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Cytokinetics Investor Sues Over Heart Drug's Approval Delay (1)

Sept. 18, 2025, 10:55 AM PDT; Updated: Sept. 18, 2025, 12:07 PM PDT

Summary by Bloomberg AI

AI Generated



- Cytokinetics Inc. has been sued for touting the approval prospects of its experimental heart treatment before federal regulators announced a delay to review the company's safety plan.
- The company's stock price plunged after it said the Food and Drug Administration pushed back a deadline to fully inspect a proposed Risk Evaluation and Mitigation Strategy.
- A complaint filed in the US District Court for the Northern District of California alleges that Cytokinetics knowingly failed to include a REMS in its NDA submission, which caused a three-month delay.

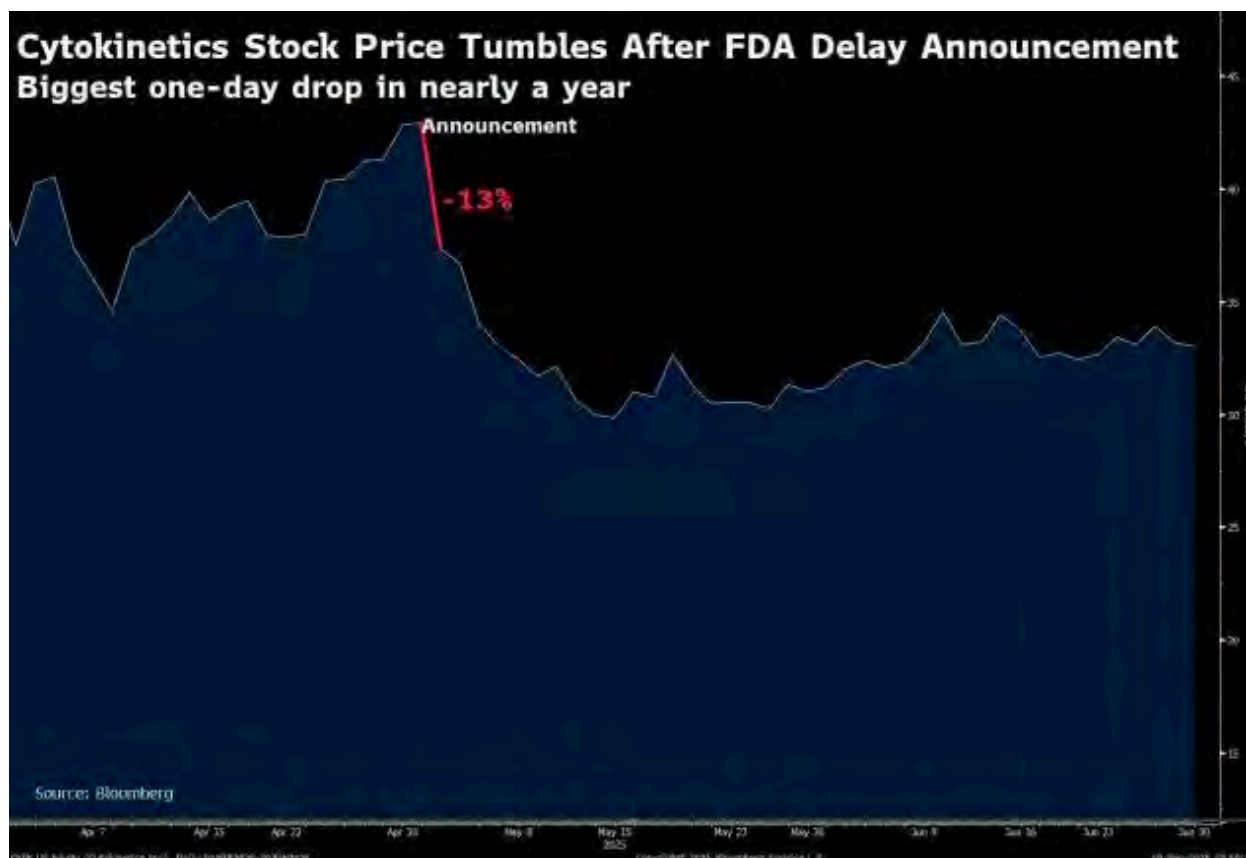
Cytokinetics Inc. has been sued for touting the approval prospects of its experimental heart treatment before federal regulators announced a delay to review the cardiovascular biopharmaceutical company's safety plan.

The company's stock price plunged 13% to close at \$37.35 on May 2, the day after it said the Food and Drug Administration pushed back a September deadline three months to fully inspect a proposed Risk Evaluation and Mitigation Strategy. That was the stock's sharpest one-day drop in almost a year, according to data compiled by Bloomberg.

Cytokinetics said in a press release a day earlier that it had submitted its new drug application for its heart condition treatment without that accompanying plan, and that the FDA had accepted its filing, after "pre-NDA discussions with FDA in which safety and risk mitigation were discussed."

This press release was "in direct contrast" to previous information given to investors that affirmed the progress of drug Aficamten's application to treat obstructive hypertrophic cardiomyopathy, said the complaint filed Wednesday in the US District Court for the Northern District of California.

Prior communications led shareholders to believe it was progressing on a timeline Cytokinetics had shared "and failed to include any indications that this timeline may be disrupted due to the Company's failure to include all relevant portions of the NDA submission," investor Judah Seidman's complaint said. "In actuality, Cytokinetics knowingly failed to include a REMS in its NDA submission for aficamten, an omission that Defendants should have known would constitute a major amendment, which, in turn, caused a three-month delay."



His proposed class would include those who acquired Cytokinetics stock from Dec. 27, 2023, through May 6, 2025. That day, the company shared first quarter of 2025 revenue that missed estimates.

"We remain confident in the distinct benefit-risk and pharmaceutical profile of *aficamten*, and our top priority is bringing this potential therapy to patients," CEO Robert I. Blum said in an accompanying press release discussing the timeline delay. The FDA has a Prescription Drug User Fee Act target action date of Dec. 26, 2025, for Aficamten's application.

Levi & Korsinsky LLP represents Seidman, who seeks damages for alleged Securities Exchange Act of 1934 violations by Cytokinetics and Blum.

Cytokinetics in an email said it doesn't comment on ongoing litigation.

The case is Seidman v. Cytokinetics, Inc., N.D. Cal., No. 3:25-cv-07923, complaint filed 9/17/25.

(Updates to include Cytokinetics' response to an email seeking comment in the ninth paragraph.)

Securities

Bankrupt Crypto Firm SafeMoon Strikes Deal With Investor Class

Sept. 18, 2025, 10:22 AM PDT

The trustee-controlled bankruptcy estate for SafeMoon US LLC reached a deal to pay an estimated \$12 million to a class of investors who say they were defrauded through sales of the company's crypto token.

SFM token holders will collect against SafeMoon on a classwide basis after the company pays unsecured creditors in full, according to settlement papers filed Wednesday in the US Bankruptcy Court for the District of Utah by Chapter 7 trustee Ellen E. Ostrow.

The deal resolves litigation initiated against the company in 2022 by investors alleging they were misled about the safety of the token by company founders and celebrity promoters who artificially increased the price of the token and profited off of its sale to the plaintiffs.

"Here, the Settlement is fair, reasonable and in the best interests of the estate," Ostrow said in the filing. "As an initial matter, the 'probability of success in the litigation' factor supports entry into the Settlement."

SafeMoon filed for bankruptcy in December 2023 after federal prosecutors accused company executives of using investor funds to buy luxury homes and sports cars.

The deal announced Wednesday, which allows the trustee to pursue claims against SafeMoon's principals without competing with the investor class, follows a jury conviction in May against former CEO Braden John Karony on fraud and money laundering charges.

Ostrow is represented by Foley & Lardner LLP. The plaintiffs are represented by Scott+Scott Attorneys at Law LLP and Hatch Law Group.

The case is SafeMoon US LLC , Bankr. D. Utah, No. 23-25749, motion filed 9/17/25 .

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Silicon Motion Investor Advances Merger Suit Against Maxlinear

Sept. 18, 2025, 2:29 PM PDT

Summary by Bloomberg AI

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- A federal court ruled that HBK Master Fund LP has advanced a claim against Maxlinear Inc. over a failed merger with Silicon Motion Technology Corp.
- HBK alleges that Maxlinear made misleading statements in a Securities and Exchange Commission filing about its commitment to the merger.
- The court allowed HBK's claim under Section 18 of the Securities Exchange Act to proceed, finding that it adequately alleged misleading statements in a Form 8-K filing.

An institutional investor that acquired Silicon Motion Technology Corp. stock has advanced a claim against Maxlinear Inc. over a failed merger, a federal court ruled.

HBK Master Fund LP and a related fund successfully stated a claim for misleading statements in a Securities and Exchange Commission filing, Judge Cathy Ann Bencivengo said Wednesday for the US District Court for the Southern District of California.

The claim, under the relatively little-used Section 18 of the Securities Exchange Act, is available to investors suing on their own behalf, but generally not to would-be class representatives because of the need to prove reliance on the statement on an individualized basis. It's typically used in suits, like this one, brought by institutional investors.

HBK alleges that Maxlinear remained bullish on the merger with Silicon Motion—known as SIMO—in its public statements until just after the merger received antitrust approval from a Chinese regulator on July 26, 2023. That same day, claiming that SIMO had breached the merger agreement in May of that year, it terminated the deal, HBK says.

HBK brought claims under the commonly used Section 10(b) securities fraud provision of the Exchange Act as well as Section 18. Bencivengo dismissed an earlier version of the complaint in January, allowing HBK to re-plead.

Here, Bencivengo reaffirmed her previous holding that HBK, a SIMO stockholder, lacks standing to sue Maxlinear over alleged misrepresentations about the latter under Section 10(b). The HBK funds “repeatedly allege that MaxLinear Defendants’ challenged statements misrepresented *MaxLinear’s* commitment to the merger, *not* SIMO’s,” she said.

The Section 18 claims fail as to two Form 425 filings because those were filed under the Securities Act and merely “deemed” filed under the Exchange Act, she said.

But HBK also challenged a Form 8-K, filed under the Exchange Act. For those, it adequately alleged misleading statements, Bencivengo said. And its allegations about its employees’ decisionmaking process after seeing the Form 8-K satisfied the reliance pleading requirement, she said.

Bencivengo dismissed a proposed class action with similar allegations in July.

Duckor Metzger & Wynne and Rolnick Kramer Sadighi LLP represent HBK. Morrison & Foerster LLP represents Maxlinear.

The case is HBK Master Fund L.P. v. Maxlinear Inc. , S.D. Cal., No. 3:24-cv-01033, 9/17/25 .

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SEC Revises Policy on Arbitration Provisions in IPO Companies' Bylaws



dandodiary.com/2025/09/articles/securities-laws/sec-revises-policy-on-arbitration-provisions-in-ipo-companies-bylaws

Kevin LaCroix

September 18, 2025



The idea that companies might be able to avoid securities class action litigation through the adoption of bylaws requiring securities law claims to be submitted to arbitration has been around for years.

Traditionally, the SEC has opposed these types of bylaw provisions. However, in an interesting development, on September 17, 2025, the Commission, in a new policy statement approved by a 3-1 vote along party lines, announced that the decision whether or not to “accelerate the effectiveness of a registration statement” will “not be affected” by the presence of provision requiring the arbitration of investor claims arising under the federal securities laws.

This development suggests that in the future IPO investors could find themselves compelled to arbitrate securities law claims rather than being able to file a securities class action, although, as noted below, there is a lot more that is yet to be told on these issues.

A copy of the SEC’s September 17, 2025, press release about the policy change be found [here](#). The September 17, 2025, policy statement itself can be found [here](#).

Background

The idea that companies might be able to avoid securities class action litigation by the adoption of a bylaw requiring investor disputes to be arbitrated has [been around for years](#). However, in the past, the SEC has thrown cold water on companies’ attempts to go public with this type of bylaw in place.

As discussed [here](#), in 1990, when Franklin First Financial Corp that was planning its IPO sought to include an arbitration provision in its charter and bylaws, the SEC firmly objected to its inclusion. The SEC was of the view that it would be contrary to the public interest to require investors who want to participate in the nation’s equity markets to waive access to a judicial forum for vindication of federal or state law rights. In reaching this position, the SEC relied on anti-waiver provisions contained in federal securities law.

In 2012, when the private equity firm Carlisle Group sought to go public, its registration statement also contained bylaws with a mandatory arbitration provision. As discussed [here](#), the firm faced pushback from activist investors, prospective investors, and the SEC, and ultimately withdrew the mandatory arbitration clause.

The SEC's position with respect to mandatory arbitration bylaws in has also influenced its action outside the IPO context. For example, as discussed [here](#), in 2019, when a Johnson & Johnson investor introduced a shareholder proposal to amend the company's bylaws to require arbitration of shareholder disputes, then SEC Chair Jay Clayton announced that the agency staff would allow J&J to block the shareholder proposal.

The SEC's Policy Statement on the Impact of Mandatory Arbitration Provisions

In the policy statement that the agency approved on September 17, 2025, the agency changed what it would do if presented with a registration statement for a company with a mandatory arbitration bylaw provision. Under the new policy, the agency's decisions about whether to accelerate the effectiveness of a registration statement will not be affected by the presence of a provision requirement investor claims under the federal securities laws to be arbitrated.

For many IPO companies, accelerating the effective date of the registration is an important part of the IPO process. It allows the company to try to ensure that registration statement will be effective on a specific date and time. This is often done to align with market conditions or a planned offering schedule. If a company is unable to accelerate the effective date, it may result in delays in capital raising and market timing issues. It could scuttle the proposed IPO altogether. The SEC's new policy ensures that the prospective IPO company's inclusion in the registration statement of corporate bylaws including a mandatory arbitration provision will not affect the agency's decision whether or not to accelerate the registration process.

The SEC's new policy expressly is not an endorsement of investor arbitration requirements. The policy statement specifically says "nothing in this statement should be understood to express any views on the specific terms of an arbitration provision, or whether arbitration provisions are appropriate or optimal for investors."

That said, there is no doubt that the Commissioners who voted in favor of the policy statement viewed what they were doing as supportive of arbitration bylaws and as favorable for IPO companies. Indeed, press reports about the agency's new policy quote SEC Chair Paul Atkins as saying the agency's prior policy "effectively strangled" IPO companies and that the agency's new policy would "make IPOs great again."

There is also no doubt that the agency's action at least potentially opens the door for the possibility of prospective IPO companies adopting mandatory arbitration provisions. Many of the press reports about the SEC's new policy have contained statements from observers

saying that the agency's approval of the new policy will "open the floodgates" to company's adoption of mandatory arbitration provisions. However, before that happens, there are a number of things that are going to have to get sorted out.

For starters, the SEC may have changed what it will do if a prospective IPO company has a mandatory arbitration bylaw, but whether or not the company actually can adopt the bylaw in the first place is a matter of law of the state in which it is incorporated. It is highly relevant that many prospective IPO companies are Delaware companies. Under Delaware law, mandatory arbitration bylaws are effectively prohibited, as discussed [here](#). To be sure, there is an ongoing debate right now about whether or not companies should incorporate elsewhere, but for remaining Delaware companies, a mandatory arbitration bylaw may not be an option.

In addition, the agency's new policy changes will at most affect future prospective IPO companies. The IPO market is looking relatively healthy now, but even in the current healthier market, it will take some time before the number of companies affected by the new policy would amount to an opening of the floodgates.

As for the "floodgate" possibilities, it is important to note that the agency's new policy affects only prospective IPO companies. The policy says nothing about companies that are already public. For example, nothing about the new policy says what the agency would do if there were to be a shareholder proposal now – like the one discussed above about J&J in 2019 – to amend the company's bylaws to provide for mandatory arbitration of federal securities claims. While we might expect the current lineup of Commissioners to take a more favorable position than the agency took in 2019, that is not certain.

In addition, everyone involved in these kinds of arbitration bylaw initiatives should understand that the enforceability of the bylaws will be challenged. For a very long time, the SEC itself viewed bylaws of this type as inconsistent with the anti-waiver provisions in the federal securities laws. It may be that a court or courts will also conclude that the mandatory arbitration bylaws violate the anti-waiver provisions.

There is one other practical consideration here. Not every company is going to conclude that mandatory arbitration bylaws are the best approach. For all of their flaws, class actions are efficient. Judicial proceedings, unlike arbitration proceedings, are subject to appeal.

In short, while the agency's approval of the new policy unquestionably is very interesting, there is still more of this story to be told. For now, keep your eyes out for news that a prospective IPO company with a mandatory arbitration bylaw is seeking to go public. It will be interesting to see what happens next after that. How will investors react? How will the market react? We will get to see, probably soon, that is for sure.

Edison wildfire compensation plan aims to avoid litigation

DJ

[dailyjournal.com/articles/387700-edison-wildfire-compensation-plan-aims-to-avoid-litigation](https://www.dailyjournal.com/articles/387700-edison-wildfire-compensation-plan-aims-to-avoid-litigation)

Southern California Edison has announced a new Wildfire Recovery Compensation Program it says will offer fast, fair payouts to victims of the Eaton Fire, without requiring litigation or legal representation. However, attorneys representing Altadena homeowners are wary.

"What they're trying to do is take advantage of the fact that the trial, as of right now, has been set for January 2027," Gerald B. Singleton of Singleton Schreiber in San Diego, who represents Altadena homeowners affected by the fire, said in a phone call on Thursday. "There's a lot of people that are desperate, and so what they're trying to do is dangle money in front of them and hope that people will accept less than they can get if they proceed with litigation."

David Eisenhower, a spokesman for Edison, offered an alternative take.

"It's totally voluntary," Eisenhower said in a phone call on Thursday. "This is about giving people a choice. It allows the community to focus on recovery instead of lengthy, expensive litigation."

Edison is being sued in Los Angeles County Superior Court by hundreds of plaintiffs--represented by dozens of attorneys--who claim a spark from one of its utility poles in Eaton Canyon, above Altadena and Pasadena, started the Jan. 7 fire. Seventeen people were killed. About 9,418 structures were destroyed, and more than 1,000 were damaged. *Gursey v. Southern California Edison et al.*, 25STCV00731 (L.A. Super. Ct., filed Jan. 13, 2025).

The utility company is represented in the coordinated proceedings by Hueston Hennigan LLP attorney Douglas J. Dixon in Newport Beach, Brittani A. Jackson and Annie N. Banks in Los Angeles. They could not be reached immediately Thursday for comment.

According to Edison's announcement, legal representation is optional, but the utility will provide a 10% legal-cost bonus to claimants who choose to use an attorney. The program aims to eliminate the delays and expenses of courtroom litigation, the company said.

The utility says the cause of the fire has not been determined.

The news release said all coverage, including smoke damage for apartments, homes, and businesses, would be considered in the plan.

The voluntary program, set to launch this fall, will allow eligible individuals and businesses to submit claims directly to the utility through a streamlined online system, Edison said. Those impacted can receive offers through two options: a fast-pay track, delivering offers within 90 days, or a detailed-review track, with decisions within nine months.

The initiative also includes a direct-claim premium--an extra \$200,000 for homeowners who lost their homes in the fire--on top of regular economic and non-economic damages.

The company will host four public workshops in September--two virtual and two in person--to collect community feedback before finalizing the program.

Amanda L. Riddle of Corey, Luzaich, de Ghetaldi & Riddle LLP in Millbrae, who also represents plaintiffs in the Los Angeles County proceedings, said Edison notified plaintiffs' counsel of the plan on Wednesday, the same day it was announced.

"Yesterday, we received an email asking for our input, which made it seem like they wanted to engage, but then they went ahead and released the program publicly without getting our input," Riddle said in a phone call on Thursday.

New York attorney Kenneth R. Feinberg, whom Edison contracted to spearhead the program, said that information was shared with plaintiffs' attorneys so they can provide their input in the public workshops later this month.

"We have already circulated to those lawyers four different 90-minute Zoom sessions with the access codes," Feinberg said in a phone call on Thursday.

Feinberg said part of the purpose of the sessions is to ask the attorneys, "What do you lawyers think about this program? What do you like about it? How can it be improved? How can it be edited?"

"We will take all of that homeowner input into account from those lawyers and come up with a final protocol that will govern the processing of the claims for eligible homeowner claimants - tenants, homeowners, commercial establishments, physical injuries - all covered by the protocol," he said.

Feinberg is spearheading the program along with Camille S. Biros, with whom he also designed claims programs related to the Sept. 11 terrorist attacks, the Deepwater Horizon oil spill and the Boston Marathon bombing.

Despite the assurances of Edison, Riddle characterized the plan as a "buyer beware" situation for homeowners affected by the fire, noting that settlement talks within the litigation have been unfruitful.

"I understand that a speedy payment program may be attractive, but you have to wonder why SCE is refusing to participate in a settlement program in the litigation, but is willing to do it in the press," she said.

Bradley Grombacher attorney Kiley L. Grombacher, co-founder of the California Fire Victims Law Center and counsel for minor victims of the fire, expressed similar sentiments in an emailed statement on Thursday.

"Southern California Edison's newly detailed compensation program is structured to shield the company from accountability, at the expense of fairly compensating fire victims," Grombacher said. "The program excludes key categories of harm, including potential long-term health impacts, full property remediation, and damages to children or future claims not yet fully understood. It offers little transparency in how compensation is calculated and provides no opportunity for meaningful negotiation.

"Families deserve to fully understand what they're giving up," she continued. "While this program may provide the illusion of faster payments, prior history with these so-called 'compensation programs' tells otherwise, and more importantly it risks falling far short of what victims could achieve through litigation. Victims must proceed with caution."

The compensation program workshops are scheduled for Sept. 25, 26, 27 and 29. A status conference in the coordinated proceedings is scheduled for Oct. 2.

#387700

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Southern California Edison, others reach settlement to recover \$2 billion tied to wildfires



reuters.com/sustainability/society-equity/southern-california-edison-others-reach-settlement-recover-2-billion-tied-2025-09-19

Reuters

September 19, 2025



A home destroyed by the Woolsey Fire is seen in Thousand Oaks, California, U.S. November 12, 2018. REUTERS/Eric Thayer/ File Photo [Purchase Licensing Rights, opens new tab](#)

Sept 19 (Reuters) - Southern California Edison has reached a settlement agreement with several intervenors to allow the utility to recover about \$2 billion of \$5.6 billion in losses tied to the 2017–2018 wildfire and mudslide events.

Out of the \$2 billion, about \$1.6 billion consists of uninsured claims and \$400 million comprises of legal costs paid as of May 31 this year, the company's parent, Edison International ([EIX.N](#)), [opens new tab](#), said on Friday.

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The costs are primarily related to the Woolsey fire of 2018 that burned 96,949 acres of land in California, destroyed 1,643 structures, killed three people, and prompted the evacuation of more than 295,000 people.

Last year, the utility said it was [seeking](#) to recover \$1.6 billion in losses related to the Thomas and Koenigstein fires which started in 2017 and the Montecito Mudslides of 2018, collectively known as TKM.

SCE has also faced several [lawsuits](#) alleging that its electrical equipment started major wildfires in California, including the Eaton fire that tore across Los Angeles earlier this year. Southern California will also be authorized to recover 35% of losses paid after May 31, 2025 as well as \$71 million or 85% of the restoration costs incurred.

The utility said the agreements will need to be approved by the California Public Utilities Commission.

SCE expects to receive the proceeds by the end of 2026, which would result in recovery of 43% of the costs related to the 2017-2018 wildfire and mudslide events when combined with the pre-approved cost recovery related to the TKM events.

Reporting by Tanay Dhumal and Vallari Srivastava in Bengaluru; Editing by Leroy Leo

Our Standards:

I just got a payout from Facebook's \$725 million settlement. Could it really be this easy?



reuters.com/legal/litigation/i-just-got-payout-facebooks-725-million-settlement-could-it-really-be-this-easy-2025-09-19

Jenna Greene

September 19, 2025

Woman holds smartphone with Facebook logo in front of a displayed logo for Meta in this illustration picture taken October 28, 2021. REUTERS/Dado Ruvic/Illustration [Purchase Licensing Rights, opens new tab](#)

Sept 19 (Reuters) - As the first batch of payments in a massive class action settlement with Facebook for alleged privacy violations began rolling out this week, I happened to land near the front of the line.

An out-of-the-blue email on Monday informed me that \$34.17 had been deposited into my Venmo account — my share, as a longtime Facebook user, of the \$725 million deal.

After verifying the email was legit and the money was indeed transferred, I was left marveling: could the process for getting paid, which is set to continue over the next 10 weeks, really be this simple for all 19 million class members who filed eligible claims?

Yes ... and no.

A behind-the-scenes fight between class counsel and settlement administrator Angeion Group over the company's previously undisclosed financial relationship with a third-party vendor nearly derailed some of the payouts, [court records show, opens new tab](#). An Angeion spokesperson denied any wrongdoing, as did the vendor, Blackhawk Network.

The conflict has its roots in a shift in consumer payment preferences. While paper checks were the norm just a few years ago, class action plaintiffs nowadays overwhelmingly want to get their slice of a settlement digitally, including via PayPal, Zelle, direct deposit or prepaid credit card. (Because who wants to make a trip to the bank to deposit \$34? Not me.)

Still, this digital shift has opened new fault lines between plaintiffs lawyers and the settlement administrators tapped to oversee the mechanics of distributing what can be vast sums of money. The conflict has come to the fore in the Facebook case as well as other recent litigation — but more on that later.

The Facebook class action began in 2018, when the social media giant was [accused](#) in a suit filed in San Francisco federal court of allowing third parties, including political consulting firm Cambridge Analytica, to access users' personal information.

Without admitting wrongdoing, Facebook parent Meta [agreed to settle](#) the case in late 2021.

Meta and plaintiffs lawyers from Keller Rohrbach and Bleichmar Fonti & Auld did not respond to requests for comment.

After the 9th U.S. Circuit Court of Appeals in February rejected a [pair of challenges](#) to the deal, the stage was set for Angeion to begin the process of doling out the money.

As the settlement administrator, the Philadelphia-based company was selected by the plaintiffs team and approved by the court to notify eligible class members, vet their claims and distribute payments ranging from a minimum of \$4.89 to a maximum of \$38.36.

In consumer class actions like this with low-dollar individual awards, getting plaintiffs to actually file a claim is invariably a challenge. One [study, opens new tab](#) calculated that just 4% of class members submitted claims, while another put the rate at 1% to 2%.

The Facebook settlement garnered a comparatively impressive 6% claim rate, after Angeion weeded out about 9 million fraudulent and duplicative payment requests, court records show.

But how best to go about compensating 19 million people – one of the largest claimant groups ever, according to plaintiffs lawyers?

A whopping 94% of claimants requested digital payments, and the most popular method — picked by 5.3 million class members — was a prepaid digital Mastercard.

That's where things got tricky.

In April, Angeion and two other leading settlement administrators were hit with a class action [lawsuit, opens new tab](#) in the Eastern District of Pennsylvania. The suit alleges that, unbeknownst to class counsel, the courts and the class members, the settlement administrators "reap huge profits from so-called 'revenue sharing' payments" with digital pay card issuers.

Plaintiffs lawyers from Edelson Lechtzin, who did not respond to a request for comment, argue the settlement administrators breached their fiduciary duty to class members by denying them the benefit of this revenue.

A month later, lawyers from Boies Schiller Flexner filed suits in [California, opens new tab](#), [New York, opens new tab](#) and [Florida, opens new tab](#), accusing settlement administrators of taking illegal payments from banks.

In the wake of the lawsuits, plaintiffs lawyers in the Facebook case said they immediately asked Angeion if it had an undisclosed revenue-sharing agreement with digital card issuer Blackhawk in their case, according to court documents.

The answer was yes.

The Angeion spokesperson called the agreement "commercially reasonable, negotiated at arm's length and entirely appropriate." Likewise, Blackhawk said the arrangement was "documented and auditable, with pricing terms agreed upon before any class member receives a card."

The specifics of the deal remain unclear. One thing we do know is that if class members go a year without using their credit card, Blackhawk will charge them a monthly 95 cent inactivity fee – which with 5.3 million cards, could add up quickly.

However, class members will get the fees refunded if they later resume using the card. If not, any remaining balance (after the fees) is eventually escheated, or handed over to the state, in the cardholder's name.

In a [declaration, opens new tab](#) filed with the court, Angeion CEO Steven Weisbrot stressed that his company receives no portion of inactivity fees or unused card balances, and that the funds "will always remain the property of the cardholder."

He also said the revenue Angeion gets from Blackhawk is factored into the price Angeion charges the class for its settlement work, and that without it, "Angeion would incur higher costs and enjoy less flexibility to offer competitive pricing."

It was left to Chhabria to decide how to proceed. Lawyers for the plaintiffs and Meta suggested either allowing the class members to receive the prepaid Mastercards with additional safeguards or to scuttle the credit cards altogether and ask class members to pick another payment option.

Plaintiffs lawyers called the latter "a good alternative" that "cures the nondisclosure problem," but Meta lawyers favored sticking with the credit cards.

In an August 27 docket entry, Chhabria, without elaboration, allowed the prepaid credit cards to be used.

The same issue arose two days later in a [class action settlement involving Google](#). U.S. District Judge Edward Davilia in San Jose on August 29 also signed off on Angeion's arrangement with Blackhawk, though he [wrote, opens new tab](#) he was disappointed by the "lack of transparency" and knocked \$260,000 off class counsels' allowable expenses — the maximum Angeion stood to get from Blackhawk in the case.

It seems likely Angeion and other settlement administrators will continue to face similar questions going forward, now that plaintiffs lawyers and judges are on notice of their once-secret deals.

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Meta Platforms Gets Joint Dismissal in Wiretapping Class Suit

Sept. 18, 2025, 11:40 AM PDT

Meta Platforms will no longer face a proposed class action from users who alleged the social media company tracked their video viewing habits across the internet in violation of California privacy law.

The three internet users sought to dismiss their complaint without prejudice from the US District Court for the Northern District of California after initially convincing a federal magistrate judge to allow some claims under the California Invasion of Privacy Act to proceed.

Magistrate Judge Nathanael M. Cousins signed off on the dismissal Thursday

The plaintiffs said that pixels and other business tools installed on a host of sites ranging from Bloomberg.com, USAToday.com, and 247Sports.com transmitted viewing information to Meta

Counsel for the parties didn't immediately respond to a request for comment

Smith Krivoshey PC and Bursor & Fisher PA represented the plaintiffs. Gibson, Dunn & Crutcher LLP represented Meta.

The case is Yoon v. Meta Platforms Inc. , N.D. Cal., No. 5:24-cv-02612, 9/18/25 .

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Judge Weighing \$1.5 Billion Anthropic Settlement Gives Lawyers 34 Questions to Answer

"I get the impression that the judge is trying to confirm that all of the details are in place to ensure that the members of the class receive their due," said Lucas Amodio, a partner at Armstrong Teasdale.

September 18, 2025 at 11:52 AM By **Michael Gennaro**



During a Sept. 8 hearing, Judge William Alsup said, "We'll see if I can hold my nose and approve it." Photo: Sarah Jeong

A federal judge weighing whether to approve San Francisco-based Anthropic's \$1.5 billion settlement with authors has lots of questions about the mechanics, fairness and transparency of the deal.

U.S. District Judge William Alsup of the Northern District of California has released 34 questions he wants both sides to address in writing by this coming Tuesday, two days before a hearing where he'll consider preliminarily approving the deal.

He started that hearing Sept. 8, making clear out of the gate that he was less than enamored with the deal, which would be the largest copyright settlement ever. "We'll see if I can hold my nose and approve it," he said at the time.

He rattled off a variety of concerns, including that authors might not receive word of the deal, causing them to "get the shaft" and that the case would become unwieldy, with "more lawsuits coming out of the woodwork."

Alsup's pointed questions suggest that while he is open to approving the deal, he wants to ensure it meets the rigorous standards of fairness, reasonableness and adequacy required under Rule 23.

Alsup filed his questions on the docket in two batches, [the first](#) on Sept. 10 and [the second](#) this past Tuesday. Most of his concerns focus on notice and claims administration, indicating he is scrutinizing whether class members will be properly informed and have a fair chance to participate in the settlement.

He asked how the parties will cure missing contact information for many works on the class list and demanded data supporting the claim that 70% to 95% of the class will be reached through notice efforts. He also pressed for clarity on how the settlement administrator will handle unresponsive notices and how conflicting ownership claims for the same work will be resolved.

He also focused on the allocation of the settlement proceeds. Alsup said that the appearance of The Authors Guild, the nation's oldest and largest professional organization for writers, as well as the Association of American Publishers and various law firms worried him because "global allocation" between authors and publishers might override work-specific documentation.

"For example, the Authors Guild and the AAP might agree to a global 50/50 split between authors and publishers. But would it be right and fair to do so with respect to an author whose paperwork clearly shows the author is entitled to all proceeds?" Alsup asked.

"If a global settlement within a class settlement is what class counsel have in mind, then the district judge will have concern. Please explain the exact and full role of the Authors Guild, the Association of American Publishers, and each of the new law firms."

The order also raises questions about the reinclusion provision, which would allow class members who initially opt out to later rejoin the settlement. Alsup warned that such a mechanism could invite "gamesmanship and corruption" and suggested a traditional one-chance opt-out would work better for the settlement.

"A publisher or an author might conclude their best strategy is to opt out in the first round. This way, they can see how the claims process unfolds and how much they stand to receive. ... And,

they may demand a side deal to reinclude themselves to avoid the abort clause,” Alsup wrote.

Transparency loomed large among Alsup’s concerns. He directed the parties to add detailed context to the class notice, including the legal risks, possible range of jury awards, and the reasoning behind the \$3,000-per-work payout called for in the settlement, so that class members can make an informed decision.

He also questioned Anthropic’s ability to certify that it has deleted copies of the books it pirated, which is one of the terms of the deal. Anthropic previously had said it could not account for every copy.

Lucas Amodio, a partner at Armstrong Teasdale, said the questions show Alsup is doing his due diligence.

“I get the impression that the judge is trying to confirm that all of the details are in place to ensure that the members of the class receive their due,” Amodio said. “Overall, it looks like the judge doesn’t want there to be any issues down the line with members complaining that they didn’t receive what they should.”

Amodio said that Alsup is likely being cautious and asking so many questions because he’s likely seen classes have issues with the settlement process in the past.

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Litigation

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Deep Dive

Bankruptcy Judges Step Up Sanctions on Attorneys Misusing AI

Sept. 19, 2025, 2:00 AM PDT

Summary by Bloomberg AI

AI Generated



- Courts nationwide are cracking down on lawyers citing nonexistent cases in filings, often because attorneys misunderstood the technology or failed to verify the information.
- Bankruptcy judges in Illinois and South Carolina sanctioned attorneys for submitting filings with fake AI-generated citations, and an Alabama judge ordered a Georgia lawyer to explain why she shouldn't face discipline.
- At least three US bankruptcy courts have issued orders or rules on AI, while most other bankruptcy courts rely on "Rule 9011," which requires attorneys to certify that filings are accurate.

A federal rule requiring lawyers to certify the accuracy of their filings is gaining new traction in bankruptcy courts, where judges are sanctioning attorneys for submitting documents with fake AI-generated citations.

Courts nationwide are increasingly cracking down on lawyers citing nonexistent cases in filings, often because attorneys misunderstood the technology or failed to verify the information. Although courts have been grappling with how to monitor AI use by legal professionals for years, few incidents have appeared in bankruptcy practice until recently.

Bankruptcy judges in Illinois and South Carolina sanctioned attorneys this summer for submitting filings with hallucinated citations, and an Alabama judge recently ordered a Georgia lawyer to explain why she shouldn't face discipline over "misleading and fabricated citations."

At least three US bankruptcy courts—the Southern District of New York, the Northern District of Texas, and the Western District of Oklahoma—have issued orders or rules on AI. Most other bankruptcy courts rely on "Rule 9011," which requires attorneys to certify that filings are accurate.

Around 40 nonbankruptcy judges have issued AI-related standing or general orders, according to the RAILS AI tracker, which practitioners say could cause inconsistency across cases nationwide.

Thomas Nield, a former Semrad Law Firm bankruptcy attorney who was sanctioned in July by the Illinois bankruptcy court, said he only used AI previously to edit emails and for general queries.

Nield, who was terminated in September, used ChatGPT to research an ancillary issue in a Chapter 13 case. However, the court found nonexistent cases and quotes.

"I haven't used AI to do any legal research since," Nield said days before his termination. "If I were to use AI again for legal research, it would only be within the confines of a legal research program such as Westlaw. Even then, I would only use it for an overview of the legal issue at hand and to help find original sources, not to write any of the brief."

Semrad, which previously had no AI policy, adopted official guidelines after the incident, conducted a firmwide audit, withdrew its fee application in the Chapter 13 case, mandated AI training, and offered to reimburse opposing counsel. The managing partner didn't respond to a comment request.

Judge Michael Slade imposed a \$5,500 fine but cautioned: "The next lawyer who does the same thing is warned that he or she will likely see a more significant penalty."

More Sanctions Follow

The South Carolina bankruptcy court found in August that Paul Held, a solo practitioner with 40 years of experience, cited fake cases in court papers.

He was ordered to do continuing legal education, including AI ethics training.

Held didn't respond to a comment request. The court said he admitted the citations generated by Microsoft Copilot resulted "from haste and a naive understanding of the technology" and that he was "shocked" to learn AI can produce fake information.

Cassie Preston of Gordon Rees Scully Mansukhani, was recently accused in an Alabama hospital bankruptcy of improperly using AI.

The firm said in a now-withdrawn filing that the claims were unsupported and the alleged fabrications were "minor citation or paraphrasing errors."

A bankruptcy judge will consider sanctions against Preston next month. Preston and Gordon Rees didn't respond to a comment request.

"My rule of thumb is you start off with the least sanction necessary to correct the behavior," said Paul Grimm, a retired Maryland federal district judge.

He said "normative" sanctions deter future violations while "compensatory" sanctions reimburse parties harmed, such as a lawyer who spent hours on nonexistent research.

"AI sounds so authoritative, so of course, you'd think it must be right," he said. "I hope that five years from now, we won't be seeing these things happen as frequently as they have been."

Rule 9011

Legal Decoder CEO Joseph Tiano said there aren't many AI-related standing orders in bankruptcy courts partly because Rule 9011 already requires attorneys to confirm information they use.

Standing orders can have the unintended consequence of causing confusion when courts define AI differently.

"Some define it broadly, some narrowly," Tiano said. "In some cases, you have to disclose what tools were used; in others, you don't."

With Rule 9011, "there's abundant precedent and time-tested protocols," he said. "You know exactly what the state of play is."

Courts must also determine which approved AI tools can be used while protecting confidentiality and which uses must be avoided or disclosed, as AI use can include simple tasks like grammar checks, explained Nancy Rapoport, a law and ethics professor at the William S. Boyd School of Law.

"That can't be what the court means," she said. "When courts say generative AI, they're getting closer to the real issue."

If courts decide to adopt guidance, the "fairest" and most uniform approach is a local rule for all courts within a district or circuit, Grimm said. These allow for public notice, comments, and revisions, unlike an individual judge's order to manage specific issues in their courtroom.

AI guidance from the Southern District of New York and the Northern District of Texas bankruptcy courts directs attorneys to verify accuracy, while the Western District of Oklahoma requires an attestation form for any court document that uses AI.

Other courts mainly address disclosure and accuracy, but a few regulate other uses, including research and evidence generation.

AI Enters the Room

The industry is still exploring AI use and tools, data security, privacy, and billing issues. Bankruptcy associations offer training, and firms are adopting protocols.

AI tools, such as data analytics, to improve the business of delivering legal services are the least risky place to deploy AI, Tiano said, instead of using it directly in the practice of law.

"It's only recently that continuing legal education has been providing courses relevant to AI usage," Nield noted.

Rapoport said state regulators could amend continuing legal education requirements to include AI in ethics courses.

"AI will fundamentally change the way we practice law, including staffing needs across experience levels and practice areas," she said.

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Federal judge signals partial injunction over canceled UC research grants

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[dailyjournal.com/articles/387710](https://www.dailyjournal.com/articles/387710)

Litigation & Arbitration,

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Constitutional Law

Sep. 19, 2025

U.S. District Judge Rita F. Lin of San Francisco said she is inclined to grant at least part of a preliminary injunction for University of California researchers whose grants were canceled by the NIH, Defense and Transportation Departments via form letters, distinguishing the case from a recent Supreme Court stay in a similar Massachusetts suit and pressing a Justice Department lawyer on his assertion that some plaintiffs cannot sue in any court.

U.S. District Judge Rita F. Lin

A federal judge in San Francisco said Thursday she would likely grant at least part of a preliminary injunction in favor of University of California researchers whose grants were terminated by three federal agencies via form letter.

U.S. District Judge Rita F. Lin made her comments at the end of an hourlong hearing on the plaintiffs' motion for an injunction and class certification over the cancellation of their grants by the National Institutes of Health, the Department of Defense and the Department of Transportation.

The U.S. Supreme Court stayed a Massachusetts judge's decision last month in a similar case, suggesting that victories by UC researchers against other federal agencies might be short-lived.

Senior U.S. District Judge William G. Young of the District of Massachusetts blocked National Institutes of Health grant funding cuts, but the Supreme Court - by a 5-4 vote - stayed his decision. *National Institutes of Health et al. v. American Public Health Association*, 25A103 (S. Ct., filed July 24, 2025).

But Lin saw a distinction between that case and the one by the researchers, in which Justice Department attorney Jason Altabet said they might not be able to sue either in district court or in the Court of Federal Claims.

"I don't see the Supreme Court's decision ... as adopting the really radical position that the government has taken that researchers should be without a remedy for what are potentially very serious constitutional violations as to the First Amendment claims and ... to the [Administrative Procedure Act] claims," she said.

Altabet said it's possible that some of the plaintiffs may not be able to bring their claims over the terminated grants in either court due to a lack of subject-matter jurisdiction.

Lin seemed unimpressed with that answer. "The government's view is that plaintiffs cannot sue anywhere?"

Altabet responded that some APA claims are "implicitly precluded." But he acknowledged there was less case law on the researchers' First Amendment rights.

The judge, who previously blocked revocation of grants by other federal agencies, said she was "inclined" to extend her injunction to cover grants terminated by the National Institutes of Health, the Department of Defense and the Department of Transportation. *Thakur et al. v. Trump et al.*, 25-cv-04737 (N.D. Cal., filed June 4, 2025).

She pressed the plaintiffs' attorneys, UC Berkeley School of Law Dean Erwin Chemerinsky and Lieff Cabraser Heimann & Bernstein LLP partner Elizabeth J. Cabraser, about whether some plaintiffs belonged in the class based on the amended complaint.

Cabraser said letters sent to UCLA researchers cancelling 800 grants were a "penalty for forbidden [diversity, equity and inclusion] research, even though some of the grants, such as one for the Department of Defense, concerned national security issues.

A 9th U.S. Circuit Court of Appeals panel upheld Lin's earlier injunction against other federal agencies that blocked the researchers' grants.

Lin also agreed to take a related suit filed this week by the American Association of University Professors. and other campus groups challenging the Trump administration's threats to cut off grant funding to force a settlement that would require the payment of \$1.2 billion to start along with major changes to bring the University of California in line with its policies on admissions, campus speech and transgender rights.

That lawsuit was filed Tuesday. *American Association of University Professors et al. v. Trump et al.*, 25-cv-07864 (N.D. Cal., filed Sept. 16, 2025).

Bloomberg Law

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OpenAI Probed Over Risks to Teen Safety After Senate Testimony

Sept. 18, 2025, 2:57 PM PDT

A key Republican US senator demanded OpenAI Chief Executive Officer **Sam Altman** hand over documents and information about the risks ChatGPT poses to children and teens, expanding a congressional probe into artificial intelligence chatbots.

Senator Josh Hawley's Thursday letter follows a hearing Tuesday in which parents testified about ChatGPT's alleged [threats to young users](#). "There is increasing evidence that AI chatbots pose a grave harm to children. And your company's products are responsible," Hawley wrote to Altman.

An OpenAI spokesperson didn't immediately respond to a request for comment.

In his letter, Hawley said the company has until Oct. 17 to respond to his list of questions related to the research and design of OpenAI's products, as well as incidents of harm to teen users. Hawley last month initially opened an investigation into Meta Platforms Inc. over reports that its chatbots may engage in "sensual" interactions with teens.

Read More: [AI Chatbot Makers Are Facing A Reckoning Over Teen Safety: Q&A](#)

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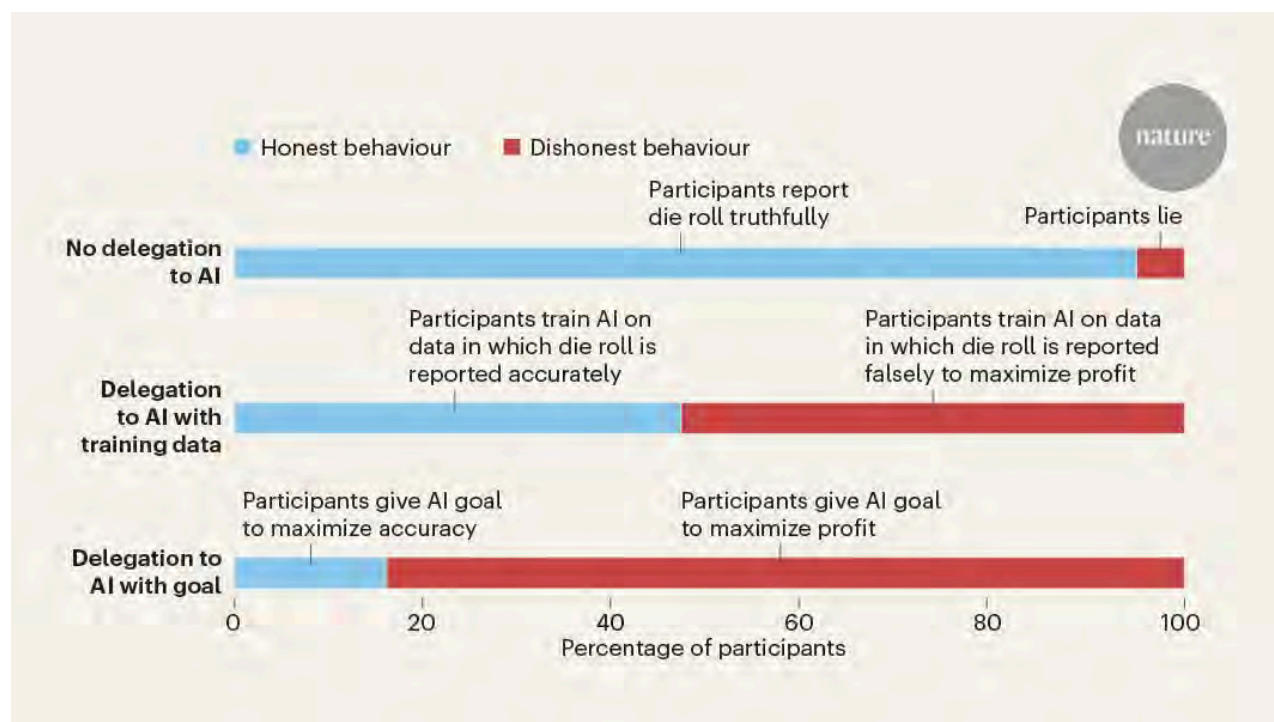
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People are more likely to cheat when they delegate tasks to AI



[nature.com/articles/d41586-025-02819-w](https://www.nature.com/articles/d41586-025-02819-w)

September 17, 2025



Artificial intelligence is moving from being a mere tool to an active partner in decision-making, but when we offload misconduct to machines, who bears the blame?

Artificial intelligence (AI) is permeating daily life at an accelerating pace. From drafting documents and translating text to processing taxes and guiding business decisions, [AI is becoming a trusted assistant](#). But what if that assistant were asked — subtly or explicitly — to break the rules? And what if its actions faithfully mirrored the user's indirect intentions to cheat, giving the person plausible deniability? [Writing in Nature](#), Köbis *et al.*¹ reveal a troubling dynamic: people are more willing to engage in dishonest behaviour when a large language model (LLM) executes it instead of them, and the LLM is more likely than a human intermediary to comply with prompts that promote cheating.

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Competing Interests

The author declares no competing interests.

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Amazon Fails to Fend Off Most State Claims in Price Parity Case

Sept. 18, 2025, 2:17 PM PDT

Summary by Bloomberg AI

AI Generated



- Amazon.com Inc. will face the majority of state claims in an antitrust suit alleging the company caused consumers to pay more for goods due to rules that prohibit third-party sellers from offering products on competing platforms at lower prices.
- Judge Vernon S. Broderick allowed claims in 25 states to proceed, concluding that plaintiffs' allegations show that Amazon's goal for its "price parity restriction" was to gain a competitive advantage over competitors.
- The ruling allowed many claims to proceed, including claims from states such as Arizona, Connecticut, Florida, and Maryland, while remaining claims were dismissed.

Amazon.com Inc. will face the majority of state claims in an antitrust suit alleging the company caused consumers to pay more for goods due to rules that prohibit third-party sellers from offering products on competing platforms at lower prices.

Judge Vernon S. Broderick of the US District Court for the Southern District of New York in a Thursday opinion allowed claims in 25 states to proceed, concluding that plaintiffs' allegations as a whole show that Amazon's goal for its "price parity restriction" was to gain a competitive advantage over competitors.

"In short, Amazon engaged in the PPR scheme to hurt its competitors, and Plaintiffs paid the price," he said.

The ruling comes about two weeks after a separate judge granted class status to a group of consumers who accused the online giant of unfair policies that prohibit merchants from offering lower prices on other e-commerce platforms.

Plaintiffs sued in 2022 on behalf of consumers in states including Arizona, Connecticut, Florida, Maryland, New York, and North Carolina, alleging they paid inflated prices for goods sold on e-commerce platforms other than Amazon due to the online giant's unlawful price restraint that it imposed on millions of third-party sellers.

Broderick's order allowed many claims to proceed, including Arizona claims between Nov. 8, 2018, and March 2019; Arkansas claims before Aug. 1, 2017; Connecticut claims; Florida claims between Nov. 8, 2018 and March 2019; as well as those in Hawaii, Illinois, Iowa, Maine, Maryland, Michigan and Minnesota.

Remaining claims were dismissed.

The plaintiffs are represented by Bienert Katzman Littrell Williams LLP. Amazon is represented by Dunn Isaacson Rhee LLP.

The case is Mbadiwe v. Amazon.com , S.D.N.Y., No. 1:22-cv-09542, 9/18/25 .

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US Judge Rules Amazon's Data Collection Violated Consumer Protection Law in FTC Lawsuit

"No reasonable jury could find in favor of Amazon when provided with this evidence," U.S. District Judge John H. Chun of the Western District of Washington wrote in his decision granting summary judgment in favor of the Federal Trade Commission and finding Amazon.com Inc. liable for alleged violations of the federal Restore Online Shoppers' Confidence Act.

September 18, 2025 at 11:01 AM By 



U.S. District Judge John H. Chun of the Western District of Washington. Photo: Diego M. Radzinski/ALM

A federal judge has ruled Amazon.com Inc. violated the Restore Online Shoppers' Confidence Act by collecting consumers' billing information before disclosing the material terms of its Prime membership subscription service.

U.S. District Judge John H. Chun of the Western District of Washington granted partial summary judgment in favor of the Federal Trade Commission in a case alleging Amazon makes it too difficult for consumers to cancel their subscriptions to Prime in violation of the FTC Act and ROSCA.

“The FTC highlights images that show Amazon collects a customer’s billing information before the material terms of Prime are disclosed to a customer,” Chun wrote in his [47-page summary judgment decision](#) filed Wednesday. “This practice violates the plain text of ROSCA. No reasonable jury could find in favor of Amazon when provided with this evidence.”

Chris Mufarrige, director of the FTC’s Bureau of Consumer Protection, applauded Chun’s liability ruling.

“[The] decision affirms that Amazon defrauded American consumers by failing to disclose all terms of Prime before collecting consumer’s payment information,” Mufarrige said in a statement Thursday. “The Trump-Vance FTC intends to make them whole.”

Chun denied summary judgment on some of the FTC’s claims, ruling there are “genuine disputes of material fact that preclude summary judgment for either side” on whether Amazon obtained express informed consent before charging a consumer’s cards or accounts and whether Amazon offered “simple” options for consumers to cancel their Prime subscriptions.

“The bottom line is that neither Amazon nor the individual defendants did anything wrong—we remain confident that the facts will show these executives acted properly and we always put customers first,” an Amazon spokesperson said Thursday in a statement.

Davis Wright Tremaine; Covington & Burling; and Hueston Hennigan represent Amazon in the case, which remains active with several disputed claims proceeding to a trial by jury.

Chun will preside over a four-week jury trial set to begin Sept. 22 in the *FTC v. Amazon* consumer protection case.

In addition to the consumer protection case against Amazon, the FTC in another pending case in Seattle federal court alleges Amazon maintains an unlawful monopoly in the U.S. online superstore market in violation of Section 5(a) of the FTC Act and Section 2 of the Sherman Act.

The FTC has already [deposed Amazon’s CEO Andy Jassy](#) as it prepares for an antitrust bench trial against the online retailer set for February 2027.

District of Columbia Attorney General Brian L. Schwalb and California Attorney General Rob Bonta also have pending antitrust cases against Amazon.

This story has been updated.

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AARP Reaches \$12.5M Settlement With Plaintiffs in Meta Pixel Privacy Class Action

AARP (formerly the American Association of Retired Persons), an advocacy group for Americans aged 50 and older, reached a settlement agreement last week in a privacy class action that alleged its website disclosed users' video viewing data to Meta without their consent via the Meta Pixel.

September 18, 2025 at 04:45 PM By  [Kat Black](#)

What You Need to Know

- A \$12.5 million settlement was reached between plaintiffs and AARP in a class action that alleged AARP diverted information about users' "sensitive" video viewing habits to Meta.
- The complaint contended that AARP violated the Video Privacy Protection Act, a 1980s-era federal privacy statute that has been retooled by the plaintiff's bar to apply to video content online.
- AARP has also agreed to "cease or limit the operations" of the Meta Pixel on its website.



AARP (American Association of Retired Persons) in Washington, D.C. Photo: Diego M. Radzinski/ALM

AARP, an advocacy group for Americans aged 50 and older, reached a settlement agreement last week in a long-running privacy class action that alleged its website disclosed users' video viewing data to Meta without their consent via the Meta Pixel.

District Judge Yvonne Gonzalez Rogers issued an [order](#) granting preliminary approval of the \$12,500,000 settlement on Sept. 12 in the U.S. District Court for the Northern District of California, following a hearing on the plaintiffs' unopposed motion for conditional certification of a settlement class on Sept. 9.

The settlement amount will be disbursed to U.S. residents who requested or accessed prerecorded audiovisual content on the AARP.org website, operated Facebook accounts and were either AARP members or registered AARP users between Sept. 27, 2020 and Sept. 12, 2025.

AARP—formerly the American Association of Retired Persons—has also agreed to "cease or limit the operation of the Meta Pixel on any pages on the AARP.org website that include video content" within 45 days of Judge Gonzalez Rogers' order, barring certain legal conditions.

"We are pleased that the court has granted preliminary approval of plaintiffs' settlement with AARP, which comes after several years of hard-fought litigation," said Simon Grille, a partner at Girard Sharp representing the plaintiffs, in an emailed statement.

"We look forward to proceeding with the notice and claims process and progressing to final approval."

AARP was represented by a legal team at Cooley, which did not immediately respond to phone messages and emails seeking comment.

The plaintiffs, backed by Girard Sharp, filed the original putative [suit](#) alleging that AARP violated the Video Privacy Protection Act, California's Unfair Competition Law and the Deceptive Trade Practices Act on Sept. 27, 2022.

Girard Sharp filed a first amended complaint striking the Deceptive Trade Practices Act claim after Judge Rogers ruled that plaintiffs "failed to allege any ascertainable economic harm resulting from AARP's allegedly unlawful practices" and a second amended complaint on July 19, 2024.

According to the complaint, AARP, which was founded in 1958 and is headquartered in Washington, D.C., publishes "thousands" of educational videos, some of which address "sensitive topics" related to aging and associated medical conditions, on its website.

The plaintiffs contended that the AARP violated the Video Privacy Protection Act, a 1988 federal privacy statute that was originally designed to prevent "video tape service providers" from disclosing details about consumers' video rentals and purchases without their permission, but has

since been retooled by the plaintiff's bar to apply to video content online. by diverting AARP customers' video viewing information to Instagram and Facebook parent Meta through the Meta Pixel.

The Meta Pixel is a snippet of code that tracks users' activity on businesses' websites—which is then shared with Meta and stored on its servers—to measure and improve the effectiveness of their advertising. The complaint alleged that Meta collected information about AARP users' video viewing habits, as well as their Facebook profile IDs, to monetize in its own targeted ads without their knowledge. In addition, it said, any "ordinary person" could learn about an AARP customer's media viewing history by obtaining their Facebook profile ID.

A final approval hearing for the settlement is scheduled for Feb. 10, 2026.

AARP did not immediately return phone calls or emails seeking comment.

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Baby food companies ask judge to dismiss lawsuit over toxic metals



[courthousenews.com/baby-food-companies-ask-judge-to-dismiss-lawsuit-over-toxic-metals](https://www.courthousenews.com/baby-food-companies-ask-judge-to-dismiss-lawsuit-over-toxic-metals)

Margaret Attridge

September 18, 2025

(Image by yalehealth from Pixabay via Courthouse News)

SAN FRANCISCO (CN) — Baby food manufacturers asked a federal judge Thursday to dismiss a lawsuit claiming the companies knowingly sold baby food products containing toxic heavy metals that caused brain damage in children.

U.S. District Judge Jacqueline Scott Corley seemed skeptical of the plaintiffs' arguments over personal jurisdiction and the liability of manufacturers' parent companies.

The [multidistrict lawsuit](#) against baby food manufacturers began in April 2024, when it was fashioned from 10 pending lawsuits with similar claims and central questions. The plaintiffs, all children with brain injuries or neurodevelopmental harm, claim their conditions are a result of the metal-contaminated baby foods sold by the defendant companies.

"These lawsuits aim to stop defendants from poisoning infants with contaminated baby food. Baby food should be safe. It should not be contaminated with toxic heavy metals. Period," the plaintiffs say in their lawsuit.

The judge heard multiple motions for dismissal from manufacturers Nestlé USA, Danone North America, Campbell Soup Company, Sun-Maid Growers of California and two of Nestlé's international subsidiaries.

Corley began the hearing by questioning the plaintiffs' claim that Nestlé USA is subject to personal jurisdiction because it is involved in the testing of baby food products sold by Gerber, which is owned by Nestlé.

"They are not selling them in California — that is Gerber," the Joe Biden appointee said. "Put aside Gerber, what is Nestlé USA doing in California?"

Joseph Masterman, an attorney for the plaintiffs, said that Nestlé does not just test products for heavy metals, but they also make the decisions for what goes into the products and set the acceptable levels.

"What we are trying to say is they are just as involved in the defects," he said.

Corley responded that it would be "unprecedented" for her to say there is personal jurisdiction in the case.

“They are not the manufacturer, and they did not sell it in California,” the judge said. “There is nothing that actually supports that broad theory of jurisdiction.”

However, Corley also doubted Campbell’s argument that it is not liable for the levels of heavy metals in baby food manufactured by Plum Organic Baby Foods, a company it owned until May 3, 2021, when it sold the snack brand to Sun-Maid.

“What Campbell’s did was set ingredient limits for what goes into products,” said Peter Ryan, an attorney for Campbell’s. “It is still Plum that is the manufacturer, the designer, the seller of the product.”

Corley pushed Ryan on whether testimony from the individual in charge of setting ingredient limits for all Campbell’s products could be inferred to have also set the limits for heavy metal levels in Plum baby food.

The plaintiffs have leveled similar accusations against Sun-Maid, claiming that the raisin producer had meetings with Campbell’s about the “day-to-day” running of Plum before taking over ownership of the brand. But Corley wasn’t convinced: “I don’t know if it’s a reasonable inference that Sun-Maid was doing the same as Campbell’s.”

Hope Freiwald, attorney for Sun-Maid, said that there is “nothing” to the claims against the company.

The last claim left for debate was the motion to dismiss filed by foreign defendants Nestlé Enterprises S.A. and Société des Produits Nestlé S.A.

Corley said she saw “no authority” for her to allow the claims against the two companies because they were never served by the plaintiffs. She also questioned the plaintiffs’ personal jurisdiction argument over the international companies in California.

“You have these companies telling manufacturers in the U.S. how to make their baby food, and that baby food is going to people in California,” Masterman argued.

Carmine Zarlenga, an attorney for the two international companies, said he could not do a legal analysis because they were not served properly. “It’s fatal,” he said.

Corley did not indicate when she would rule on the motions to dismiss.

Attorneys for the baby food manufacturers did not immediately respond to a request for comment, nor did attorneys for the plaintiffs.

In April, Corley [issued](#) a mixed-bag ruling dismissing certain claims for lack of personal jurisdiction and failure to state a claim, although she allowed the plaintiff children leave to fix their claims.

However, she also denied a collective motion to dismiss from the defendant companies, rejecting their arguments that the plaintiffs needed to state a specific level of metals exposure that would result in autism disorders or ADHD.

Additional baby food manufacturers and sellers involved in the lawsuit include Whole Foods, the Beech-Nut Nutrition Company, Hain Celestial Group, Walmart, Neptune Wellness Solutions and Sprout Foods.

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SEC Review of Foreign Issuer Rules Not Meant to Deter Listings, Atkins says

Foreign private issuers are exempt from many U.S. Securities and Exchange Commission disclosure rules. Now that many companies are incorporated in countries without strong regulatory oversight, the commission says it may be time to reconsider that.

September 18, 2025 at 03:12 PM By **Dan Novak**



Paul Atkins, Chair of the U.S. Securities and Exchange Commission. Photo: Diego M. Radzinski/ALM

Proposed changes to the U.S. Securities and Exchange Commission's definition of a foreign private issuer should not deter overseas companies from accessing U.S. capital markets, SEC Chair Paul Atkins said Thursday.

In June, the commission approved a concept release seeking public comment on a possible definition for foreign private issuers, or FPIs, who are exempt from certain SEC disclosure requirements.

"To be clear, the SEC welcomes foreign companies that seek to access the U.S. capital markets," Atkins said during a roundtable at SEC headquarters in Washington to discuss possible FPI

reforms. "I must emphasize that the concept release is not a signal that the SEC intends to disincentivize such firms from listing on U.S. exchanges."

Atkins said the SEC is considering altering the definition because of significant changes to the makeup of foreign companies listed in the United States since FPI exemptions were developed in the early 1980s.

Now, far more companies are incorporated in countries with weak market protections, as in the Cayman Islands, while being headquartered in China or Russia, the SEC stated. More than half of foreign issuers registered with the SEC trade in American markets and not in their homes countries, according to SEC data.

The FPI exemptions were developed with the understanding that foreign companies seeking to access American markets were subject to strong oversight in their home jurisdictions, Atkins said.

"I believe that it behooves us to consider whether the SEC's original rationale and current standard for extending special accommodations to foreign companies still make sense," he added.

A company is considered a foreign private issuer if it is not incorporated in the United States and either less than half of its outstanding voting securities are held by U.S. residents or most of its executives are non-U.S. citizens and most of its business operations are located outside the United States.

Possible reforms floated by the SEC include requiring FPIs to maintain a significant portion of trading volume outside the United States, requiring FPIs to be listed on a major non-U.S. exchange and lowering the U.S. ownership threshold from 50%.

Sullivan & Cromwell partner John Horsfield-Bradbury, who represents foreign issuers, cautioned the commission against making drastic reforms to a system he said has been broadly successful. He said there has been no market failure that needs to be solved by changing the FPI definition and that there are valid reasons for companies to want to trade exclusively in the United States.

"It's worth saying that no issuer lists in the U.S. and takes that decision lightly or thinks it's an easy ride," he said, adding that FPIs are still subject to U.S. securities laws.

"And of course U.S. investors being able to invest in foreign issuers that are listed in the U.S. benefit from those securities law protections, whereas they would not if they were investing internationally," Horsfield-Bradbury said.

Rutgers Law School professor Yuliya Guseva said the SEC in its concept release did not identify a market or regulatory failure derived from FPIs that justifies a large policy shift. She said a more

thorough analysis from the commission is needed before making “massive” changes to the FPI definition.

“A major rulemaking on FPIs without first identifying a clear overarching problem would expose the SEC itself to the risk of APA [Administrative Procedure Act] challenges,” Guseva added.

Ashley Adler, chair of the United Kingdom's Financial Conduct Authority, said changes to FPI eligibility should focus on ensuring companies have reliable investor protections and disclosure requirements in their home countries. Ownership rules are aimed more at determining whether a company is foreign and risk disqualifying British companies already subject to strong oversight, he added.

“That's why in large part I think that only an assessment of the rules and expectations that exist in the home jurisdiction...gets to the heart of the matter,” Adler said.

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Opinion

Matt Levine's Money Stuff: Stocks for the Long Run

Sept. 18, 2025, 10:30AM PDT

The long term

In theory, a share of stock is worth the present value of all of its future cash flows. A dollar of earnings today is worth more than a dollar of earnings in 10 years, because you use some non-zero discount rate in computing the present value. But a dollar of earnings today is worth less than *\$10 billion* of earnings in 10 years, because the discount rate isn't 900% either. Investors should pay more for the stock of a company that makes no money now but will make a ton of money later than they would pay for the stock of a company that makes a little money now and will continue to make a little money later. And they do. Promising tech companies regularly trade at high valuations long before they make any money. OpenAI's stock is worth \$500 billion and it's a money furnace.

An important but underappreciated theoretical fact is that this is true for all investors, no matter how long they plan to hold the stock. If you buy a share of stock today and sell it tomorrow, you are not buying *one day* of its cash flows. If the company announces earnings this afternoon, and the announcement is like "good news we made a ton of money today, bad news we won't make any money in the future," you did not do a good trade. The stock will go down due to the bad news about future cash flows, and tomorrow you will sell it for less than you paid.

So, in theory, every investor, whether their holding period is a millisecond or a decade, should care equally about the long-term cash flows of the company, because those cash flows determine the future price of the stock at every moment, and the way any stock investor makes money from their investment is by selling the stock.

In practice nobody really believes this in their bones. Everyone assumes that old-school, long-term, Warren-Buffett-y hold-for-decades investors buy stocks based on their views of the companies' long-term prospects, while fast-money hedge funds buy stocks based on their views of whether the company will beat earnings this quarter. Or perhaps the story is more nuanced – *really* the hedge funds buy stocks based on their views of whether this quarter's earnings release will make long-term investors more or less optimistic about the company's long-term prospects – but the point is that the hedge funds will be looking at higher-frequency data points. The old-school people will let the company cook for a decade and see what it comes up with; the hedge funds will want to make sure that the company is on track each quarter.

And if you believe that, you might worry about “short-termism.” You might think that letting the company cook for a decade will allow it to make better long-term business decisions, prioritizing long-term value rather than this quarter’s earnings. You might worry that the hedge funds will pressure the company to make decisions that look better in the short term at the cost of long-term investment, because the hedge funds want the stock to go up in the near term. You might do things like [propose to get rid of quarterly financial reporting](#), to give companies more freedom to focus on creating value in the long term.

Is that right, though? Which is correct: The theoretical everyone-has-the-same-infinite-time-horizon view, or the pragmatic, literal, people-have-the-time-horizons-they-trade-on view? I confess that my bias has been toward the theoretical view, but here is “Exploiting Myopia: The Returns to Long-Term Investing,” by Kalash Jain and Dian Jiao of Columbia Business School:

Investment managers often face short-term incentives, such as redemption pressure following recent weak performance, that discourage them from holding positions through temporary underperformance. These constraints can lead to systematic underinvestment in firms that require longer holding periods to realize value. We examine whether these horizon-driven frictions generate predictable return patterns across firms. We measure long-term ownership at the firm level using active managers’ share-weighted holding periods (Horizon), and document that firms with longer Horizon generate significantly higher returns than those with shorter Horizon, particularly among stocks that are harder for myopic managers to hold.

They argue that there aren’t enough patient long-term investors in public markets:

Evidence shows that long-horizon investors outperform on average (Cremers and Pareek, 2016), consistent with patient capital being in limited supply. When firm demand for patient capital exceeds the supply from long-term investors, not all firms with delayed payoffs or significant interim risk attract sufficient investment. These firms may then trade below fundamental value, yielding higher subsequent returns. Conversely, firms that appeal to short-horizon investors may attract excess capital, driving valuations above fundamentals and implying lower subsequent returns.

And that, therefore, the companies who do have patient long-term investors outperform:

The key variable, Horizon, measures the average number of consecutive quarters a firm is held by active institutional investors, weighted by each institution’s ownership stake. To ensure the measure reflects strategic ownership Horizon rather than passive indexing, we exclude index and quasi-index funds. ... Because it aggregates revealed preferences across all active investors, Horizon captures the extent to which a firm is held by long-horizon institutions. Our main hypothesis is expected returns increase with a firm’s shareholder-weighted Horizon, because institutional myopia creates a demand imbalance that can be proxied through Horizon. ...

In terms of economic magnitude, a 1% increase in Horizon translates to around 20 basis points (bps) of monthly returns, or 2.4% annualized. To corroborate the findings, we sort firms into quintiles based on Horizon and find monotonic increases in average returns from the lowest to the highest quintile, with a spread of around 50 bps per month, or 6% annualized.

And they find that this effect increased in 2004 when the US Securities and Exchange Commission required mutual funds to report their holdings every quarter (instead of every six months). That change, they argue, pushed mutual funds to focus more on short-term performance, which increased the returns to the companies that had longer-term holders.

One version of this story is the "short-termism" thesis: Companies would generally be worth more if their executives were left alone to invest for the long run. But public markets are full of short-term investors who push executives to maximize short-term profits, which reduces the overall value of companies. Doing stuff to change this – for instance, eliminating quarterly financial reporting – would increase overall stock-market value and social welfare.

That would be a somewhat odd conclusion to take from this paper, though, just because they measure *monthly* returns: "Horizon is positively correlated with the one-month future stock return, and the correlation is statistically significant at the 1% level." The story here is not "if you leave a company alone for 20 years, it will be worth more after those 20 years than if you are constantly trading." The story here is "if a company has a lot of investors who will leave it alone for 20 years, it will be worth more next month."

Another version of this story is that some companies are long-term bets, and other companies are short-term bets, and they attract different investors. Some companies (OpenAI) have "delayed payoffs or significant interim risk"; they attract patient investors because they repel impatient investors. But there aren't that many patient investors – most investors would prefer to invest in companies that work now – so companies have to pay more, in the form of higher stock-price returns, to attract them.

xAI

Speaking of delayed payoffs and significant interim risks: How much money will xAI, Elon Musk's artificial intelligence (and social media) company, make in 2028? Man:

1. I don't know.
2. You don't know.
3. xAI doesn't know.
4. Nobody expects anyone to know. The world of AI companies is fast-moving and unpredictable. "It [may be difficult to know](#) what role money will play in a post-[artificial general intelligence] world," never mind what one particular company's revenue and expenses will look like.
5. Whatever you think xAI will make in 2028, Elon Musk thinks it's a higher number.
6. He might be right!

If you work at xAI in a financial role, you might be called upon to produce financial projections to give to potential investors in equity and debt financings. You might do some analysis, make some estimates, and conclude that xAI will have revenue and net income of \$____ and \$____ in 2028, where you don't think that the numbers in the blanks are entirely arbitrary but, you know, kind of. And then Elon Musk might storm into the room, glance at your numbers, twitch violently and scream "no, triple them!" Then what? Then I suppose you could say "no, these numbers are good-faith evidence-based estimates of our future earnings, and if you arbitrarily triple them then that is deceptive and misleading and I cannot stand idly by while that happens, I quit, good day sir!" That's fine, you can do that, whatever. It seems a bit silly. But go ahead.

The Wall Street Journal reports:

Several executives at xAI left after clashing with two of Elon Musk's closest advisers over concern about the startup's management and financial health, according to people familiar with the matter. ...

Some xAI executives said they left because they were concerned that some of the company's financial projections were unrealistic, the people said. They also raised questions internally about the role Musk's family office, Excession, played in managing some of xAI's cash and accounting. ...

A person close to xAI said that it has full confidence in its projections.

I mean? If you are an executive at an Elon Musk startup and you are concerned that the financial projections are unrealistically ambitious, you should definitely quit, because you are not a good cultural fit? Like that's the whole schtick?

An apology

Sorry, I just want to flag that everything below this point is extremely stupid and you should probably stop reading. In the previous two sections, I have assumed that financial assets are valuable based on their expected future cash flows. In the following sections, I have relaxed that assumption.

Memecoins

The way [memecoins work](#) is that a person or thing gets a lot of public attention, and then someone quickly creates a crypto token "of" that person or thing, and the token's price goes up because the thing is getting attention (and then down, later, when the attention fades). The person who creates the token gives a lot of them to herself, and as the price goes up she sells a lot of them, and then she has a lot of money from, basically, being first to capitalize on people paying attention to the thing. Occasionally the person who creates the token and cashes in is connected to the meme – she's the person who got the attention, or the owner of the cute animal who got the attention, or whatever – but that is absolutely not a requirement of any of this. If some squirrel gets attention online and you are the first to create a Squirrel token, you can cash in. The squirrel can't stop you.

This is different from essentially every other financial instrument in history, where ... you know ... you have to ... own ... the thing ... that you're selling? Like if you're selling equity in a business or music rights or credit-card cash flows or Beanie Babies, you have to own the business or the music rights or the credit-card receivables or the Beanie Babies. (If you're selling wheat futures or unsecured bonds, you at least have to promise to eventually deliver the wheat or the payments.) But if you are selling meme tokens, you do not have to represent that you own the meme, or have any connection to the meme, or can deliver any economic rights connected to the meme, or anything else. All you are doing is pointing at the meme and saying "look at this meme, see, give me money for pointing at it." It's so weird, man.

Anyway the murder of Charlie Kirk has gotten a lot of public attention. From that fact, meme coins follow inevitably. You don't have to like it [but it's true](#) :

Minutes after Kirk was shot, tokens associated with him started to appear: "Pray For Kirk Coin," "DEAD KIRK" and "Charlie Kirk's dog," among dozens of others. While many of the coins' creators pitched the tokens as memorials to Kirk or sources of charity for his family, each was fundamentally an attempt to turn Kirk's death into profit.

Within an hour of the shooting, one Kirk token reached a market capitalization of \$16 million. By that evening, creators of Kirk coins had already collected hundreds of thousands of dollars in transaction fees on the Solana blockchain. On X, many crypto traders and influencers chided their fellow "degens"—a half-pejorative, half-affectionate term short for "degenerate gambler"—for making money from Kirk's death.

Every time I write about memecoins I get this vague sense that people think something else is going on, but I can never tell what. Crypto influencers are chiding memecoin degens for profiting from something that gets a lot of attention? What else would the memecoin degens do?

Memecoin ETF

Sure! [Whatever](#) !

The REX-Osprey DOGE ETF, trading under the ticker DOJE, is slated to launch Thursday. It offers exposure not to a store of value, but to a meme: Created in 2013, Dogecoin has no supply cap, tends to be highly volatile and was inspired by an internet gag that used the image of a Shiba Inu. Still, persistent demand has made it the eighth-largest digital asset by market capitalization, at \$42 billion, according to CoinMarketCap. ...

The DOJE ETF "is just the opening act in what will be a full-blown carnival of crypto ETFs," said Nate Geraci, president at NovaDius Wealth Management. "Value is in the eye of the beholder, and there are clearly people who see some utility in Dogecoin — even if that utility is simply its entertainment value."

I just feel like, 20 years ago, if I had said "people sometimes trade stocks for entertainment value," you would have been like "yes that's clearly true, that's a perfectly fair point." And then if I said "so I am going to create a stock that has no cash flows or fundamentals, but only entertainment value," you would have said things like "what?" or "how?" or "why?" or "no that's not the implication of the first thing you said; it's clear that people get some entertainment value out of speculating on the prospects of businesses, and that motivates a certain amount of noise trading around the fundamental values of those businesses, but that's not the same as saying that the stock market should be a venue for *pure* entertainment-based gambling. As a society, we want people to invest in the stock market, because that provides financing to businesses and allows ordinary people to participate in the growth of those businesses. And a robust stock market creates liquidity, which lowers the businesses' cost of capital and also makes it easier for people to confidently invest to meet their future financial needs. And if some people are trading for entertainment or thrills, that enhances liquidity and makes society better off overall, even if it's not always great for those people. But the point is that there's some real economic activity at the bottom of it. If you take that away and create purely entertainment trading, that's pointless nihilism."

But there is a crypto token that points to a picture of a cute dog associated with funny memes, and now there is an exchange-traded fund whose purpose is to hold that token. So if you want to gamble on the price of that token, you can do that, on the stock exchange. I [wrote a few months ago](#) :

My theory – that financial markets represent investments in real economic activity, while betting on sports represents zero-sum bets on sports – is outdated. The link between finance and real economic activity was always indirect and imperfect – lots of financial markets activity has always been speculative and irrational – and it is increasingly inessential.

All of it is betting on sports. Sports are sports, and entertainment is sports, and politics is sports, and crypto is sports, and stocks are sports. Democratizing finance doesn't mean giving people easier ways to invest in broad economic growth, or to finance new business ideas. It means letting them make the bets that they want to make.

Within the next two years, will there be an ETF for [football bets](#) ? Yes? Obviously? Obviously that's where all of this is headed?

Meme stocks

I wasn't kidding, it's only going to get dumber. Meme stocks are a lot like memecoins, in that the essential structure is (1) people online pay attention to a stock so (2) they buy it and it goes up. But unlike memecoins, a stock necessarily *has* some fundamentals; there is a company with a business and a balance sheet and cash flows. Perhaps the cash flows are zero, but it is rarely the case that the cash flows will certainly be zero forever. Someone can always make some sort of case that the company's business will take off.

So the ordinary form of a meme stock is often that some people online say "I like the stock" for fundamental reasons, and other people pay attention and the stock goes up. Sometimes the influencer who starts this *explains* his fundamental reasons – [Roaring Kitty](#) got people to buy GameStop by doing very long and detailed YouTube videos about the business – but that is not strictly necessary in a meme world. Sometimes the fundamental reasons are cogent and insightful and sincerely held, but, again, not strictly necessary. If you are a meme-stock influencer with a track record of successful investing, and you tweet "I like this stock," the stock will go up. If you are a meme-stock influencer *without* a track record of successful investing, but people enjoy your schtick online, and you tweet "I like this stock," the stock will go up. Perhaps it will be easier on your conscience if you tweet "I like this stock" for some secret fundamental reason of your own, but having a conscience is also not strictly necessary.

Anyway [Kash Patel likes Krispy Kreme](#) :

Hours into his second day of contentious testimony in Congress, Kash Patel, the FBI director, sparked one of the more unusual stock rallies of the year.

Patel, who's faced withering criticism from lawmakers in both the Senate and lower house, was pressed at one point on why he had purchased individual stocks while in office. Patel explained that he's long liked to trade stocks and said that in this case he simply saw "good investment" opportunities in Krispy Kreme Inc. and ON Semiconductor Corp.

Within minutes, Krispy Kreme stock was up 12% and ON Semiconductor 4.1%. The stocks closed the day up roughly 1% and 0.5%, respectively, amid a broader market selloff following the Federal Reserve's interest-rate cut.

Presumably there are some investors who believe that Kash Patel has a market-beating ability and inclination to do fundamental analysis of stocks, but why?

Meme Enron

Look look look, if you buy the rights to the name and website of Enron Corp., and you start Enron social media accounts, and you use them to make deadpan recruiting videos that parody modern corporate culture, that is good comedy. That will get you written up in Money Stuff. Someone did that, and I've enjoyed it and [written about](#) it a [few times](#) . (Enron now stands for "Energy, Nurture, Repentant, Opportunity and Nice." That's funny!)

But you know what's much funnier? Buying the Enron name and social media accounts and using them to *start an energy company that commits complex financial fraud*. In 2025, the highest form of parody is unironically doing exactly the thing that you are supposed to be parodying.

Is that what Enron is doing? At Bloomberg Businessweek, [Max Chafkin reports](#) on the new Enron, which is run by Connor Gaydos, a 29-year-old performance artist who previously did *Birds Aren't Real*, a thing where he went around pretending to believe that birds aren't real. Now he goes around pretending to believe that he runs Enron:

At the same time Gaydos was promoting his “nuclear reactor” on social media, Enron filed a real application with the Public Utility Commission of Texas to sell electricity—essentially attempting to turn the satirical energy company into a real one. That was followed by allegations of actual financial chicanery and investor losses. The deeper I got into the reporting of this story, the harder it became to discern satire from reality, and I started to wonder if anyone besides Gaydos knew exactly where that line was.

To Gaydos—a fan of Nathan Fielder, the stunt comedian who got licensed as a real-life commercial airline pilot for the latest season of HBO’s *The Rehearsal*—none of this is as strange as it sounds. “I think I’m more a CEO than most CEOs,” he says. “Everyone’s an actor at this point.” To reinforce this idea, Gaydos name-drops a handful of his “friends” in business, including Walt Disney Co.’s Bob Iger and GameStop Corp.’s Ryan Cohen. On his relationship with Iger: “We’re not buddies, per se, but there’s a level of mutual respect.” Cohen, Gaydos says, is “someone that I’ve not met a ton but am familiar with.” Disney declined to comment. GameStop didn’t respond to a request for comment.

His whole life is apparently like this; he can’t go to the bathroom without turning it into a bit:

After holding forth on the line between satire and reality in Trump’s America, he excuses himself, walks to the other side of the room, opens a door to the outside and proceeds to urinate. “Nature is my toilet,” he says. “Please quote me on that.” Is he making a point about the hypocrisy inherent in the way energy companies talk about environmental responsibility? Is this just the most convenient place in his home to relieve himself? I’m not sure—and I can’t tell if Gaydos is either.

Same with Enron:

Gaydos got more serious about the project in 2022, imagining a *Birds Aren’t Real*-like project that would involve “bringing back this notorious company and doing it in the most self-serious way you could ever imagine,” he says. “The only question you ever needed to ask yourself was, what would the real Enron do in this situation? What would their marketing look like?”

But if your guiding principle is “what would the real Enron do in this situation,” you will eventually come up with the answer “defraud investors.” (That’s the *first* answer you’d come up with?) So Enron went and launched a crypto token, which “briefly reached a market capitalization of around \$700 million” and then “crashed in the hours that followed after two early investors sold off their shares”:

The token launch led to something resembling an actual scandal. A trade publication, *Defiant*, described the Enron memecoin as “predatory.” ...

When I began reporting on the crypto token, several people familiar with the inner workings of the project said it wasn’t a joke—the token launch had been a legitimate screwup that led to a power struggle within the company and a frantic scramble at damage control. ... Many of the token’s early buyers, according to these people, were part of the team McIndoe and Gaydos hired to orchestrate the prank. According to the account of these sources, they were victims of a reanimated version of the original Enron fraud.

Ehhh fine, I can see it, but is a memecoin rug pull *really* a reanimated version of the original Enron fraud? That's a pretty garden-variety 2025 crypto thing. I feel like he needs to sign some fictitious long-term contracts and book their entire value as revenue upfront, really lean into the Enron aspects of it.

Things happen

Nvidia [Invests \\$5 Billion in Intel](#) , Plans to Co-Design Chips. How telecoms tycoon Charlie Ergen wrestled debt-laden EchoStar back from the brink. StubHub Stock Drops in Volatile Debut. Banks Race to Prove They're Not Biased Against Conservatives. Global Banks' Financing of the [Energy Transition](#) Has Stalled. Exxon and Chevron beef up energy trading to take on European rivals. [Coffee's](#) Big Price Swings Push Volatility to Four-Year High. DeepMind and OpenAI achieve gold at 'coding Olympics' in AI milestone. BCG to train staff on 'humanitarian principles' after Gaza outcry. Albania puts AI-created 'minister' in charge of public procurement.

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1. This is approximately true in 2025, but even now stocks do often pay dividends. Still, theoretically, your stock is worth all of its future dividends, and getting a dividend today isn't great if the stock drops by more than the dividend.

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Interesting



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Where has all the leadership gone? If not for university presidents, law firm managing partners, and corporate chief executives standing up against bullies, who then will step up for the first amendment? The "suspending indefinitely" of Jimmy Kimmel immediately after the Chairman of the FCC's aggressive yet hollow threatening of the Disney Company is yet another example of out-of-control intimidation. Maybe the Constitution should have said, "Congress shall make no law abridging the freedom of speech, or of the press, except in one's political or financial self-interest." By-the-way, for the record, this ex-CEO finds Jimmy Kimmel very talented and funny.

1:17 PM · Sep 19, 2025 · **42.8K** Views

ALT



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Man, Eisner being on the right side is some real "Doctor Doom shows up to help" shit.



1



2



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Texas's Anti-Woke Corporate Governance



businesslawprofessors.com/2025/09/its-tough-to-make-predictions-especially-about-the-future-but

Ann Lipton

September 19, 2025

Texas's Anti-Woke Corporate Governance



I keep explaining in various spaces so I may as well articulate it here too: It's tough to make predictions, especially about the future, but I would be surprised if Texas wins the current chartering race, or at least, wins the race it's currently running.

The issue for Texas is that it keeps demonstrating that it is not interested in crafting a well-designed – even manager-friendly – corporate law; instead, it is interested in using corporate governance as another cudgel in the culture war.

Let's look, for example, at two recent amendments to its corporate code: [allowing corporations to limit shareholder proposals by those who hold either less than \\$1 million worth of stock or 3% of voting shares](#); and the proxy advisor law that [puts a variety of restrictions on proxy advisor advice](#).

These laws explicitly take aim at liberal-coded measures; shareholder proposals, for example, have historically been oriented toward liberal causes (despite a recent upsurge in anti-ESG proposals), and the [proxy advisor law is targeted at "ESG" advice](#).

The laws are also a model of poor drafting. The [shareholder proposal law](#), for example, does *not* apply to corporations chartered in Texas, but *does* apply to corporations headquartered in Texas or listed on the (currently nonexistent) Texas Stock Exchange. The proxy advisor

law, by contrast, [applies to corporations chartered in Texas or headquartered in Texas, but not companies listed on the TSE](#). I don't know why the inconsistency, and I'm guessing neither does the Texas legislature.

The shareholder proposal law allows corporations to limit proposals by shareholders with less than \$1 million in stock or less than 3% of the stock, but does not make clear whether it's the lesser or the greater of the two. I.e., if you own \$1 million but less than 3%, can the corporation bar you from making proposals? I cannot tell. It also allows the company to limit proposals to those who solicit 67% of the shares, but if it's a 14a-8 proposal included in corporate documents, doesn't that mean 100% of shareholders are solicited?

The proxy advisor law, of course, defines "ESG" advice as nonfinancial, even though the "G" includes "governance" – and requires proxy advisors to confess publicly to offering nonfinancial advice whenever they make ESG recommendations. That would cover virtually every bit of advice a proxy advisor offers, and label such matters as board independence, overboarding, and related party transactions as per se nonfinancial concerns. The statute takes pains to define the term "proxy proposal," but then goes on to actually use the term "shareholder-sponsored proposal" and I have no idea if they are the same thing (the reason they may not be is, [not all shareholder-sponsored proposals are offered through the Rule 14a-8 process](#)). The final portion of the statute, titled "conflicting voter advice," appears to attack scenarios where a proxy advisor offers different advice to different clients, but enigmatically includes within its sweep scenarios where the advisor counsels that "one or more clients vote for or against the proposal in opposition to the recommendation of the company's management," i.e., simply opposes management – which has nothing to do with conflicting voter advice.

There's more, but I'm lazy and that's enough to make the point: No one took these laws seriously as actual regulation of corporate governance; they read more as an expressive attack on wokeness. But that has not dissuaded the Texas Attorney General from – and this just hit the docket today – immediately appealing to the Fifth Circuit to overturn the preliminary injunction that a Texas court issued to block him from enforcing the proxy advisor law. At the same time, he's chosen to launch [an investigation into Glass Lewis's and ISS's ESG advice](#).

Meanwhile, there is one thing we know for a fact corporations want, because they strong-armed the Delaware legislature to get it: the ability to sign expansive shareholder agreements. But those kinds of agreements continue to be somewhere between very difficult and impossible to adopt in Texas, see TX BUS ORG §§ 21.101(b); 21.109, and the Texas legislature apparently preferred to spend its valuable session time outlawing ESG than loosening those restrictions.

The problem with Texas as an incorporation hub, then, is that the signal being sent by the legislature is that it views corporate law solely as a mechanism to police business activity that is insufficiently conservative-coded, and that makes boards vulnerable to retaliation if they fail to toe the line. The danger is especially acute in light of poorly-reasoned decisions like *Spence v. American Airlines*, 775 F. Supp. 3d 963 (N.D. Tex. 2025), where a Texas (federal) court held American Airlines breached its fiduciary duties under ERISA by including ordinary BlackRock funds in its 401(k) plans, at a time when BlackRock supported nonbinding climate change proposals (discussed with Mike Levin on the *Shareholder Primacy* podcast, [here](#)).

You might be thinking, Texas's protections against shareholder lawsuits are so robust that there would be little opportunity for a politically-motivated attack to gain traction. But I can see ways that a sympathetic (or unsympathetic, depending on which side of the "v" you sit) court could allow a claim to proceed. For example, Texas bars inspection of books and records in anticipation of litigation, see TX BUS ORG § 21.218; but a claimant might disclaim a litigious purpose. And, that permission Texas corporations have to limit shareholder lawsuits to 3% holders? Only applies in derivative actions, see TX BUS ORG § 21.552, and the direct/derivative distinction is endlessly malleable. Finally, of course, the Texas Attorney General [could always sue](#) to [dissolve a corporation's charter](#).

[Delaware famously dismissed a shareholder lawsuit against Disney concerning its opposition to the "Don't Say Gay" law](#), but I genuinely can't be sure a Texas court would do the same – and, more importantly, neither can corporate boards.

And another thing. No new [Shareholder Primacy](#) podcast this week, but if you really want to hear me talk even more about Elon Musk's pay package, and Texas corporate law vs Delaware's, [here's me on Fordham Law School's Bite-Sized Business Law podcast](#), and on [Bloomberg's Odd Lots podcast](#).

Litigation

Manage Newsletters

Texas Appeals Pause on ESG Restraints for Proxy Advisers (1)

Sept. 19, 2025, 8:03 AM PDT; Updated: Sept. 19, 2025, 9:41 AM PDT

Summary by Bloomberg AI

AI Generated



- Texas Attorney General Ken Paxton is asking a federal appeals court to impose a law that restricts firms giving ESG-related voting guidance to companies' shareholders.
- Paxton appealed Judge Alan Albright's August decision halting the state law, which directs proxy advisory firms to disclose they use "nonfinancial factors" in creating recommendations related to environmental, social, and governance issues.
- The law was challenged by Glass, Lewis & Co. and Institutional Shareholder Services Inc., who sued to toss the statute, saying it violated the First Amendment, among other claims.

Texas Attorney General Ken Paxton (R) is asking a federal appeals court to impose a law that restricts firms giving ESG-related voting guidance to companies' shareholders.

Paxton said in Thursday filings he appealed Judge Alan Albright's August decision halting the state law to the US Court of Appeals for the Fifth Circuit. Albright, of the US District Court for the Western District of Texas, froze SB 2337 before it was scheduled to take effect on Sept. 1.

SB 2337 directs proxy advisory firms to disclose they use "nonfinancial factors" in creating recommendations related to environmental, social, and governance issues. Glass, Lewis & Co. and Institutional Shareholder Services Inc. sued to toss the statute in separate cases, saying it violated the First Amendment, among other claims. Paxton called the law "perfectly valid" in court filings.

"ISS will vigorously support the District Court's ruling blocking the Texas AG from applying this law against the Company on appeal," Subodh Mishra, a spokesperson for the firm, said in a statement on Friday.

A Glass Lewis representative didn't immediately respond to a request for comment.

Paxton filed notices of appeal two days after the attorney general announced he was investigating ISS and Glass Lewis for potentially misleading investors with their voting recommendations. The firms push “radical political agendas” that conflict with shareholders’ best financial interest, his office said in a Sept. 16 statement. ISS and Glass Lewis are the two biggest providers of proxy advice to pension funds and other large investors, which pay for the firms’ services.

Republicans and business groups for years have said ISS and Glass Lewis use their dominance to advance an ESG agenda through shareholder votes at companies’ annual meetings. The firms dispute claims they push ESG issues against their clients’ financial interest.

The cases are Glass Lewis v. Paxton , W.D. Tex., No. 1:25-cv-01153, notice of appeal filed 9/18/25 and Institutional Shareholder Services Inc. v. Paxton , W.D. Tex., No. 1:25-cv-01160, notice of appeal filed 9/18/25 .

(Updates with ISS spokesperson’s comment in fourth paragraph and additional background throughout)

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Securities

Trio of Tesla Investor Proposals Shows Angst Over Texas Laws (1)

Sept. 18, 2025, 10:59 AM PDT; Updated: Sept. 18, 2025, 12:31 PM PDT

Tesla's recent reincorporation in Texas, which this year passed a suite of legislation that would cut into investor rights, spurred a batch of shareholder proposals asking the automaker to keep the status quo.

Three of eight shareholder resolutions included in Tesla Inc.'s proxy statement are seeking to curb the effects of new Texas business laws. Gov. Greg Abbott (R) signed into law this year measures that allow companies to further limit who can file shareholder proposals and bring shareholder lawsuits.

The proposals demonstrate anxiety among investors after Tesla's reincorporation to Texas, which is known for its looser business regulations that are "part of a wider effort to undermine the rights of small shareholders," according to an emailed statement from Illinois Treasurer Michael Frerichs (D), whose office filed a Tesla proposal.

"CEOs and Boards are not kings," Frerichs said. "They answer to the people who own the company, and the shareholder proposal process is part of this accountability."

The state's recent amendments to its business code were intended to entice public companies. Tesla reincorporated in Texas in 2024 following a Delaware court decision that voided founder and CEO Elon Musk's nearly \$56 billion executive pay package— though the board has since proposed a \$1 trillion pay package for Musk if he meets certain targets. The EV maker also moved its headquarters from Palo Alto, California, to Austin in 2021.

'Liberal-Coded' Shareholder Framework

Before Tesla reincorporated in Texas, the state had pretty "vanilla" corporate laws, said Ann Lipton, a corporate governance scholar and law professor at the University of Colorado Boulder. But this year, Texas has dived deep into a battle to win charters by increasing protections to management in various ways, which has upset shareholders, she said.

She pointed to another recently enacted Texas law requiring proxy advisors to disclose that ESG-related advice isn't "being provided solely in the financial interest of" investors. However, a federal judge in Texas has temporarily blocked the policy before it could go into effect, siding with two proxy advisory firms' free speech arguments.

The shareholder proposal process in particular—with its emphasis on environment, social, and governance, and general stockholder oversight—is a "liberal-coded" framework, which makes it easy for Texas to attack, Lipton said.

"Texas is going to lose if its approach to corporate governance is culture war," she said.

Two proposals on Tesla's ballot, filed with the Securities and Exchange Commission Wednesday, aim to let shareholders vote on whether the company can bar smaller investors from submitting shareholder resolutions.

The SEC says anyone who owns \$2,000 worth of a company's stock for at least three years can submit a shareholder proposal. But a Texas law that went into effect Sept. 1 allows companies to ratchet up that threshold to \$1 million of company stock or 3% of voting shares—whichever is less.

Protecting Shareholder Rights

Shareholder proposals are a "crucial mechanism" and have spurred important reforms at many companies, according to a proposal filed by the Illinois State Treasurer's office. Its resolution would require a two-thirds affirmative vote ratifying any company decision that increases thresholds for proposals.

"To be plain, adopting extremely high filing thresholds would be bad corporate governance," Frerichs said in a statement. "We are simply asking that investors continue to have their fundamental rights as shareholders to solicit feedback around material issues that can affect Tesla's long-term value."

Tesla's board responded to the proposal by pointing out that it hasn't adopted the measure into its bylaws.

"The proponents are using a blunt instrument— further limitations on the Company's and its shareholders' ability to amend Tesla's bylaws—to address an issue that is premature and nascent," the board's statement says.

A third Texas-related proxy proposal from the New York state comptroller's office seeks to repeal Tesla's tightened policy around derivative suits, which are lawsuits brought by shareholders on behalf of a corporation.

Under a Texas law enacted earlier this year, companies can set a 3% ownership threshold for shareholders to bring this type of action, where there was no minimum before. Tesla changed its bylaws accordingly in spring.

“When directors or officers violate their fiduciary duty, the backstop—the last resort for shareholders to enforce their rights—is the shareholder derivative suit,” the New York state comptroller’s office said in its proposal. “Tesla’s decision to insulate its Board and officers from almost all accountability and responsibility for violations of fiduciary duty is egregious.”

Tesla, in its response, said any shareholder can initiate a derivative suit if it gathers support for 3% of the base. “The bylaws do not prevent shareholders from soliciting that support; instead, they allow an unlimited number of shareholders to aggregate their holdings in order to satisfy the threshold,” the board wrote.

Other shareholder proposals on the ballot ask Tesla to

- allow board investment in xAI
- assess the feasibility of integrating sustainability metrics into executive compensation
- conduct a child labor audit
- elect board directors annually
- and eliminate supermajority voting requirements from its bylaws

The company’s annual meeting is scheduled for Nov. 6.

(Updated with quotes from Lipton starting in the sixth paragraph.)

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Securities

Traders Blame 'Insane' Tech Advancements for Quiet FX Markets

Sept. 19, 2025, 12:00 AM PDT

Advancements in electronic trading may be crushing volatility in the currency market, making prolonged wild swings a thing of the past.

That's the view of some of the participants at an annual industry shindig in Barcelona this week, where the impact of growing automation and algorithmic trading were the hot topics. Some warned that the lack of dramatic action creates the risk that market makers may exit as it becomes harder to generate profits.

The comments come as volatility in the \$7.5 trillion-a-day foreign-exchange market has dwindled to near the lowest in a year, making the turbulence around April's US trade tariff news a blip in a longer-term decline. While traders thrive on big swings, a calmer environment could be good for asset managers and companies looking to hedge their exposure.

"The ability for volatility to collapse has gone up exponentially," said **Gordon Noonan**, head of FX trading at Schroders, pointing to price action after US non-farm payrolls data as evidence of "insane" developments in electronic trading. "Spreads used to blow out for ages, now we're back straight within 30 seconds."

The shift has turned currencies into a strange corner of global markets, detached from the bigger swings seen in stocks and bonds despite a plethora of economic and geopolitical risks.

The calm shows up across multiple measures. The euro's intraday moves are less than half the long-run norm, even as Treasury yields are swinging almost exactly in line with their historical rhythm. Bloomberg's Market Impact Monitor also shows a tighter FX response recently to major economic releases compared to Treasuries.



There are still some sporadic intraday price spikes — like the big moves seen during April's tariff turmoil and around central bank meetings — but the market now more quickly returns to a sleepier status quo due to the changing makeup of the dominant players, according to XTX Markets Ltd.

"A lot of that is down to the rise of pod shops and so many competing systematic strategies," said **Jeremy Smart**, head of distribution at the firm. "It is possible to see a world where non banks look at FX and go: 'the returns just aren't really that valuable versus other asset classes'."

That's turned betting against volatility into a key strategy in currency markets. In the past, asset managers would use such an environment as a chance to snap up cheap hedges against the next flare-up, but such events are becoming rarer.

"A few years ago, we would have a flash crash every so often. That hasn't happened," said Schroders' Noonan, arguing that specialist currency traders may no longer even be needed. "The market is now incredibly efficient in how they look at risk and price it."

Read more: Short Volatility Trades Are Starting to Rule Currency Markets

Yet the recent slump in swings has been perplexing for some, who see it as being at odds with the macro backdrop. Explanations at the TradeTech FX conference in Barcelona ranged from the lack of emotion in having machines replace human traders to a dwindling number of players making big directional bets.

Some argued the lack of volatility is justified as interest rates have been declining in tandem across many developed markets, particularly now that the Federal Reserve has rejoined that trend with its decision to ease US policy on Wednesday.

"As central banks converge on their policy, obviously that's gonna be a deflater of FX vol," said **John Rothstein**, chief operating officer at Optiver. "It is expected, unfortunately. It's just maybe strange that it looks different than some of the other asset classes."

Part of the angst for the crowd in Barcelona is coming from a fear that the adoption of similar trading technologies is having a herd-like impact on the market. Some contended that algorithms would move toward almost identical pricing models and strategies.

Still, investing in even more technology remains a priority for currency firms this year, according to a survey by London Stock Exchange Group Plc. That found firms are turning to machines over hiring humans to gain a competitive edge in the increasingly automated market.

Read more: Investing in Machines Over Humans Is Priority for Currency Firms

"That's the journey that we've been on as industry over the last 20 years — it used to be super manual," said **Torsten Schoeneborn**, co-head of G-10 FX trading at Barclays Plc. "Now when you're a trader in many ways you are working with a machine that's doing a lot of trading for you and you are just receiving the signals and fine tuning."

--With assistance from **Vassilis Karamanis**.

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Securities

Manage Newsletters

Pattern Group Shares Fall 8.9% After Firm's \$300 Million IPO

Sept. 19, 2025, 10:08 AM PDT

Summary by Bloomberg AI

AI Generated



- Pattern Group Inc. fell as much as 8.9% in its inaugural trading day after raising \$300 million in an initial public offering.
- The company's shares traded at \$13.50 each, below the IPO price of \$14, giving the company a market value of about \$2.38 billion.
- Pattern helps brands sell on third-party online venues such as those run by Amazon, Walmart Inc. and Macy's Inc., and its services include buying inventory for brands and selling it, as well as helping them manage fulfillment and logistics.

Pattern Group Inc., an e-commerce firm that resells goods on marketplaces such as Amazon.com Inc., fell as much as 8.9% in its inaugural trading day, after the company and some of its [investors raised](#) \$300 million in an initial public offering.

Shares in the Lehi, Utah-based company traded at \$13.50 each as of 1:03 p.m. in New York, below the IPO price of \$14, compared to a marketed range of \$13 to \$15. The trading gives the company a market value of about \$2.38 billion, based on the outstanding shares.

The company ranks second in the US on Amazon's marketplace, according to data compiled by Marketplace Pulse based on the number of reviews sellers received in the past 30 days. In 2021, the company [raised](#) \$225 million in a funding round led by Knox Lane that lifted the company's pre-money valuation to about \$2 billion.

Pattern had net income of \$32.1 million on revenue of \$1.1 billion for the six months ended June 30, compared with net income of \$22.6 million on revenue of \$841.3 million in the same period a year earlier, according to the filing.

Founded in 2013 by David Wright and Melanie Alder, who are married, Pattern helps brands sell on third-party online venues such as those run by Amazon, Walmart Inc. and Macy's Inc., its website shows. The company's services include buying inventory for brands and selling it, as well as helping them manage fulfillment and logistics and offering software and marketing services.

Brand aggregators have been in a consolidation phase since a pandemic-era boom evaporated. Razor Group [agreed](#) to buy Perch last year in an all-stock deal valuing the combined company at \$1.7 billion.

Read More: [BlackRock, Investors Pump Funds Into Amazon Aggregator Razor](#)

After the IPO, the co-founders are expected to hold 86.5% of shareholder voting power. Knox Lane is set to have 4.7% of the votes, and Banner Capital would have 2.5%, the filing shows.

The offering was led by Goldman Sachs Group Inc. and JPMorgan Chase & Co. Pattern shares trade on the Nasdaq Global Select Market under the symbol PTRN.

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News from Bloomberg Terminal

Trump's NYT Lawsuit Tossed for Now as 'Inexcusably' Long

Sept. 19, 2025, 10:26 AM PDT

Summary by Bloomberg AI

AI Generated



- A US judge in Florida tossed out President Donald Trump's \$15 billion defamation lawsuit against the New York Times, finding the president's lawyers failed to follow court rules requiring "short, plain, direct" claims.
- The judge said Trump's lawsuit "unmistakably and inexcusably" violated the court's rules by featuring "repetitive," "superfluous" and "florid" allegations and details, but allowed Trump's lawyers to refile an edited version within the next month.
- The judge gave Trump's team 28 days to present a new version of the lawsuit, limiting it to 40 pages, after criticizing the initial complaint for including "laudatory" statements about Trump and negative language used to describe the Times' coverage.

By Zoe Tillman

(Bloomberg) --

A US judge in Florida for now tossed out President Donald Trump's \$15 billion defamation lawsuit against the New York Times days after it was filed, finding the president's lawyers failed to follow court rules requiring "short, plain, direct" claims.

US District Judge Steven Merryday issued an order on Friday concluding that Trump's lawsuit "unmistakably and inexcusably" violated the court's rules by featuring "repetitive," "superfluous" and "florid" allegations and details, but said that his lawyers could refile an edited version within the next month.

Trump filed a lawsuit in federal court in Tampa earlier this week against The New York Times Co. and Penguin Random House LLC, accusing the paper of serving as a "mouthpiece" for the Democrats, pitting himself against one of the world's oldest and most prominent news organizations.

Read More: Trump Files \$15 Billion Lawsuit Against New York Times

The 85-page complaint featured language and information that Merryday said went far beyond the limits of what the court's rules allow. Even under a "generous and lenient" interpretation, the judge wrote, the lawsuit was "decidedly improper and impermissible."

The judge criticized what he called "laudatory" statements included in the lawsuit about Trump, such as his "historic" election win and the "cultural magnitude" of his "singular brilliance." The judge also called out Trump's recitations of his business and media track records, as well as negative language used to describe the Times' coverage, such as "new journalistic low."

Even if all of the allegations in Trump's lawsuit are true, the initial complaint wasn't an appropriate place "for the tedious and burdensome aggregation of prospective evidence, for the rehearsal of tendentious arguments, or for the protracted recitation and explanation of legal authority," he wrote.

Trump's personal attorneys handling the case did not immediately respond to a request for comment shortly after the order was released on Friday afternoon.

A spokesperson for the New York Times wrote in a statement that "we welcome the judge's quick ruling, which recognized that the complaint was a political document rather than a serious legal filing."

Merryday gave Trump's team another 28 days to present a new version of the lawsuit, this time limiting it to 40 pages.

Alleged Defamation

The suit, which was filed Monday, claims Trump's reputation was harmed by the 2024 book *Lucky Loser: How Donald Trump Squandered His Father's Fortune and Created the Illusion of Success* and by three Times articles that were published in the runup to the 2024 election.

Trump claims the book and articles are part of a "decades-long pattern by the New York Times of intentional and malicious defamation" against him. The suit raises numerous disputes with the Times, including its "deranged" front-page endorsement of former Vice President Kamala Harris in the 2024 election, that are not included in his legal claims.

The case was one of Trump's running battles with the press. In July, he sued Dow Jones & Co., News Corp. and Rupert Murdoch for libel, seeking \$10 billion in damages after the Wall Street Journal published a story alleging that Trump once sent a suggestive birthday letter to Jeffrey Epstein. House Democrats later released the alleged birthday note as part of a trove of documents received by the House Oversight Committee.

Trump reached a settlement with Paramount Global in July over a lawsuit tied to CBS news network's *60 Minutes* interview with then-Vice President Harris. In December, ABC agreed to give \$15 million to Trump's future presidential foundation or museum to resolve a separate defamation claim.

The case is Trump v. New York Times Co., 25-cv-2487, US District Court, Middle District of Florida.



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Cytokinetics Investor Sues Over Heart Drug Approval Claims

By **Katryna Perera**

Law360 (September 18, 2025, 8:50 PM EDT) -- Biopharmaceutical company Cytokinetics and its CEO have been hit with a proposed investor class action in California federal court alleging they made false and misleading statements about the regulatory timeline for one of the company's new drugs, which caused a share price drop when the truth came to light.

Plaintiff Judah Seidman filed a **complaint** on Wednesday against Cytokinetics and CEO Robert Blum on behalf of a proposed class of all those who purchased or acquired Cytokinetics common stock between Dec. 27, 2023, and May 6, 2025.

According to the complaint, Cytokinetics develops muscle-activating and muscle-inhibiting drugs as treatments for diseases in which muscle performance is compromised. The company's leading drug candidate, aficamten, is a muscle inhibitor meant to treat obstructive hypertrophic cardiomyopathy, "a condition where the heart muscle thickens, leading to obstructed blood flow and symptoms such as shortness of breath, chest pain, and fatigue."

"Aficamten aims to reduce cardiac muscle contractility, thereby improving blood flow and alleviating symptoms," the complaint said.

Seidman claims that throughout the class period, Cytokinetics and Blum made false and misleading statements about the timeline for aficamten's New Drug Application, or NDA, with the U.S. Food and Drug Administration.

The complaint says the defendants represented that approval for aficamten from the FDA was expected in the second half of 2025, but that they failed to disclose material risks related to Cytokinetics' failure to submit a Risk Evaluation and Mitigation Strategy, or REMS, which could delay the regulatory process.

"These misrepresentations began on Dec. 27, 2023, when Cytokinetics announced positive topline results from the SEQUOIA-HCM Phase 3 clinical trial of aficamten, which formed the basis of the NDA submission," the complaint said. "Defendants repeatedly affirmed the company's progress toward regulatory submissions and commercial readiness, including statements in press releases, earnings calls, and investor presentations, while concealing the FDA's potential requirement for a Risk Evaluation and Mitigation Strategy program due to aficamten's intrinsic properties."

The defendants created the false impression that aficamten's NDA had been properly submitted, Seidman says, when in reality, the defendants had omitted a REMS from the initial NDA submission, "despite prior FDA discussions about safety and risk mitigation, and that the subsequent REMS submission necessitated a three-month delay in the FDA's process for potential approval."

The complaint states that the truth began to emerge in March this year when Cytokinetics disclosed in filings with the U.S. Securities and Exchange Commission that the FDA had decided not to convene an advisory committee meeting to review the NDA for aficamten.

Then, on May 1, Cytokinetics announced that the FDA had extended the Prescription Drug User Fee Act action date for aficamten's NDA from Sept. 26, 2025, to Dec. 26, 2025, to "review a REMS submitted at the FDA's request after the initial NDA filing," the complaint states.

"According to the press release, the FDA notified Cytokinetics that additional time is required to conduct a full review of the company's proposed REMS," the complaint said. "This disclosure revealed that defendants had not included a REMS in the original NDA, despite prior discussions with the FDA about safety and risk mitigation, and that the subsequent REMS submission constituted a major amendment, necessitating a three-month extension."

On this news, Cytokinetics' stock price fell by \$5.57 per share, or 13%, to close at \$37.35 on May 2, 2025, Seidman says.

A second disclosure allegedly occurred a few days later, on May 6, when Blum admitted during an earnings call that Cytokinetics had multiple pre-NDA meetings with the FDA to discuss safety monitoring and risk mitigation but chose not to submit a REMS with the NDA for aficamten.

"This confirmed defendants' awareness of potential REMS requirements and their reckless decision to omit it from the initial submission, misleading investors about the regulatory timeline," the complaint said.

On this news, Seidman says, Cytokinetics' stock price fell again, this time by \$0.93 per share to close at \$33.04 on May 7.

The suit seeks damages, attorney fees and a jury trial. Cytokinetics declined to comment Thursday, and counsel for Seidman did not immediately respond to requests for comment.

Seidman is represented by Adam Apton of Levi & Korsinsky LLP.

Counsel information for the defendants was not immediately available.

The case is Seidman v. Cytokinetics Incorporated et al., case number 3:25-cv-07923, in the U.S. District Court for the Northern District of California.

--Editing by Linda Voorhis.



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Arbitration Clauses Won't Protect IPOs From Investor Suits

By **Jessica Corso**

Law360 (September 18, 2025, 9:50 PM EDT) -- With the U.S. Securities and Exchange Commission greenlighting the use of mandatory arbitration clauses for newly public companies, securities litigation experts are waiting to see whether any company is willing to risk the almost inevitable legal blowback that will come with taking advantage of the policy.

The agency **said Wednesday** that it will not slow the approval process for initial public offerings whose registration statements contain language requiring investors to arbitrate disputes rather than pursue a class action in federal court.

While dissenting Democratic Commissioner Caroline Crenshaw warned that the regulator was "quietly shutting the door on investors" by adopting the policy, securities attorneys told Law360 that there are litigation risks that come with a company adopting an arbitration clause, even absent any SEC action.

Adopting a mandatory arbitration clause "is sort of buying a lawsuit," said Salvatore Graziano of investor-side firm Bernstein Litowitz Berger & Grossmann LLP.

A company going public in that way "is going to anticipate immediately getting involved in litigation," Graziano said, "which doesn't seem to be something that most companies going public want to sign up for right at the outset."

For one thing, some states prohibit the use of mandatory arbitration clauses in corporate bylaws or charters. One such state is Delaware, where the majority of the nation's Fortune 500 companies are incorporated, as SEC Chair Paul Atkins acknowledged Wednesday in his statement supporting the arbitration policy.

The policy memo itself said that "potential uncertainty exists" about whether those state laws will be preempted by the Federal Arbitration Act of 1925, which SEC staff says favors arbitration agreements.

The memo also discussed the interplay between the FAA and the anti-waiver provisions of the securities laws, noting that some argue the provisions prohibit companies from stripping investors of the ability to file class action lawsuits.

The SEC staff, in the memo, "does a decent job of documenting a series of cases that would seem to indicate that this would be permissible under federal law," Matthew Close, co-chair of O'Melveny & Myers LLP's securities practice, told Law360. "But I certainly expect there to be challenges and that issue to be tested."

Close said that while most corporations might take a wait-and-see approach, it's likely that at least one company will take advantage of the SEC policy and decide to test the waters in court.

"I would bet we see a company come out before the end of the year in an IPO with a provision like this," the defense-side attorney said. "It'll be interesting to see who is ready to take this on and be the first mover."

Whether a newly public company is ready to take on the litigation risks that come with inserting an

arbitration clause into its registration statement, in part, depends on whether investors would sign up for such a thing in the first place, Bernstein Litowitz's Graziano noted.

Large institutional investors like the clients he represents likely wouldn't want to invest in such a venture, he said.

"I think the corporations and the executives of the corporations are sensitive to not alienating their investors," Graziano said.

Close, however, didn't believe all investors would balk.

"I'm not so sure [investors] are going to refuse to invest in companies with these provisions," he said. "I mean, let's be honest, most of these large institutional investors probably use arbitration clauses in their own commercial agreements or employment agreements or otherwise."

--Editing by Kelly Duncan and Drashti Mehta.

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Chinese Aircraft Co., Investors Ink \$1.9M Deal Over 'Fake' Sales

By **Katryna Perera**

Law360 (September 18, 2025, 6:02 PM EDT) -- A California federal judge has granted the first green light to a \$1.9 million settlement between investors and Chinese autonomous aircraft company EHang to resolve claims the company made false and misleading statements about pre-orders for its autonomous aerial vehicles.

During in-chamber proceedings Wednesday, U.S. District Judge Michelle Williams Court granted preliminary approval of the deal and certified a class of all individuals and entities who purchased or acquired EHang publicly-traded American depository shares between March 29, 2022, and Nov. 6, 2023.

The judge also named Zhan Kui Zhang as class representative and the Rosen Law Firm PA as class counsel. In granting preliminary approval, the judge said she found the deal to be fair and reasonable and that the class meets all the necessary criteria, including numerosity and commonality.

The **order** states that class counsel plan to request attorney fees of no more than 25% of the settlement fund, or roughly \$496,000, litigation expenses not exceeding \$67,000, and a \$2,500 service award for the lead plaintiff.

The order further states that authorized claimants who suffered losses during the class period will receive a pro rata share of the settlement based on when and at what price they purchased, acquired, and/or sold EHang shares. According to the order, the settlement amount represents 8.6% of the class's estimated damages.

EHang, based in Guangzhou, China, manufactures automated aerial vehicles, also known as AAVs. Investors claimed the company misleadingly touted the number of pre-orders it received, claiming it had a backlog covering several years' worth of production, which reduced the risk profile for investors since they purportedly did not have to worry about demand for the vehicles.

However, the operative complaint, filed last October, alleged the book of pre-orders was a "Potemkin village."

"The two largest pre-orders in EHang's backlog were a 1,000-unit order from a U.S. biotechnology company, United Therapeutics Corporation, and an order for 100 AAVs from an Indonesian company, Prestige Aviation. Neither was what EHang claimed," the investors said in the complaint.

Citing a report published by investment research firm Hindenburg Research LLC, the investors said that "by the start of the class period, the United Therapeutics' pre-order had already been cancelled ... [and] the Prestige Aviation pre-order was wildly inflated. In actuality, Prestige Aviation's pre-order was for approximately 12 AAVs, not 100."

On this news, according to the complaint, EHang's share price fell by 12.7%, or \$1.90 per share.

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

The investors are represented by Yu Shi and Laurence M. Rosen of The Rosen Law Firm PA.

EHang and the individual defendants are represented by Koji F. Fukumura, Craig E. Tenbroeck, Linh

K. Nguyen, Matthew D. Martinez, Nicholas Orr, Sarah M. Lightdale and Erinma E. Man of Cooley LLP.

The case is Damien Pujo v. EHang Holdings Ltd. et al., case number 2:23-cv-10165, in the U.S. District Court for the Central District of California.

--Editing by Lakshna Mehta.

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Delaware Judge Calls For Civility After 'Annus Horribilis'

By **Jeff Montgomery**

Law360 (September 18, 2025, 10:03 PM EDT) -- In a rare postscript to her bench ruling this week, a Delaware vice chancellor lamented what she observed as a breakdown in the state bar's civility and mutual respect over the past "annus horribilis," comments that have since drawn cautious support and resonance with several in the First State's legal community.

The remarks came after Vice Chancellor Morgan T. Zurn approved a \$30 million settlement for a contested stockholder challenge to the \$30 billion reverse spinoff of Barry Diller-controlled Match.com in 2019.

The Match suit, dismissed in 2022 and reversed in 2024 by Delaware's Supreme Court, stood out in a period that saw Delaware become a lightning rod for criticism, with some companies threatening to leave the state that is home to roughly two-thirds of American corporations, and a few, such as Elon Musk's Tesla and X, making good on the pledge. Lawmakers also passed hotly debated revisions to the state's General Corporation Law in 2024 and this year that critics alleged were tilted heavily to corporations and controllers.

The most recent, Senate Bill 21, approved this year, barred damages or "equitable" relief for some controlling stockholder or going-private deals, arguing that nothing in the measure unconstitutionally limits court powers.

Francis G.X. Pileggi, managing partner of the Wilmington office of Lewis Brisbois Bisgaard & Smith LLP, co-chair of the firm's directors & officers litigation practice and a member of the complex business & commercial litigation practice, said Thursday the episode reflects "two schools of thought fighting for control of the future of the DGCL — and perhaps the character and soul of the Delaware bench and bar as well."

On Wednesday, after approving the Match.com settlement, in a case that had been reversed and remanded by Delaware's Supreme Court, the vice chancellor acknowledged she was "heartbroken" at a breakdown in "civility and respect" that has emerged in recent corporate litigation.

Vice Chancellor Zurn's Full Statement

In 1992, Queen Elizabeth called her 40th year on the throne her annus horribilis — a year plagued by a fire at Windsor Castle and family crises as marriages in the royal family broke down, with the media gobbling up and reporting on every lurid detail. The year that followed the remand in this case was the Delaware bar's annus horribilis. The mutual respect and civility that bind us have broken down. And academics and other states, jealous of what we have, have gobbled it up. I think

Queen Elizabeth was in pain because she knew the monarchy only endures so long as citizens continue to believe in the dignity of the crown I am heartbroken along the same lines. Our bar is a special institution because we believe we should be, and because we choose to treat it as something larger than ourselves. I have redoubled my efforts in this past year to give the institutions of this court and our bar my very best every day, not just as a Vice Chancellor, but also as a person. I hope Delaware lawyers can do the same. Our institutions need it. If you have time today after you leave the courtroom, grab a coffee with one of your friends across the aisle. I am hopeful that our annus horribilis is over, and we can begin to heal as a community.

We're adjourned

Vice Chancellor Morgan T. Zurn's comments followed final rulings on a \$30 million mediated settlement Wednesday that resolved a five-year dispute over company controller clout and the fairness of Match.com's 2019 reverse spinoff from Barry Diller-controlled IAC/Interactive.

Stockholder attorneys took home \$6.9 million from the case Wednesday, one of a handful of cases that triggered state General Assembly corporation law amendments both in 2024 and this year. The latest allowed corporate boards to cede some governance rights to chosen stockholders, part of a package slammed through the Legislature over objections from the plaintiffs bar and under the shadow of a threatened corporate charter exodus.

Vice Chancellor Zurn's comments – read with little preface beyond "This closes the chapter on Match" — likened the past year to one of the darkest recent times in Great Britain's monarchy and closed by urging camps of the state bar to reach "across the aisle."

"The year that followed the remand in this case was the Delaware bar's annus horribilis," the vice chancellor said from the bench after issuing the decision. The vice chancellor referred to a label the late Queen Elizabeth II gave in 1992 during her troubled, highly publicized 40th year on the throne. "The mutual respect and civility that bind us have broken down. And academics and other states, jealous of what we have, have gobbled it up," the vice chancellor said.

Ann Lipton, professor of law and Laurence W. DeMuth Chair of Business Law at University of Colorado Law School, said in an email: "I share [Vice Chancellor Zurn's] sorrow but I am less hopeful for an amicable resolution. Fundamentally any system that purports to control how billions — or trillions — of dollars is allocated is going to have to make contentious choices."

"Our bar is a special institution because we believe it should be, and because we choose to treat it as something larger than ourselves," the vice chancellor said, closing by suggesting counsel, "grab a coffee with one of your friends across the aisle."

Delaware Chancellor Kathaleen St. J. McCormick and Vice Chancellor J. Travis Laster, whose decisions have also been at the center of recent controversies, did not respond to a request for comment on Vice Chancellor Zurn's remarks.

"I share the vice chancellor's concerns" about competition for the DGCL's direction, said Pileggi, of Lewis Brisbois. "The current manner of the struggle has more of a 'rough and tumble' aspect than most disputes over changes in the DGCL in the past decade and earlier." He added that "the winner of the first few rounds does not always determine the ultimate victor."

In the balance is a significant contributor to Delaware's economy, state revenues and budget. About 68% of the nation's Fortune 500 and more than 2 million corporate entities are chartered in Delaware overall, with corporate franchise revenues accounting for about a quarter of the state's general fund.

Both Chancellor McCormick and Vice Chancellor Laster were called out publicly during debate over the DGCL changes for their positions and decisions. Former Chancellor William B. Chandler III, now a Wilson Sonsini Goodrich & Rosati PC partner, pointedly described the two jurists' views as outliers.

At the time, Chandler said, "Right now, the corporate market is not feeling good about Delaware because of the uncertainty" created by a few decisions "by just two judges."

Lawrence A. Hamermesh, a retired Widener University Delaware Law School professor and former executive director of the Institute for Law and Economics at the University of Pennsylvania Carey Law School, said Thursday it had been a "trying" year or more.

"Vice Chancellor Zurn's emphasis on allegiance to the institutions that have created and sustained Delaware's reputation as the business formation forum of choice has a corollary," Hamermesh said. "All of us, lawyers and judges alike, need a good dose of humility to avoid overstating our own importance and rectitude."

Controversies like Match Group offer a perfect example, Hamermesh said, adding: "I thought the Supreme Court's opinion was wrongly decided, but I have always understood that it was a contestable issue," and strive to avoid questioning the integrity of those with different views.

"I did deeply resent, however, being publicly castigated as a tool of Elon Musk and 'billionaires'" for supporting the legislation approved in March, S.B. 21 and for supporting the bill's treatment of Match, Hamermesh told Law360. "I can only hope that Vice Chancellor Zurn's pronouncement will discourage that sort of discourse going forward."

Musk and his interests have been frequent-fliers in the Delaware courts. Most recently, attorneys for Musk-controlled Tesla Inc. told Delaware's Supreme Court that counsel for stockholders who secured a disputed \$735 million in savings from director cash and options rollbacks deserve less than the \$176.2 million fee awarded the team.

Stuart Grant, a founder of Delaware-based Grant & Eisenhofer PA who also directs litigation finance venture Benchwalk Advisors, said the Court of Chancery has been doing a good job deciding cases under existing law.

But when some litigants are unhappy with the result, he said, "those litigants have been very public about that, and have accused the court of being activist and doing all sorts of other things," including not following the law.

In the past, Grant said, the Delaware bar would discourage clients from attacking the court and would if needed dispute the claims, but "I think that's changed, in very much the same movement of the country over the last few years. If someone doesn't like something, there's no longer respect for institutions."

"I think the court is very unhappy that the bar has not rallied around the judiciary, which it always has," Grant said. At the same time, the court's rulings are growing in page counts and complexity, he said, as any unclarified detail creates a risk of challenge.

Anat Alon-Beck, an assistant professor at Case Western Reserve University School of Law, said Thursday that Vice Chancellor Zurn appeared to be speaking "about the turbulence the Delaware corporate law ecosystem has experienced" recently.

"We've seen an intense combination of pressures: public criticism of Delaware's dominance, aggressive challenges from other states like Nevada and Texas seeking to attract corporations, growing scrutiny from academics and policymakers, and unusually heated litigation (including Match and Moelis) that strained the norms of civility and consensus that usually characterize the Delaware bar," Alon-Beck said.

Recent events point to a court push for restoration of civility, Alon-Beck said, with the court "signaling to practitioners that tone and professionalism matter, not just outcomes."

Gregory V. Varallo, a Bernstein Litowitz Berger & Grossmann LLP partner and head of its Delaware office, said Thursday the past year had been "tough indeed, especially for investors who found themselves stripped of remedies our courts spent three decades fashioning."

Varallo said he hoped that corporate law would return to being drafted through the Delaware Bar Association's Council on Corporation Law, "and that the Council will rediscover its tradition of collaboration" across interest groups.

"Without constructive good-faith engagement, I fear for the continued vitality of the century-old tradition of apolitical, expertly crafted, world-leading legislation and the vibrant corporate ecosystem it supports," Varallo said.

--Editing by Linda Voorhis.

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Disney's \$233M Deal In Living Wage Suit Gets Final OK

By **Rae Ann Varona**

Law360 (September 17, 2025, 11:36 PM EDT) -- A California state court has granted final approval of Walt Disney Co.'s \$233 million settlement with more than 51,000 Disneyland workers who accused the entertainment company of flouting the city of Anaheim's minimum wage ordinance, handing the workers' lawyers \$35 million in attorney fees.



A proposed class action filed by Disneyland Resort workers in 2019 accused Disney and a company that runs food services at the Anaheim theme park of underpaying workers in violation of a local 2018 ballot measure. (AP Photo/Jae C. Hong)

Orange County Superior Court Judge William D. Claster, on Tuesday, said in an order that the terms of the deal were "fair, reasonable and adequate" and in the best interests of the class of workers, who are set to receive roughly \$180 million, according to a motion for preliminary approval of the deal from December.

Judge Claster said that attorneys at Hadsell Stormer Renick & Dai LLP and McCracken Stemerman & Holsberry LLP, as class counsel, also conducted "meaningful discovery" and "thorough factual and legal investigation."

"Pursuant to the terms of the settlement, and the authorities, evidence and argument submitted by class counsel, the court hereby awards class counsel attorneys' fees in the sum of \$34,950,000, or 15% of the gross settlement amount, and reimbursement of their litigation costs in the sum of \$481,949," Judge Claster wrote in the order.

The settlement covers a class of current and former Disney employees who worked at Disney theme parks and hotels in Anaheim, and who live in California and weren't paid hourly wages or service charges in amounts required by a provision in the Anaheim Municipal Code at any time from January 1, 2019, through March 25.

Disneyland Resort workers had filed a proposed class action in **December 2019**, accusing Disney and a company that runs food services and a Starbucks at the Anaheim theme park of underpaying workers in violation of the city's 2018 ballot measure, Measure L.

Also known as the Living Wage Ordinance, Measure L was enacted in 2018 and applied to hospitality employers in the Anaheim or Disneyland Resort areas who benefited from city subsidies to pay employees at least \$15 an hour beginning Jan. 1, 2019. That figure has since increased. A Measure L flyer on the city's website puts the current minimum at \$20.42 an hour.

A California state appeals court had **ruled** in July 2023 that Disney was required to follow the Living Wage Ordinance because a pair of agreements the company signed with Anaheim allowed the company to receive a tax rebate from the city.

Disney turned to the Golden State's highest court, which decided to **stay out** of the case that October.

Disney ultimately agreed to shell out \$233 million, which the workers sought preliminary approval for in **December**, saying the deal was an "outstanding result compared with what plaintiffs might obtain at trial."

Richard G. McCracken of McCracken Stemerman & Holsberry LLP, an attorney for the workers, told Law360 on Wednesday that they are "very satisfied with this result, which is unusually good."

McCracken said that class members will receive 100% of their compensation lost from Disneyland's refusal to implement the living wage law, plus 10% interest, plus penalties.

"This is due to the fact that Disneyland's coverage under the living wage law was established through litigation rather than settlement, so the only question was the extent of the remedy," McCracken explained.

"This big boost in earnings — thousands of dollars for many workers — will make for many beneficial changes in their financial situations," McCracken added. "We hope this will encourage other California municipalities to pass similar laws to enhance the earning power — and local spending power — of workers in their jurisdictions."

Disney did not immediately respond to a request for comment on Wednesday evening.

The workers are represented by Randy Renick and Cornelia Dai of Hadsell Stormer Renick & Dai LLP and Richard G. McCracken and Sarah Grossman-Swenson of McCracken Stemerman & Holsberry LLP.

The Walt Disney Co. is represented by Alan Schoenfeld, Ryan Chabot and David C. Marcus of WilmerHale.

The case is Kathleen Grace et al. v. The Walt Disney Co. et al., case number 30-2019-01116850, in the Superior Court of the State of California, County of Orange.

--Additional reporting by Irene Spezzamonte and Dorothy Atkins. Editing by Emily Kokoll.



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Dems Demand DOJ Explain Binance Plea Deal Compliance

By **Sarah Jarvis**

Law360 (September 18, 2025, 8:33 PM EDT) -- U.S. Sen. Elizabeth Warren and two of her Democratic colleagues have asked U.S. Attorney General Pam Bondi for information on Binance's compliance with its 2023 plea agreement stemming from anti-money laundering lapses, pointing to President Donald Trump's ties to the crypto exchange.

In a Wednesday **letter**, Warren, D-Mass. and Sens. Mazie Hirono, D-Hawaii, and Richard Blumenthal, D-Conn., said the U.S. Department of the Treasury didn't provide adequate responses to their previous inquiries into the Trump administration's efforts to ensure compliance with the 2023 plea agreement. That request came in light of reports at the time indicating Binance executives had met with officials from the Treasury Department.

The department's response last week did not confirm whether the crypto exchange was complying with the terms of the plea agreement, including remediation measures and enhancing its compliance program, the senators said in their letter.

The trio also said that since May, Trump and his family "have increased their financial ties to Binance." And they pointed to a news report from this week indicating Binance might be taking steps toward a deal with the U.S. Department of Justice to drop its outside compliance monitor, which was required by the settlement.

"These reports make it more important than ever that the public understand the Trump administration's interactions with, and relationship to, Binance and its employees," the senators said. "We therefore once again request meaningful answers to the questions above by no later than October 1, 2025."

The DOJ didn't immediately respond to a request for comment Thursday.

In November 2023, Binance agreed to pay \$4.3 billion to end a DOJ investigation into allegations that the company had failed to implement an anti-money laundering program. Binance founder Changpeng Zhao pled guilty to a criminal charge of failing to maintain an effective anti-money laundering program.

Zhao and Binance also made \$150 million and \$2.7 billion settlements with the Commodity Futures Trading Commission.

In July, Warren and other Democrats **pressed** Comptroller of the Currency Jonathan Gould on how he would respond to conflicts of interest concerning the president and his family's cryptocurrency projects.

That letter followed the passage of the Genius Act — a measure Trump signed into law July 18 that, among other things, makes the Office of the Comptroller of the Currency the primary regulator of federally licensed stablecoin issuers.

The senators said in their July letter that the Genius Act "does nothing to prevent President Trump, his family, or his affiliates from financially benefiting from the issuance and sale of stablecoins and their use in transactions."



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Litigation Spending To Keep Growing As Biz Risks Run High

By **Jack Karp**

Law360 (September 18, 2025, 12:01 AM EDT) -- Companies are likely to increase their spending on litigation next year, some by over 10%, as legal disputes become more complex, more contentious and more high-stakes, according to a new report out Thursday.

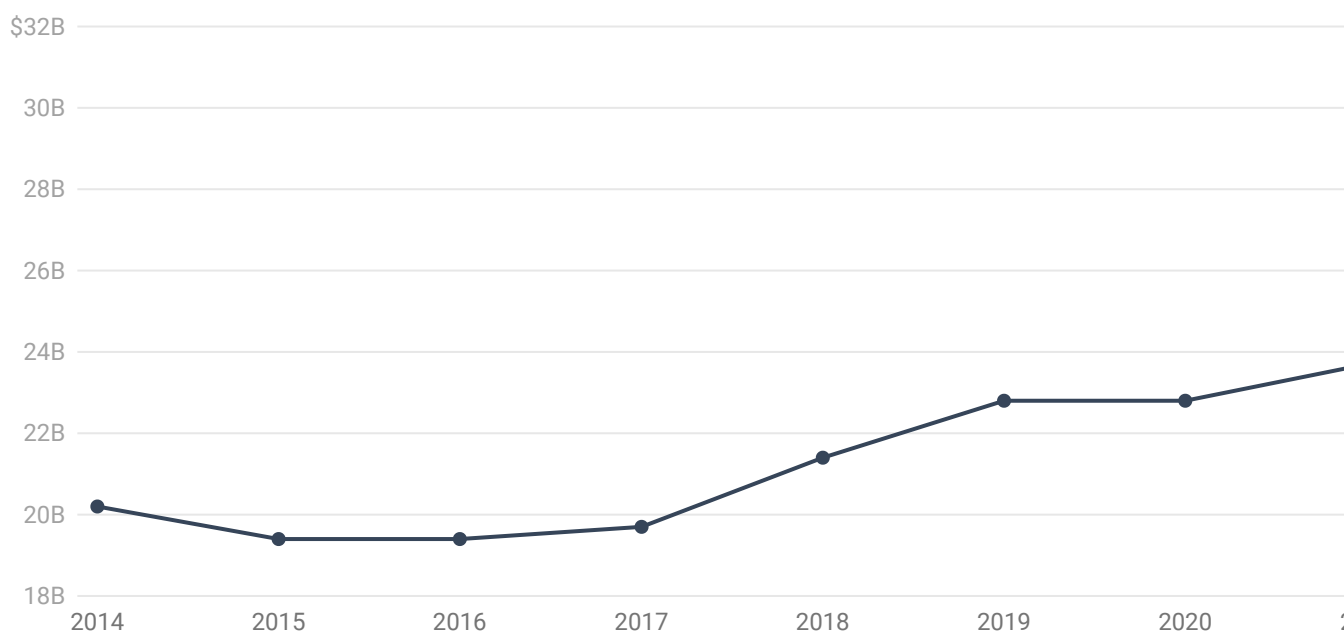
Sixty-four percent of law firms' clients say they are planning to increase what they spend on litigation in 2026, up from the 57% that said the same a year ago. More than two-thirds of those companies that are growing their litigation budgets anticipate spending at least 10% more on cases in the coming year, according to BTI Consulting Group's Litigation Outlook 2026.

As a result, total U.S. litigation spending is expected to hit \$32 billion next year, compared to \$30.1 billion in 2025 and \$28.1 billion in 2024, outpacing the growth in caseloads and continuing an upward trend that's been fairly consistent since 2016, according to the report.

Litigation Spending Continues to Grow in 2026

Total U.S. litigation spending is expected to hit \$32 billion next year, continuing an upward trend that's been fairly consistent since 2016.

— Total U.S. litigation spending



"Litigation is having more of an impact on clients' revenue, operations and growth, raising the financial stakes and supporting ultra-high rates because business risks are so high," BTI founder and President Michael B. Rynowecer told Law360 Pulse.

The business risks litigation poses are increasing because the size of claims is growing, new and novel issues are calling for new and novel defenses, and litigation is more often affecting companies' business operations, according to BTI's report.

Cases are also becoming more contentious as plaintiffs are less inclined to settle disputes they think they're likely to win, and clients are expanding their definition of what constitutes bet-the-company litigation, according to the report, which points out that 31.2% of clients have faced bet-the-company matters in 2025, compared with just 14.1% in 2023.

"Litigation is more contentious than virtually any corporate counsel can remember because a loss can negatively impact client growth and transformation — and the financial risks are greater," Rynowecer said.

The Litigation Outlook report is based on surveys and telephone interviews conducted primarily between February and August with general counsel and other legal decision-makers at large organizations with \$1 billion or more in revenue.

Those decision-makers say they expect spending on employment-related litigation to increase the most, growing by 8.2% to \$9.77 billion in 2026. That growth is being driven by reverse discrimination claims and the controversies surrounding diversity, equity and inclusion policies; wage-and-hour and gig economy classification disputes; and conflicting government mandates, according to BTI.

"Clients see a near avalanche of employment litigation from changes in policy regarding discrimination and reverse discrimination claims," Rynowecer said. "In addition, clients report more aggressive changes in state regulations."

But new technology will also drive employment litigation spending higher, with companies facing lawsuits over artificial intelligence bias in hiring and privacy claims related to wearables and surveillance, BTI predicts.

In fact, the impact of technology will be apparent in a wide range of matters, with AI generating a whole new set of claims touching on everything from contracts to data privacy, according to Rynowecer, who said, "These claims are just beginning."

More than 350 of the legal decision-makers who responded to BTI's survey said they anticipate that AI-generated content and deepfakes, AI-fueled intellectual property battles, the unauthorized disclosure of data by generative AI, and access to AI training information will impact cases in a variety of other practice areas as well.

"Artificial Intelligence will drive a new wave of litigation, as its use creates many new litigation risks for businesses that span a range of potential data, bias, IP, and regulatory exposure issues," echoed Trey Cox, co-chair of the litigation practice group at Gibson Dunn & Crutcher LLP, one of four firms BTI said attorneys most fear having to face off against in court.

Practice Segments Set to See the Most Growth

Controversy around DEI initiatives, increasing use of artificial intelligence, tariffs and conflicting government regulations are expected to drive growth in these practice areas in 2026.

Practice segment	2026 projected growth	2026 projected market size
Employment litigation	8.2%	\$9.77B
Commercial litigation	6.7%	\$9.69B
Class actions and torts	5.8%	\$4.8B
IP litigation	4.2%	\$3.64B
Cybersecurity litigation	7.8%	\$3.37B
Product liability litigation	5.2%	\$3.02B
Securities and finance litigation	7.1%	\$2.53B
Bet-the-company litigation	6.1%	\$1.69B

Spending on cybersecurity litigation is expected to rise by 7.8% to \$3.37 billion, while spending on securities and finance matters could jump 7.1%, to \$2.53 billion, according to the report. Commercial litigation spending is expected to increase by 6.7%, to \$9.69 billion, according to the report.

While litigation arising out of technology matters continues to dominate, attorneys at Quinn Emanuel Urquhart & Sullivan LLP — another of BTI's most-feared firms — are also seeing significant growth in bankruptcy litigation, data privacy matters, mergers and acquisitions-related litigation, Delaware-based litigation and securities litigation, Michael B. Carlinsky, the firm's global co-managing partner and head of complex litigation, said.

That litigation is likely to get more complex and novel, and to be driven by tariffs, supply chain issues, the failed implementation of technology, and the unraveling of joint ventures and partnerships. The law firms that land that work will offer quick assessment and action, new and aggressive approaches, and creativity in tackling novel issues, the report added.

"The old playbooks are officially obsolete — or limit firms to lower-rate work," BTI said, adding, "The winning pitches are built around brainstorming solutions, problem solving, and expediting legal processes. Anything else only proves a firm can't act as quickly as clients make decisions."

Many of those winning pitches are coming from four law firms that corporate counsel and other legal decision-makers say they most dread having to face off against in litigation.

Quinn Emanuel was named the most feared law firm for 2026, the fourth year in a row the firm has landed that title, while Kirkland & Ellis LLP, Skadden Arps Slate Meagher & Flom LLP and Gibson Dunn rounded out the firms named to BTI's so-called "Fearsome Foursome."

The "Fearsome Foursome" is made up of the four firms clients have told BTI they least want to see on the other side of the table during litigation, and this year's quartet is composed of the same firms that made it up last year.

"This distinction reflects our unwavering commitment to putting our clients first and delivering

exceptional legal service. A testament to this dedication is our recent victory for CME Group Inc. and the Chicago Board of Trade in a high-stakes class action lawsuit jury trial, where we successfully defended against claims seeking over \$2 billion in damages," said James R. Carroll, Skadden's global head of litigation and controversy practices in the Americas. "At Skadden, our priority remains achieving the best possible outcomes for our clients, no matter the complexity or scale of the challenge."

Gibson Dunn litigation co-chair Theane Evangelis said that "we consistently take on the cases involving the most complex, cutting-edge issues facing businesses today. What sets us apart is our relentless focus on building strategic trial-ready and appellate litigation teams that work across practices, offices, and specialties, and that are tailored to the needs of each case and bring big synergies to the table."

At Quinn Emanuel, Carlinsky said "we approach cases differently from the outset. From the beginning, we're thinking about how to prepare the case and best position our clients for a win or a successful resolution. We also provide our young lawyers — who are among the most talented associates in the profession — with early hands-on litigation experience. It is common to find our associates in court conducting an argument or trying a case against senior partners of other firms."

"Our litigation opponents know that when they face Kirkland in court, they're in for a battle. We train our litigation attorneys from day one to try cases and we have trial experience and depth at every level of seniority," Kirkland litigation partner Judson Brown told Law360 Pulse.

Corporate counsel are not optimistic that all that litigation is likely to be settled, according to the report, which projects that just 42% of matters will be resolved through settlement in 2026, compared to 46.1% of matters in 2025.

Plaintiffs are less inclined to settle since they expect to win cases, and there's concern about setting precedent for new and novel claims, according to the report. The increasingly hard-fought nature of litigation and higher risks to revenue and growth are also creating the belief set that settling will prevent clients from moving ahead on strategic and operating goals, Rynowecer explained.

Kirkland is taking more cases to trial than ever before, confirmed Brown.

"The contentious nature of the new litigation translates into higher risk as all parties fight harder to win," Rynowecer said.

It also translates into record-level spending on litigation and skyrocketing litigation budgets, according to the report.

"The winners will be those who deliver speed, precision and bold thinking — not just arguments," BTI said.

--Editing by Emily Kokoll and Michael Watanabe.

Update: This story has been updated with comment from Kirkland.