those that the US Securities and Exchange Commission imposes on public companies except (4) we'll only require semiannual financials instead of quarterly financials, would that get much traction? Is semiannual financial reporting a big upgrade over the current system? I don't know. Anyway:

The Long-Term Stock Exchange plans to petition the Securities and Exchange Commission to eliminate the quarterly earnings report requirement and instead give companies the option to share results twice a year, the group told The Wall Street Journal.

It says the idea would save companies millions of dollars and allow executives to focus on long-term goals instead of worrying about hitting quarterly targets or prepping for earnings calls.

"We hear a lot about how it's overly burdensome to be a public company," said Bill Harts, the exchange's chief executive officer. "This is an idea whose time has come."

President Trump briefly explored the idea during his first term, and current SEC leadership has signaled an interest in reducing regulation. LTSE representatives recently discussed their proposal with SEC officials and left the meeting encouraged, people familiar with the matter said.

LTSE is a stock-trading venue for companies focused on long-term goals. Its proposal would apply to all U.S. public companies, not just the few listed on its exchange.

Sure, right, the sensible approach is probably to tinker with the public-company regulations, because being a "public company" is a convenient standardized choice. Most big companies want to be public (though that's not as true as it used to be), public stock exchanges are way more liquid than private exchanges, and it's just convenient to have standardized public-company rules and try to optimize those rules. But in principle, if you don't like the public-company rules, you could write some rules of your own and try to get private companies to sign up for them. Most stock invesotrs *could* buy private-company stock; you just have to sell it to them.

Things happen

Anglo American Agrees to Buy Teck in Deal Reshaping Mining. Staffing Crisis Unfolds at BLS With a Third of Leadership Jobs Now Vacant. PNC to Acquire Colorado-Based Regional Bank in $4.1 Billion Deal. King Street Alum's $1 Billion Launch to Be One of Year's Biggest. Federal Prosecutors Charge Financier Who Offered 'Guaranteed' High Yields. Larry Ellison Is Spending Billions to Reshape Oxford and His Own Legacy. NYC Developers Build 99-Unit Buildings to Avoid Wage Requirements.

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1. It is not essential for no-arbitrage reasons. "I will buy Bitcoin, which goes up, so you should pay a premium for my stock" makes no sense if anyone can buy Bitcoin: People should buy Bitcoin at 100% of net asset value rather than buying your stock at 200%. The pitch that makes sense is "I will buy increasing amounts of Bitcoin by selling my stock at a premium," which is harder for investors to replicate on their own. What is essential is that the assets be desirable, so that at least some investors have the thought process "I want to own ______, but buying this company's stock is a better way to hold ______ because it keeps increasing its ______ per share."

2. Again, as we discussed recently, those numbers are somewhat misleading: The retail investors buy a *smaller amount* of stock at that high price, and you couldn't get the whole deal done there. But, yes, adding more price-insensitive demand to the order book really should increase the price.

3. There is an SEC rule that companies with more than 2,000 holders of record have to be public, but (1) 2,000 is a lot and (2) most retail investors own their public company shares in "street name" and don't count as record holders, and you could extend something like that to private-ish companies.

Securities Law

Manage Newsletters

Michael Saylor's Model Shows Cracks as Crypto-Stock Losses Mount

Sept. 9, 2025, 6:08 AM PDT

Summary by Bloomberg AI

AI Generated

- The stocks of digital-asset treasury companies are falling and market confidence is slipping, with the average share decline last week being 15% among the 15 DATs tracked by Architect Partners.
- Many of these companies have launched this year, with over 100 companies buying cryptocurrencies for their treasuries, and some are struggling with little differentiation and high risks.
- The model may be losing steam, with digital-asset treasury firms purchasing fewer Bitcoins and growth in total Bitcoin holdings slowing, and some investors questioning the value of buying crypto through these companies instead of holding coins directly.

It wasn't hard to see it coming. The stocks had soared too fast, the promises had gotten too big, and the math had gotten too weird. These new companies — public firms built to buy crypto and often doing little else — were supposed to offer investors a lucrative way into the digital-asset boom. Instead, as their stock prices fall and market confidence slips, the question isn't whether the model is under pressure. Increasingly, it's how, and how quietly, it could fall apart.

Even as risky assets from stocks to corporate bonds push higher ahead of an expected Federal Reserve interest-rate cut, shares of digital-asset treasury companies are mired in a worsening slide and their tokens are slumping, too. Among the 15 DATs tracked by financial advisory Architect Partners, the average share decline last week was 15%.

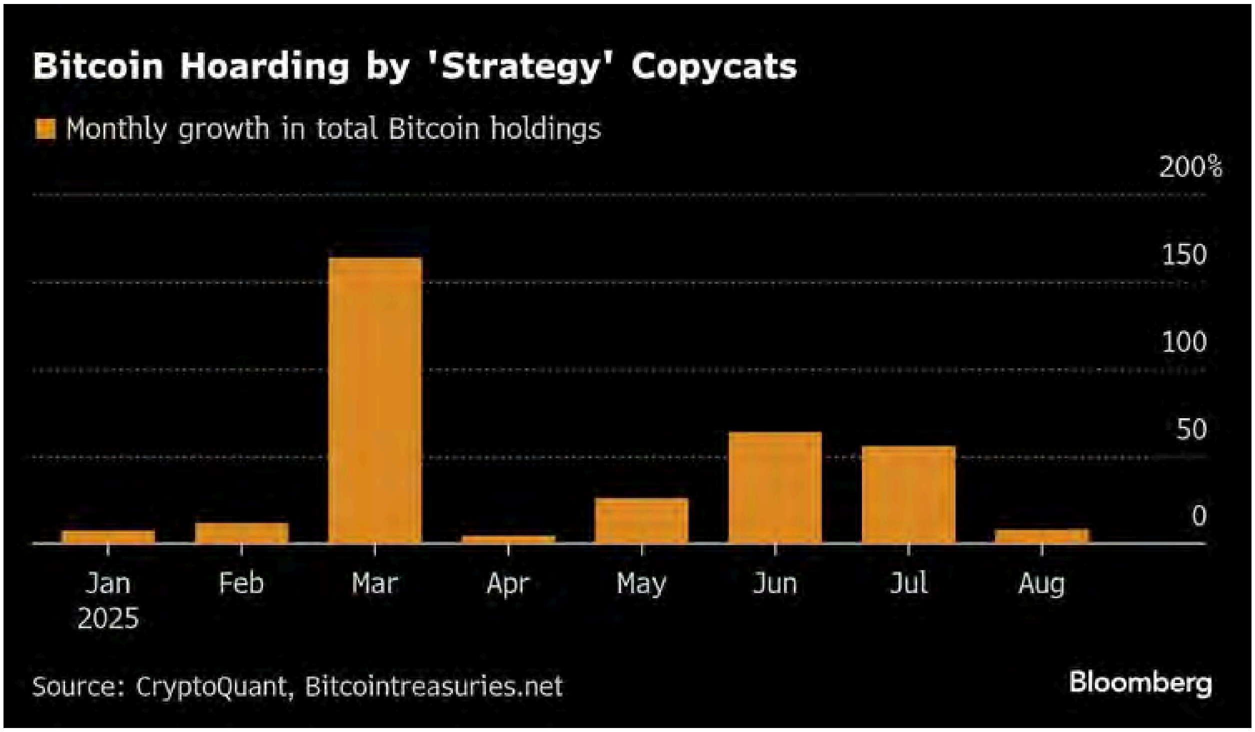
Cases are legion. ALT5 Sigma Corp., which holds the WLFI token issued by Trump-linked World Liberty Financial Inc. , is down about 50% in just over a week. Healthcare services provider Kindly MD Inc., which holds Bitcoin through subsidiary Nakamoto Holdings, is down around 80% from its May high. Other so-called DATs tied to Ether and Solana have also dropped, dragging down the perceived value of the tokens on their books.

"There are way too many of them and very little differentiation" in the US, said Ed Chin, co-founder of Parataxis Capital, which recently funded a South Korean Bitcoin treasury company.

A majority of the well over 100 companies buying cryptocurrencies for their treasuries have launched this year, many of them small firms that recently rebranded overnight — a Japanese nail salon, a cannabis seller, a marketing agency.

Still, in a sign the frenzy hasn't fully faded, some companies are managing to ride the speculative wave. Shares of Eightco Holdings Inc. jumped over 3,000% on Monday after unveiling a Worldcoin-buying plan and naming Wall Street analyst **Dan Ives** to its board.

For some, the appeal is clear: a publicly traded wrapper offers access to crypto exposure with potential upside leverage, wrapped in a familiar equity format. And in select cases, that model still commands healthy premiums. But the trade is getting crowded. Too many companies have rushed in, offering little beyond the tokens they hold, and as prices slide, the confidence that sustained those premiums is beginning to fray.



CryptoQuant, Bitcointreasuries.net

New data suggest the model may be losing steam under its own weight — not just in market sentiment, but in the actual pace of Bitcoin buying. According to CryptoQuant, digital-asset treasury firms purchased just 14,800 Bitcoin in August, down sharply from 66,000 in June. Average purchase sizes are shrinking too, falling to 343 Bitcoin last month — an 86% drop from the 2025 peak. Meanwhile, growth in total Bitcoin holdings has slowed markedly, with treasury companies' accumulation rate sliding from 163% in March to just 8% in August.

In recent months, many DATs were venturing into more creative territory. Crypto lenders, brokerages, and derivatives desks have built out a bespoke financing ecosystem tailored to treasury firms: Bitcoin-backed loans, token-linked convertibles, structured payouts. For some, these tools offer speed and flexibility that banks can't match. But for others, they've turned the pursuit of income into a high-wire act, layering new risks atop volatile assets, or trading away upside for short-term yield, all while the margin for error narrows.

Smarter Web Co., a London-based web design firm holding Bitcoin, issued a bond pegged to the value of the token, not pounds. That means if Bitcoin rises, so does the amount the company owes. Smarter Web CEO **Andrew Webley** said only 5% of the firm's treasury is exposed to the instrument, which he argues is actually less risky than taking on fiat-denominated debt. "If Bitcoin goes up in value, as long as our shares go up by more than Bitcoin, then that will convert into equity," he said. "If it goes down — we are not exposing ourselves — the worst that can happen is we pay the debt back. Our debt in Bitcoin."

DDC Enterprise Ltd., once a struggling meal company, has access to more than $1 billion, most of it untapped, through a swirl of debt, equity lines and shelf offerings. Its shares have also tumbled after soaring just weeks ago. DDC didn't respond to a request for comment.

Nasdaq, where many of these firms are listed, has reportedly begun requiring some token-holding companies to seek shareholder approval before issuing new shares to fund token purchases. The share-sale model has been central to how DATs raise capital without taking on debt.

Strategy and its Japanese counterpart Metaplanet Inc. , two of the most prominent DATs, have also seen their stock prices tumble recently after booming over the past year, a sign that even market leaders aren't immune to the shift in sentiment. Some in the industry are starting to talk about potential consolidation, especially if weaker players continue to struggle and stronger ones begin eyeing the token holdings of peers as acquisition targets.

Strategy was left out of the S&P 500 in Friday's index rebalance, despite meeting eligibility criteria. Its stock has gone largely nowhere since April, even as Bitcoin rallied, reducing the multiple of its Bitcoin to market capitalization — known as mNAV - to about 1.5. On Monday, the company bought a modest $217 million of Bitcoin via its at-the-market offering. Strategy didn't respond to a request for comment.

Bloomberg, Strategy

The growing demand for flexible financing hasn't gone unnoticed by crypto lenders. Two Prime, which provides Bitcoin-backed loans, is one of several firms seeing an uptick in interest from DATs, according to CEO Alexander Blume. The company typically underwrites loans between $10 million and $500 million, and now has $1.25 billion in active open loans. It recently introduced a structure with fixed repayment at maturity, removing monthly interest obligations, a design meant to give borrowers more breathing room in volatile markets.

"Bitcoin treasury companies are a growing field for us," Blume said. "We have seen larger and larger ticket sizes over the last year."

Whether this new financing ecosystem sustains the model or merely postpones its demise is unclear. For now, the next phase may not be a dramatic unraveling, but a slow fade, as stock prices drip lower and token-buying stalls.

Some investors are struggling to make sense of it all. Why buy crypto through a company layered with expenses, risk, and equity dilution, instead of just holding coins directly or through an ETF? "I've been trying to convince myself to buy some of these DATs," said **Travis Kling**, chief investment officer at Ikigai Asset Management. "Haven't gotten there. May never get there." To him, the whole setup feels like "the last gasp of a cycle that couldn't come up with anything better than this silliness."

--With assistance from **Sidhartha Shukla** and **Monique Mulima**.

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California Brief
Insight

Trump Crypto Report Reveals Path to Financial Crimes Compliance

Sept. 9, 2025, 1:30 AM PDT

The Trump administration's highly anticipated report on digital assets, released in July, provides an array of proposals to advance Trump's vision for the digital assets industry.

Among other things, the report has a comprehensive, detailed perspective into how the administration intends to position the US as a leader in digital assets innovation, providing dozens of recommendations for digital asset market structure, banking and digital assets, stablecoins and payments, countering illicit finance, and taxation.

Understanding that financial crimes compliance will be a pillar of the modern digital asset regulatory framework, the report's section on countering illicit finance makes two notable recommendations that provide insight into potential changes to the US anti-money laundering regulatory framework.

The administration recognized in the report that digital assets, "like traditional assets, are subject to abuse by bad actors," and that the US' "financial system's strength, size, and reliability make it a notable target, and misuse by these actors affects matters of national security."

The US must adopt "measures to deter and combat illicit finance" to "unleash the full potential of digital assets in the United States, preserve the rights of innovators to build technologies that advance individual privacy and liberty, and stop financial crime that targets Americans," according to the report.

Those interested in understanding how the administration intends to regulate the digital assets industry should review the full 160-page report, which includes a detailed overview of the existing framework for digital assets, as well as detailed recommendations of how Congress and regulators should modernize and adapt the framework to promote digital asset innovation.

Amending the BSA

The majority of requirements under the Bank Secrecy Act were issued before the digital asset industry emerged. As a result, financial regulators have tried applying the existing, outdated anti-money laundering compliance framework to digital assets—a challenge because the requirements that apply in a fiat-only world often aren't suited for digital assets.

There also are critical gaps in risk mitigation coverage due to the lack of tailored anti-money laundering compliance requirements that align with how digital asset platforms and technology function.

For example, the only entities subject to regulation under the BSA are those that qualify as "financial institutions," and most digital asset companies that are regulated under the BSA are treated as money services businesses.

Money services businesses aren't "covered financial institutions" under the BSA's Customer Identification Program and Customer Due Diligence Rules, which are the basis for the "know your customer" processes employed by financial institutions. Technically, at the federal level, most crypto companies aren't subject to basic know-your-customer requirements.

However, money services businesses are subject to informal know-your-customer expectations. This is because all money services businesses must implement anti-money laundering compliance programs that include policies, procedures, and internal controls designed to assure BSA compliance, such as filing suspicious activity reports. The requirement to file these reports forces money services businesses to collect identifying information from their customers.

The report recognizes that the BSA regulatory framework doesn't align with the digital asset industry. It recommended that Congress consider "creating a bespoke digital asset-specific financial institution types or sub-types" that would allow the Treasury Department to better tailor anti-money laundering rules "to different participants in the digital asset industry, such as exchanges, stablecoin issuers, and firms engaged in digital commodity transactions."

Because the current money services businesses compliance framework isn't suited for digital asset financial institutions, tailored rules that take into account the different nature of the activities and participants would be a vast improvement.

Defining DeFi Actors

The Financial Crimes Enforcement Network issued guidance in 2019 setting out the key facts and circumstances used to determine how digital asset models should be treated under the BSA.

FinCEN's guidance stated that determining whether certain participants in the decentralized finance ecosystem qualify as money services businesses depends on the facts and circumstances of the model, which could include whether the service exerts "total independent control."

FinCEN further stated that producing and distributing software in and of itself doesn't automatically qualify a person or entity as a money services business, even if the software's purpose is to facilitate the sale of digital assets.

The administration's report noted that the guidance was instructive, but the current US anti-money laundering rules fail to "sufficiently consider truly decentralized protocols, where the governance/decision-making is distributed across communities of users, and the protocols may be immutable or otherwise technologically incapable of collecting customer information or reporting suspicious activities."

To address this issue, the report recommended that Congress pass legislation to define what constitutes "true" decentralized protocols, determine which portions of the DeFi ecosystem should be subject to anti-money laundering compliance obligations, and construct the appropriate regulatory framework.

Like the broader recommendation to amend the BSA to include separate financial institution types relevant for the digital asset industry, the recommendation to provide additional clarity for the DeFi industry would be well received if the new framework is appropriately structured.

The previous administration launched aggressive enforcement actions against certain actors within the DeFi sector but chose not to provide much-needed regulatory clarity.

If Congress follows through with the Trump administration's recommendations, the US will be better positioned to mitigate the financial crimes risks associated with the digital assets industry and provide a catalyst for continued growth and innovation in the industry.

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

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Write for Us: Author Guidelines

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Securities Law

Manage Newsletters

Cboe Plans to Offer ‘Continuous’ Futures for Bitcoin, Ether (1)

Sept. 9, 2025, 9:08 AM PDT

Summary by Bloomberg AI

AI Generated

- Cboe Global Markets Inc. plans to launch long-dated versions of perpetual Bitcoin and Ether futures on Nov. 10, pending regulatory approval.
- The exchange's "continuous futures" will offer contracts with 10-year terms and daily price adjustments, aiming to capture demand in a regulated setting.
- The new products will be cleared through Cboe's own US-regulated clearinghouse, giving traders a safer way to make long-term wagers on crypto.

Cboe Global Markets Inc. is pushing to bring one of crypto’s most speculative trading tools into mainstream US markets. The exchange said it plans to launch long-dated versions of perpetual Bitcoin and Ether futures on Nov. 10, pending regulatory approval.

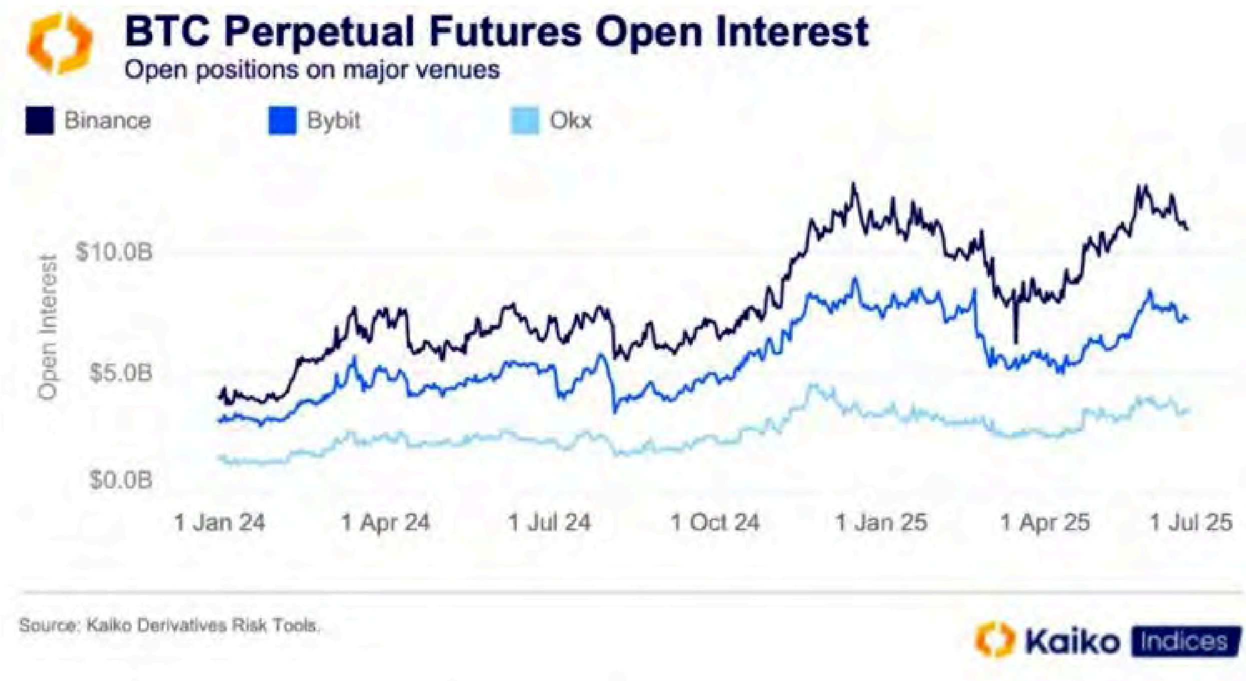
Perpetual futures, which never expire, have long been the engine of offshore crypto bets, powering massive trading volume on venues such as Binance and OKX. They let traders make constant, leveraged bets on prices without ever taking delivery of the tokens.

Cboe’s “continuous futures” aim to capture that demand in a regulated setting, offering contracts with 10-year terms and daily price adjustments. The design is meant to strip out the hassle of rolling contracts while still fitting US market rules.

The exchange argues the new products will give both institutional and retail traders a safer way to make long-term wagers on crypto. They will be cleared through Cboe’s own US-regulated clearinghouse. The structure of the Cboe contracts is similar to the perpetual-style futures products made available by crypto exchange Coinbase Global Inc. earlier this year.

The move echoes Singapore Exchange’s March announcement that it will launch perpetual Bitcoin futures for institutional clients, part of a global race among established bourses to adapt crypto’s most popular products for mainstream use. Other traditional exchanges are weighing similar products as demand grows for regulated alternatives to offshore trading.

Derivatives account for over 75% of all trading activity in crypto markets. Through mid-June, perpetual futures accounted for 68% of all Bitcoin trading volume this year, up from 66% in 2024, according to a research report by Kaiko. The average daily trading volume of so-called perps on crypto exchanges ranges from $10 billion to $30 billion, depending on the week.



Kaiko
Kaiko
Last week, US Securities and Exchange Commission Chairman Paul Atkins said the agency and the Commodity Futures Trading Commission will discuss regulation of new product categories and market developments, from prediction markets and perpetual futures to 24/7 trading in both their markets.

Shares of Chicago-based Cboe fell less than 1% to $232.61. The stock has risen about 20% this year.

(Adds share price in the last paragraph.)

--With assistance from Katherine Doherty and **Bernard Goyder**.

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Dave Liedtka

Musk's pay package: How does Tesla get to $8.5 trillion in value?

reuters.com/sustainability/boards-policy-regulation/how-does-tesla-get-85-trillion-value-robots-robotaxis-hope-2025-09-09

Abhirup Roy, Akash Sriram September 9, 2025

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

- Musk's pay tied to Tesla's product and profit milestones
- Tesla's valuation depends on investor perception and growth potential
- ARK has predicted Tesla's market cap could reach $7 trillion-$10.9 trillion by 2029

SAN FRANCISCO, Sept 9 (Reuters) - How can Tesla (TSLA.O), opens new tab become an $8.5 trillion company? That's the market valuation the electric vehicle maker would have to reach to justify CEO Elon Musk's new pay package announced last week.

Selling 100 million humanoid robots in a year could do it; creating a robotaxi network with more than 10 times the revenue of Uber (UBER.N), opens new tab might as well. And of course, investor hope is part of the equation.

Musk on Friday was given a decade to expand Tesla's $1 trillion valuation into a company worth more than the combined current value of Nvidia (NVDA.O), opens new tab and Microsoft (MSFT.O), opens new tab, the two most valuable publicly traded companies in the world. If he succeeds, Musk, already the best-paid CEO in the world, would receive a trillion-dollar pay package.

Musk's new pay package was granted on September 3, but it is subject to shareholder approval in November.

The board showed how and where it expects Tesla to make its money by structuring Musk's pay package around 12 milestones that are primarily based on products and profit, as well as market capitalization. They target enormous increases in profit as Tesla rolls out its Optimus humanoid robots and a robotaxi fleet that it hopes will be more efficient than human-driven rivals.

A lot depends on how investors value the company. Tesla, for example, is valued as a growth stock, trading at around 75 times its earnings before interest, taxes, depreciation and amortization, or EBITDA, even though its vehicle sales dropped last year and are likely to drop this year.

The payoff is astounding - and so are the goals. Gene Munster, managing partner at Deepwater Asset Management, broadly estimated that robotaxis and self-driving software could be worth a trillion dollars of market cap each, with cars another half-trillion. "At the end of the day, the reason why this is going to work or not work really comes down to Optimus," he said. "It's a fairy tale, but it's one that could actually happen."

Musk has been betting the company on self-driving software and robotaxis for some time. Tesla currently has a small fleet of robotaxis - estimated to be about three dozen vehicles - in a part of Austin, Texas. An early Musk milestone is to have a million robotaxis in operation.

One of Tesla's biggest fans, ARK Invest, predicted an even sunnier case well before the Musk pay package was announced. They see Tesla's market capitalization hitting $7 trillion to $10.9 trillion in 2029, opens new tab, with a Tesla robotaxi network bringing in between $603 billion and $951 billion of ride-hail revenue per year. Global ride-hailing leader Uber, by comparison, will have revenue of $52 billion this year, according to LSEG.
Tesla would start off owning and operating a robotaxi network, which would eventually be taken on by another company, ARK forecast. Tesla's share of the ride fare would be 40-60%, double that of Uber, ARK said.

ARK did not include a valuation for robots in its model, although it said that could become a $24 trillion market.

BANKING ON BOTS

More recently, Musk has described robots as the future, saying the Optimus humanoid robot could account for 80% of Tesla's value eventually, opens new tab.
If Tesla's future depends on Optimus, it will have to sell a lot of robots - maybe more than 100 million a year, according to Reuters calculations.

If Tesla's business was only robots, that 100 million figure is what it would take to hit the top EBITDA profit target, as specified in the Musk pay package, of $400 billion. Optimus is expected to be priced at around $25,000 and Tesla's current EBITDA profit margin is around 15%. For twice the profit margin, Tesla would have to sell only half as many robots.
EBITDA this year is expected to be $13 billion, according to LSEG, so Tesla has a long way to go.

Much will also depend on how investors calculate Tesla's potential at the end of the decade-long pay package. If investors were to continue pricing Tesla at 75 times EBITDA, it would take $113 billion in EBITDA for Tesla to reach a $8.5 trillion valuation, or less than the profit goal Tesla has set in Musk's pay package. That package has a top EBITDA of $400 billion and a top market cap of $8.5 trillion, a multiple of 21.

The $400 billion target was "materially more aggressive" than Morgan Stanley's predictions on Tesla's auto, energy and robotaxi businesses, its analysts said in a note on Sunday, adding that it "would imply substantial contributions from Optimus and other AI robot end markets currently not in our forecasts."

Some investors welcomed the focus on the new products and said the proposed pay might help address what is ailing the company now.

"There are big operational hurdles that Tesla does need to accomplish," said Will Rhind, CEO of global ETF issuer GraniteShares. "There are things that clearly need to be reversed, such as declining sales, et cetera. So, why not tie the CEO's compensation to reversing some of those trends?"

Reporting by Abhirup Roy in San Francisco and Akash Sriram in Bengaluru; Additional reporting by Peter Henderson and Noel Randewich in San Francisco; Editing by Matthew Lewis

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Securities Law News

WH Smith's 'Basic' Accounting Error Puts Auditor in the Hot Seat

Sept. 8, 2025, 11:00 PM PDT

An investigation untangling the accounting errors that led UK retailer WH Smith to vastly overstate its projected annual profit also puts a spotlight on its auditor, PwC.

Shares in WH Smith Plc crashed by more than 40% after it more than halved profit forecasts for its North America stores to around £25 million ($34 million) from £55 million for the year that ended Aug. 31. Revenue from suppliers was accounted for "in earlier periods than it should have been," the company said in an emailed statement explaining the mistake. Overall the company cut profit forecasts for the year to £110 million, down from £166 million the previous year.

"This is a basic accounting error," Sheffield University accounting professor Richard Murphy said. "It should have been caught by the auditors, and the company."

It's also not the first time a UK retailer has made this type of error, Murphy said. In 2017, Tesco Plc agreed to pay investors £85 million in compensation for overstating its 2014 interim profits by pulling forward supplier income. The supermarket group was also fined £129 million under a deferred prosecution agreement with the UK's Serious Fraud Office.

At the time of the scandal, PwC audited Tesco, although Deloitte replaced the firm in 2015. UK accounting watchdog the Financial Reporting Council investigated the PwC audits but closed the probe in 2020 without finding misconduct.

WH Smith has about 1,200 stores globally offering books, magazines, snacks and other travel essentials at airports, rail stations, and hospitals. The company has hired Deloitte to investigate how its accounting mistake occurred and pledged to provide an update on the probe when it delivers its preliminary financial results in November.

The FRC declined to comment on whether it plans to open a separate investigation into PwC, also known as PricewaterhouseCoopers.

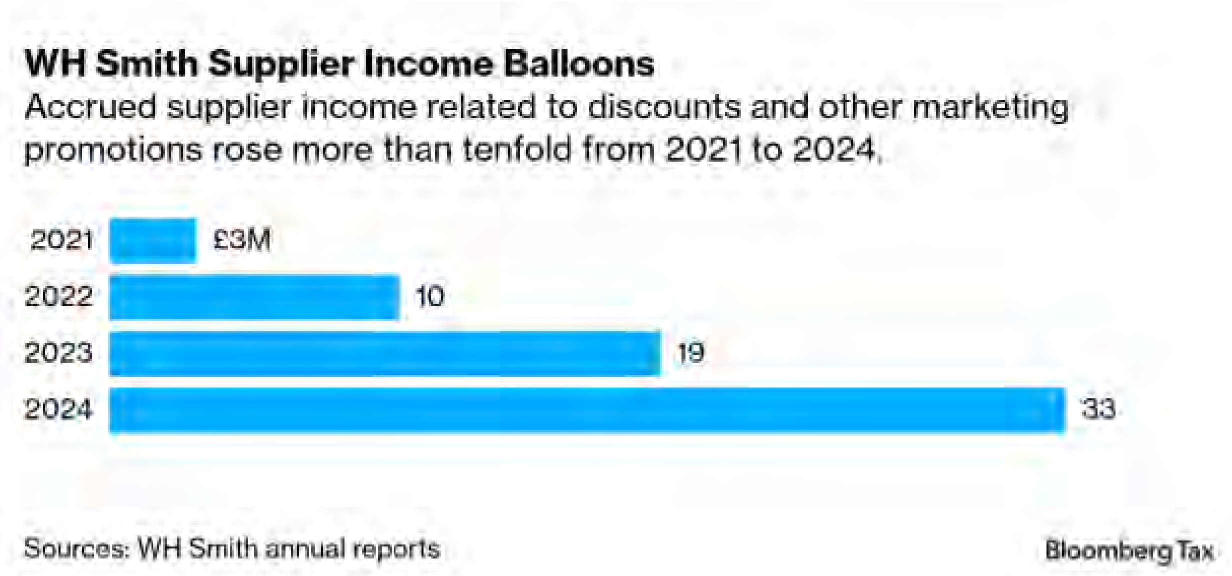
'A Fundamental Miss'

Like other retailers, WH Smith receives payments from suppliers when the company runs promotions or discounts to boost sales. This income is recorded over time to align with when products are actually sold, rather than being taken as a lump sum when the contract is signed.

The UK retailer uses international accounting standards that—similarly to Generally Accepted Accounting Principles in the US—recommend the use of accrual accounting. Under this method, revenue isn't recognized until it is actually earned, regardless of when the cash is received.

"These incomes are recognized as a deduction from cost of sales on an accrual basis as they are earned for each supplier contract," WH Smith said in an August 21 announcement of the error.

According to its annual reports, WH Smith's supplier income has exploded from £3 million in 2021 to £33 million in 2024.



"The level of complexity and judgment is low in relation to establishing the accounting entries and estimates, and the timing of recognition," WH Smith said in its 2024 annual report, referring to its supplier arrangements. These types of arrangements include retrospective discounts and promotional and marketing activity, according to the report.

But the retailer appears to have recognized too much supplier revenue too early in its North America division—home to more than 320 of the company's stores, mostly in the US and Canada.

"This overstatement is largely due to the accelerated recognition of supplier income in the North America division," WH Smith said in an email, referring to the profit projection.

The retailer said it had instructed Deloitte "to undertake an independent and comprehensive review" of what went wrong. It declined to give more details of the mistake or the investigation until its preliminary results announcement scheduled for Nov. 12.

"This was a fundamental miss by the auditor," Sheffield University's Murphy said, adding that WH Smith might also have been at fault over the information it provided.

"They should have recognized this as a material matter that could have a big impact on the share price," he said, referring to PwC. "Tesco had already made that obvious and this should have been a priority area for the audit."

PwC declined to comment.

Investigative Challenge

For Deloitte, it's a "Herculean effort to even just go in and get a lay of the land" given the potential magnitude of the contracts and people involved, said Loyola Marymount University associate professor Tony Menendez.

The Big Four accounting firm will need to quickly get up-to-speed on the company's accounting policies and the various agreements it has with suppliers, Menendez said. That could be accomplished by collecting and combing through information like contracts and financial analysis. Then, the firm could interview people involved in the accounting process to look into the error's origins and the company's internal financial guardrails.

The review will take both employees' time and WH Smith's money and resources, accounting analyst Olga Usvyatsky said.

"From an economic perspective, it's also going to be disruptive to the company's operations," Usvyatsky said.

WH Smith declined to comment on whether Deloitte's review could result in a material cost to the company. Deloitte declined to comment on the review's process and what information it will collect.

A managerial process or point person to help WH Smith employees balance day-to-day work with the needs of Deloitte's review can be effective in ensuring teams can fully cooperate with the probe, Floyd Advisory partner Brian Loughman said.

Murphy, of Sheffield University, said that it also isn't known yet whether the accounting error could affect previous years' results.

In unwinding WH Smith's contracts, Deloitte also could examine whether the accounting error extends beyond the initial announcement of the overstatement.

"You don't know if this is it or if there's more to come," said Jeffrey Johanns, associate professor at the University of Texas at Austin. "And that's always part of the market's problem."

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Securities Law

Manage Newsletters

B. Riley Financial to Change Auditor After Reporting Delays

Sept. 9, 2025, 4:43 AM PDT

Summary by Bloomberg AI

AI Generated

- B. Riley Financial Inc. will change accounting firms from Marcum LLP to BDO USA after Marcum completes the 2024 audit.
- B. Riley expects to file its annual results "soon" and has made "substantial progress" on readying its filings for the first two quarters of 2025.
- The company's failure to report results has prompted Nasdaq to warn that B. Riley is in danger of being kicked off the exchange, with a deadline of Sept. 29.

B. Riley Financial Inc., the brokerage struggling to file its long-overdue financial reports, said it will change accounting firms just weeks before a deadline to produce audited results that B. Riley needs to preserve its stock listing.

Marcum LLP will be succeeded by BDO USA once Marcum has completed the 2024 audit, Los Angeles-based B. Riley said in a statement . The firm said it expects to file its annual results "soon" and has made "substantial progress" on readying its filings for the first two quarters of 2025.

"By appointing BDO and staging the 2025 review process while simultaneously working with Marcum to compete the 2024 audit, we put the Company on what we believe to be the surest path to returning to timely financial reporting," the firm said.

B. Riley's failure to report results to the US Securities and Exchange Commission for full-year 2024 and quarterly results for this year have prompted Nasdaq to repeatedly warn that B. Riley is in danger of being kicked off the exchange. The firm had said Nasdaq wouldn't grant any more extensions beyond Sept. 29 .

The firm's shares have tumbled from about $60 in 2023 to around $5 currently after investments soured, annual losses piled up and financial reports repeatedly came in late. Attacks by short sellers and a probe by the SEC added to the company's woes, and B. Riley has negotiated several deals to put off dates for debt payments.

Marcum criticized B. Riley's accounting in past filings, including a series of flaws in the company's controls over its financial reporting cited in the 2023 annual report. It singled out B. Riley's ability to gauge its investment valuations, and said management's procedures lacked "a level of precision sufficient to prevent or detect a potential material misstatement in the consolidated statements."

The auditor also called out efforts "to properly identify and disclose material related-party transactions," a category that can include deals with people who have close ties to the company or its personnel and might pose conflicts of interest.

Those issues became acute last year after one of B. Riley's biggest holdings, retailer Franchise Group Inc., went bankrupt. Investors alleged that B. Riley hadn't properly disclosed important details of the transaction and its arrangements with Franchise Group's leader, Brian Kahn. The SEC launched an investigation that included B. Riley and Chairman **Bryant Riley**; the firm has said it's cooperating and there's been no wrongdoing.

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Securities Class Actions Had A Late Summer Appellate Bloom

By **Jessica Corso**

Law360 (September 8, 2025, 7:44 PM EDT) -- While the later summer months are often a quiet time for the nation's courts, the federal appellate courts were hard at work this past July and August issuing important rulings on class certification standards for shareholder lawsuits and handing down split-panel decisions over the future of disclosure litigation.

Below are some of the shareholder class action issues that came before federal circuit courts in August and late July.

Shifting Class Certification Standards

Three cases that recently came before the federal appellate courts challenge the ability of investors to win class certification under both decades-old and more recent Supreme Court precedents.

In the final days of July, the Third Circuit became only the second federal appeals court to issue a ruling interpreting the Supreme Court's 2021 ruling in Goldman Sachs v. Arkansas Teacher Retirement System .

In that ruling, the justices mandated that lower courts consider whether an alleged corporate misstatement was too generic to have an inflationary impact on the company's stock price before granting class certification.

The Third Circuit said that, under Goldman, Johnson & Johnson investors **could proceed as a class** based on claims that the company artificially inflated its stock price by failing to disclose cancer risks associated with its talcum powder products.

Johnson & Johnson has until Sept. 12 to decide whether to pursue a Third Circuit rehearing of the issue.

The Ninth Circuit is also expected to issue a post-Goldman ruling, with three of that court's judges **hearing arguments** in a shareholder lawsuit against Zillow last month.

The real estate listing site is facing an investor class action accusing it of overhyping its now-shuttered home flipping business, and the Ninth Circuit appeared skeptical of the company's arguments that the class should be decertified under Goldman.

The Sixth Circuit, meanwhile, **issued a ruling** on class certification last month when it decertified a class of FirstEnergy investors who sued in the wake of a $1 billion bribery scandal.

The lower court applied the wrong standard in granting class certification, the circuit court ruled, because it should not have relied on the omissions-based standard set out by the Supreme Court's 1972 ruling in Affiliated Ute Citizens of Utah v. U.S.

The court, however, left open the possibility that the class could be recertified under a 1988 Supreme Court ruling in Basic Inc. v. Levinson , which the Sixth Circuit said lays out the standard for certifying class claims based on alleged corporate misrepresentations like the ones at issue in the FirstEnergy case.

The cases are San Diego County Employees Retirement Association et al. v. Johnson & Johnson et al., case number 24-1409, in the U.S. Court of Appeals for the Third Circuit, Jaeger v. Zillow Group Inc. et al., case number 24-6605, in the U.S. Court of Appeals for the Ninth Circuit, and Diane Owens et al. v. FirstEnergy Corp. et al., case number 23-3940, in the U.S. Court of Appeals for the Sixth Circuit.

Divided Disclosure Opinions

A pair of decisions out of the Second and Ninth circuits revitalized investor lawsuits against Peloton and Robinhood Markets Inc., both of which were accused of misleading investors about the sustainability of a temporary spike in demand.

Peloton investors were **given a second chance** by the Second Circuit to prove their claims that the seller of stationary exercise bikes misled investors to believe that its pandemic-era explosion in popularity was sustainable.

Meanwhile, Robinhood will **once again** have to return to court to defend itself against a lawsuit stemming from its $2.1 billion initial public offering after the Ninth Circuit ruled that it may have had a duty to disclose financial information that investors say proved the company saw a dip in sales as users stopped buying up meme stocks and Dogecoin.

Neither ruling was unanimous, however, with a single judge on each panel saying that corporate disclosures made by Peloton and Robinhood were detailed enough for the companies to escape claims that they misled investors about their future growth prospects.

The cases are City of Hialeah Employees Retirement System et al. v. Peloton Interactive Inc. et al., case number 24-2803, in the U.S. Court of Appeals for the Second Circuit, and Sodha v. Robinhood Markets Inc. et al., case number 24-1036, in the U.S. Court of Appeals for the Ninth Circuit.

Second Circuit Bank Rulings

Some of the nations' largest financial institutions had a tough time before the Second Circuit last month, with the appellate court reviving one anticompetitive lawsuit and affirming the class certification granted in another.

On Aug. 1, a Second Circuit panel **agreed** with a lower court judge that American cities accusing Merrill Lynch, Barclays Capital Inc., Goldman Sachs & Co. and others of inflating interest rates on variable rate demand obligations could proceed with their claims as a class.

The cities — Philadelphia, Baltimore and San Diego — allege that the banks conspired to rig rates on VRDOs, a kind of tax-exempt bond often used in financing big-ticket municipal projects, after being hired to remarket the bonds.

The banks argued before the Second Circuit that the lower court judge took the class's expert report at face value, but the appellate court disagreed, saying the district court "clearly considered" the banks' main argument against certification.

UBS AG and the Royal Bank of Scotland PLC also didn't fare well before the Second Circuit last month, with the court deciding in late August to **partially revive** a lawsuit alleging that the banks manipulated a key interest rate for the lending of euros.

While the Second Circuit panel largely upheld the lower court's dismissal of the case, including by relieving the banks' of allegations that they violated the Racketeer Influenced and Corrupt Organizations Act, it reopened claims that the banks may have violated the Sherman Act and sent the case back to the lower court for further development.

The ruling was the latest development in a long-running dispute over the alleged rigging of the Euro Interbank Offered Rate and other interbank lending rates between 2005 and 2011.

The cases are City of Philadelphia v. Bank of America Corp., case number 24-297, and Sullivan v. Barclays PLC, case number 19-1769, both before the U.S. Court of Appeals for the Second Circuit.

A Pair of Third Circuit Rulings

There was at least one big corporation that was successful before a federal appellate this past month, with the Third Circuit **unanimously affirming** Walmart's win in an investor lawsuit accusing the retailer of failing to disclose a federal opioid investigation.

The court found that Walmart's filings adequately disclosed potential risks once the scope of the investigation became clearer and did not misstate its liabilities beforehand.

Maiden Holdings, meanwhile, saw its summary judgment win over investors **wiped out** by the Third Circuit, allowing them to move forward with a lawsuit accusing the reinsurance company of misrepresenting its underwriting and risk management practices.

The circuit court said in the precedential ruling that the district court misapplied U.S. Supreme Court's ruling in Omnicare Inc. v. Laborers' District Council Construction Industry Pension Fund , which set out the terms under which a corporation's opinions could be considered misleadingly incomplete.

The cases are In re: Walmart Inc. Securities Litigation, case number 24-1818, and Boilermaker-Blacksmith National Pension Trust et al. v. Maiden Holdings Ltd. et al., both before the U.S. Court of Appeals for the Third Circuit.

--Additional reporting by Katryna Perera, Lauren Berg and Corey Rothauser. Editing by Jay Jackson Jr. and Emily Kokoll.

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Swedish Video Game Co. Beats Suit Over Compliance Issues

By **Katryna Perera**

Law360 (September 8, 2025, 7:33 PM EDT) -- A Pennsylvania federal judge dismissed claims against Evolution AB in a suit claiming the Swedish gaming company misled investors about its growth and that its subsidiaries routinely conducted business with unlicensed customers, finding that the court does not have jurisdiction over Evolution, since it is not "at home" in Pennsylvania.

U.S. District Judge Mia Roberts Perez issued a **memorandum** Friday stating she was tossing the suit, with prejudice, for lack of personal jurisdiction over Evolution. Friday's order comes after the court dismissed, with prejudice, claims against the suit's individual defendants in April.

According to the memo, in arguing against dismissal, the suing investors said new discovery has uncovered "widespread overlap" between Evolution and its Pennsylvania subsidiaries in the operational control, employee oversight, branding and other areas, which would grant the court jurisdiction over Evolution as the parent company under the so-called "alter-ego" standard.

But Judge Perez disagreed Friday, saying the investors have not shown an "'extraordinary level of control' beyond the normal parent-subsidy relationship."

She found that there was no overlap between Evolution and its subsidiaries' boards, directors or employees, and she noted that the record shows the subsidiaries operated under "distinct" management.

"The fact that there are separate management teams for each subsidiary strongly indicates their autonomy from defendant. Each subsidiary made its own hiring and firing decisions without seeking or obtaining approval from defendant," the memo stated.

According to the memo, the investors pointed to a pair of overlapping directors — defendants Martin Carlesund and Jesper von Bahr — but Judge Perez said this overlap is "functionally insignificant."

"This fact may suggest that defendant, as the parent entity, monitors its subsidiaries, but it says nothing about day-to-day operational control. There is no evidence that the overlap was so extensive that there was no real distinction between the boards or entities," the memo stated.

The judge also found that none of the subsidiaries were performing the functions of the parent company, nor were they acting as Evolution's marketing arm or exclusive distributor, further demonstrating a lack of personal jurisdiction.

Finally, Judge Perez said, the record demonstrates "corporate separation" between Evolution and its subsidiaries, including that each subsidiary is separately incorporated, operates its own facilities and employs its own workforce, among other things.

"The subsidiaries handle their own operational, administrative, and commercial functions, including their own studios, marketing, legal, compliance, and finance departments. The subsidiaries contract directly with customers," the memo said. "This structure, along with the absence of overlapping personnel, supports the conclusion that Evolution AB does not exercise the type of day-to-day control necessary to satisfy the alter-ego standard."

The suit claimed that Evolution and its officers prioritized the company's growth over regulatory compliance and falsely said the company "utilized a thorough due diligence process and only entered into contracts with duly licensed customers" while failing to disclose that it routinely conducted business with unlicensed customers.

Additionally, the complaint contended that investors were misled into believing that Evolution's revenue and market share were growing, when in reality, growth was stagnant or declining in key jurisdictions. When the truth came to light, investors claimed Evolution's share price fell, and they were damaged.

In a statement to Law360 on Monday, Robert Giuffra of Sullivan & Cromwell LLP, who represents Evolution, said they are pleased with the court's "well-reasoned" decision.

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

The investors are represented by Debra J. Wyman and Jessica E. Robertson of Robbins Geller Rudman & Dowd LLP, Michael Dell'Angelo and Andrew D. Abramowitz of Berger Montague, and Thomas C. Michaud of VanOverbeke Michaud & Timmony PC.

Evolution AB is represented by Robert Giuffra, David Rein, Julia Malkina and Gulliver Brady of Sullivan & Cromwell LLP, and Shannon McClure of Blank Rome LLP.

The case is Skolnick v. Evolution AB et al., case number 2:24-cv-00326, in the U.S. District Court for the Eastern District of Pennsylvania.

--Editing by Kristen Becker.

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E-Bike Co. Hid Battery Issues, Investor Says In Stock Suit

By **Mike Curley**

Law360 (September 8, 2025, 4:58 PM EDT) -- An investor sued Fly-E Group Inc. on Monday in New York federal court, alleging that the company and its officers ignored slumping sales because of problems with its lithium-ion batteries, inflating stocks until they dropped by 87% in a single day when the truth came out.

In the **complaint**, Dino Kurt alleges that Fly-E Group's July 15 Form 10-K filed with the U.S. Securities and Exchange Commission touted "strong brand reputation" and "innovative" services, as well as strategies to grow the business and a bright future, while downplaying the net revenue of 21% on the year.

According to the complaint, while the 10-K attributed the decrease in total units sold to lithium battery accidents involving e-bikes and e-scooters, the disclosure never identified that the batteries involved were Fly-E's batteries, and instead reported that its products were subject to extensive regulations and testing for battery safety.

However, on Aug. 14, the company filed a Form NT 10-Q with the SEC, which revealed a 32% decrease in net revenue in the first quarter compared to the same period in 2024, attributing the decrease to customer hesitancy as a result of an increasing number of lithium battery explosions in New York.

Kurt alleges that the August disclosure contradicts the July one, as in July, the sunny outlook minimized risks from supply chain changes, the regulatory environment, and demand fluctuations for e-bikes and e-scooters.

Within a day of the August disclosure, the stock price for Fly-E went from $7.76 a share to $1 per share, according to the complaint, which alleges that Fly-E committed fraud on the market by downplaying the battery incidents' effect on the market.

Kurt aims to represent a class of anyone who purchased or acquired common stock in Fly-E between July 15 and Aug. 14, and makes claims for violations of securities law, while seeking unspecified damages for the stock losses.

Representatives for the parties could not immediately be reached for comment Monday.

Kurt is represented by Adam M. Apton of Levi & Korsinsky LLP.

Counsel information for Fly-E and its officers was not available Monday.

The case is Kurt v. Fly-E Group Inc. et al., case number 1:25-cv-05017, in the U.S. District Court for the Eastern District of New York.

--Editing by Kelly Duncan.

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Super Micro Hit With Stockholder Derivative Suit In Del.

By **Jeff Montgomery**

Law360 (September 8, 2025, 7:45 PM EDT) -- A Super Micro Computer Inc. stockholder has launched a lawsuit seeking recoveries from top officers and directors for hundreds of millions in damages allegedly arising from false and misleading statements tied to financial reports and internal controls.

The three-count derivative suit filed on Aug. 29 targets in part actual and potential financial fallout from direct stockholder suits in the U.S. District Court for the Northern District of California.

Stockholder Eric Anderson alleged in the Court of Chancery complaint "significant self-dealing" by co-founders and married couple Charles Liang and Sara Liu, as well as "abject [oversight] failure" by directors. Action and inaction by those named allegedly led to federal securities fraud claims and other allegations asserting billions in lost company value and liability costs.

The wide-ranging, direct claims in the California litigation include allegations the company and key officials provided false information about financial results for fiscal years 2021 to 2024. Also alleged is an accounting scheme that improperly recognized revenues and sales and circumvented internal accounting controls, along with undisclosed related party deals and violations of U.S. trade restrictions on Russia.

Those named "acted with a conscious disregard for their responsibilities to ensure that the company's public statements were not false and materially misleading, including by failing to immediately correct" false or misleading information, the Chancery complaint said.

Super Micro is a major producer of high-efficiency servers and provider of server management software and storage systems. The company, facing multiple suits and regulatory actions, has seen its market capitalization drop by about a third to $40 billion in the last six weeks — and by more than half since March 2024.

The Chancery suit alleges withholding of information from company auditor Ernst & Young, which ultimately made what was described as a "noisy" resignation. Also cited were "significant and material transactions" by Liang, Liu, some family members and related entities.

Some of the claims, the suit said, date to April 2024, when Super Micro employee Bob K. Luong filed a whistleblower complaint naming Liang in federal court. The whistleblower action accused the company of improperly recognizing millions in revenues before delivering goods and purposely shipping equipment "with missing parts to inflate its revenues and profits."

Luong "tried repeatedly for years to get the company to investigate its accounting practices," the complaint said.

Also cited was an August 2024 Form 8-K SEC disclosure signed by Liang, who was accused of further misleading the market by stating in a press release that Super Micro was experiencing record results, omitting alleged "material deficiencies in the company's internal controls over financial reporting."

Liang "participated extensively" on an earnings call with analysts the same month, "making bullish comments about the company but failing to disclose any facts concerning the company's disagreements with Ernst & Young or expected inability to timely file its annual report for 2024."

The conduct of those named, the complaint alleged, "constitutes an intentional dereliction of their fiduciary duties and a conscious disregard for their responsibilities to refrain from engaging in self-dealing and to refrain from making false and materially misleading statements to the market."

Named in the suit were co-founder and CEO Liang and co-founder and director Liu, along with directors Robert Blair, Judy Lin, Sherman Tuan, Tally Liu, Yih-Shyan (Wally) Liaw and Susie Giordano as well as chief financial officer and chief compliance officer David Weigand and former director Daniel Fairfax.

Liang, S. Liu, Liaw and Weigand were named in a count alleging concealment of material information from directors, in breach of their fiduciary duties of care and loyalty.

Liang, S. Liu, Liaw, Fairfax, T. Liu, Lin and Blair were accused of breaching their fiduciary duties of loyalty and care by concealing material information from fellow board members, the company's auditor and shareholders.

A third count accuses Liang, S. Liu, Liaw, T. Liu, Fairfax, Lin, Blair, Tuan and Giordano of breaching their fiduciary duties through conscious disregard of their responsibility to ensure the company's public statements were not false and materially misleading.

Super Micro declined to comment on Monday.

Stockholder Eric Anderson is represented by Blake A. Bennett of Cooch and Taylor PA and Francis A. Bottini Jr. of Bottini & Bottini Inc.

Counsel information for others named in the suit was not immediately available.

The case is Eric Anderson v. Charles Liang et al., case number 2025-0986, in the Court of Chancery of the State of Delaware.

--Editing by Philip Shea.

Update: This story has been updated to reflect that Super Micro declined to comment.

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Lolli & Pops Sued For Docs Over Alleged Structure Changes

By **Gina Kim**

Law360 (September 8, 2025, 8:14 PM EDT) -- The former CEO of Hammond's Candies, who sold the business to candy maker Lolli & Pops last year, sued the company Friday in Delaware seeking to inspect its books and records alleging he has "credible basis to believe" Lolli & Pops modified its ownership structure in a way that could have potentially diluted his shares.

In a six-page verified complaint, Andrew Schulman — who sold his stake in the century-old Colorado candy confectionery giant Hammond's Candies to Lolli & Pops last year and became a stockholder of the defendant's company in the process — asked the Delaware Court of Chancery to allow him to access and inspect Lolli & Pops' books and records under Section 220 of the Delaware General Corporation Law.

Under Section 220, a company stockholder can access a corporation's books and records if they identify the appropriate objective for the information sought.

"Plaintiff has a credible basis to believe that defendant altered its ownership structure, and thereby materially impacted and/or diluted plaintiff's share holdings, without informing plaintiff," Schulman's Sept. 5 complaint alleged. "Plaintiff further understands that majority control over and/or ownership in defendant has been altered without notice to and/or approval from minority shareholders."

Hammond's Candies sells a variety of confectionery products including candy, licorice, nuts, chocolate, lollipops, popcorn, cookies and other sweet snacks, which can be purchased online through its website or Amazon, and can also be found at brick-and-mortar retail shops like Target and Walmart.

Last fall, Lolli & Pops, one of the largest purveyors of premium confectionery products and a portfolio company of TerraMar Capital, acquired Hammond's Candies.

According to Friday's complaint, Schulman, through his business HC Group LLC, bought Hammond's Candies in 2007. HC Group sold its ownership stake in the candy retail business to Lolli & Pops, which subsequently led to Schulman becoming a stockholder in Lolli & Pops.

The deal was funded via a new revolving credit facility by PNC Bank and a term loan from Advantage Capital Management LLC, along with an additional investment from investment platform TerraMar Capital, according to a press release announcing the transaction on Nov. 11.

Schulman alleged in his suit that he sent a written demand letter to Lolli & Pops on March 17 to examine its books and records for the purpose of determining the value of his common stock in the company. Schulman said he also sought to explore any potential improper transactions and possible mismanagement by Lolli & Pops, including the company's alleged withholding of financial information from minority shareholders.

Specifically, Schulman alleged he sought information about Lolli & Pops' stock and membership interest ledger, a list of stockholders and members, as well as any meeting minutes of company stockholders, directors, managers and members that have occurred since Nov. 1.

Other information Schulman sought from Lolli & Pops includes company's balance sheet for the following dates: Oct. 31, Nov. 30, Dec. 31, Jan. 31 and Feb. 28, including an income statement for each month then-ended, according to the complaint.

Schulman also asked Lolli & Pops to turn over all binding agreements it entered into with any third-party since Nov. 1 related to taking on debt or any equity issuance or transfer, according to the suit.

"The demanded materials specifically relate to plaintiff's stated purposes because they bear on the defendant's value, and therefore by extension plaintiff's stock, and will identify potentially improper transactions or mismanagement that could impact such value," Schulman alleged.

The plaintiff further noted that he has abided by all the requirements under the Delaware code in his pursuit of examining and making copies of Lolli & Pops' books and records for the information he wishes to obtain but that the company didn't respond to his demand within five business days after it was delivered.

"To date, defendant still has not responded to the demand letter or permitted plaintiff to inspect and make copies of the demanded materials, despite further requests from plaintiff's counsel," the suit alleged. "Therefore, plaintiff has initiated the present action to protect and enforce his rights under Section 220."

Schulman asks the court to enter judgment in his favor against Lolli & Pops, issue an order for the defendant to turn over the information he seeks in his demand letter for copying and examination, and to award Schulman costs, expenses and attorney fees.

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

Schulman is represented by Adam J. Brody and Neil E. Youngdahl of Varnum LLP and Thad J. Bracegirdle of Bayard PA.

Counsel information for Lolli & Pops was not immediately available.

The case is Andrew Schulman v. Lolli & Pops Holdings Inc., case number 2025-10-13, in the Court of Chancery of the State of Delaware.

--Editing by Jay Jackson Jr.

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DC Circ. Mulls Whether To Leave Whistleblower Rewardless

By **Nadia Dreid**

Law360 (September 8, 2025, 10:08 PM EDT) -- The D.C. Circuit didn't seem to think it was fair that the SEC refused a million dollar reward to a whistleblower who went to the media first, even though the judges hinted Monday they thought the agency might have been within its rights to do so.

All three judges had hard questions for attorneys on both sides, but on the balance, they seemed to be torn between what felt fair and deciding whether the Dodd-Frank Act considers a whistleblower to be "voluntary" if they took their information to the media and then cooperated with the U.S. Securities and Exchange Commission after.

U.S. Circuit Judge Cornelia Pillard was the first to express sympathy for the whistleblower, only identified in the documents as John Doe, saying she thought there was "an unfairness to people like your client and a kind of irony in saying well, people need the awards as incentive to come forward."

But then, "someone who was so voluntary that he didn't need the award — actually bona fide voluntary, did this with no award in view — doesn't get it," Judge Pillard said. "So, I get that it seems unfair."

That didn't mean, however, that she would necessarily be siding with Doe in the forthcoming decision. Because she followed up that comment by saying "but in reading the statute and in trying to understand whether the commission's ruling interpreting it is valid, I think they have a very reasonable and supportable judgment."

That was also U.S. Circuit Judge Florence Y. Pan's issue. She was the toughest on Doe's attorney, asking from the jump if he could make the argument before them that he was posing.

"Is this argument preserved?" she asked. "It doesn't seem that you made this argument before the SEC in the same form that you're making before us."

Specifically, Judge Pan was referring to the argument that providing the media with information that resulted in reporting that led a successful SEC investigation counted as being a voluntary whistleblower. Stephen Martin Kohn, partner at Kohn Kohn & Colapinto LLP, who represents the plaintiff, said he had made that argument before the commission with "laser precision."

But Judge Pan wasn't completely convinced by his explanation, telling him, "I understand that's the argument, and this is maybe the best spin you could put on it."

"It seems to me that your definition of voluntary would make a lot more people eligible whistleblowers," she said. "And we're talking about very large awards here, 10 to 30% of large, large sums of money — $100 million, $5 billion."

But since the SEC already learned about the whistleblower from the media, all Doe saved them was "the trouble of getting a subpoena," Judge Pan said.

"It doesn't seem to me that your statutory interpretation of the word voluntary could possibly be what Congress intended," she added.

Judge Pan did, however, say Doe might have had a better argument open to him that his attorney wasn't pursuing. She said the whistleblower would have a better case if he argued that the SEC erred by not explaining well enough why it was choosing to deny a discretionary exemption that would have allowed him to collect the reward.

"In explaining why they were not giving the exemption, all they said was that one of the principal objectives is to promote effective enforcement by providing incentives for persons with knowledge or misconduct to come forward," Judge Pan said. "That's the reason for the rule. That's not a reason for why you would exempt somebody or not exempt somebody from the rule."

"And that seems to me plainly insufficient to explain why an exemption wasn't given here," she added.

U.S. Circuit Judges Cornelia Pillard, Florence Y. Pan and Judith Rogers sat on the panel for the D.C. Circuit.

The SEC was represented in-house by Emily True Parise.

The plaintiff is represented by Stephen M. Kohn, David K. Colapinto, Kayla M. Svihovec of Kohn Kohn & Colapinto LLP.

The case is John Doe v. SEC, case number 23-1124, at the U.S. Court of Appeals for the District of Columbia Circuit.

--Editing by Kristen Becker.

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New $25M Vanguard Investor Tax Case Deal Gets Initial OK

By **Kat Lucero**

Law360 (September 8, 2025, 5:01 PM EDT) -- A $25 million settlement of a class action accusing Vanguard of improperly triggering an asset sell-off that saddled investors with steep tax bills received preliminary approval Monday, according to an order in Pennsylvania federal court, after a $40 million deal was rejected in May.

Investors filed a putative class action against Vanguard in 2022, claiming the company breached its fiduciary duty and failed to protect its smaller investors in an attempt to lower fees. (Photo by Rafael Henrique / SOPA Images/Sipa USA)(Sipa via AP Images)

The new settlement was negotiated in good faith and is sufficiently "fair, reasonable and adequate" to the 12 investors who filed suit against Vanguard, U.S. District Judge John Murphy said in the **order**, responding to the investors' Friday **motion** to approve the deal.

The court will hold a Jan. 6 hearing to further examine the settlement terms, as well as ensure that the final judgment would fully resolve the dispute and prevent future legal actions on the same issues, according to the order.

The parties agreed to a settlement amount lower than the previous $40 million offer to account for a parallel U.S. Securities and Exchange Commission settlement with Vanguard, which would award $133 million to the investors who agreed to settle in the class action before the federal court, according to the plaintiffs' Friday court filing.

The judge **initially approved the $40 million settlement** last November. But a few months later, an SEC panel ruled that Vanguard itself had to pay $135 million to resolve similar claims regarding the asset sell-off, prompting the court to reject the earlier settlement. The SEC deal — which resulted from a multistate coalition led by Connecticut, New Jersey and New York — included a provision that Vanguard make good on its pending $40 million for the class members in Judge Murphy's court, whose separate deal, at that time, was all but done.

In May, Judge Murphy **rejected the previous offer** based on what the SEC ruled in the settlement with Vanguard, saying the offer was not reasonable under the law because the investors would get the full amount without having to share the pot with their attorneys.

Other than the settlement amount, the current settlement contains the same underlying terms and structure as the prior deal, and the court's reasons for rejecting the $40 million offer do not apply to this new one, according to the Friday court filing.

The cash settlement "provides an immediate recovery" to investors of Vanguard's targeted retirement fund and "avoids the considerable risks of continued litigation in this complex class action," the plaintiffs said.

The dispute arose after investors filed a putative class action against Vanguard in 2022, arguing that the company breached its fiduciary duty and failed to protect its smaller investors in an attempt to lower fees. Investors in what are known as set-it-and-forget-it funds were forced to sell off as much as 15% of their assets, leaving those with taxable accounts holding the bag, they said.

Representatives for the investors and Vanguard and its officers did not immediately respond to requests for comment.

The plaintiff investors are represented by Gregory Dovel, Julien Adams, Jonas B. Jacobson, Christin Cho and Simon Carlo Franzini of Dovel & Luner LLP, Joshua Baker, Phillip Kim, Jonathan Stern, Erica L. Stone and Jacob A. Goldberg of The Rosen Law Firm PA, Kenneth J. Grunfeld of Kopelowitz Ostrow Ferguson Weiselberg Gilbert, Mark C. Rifkin and Matthew M. Guiney of Wolf Haldenstein Adler Freeman & Herz LLP, Richard M. Golomb and Kevin W. Fay of Golomb Legal, W. Daniel Miles III and James B. Eubank of Beasley Allen Law Firm and Timothy Brown of The Brown Law Firm PC.

Vanguard and its officers are represented by Brandon Fetzer, Elliot Greenfield and Maeve O'Connor of Debevoise & Plimpton LLP and Samuel W. Silver of Welsh & Recker PC.

The independent trustees managing the funds are represented by Andrew J. Ehrlich and Daniel J. Kramer of Paul Weiss Rifkind Wharton & Garrison LLP and Francis P. Devine III and Michael E. Baughman of Troutman Pepper Locke LLP.

The case is In re: Vanguard Chester Funds Litigation, case number 2:22-cv-00955, in the U.S. District Court for the Eastern District of Pennsylvania.

--Additional reporting by Anna Scott Farrell. Editing by Emma Brauer.

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Del. Gov. Defends Corp. Law Overhaul In Pending Appeal

By **Jeff Montgomery**

Law360 (September 8, 2025, 6:50 PM EDT) -- Delaware's governor has weighed in strongly against a state Supreme Court challenge to legislation approved earlier this year barring damages or "equitable" relief for some controlling stockholder or going-private deals, arguing that nothing in the measure unconstitutionally limits court powers.

In a brief filed Friday with the state's high court, Delaware Gov. Matt Meyer, who led efforts earlier this year to draw up and pass S.B. 21, defended lawmaker power to overhaul the state's general corporation law.

Both publicly in the past and in the latest brief, the governor argued that the measure emerged amid concern among corporations about the balance and "predictability and consistency" of Delaware corporation law after recent, successful stockholder challenges.

Among the most prominent was Chancellor Kathaleen St. J. McCormick's strike-down in January 2024 of Elon Musk's proposed $55 billion Tesla pay package. The chancellor cited disclosure failures, murky terms, conflicted director architects and Musk's direct influence in drawing up the terms as warranting the roll-back order.

Musk and Tesla, which fought the suit, transplanted the company's charter to Texas along the way, and other recent big stockholder wins or challenges to corporate board action led to a fast-tracked legislative answer early this year, with Meyer urging its passage.

Soon after, corporate critics of alleged stockholder-tilted Court of Chancery decisions gained more ammunition from a ruling by Vice Chancellor J. Travis Laster that invalidated a deal expanding the control of Moelis & Co. CEO and founder Ken Moelis. The vice chancellor, in a decision still under appeal, rejected Moelis & Co.'s claims that stockholders waited too long to sue over an agreement giving more power to the CEO and affiliated entities.

State lawmakers, by way of supermajority votes in March, rushed through S.B. 21, which provided greater liability protections for some conflicted corporate acts, and also narrowed public access to certain corporate books and records.

Supporters of the bill said the state had to act fast to counter the stockholder awards and corporate defeats that were viewed as increasing interest in corporate relocations — dubbed "DExits" — to other states, including Texas and Nevada.

Reversal on appeal, attorneys for the governor have argued, "would undermine the reliability of Delaware corporate law just as the Legislature is acting to stabilize it. It would neuter the right of the General Assembly" to make law.

"Both the state Supreme Court and the Court of Chancery have long and repeatedly recognized the General Assembly's broad constitutional authority to modify fiduciary duties and the standards of equitable review" through legislative action, the attorneys wrote in an answering Supreme Court brief.

"In fact, Delaware has explicitly rejected" the position "that rights vest only once and thereafter are immune to legislative action," they added.

At risk, supporters of S.B. 21 also argued, is Delaware's position as home to the charters of the nation's largest corporations and millions of corporate entities overall, jeopardizing a major general fund revenue source.

Opponents, including some corporate law academics, argued that the state constitution of 1897 included protections for the courts "from the vagaries of legislative whim."

Vice Chancellor Lori W. Will on June 6 sent two questions to the justices on the constitutionality of S.B. 21 provisions. Specifically, she pointed to a case filed May 6 alleging breaches of fiduciary duty in a $117 million deal for Clearway Energy Inc.'s acquisition by its majority shareholder, Clearway Energy Group LLC.

One of the questions asked whether the legislation's elimination of "equitable relief" or "damages" when corporations meet safe harbor provisions unconstitutionally divests the Court of Chancery of its equitable jurisdiction. The second question concerned whether retroactive application of S.B. 21's safe harbor terms violates the state constitution by scuttling cases that had already "accrued or vested."

The stockholder appeal after passage of S.B. 21 asserted that the legislation undermined the Court of Chancery's traditional equity jurisdiction. Clearway shareholder Thomas Drew Rutledge led the suit.

In a friend of the court brief filed by law professors seeking a strike-down of S.B. 21, Chancery Court's authority was described as empowering the judiciary to pursue fairness "in ways that the Legislature cannot, i.e., through the flexible application" of the law "to unanticipated circumstances implicating fiduciary duties and investor expectations."

The same professors' brief argued that the high court "should reaffirm its historically consistent position that the Court of Chancery's equity jurisdiction cannot be curtailed by legislative statute and deem S.B. 21 unconstitutional."

Without court ability — through equity powers — "to remedy these sorts of wrongs and other wrongs yet to be imagined, Delaware corporate law is made less, not more, predictable," the law professors argued. They added that, "without a court's power to do equity, investors in Delaware corporations will find themselves subject to the whims of controlling stockholders and managers."

Attorneys for the governor argued that "the rule of law appellant sponsors is not required or even suggested by the plain words of the [state] constitution," and "would undermine the reliability of Delaware corporate law just as the Legislature is acting to stabilize it. It would neuter the right of the General Assembly to make the law."

The governor's attorneys said that the justices should find no reason to consider a challenge to retroactive application of the law to cases before S.B. 21 passed, saying that if the retroactivity provision is struck down, "the rest of the statute should remain."

"Where, as here, the General Assembly clearly intends its acts to apply retroactively, the constitution requires only that the Legislature acted with legitimate purpose," the attorneys' brief said. "That test is readily satisfied here, where the General Assembly sought to address recent judicial rulings that it believed had injected uncertainty and imbalance into Delaware's corporate law."

Rutledge is represented by Gregory V. Varallo, Andrew E. Blumberg, Daniel E. Meyer, Jeroen van Kwawegen, Edward G. Timlin, Christopher J. Orrico and Thomas James of Bernstein Litowitz Berger & Grossmann LLP, Joel Fleming and Lauren Godles Milgroom of Equity Litigation Group LLP, and Aaron Morris and Leo Kandinov of Morris Kandinov LLP.

Clearway Energy Group and Christopher Sotos are represented by Srinivas M. Raju, Matthew D. Perri and Andrew L. Milam of Richards Layton & Finger PA.

Meyer is represented by Peter J. Walsh Jr., Michael A. Pittenger, T. Brad Davey, Callan R. Jackson and Joshua S. Almond of Potter Anderson & Corroon LLP, and William Savitt, Ryan A. McLeod, Anitha Reddy and Alexander S. Mackler of Wachtell Lipton Rosen & Katz.

Law professors and friends of the court for the appellant Anat Alon-Beck, James An, Charles M. Elson, George S. Georgiev, Lyman P.Q. Johnson, Brian JM Quinn, Asaf Raz and Charles K. Whitehead are represented by Ned Weinberger and Mark Richardson of Labaton Keller Sucharow LLP.

The Supreme Court case is Thomas Drew Rutledge v. Clearway Energy Group LLC and Christopher Sotos and Clearway Energy Inc., case number 248,2025, in the Supreme Court of the State of Delaware. The Chancery case under appeal is Rutledge v. Clearway Energy Group LLC et al., case number 2025-0499, in the Court of Chancery of the State of Delaware.

--Editing by Melissa Treolo.

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'Disappointed' Alsup Wants More Info On $1.5B Anthropic Deal

By **Hailey Konnath**

Law360 (September 8, 2025, 10:19 PM EDT) -- U.S. District Judge William Alsup has declined to sign off on Anthropic's proposed $1.5 billion settlement with authors accusing the artificial intelligence developer of copyright infringement, saying he's "disappointed that counsel have left important questions" unanswered and instructing the parties to provide more information by the end of the month.

Judge Alsup of the Northern District of California postponed preliminary approval at a hearing on Monday, according to the case docket, a day after the judge issued a written order chastising the lawyers for suggesting they can hammer out answers to those questions after preliminary approval is granted.

Some of the terms of the settlement **were announced Friday,** with the parties touting it as "nothing short of remarkable." But in Sunday's order, Judge Alsup said the parties' lawyers hadn't finalized a list of works to be included in the settlement, nor had they worked out the class list, claim form, process for notification, allocation or procedures for dispute resolution, among other details.

"Counsel propose that proposals on these important points will be made with input from the working group (and the mediator, former District Judge Layn Phillips), then challenged by Anthropic, then approved by the court, all by Oct. 10," Judge Alsup wrote. "Those critical choices will need to be confirmed well before Oct. 10 and before preliminary approval can be granted."

Judge Alsup gave the parties until Sept. 15 to finalize a list of the works included in the deal as well as a class list. They have until Sept. 22 to clarify the claims procedure or anything else that needs clarification, according to the minute entry for Monday's hearing. A hearing is scheduled for Sept. 25.

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

The authors' certified class action claims that Anthropic used their copyrighted material to train its flagship large language model, Claude. It's one of a long list of suits accusing AI developers of infringing copyright-protected materials to train the technology. In June, Judge Alsup held that **it was fair use** for Anthropic to use the copyright protected material to train Claude, but he also ruled that the company would have to go to trial on the authors' piracy claims.

The settlement was **first announced** in August, though details on the terms and dollar amount weren't unveiled until Friday. According to the authors' motion, the $1.5 billion deal works out to around $3,000 per copyright-protected work by the class members.

Notably, the authors said in their motion that the $1.5 billion amount is the floor for the settlement because the authors and Anthropic are still trying to come up with a final list of works and Anthropic will have to add $3,000 to the fund for each work after the 500,000th.

The deal also requires Anthropic to destroy the datasets of pirated books and constitutes a "past release only," meaning it covers claims for conduct predating Aug. 25. The release has three limitations, the authors said: It doesn't extend to claims relating to the "future reproduction, distribution, and/or creation of derivative works"; it doesn't save Anthropic from potential claims about its products' outputs; and it only covers works on the list of materials the parties agree to, the motion states.

In Sunday's order, Judge Alsup "strongly recommended" that Authors Guild CEO Mary Rasenberger and Association of American Publishers CEO Maria Pallante attend Monday's hearing, which he said was still being held — even though he wasn't going to grant preliminary approval — so that the parties could "work hard to make progress in person."

Both Rasenberger and Pallante were there Monday, according to the minute entry for the hearing.

Justin A. Nelson of Susman Godfrey LLP, one of the lawyers representing the authors in the case, said in a statement Friday that the "landmark settlement far surpasses any other known copyright recovery."

"It is the first of its kind in the AI era," he said at the time.

Meanwhile, Anthropic general counsel Aparna Sridhar said Friday that the company remains "committed to developing safe AI systems that help people and organizations extend their capabilities, advance scientific discovery, and solve complex problems."

The authors are represented by Justin A. Nelson, Samir Doshi, Rohit D. Nath, Molly A. Karlin, Alejandra C. Salinas, Michael Adamson, Jordan W. Connors and J. Craig Smyser of Susman Godfrey LLP, Rachel Geman, Daniel M. Hutchinson, Reilly T. Stoler, Jallé H. Dafa, Betsy A. Sugar, Jacob S. Miller and Danna Z. Elmasry of Lieff Cabraser Heimann & Bernstein LLP, and Scott J. Sholder and CeCe M. Cole of Cowan DeBaets Abrahams & Sheppard LLP.

Anthropic is represented by Kathleen R. Hartnett, Ephraim A. McDowell, Alexander J. Kasner, Elias S. Kim and Allison Wettstein O'Neill of Cooley LLP, Daralyn J. Durie, Ramsey Fisher, Jackson Lane, Whitney Rose O'Byrne, Mary Prendergast, Fitz Beckwith Collings and Aditya Vijay Kamdar of Morrison Foerster LLP, Douglas A. Winthrop, Joseph Farris, Pieter de Ganon, Jessica L. Gillotte, Estayvaine Bragg, Assad H. Rajani, Oscar Ramallo, Angel Tang Nakamura, Ryan M. Nishimoto and Allyson C. Myers of Arnold & Porter Kaye Scholer LLP, and Mark Alan Lemley of Lex Lumina LLP.

The case is Andrea Bartz et al. v. Anthropic PBC, case number 3:24-cv-05417, in the U.S. District Court for the Northern District of California.

--Additional reporting by Theresa Schliep, Ivan Moreno and Adam Lidgett. Editing by Alanna Weissman.

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Firefighters Say PFAS Economic And Health Harms Are Real

By **Tom Lotshaw**

Law360 (September 8, 2025, 5:43 PM EDT) -- Connecticut firefighters and unions hit back Friday at Honeywell, DuPont and other safety gear manufacturers trying to exit their federal proposed class action that alleges the companies sold gear with hazardous forever chemicals, saying they had alleged enough economic and health risks for their suit to proceed.

The companies argued in **motions to dismiss** in June that the firefighters, unions and fire departments had failed to demonstrate any injuries stemming from the gear, but the plaintiffs responded Friday that they have plausibly alleged a number of injuries, to both their health and their pocketbooks.

The fire departments said they have incurred extra costs to dispose of contaminated gear, train firefighters on how to reduce exposure to harmful chemicals in the gear and meet obligations to firefighters who develop health problems.

The departments said they will be forced to take greater steps to replace personal protective equipment containing per- and polyfluoroalkyl substances, known as PFAS, starting in 2028 under a state mandate.

"The Connecticut legislature, like other legislatures across the country, is forcing the purchaser plaintiffs' hands," the departments said. "The accelerated replacement of PPE is thus 'certainly impending,' sufficing to state an injury in fact."

The individual firefighter plaintiffs said the companies' assertions that they lack standing because they are not yet showing symptoms of PFAS exposure miss the mark because present exposures to known toxins are also considered an injury-in-fact.

"The Second Circuit has repeatedly held, in toxic exposure cases, that the minimal threshold of injury in fact can be satisfied by alleging exposure alone," the firefighters told the court. "Here, the firefighter plaintiffs each allege they have been exposed to high levels of PFAS though inhalation, ingestion and absorption from defendants' PPE, which has caused them to suffer injury, including cellular and subcellular injury, increasing their risks of cancers and other diseases."

The firefighter union plaintiffs urged the court to reject arguments that their complaints about resource diversions to address PFAS exposures among their members are an attempt to "manufacture standing," saying such exposures harm their core mission of their work by threatening the health and safety of the firefighters they represent.

"The union plaintiffs are not merely advocacy groups who oppose PFAS in general, they are attempting to remedy specific injuries central to their purposes, which has diverted resources from their core activities," the unions told the court.

The fire departments also hit back against arguments that they are not entitled to injunctive relief based on their previous purchases of gear containing PFAS. An injunction could reasonably require companies to test their products for PFAS, share their results and provide warning labels for gear that has the substances, the departments said.

One Massachusetts city recently reported that firefighter safety gear it purchased that was labeled and advertised as being PFAS-free tested positive for high levels of PFAS chemicals, they said.

"As past purchasers of contaminated PPE that continues in use, and future purchasers in a niche market, the purchaser plaintiffs have standing to seek equitable relief," the departments told the court.

The plaintiffs filed the **operative complaint** in April.

A representative for the plaintiffs declined to comment on Monday. Representatives for the other parties did not immediately respond to requests for comment.

The plaintiffs are represented by Jennifer Sclar, Ian W. Sloss, Kate Sayed and Samantha Blend of Silver Golub & Teitell LLP and Kyle J. McGee, Jason H. Wilson and Suzanne Sangree of Grant & Eisenhofer PA.

3M Co. is represented by Daniel L. Ring of Mayer Brown LLP, Michael B. Hewes of Butler Snow LLP, Kevin M. Smith and James I. Glasser of Wiggin and Dana LLP and Lauren R. Goldman and Amir C. Tayrani of Gibson Dunn & Crutcher LLP.

Honeywell Safety Products USA Inc. and Morning Pride Manufacturing LLC are represented by Stephen D. Feldman, Gregory L. Skidmore, Travis S. Hinman and Amanda Pickens Nitto of Robinson Bradshaw & Hinson PA and Leslie A. Cahill of Spears Manning & Martini LLC.

EIDP Inc., DuPont de Nemours Inc., Chemours Co. and Corteva Inc. are represented by James D. Geisler, Amy M. Crouch, Brent Dwerlkotte and Zachary Scott Beach of Shook Hardy & Bacon LLP.

Fire-Dex GW LLC is represented by Christopher J. Lynch of Freeman Mathis & Gary LLP.

Globe Manufacturing Co. LLC is represented by Michael T. Ryan and Michael C. Barbarula of Ryan Ryan Deluca LLP.

Lakeland Industries Inc. is represented by Kristen L. Zaehringer of BGM Law Group LLP.

Lion Group Inc. is represented by Jennifer E. Karr of Lewis Brisbois Bisgaard & Smith LLP.

Milliken & Co. is represented by Michael Weiss and Audra J. Inglis of Maron Marvel Bradley Anderson Tardy LLC.

Stedfast USA Inc. is represented by Geoffrey M. Coan of Hinshaw & Culbertson LLP.

Viking Life-Saving Equipment America Inc. is represented by Todd S. Sharinn, Vincent J. Syracuse, Amanda M. Leone and Maxwell W. Palmber of Tannenbaum Helpern Syracuse & Hirschtritt LLP.

W.L. Gore & Associates Inc. is represented by Jeffrey J. Mirman of Hinckley Allen & Snyder LLP and Mark S. Cheffo and Douglas E. Fleming III of Dechert LLP.

The case is Uniformed Professional Firefighters Association of Connecticut et al. v. 3M Co. et al., case number 3:24-cv-01101, in the U.S. District Court for the District of Connecticut.

--Additional reporting by Juan-Carlos Rodriguez and Jonathan Capriel. Editing by Brian Baresch.

Update: Counsel information for Honeywell Safety Products USA Inc. and Morning Pride Manufacturing LLC has been updated.
