

Class Action

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BofA, JPMorgan Get Wins in Long-Running Libor-Rigging Lawsuit

Sept. 26, 2025, 8:51AM PDT

Summary by Bloomberg AI

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- A federal judge granted a group of big banks their bid to end a long-running benchmark-rate rigging case, saying the investor plaintiffs didn't provide sufficient evidence to support a conspiracy.
- Judge Naomi Reice Buchwald granted the banks' motion for summary judgment and denied plaintiffs' bid to certify a class, also granting the defendant banks their motion to decertify a previously certified class.
- The multidistrict litigation against 16 banks stems from claims they manipulated the London Interbank Offer Rate, with investor plaintiffs alleging the banks conspired to drive Libor rates down in violation of Section 1 of the Sherman Act.

A federal judge granted a group of big banks including Bank of America Corp. and JPMorgan Chase & Co. their bid to end a long-running benchmark-rate rigging case, saying the investor plaintiffs didn't provide sufficient evidence to support a conspiracy.

Judge Naomi Reice Buchwald of the US District Court for the Southern District of New York in a Thursday order granted the banks' motion for summary judgment and denied plaintiffs' bid to certify a class. She also granted the defendant banks their motion to decertify a previously certified class.

"Having found that plaintiffs failed to proffer evidence sufficient to raise a triable issue of fact as to conspiracy and suppression, all of plaintiffs' claims fail," Buchwald said.

The multidistrict litigation against 16 banks including Deutsche Bank AG, HSBC Holdings Plc, and Credit Suisse Group AG stems from claims they manipulated the London Interbank Offer Rate, a onetime set of interest-rate benchmarks that underlie trillions of dollars of financial instruments.

Libor, which began phasing out in 2021, was once widely used in the global financial system. Investor plaintiffs including the Mayor and City Council of Baltimore and the City of New Britain filed dozens of suits that were then consolidated to the Southern District of New York.

They alleged that starting in 2007, the banks conspired to drive Libor rates down in violation of Section 1 of the Sherman Act.

Bank of America is represented by Davis Polk & Wardwell LLP. JPMorgan is represented by Simpson Thacher & Bartlett LLP. Deutsche Bank is represented by Paul, Weiss, Rifkind, Wharton & Garrison LLP. HSBC is represented by Locke Lord LLP. The plaintiffs are represented by firms including Hausfeld LLP.

The case is *In re Libor-Based Fin. Instruments Antitrust Litig.*, S.D.N.Y., No. 1:11-md-02262, 9/25/25

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Judge Certifies Investor Class Over CleanSpark's Bitcoin Pivot

“Given this warning, the Court exercises its authority to modify the proposed class definition to exclude investors who suffered no compensable losses from the class,” U.S. District Judge Loretta A. Preska ruled, pointing to a 2025 U.S. Supreme Court ruling.

September 26, 2025 at 12:30 PM By  **Michael A. Mora**



Judge Loretta A. Preska. Credit: Rick Kopstein/ALM Properties, Inc

A federal judge in New York has certified a class of CleanSpark Inc. shareholders who alleged the company misled investors when it abruptly shifted from alternative energy and software to Bitcoin mining.

Rafaele Nascimento, coordinator of the civil litigation department at [Guimarães & Vieira de Mello](#) in Miami, said the ruling by Senior U.S. District Judge Loretta A. Preska in the U.S. District Court for the Southern District of New York highlighted the risks and implications of abrupt strategic shifts by public companies—both for investors and for the environment.

“CleanSpark’s strategic pivot demonstrates how the pursuit of emerging markets like Bitcoin mining can generate immediate revenue opportunities while also exposing companies to legal, environmental and reputational risks,” Nascimento said in an email. “Judge Preska’s ruling reinforces that investors are paying close attention—and that the judiciary may step in when corporate transparency fails to match the scale of such transformations.”

Chris Fallon, a partner at [Glancy Prongay & Murray](#) in Los Angeles who represents the lead plaintiff Darshan Hasthantra, and Jay S. Auslander, a partner at [Wilk Auslander](#) in New York who represents the defendant, CleanSpark, did not respond to a request for comment.

Originally focused on clean energy solutions and microgrids, CleanSpark pivoted its business model toward Bitcoin mining. Shareholders alleged that the company made misleading statements about this transition, failing to adequately disclose its risks and consequences centered around its acquisition of ATL Data Centers Inc.

When a short seller published negative reports about the wisdom of the ATL Data Centers acquisition, CleanSpark’s stock price dropped, prompting the lawsuit. A key issue centers on how the company’s low-carbon and renewable energy—previously deployed for a variety of sustainable applications—have increasingly been redirected to power data centers dedicated to mining.

Nascimento, an expert who is not involved in the case, said it raised two concerns: first, the deviation from clean-energy goals, which could otherwise serve a range of sustainable applications; and second, the increased pressure on the traditional power grid, as mining’s intensive energy demands, even if partially renewable, strain the power grid and can increase reliance on fossil fuels during peak demand.

“Not surprisingly, U.S. states have started to impose restrictions,” said Nascimento. “In New York, lawmakers enacted a two-year moratorium on new mining permits for facilities powered by fossil fuels. In Texas, large-scale operations exceeding 75 MW must register for grid monitoring, ensuring oversight of their impact on the electric system.”

Here, while CleanSpark argued that individual issues outweighed common ones, Preska found that contention unpersuasive. She ruled that the argument that investors’ reliance could not be presumed required an inquiry into the merits that was premature at the class certification stage. And the company’s challenge to Hasthantra’s standing as a lead plaintiff and his typicality as an investor also failed.

Still, it was not all bad news for CleanSpark. Preska modified the class definition to exclude investors who did not sustain a compensable loss, citing the U.S. Supreme Court’s 2025 decision

in [*Laboratory Corp. of America v. Davis*](#), which dismissed an Americans with Disabilities Act case that raised a similar issue, despite a dissent from Justice Kavanaugh.

“Given this warning, the Court exercises its authority to modify the proposed class definition to exclude investors who suffered no compensable losses from the class,” Preska wrote in her 25-page opinion and order, which also appointed Glancy Prongay & Murray as class counsel.

“From an investor’s perspective, Judge Preska’s ruling is significant,” Nascimento added. “It signals that courts may seriously entertain claims of miscommunication in the context of major strategic changes, especially in volatile industries such as digital assets.”

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Litigation

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Inotiv Settles Investors' Research Animal Suit for \$9 Million

Sept. 26, 2025, 10:45 AM PDT

Inotiv Inc. has agreed to pay nearly \$9 million to settle investor claims that the drug researcher concealed acquired companies' animal welfare violations, according to a federal court filing.

The agreement should be given preliminary approval because it's fair, reasonable, and adequate, the investors told the US District Court for the Northern District of Indiana on Thursday.

The investors alleged that Inotiv withheld adverse information about Orient Bio Resource Center and Envigo RMS Holding Corp. when buying those animal-import companies

OBRC was involved in smuggling non-human primates, and Envigo was responsible for Animal Welfare Act violations at a Virginia dog-breeding facility that included the deaths of more than 300 beagle puppies, they said

Judge Philip P. Simon denied Inotiv's dismissal request in 2024

Berman Tabacco is lead counsel for the investors. Frost Brown Todd LLP and Katten Muchin Rosenman LLP represent Inotiv and the executives.

The case is In re Inotiv, Inc. Sec. Litig. , N.D. Ind., No. 4:22-cv-00045, motion 9/25/25 .

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California Brief

Wells Fargo, Investors Reach Settlement on Hiring Practices (1)

Sept. 25, 2025, 2:28 PM PDT; Updated: Sept. 26, 2025, 7:35 AM PDT

Wells Fargo has agreed to resolve investors' class claims that it misled them about its diversity hiring practices, the parties told a federal court Thursday.

The bank and its investors didn't disclose the terms in announcing the settlement in principle. They'll seek preliminary approval by Oct. 27, they told the US District Court for the Northern District of California.

The notification comes less than two weeks after Wells Fargo directors announced a settlement in principle with investors who sued on behalf of the company in a parallel derivative suit over the scandal.

The suits, both before Judge Trina L. Thompson, allege Wells Fargo touted a policy of considering a diverse slate of job candidates while conducting sham interviews with minority applicants. Thompson granted class status to the investors in this suit in April.

"We are pleased to have reached a settlement," Wells Fargo said in an email. An attorney for the investors didn't immediately respond to an emailed request for comment.

Counsel for the investors includes Kessler Topaz Meltzer & Check LLP and Saxena White PA. Sullivan & Cromwell LLP represents Wells Fargo.

The case is SEB Inv. Mgmt. AB v. Wells Fargo & Co. , N.D. Cal., No. 3:22-cv-03811, notice 9/25/25 .

(Updates story published Sept. 25 with comment from company in fifth paragraph.)

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Class Action

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Bayer's \$38 Million Investor Settlement Teed Up for Final Nod

Sept. 26, 2025, 9:28 AM PDT

Summary by Bloomberg AI

AI Generated



- Bayer AG's agreement to pay investors \$38 million to settle securities class claims should be given final approval, according to shareholders.
- The settlement would provide investors with more than 9% of their estimated maximum damages amount, which pension funds called an excellent recovery.
- Bayer has already paid out about \$11 billion in verdicts and settlements in the Roundup litigation and still faces 67,000 suits claiming its glyphosate-based Roundup causes cancer.

Bayer AG's agreement to pay investors \$38 million to settle securities class claims stemming from Roundup-related personal injury liability should be given final approval, shareholders told a federal court.

The deal would provide investors with more than 9% of their \$417 million estimated maximum damages amount, according to pension funds representing the class. The funds on Thursday called it an excellent recovery, and they said the settlement should be approved as fair, reasonable, and adequate by Chief Judge Richard Seeborg of the US District Court for the Northern District of California.

The pension funds alleged Bayer didn't adequately vet Roundup herbicide maker Monsanto Co. before buying it for \$63 billion and didn't warn them about cancer litigation risks. Bayer securities lost 26% of their value—and Bayer lost \$12.87 billion in market capitalization—as a result of the company's due diligence failures, the funds alleged in the third version of their complaint.

Bayer has already paid out about \$11 billion in verdicts and settlements in the seven-year Roundup litigation and still faces 67,000 suits claiming its glyphosate-based Roundup causes cancer, according to its 2024 annual report. Bayer has said it's considering a range of options to protect the company from financial threats posed by the Roundup litigation.

In August, Seeborg allowed plaintiffs in the multidistrict product liability litigation against Monsanto to intervene in the securities suit. The MDL plaintiffs, who are seeking information about Bayer's and Monsanto's knowledge of Roundup's allegedly harmful effects, will be allowed to gain access to some documents exchanged in discovery, Seeborg said.

Seeborg certified a class in the securities suit in 2023.

Cohen Milstein Sellers & Toll PLLC is lead counsel for the investors. Morrison & Foerster LLP and Wachtell, Lipton, Rosen & Katz represent Bayer.

The case is Sheet Metal Workers Nat'l Pension Fund v. Bayer AG , N.D. Cal., No. 3:20-cv-04737, motion 9/25/25 .

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Securities

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Newsletter

Eyeing Funders in a Settlement Opt-Out: Litigation Finance

Sept. 26, 2025, 9:04AM PDT

Happy Friday! In March, I wrote a story about a judge ordering people opting out of a \$2.8 billion antitrust settlement with Blue Cross Blue Shield **to disclose whether their decisions were motivated by litigation funders.**

Shortly after, the judge allowed those disclosures to be submitted confidentially, so the public never learned the outcome. The case involves hospitals, physician groups, and other healthcare providers who said the insurer shortchanged them on reimbursements.

Attorneys representing the providers **haven't forgotten those who opted out.**

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On Monday, they filed a motion for an order putting payments in escrow for those who opted out of the case. They suggested **12.5% of any of the op-out awards should go toward compensation** for their work.

The motion quotes those who attended a webinar hosted by litigation funder Burford Capital about opting out of the settlement. Charles Griffin of **Burford said that counsel won a some significant rulings** that would restrict the number of defenses that could be raised.

Industry announcements

Two litigation finance brokers, Rebecca Berrebi and Ted Farrell, announced they're joining forces to form Litigation Finance Advisers. They will **advise law firms, plaintiffs and corporations on litigation finance deals** and also provide guidance for investors and funders.

European and Latin American funder Loopa Finance **joined the European Litigation Funders Association.** ELFA is one of the industry trade groups that represents the commercial litigation funders in Europe.

CNO Financial Group will take a minority stake in private credit manager Victory Park Capital and provide **\$600 million in capital commitments** to new and existing VPC investment strategies. VPC specializes in asset-backed lending across multiple platforms, including litigation finance.

What I'm Reading

The Washington Post reported that Wall Street investors are **buying claims for potential tariff refunds.** Some hedge funds and specialized investment firms are offering immediate cash for importers while collecting the rest of the refund if the Supreme Court invalidates the tariffs.

Judge slams Hagens Berman over AI use in briefs

DJ

[dailyjournal.com/articles/387795-judge-slams-hagens-berman-over-ai-use-in-briefs](https://www.dailyjournal.com/articles/387795-judge-slams-hagens-berman-over-ai-use-in-briefs)

U.S. District Judge Fred W. Slaughter

A Santa Ana federal judge Thursday called the misuse of artificial intelligence in several legal briefs filed by Hagens Berman Sobol Shapiro LLP "simply unacceptable." The remarks came during a sanctions hearing in a high-stakes racketeering case against OnlyFans' parent company and several advertising agencies.

"There's a straight duty of candor for all attorneys. ... There is no excuse for this," U.S. District Judge Fred W. Slaughter told the plaintiffs' counsel, led by Hagens Berman partner Robert. B. Carey.

"The fact that this happened created significant waste and harm in this very serious case ... not only to your clients, but to the defendants and to this court. ... There are ethical rules that you are not to put false statements before a court."

Carey, who acknowledged the misconduct and accepted responsibility, is pushing for limited punishment on grounds the wrongdoing stemmed from negligent oversight rather than intentional bad faith.

At issue are four opposition briefs riddled with fake cases and fabricated language, drafted by an attorney outside of Hagens Berman, Celeste H.G. Boyd. Carey said his firm was responsible for reviewing Boyd's work but failed to implement proper review procedures before the filing deadline.

Boyd, who was at the hearing but did not speak, owned up to the wrongdoing and said in a declaration that stress over her father's death clouded her judgment and led her to use ChatGPT without verification or consultation.

The underlying motion to dismiss the case, filed by Skadden Arps Slate Meagher & Flom LLP partner Jason D. Russell, is also pending before Slaughter and was heard separately earlier this month. Rather than argue for monetary fines, Russell told the judge Thursday that permanent dismissal for his clients was the only sanction "that really matters."

"I want to deter this conduct in the future. I think the only way to do that is to hit a firm like the Hagens firm where it hurts, which is 'you lost the case,'" Russell said.

The defense attorney argued that, given Hagens Berman's reputation as a "leading plaintiffs' firm," the strongest deterrent would be for its attorneys to acknowledge losing a "billion-dollar" case and publicly address its mistakes before peers and the Bar.

"That would be impactful," Russell said. "Let's make sure everybody sees that the sanctions issue here are sufficiently terrifying, that it doesn't happen again, and then they can go bang the drum in public about why it makes sense not to do this."

In addition to fines, the Hagens Berman counsel proposed requiring the firm to conduct extra training on AI use and update its policies, particularly for working with co-counsel.

But Russell, for the defendant companies, opposed Carey's proposal, arguing it would not amount to real punishment since it would likely be a "non-embarrassing presentation to a friendly audience."

The judge did not issue a ruling and took the matter under submission. Prior to hearing the arguments, he said he was considering a monetary fine, along with requirements that the plaintiffs' lawyers certify their filings and notify the State Bar.

Carey asserted a complete dismissal of the case would be too extreme of a punishment and maintained a fine between \$1,000 and \$5,000, along with the additional legal training, would be sufficient.

The underlying action centers on fraud claims from a putative class of OnlyFans subscribers who accused its parent company, Fenix International Limited, and related agencies of running "chatter scams" by encouraging the use of automated chatbots during private messaging sessions. The companies denied liability and argued, for example, the plaintiffs did not prove their client had any intent to mislead the subscriber plaintiffs, let alone conduct a racketeering scheme to do so. *N.Z. et al. v. Fenix International Limited et al.*, 8:24-cv-01655 (C.D. Cal., filed July 29, 2024).

#387795

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Alameda County Judge Says Plaintiff Used AI-Generated Fake Evidence, Tosses Case

The sanction "serves the appropriate deterrent effect of showing the public that the Court has zero tolerance with attempting to pass deepfakes as evidence," Superior Court Judge Victoria Kolakowski wrote.

September 25, 2025 at 04:07 PM By  **Cheryl Miller**



Credit: ArtemisDiana/Adobe Stock

A California state judge this month dismissed an \$8.7 million tenants' dispute lawsuit after discovering that the plaintiffs submitted a deepfake video and at least two other pieces of evidence altered by generative artificial intelligence.

Alameda County Superior Court Judge Victoria Kolakowski accused pro se litigants Maridol and Ariel Mendones of "egregiously" violating the trust of the court and the defendants by filing as evidence an AI-fabricated recording that purported to show a neighbor supporting their allegations of ongoing harassment at a Hayward apartment complex.

"This sanction serves the appropriately chilling message to litigants appearing before this Court: Use GenAI in court with great caution," Kolakowski wrote in a Sept. 9 [order](#) dismissing *Mendones v. Cushman and Wakefield* with prejudice.

The events leading to Kolakowski's order brought to life the sometimes abstract warnings from technology and legal experts that the growing use and availability of AI platforms are poised to challenge how courts and lawyers view and scrutinize evidence.

Lawyers have made headlines in recent years for filing briefs with AI-hallucinated case citations and quotes. Deepfake evidence has not received the same publicity, until now.

"Courts have dismissed cases many times in the past because of fake evidence," said Maura Grossman, a research professor in the School of Computer Science at the University of Waterloo in Ontario, Canada. "What differentiates this particular case is that it appears to be one of the first where that fake evidence was specifically generated by generative AI as opposed to photoshop or some other less sophisticated tool which may or may not fall within the definition of 'AI.'"

Messages left with Maridol and Ariel Mendones were not returned. The couple [wrote](#) in court filings that they had no intention of deceiving the court and had no role in manufacturing or altering their evidence through AI.

"I do not know how to create AI," Ariel Mendones wrote.

In 2023, the Mendoneses sued their apartment complex property manager, Cushman & Wakefield, and three individuals associated with the management company. The couple [claimed](#) the defendants failed to act on their complaints that a fellow tenant continually harassed them.

In their filings, the Mendoneses submitted screenshots of online group chats where other participants appeared to verify their allegations about the property managers and the effects on their health. There were also voicemails, Ring camera videos of a late-night appearance by a security officer outside their apartment door, and recorded testimonies of corroborated videos.

Then there was the purported video of a sympathetic neighbor. The blond-haired, middle-aged woman with a fixed gaze says in a monologue to the camera that the Mendoneses have indeed been harassed by their neighbor and that the property managers have done nothing to help them.

As her head appears to jerk repeatedly to her right shoulder, the neighbor says she's making the video because she fears that, due to a heart condition, she won't live long enough to testify in person at trial.

It was the woman's oddly ticcing head and unusual speech pattern that suggested to defense attorney Mark Dawson that something was amiss.

"I felt like I was watching [Max Headroom](#)," recalled Dawson, founding partner of Dawson Law Offices Inc. The video "was very much off."

Adding to Dawson's suspicions, he said, was the significant trouble his team was having trying to secure depositions with the plaintiffs' witnesses.

What followed was a good bit of sleuthing by Dawson and his colleagues and, later, court staff. The defense team hired an expert to analyze the evidence. His conclusion? "These are all deepfakes," Dawson said.

In March, the Mendoneses filed for summary judgment. In their opposition, the defendants raised concerns about the legitimacy of some of the plaintiffs' exhibits.

Kolakowski denied the motion and soon issued an order-to-show-cause why she should not dismiss the case and refer the Mendoneses to the district attorney's office for submitting false testimony.

In her dismissal order this month, Kolakowski concluded the plaintiffs' video of their neighbor was a deepfake, an AI-generated representation of the actual woman. Though the AI creation bore a "passing resemblance" to the real woman, Kolakowski wrote, the speaker's cadence, accent, word choices and even an odd "mouth flap" provided ample evidence that the image was a fake.

Kolakowski also wrote that social media group chats and images purportedly from a Ring camera were "at least" materially altered and possibly products of AI. The court scrutinized metadata attached to the submissions and even investigated when Apple released AI capabilities on its iPhones.

"The court remains suspicious," of other videos and voicemails submitted as evidence by the plaintiffs, Kolakowski wrote, "but it does not have the time, funding, or technical expertise to determine the authenticity of plaintiffs' statements or conduct a forensic analysis of the suspect evidentiary submissions."

The judge declined to refer the plaintiffs to the district attorney's office, calling such a sanction "too severe and not sufficiently remedial" in the Mendoneses' case. Terminating the case with prejudice was the best outcome, she wrote, because it "serves the appropriate deterrent effect of showing the public that the Court has zero tolerance with attempting to pass deepfakes as evidence."

The defendants have filed a motion seeking fees and costs.

Dawson praised the court for digging into the veracity of the plaintiffs' evidence.

"Never before have I seen anything that's come close to the attempts by these plaintiffs to pass off deepfakes as truth," he said.

A Judicial Council of California task force is looking at the issue of AI-generated evidence. Additionally, lawmakers sent a bill to Gov. Gavin Newsom this month that would require the Judicial Council by 2027 to develop any "necessary" rules to help judges assess whether evidence has been generated or manipulated by AI and whether it should be admissible.

In tossing the Mendoneses' complaint, Kolakowski found that the plaintiffs violated Civil Procedure Code Section 128.7(b) by submitting fabricated evidence. Dawson said he thinks it may be time to reexamine existing rules given the increasing use of AI and that courts may need to beef up their detection efforts.

"This is something people in Sacramento might want to look into," he said.

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3,000 Lawsuits: Litigation Mounting Against Uber

Lawsuits are mounting against Uber, which continues to battle new sexual assault claims and existing cases nationwide.

September 24, 2025 at 03:16 PM By **Laura Lorek**



Credit: S_E/Adobe Stock

Uber faces more than 3,000 sexual assault lawsuits nationwide, according to data from multidistrict litigation, as new cases emerge, underscoring the persistent nature of safety concerns plaguing the rideshare giant.

Recent filings highlight consolidated litigation in state and federal court, amid mounting scrutiny of Uber's safety protocols.

Last week, a Georgetown, Texas woman filed suit alleging an Uber driver sexually assaulted her on March 15, 2025.

A day later, on Sept. 19, attorneys filed another lawsuit on behalf of a San Francisco woman who claims she was drugged and assaulted during a 2023 ride after her driver allegedly gave her water

that left her drowsy.

"The plaintiff had a few sips, then began feeling drowsy, she then fell asleep during the ride," the San Francisco lawsuit alleges. "When the plaintiff woke up, her clothes were unbuttoned, and she was in a different town approximately 10-15 minutes from her destination."

The driver allegedly drove to a remote location and sexually assaulted her, according to the lawsuit. The woman claimed she escaped and found help at a nearby church before immediately reporting the incident to Uber.

"As of September 2025, more than 2,500 plaintiffs in over 29 states have joined the multidistrict litigation, with this number expected to continue rising throughout 2025," according to Miller & Zois law firm in Baltimore, Maryland, which has been tracking the suits.

Rachel Abrams, lawyer with Peiffer Wolf Carr Kane Conway & Wise in San Francisco, who represents plaintiff Jane Doe, did not respond for a request for comment. And John Eddie Williams Jr. partner of Williams Hart based in Houston, who represents the woman alleging assault in Georgetown, did not respond to a request for comment.

The scope of Uber's sexual assault problem became starkly apparent in August when [The New York Times reported](#) on unsealed court documents revealing a dramatic discrepancy between the company's internal reports and public disclosures. From 2017 to 2022, court documents show Uber received 400,181 reports of sexual assault or misconduct, more than 30 times the 12,522 reports of serious sexual assault the company disclosed publicly.

An Uber spokesperson said the vast majority of reports cited in court documents were "less serious," or unaudited with Uber reporting the five most severe categories of assault. "The 400,000 number mentioned in the NYT includes reports of *all* types that we received from 2017-2022 including flirting, staring/leering, etc. -- not just sexual assault," an Uber spokesperson said. "It is not accurate to compare them as the same."

But alleged attacks by drivers is not just an Uber problem.

Lyft, another major ridesharing company, also faces numerous sexual assault lawsuits.

[In a public safety report](#), the company recorded more than 4,000 sexual assault reports from 2017 to 2019 and with over 1,000 cases involving non-consensual touching of a sexual body part in 2019.

"Lyft unequivocally condemns all forms of assault, and this behavior has no place in the Lyft community or our society," according to a statement from a Lyft spokesperson. "We believe in

a [community](#) where everyone is treated with respect and kindness, and our vision is for Lyft to be the safest way to get around, for drivers and riders alike.”

“We’ve incorporated a number of features to promote safety for the millions of people who use Lyft every day, including rigorous screening processes for drivers, Smart Trip Check-In for both riders and drivers, location sharing, emergency help, and our dedicated Safety team,” the spokesperson said. “This team is available 24/7, so drivers and riders can always reach a live person if they have safety concerns and so we can take action to help keep our community safe.”

The litigation has revealed systemic issues in how ride-hailing companies handle safety complaints, according to Dallas attorney Charla Aldous of the Aldous law firm, who represents multiple assault victims.

"The Lyft policy was that there had to be three complaints of sexual misconduct, that's non-touching, before you remove the driver from the platform," Aldous said. "I firmly believe they should immediately remove the driver from the platform and investigate."

Perhaps most troubling, attorneys claim, are instances where drivers removed from one platform for misconduct joined other companies and were accused of similar offenses. Aldous cited a case in Oklahoma where she represents a sexual assault victim whose driver worked for Lyft and allegedly raped a passenger, then got a job with Uber a week later and allegedly raped another passenger.

In 2018, Uber ended forced arbitration and mandatory non-disclosure agreements for sexual assault and harassment claims. The policy change allowed victims to pursue cases in open court, enabling the discovery process that has revealed internal company operations, said Ann Olivarius, a lawyer representing assault victims.

"Uber had 32 times as many sexual assaults as it admitted to before," Olivarius said. "You can see how powerful the tool of discovery is in civil cases."

Uber created a [blog post](#) that shows 97 percent of those reports are about less serious incidents, according to a spokesperson.

To address safety concerns, Uber has introduced measures including in-app recording, ride tracking and women-matching services in some cities.

The consolidated litigation, *In re: Uber Technologies Inc., Passenger Sexual Assault Litigation*, is proceeding in the Northern District of California and U.S. District Judge Charles Breyer is overseeing MDL No. 3084. The first Federal bellwether case is expected to go to trial early next year.

In addition, a state case is underway now in the San Francisco County Superior Court, where Judge Ethan Schulman is presiding. Laurel L. Simes, founding partner of Levin Simes LLP and lawyer for the plaintiff, said today is the last day of testimony in the San Francisco case and closing arguments are scheduled for Thursday. Simes' firm has settled more than 500 rideshare sexual assault cases against both Uber and Lyft and has hundreds more pending.

"Although each complaint varies, plaintiffs generally allege that Uber has been on notice of a rash of sexual misconduct and assaults by its drivers since at least 2014 but has failed to make reasonable measures in response," court documents state.

The plaintiffs claim Uber lacks adequate background checks, fails to report sexual assaults to law enforcement, maintains a permissive "three strikes policy" for driver misconduct and has declined to adopt reasonable safety measures.

Aldous warned that women especially need awareness of rideshare safety risks.

"Women especially need to be aware of what's happening with these rideshare companies and be very careful when they're taking them at night, especially if they've been drinking, because a lot of times these perpetrators prey upon those who are somewhat impaired," she said.

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California Brief

Uber's Liability in Rider Sexual Assault Case Goes to a Jury

Sept. 25, 2025, 5:20 PM PDT

Uber Technologies Inc.'s first bellwether trial examining whether the rideshare giant is liable for the sexual assault of a California woman who claims her Uber driver forcibly kissed and groped her in 2016 was sent to a San Francisco jury Thursday, following three weeks of evidence and testimony.

The jury could award the victim, proceeding in the case as Jessica C., millions of dollars in damages to compensate her for mental harm and PTSD from the incident. They group could also award millions more in punitive damages as a way to punish Uber.

It's the first case to reach trial among thousands of lawsuit brought around the country, mostly by women riders, who claim the company refused to implement safety features like mandatory dashcams that would have prevented drivers from assaulting them.

Its outcome, along with several other trials, will impact the results for hundreds of other suits that were consolidated into this proceeding in California Superior Court, San Francisco County.

A similar consolidated federal court proceeding, also in San Francisco, contains thousands of sexual assault lawsuits filed in federal courts around the country, with the first trials set early next year.

Million-Dollar Award Request

Throughout the three-week trial, Jessica's attorneys of Taylor & Ring argued that Uber's campaign to grow as quickly as possible in its early years meant that it rejected any policy that would slow the increase of riders or drivers, even if it would provide safety to passengers.

The attorneys said passenger reports of sexual violence by drivers had increased almost every year since the company began keeping track in 2017.

The case involved a 2016 incident where Jessica, an 18-year-old first year student at University of California Santa Cruz at the time, was traveling home for winter break. She had been drinking in her dorm and took a bus from campus to downtown San Jose, where she called her first ever Uber to take her to the airport.

Jessica said that at some point during the ride, her driver Farrukh Kazim, pulled over on a side street, stopped the ride on his Uber app and began to forcibly kiss and grope her while she was in the front passenger seat. Jessica said she believed she would be raped or killed.

Jessica said she received a phone call during the incident, after which Kazim stopped and took her to the airport. She said she later received treatment for PTSD and dropped out of school the next semester.

"Your verdict is going to have a bigger impact on what happens to Jessica for the rest of her life any anything else that will happen," her attorney John Taylor of Taylor & Ring said during closing statements.

He asked the jury to award Jessica up to \$10.8 million for the harm she's faced in the nine years since the incident. He said the jury should additionally award her up to \$600,000 per year over the next decade, and up to \$250,000 per year for the next twenty years after that. He didn't ask the jury to deliver a specific punitive damages award, but said "it's not enough to fine" such a large company.

Uber countered that incidents of sexual assault in Uber rides are extremely rare, amounting to an infinitesimal percentage of all rides.

Uber "did in fact use the highest care and vigilance of a cautious person," Uber's attorney Allison Brown of Kirkland & Ellis LLP said during closing statements. The company had run a multi-step background check on Kazim, which returned no criminal record, and he has received almost unanimous five-star reviews from previous riders.

Jessica also never reported the incident to Uber, and Kazim continued to drive and receive good reviews. The company only learned of the incident when she filed the lawsuit in 2021, after which it disabled Kazim's account.

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

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40 US colleges defeat antitrust lawsuit over financial aid



reuters.com/legal/litigation/40-us-colleges-defeat-antitrust-lawsuit-over-financial-aid-2025-09-25

Mike Scarcella

September 25, 2025

The top of the cap of a graduating student is pictured during their graduation ceremony in San Diego, California, U.S. June 17, 2017. REUTERS/Mike Blake/File Photo [Purchase Licensing Rights, opens new tab](#)

Sept 25 (Reuters) - Forty elite private U.S. universities have convinced a U.S. judge to dismiss a lawsuit that accused them of conspiring to overcharge for tuition by including the assets of noncustodial parents in determining financial aid.

In her ruling, U.S. District Judge Sara Ellis in Illinois said the plaintiffs in the proposed class action had not plausibly alleged any agreement among the defendant schools, including Northwestern, Harvard, Yale, Dartmouth, Cornell and Georgetown.

Ellis [dismissed, opens new tab](#) the lawsuit without prejudice, which allows the plaintiffs, a Boston University student and a Cornell alum, to file an amended lawsuit.

Lawyers for the plaintiffs and representatives for Northwestern, Boston University, Harvard, Yale, Dartmouth, Cornell and Georgetown did not immediately respond to requests for comment.

The schools named in the lawsuit had denied any wrongdoing.

Ellis also dismissed allegations against the nonprofit College Board, which developed the financial aid methodology that the schools allegedly use. The College Board did not immediately respond to a request for comment.

The [lawsuit](#), filed last year, alleged the College Board in 2006 “made an intentional push to require schools to agree to the consideration of the income and assets of noncustodial parents when making financial aid determinations.”

The defendant schools all require students to submit the information as part of their aid profiles.

The plaintiffs said students pay thousands of dollars more at schools that consider noncustodial finances in financial aid determinations compared to those schools that do not. The students’ lawyers had said there are at least 20,000 prospective class members.

In seeking dismissal of the case, the defendants in a court [filing, opens new tab](#) in January said the collection of noncustodial parent information “is undeniably pertinent to a legitimate objective: the accurate calculation and equitable distribution of need-based financial aid.”

A separate proposed class action pending in federal court in Illinois accused 17 elite U.S. colleges of breaching a pledge not to consider students' finances in making admissions decisions.

That litigation has spurred [hundreds of millions of dollars](#) in settlements so far.

The case is Hansen v. Northwestern University, U.S. District Court for the Northern District of Illinois, No. 1:24-cv-09667.

Read more:

[Top US colleges sued in class action over 'early decision' admissions](#)

[Class action lawsuits challenge law and medical school application fees](#)

[Settlements near \\$320 mln in college aid lawsuit after Caltech, Johns Hopkins deals](#)

[Top US colleges hit with new antitrust lawsuit over financial aid](#)

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Amazon to Pay \$2.5 Billion to Settle Charges It Tricked Customers Into Signing Up for Prime

Under the pact, the company will refund \$1.5 billion to customers and pay a \$1 billion civil penalty, the largest ever assessed for an FTC rule violation.

September 25, 2025 at 12:43 PM By  **Chris O'Malley**



Credit: ALM

Amazon has agreed to pay \$2.5 billion to settle Federal Trade Commission charges that it tricked customers into signing up for Prime and then thwarted their efforts to cancel the automatically renewing service.

The deal, announced by the agency late Thursday morning, includes a \$1 billion civil penalty—the largest ever assessed for an FTC rule violation.

The other \$1.5 billion will cover refunds for 35 million Amazon customers who didn't want Prime or had difficulties canceling it, the FTC said.

The FTC brought the case two years ago, accusing the company as well as Senior Vice President Neil Lindsay and Vice President Jamil Ghani of violating the FTC Act and the Restore Online Shoppers' Confidence Act.

The case, filed in federal court in Washington, went to trial this week, with jury selection Monday and opening arguments Tuesday. The trial had been expected to last for several months.

[Under the settlement](#), Amazon, Lindsay and Ghani did not admit or deny wrongdoing. In a statement released Thursday afternoon, Amazon said: "Amazon and our executives have always followed the law and this settlement allows us to move forward and focus on innovating for customers. We work incredibly hard to make it clear and simple for customers to both sign up or cancel their Prime membership, and to offer substantial value for our many millions of loyal Prime members around the world."

The FTC brought the case as part of a sweeping crackdown on "dark patterns" marketing practices —e-commerce website design features and marketing tactics that can manipulate or confuse consumers into purchases.

The suit alleges Amazon manipulated customers into purchasing a \$139 annual Prime membership during checkout, then knowingly complicated the cancellation process.

The complaint cites Amazon's internal nickname the "Iliad Flow" to describe its labyrinthine procedure that requires consumers "to navigate a four-page, six-click, fifteen-option cancellation process. In contrast, customers could enroll in Prime with one or two clicks."

The FTC says that Amazon revamped its process shortly before the agency filed its lawsuit because of the "significant pressure" it faced from the commission and because it was "aware that its practices are legally indefensible."

The regulator had been investigating Amazon's Prime enrollment and cancellation flows since March 2021.

Amazon has 240 million Prime subscribers worldwide. They receive a range of benefits, including free and fast delivery of their online purchases and free unlimited photo storage.

In a statement Thursday, FTC Chair Andrew Ferguson touted the settlement as a consumer-protection triumph.

"Today, the Trump-Vance FTC made history and secured a record-breaking, monumental win for the millions of Americans who are tired of deceptive subscriptions that feel impossible to cancel," he said.

As part of the settlement, Amazon agreed to add a "clear and conspicuous" button allowing customers to decline Prime. The company also agreed to pay for an independent supervisor to monitor compliance.

The settlement is far larger than any other the FTC struck during its dark pattern blitz two years ago. That year, it struck a [\\$100 million settlement with Vonage](#) over automatic phone plan renewals and termination fees and [\\$520 million settlement from Fortnite maker Epic Games](#) after alleging it misled players, many of them children, into making unintentional in-game purchases.

The FTC's three commissioners, all of whom are Republicans, approved the settlement in a unanimous vote.

Representing Amazon in the matter were Sidley Austin, Hueston Hennigan, and Davis Wright Tremaine.

Page printed from: <https://www.law.com/corpcounsel/2025/09/25/amazon-strikes-25-billion-settlement-to-resolve-charges-it-tricked-customers-into-signing-up-for-prime/print/>

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California Brief

Anthropic \$1.5 Billion Copyright Pact Wins Judge's Approval (2)

Sept. 25, 2025, 1:28 PM PDT; Updated: Sept. 25, 2025, 3:06 PM PDT

A California federal judge granted preliminary approval of Anthropic PBC's \$1.5 billion settlement to resolve authors' copyright class action over the AI company's downloading of millions of pirated books.

Judge William Alsup said the settlement is "fair" and acknowledged potential complications with the claims process given the number of stakeholders. Lawyers need to be "excellent" to successfully manage the deal to an "ethical" end, he said.

"We have some of the best lawyers in America in the courtroom right now and I think you can do it," Alsup said during the Thursday hearing in the US District Court for the Northern District of California.

Anthropic will pay about \$3,000 for each of the 482,460 books it downloaded from pirate libraries Library Genesis and Pirate Library Mirror, and destroy the original and copied files. The parties struck a deal in August after the AI startup said it faced "inordinate pressure" to settle and avoid paying upwards of \$1 trillion in statutory damages at a trial scheduled for December.

"We are grateful for the Court's action today, which brings us one step closer to real accountability for Anthropic and puts all AI companies on notice they can't shortcut the law or override creators' rights," said the class plaintiffs, Andrea Bartz, Charles Graeber, and Kirk Wallace Johnson in a press release.

The deal is one of the first in the dozens of copyright lawsuits pending against AI giants including OpenAI Inc., Meta Platforms Inc., and Midjourney Inc., setting a potential benchmark for the companies to resolve similar claims.

Authors sued Anthropic in August 2024, alleging the AI company infringed their works by using them to train large language models. Anthropic secured a partial win in June when Alsup ruled that training AI on copyrighted works is fair use, but left to a jury piracy claims regarding the company's downloading over 7 million copies of pirated books from two "shadow" libraries.

The decision comes weeks after Alsup on Sept. 8 postponed approval of the deal and slammed class lawyers over concerns they were striking a deal behind the scenes that would be forced “down the throat of authors.” Alsup raised questions about how the settlement would be executed across an expansive list of stakeholders, including how allocation disputes will be handled.

New Tone

Authors and publishers on Sept. 22 submitted an allocation plan that proposed an optional 50-50 split of the payout for most of the books and a tailored approach for education works. They assured Alsup the plan was designed to ensure fair and equitable distribution while balancing efficiency with the need to respect pre-existing contractual arrangements.

The parties' answers to his urgent questions yielded a more amiable tone from Alsup, who on Sept. 8 said he planned to deny approval without prejudice, before ultimately delaying his decision.

Alsup had initially expressed concern about the proposed plan for ownership disputes between publishers and authors to undergo review by a settlement administrator and special master instead of judges. On Thursday he said the plan was acceptable if it's clearly communicated to class members.

When asked to justify the fairness of the \$3,000 payout, plaintiffs' attorney Justin Nelson of Susman Godfrey LLP, told Alsup the “home run settlement” delivers substantial value to members because they risked receiving nothing if the case went to trial. He also noted Anthropic's potential appeal of any verdict could drag on for years, and that Alsup could've de-certified their class at any point.

“Those are all very good points,” Alsup said, adding that Anthropic could've paid as little as \$1 for hard copies of books to create copies of for training. “\$3,000 is way more than that.”

The judge clarified that no attorneys' fees would be paid until the settlement is complete and that it's part of the “high roller” risk plaintiffs' counsel took.

Alsup recognized that a new judge may have to be assigned to complete the settlement if he goes through with his plan to step down by the end of the year. He said he's happy the plan is at least in place.

Nelson said the settlement website will go live immediately and that he hopes social media advertisements to spread word about the deal will start in the next week.

“I've learned a lot,” Alsup said, and ended the hearing.

Anthropic is represented by Cooley LLP, Arnold & Porter Kaye Scholer LLP, Latham & Watkins LLP, Lex Lumina LLP, and Morrison & Foerster LLP. Lieff Cabraser Heimann & Bernstein LLP, Cowan Debaets Abrahams & Sheppard LLP, Edelson PC, and Oppenheim + Zebak LLP also represent the authors.

The case is Bartz v. Anthropic PBC, N.D. Cal., No. 24-cv-05417, hearing held 9/23/25 .

(Updates with details throughout.)

Anthropic's \$1.5 Billion Settlement Wins Preliminary OK From Federal Judge

U.S. District Judge William Alsup granted preliminary approval to a \$1.5 billion settlement resolving claims that Anthropic used authors' copyrighted works to train its AI chatbot Claude without consent. The deal is the largest copyright settlement ever, covering nearly 483,000 works and paying authors slightly more than \$3,000 per infringed work.

September 25, 2025 at 04:32 PM By **Michael Gennaro**



U.S. District Judge William Alsup, of the Northern District of California. Photo: Hillary Jones-Mixon/ALM

A federal judge in the Northern District of California granted preliminary approval Thursday to a \$1.5 billion settlement between Anthropic and a class of authors who alleged that the artificial intelligence company used their copyrighted works to train its chatbot Claude without their consent.

The settlement is the largest copyright settlement of all time, covering 482,460 works and paying authors slightly more than \$3,000 per work infringed.

U.S. District Judge William Alsup called the deal “a fair settlement.”

Alsup had rejected the proposal earlier this month while listing a variety of concerns, including that authors might not learn of the settlement, which would cause them to "get the shaft," and that the case would become unwieldy with "more lawsuits coming out of the woodwork."

At Thursday's hearing, Justin Nelson of Susman Godfrey, representing the class of authors, reiterated to Alsup that the settlement had the "overwhelming support" of the authors, publishers and other stakeholders.

Nelson said the \$3,000 figure was fair, noting that the most common award for statutory damages is \$750 and the \$3,000 figure is about four times higher.

"We believe it is a historic settlement that delivers fair value to class members," Nelson said.

Nelson said that if the case were to proceed to trial, the class risked "substantial uncertainty" about what the damages could be. He noted that any verdict would likely have been appealed, delaying payment by years, and there was also a risk of class decertification.

"This provides finality. It provides certainty. It provides \$3,000 per work. We believe this is a home run settlement for all class members," Nelson said.

Alsup made both tables of lawyers promise not to use the settlement's reinclusion process to extract side deals or push for higher payments, promising that he would involve the U.S. Attorney's Office for obstruction if such tactics were tried. Nelson said he was not aware of any publishers who would attempt to do so.

"If I was a publisher I wouldn't come close to that scenario," Alsup said.

Now with Alsup's sign-off, the settlement will enter the notice phase, allowing potentially hundreds of thousands of class members to object or opt out. A final fairness hearing will follow at a time to be determined. Nelson said he expects many class members will begin receiving notices within the next week.

Class members will be paid two months after final approval. Alsup said he was confident the settlement would get final approval and said he trusted the lawyers in the case to push it to an "ethical" end.

"I think that will happen. We have some of the best lawyers in America in this courtroom," Alsup said.

Class plaintiffs Andrea Bartz, Charles Graeber, and Kirk Johnson issued a joint statement shortly after the settlement was approved.

"We are grateful for the court's action today, which brings us one step closer to real accountability for Anthropic and puts all AI companies on notice they can't shortcut the law or override creators' rights," the authors said.

Beyond the payment to the authors, the settlement obligates Anthropic to destroy all illegally downloaded books and any copies derived from them, and to certify that none were used to train its commercial products. In return, Anthropic will receive a release for the downloads of works on the settlement list, but it will not be shielded from liability for future conduct or for claims tied to allegedly infringing outputs of its AI models.

According to legal experts, the settlement could provide a [potential blueprint](#) for resolving copyright claims against AI developers and shape the broader legal landscape for generative AI.

Alsup's preliminary approval is the beginning of the end of a fight that started in 2024, when a group of authors led by New York Time bestselling author Andrea Bartz filed suit in the Northern District of California against Anthropic. The plaintiffs alleged that Anthropic built and trained its models using "shadow library" datasets that contained millions of illegally obtained books, including their own copyrighted works. They claimed Anthropic not only failed to obtain permission but also engaged in widespread infringement by copying entire texts to power its generative AI systems.

The lawsuit quickly drew attention across the publishing world, with authors and trade groups in the U.S., Canada and the U.K. rallying in support.

During the case, Alsup ruled that Anthropic's use of copyrighted books to train Claude was a "quintessentially transformative" use and likely qualified as fair use. However, Alsup found the creation of a permanent, centralized digital library containing pirated books was not fair use. He said there was no concrete evidence that AI training harmed the market for the original books, as the AI outputs were not considered replacement products, a key factor supporting fair use.

Editor's note: This story was updated Thursday afternoon to add the statement from the plaintiffs, background information and other details.

Page printed from: <https://www.law.com/2025/09/25/anthropics-15-billion-settlement-wins-preliminary-ok-from-federal-judge/print/>

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Securities

States Oppose Capital One \$425 Million Settlement Over Rates (1)

Sept. 25, 2025, 5:56 AM PDT

Capital One Financial Corp.'s proposed \$425 million settlement of a class-action suit over allegedly unpaid savings-account interest is being opposed by a bipartisan group of states who say the deal shortchanges account holders.

The settlement is too low for customers who lost more than \$2 billion and fails to impose any requirements that Capital One stop misleading consumers, New York Attorney General Letitia James, who is leading the states, said in a statement.

The 18 states that filed a joint opposition to the accord on Wednesday in federal court in Virginia aren't involved in the case filed on behalf of customers, but the judge may still take their arguments into account.

The allegations mirror claims that James made in a May lawsuit on behalf of New Yorkers who used Capital One's online 360 Savings accounts. The Consumer Financial Protection Bureau had filed a similar case against Capital One in January, just as President Joe Biden was leaving office. But that suit was abandoned by the Trump administration the next month.

"Capital One customers worked hard for their savings, only to be misled and cheated out of billions of dollars in interest payments that their bank had promised them," said James, a Democrat. "Now, Capital One is pushing a settlement agreement that would let it off the hook for this illegal scheme."

Most of the attorneys general who signed the brief are Democrats, though two — from Ohio and Louisiana — are Republicans.

"Capital One strongly denies the lawsuit's allegations," the bank said in a statement on Wednesday. "However, to avoid the risks and uncertainties associated with prolonged litigation, a reasonable settlement for all parties has been reached with the class action counsel."

Chet Waldman, a lawyer for the class-action customers, said the settlement avoids the risks of getting a smaller payout from a jury, even if Capital One was held liable.

"We believe that the settlement, which is one of the biggest ever against a bank, is a good deal for 360 Savings account holders given the significant risks of trial and appeal, and we do not believe it makes sense to hold up this settlement based on the New York Attorney General's later-filed action on behalf of New Yorkers only," Waldman said in a statement.

According to New York's suit, Capital One lowered the rate for the 360 Savings account to 0.3% from 1.0% in December 2020 and "kept it frozen there during a period of rising interest rates nationwide," despite telling customers they'd get "one of the nation's best savings rates." Meanwhile, the rate for the bank's newer "360 Performance Savings" account rose as high as 4.35%.

California's attorney general, Rob Bonta, put the estimated losses in unpaid interest at \$3 billion. In a statement on his decision to join the opposition, he said the proposed agreement could undermine James' lawsuit in New York, which he supports.

"Her work must not be undermined by a toothless settlement," Bonta said.

The other states opposing the deal are Arizona, Colorado, Connecticut, Hawaii, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, Oregon, Rhode Island and Washington.

The case is In re: Capital One 360 Savings Account Interest Rate Litigation; 1:24-md-03111; US District Court for the Eastern District of Virginia

(Updates with California's opposition.)

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Edison fire settlement details blasted by plaintiffs' attorneys as unfair

DJ[dailyjournal.com/articles/387791-edison-fire-settlement-details-blasted-by-plaintiffs-attorneys-as-unfair](https://www.dailyjournal.com/articles/387791-edison-fire-settlement-details-blasted-by-plaintiffs-attorneys-as-unfair)[Bookmark](#)[Share](#)**Sep. 26, 2025**

Attorneys criticized Southern California Edison's draft compensation plan for Eaton Fire victims, calling it unfair, self-serving, and inadequate, particularly regarding emotional distress and property damage payouts.

Shutterstock

Plaintiffs' attorneys who have filed hundreds of lawsuits over the Eaton Fire slammed Southern California Edison's draft, litigation-avoiding, compensation program as a self-serving "affront" to the judicial process that will ultimately hurt the fire victims the utility says it's trying to help.

"Punitive damages, intended to punish bad corporate actors through their profits, are alleged in these lawsuits and Edison knows it. Now, the same company that caused the destruction in the first place is trying to circumvent the victims' lawyers with categorically unfair settlement parameters as if anyone can trust them to be competent and fair," said a statement Thursday from Frantz Law Group signed by James P. Frantz, Edward M. Burak and Jason R. Dawson.

Plaintiffs' attorneys first voiced their concerns in July, when Edison (SCE), which denies responsibility for the blaze, announced that it was working on a program to directly compensate victims of the Jan. 7 fire that burned structures and vegetation in Altadena, Pasadena and the Angeles National Forest. Criticism intensified when the utility released its first draft of the proposal on Sept. 17. *Gursey v. Southern California Edison*, 25STCV00731 (L.A. Super. Ct., filed Jan. 13, 2025).

The 27-page document lays out a dual-track claims process. The "Fast Pay" option requires limited documentation, has fixed compensation for many economic loss categories, and promises claimants a compensation offer within 90 days after they submit a claim. SCE says it will combine the cost of rebuilding primary structures and the value of landscaping lost in the fire into a single per-square-foot amount and offer \$550-\$750 per square foot of habitable space of the primary structure, subject to adjustments for insurance coverage.

A sample calculation says that a 1,500- square-foot home valued at \$1.2 million before the fire and \$600,000 after the fire could get \$600 per square foot to rebuild, for a total of \$900,000.

The "Detailed Review" option requires more documentation and a longer processing period that could include physical inspections of the properties.

SCE spokeswoman Gabriela Ornelas declined to address the negative tenor of the plaintiff attorneys' comments. She said Thursday that the program is designed to help community members focus on their recovery.

"As part of the development process, SCE is engaging community members and stakeholders including plaintiff attorneys and elected officials to gather input on the program before it is finalized," Ornelas said.

"The program protocol is a draft document, and a final protocol will be released upon the launch of the program later this fall. If community members and attorneys have feedback on the program, we encourage them to share their comments with us ...," she continued.

Plaintiffs' attorney Gerald Singleton of Singleton Schreiber commented on the residential properties rebuild costs. "One of the things they're doing here - they wrote it to have eye-popping numbers, but when you dig in it's nowhere near that. I think they're hoping to pick off a bunch of people very cheaply. What they haven't taken into account is that they have upset a lot of people and have driven up the cost of settling cases for people that don't accept partial payment."

Attorneys at Kabateck LLP are still evaluating the document, said firm partner Anastasia Mazzella.

She pointed out that litigation will lead to settlement on individualized damages for property loss and emotional distress. SCE's draft program caps emotional distress at \$100,000 for adults and \$50,000 for children, she said.

"SCE's program is a one-size fits-all, take-it or-leave-it payment designed to save SCE money as opposed to making victims whole. Asking people to take less money for a quicker payout is fundamentally unfair given SCE's negligence," she said.

Duke Energy contests climate change case



[courthousenews.com/duke-energy-contests-climate-change-case](https://www.courthousenews.com/duke-energy-contests-climate-change-case)

Sydney Haulenbeek

The Wake County Courthouse in downtown Raleigh on the afternoon of Sept. 25, 2025. (Sydney Haulenbeek/Courthouse News)

RALEIGH, N.C. (CN) — Duke Energy argued in North Carolina Thursday that claims it worsened the climate crisis should be dismissed.

Carrboro, a small town north of Raleigh, [sued](#) the utilities giant in December 2024, claiming it is causing and accelerating climate change. Duke has attempted to conceal the dangers of climate change from the public, it said, despite understanding the dangers of fossil fuel emissions since 1968. It claimed Duke is misleading the public over the causes and consequences of climate change and has “materially slowed the transition away from fossil fuels and toward renewable energy,” failing to timely retire coal plants, increasing reliance upon natural gas and refusing to make meaningful investments in clean energy.

The company is one of the planet’s most significant emitters of fossil fuel emissions, Carrboro said, and has caused decades of delay in implementing measures necessary to transition away from fossil fuels. The impacts of the climate crisis will cost the town millions of dollars in damages, it said, as temperature impacts and more extreme precipitation will require roads to be replaced more frequently, and more devastating storms will necessitate new anti-flooding and anti-erosion infrastructure. As temperatures go up, Carrboro will have to pay Duke, its electricity provider, millions to cool buildings, it said.

Carrboro has failed to meet the threshold to prove injury, counsel for Duke said.

“I can’t say I have a trespass injury by the clouds, right?” asked attorney Hampton Bruton, pointing toward Carrboro’s trespass by climate change claim. Duke’s regulation by the local utilities commission should also be factored in, Duke’s attorneys said.

“The fact that Duke Energy is a regulated utility means that the very decisions that Carrboro is complaining about today, the fact that Duke Energy continues to use fossil fuel products — they would say longer than they should have — implicates decisions by utilities commissions and the General Assembly here in North Carolina and in similar bodies across the country where those types of decisions about generation fuel mix are being made,” said Duke attorney Sterling Andrew Marchand.

Matthew Quinn, counsel for the plaintiffs, argued for the case to remain in state court and survive Duke’s motion to dismiss. The state is able to establish its own regulatory standards more restrictive of emissions than federal guidelines, he said, assuring Business Court

Judge Mark Davis that the case won't inch too closely to federal emissions law, including the Clean Air Act.

"The source of Duke's liability is their deception. It's not emissions," said Quinn, calling Carrboro's case a common law tort.

"We are not second-guessing energy policy. Our claim is a basic claim for money damage based on common law," Quinn said, emphasizing that Duke's messaging that climate change doesn't exist — and, more recently, that it is now a renewable energy company — is deceptive.

Factoring in emissions is critical, counsel for Duke argued, to determine if Carrboro was injured, and if Carrboro isn't going to do that because it involves federal legislation, then the town can't blame Duke for climate change. Carrboro can't claim that Duke deceived the global population or America, they argued, and that its communications swayed them to use more fossil fuels.

"Because they've attributed their injuries to global climate change, which, again, concerns things besides emissions, concerns things outside the United States, outside of North Carolina, they've attributed their injury to something they cannot trace back to a deception by Duke," said Bruton.

Duke's status as a regulated utilities producer shouldn't exclude it from liability, Quinn said.

"If you engage in a deception campaign, you know bad things are going to happen," he said. "And under the law of the state of North Carolina, you don't have to foresee the precise way in which an injury is going to occur."

Even if Duke had not made these statements, the state's utilities commission could still have chosen to go with the same fuel mix that they did, Marchand said.

"You can't connect billions of decisions across the world back to statements on Twitter," he said.

Duke has downplayed the seriousness of fossil fuel emissions, launched public relations campaigns arguing that fossil fuel emissions don't pose a serious risk, opposed all solutions to curbing fossil fuel emissions and promoted its transition from coal-fired generation to natural gas as being cleaner, while knowing it worsens the crisis, the town argued in its [complaint](#).

Duke's communications made people "highly skeptical" about fossil fuels being dangerous, Quinn said.

“It cannot possibly be true that you can deceive everybody all the time about fossil fuels and not suffer related consequences,” he said.

In July, the state legislature passed a bill into law repealing a 2021 requirement that electric regulators must take steps to reduce their carbon dioxide output 70% from 2005’s levels by 2030, in order to reach carbon neutrality. The [law](#), which primarily impacts Duke Energy, faced pushback from opponents for delaying clean energy sources. Supporters said it would [decrease](#) costs incurred trying to meet target goals.

“We are committed to our customers and communities and will continue working with policymakers, regulators and other state leaders to deliver reliable and increasingly clean energy while keeping rates as low as possible,” Duke Energy said in a statement after the hearing. Counsel for Carrboro declined to comment.

Davis asked the parties to submit additional briefing. He did not say when he planned to rule.

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Securities

Insight

Two Cases Could Narrow FCPA By Applying Snyder Gratuities Ruling

Sept. 26, 2025, 1:30 AM PDT

Two significant, but hardly noticed, legal challenges alleging violations of the Foreign Corrupt Practices Act promise to be disruptive, as courts will be invited to curtail the scope of the corporate bribery law.

After the Supreme Court's landmark decision in *Snyder v. United States*, two sets of FCPA defendants have argued that courts should follow *Snyder's* holding that gratuities that are paid to an official after an official act has been done (and not promised beforehand) aren't prohibited by the federal program bribery statute.

Although District Judge Jacqueline Becerra of the US District Court for the Southern District of Florida recently rejected one defendant's challenge in *USA v. Zaglin* that *Snyder's* reasoning applies to the FCPA, the issue likely will be addressed once the defendant raises the issue on appeal to the Eleventh Circuit.

Another case in the Southern District of Florida, *United States v. Piñate*, is currently pending. A different ruling in *Piñate* would have a huge impact on future enforcement of the FCPA.

In *Snyder*, the justices addressed a seemingly narrow question: whether the federal program bribery statute, 18 U.S.C. §666, applies not only to bribery—quid pro quo payments made to influence an official act—but also gratuities or rewards given after-the-fact for actions already taken.

Reasoning through the statutory text, structure, and legislative history of Section 666, the court held that the statute hadn't contemplated gratuities and differentiated them from bribery. In doing so, the Supreme Court continued a trend of narrowing of federal bribery statutes and also the broader principle that criminal statutes should be interpreted narrowly—like a "scalpel." Moving forward, cases alleging bribery under Section 666 will require proof of a quid pro quo agreed to or paid in advance of a desired action, but absence of such proof will be fatal to a case.

The defendants in *Piñate* and *Zaglin* asked courts to adopt the reasoning used for *Snyder's* gratuity question for cases involving similar language and policies underlying the prohibitions against bribery in the FCPA.

Both defendants were charged with violating the FCPA through after-the-fact payments, or gratuities: Roger Alejandro Piñate Martinez is charged with directing illicit payments to the chair of the Philippine Commission on Elections after obtaining contracts relating to the 2016 Philippine national elections. Georgia businessman Carl Zaglin was charged and recently convicted of violating the FCPA for directing illicit payments to Honduran government officials after receiving contracts for police uniforms.

The government charged these payments as FCPA violations, contending they constituted FCPA bribery despite a lack of advance promise or payment demonstrating an explicit quid pro quo.

In their motions to dismiss, Piñate and Zaglin analyzed the FCPA using the same six factors the Supreme Court applied in its analysis of Section 666 in *Snyder*. They argued that the text, history, structure, and statutory punishments of the FCPA, as well as the principles of federalism and fair notice, limit the FCPA only to bribery and similarly don't apply to after-the-fact payments.

They contended that, unlike statutes that outright criminalize gratuity payments, (such as 18 U.S.C. § 201), the FCPA's language included no gratuities provision or even any ambiguous language like the term "reward" at issue in *Snyder*. They also contended that the FCPA criminalizes only payments made to influence business and that business can't be influenced by payments after the fact.

Both defendants also argued that the principles emphasized by the *Snyder* court, respect for federalism and fair notice to defendants, are equally applicable in the context of the FCPA, where an expansive application of the FCPA threatens overzealous and unforeseen prosecutions. This is of particular concern, given that FCPA charges often accompany money laundering charges predicated on the anti-bribery statutes of foreign countries, exposing defendants to a complex combination of foreign and domestic bribery rules that have evolved over recent decades.

Arguing against an overbroad interpretation of *Snyder* aligns with the Trump administration's more focused approach to FCPA enforcement. The challenges could invite higher-level scrutiny within the DOJ concerning the desirability of pursuing future cases that arguably extend enforcement of the statute to its legal limits.

The DOJ thus far has avoided engaging directly with the multi-factor analysis offered by defendants in *Piñate* and *Zaglin*. In its opposition to these motions to dismiss, the government has simply asserted that *Snyder* was "not an FCPA case," sidestepping the question of whether the Supreme Court's reasoning should apply to the FCPA.

This reluctance to address the issue directly may reflect a recognition that *Snyder's* logic, if extended to the FCPA, could greatly narrow the statute's reach. The government's reluctance to engage on the merits of the issue suggests an awareness that some court—be it a district court, appellate court, or the Supreme Court—may eventually adopt *Snyder* in the FCPA context.

The debate over the FCPA's scope occurs amid shifting enforcement priorities in Washington. The current administration has indicated a focus on targeted enforcement of the FCPA.

In *Zaglin*, the defendant also argued that his case doesn't involve any US or foreign competitors for the contracts in question and therefore doesn't raise US interests. Future defendants are likely to make similar arguments, which may resonate with current DOJ leadership.

When US interests aren't directly implicated and foreign law already penalizes illegal behavior, courts may be persuaded that overexpansive prosecution of gratuities under the FCPA similarly isn't supported by the text and original intent of the statute.

If expanded beyond Section 666, *Snyder's* reasoning puts at stake the scope of the FCPA and other US anti-bribery statutes. As such, the district courts' decision of the gratuities question in *Piñate*, and any subsequent appellate decision in the *Zaglin* case, have the potential to reshape the contours of FCPA enforcement and contribute to a broader trend limiting the discretion and power of prosecutors in enforcing anti-corruption laws.

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Humana whistleblower lawyers win \$32 million as False Claims Act faces challenge



reuters.com/legal/government/humana-whistleblower-lawyers-win-32-million-false-claims-act-faces-challenge-2025-09-25

Mike Scarcella, David Thomas

September 25, 2025

Signage for Humana Inc. is pictured at a health facility in Queens, New York City, U.S., November 30, 2021. REUTERS/Andrew Kelly/File photo [Purchase Licensing Rights, opens new tab](#)

- 11th Circuit appeal hangs over future whistleblower cases
- White & Case wants fees in DOJ public records suit
- Kasowitz resolves client dispute with billionaire banker

Sept 25 (Reuters) - (Billable Hours is Reuters' weekly report on lawyers and money. Please send tips or suggestions to D.Thomas@thomsonreuters.com, [opens new tab](#).)

Humana ([HUM.N](#)), [opens new tab](#) is on the hook to pay more than \$32 million to attorneys for a tipster who won a \$90 million settlement from the insurance giant on behalf of the U.S. government, even as another case threatens to wipe out the federal whistleblower provision that allowed for the payouts.

Chief U.S. District Judge Greg Stivers in Louisville, Kentucky, last week ordered Humana to cover legal fees and costs for the whistleblower, former company actuary Steven Scott, as the prevailing party in the litigation.

Scott, represented by law firms Kellogg Hansen and Phillips & Cohen, accused Humana of overcharging the U.S. government for prescription drugs. Humana [settled last year](#) while continuing to deny the claims.

Humana did not immediately respond to a request for comment, and its lawyers at O'Melveny & Myers declined to comment.

Scott sued Humana in 2016 under the False Claims Act, which includes a provision allowing whistleblowers to pursue fraud claims on behalf of the United States.

That provision is facing [a major court challenge](#), after a federal judge in Florida ruled last year that it is unconstitutional. U.S. District Judge Kathryn Mizelle said the provision unfairly allows whistleblowers to exercise federal executive power without accountability to the president.

Most False Claims Act lawsuits are filed under the law's "qui tam," or whistleblower, provisions, according to the U.S. Justice Department. Whistleblowers last year filed 979 such lawsuits, marking a new high for a single year.

The law's whistleblower provisions, which Congress strengthened in 1986, helped to fuel more than \$2.4 billion in settlements and judgments last year.

The Atlanta-based 11th U.S. Circuit Court of Appeals is expected to take up the Florida case in December. The U.S. Chamber of Commerce and other groups have urged the court to uphold Mizelle's ruling, while the U.S. Justice Department has [backed, opens new tab](#) the lawfulness of the whistleblower provision.

Longtime appellate attorney Kannon Shanmugam of Paul Weiss is set to argue the challenge to the whistleblower provision at the appeals court, facing off against consumer advocate Tejinder Singh of law firm Sparacino. The 11th Circuit case would not affect the Humana litigation.

Whistleblowers are entitled to a 15% to 25% cut of proceeds when the government intervenes in a False Claims Act case and helps to litigate it. When the government does not intervene, as in Scott's lawsuit, the amount is 25% to 30%.

Scott received 29% of the \$90 million Humana settlement, or \$26.1 million, according to court records. He paid his lawyers \$10.44 million based on his contingency fee arrangement with them, a filing showed.

Scott's lawyers argued that they were entitled to tens of millions of dollars more under a fee-shifting provision of the False Claims Act.

Humana contested the amount, saying Scott's Washington and San Francisco-based lawyers were claiming "shockingly high" rates for litigating in Kentucky.

Stivers in an order on September 9 found Scott's case justified rates higher than those in Kentucky. Still, the court agreed with a magistrate judge who earlier declined to back a larger request for \$41 million in fees and costs.

Scott's lawyers included Andrew Shen of Kellogg Hansen and Claire Sylvia of Phillips & Cohen. They had no immediate comment.

Shen, in a court filing, said he billed last year at \$1,470 and is billing this year at \$1,600. Sylvia's 2024 rate was \$1,075, and she is billing now at \$1,160, court records show.

– White & Case has asked a U.S. judge in Washington to award the firm \$510,000 for its work in a public records lawsuit against the U.S. Justice Department.

The firm's request on Tuesday criticized what it called the DOJ's "stonewalling litigation tactics" in the Freedom of Information Act case. It also said the requested amount was less than half of the fees the plaintiff, Richard Usher, incurred during the litigation.

Usher was a former top London-based currency trader for JPMorgan who was acquitted in a 2018 federal criminal antitrust trial. In 2023, he [sued the DOJ](#) over its alleged refusal to turn over U.S. records that were part of his prosecution.

Usher's attorneys said the DOJ withdrew legal arguments it made to justify withholding documents, "a tacit acknowledgement that Mr. Usher never should have had to expend so much time and effort to get the relief he did."

The Justice Department and a top lawyer for Usher declined to comment.

– Two months after suing the billionaire founder of Britannia Financial Group over nearly \$500,000 in allegedly unpaid legal fees, U.S. law firm Kasowitz LLP said it had resolved its dispute.

The Kasowitz firm had represented Julio Martin Herrera-Velutini as he faced U.S. criminal charges for allegedly paying \$300,000 to political consultants supporting Puerto Rico Governor Wanda Vazquez during her 2020 election campaign. The firm said in May 2024 it was withdrawing from Herrera's legal team, but did not say why.

Herrera pleaded guilty to a misdemeanor charge for violating the Federal Electoral Campaign Act in August. His sentencing is set for December.

Kasowitz had [sued Herrera](#) in Manhattan federal court in July, alleging he failed to pay the firm's legal fees.

"The matter has been resolved, and we look forward to continuing the relationship with Mr. Herrera-Velutini," a Kasowitz spokesperson said in a statement Wednesday. The spokesperson declined to provide additional details.

Attorneys for Herrera-Velutini did not immediately respond to a request for comment.

Read more:

[Arnold & Porter filings detail Brazil work as tariff dispute looms](#)

[Live Nation, law firm Latham face scrutiny over arbitration bid in ticket pricing case](#)

[Google trial ends with \\$425 million verdict after Cooley inherits privacy case](#)

[Law firm rates, revenues soar but costs pile up in AI era](#)

Reporting by Mike Scarcella and David Thomas

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Personal scandals sink CEOs faster than financial fraud, research shows



theconversation.com/personal-scandals-sink-ceos-faster-than-financial-fraud-research-shows-265725

Michael Nalick

September 25, 2025



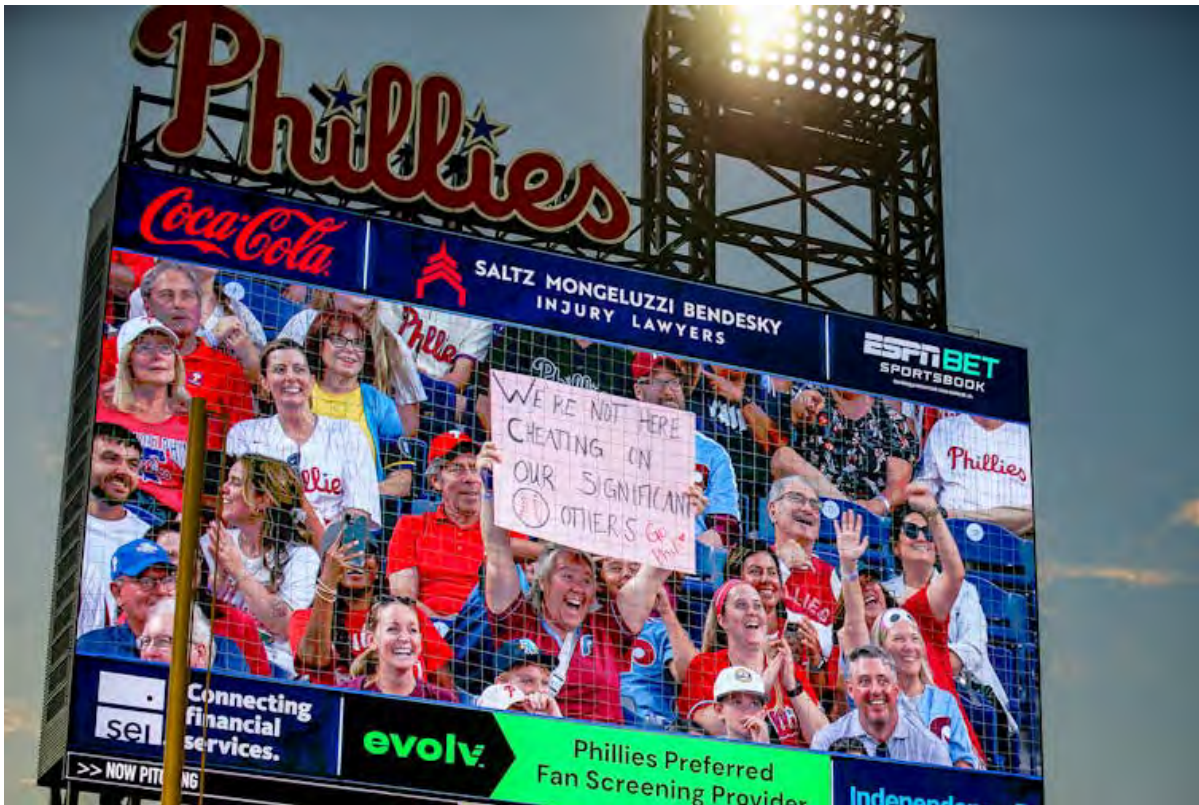
A CEO's canoodling with his company's human resources chief – caught on the “kiss cam” at a Coldplay concert – [made global headlines this summer](#). Beyond the memes and tabloid fodder, [personal lives were shattered](#) and a company was left in turmoil after [its leader's sudden exit](#).

The case, involving the AI firm Astronomer, may be the most visible of recent CEO personal scandals – think sex affairs, drug abuse or embarrassing behavior – but it's not an isolated incident. Just weeks following the Coldplay “kiss cam,” the CEO of Nestlé was [shown the door for similar behavior involving a relationship with a subordinate](#). Personal scandals have been [the top cause of CEO terminations](#) in recent years.

How do these scandals stack up to other corporate indiscretions, such as financial fraud? As a [management professor](#), I knew that there's lots of research on CEOs' financial crimes, but surprisingly little on personal misdeeds.

So my colleagues and I examined [nearly 400 CEO scandals](#) involving either financial or personal misconduct. In this research, published in August 2025 in the journal [Strategic Organization](#), we found that not all CEO scandals are treated equally: The type makes all the

difference.



The Coldplay incident became the subject of ridicule at public events for days, such as at this July 18, 2025, Major League Baseball game. [Isaiah Vazquez/Getty Images](#)

Personal scandals are harder to survive

For most people, personal indiscretions – such as having an extramarital affair or abusing drugs – are a private matter. But for CEOs, even scandals unrelated to business create doubt about their judgment, integrity and leadership. The result is [usually career-ending for the CEO](#), research shows, and can create lasting harm for the company.

We found that CEOs overwhelmingly exit in the wake of personal scandals – five times as often as CEOs who commit financial misconduct do, in fact. And strong business performance doesn't tend to offer protection.

For example, Hewlett-Packard's Mark Hurd, who's widely credited with turning around HP in the mid-2000s, was ousted following a [very visible personal misconduct scandal](#) 15 years ago. The fallout was swift: The company's stock [fell nearly 10%](#) immediately after the announcement, and with leadership in a tailspin, it dropped more than 40% within a year.

Why bad numbers come with better odds

Companies are also routinely accused of “cooking the books.” In recent months, [several firms have been forced to restate their earnings after their financial statements didn't add up](#). These scandals shake investor trust, trigger sharp drops in company stock and often lead to the chief financial officer's departure – with some CEOs following suit.

However, while cooking the books is considered a severe form of corporate misconduct, our research suggests that it has fewer job-ending repercussions for CEOs than personal scandals do. Roughly half of all CEOs implicated in financial scandals survive, we found – because, unlike in personal scandals, CEOs can often shift blame.

We also found that CEOs dismissed due to financial scandals tend to be replaced with outside candidates, which has been shown to [stabilize a company's stock price](#) and lead to [stronger long-term performance](#).

It might be surprising to learn that a CEO's personal misconduct can come at a greater cost – both to the business and the executive – than outright financial fraud. Is corporate America overestimating the importance of CEOs' private behavior? Or is it underestimating the importance of cooking the books?

While I don't have answers to these questions, I think our findings show the need for more discussion – and more research.

Did Disney lose \$4B in market cap after suspending Jimmy Kimmel's show? What we know



snopes.com/news/2025/09/23/disney-jimmy-kimmel-market-cap

Anna Rascouët-Paz

September 23, 2025



- Following ABC's decision to suspend late-night host Jimmy Kimmel's show "Jimmy Kimmel Live!" on Sept. 17, 2025, several posts online claimed its parent company Disney lost nearly \$4 billion in valuation overnight.
- Snopes calculations revealed that overnight, Disney's market capitalization fell by \$1.4 billion.
- However, by the end of the week, it had dropped \$4.2 billion. The next week, on Sept. 22, Disney's valuation had dropped by \$6.4 billion. While this tumble was linked to the backlash against the company for the decision to remove Kimmel's show, financial analysts were overall optimistic about the stock.

In late September 2025, after the Disney-owned ABC network announced it was suspending late-night host Jimmy Kimmel's show "Jimmy Kimmel Live!", a rumor began to spread that The Walt Disney Co.'s [market capitalization](#) (its stock price multiplied by the number of outstanding shares) had dropped by nearly \$4 billion.

For example, a [post on Reddit](#) said Disney had lost \$3.87 billion, presumably in market capitalization, "overnight" ([archived](#)):

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This post had been upvoted 58,000 times and had received 3,300 comments as of this writing. The same claim appeared elsewhere on [Reddit](#) as well as on [Instagram](#).

ABC announced its decision regarding Kimmel's show on Sept. 17, 2025, after the end of trading hours at the New York Stock Exchange. The first reports appeared at 6:45 pm in New York, 30 minutes after a [news release](#) from Nexstar Media Group, which said its ABC affiliates would "preempt" Kimmel's show starting that evening following comments from Kimmel it found controversial regarding the death of Turning Point USA co-founder and CEO Charlie Kirk. (On Sept. 22, ABC announced it was reinstating the show the following day, [PBS reported](#).)

That day, [Disney's stock price closed](#) at \$116.10, after reaching a high of \$116.66. The next morning, it opened at \$115.33. This represented a drop of 0.66%.

As of Aug. 6, 2025, when Disney reported earnings for its third fiscal quarter, the company had 1.799 billion basic shares outstanding. Multiplying this number by the stock price results in the company's market capitalization. For example, at closing Sept. 17, the company's market capitalization was approximately \$208.9 billion. The next morning at opening, it was \$207.5 billion. Overnight, the company lost \$1.4 billion, not the \$3.87 claimed in some social media posts.

Advertisement:

However, by the end of the week on Sept. 19, with its stock price at \$113.76, Disney's market capitalization had fallen by \$4.2 billion, or 2.5%, to \$204.7 billion. The share price closed at \$112.56 on Sept. 22, bringing Disney's market capitalization to \$202.5 billion — down \$6.4 billion, or 3.0%, from the start of trading Sept. 18.

Some financial publications, including [Yahoo! Finance](#), said this fall was linked to the concern of some investors who were selling the stock following [reports](#) that customers angry about the network's decision to suspend Kimmel's show were canceling their subscriptions to Disney's streaming platforms. In addition, celebrities, including actor [Mark Ruffalo](#) ([archived](#)), warned publicly that the backlash might get worse if ABC canceled Kimmel's show altogether. Ruffalo had shared a report that claimed the stock had fallen 7%, however Snopes could find no evidence that this had been the case between Sept. 17, 2025, and the time of this writing.

While Disney's share price followed a downward trend on the news that Kimmel's show was suspended, financial analysts were generally optimistic about the company, as data compiled by [Yahoo! Finance](#) and [CNN](#) revealed.

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Securities

Nevada's Justices Form Panel to Craft New Business Courts (1)

Sept. 25, 2025, 8:02 AM PDT; Updated: Sept. 25, 2025, 10:47 AM PDT

The Nevada Supreme Court has named its commission to develop rules for a dedicated business court that could help lure more Delaware corporations to the Silver State.

The commission is part of a plan initiated by Chief Justice Douglas Herndon, who aims to have the new court operating within a year.

Nevada and Texas, which launched new business courts last year, are aggressively attempting to pull corporate business away from Delaware, long the nation's primary corporate residence, and its preeminent Chancery Court with promises of a more hospitable legal landscape. Elon Musk has reincorporated some of his companies in those states amid criticism that Delaware's judges have cracked down too harshly on conflicts of interest.

The Nevada high court's administrative case docket noted late Wednesday the official creation of a Commission to Study the Adjudication of Business Law Cases. The commission's recommendations are due by the end of June 2026, according to the court's order.

Among the issues the commission will have to decide: how judges will be selected and what role juries might play in corporate litigation. The high court wasn't immediately adopting rules proposed in Herndon's petition, but the commission may recommend them or modify them before presenting its findings on how the business court should operate, the order said.

Nevada currently steers business cases through two state district courts in Las Vegas and Reno. At least two judges in each district are assigned to the business court dockets, but they also hear other civil and criminal matters.

The commission, according to the order, includes Herndon and Justice Lidia S. Stiglich, four judges from the district courts currently handling business cases, four representatives from the legislature and the governor's office, and 14 attorneys and business leaders from across Nevada.

(Updates the fourth, fifth, and seventh paragraphs with new information from the court's order.)

Opinion Technology sector**Shareholders should have more say over the AI rush**

Mega-deals, such as Nvidia's plan to invest \$100bn in OpenAI, need more scrutiny

STUART KIRK

OpenAI's Sam Altman and Nvidia's Jensen Huang plan to build 10 gigawatts of computing power. Nvidia shareholders learnt about the deal through a press release © Nvidia

Stuart Kirk

Published AN HOUR AGO



Everyone loved Monday's announcement by OpenAI and Nvidia. Of course they did. You only have to carve the words artificial intelligence on to a lamp post these days and it'll be valued at millions.

But the more I think about [OpenAI and Nvidia's plan](#) to build 10 gigawatts of computing power, the more I worry that investors are losing their grip. Massive numbers don't seem to register. Being left in the dark is considered normal. Checks and balances barely exist.

One criticism of the deal is that it kind of sounds like a perpetual motion machine with Nvidia investing up to \$100bn in OpenAI so the latter can buy more Nvidia chips. Forking out for growth is common, though — however ick. Samsung, Intel and TSMC invested in ASML to accelerate lithography development in order to boost demand for their own products. Netflix and Amazon fund studios which make content for them. Miners support refineries to guarantee offtake.

My main issue with the deal is the scale of money involved given that Nvidia shareholders learnt about it through a press release presented as a *fait accompli*. Sure, the cash-for-shares swap happens in dribs and drabs as capacity is built. But for reference, \$100bn would rank as a [mega-deal](#) by anyone's standards.

I don't care that Nvidia's market cap is more than 40 times that. The sum is equivalent to the common equity on its balance sheet. If paid out, it's akin to a dividend yield of 2.3 per cent. Shouldn't equity holders have an explicit vote on such an outlay, let alone a deal we're told is so strategic?

Most rule-setters around the world reckon not. While shareholders must be asked if management teams want to do things such as make a large acquisition or cede control, no vote is needed on capex and investment, no matter how gargantuan. Only the board needs to sign-off.

Crucially, there are exceptions. If a significant issuance of shares is required, for example. Or when an investment is in effect a reverse merger. A third reason shareholders are sometimes given a look in — and the one which rang my bell with Nvidia and OpenAI — is if a deal is with a related party.

Laws vary by jurisdiction, but accounting standards (IAS 24 under IFRS as well as ASC 850 under GAAP for American companies) agree that a related-party transaction is between any parties where there is a personal, financial or control relationship.

In other words, two companies that share the same directors, executives or major shareholders (or close family members). They could also be related if one controls the other in some way. Joint ventures can also fit the definition.

Due to potential conflicts of interest, it would seem obvious that such deals should be put to shareholders if they are substantial enough. A boardroom green light doesn't cut it. Therefore in countries such as Britain and Australia, related party transactions over a certain size require shareholder approval.

Not so in the US. For companies listed on the New York Stock Exchange and Nasdaq, all that's required is for their audit committees or another independent group of directors to review related party transactions "on an ongoing basis".

But surely shareholders should have a say in the largest computing project in history, as Nvidia chief executive Jensen Huang called it this week. It sure as hell seems like it should to me.

The world's largest public and private companies do not control the other, as such. Boy, are they related, though. "We've been working closely with Nvidia since the early days," said Greg Brockman, the co-founder and president of OpenAI. Indeed, Huang hand-delivered the first DGX system to OpenAI almost a decade ago. The two companies even call the deal a "landmark" partnership, although we don't know yet what the structure will be. But given related-party rules, you can bet it won't be a formal joint-venture.

Shareholders, of course, do have the right to sue the board if they feel aggrieved or fight a proxy battle to replace directors. But so long as the stock prices keep rising — and Nvidia's rose 4 per cent on the announcement — I suspect investors won't complain even if this cosy deal worries them to some degree.

More broadly, I question whether US related-party rules remain fit for purpose given the interconnectedness of the new AI ecosystem.

At least OpenAI is private. But what about Microsoft's shareholders, who stand to own about 30 per cent of the maker of ChatGPT when it eventually goes public? Or those of SoftBank and Oracle? The [Stargate project](#) they are backing is a \$400bn investment. Almost half a trillion dollars! That's too much for investors to take on trust.

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Securities

SEC Chairman Atkins Eyes More Limited Corporate Risk Reporting

Sept. 25, 2025, 3:38 PM PDT

SEC Chairman Paul Atkins on Thursday said the agency is looking to curtail how much companies disclose about risks to their businesses.

Companies sometimes spend several pages discussing risk factors in their annual 10-K reports to meet Securities and Exchange Commission requirements, confusing investors about what's important, Atkins told reporters at a Georgetown University conference. Firms have risk-averse lawyers who "dump the kitchen sink in," the Republican said.

"It's become a repository for too much," Atkins said. "It's not serving investors well."

The SEC during the first Trump administration required companies to have a risk factor summary of no more than two pages in their 10-Ks, if their reports discussed risks for more than 15 pages.

Atkins said Thursday the agency also is looking to change rules for companies' executive compensation reporting to ensure they provide "material" information to investors.

The SEC's work to update disclosure rules will happen during the "coming months and years," the chairman said, without offering more specifics.

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Securities

Major Audit Flaws Drop in Early Inspections From US Regulator

Sept. 25, 2025, 11:30 AM PDT

The quality of audits by large US firms is continuing to improve, early data from the latest regulatory inspections suggest.

While the Public Company Accounting Oversight Board is still reviewing work by six US audit firms that are part of global networks, preliminary results show a decrease in audit flaws compared to 2024, George Botic, acting chair of the board, said Thursday in remarks before an investor advisory group.

The early data indicate that “efforts by these firms during the past few years are positively impacting audit quality,” Botic told the group.

Botic referred to “Part I.A” deficiencies, or those that mean a firm has failed to obtain sufficient evidence to support its audit opinion and that the opinion was signed without completing the required audit work.

Inspection findings released in March showed improvements in reducing audit flaws by the firms the PCAOB reviewed in 2024. The aggregate “Part I.A” deficiency rate for the six US global network firms decreased to 26% from 34% in 2023. Those firms capture the Big Four—PwC, Deloitte, Ernst & Young, and KPMG—as well as BDO USA PC and Grant Thornton LLP.

Botic took over the helm of the PCAOB from Erica Williams in July after she said she would resign as chair at the request of Securities and Exchange Commission Chair Paul Atkins. During her tenure, Williams highlighted rising flaws in routine audit inspections, calling the spike in pandemic-era deficiency rates “unacceptable.”

The Enron-era board is in the throes of its third leadership overhaul since 2017. The SEC has said it will seek candidates to fill all five seats on the board, with applications for the seats due late last month.

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Securities

Manage Newsletters

Nidec Finds More Suspected Cases of Accounting Fraud (1)

Sept. 26, 2025, 3:59 AM PDT

Summary by Bloomberg AI AI Generated



- Nidec Corp. has discovered more suspected cases of improper bookkeeping, including some involving a Swiss subsidiary, adding to a scandal that's threatening the listing of the company.
- The company's car inverter business may have for years underreported customs duties on second-hand goods exported to China, and a Swiss unit may have exported products without completing the required paperwork.
- Auditor PwC Japan was unable to obtain enough evidence to form an opinion on the company's finances for the fiscal year ended March, according to Nidec's annual securities report.

Nidec Corp. has discovered more suspected cases of improper bookkeeping, including some involving a Swiss subsidiary, adding to a scandal that's threatening the listing of the once-celebrated Japanese auto gear maker.

The world's top maker of mini motors set up an external probe this year after finding accounting irregularities at two subsidiaries. On Friday, it said it unearthed new problems: its car inverter business may have for years underreported customs duties on second-hand goods exported to China, and a Swiss unit may have exported products without completing the required paperwork.

Auditor PwC Japan was unable to obtain enough evidence to form an opinion on the Kyoto-based company's finances for the fiscal year ended March, according to Nidec's annual securities report, submitted after a three-month delay.



Shigenobu Nagamori

Photographer: Buddhika Weerasinghe/Bloomberg

Governance at Nidec, whose inverters and motors are found in cars, robots, home appliances and data centers around the world, is under scrutiny along with founder **Shigenobu Nagamori**'s tight grip on the company before he [stepped down](#) as chief executive officer last year.

Earlier this month, Nidec commissioned an external investigation into the possible involvement of senior executives in multiple cases of improper accounting. The news sent shares in the maker of servo and precision motors tumbling. The company's stock price is down nearly 8% this year, compared with a 14% gain in the Topix.

Read more: [Nidec Shares Sink 22% on Fears of Systemic Accounting Issues](#)

Under Tokyo Stock Exchange rules, any company found to have falsified statements can be labeled as a "security on alert" and face delisting if the problems are not addressed within a year. In the past, that label has been slapped onto Toshiba Corp. and Olympus Corp. , although both avoided delisting.

Nagamori at times publicly criticized executives when they failed to deliver results in the face of intensifying competition in China or sluggish demand for PC components. In 2022, Nagamori expressed his disappointment in **Jun Seki**, whom he'd installed as his successor and CEO the prior year, during a news conference announcing Seki's [demotion](#) . Seki [resigned](#) a few months later.

In June, Nidec said a unit in Italy misreported the country of origin for some of its motors and may have skirted customs duties.

The company postponed the submission of its securities report for the year to March, warning that it may take "considerable time" to get auditors to sign off. Japanese companies are required to submit their annual report within three months of the end of the fiscal year.

Earlier this month, the company flagged that a Chinese affiliate may have improperly booked a ¥200 million (\$1.3 million) supplier rebate. Nidec said it found multiple documents suggesting that senior executives were involved in some of the accounting issues.

Securities

FTE Networks Inc. CEO Sentenced to 12 Years in Prison for Fraud

Sept. 25, 2025, 2:34 PM PDT

The former chairman and CEO of FTE Networks Inc., was sentenced Thursday to 12 years in prison on securities and wire fraud charges.

Judge Colleen McMahon also sentenced Michael Palleschi to three years of supervised release and ordered him to pay more than \$13.5 million in restitution and to forfeit nearly \$547,000.

McMahon said FTE “was a fraudulently run operation from the beginning,” according to a press release issued by the US Attorney’s Office for the Southern District of New York.

Palleschi pleaded guilty in 2023 to conspiring to commit securities and wire fraud, making false statements in SEC filings, improperly influencing audits, securities fraud, wire fraud, and aggravated identity theft.

He ran two schemes, according to prosecutors. The first involved approximately 70 convertible notes with a total principal balance of \$22 million that were issued to private lenders.

Palleschi and others caused FTE to recognize only the principal and interest on company books, without accounting for “substantial liabilities and expenses arising from the notes’ conversion features,” prosecutors said in their press release.

The lenders could convert the notes to FTE common stock on demand or upon default, a feature FTE took steps to conceal.

As a result FTE understated its liabilities and losses in 2017 and 2018.

The other scheme involved FTE’s recognition of over \$13 million in fraudulent revenue.

He also embezzled company funds through unauthorized stock issuance and by using the company jet for personal excursions, the press release said.

The case is *United States v. Palleschi*, S.D.N.Y., No. 1:21-cr-00454, 9/25/25 .

Brunello Cucinelli SpA**Brunello Cucinelli questioned by Italian regulator over short seller claims**

Consob seeks assurances that luxury brand did not mislead market over its Russian operations



A Brunello Cucinelli store in San Francisco. Morpheus Research alleged that stores in Russia remained open and that they were selling products at values well in excess of the legally permitted amount © David Paul Morris/Bloomberg

Silvia Sciorilli Borrelli in Milan

Published 3 HOURS AGO



Italy's financial regulator is scrutinising whether Brunello Cucinelli misled investors over its operations in Russia, after a short seller published detailed allegations that wiped more than €1bn off the luxury group's market value on Thursday.

Consob wrote to the company seeking clarity over [comments made](#) to the Financial Times last weekend by Cucinelli chief executive Luca Lisandrone, in the wake of a report by London-based Morpheus Research, according to people familiar with the exchanges.

Lisandrone told the FT that Cucinelli's stores in Russia were closed and that any goods it sold in the country were in compliance with EU sanctions.

But London-based Morpheus alleged on Thursday that Cucinelli's stores in Russia remained open and that they were selling products at values well in excess of the legally permitted amount.

In 2022, the EU banned exports of luxury goods worth more than €300 to Russia. Morpheus has taken a short position in Cucinelli shares, which fell 17 per cent on Thursday.

Consob's scrutiny does not amount to a formal investigation and comprises a normal part of the regulator's oversight process when a stock fluctuates sharply on a single day, for reasons unrelated to broader market conditions, the people said. Consob declined to comment.

Lisandrone told the FT last week that while its stores in Russia were closed, the brand was offering "one-on-one sales" in its showroom in the country.

He said sales were limited to goods that either fell below the €300 export threshold or those that were imported into Russia before sanctions came into effect.

However, Morpheus claimed that undercover shoppers saw items priced at the equivalent of more than €1,000 in Cucinelli's Russia stores in August and September, and that they were labelled as having been manufactured in Italy in either 2024 or 2025.

People close to Cucinelli said the goods cited in the report complied with sanctions because they had been imported before 2022 and were retagged this year.

The allegations are potentially damaging for Cucinelli, whose namesake founder, Brunello Cucinelli, [extols the virtues](#) of "humanistic capitalism".

Analysts at Bernstein said in a note on Friday that Cucinelli "needs to start damage limitation asap to protect its reputation with customers and investors alike".

While noting that supply chain scandals at Dior and Loro Piana had apparently had little to no impact on sales, the analysts said that because Cucinelli prided itself on selling "ethical and sustainable" luxury, it could face a more pronounced backlash from customers.



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Big Banks Beat Yearslong Libor-Rigging Claims In NY

By **Lauren Berg**

Law360 (September 25, 2025, 10:17 PM EDT) -- A New York federal judge Thursday disposed of the remaining claims in long-running multidistrict litigation accusing Bank of America, Merrill Lynch and more than a dozen other large banks of Libor manipulation.

In an exhaustive 272-page **order**, Senior U.S. District Judge Naomi Reice Buchwald buttoned up the 14-year-old litigation by granting summary judgment to the banks and **decertifying** "a class of plaintiffs who bought over-the-counter [financial] instruments that paid interest indexed to the Libor rate" in antitrust claims against Bank of America and JPMorgan Chase & Co. Those plaintiffs are led by the mayor and city council of Baltimore; city of New Britain, Connecticut; Vistra Energy; Yale University; and Jennie Stuart Medical Center.

The plaintiffs allege there was a conspiracy among 16 major banks to suppress the London Interbank Offer Rate, or Libor, which was "an interest-rate benchmark used in trillions of dollars' worth of financial instruments" before it was phased out in 2023 and 2024, according to the order. They say the banks wanted to "project financial strength" and conceal that they were disregarding the Libor rules in order to stay on the Libor panel, among other things, the order states.

But in her order, Judge Buchwald called the asserted conspiracy "economically senseless."

"First, in dollars and cents, the conspiracy makes no sense," the judge said. "While a persistent effort to suppress Libor may help defendants' borrowing positions by reducing the rate of interest on payments to creditors, such an effort would also hurt defendants' lending positions."

"Second, there is no reason for the panel banks to have conspired when they could have achieved the same benefits with unilateral action," she said, noting that any of the banks "could have realized the same credit-signaling benefits by unilaterally setting Libor at a level that conveyed their credit strength relative to peers."

In addition, "the alleged agreement is simply so vague that it would have been impossible to enforce and, hence, economically senseless," Judge Buchwald said. She also noted that "there was no disciplinary mechanism in place if a bank suppressed too much or too little in violation of" the apparent agreement.

Because their asserted conspiracy doesn't make economic sense, the plaintiffs have to bring more persuasive evidence to support their claim than would otherwise be necessary, but they haven't done so, the order states.

The only direct evidence of a price-fixing conspiracy the plaintiffs have offered are "acontextual excerpts" from the depositions of a Bank of America Libor submitter and a Credit Suisse Libor submitter, according to the order. And that testimony "does not unambiguously establish the existence of a sixteen-bank, multi-year conspiracy," Judge Buchwald said.

"It is revealing that, after years of developing a record — including the production of millions of documents, tens of thousands of recorded phone calls, more than one thousand written discovery requests, deposition testimony from 59 current or former panel bank employees and three former [British Bankers' Association] employees — plaintiffs offer nothing that approaches direct evidence of a conspiracy," the judge said.

The plaintiffs also have not provided circumstantial evidence of a conspiracy, the judge determined,

saying the proffered evidence is "entirely speculative, requires several inferential leaps or relies on the fundamentally flawed analyses" of their experts.

Turning to the issue of the alleged suppression of Libor, Judge Buchwald found that the plaintiffs have not established an antitrust injury on their claim that "Libor was lower than it otherwise would have been absent the alleged conspiracy," according to the order.

The plaintiffs' "proffered evidence does not come close to demonstrating that a reasonable jury could return a verdict in their favor on the issue of suppression," the judge said, noting that their expert testimony is "inadmissible because the data their models depended on was unreliable and incomplete; their methodologies improperly failed to account for other non-conspiratorial causes for the alleged suppression, namely, the financial crisis; and their opinions exceeded the bounds of what could be concluded from a reliable application of their methodologies."

As for the citation of documentary evidence, "the communications they cite are too infrequent to support their claims of persistent suppression," the judge added.

"Accordingly, without a reliable estimate of but-for Libor throughout the relevant period, plaintiffs cannot establish that they suffered an injury as a result of defendants' conduct," the order states.

Judge Buchwald also granted the banks summary judgment on the plaintiffs' Sherman Act claims, as well as their fraud-based, negligent misrepresentation, breach of contract, tortious interference with contract and unjust enrichment common law claims, according to the order.

Finally, the judge granted the banks' motion to decertify the class that was limited to OTC plaintiffs' antitrust claims against Bank of America and JPMorgan Chase, and denied the OTC plaintiffs' bid to certify the same class against Credit Suisse, The Royal Bank of Scotland and UBS AG.

Having found that the banks are entitled to summary judgment on the antitrust claims, Judge Buchwald similarly held that the OTC plaintiffs "failed to provide common evidence of either conspiracy or suppression," according to the order.

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

The litigation, which was launched in 2011, has listed more than 70 cases as related matters on its docket. The plaintiffs include bondholders, traders and lenders alleging the financial giants reaped potentially billions of dollars from the scheme.

Last year, Credit Suisse, Lloyds Bank, UBS AG and others **settled claims** with exchange-based traders for \$3.5 million, while another group of defendants, including RBS, inked a **\$1.9 million deal** with lender plaintiffs Berkshire Bank and the Government Development Bank of Puerto Rico.

The year before, MUFG Bank Ltd., the Norinchukin Bank and Societe Generale reached a \$90 million settlement that **fetched \$22 million in fees** for attorneys from Susman Godfrey LLP and Hausfeld LLP.

Previously, plaintiff groups have inked deals with Barclays for \$120 million, Citibank for \$130 million, HSBC for \$100 million and Deutsche Bank for \$240 million.

The plaintiffs are represented by Hausfeld LLP, Susman Godfrey LLP, Kirby McInerney LLP, Robbins Geller Rudman & Dowd LLP, Cohen Milstein Sellers & Toll PLLC, Pomerantz LLP and Motley Rice LLC, among others.

The defendants are represented by King & Spalding LLP, Davis Polk & Wardwell LLP, Cahill Gordon & Reindel LLP, Paul Weiss Rifkind Wharton & Garrison LLP, Simpson Thacher & Bartlett LLP and Katten Muchin Rosenman LLP, among others.

The case is In re: Libor-Based Financial Instruments Antitrust Litigation, case number 1:11-md-02262, in the U.S. District Court for the Southern District of New York.



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IPO Suit Reinforces Strict Section 11 Tracing Requirement

By **Brad Karp, David Friedman and Daniel Sinnreich** (September 24, 2025, 4:29 PM EDT)

On June 23, the U.S. District Court for the Northern District of California dismissed a Section 11 claim where nonexecutive employees of an issuer were permitted to sell a portion of their preexisting shares to the public in connection with a company's initial public offering.

In the decision, *Shnayder v. Allbirds Inc.*, the court **applied** the U.S. Supreme Court's unanimous 2023 decision in *Slack Technologies LLC v. Pirani*, which requires that a Section 11 plaintiff plead and prove that it purchased shares traceable to the registration statement it claims is materially misleading.

The court held that the plaintiffs had not adequately alleged that the shares they purchased were issued pursuant to the allegedly deficient registration statement, because both registered and unregistered shares of the issuer's stock were available at the time of the IPO.

Consistent with *Slack*, this decision reinforces the strict tracing requirement for Section 11 plaintiffs — even at the pleading stage.[1]

And while courts have previously noted that *Slack*'s rigorous traceability requirement likely forecloses Section 11 liability in the direct listing context,[2] this opinion suggests those same protections — and reduced litigation exposure — extend to companies that go public through a traditional IPO, so long as registered and unregistered shares commingle at or near the time of the offering.

This opinion could also have implications in the class certification context by limiting approved classes to shareholders who purchased shares prior to the point at which registered and unregistered shares commingle in the market — for example, the end of an initial lockup period for company insiders.

Background: Slack and the Section 11 Traceability Requirement

In *Slack*, the Supreme Court considered the applicability of Section 11 of the Securities Act of 1933 — which creates liability for a misleading registration statement — to the direct listing of Slack on the New York Stock Exchange.

In a direct listing, the company files a registration statement to permit existing shareholders to sell their shares to the public. This differs from a traditional IPO, in which a company files a registration statement to issue new shares.

In a direct listing, both registered and unregistered shares are immediately tradable, making it difficult for a shareholder to know whether a share purchased after a direct listing was registered or unregistered.

Before the case reached the Supreme Court, a divided panel in the U.S. Court of Appeals for the Ninth Circuit held that, in the context of a direct listing, plaintiffs are not required to plead that they purchased shares registered under the allegedly false or misleading registration statement.



Brad Karp



David Friedman



Daniel Sinnreich

The majority reasoned that unregistered shares were linked to the registration statement because "the same registration statement makes it possible to sell both registered and unregistered shares to the public" under NYSE rules.

On July 1, 2023, the Supreme Court unanimously vacated the Ninth Circuit ruling and held that Section 11 "requires a plaintiff to plead and prove that he purchased shares traceable to the allegedly defective registration statement." The court focused on the statutory language allowing "any person acquiring such security" to sue if "any part of the registration statement" is materially false or misleading.

The court explained that the phrase "such security" refers to a security registered under "the particular registration statement alleged to be misleading." On remand, the Ninth Circuit held that the plaintiff failed to meet this standard and remanded with instructions to dismiss the complaint.

The Allbirds IPO

The Northern District of California on June 23 applied Slack's traceability requirement in *Shnyder v. Allbirds*.

The case concerned Allbirds Inc., a retail footwear company that went public through an IPO in November 2021. The registration statement filed in connection with the IPO provided that

beginning at the commencement of trading of our Class A common stock on the first trading day on which our common stock is listed on Nasdaq and through the seventh consecutive trading day thereafter, any of our current employees (but excluding current executive officers and directors) may sell in the public market up to 25% of the shares of our common stock.

After Allbirds' share price declined, a putative class of shareholders sued, alleging that defendants misled the market about Allbirds' business strategy. Among other claims, plaintiffs alleged that Allbirds made misleading statements in its registration statement in violation of Section 11.

The District Court's Dismissal Decision

The district court granted the defendants' motion to dismiss the Section 11 claim. The court acknowledged Slack's requirement that Section 11 plaintiffs must plead sufficient facts to establish that they "purchased shares traceable to the allegedly defective registration statement."

The plaintiffs argued that they had sufficiently alleged that their shares were traceable to the registration statement because "Allbirds issued shares in a single offering under one registration statement." The court rejected that contention because certain employees were permitted to sell preexisting shares not subject to registration requirements during the first seven days of public trading.

This was significant because, as was the case in the direct listing scenario addressed in Slack, by "definition not all of the company's shares will be directly traceable" to the registration statement.

Accordingly, the plaintiffs' cursory allegation did not suffice, and "further factual enhancement [was] needed" to adequately plead statutory standing. The court accordingly dismissed the Section 11 claims, but granted the plaintiffs leave to amend "if they can in good faith add allegations that their shares are directly traceable" to the registration statement.

Implications

While courts have previously recognized that Slack's strict tracing requirement may effectively insulate companies that go public through a direct listing from Section 11 liability, this decision further extends Slack's reasoning to traditional IPOs.

The decision suggests that companies that allow certain employees to sell preexisting, unregistered shares in an IPO may frustrate investors' ability to trace their shares to an IPO registration statement, and, accordingly, reduce associated litigation exposure.

The decision further suggests that, when a company issues shares pursuant to multiple registration statements in subsequent offerings, it may be difficult for investors to trace their shares to the particular registration statement they allege is false or misleading.

The decision may have implications at the class certification stage as well, because a class of investors asserting Section 11 claims should not be certified unless all class members have standing to assert those claims.

This may limit the scope of a Section 11 class to only those investors who purchased stock before registered and unregistered shares commingled in the market, for example, prior to the end of an initial lockup period during which company insiders cannot sell their unregistered shares.

Indeed, this is precisely what happened in the 2023 decision *In re: The Honest Company Securities Litigation*, where the U.S. District Court for the Central District of California certified a Section 11 class, but limited the class definition to include only those who purchased or acquired shares within 180 days of the IPO — prior to the expiration of the lockup period.

Section 11 defendants should carefully review the details of the underlying offering and develop a clear record of when unregistered shares first traded in the market, and, where appropriate, deploy that record at the pleading stage or beyond to defeat or substantially narrow plaintiffs' claims.

Brad Karp is chairman at Paul Weiss Rifkind Wharton & Garrison LLP.

David Friedman is a partner and deputy chair of the investment management litigation practice group at the firm.

Daniel S. Sinnreich is counsel at the firm.

Paul Weiss associate Emily M. Miller contributed to this article.

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[1] <https://www.paulweiss.com/insights/client-memos/supreme-court-limits-who-may-sue-under-section-11-of-the-securities-act>.

[2] <https://www.paulweiss.com/insights/client-memos/district-court-concludes-section-11-liability-likely-foreclose-d-for-companies-going-public-through-direct-listing>.

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Manhattan Associates Brass Face Suit Over Biz Strategy Shift

By **Chart Riggall**

Law360 (September 25, 2025, 8:52 PM EDT) -- Directors and officers of enterprise software firm Manhattan Associates were hit with a shareholder derivative suit in Georgia federal court from an investor who claimed that the company's shift from onsite technology services to cloud-based offerings was a business disaster, wiping out billions in market value in late 2024 and early 2025.

In a **complaint filed Monday**, Patrick Ayers alleged that Manhattan's executives lied to investors about the expected revenue and hiring growth that they claimed would result from moving toward cloud services.

But in reality, Ayers said, the new business model was less reliable and less profitable, gutting Manhattan's services division income, which made up about half of the company's revenues. The strategy's alleged failure didn't come to light until earnings reports in October and January, when Manhattan's share price respectively plunged by 7.2% and 33.4%.

"These wrongs resulted in significant damages to Manhattan's reputation, goodwill, and standing in the business community, as well as exposing the company to potential liability for violations of state and federal law," Ayers alleged.

Ayers' suit — which names former CEO Eddie Capel and CFO Dennis B. Story as defendants, among other executives and board members — alleged that last summer, Manhattan began experiencing "headwinds" in its services division. Touted by Capel as the company's "secret weapon," the division focused on implementation and design of its enterprise and supply chain technology products.

But Ayers, relying in part on an **earlier securities class action** against the company, said Manhattan began offering cloud-based software — even though it was "faulty and riddled with technical issues" and the nature of the product required less services work.

Amid these alleged "headwinds," Ayers said, Capel told investors that the company planned to hire employees in the services division, signaling business was strong.

"However, the demand for these employees did not exist," Ayers alleged. "This lack of work led to a hiring freeze of new services employees and eventual rounds of layoffs just months after touting the onboarding of new hires."

Though analysts and investors continued to believe Manhattan was on solid financial footing, per the suit, "the truth began to emerge" in October during the company's third quarter earnings call, where it disclosed that it expected a \$15.5 million decline in revenue for the coming quarter. As a result, the company's market cap dropped by nearly \$1.3 billion, representing a more than 7% loss.

Then in January, the company was forced to downgrade its projections again, Ayers said.

"On this news," he added, "the company's market capitalization plunged more than 33.41%, or \$98.59 per share ... erasing over \$6 billion in market capitalization over several days."

All told, Ayers alleged, "These improper statements have devastated Manhattan's credibility as reflected by the company's almost \$4.4 billion, or 29.01%, market capitalization loss."

Alleging violations of the Exchange Act, breach of fiduciary duty, unjust enrichment and waste of corporate assets, Ayers has asked the court for financial damages as well as the enforcement of improved corporate governance measures.

Manhattan Associates didn't immediately respond to a request for comment.

Ayers is represented by Michael I. Fistel Jr. and Mary Ellen Conner of Johnson Fistel PLLP, Brian J. Robbins of Robbins LLP, and Richard A. Maniskas of RM Law PC.

Counsel information for the defendants was not available.

The case is Ayers v. Capel et al., case number 1:25-cv-05416, in the U.S. District Court for the Northern District of Georgia.

--Editing by Michael Watanabe.

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Disney Shareholders Demand Docs Over Kimmel Suspension

By **Sarah Jarvis**

Law360 (September 25, 2025, 7:20 PM EDT) -- A group of Disney shareholders is demanding to inspect various company books and records related to the decision to suspend "Jimmy Kimmel Live!," saying the company may have put "improper political or affiliate considerations" over stockholder interests.

The American Federation of Teachers, AFL-CIO and Reporters Without Borders Inc. said in their Wednesday **letter** that they want to investigate potential wrongdoing, mismanagement and breaches of fiduciary duty by members of The Walt Disney Co.'s board of directors. The groups said they seek "transparency into the initial decision to suspend Mr. Kimmel and his show."

"There is a credible basis to suspect that the board and executives may have breached their fiduciary duties of loyalty, care, and good faith by placing improper political or affiliate considerations above the best interests of the company and its stockholders," the letter reads.

Disney didn't immediately respond to a request for comment Thursday. The shareholders are represented by Norman Eisen of the Democracy Defenders Fund, Christopher J. Clark of Clark Smith Villazor LLP and Roberta A. Kaplan of Kaplan Martin LLP.

Disney suspended "Jimmy Kimmel Live!" after Kimmel joked on his late-night show that Republicans were "desperately trying to characterize this kid who murdered Charlie Kirk as anything other than one of them and doing everything they can to score political points from it."

Hours after the comments aired, Nexstar Media Group and Sinclair Broadcast Group — owners of dozens of ABC affiliate stations — announced that they would preempt Kimmel's show for an indefinite period. Later that evening, ABC said that it would be pulling the show from the air for an unspecified amount of time, and the show returned on Sept. 23.

Nexstar is currently seeking FCC approval for its planned \$6.2 billion **acquisition** of Tegna.

A government accountability watchdog brought a **complaint** against Federal Communications Chair Brendan Carr to the D.C. Bar Association on Tuesday, claiming Carr violated conduct rules when he threatened to bring FCC action against ABC if it declined to discipline Kimmel over his remarks.

In their Wednesday letter, the AFT and RWB said the suspension led to a fallout that "sparked criticism as an attack on free speech, triggered boycotts and union support for Mr. Kimmel, and caused Disney's stock to plummet amid fears of brand damage and concerns that Disney was complicit in succumbing to the government overreach and media censorship."

The letter noted that "Jimmy Kimmel Live!" still wasn't available on about a quarter of ABC affiliates — those owned by Nexstar and Sinclair — after ABC restored the program to the air on Tuesday.

Among other things, the shareholders are seeking copies of meeting minutes, meeting agendas and written materials provided to the board concerning the suspension and return of Kimmel's show and the impact on company revenue or reputation.

--Additional reporting by Jared Foretek. Editing by Alanna Weissman.



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Internet Co. To Face Trimmed Claims In Investor Fraud Suit

By **Katryna Perera**

Law360 (September 25, 2025, 10:27 PM EDT) -- A California federal judge has trimmed claims from a proposed class action against internet company Fastly Inc. and several of its executives, alleging they misled investors about the "customer pullback and macroeconomic impacts" the company was experiencing, finding several challenged statements in the suit were not misleading when made.

U.S. District Judge Jon S. Tigar issued an **order** Wednesday granting Fastly's dismissal motion regarding several allegedly misleading statements made by Fastly's CEO, Todd Nightingale, and its Chief Financial Officer, Ronald Kisling. Nightingale and Kisling are both named as defendants in the suit.

Among those removed from the suit were revenue projections made by Kisling, which Judge Tigar said were forward-looking and therefore protected, and a statement made by the company warning of risks that could occur if "key" or "major" customers were lost, or reduced their usage of Fastly's services.

Judge Tigar said the plaintiffs don't point to any allegations that define key or major customers or raise the inference that the individual defendants knew when the risk warning statement was made that the company had already lost big customers.

"Plaintiffs point to allegations about a decline in usage from Fastly's large or enterprise customers during Q4 2023, but those allegations, without more, do not raise the inference that those large customers that reduced their usage were 'key customers' or 'major customers' of Fastly," the order states.

The judge also tossed a statement by Nightingale about whether macroeconomic trends were getting better and the level of exposure Fastly had in the small-to-medium business market.

According to the order, the investors claimed the statement was misleading when made because the complaint alleges facts showing that Fastly "did have exposure in the SMB market," whereas Nightingale claimed Fastly "did not have exposure in the SMB market and mid-market."

However, Judge Tigar said Wednesday that the investors' theory of falsity on this claim "depends on an interpretation of [the statement] that does not reflect what defendant Nightingale said."

"Plaintiffs argue that defendant Nightingale stated that Fastly 'did not have exposure in the SMB market and mid-market,' but what he said was that Fastly did not 'have a lot of exposure there [to the SMB market].'" Plaintiffs have not alleged facts that raise the inference that defendant Nightingale knew at the time he made [the statement] that Fastly had 'a lot' or significant exposure to the SMB market," the order states.

Furthermore, the judge dismissed claims of loss causation related to two alleged corrective disclosures, finding the investors had not shown that any new information came to light through the identified disclosures.

Despite dismissing several challenged statements and claims of loss causation from the suit, Judge Tigar found that the complaint plausibly alleges scienter, or knowledge of wrongdoing, against Nightingale and Kisling.

"Plaintiffs' allegations strongly indicate that the individual defendants knew of the declines in usage and revenues from Fastly's large (or 'enterprise') customers ... that were associated with macroeconomic conditions, as well as of the negative impact that those declines had on Fastly's revenue ... because those matters were discussed during all-hands meetings that were attended by all Fastly employees and the company's C-Suite, which included the individual defendants," the order states.

The suit was filed last year on behalf of a proposed class of shareholders who purchased or acquired Fastly securities between Nov. 15, 2023, and Aug. 7, 2024. The operative complaint alleges that throughout the class period, the defendants misleadingly told investors that Fastly was not experiencing the same "slowing in growth" as its competitors.

Additionally, the suit claims the defendants failed to tell investors that Fastly's revenues were declining due to "macroeconomic forces that were negatively impacting the company throughout 2023, which were causing Fastly's large customers to become price conscious."

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

The investors are represented by Murielle J. Steven Walsh, Emily C. Finestone and Jennifer Pafiti of Pomerantz LLP and Brian Schall of The Schall Firm.

The defendants are represented by Melanie M. Blunschi, Samantha Kaplan and Daniel R. Gherardi of Latham & Watkins LLP.

The case is Kula v. Fastly Inc. et al., case number 4:24-cv-03170, in the U.S. District Court for the Northern District of California.

--Editing by Drashti Mehta.

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Bitcoin Miner Investors Win Class Cert. In Suit Over Acquisition

By **Emilie Ruscoe**

Law360 (September 25, 2025, 6:17 PM EDT) -- Investors in energy company-turned-bitcoin miner CleanSpark Inc. have gotten certification for a class of those allegedly harmed by the company's concealment of unfavorable details about a mining company it acquired and misrepresentations about the timeline for expanding the acquisition's power capacity.

U.S. District Judge Loretta Preska on Wednesday granted investor Darshan Hasthantra's bid to certify a class of those who purchased CleanSpark shares between December 2020, when the company announced its acquisition of bitcoin mining company ATL Data Centers Inc., and August 2021, when CleanSpark's stock price fell to under \$12 from a class period high of \$42.60, after the company announced a delay of the expansion of ATL's power capacity.

"Plaintiff has demonstrated that a class action is the superior method to adjudicate his claims," Judge Preska said in the **opinion and order**, noting there are "presumably thousands of class members."

CleanSpark opposed certification, arguing in March that Hasthantra's proposed model for calculating classwide damages "is riddled with flaws that plaintiff's own expert admitted in deposition testimony."

Specifically, CleanSpark said, the investors' expert found no statistically significant price decline following three out of four of the partial corrective disclosure dates described in the suit. The expert also said he didn't see a statistically significant price increase following the alleged misstatements at the beginning of the class period, CleanSpark said.

Judge Preska shot down that argument Wednesday, citing a 2018 finding in the case [Li v. Aeterna Zentaris Inc.](#), saying that an expert's study at this stage in litigation "was not prepared to demonstrate price impact, but, rather, market efficiency. As such, defendants' efforts to criticize his report for failing to make findings that were not the focus of the report is to no avail."

Either way, the judge said, it was CleanSpark's burden, not Hasthantra's, "to demonstrate the absence of price impact" on trading prices for its shares in connection with the alleged misrepresentations.

"Considering defendants have failed to present any evidence demonstrating a lack of price impact to rebut the presumption of reliance, plaintiff is entitled to the presumption" that the investors had relied on the company's alleged misrepresentations in making their investment decisions, Judge Preska said.

In the latest version of the suit, from February 2022, Hasthantra described CleanSpark as "an alternative energy company whose operational and strategic focus has shifted somewhat in recent years."

For example, the investor claimed, in December 2021, around the beginning of the proposed class period, the company started describing itself as "a leading bitcoin mining and diversified energy company" when it had previously described itself as "providing advanced software and controls technology solutions" for energy challenges.

Hasthantra claimed CleanSpark's business transformation was the result of acquisitions and transactions. He further alleged that when CleanSpark purchased ATL, it failed to disclose that ATL

had recently almost been sold to another cryptocurrency mining company before that deal fell apart during the diligence process.

The investor also said ATL "was effectively just the rebranded assets of a now-defunct company called Virtual Citadel, Inc." that went through bankruptcy proceedings in 2020.

The suit also accused CleanSpark of misrepresenting how long expansion of ATL's power capacity would actually take.

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

Hasthantra is represented by Gregory B. Linkh and Christopher R. Fallon of Glancy Prongay & Murray LLP, and Frank R. Cruz of the Law Offices Of Frank R. Cruz.

CleanSpark is represented by Jay S. Auslander, Aari Itzkowitz and David J. Partida of Wilk Auslander LLP.

The case is Hasthantra v. CleanSpark Inc et al., case number 1:21-cv-00511, in the U.S. District Court for the Southern District of New York.

--Editing by Lakshna Mehta.

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Boeing Asks Chancery To Ground 737 Max Derivative Suit

By Jarek Rutz

Law360 (September 25, 2025, 6:42 PM EDT) -- Boeing Co. wants the Delaware Chancery Court to throw out a derivative lawsuit that accuses the company's leadership of ignoring safety risks in the wake of a January 2024 incident in which a door plug flew off one of its 737 Max planes.

The aerospace company argued in its **motion to dismiss** late Wednesday that suing shareholders are stretching Delaware's Caremark oversight standard beyond recognition and that its board did not ignore safety red flags or intentionally break the law.

Instead, Boeing claimed it actively engaged in monitoring through new committees and reporting systems, and direct responses to incidents.

"Through in-service safety incident reports, 'risk register' presentations, and other reporting, the safety committee monitors the company's ongoing efforts to address safety and quality risks — including the implementation of Boeing's safety management and quality management systems, the companywide 'Speak Up' program for employees to raise concerns confidentially, and the work of the newly appointed chief aerospace safety officer," Boeing said in the motion.

Under Delaware corporate law, directors can be held liable for failing in their oversight duties and failing to make a good-faith effort to monitor the company's operations and risks. Called "Caremark claims," they arise from the 1996 Delaware Court of Chancery decision *In re Caremark International Inc. Derivative Litigation*, which refined director duties of care and oversight.

The plaintiffs — the Ohio Public Employees Retirement System, State Teachers Retirement System of Ohio and Oklahoma Firefighters Pension and Retirement System — filed the derivative lawsuit in February, alleging Boeing ignored fiduciary duties by prioritizing profits over safety.

This, the pension groups said, included approving an unrealistic production ramp-up of the 737 Max — the plane with door malfunction — despite supplier issues, inexperienced workers and widespread manufacturing defects.

On Jan. 5 2024, an Alaska Airlines Boeing 737 MAX 9 was forced to make an emergency landing after a door plug panel detached mid-flight, leaving a hole in the plane's fuselage. The Federal Aviation Administration grounded similar aircraft for inspections, and although no one was seriously injured, the incident reignited scrutiny of Boeing's safety and quality controls.

The plaintiffs said these issues were overlooked in Boeing's pursuit of **\$10 billion** in free cash flow in the near future.

Boeing said the pension groups cannot show that it made a demand on the board to take action or establish a substantial likelihood of director liability — threshold requirements that, if unmet, require dismissal.

According to Boeing, the complaint lacks the required director-by-director showing that a majority of the board faces a substantial likelihood of liability and proof that directors intentionally caused the company to break the law in pursuit of products.

"That is an incredible accusation, and plaintiffs do not come close to justifying it," it said in the

motion, adding that the pension groups cite no facts suggesting board-approved production targets require legal violations, let alone that the board of directors knew of any violations.

Shareholders first sued Boeing in Virginia federal court in July 2024 with direct securities claims, but U.S. District Judge Leonie M. Brinkema dismissed the Caremark claims so they could be adjudicated in Delaware Chancery Court.

Boeing said the plaintiffs are improperly leaning on the Virginia court's refusal to dismiss federal securities claims, stating that those claims involved disclosure issues, not fiduciary oversight duties.

"Plaintiffs must show that demand is futile director by director and claim by claim, and the Virginia federal court did not address demand futility for any director on any claim at issue here," Boeing said.

"Quite the opposite," it said, pointing out that the Virginia court severed the Delaware claims from the federal claims precisely so that the Delaware Chancery Court could assess the threshold question of demand futility with respect to them.

Boeing also sought dismissal claims against 12 nondirector officers and employees, arguing that the plaintiffs neither explain their supposed oversight failures nor establish jurisdiction over many of them.

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

The plaintiffs are represented by Javier Bleichmar, Lesley E. Weaver, Derrick B. Farrell, Matthew L. Miller and Robert B. Lackey of Bleichmar Fonti & Auld LLP, Christine M. Mackintosh, Vivek Upadhyia, Casimir O. Szustak and Jonathan C. Millis of Grant & Eisenhofer PA and Justin O. Reliford, Geoffrey M. Johnson, Donald A. Broggi, Jing-Li Yu, Maxwell R. Huffman and Ora L. Lupear of Scott + Scott Attorneys At Law LLP.

Boeing is represented by Blake Rohrbacher, Kyle H. Lachmund, Kevin M. Kidwell, Benjamin O. Allen of Richards Layton & Finger PA.

The case is In Re The Boeing Co. Derivative Litigation, case number 2024-1210, in the Court of Chancery of the State of Delaware.

--Additional reporting by Katryna Perera and Jeff Montgomery. Editing by Rich Mills.



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\$8.9B Deal For Health Tech R1 RCM Draws Del. Chancery Suit

By **Jeff Montgomery**

Law360 (September 25, 2025, 10:19 PM EDT) -- Four stockholders of healthcare revenue management venture R1 RCM Inc. challenged the company's take-private deal in Delaware's Court of Chancery Thursday, alleging that the private equity and allies who won the \$8.9 billion, November transaction lined up an unfairly low, \$14.30 per share price.

Leading the November deal was private equity TowerBrook Capital Partners LP, which, along with Ascension Health Alliance — R1's largest customer — held a controlling 35.6% of R1's shares through a multi-entity investment vehicle, "TA."

Another prospective acquirer — private equity New Mountain Capital, which held 33% of R1 — tried and failed to buy the company in 2021 and competed in the latest push for a deal, according to the **complaint**. TA, meanwhile, ultimately partnered with private equity Clayton Dubilier & Rice LLC.

The RCM in R1's name refers to "revenue cycle management," or handling of all revenue generating activities in an enterprise. It employs more than 27,000 people and has more than 1,000 hospital, health system and physician group clients.

The eventual deal price fell 23% below R1's \$18.49, 52-week trading high, according to a complaint filed by attorneys for the four plaintiffs that sued: Employees' Retirement System of Rhode Island, City of Dearborn Police & Fire Revised Retirement System, The City of Providence R.I., and stockholder Jay Teasley.

According to the complaint, "The merger consideration was inadequate and unfair, reflecting an unfair price and unfair process, and the proxy and related filings were materially misleading and contained material omissions."

Although R1's controlled board formed a "putatively independent two-person special committee" for the sale, "that process was tainted by the presence of conflicted advisors." The special committee only considered two prospects: New Mountain Capital, which held 33% of the company's shares, and the combined, winning play by TA and Clayton Dubilier.

Despite the outward competition the suit said, "the conflicted financial advisors were only able to justify the merger through manipulated financial analyses," with the TA-dominated, allegedly conflicted board served by conflicted advisors.

"TA refused to condition the merger on the approval of a majority of the company's minority investors and secured stockholder approval through a misleading and omissive proxy that failed to include material facts" regarding conflicts, the complaint said.

Among the purported conflicts were discussions well before the deal with former company CEO Joseph Flanagan about a return to the company's helm under allegedly lucrative post-deal terms.

TA and Clayton Dubilier agreed ahead of time, according to the complaint, that Flanagan would return as CEO as well as a director of R1, at a \$1.5 million base salary and annual \$3 million bonus, and would receive a \$5 million signing bonus made up of \$3 million in cash and \$2 million in fully vested incentive units, among other benefits.

On Aug. 13, 2024, nearly three months before the close, Flanagan also was retained as a consultant under an agreement with TowerBrook and Clayton Dubilier, paying \$250,000 per month and a \$20,000 monthly stipend for living and travel expenses.

Both the TA parties identified as controllers, and the company's former board members face separate claims for breaches of fiduciary duties in the complaint, with a third count alleging that TA, Ascension and TowerBrook aided and abetted those breaches.

During consideration of the deal, TA allegedly "highlighted the importance of R1's relationship with Ascension" as a customer.

"In light of TA's refusal to sell its shares and the looming threat of damaging the Ascension customer relationship, TA was implicitly threatening the Special Committee's bankers that the only transaction the company could plausibly agree to was one led by TA," the complaint said.

The parties did not immediately respond to requests for comment.

The stockholders who sued are represented by Ned Weinberger, Mark Richardson, Brendan W. Sullivan, John Vielandi and Joshua M. Glasser of Labaton Keller Sucharow LLP and Kimberly A. Evans, Lindsay K. Faccenda, Daniel M. Baker, Jason Leviton and Nathan Abelman of Block & Leviton LLP.

Counsel information for those named in the suit was not yet available.

The case is Employees' Retirement System of Rhode Island et al. v. TCP-ASC ACHI Series LLLP et al., case number 2025-1067, in the Court of Chancery of the State of Delaware.

--Editing by Dave Trumbore.



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AmTrust Investor Suits Fall Outside Excess Policy, Court Says

By **Ganesh Setty**

Law360 (September 25, 2025, 6:32 PM EDT) -- A Liberty Mutual unit that provided excess directors and officers coverage to AmTrust Financial Services Inc. owed no coverage for shareholder actions over the company's valuation of life settlement contracts and other accounting matters, a Delaware federal court ruled, finding the claims fell within an earlier coverage tower.

Granting summary judgment to Liberty Insurance Underwriters Inc., U.S. District Judge Jennifer L. Hall first noted Thursday that the head of investment firm Alistair Capital Management sent his letter to AmTrust's audit committee concerning numerous alleged accounting discrepancies in December 2014, and AmTrust provided claim notice in January 2015.

But the underlying shareholder lawsuits filed in 2017, which included both direct actions and derivative actions, "repeatedly cite to and use the Alistair letter and its allegations as supporting evidence," Judge Hall found.

"Under *Alexion*, the 2015 notice of circumstance and the 2017 securities and derivative lawsuit arise from the same underlying circumstances and are meaningfully linked," she said. She referred to the Delaware Supreme Court's February decision in [In re Alexion Pharmaceuticals Inc. Insurance Appeals](#), which similarly involved analyzing under which coverage period "meaningfully linked" claims fell.

According to court filings, Alistair's president, Casey Nelson, first noticed issues around AmTrust's financial statements and accounting in 2013, later sending his letter addressed to AmTrust's audit committee in December 2014 and taking a short position in the company.

In particular, Nelson's letter stated that AmTrust overvalued its life settlement contracts, which involve a sale of a life insurance policy for a lower death benefit, among other alleged issues involving reinsurance transactions and acquisition-related accounting. It further identified various discrepancies in its quarterly versus annual filings with the U.S. Securities and Exchange Commission, analysis of reserve development and amounts reported for AmTrust's "accrued expenses & other liabilities."

By the time the at-issue underlying shareholder lawsuits were filed in 2017, the financial news media had published articles about AmTrust's accounting, and both the SEC and the New York Department of Financial Services opened investigations into AmTrust.

After the first underlying shareholder action was filed in February 2017, a series of derivative lawsuits followed and were later consolidated into their own proceeding. The company filed the present coverage action in March 2021, after it said Liberty denied coverage in 2019.

Liberty specifically served as a second-level excess insurer under AmTrust's D&O coverage tower that spanned from Sept. 30, 2016, to Sept. 30, 2017, and argued that the shareholder litigation instead fell within AmTrust's earlier coverage tower spanning from Sept. 30, 2014, to Sept. 30, 2015.

Both towers contained language that effectively placed claims "arising out of any circumstances" for which the insured had previously provided notice to its carriers at the earliest of the applicable coverage period and claim notification date.

On Monday, Judge Hall further found that per the *Alexion* decision, in an evaluation of "whether there

is a meaningful linkage between an earlier notice and a later claim, the primary factor is whether they 'involve the same conduct.'"

"Perhaps if the Alistair letter and the 2017 securities and derivative lawsuits both merely alleged generally that AmTrust had material weaknesses in AmTrust's internal controls over financial reporting, those generalities would be insufficient," she continued. "But here, both the letter and the lawsuits rely on the same specific weaknesses in internal controls."

The letter and lawsuits "rely on the same evidence," rely on AmTrust's financial and public statements and also contain similar theories of liability, Judge Hall further noted Thursday, concluding that the at-issue shareholder lawsuits are "properly slotted under the 2014-2015 policy period."

Representatives of the parties did not immediately respond to a request for comment Thursday.

AmTrust is represented by David J. Baldwin and Peter C. McGivney of Berger McDermott LLP and by Tamara D. Bruno and Peter M. Gillon of Pillsbury Winthrop Shaw Pittman LLP.

Liberty is represented by Robert J. Katzenstein and Julie M. O'Dell of Smith Katzenstein & Jenkin LLP and by Ronald P. Schiller, Daniel J. Layden and Marianne E. Bradley of Hangley Aronchick Segal Pudlin & Schiller LLP.

The case is AmTrust Financial Services Inc. v. Liberty Insurance Underwriters Inc., case number 1:21-cv-00374, in the U.S. District Court for the District of Delaware.

--Editing by Emma Brauer.

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Hagens Berman Not Very Contrite About AI Errors, Judge Says

By **Craig Clough**

Law360 (September 25, 2025, 10:10 PM EDT) -- A California federal judge chided attorneys from Hagens Berman on Thursday over what he called a lack of contrition after submitting briefs that contained errors lifted from ChatGPT in a proposed class action against the online platform OnlyFans, saying the attorneys seemed more interested in excuses.

U.S. District Judge Fred W. Slaughter held a hearing on the issue, which came to light in August when OnlyFans' owner Fenix International Ltd. sought to dismiss the case and told the court that counsel from the site's owners included multiple made-up citations in briefs they cited in their argument against ending the U.S. case and allowing claims to commence overseas.

Hagens Berman Sobol Shapiro LLP admitted the briefs contained AI-generated errors drafted by an attorney contracted by the firm. Thursday's hearing was about what **potential sanctions** the court should consider, and whether the court should accept corrected briefs; the judge did not make any decisions at the hearing.

Judge Slaughter was at first measured and didn't indicate any strong feelings on the situation beyond saying it was "unacceptable," but that changed when he asked the attorneys from Hagens Berman to respond to the allegations from one of the defendants that their proposed corrected briefs still contained similar errors, including a parenthetical reference to a case involving Hulu that the defendant said completely misstated the outcome.

"The parenthetical was probably inartful," Michella A. Kras of Hagens Berman told the judge. "I don't think it's meant to be a misrepresentation of that case and probably should have been deleted when we corrected the briefs. We're not perfect."

A moment later the judge said, "You mentioned you are not perfect. I understand humanity. I don't think that anyone is looking for perfection. But there are certain rules and ethical rules that you are not to put false statements before a court, so I guess anyone could always say that. They could always say that, 'Oh I should have looked at this more, I'm not perfect.'"

"I started this hearing off by saying this is unacceptable, so to the extent that I'm hearing some hedging against that and saying, 'Well you know what, we could have done better or something,' I'm not sure that's persuasive to your point," the judge continued.

The judge went on to say that, after the hedging from the plaintiffs' attorneys, he was leaning toward an argument made earlier by Jason D. Russell of Skadden Arps Slate Meagher & Flom LLP, who represents Fenix. Russell had urged the judge to dismiss the case due to the AI errors.

After Kras started to apologize, the judge cut her off.

"No need to apologize, I'm giving you an opportunity to be heard," the judge said. "And when you put a parenthetical before the court, the parenthetical is not in the spirit of the law, it is what the case law says."

The judge went on to ask, "Ultimately, isn't the attorney responsible who signs the briefs that this is correct information going before the court?"

"Yes, it is, and what I would say is, we failed to catch that in our second review," Kras said. "I'm not making an excuse for it. We failed to catch it. We should have caught it in our second review. We didn't."

A short time later, Kras told the judge that, after the errors were discovered, they were honest with the court about it, but that didn't appear to sway the judge, who said there "is a duty of candor for all cases." He then asked the audience which lawyers present agreed, and over a dozen hands shot up.

The July 2024 **suit** alleges OnlyFans knowingly allows professional "chatters" to impersonate content creators on the subscription platform.

In August, attorneys for the proposed class notified the court that they would be seeking permission to fix earlier filings found to have errors created by artificial intelligence, days after Fenix notified the court of the **citation errors**.

Counsel for the users admitted last month that a contract attorney working on the case, Celeste Boyd, used ChatGPT to draft some briefs, and that it resulted in mistakes. Boyd sat at the plaintiffs table during Thursday's hearing but did not address the court.

Robert Carey of Hagens Berman submitted the briefs to the court and was also present Thursday, addressing the judge several times. In a brief filed this month, Hagens Berman asked that the other firms representing the plaintiffs not be sanctioned, and that Carey's sanction be **limited to a fine**, as he did not use generative text but failed to conduct a complete cite check before submitting the briefs.

Carey told Law360 last month that Boyd's father was in hospice at the time the briefs were drafted and "did not share with us how overwhelming the situation had become. Under that strain, she turned to an AI tool to help polish her drafts, not realizing that in doing so, the tool had introduced or altered citations and text."

On Thursday, Carey said the firm is planning significant continuing legal education on generative text because of the incident.

"The lessons we've learned here are independent of Ms. Boyd, obviously, because we made mistakes, and those mistakes did not arise from anything she did or didn't do. Our processes were inadequate," he said.

Russell lobbied the judge on Thursday not to allow the corrected briefs to be submitted and to dismiss the case.

"It could be a pernicious outcome indeed, to not only let them file AI but to reward them with another opportunity to file corrected briefs," Russell said. "It's even more egregious here when the corrected briefs themselves continue to have AI and, as my colleague just admitted, they were far from perfect".

"Even then, when facing an order to show cause, they still didn't strip the AI," he continued. "So to suggest under these circumstances that they should be allowed to file corrected briefs is frankly completely at odds with the case law, and I think it serves no deterrent effect."

The OnlyFans users are represented by Christopher Pitoun, Robert B. Carey, Michella A. Kras and Leonard W. Aragon of Hagens Berman Sobol Shapiro LLP, Andrea R. Gold, Annick M. Persinger and Shana H. Khader of Tycko & Zavareei LLP, Andrew W. Knox and Keith T. Vernon of Timoney Knox LLP and Andrew C. Stone and Seth T. Goertz of Dorsey & Whitney LLP.

Fenix International Ltd. and Fenix Internet LLC are represented by Jason D. Russell, Hillary A. Hamilton, Or-el Vaknin, Peter B. Morrison and Raza Rasheed of Skadden Arps Slate Meagher & Flom LLP.

Moxy Management is represented by Barr Benyamin and Oliver Rocos of Bird Marella Rhaw Lincenberg Dooks & Nessim LLP.

Unruly Agency LLC and Behave Agency LLC is represented by Matthew Jacobs of The Jacobs Law Firm PC.

Content X Inc. is represented by Nithin Kumar of Kingfisher Law APC.

Verge Agency Inc. is represented by Younjin Lee and Allen Edward Sattler of Constangy Brooks Smith & Prophete LLP and Brent Sedge of Sedge Law PLLC.

Elite Creators LLC is represented by Bety Javidzad of Dentons US LLP and Michael A. Gehret, Jordan E. Westgate and Trinity S. Jordan of Dentons Durham Jones Pinegar PC.

The case is N.Z. et al. v. Fenix International Ltd. et al., case number 8:24-cv-01655, in the U.S. District Court for the Central District of California.

--Additional reporting by Jack Karp and Emily Sawicki. Editing by Dave Trumbore.

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Depo-Provera MDL Plaintiff Numbers Balloon To 1,300

By **Carolina Bolado**

Law360 (September 25, 2025, 3:37 PM EDT) -- The plaintiffs in a multidistrict litigation claiming Pfizer failed to warn consumers of a link between brain tumors and the hormonal contraceptive Depo-Provera now number more than 1,300, with more expected to file suits ahead of a hearing Monday on whether their claims are preempted by federal law.

The plaintiffs, who numbered just over 70 in February when their suits were **consolidated** into an MDL in the Northern District of Florida, have tripled their numbers since May despite a heightened standard set by U.S. District Judge M. Casey Rodgers, who is requiring that each plaintiff provide proof of injury and use of the contraceptive.

They may face their first major hurdle in the case Monday, when Pfizer Inc. is set to argue at a hearing in Pensacola, Florida, that their claims are preempted by federal law because the drugmaker asked the U.S. Food and Drug Administration for permission to change the drug's label to add tumor warnings but was denied.

Pfizer and related companies Pharmacia LLC and Pharmacia & Upjohn Co. LLC say they **tried to warn** consumers of an increased risk of brain tumors called meningiomas associated with the use of Depo-Provera after they saw the results of a number of epidemiological studies in late 2023. But the FDA blocked the change to the drug's label, they say.

Pfizer argues that in every reported case where a court has considered a circumstance like this, the court has found that failure-to-warn claims are preempted. The drugmaker adds that the remaining claims based on an alleged design defect are also "clearly preempted" because the FDA had already certified the product as safe for use and further agency approval would be required to change the drug's design.

But the plaintiffs have said that the FDA "never rejected an adequate warning, because Pfizer never offered one." They say Pfizer's proposed warning implicated an entire class of contraceptives, from low-dose oral tablets to high-dose injections, despite a lack of scientific evidence to support such a broad warning.

The FDA's response letter told Pfizer it could not accept the warning in its present form and invited the drugmaker to fix the deficiencies with another submission.

"FDA's [complete response letter] lacked finality and the force of law necessary to preempt state-law claims," the plaintiffs said in their response to Pfizer's motion.

They argue that allowing Pfizer to duck these claims on the basis of preemption could incentivize drugmakers to send half-hearted attempts at warnings to the FDA to protect themselves against any potential claims.

A ruling in Pfizer's favor on preemption could swiftly end the bulk of the MDL. But if Judge Rodgers sides with the plaintiffs, the case will quickly move to general causation, with the first deadlines on that issue already set for late October.

The suits in the MDL say that for the past several years, medical and scientific studies have indicated that progesterone, its synthetic progestin analogues and Depo-Provera, in particular, could significantly contribute to the development of meningiomas, which grow from the membranes that surround the brain and spinal cord. The tumors are typically slow-growing and noncancerous but can

cause headaches, seizures, blurred vision and other issues.

Despite growing medical evidence of a link between Depo-Provera and meningiomas, Pfizer didn't study the risk for decades, according to the plaintiffs.

A study published earlier this month in JAMA Neurology looked at data from more than 61 million women in the U.S. and found a 2.43-fold increased risk of meningioma in women who had used injectable depot medroxyprogesterone acetate for four or more years or who began treatment after the age of 31. The researchers did not find increased meningioma risk with other contraceptives.

The plaintiffs are represented by Christopher Seeger of Seeger Weiss LLP, Bryan Aylstock of Aylstock Witkin Kreis & Overholtz PLLC and Ellen Relkin of Weitz & Luxenberg PC.

Pfizer is represented by Joseph Petrosinelli, Annie Showalter and Jessica Bodger Rydstrom of Williams & Connolly LLP and Jeremy Branning of Clark Partington Hart.

The case is In re: Depo-Provera (Depot Medroxyprogesterone Acetate) Products Liability Litigation, case number 3:25-md-03140, in the U.S. District Court for the Northern District of Florida.

--Editing by Nick Siwek.

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Atkins Hints At Flexible Reporting Deadlines For Public Cos.

By **Jessica Corso**

Law360 (September 25, 2025, 9:46 PM EDT) -- With the U.S. Securities and Exchange Commission preparing to seek public feedback on President Donald Trump's proposal that public companies be allowed to report their financial results only twice a year, agency Chair Paul Atkins suggested Thursday that the SEC may not take a "one-size-fits-all" approach.

When asked at Georgetown's Financial Markets Quality Conference about the president's **call this month** for semiannual reporting, Atkins said the agency was considering a rulemaking initiative that could reduce the number of mandatory earnings reports from four times a year down to twice a year.

He told Reena Aggarwal of Georgetown University that Trump and other critics of the quarterly report seemed concerned with "short-termism," with **some having argued** that more frequent reporting discourages management from prioritizing the long-term growth and sustainability of their companies.

One of the questions that could be put up for public feedback is whether the agency should take a "one-size-fits-all" approach, as some companies might actually prefer to report more frequently than once every three months, Atkins said.

"Most every company has monthly reporting to the management," he said. "And so maybe a company might find that monthly reporting ... might lead to a lower cost of capital for them."

Smaller companies, on the other hand, might prefer semiannual reporting in order to save themselves the expense associated with filing quarterly reports through a form known as a 10-Q, Atkins added.

"Even though there's not an audit requirement for a 10-Q, I think most companies think it's really good to have lawyers and accountants look at what they put out, and that adds costs. Should small companies be forced to air that?" he said.

And though he didn't say when the SEC might request feedback on the reporting requirements, he did give a timeline for another of his priorities: the **crypto innovation exemption**, which would give the agency the authority to greenlight crypto projects of limited size so that they can "try out new ideas in regulated environments," the chair said.

"We'll be tackling that here this coming quarter, and I'd like to have something at least articulated by the end of the year," Atkins said.

The SEC will also soon be in discussion with the U.S. Commodity Futures Trading Commission on regulatory harmonization efforts, with the regulators scheduled to hold a joint hearing Monday to discuss ways they can cooperate.

In a discussion with reporters after his chat with Aggarwal, Atkins was asked after the event to comment on news reports that his agency could absorb the CFTC and whether he had been a part of any such discussions.

"Well, that would take an act of Congress," he responded. "So good luck with that."