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October 10, 2025

Wachtell Lipton Discusses Sixth Circuit Decision on Privilege and Work-Product Protections in Internal Investigations

David B. Anders, Randall W. Jackson and Michael W. Holt

Oct 10, 2025

Conducting an internal investigation in a disciplined and organized way is essential to protecting privilege. A recent decision of the U.S. Court of Appeals for the Sixth Circuit, *In re FirstEnergy Corporation* , No. 24-3654 (Oct. 3, 2025), underscores that courts will uphold attorney-client privilege and work-product protections where counsel directs the investigation and its legal purpose is clear—even when the resulting work also informs a company’s business decisions.

In *FirstEnergy* , shareholders brought a securities fraud class action suit against FirstEnergy and sought in discovery documents from FirstEnergy’s internal investigations related to a bribery scheme. The district court ordered broad production of the company’s internal investigation files, reasoning that privilege and work-product protection did not apply because the company “initiated the investigations for business advice, not legal advice” and “later used the fruits of the investigations for business decisions.” The Sixth Circuit took the rare step of granting mandamus and vacating the lower court’s order compelling the production of the internal investigation materials. The Sixth Circuit held that there is “no way to affirm the district court’s ruling without abandoning nearly a half century . . . of jurisprudence concerning the scope of the attorney-client privilege and work-product doctrine or without discouraging full and frank communication between companies and their attorneys when investigating their own wrongdoing.” (citations omitted).

The Sixth Circuit's reasoning provides helpful confirmation of the "bedrock privilege and work-product" protections and highlights why structured investigations led by outside counsel are critical to preserving such protections:

The Attorney-Client Privilege . The Sixth Circuit held that the attorney-client privilege applied because the company and its board retained lawyers "to secure legal advice" about "the very significant legal risk it suddenly faced." The court emphasized that the company's reliance on that advice for business decisions did not change the analysis. As the court noted, "[i]n the context of . . . high-stakes criminal and civil allegations . . . it will be the rare company that will not also have business purposes for seeking essential legal advice." **Work-Product Protection** . The Sixth Circuit stressed that the company hired outside counsel to conduct internal investigations "because of actual, not merely anticipated, legal and regulatory threats." Put simply, work-product protection applied because "criminal and civil investigations, state and federal regulatory action, and numerous shareholder lawsuits led FirstEnergy to expect litigation and seek legal advice." **No Waiver Through Limited Disclosures to Government and Auditors** . The Sixth Circuit also held that limited disclosures to the government in connection with securing a deferred prosecution agreement and providing documents to the company's auditors did not constitute waiver because the material disclosed was not privileged, was already discoverable, or consisted of "bare conclusions from the investigation," not "the substance of the[] attorney's advice." With respect to the disclosures to auditors, the court noted that the company made efforts to withhold documents from the auditor on the basis of privilege and that, in any event, the documents remained protected as work product because they were not disclosed to an adversary.

The FirstEnergy decision affirms that privilege and work-product protections will hold when internal investigations are thoughtfully structured and led by counsel familiar with navigating the many pitfalls that arise in the context of parallel government investigations and civil proceedings. The Sixth Circuit's decision reinforces the need to retain counsel promptly when legal risk arises, to document clearly that the purpose of the investigation is to obtain legal advice, and to manage disclosures to the government and auditors carefully to avoid waiver.

This post comes to us from Wachtell, Lipton, Rosen & Katz. It is based on the firm's memorandum, "Sixth Circuit Reaffirms Privilege and Work-Product Protections in Internal Investigations," dated October 6, 2025,.

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Securities

aTyr Pharma Investor Sues Over Drug Study's Endpoint Miss (1)

Oct. 9, 2025, 12:40 PM PDT; Updated: Oct. 10, 2025, 5:17 AM PDT

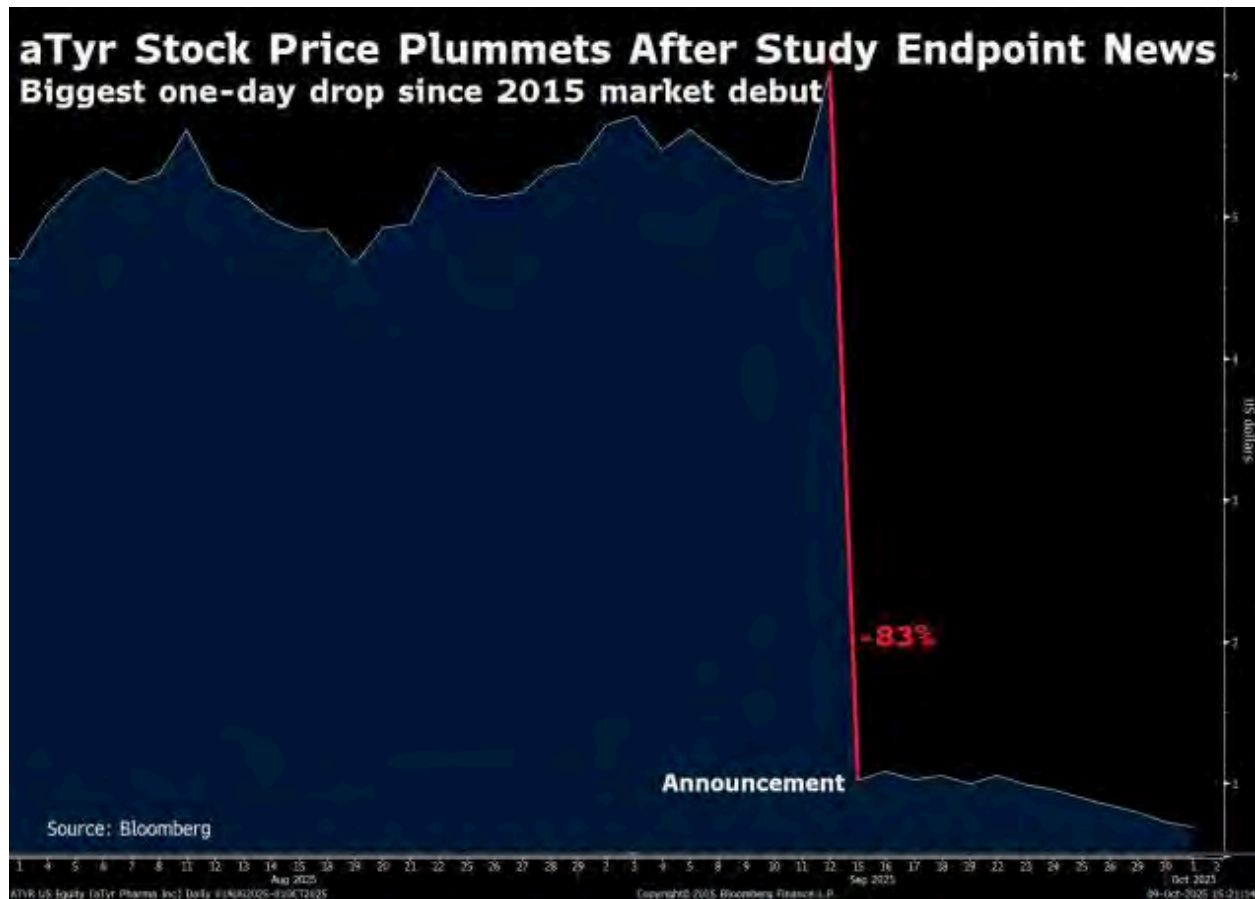
aTyr Pharma Inc. misrepresented its lung condition drug's ability to get trial patients to completely taper off steroid usage before sharing a disappointing study result, an investor's proposed class action said.

The clinical-stage biotechnology company's stock price plunged more than 83% to close at \$1.02 a share on Sept. 15, the day it said a third-phase trial of its drug in pulmonary sarcoidosis patients didn't meet its primary endpoint of a reduction in mean daily oral corticosteroid dose at week 48 compared to a placebo. It was the stock price's biggest one-day drop since its 2015 market debut, according to data compiled by Bloomberg.

Before this, aTyr and its chief executive "misled and deceived investors by crafting a narrative that the Phase 3 EFZO-FIT study would provide a way for patients to fully remove steroids from their treatment plans," said investor Marco Munguia's complaint filed Thursday in the US District Court for the Southern District of California. But aTyr and CEO Sanjay S. Shukla failed to alert shareholders "that there may be other factors that permit patients to completely remove steroids from their treatment plans," thus their study didn't meet its primary endpoint.

The company did this while touting the "safety and efficacy of intravenous Efzofitimid in patients with pulmonary sarcoidosis," according to Munguia.

Shukla, in a press release Sept. 15 accompanying the announcement, said the study still "demonstrates that patients with chronic, symptomatic sarcoidosis can be managed with substantially lower steroid doses than previously thought. In spite of a higher than anticipated placebo response, we found that treatment with efzofitimid was associated with a greater amount of steroid reduction and an improvement in the KSQ-Lung score."



The proposed class would include those who acquired aTyr stock from Jan. 16, 2025, through Sept. 12, 2025—the trading day before the 83% selloff.

Levi & Korsinsky LLP represents Munguia, who seeks damages for alleged Securities Exchange Act of 1934 violations by aTyr and Shukla.

In response to an email seeking comment, aTyr said it doesn't comment on litigation.

The case is Munguia v. aTyr Pharma Inc. , S.D. Cal., No. 3:25-cv-02681, complaint filed 10/9/25 .

(Updates Oct. 9 story to include that aTyr declined to comment in the eighth paragraph.)

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

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Securities

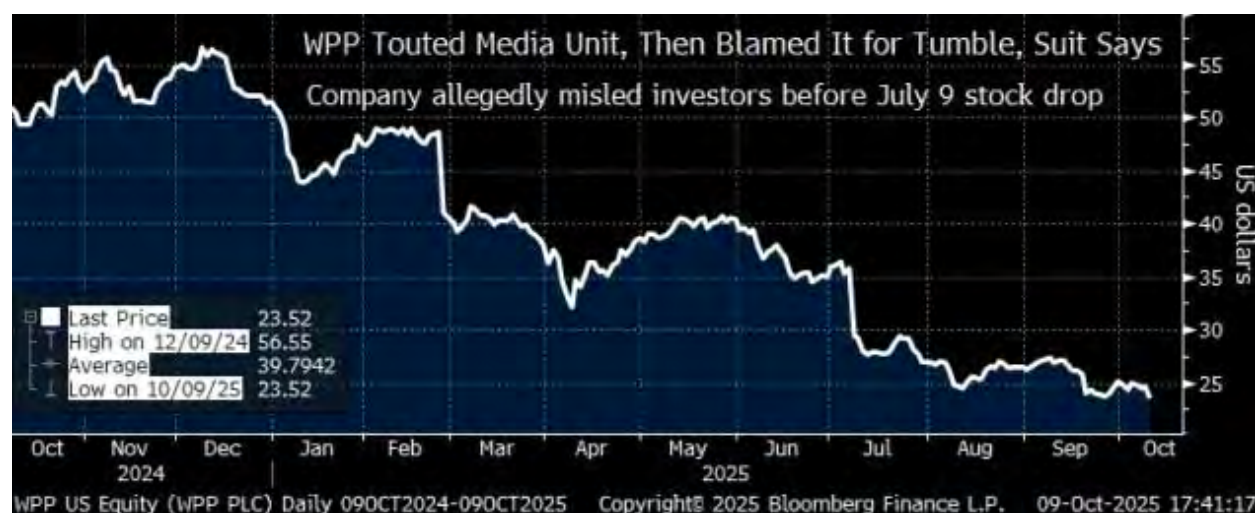
Comms Group WPP Misled on Media Arm's Health, Investor Alleges

Oct. 9, 2025, 2:57 PM PDT

WPP PLC made overly rosy statements about the competitiveness and financial health of its media division before disappointing results caused a stock drop, an investor says in a suit filed Thursday.

The company concealed that its media unit couldn't handle "ongoing macroeconomic challenges" and had "begun to lose significant market share to its competitors," Jack Marty said on behalf of a proposed class of investors. He filed his suit in the US District Court for the Southern District of New York.

But on July 9, WPP reported a "deterioration in performance as Q2 has progressed," in part blaming the "distraction" of the media group's restructuring, Marty says. The company's stock dropped 18% to close at \$29.34 per share that day.



The proposed class numbers in the hundreds or thousands, the complaint says.

Marty seeks damages on his securities fraud claims.

WPP didn't immediately respond to an email requesting comment.

Levi & Korsinsky LLP represents Marty.

The case is Marty v. WPP PLC , S.D.N.Y., No. 1:25-cv-08365, complaint 10/9/25 .

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Securities

Fortinet Co-Founders, Brass Sued Over Growth Miss, Stock Sales

Oct. 9, 2025, 10:02 AM PDT

Fortinet Inc.'s leadership breached its duties to the cybersecurity company by exaggerating the revenue potential of a firewall upgrade, an investor alleges on behalf of the company.

Brothers Ken and Michael Xie, who founded Fortinet and serve as CEO and chief technology officer, respectively, sold stock for proceeds of more than \$134 million total while the share price was artificially inflated, Jack Pittrof says. The shareholder filed his derivative suit Wednesday in the US District Court for the Northern District of California.

Pittrof also alleges the chief financial officer and a board member engaged in insider sales.

The harm to the company includes its overpayment for share repurchases—some 4.6 million shares for which it spent about \$400 million in aggregate—as well as the costs and potential liability associated with a proposed class action, Pittrof says.

Fortinet's directors and top executives touted the potential revenue from a round of upgrades to its FortiGate firewalls. But they “knew that the refresh cycle would never be as lucrative as they represented” because the population of 12- to 15-year old products needing replacement represented a small percentage of the business, Pittrof says.

Pittrof brings claims for securities fraud, breach of fiduciary duty, unjust enrichment, and waste of corporate assets. He seeks compensatory and punitive damages, a constructive trust, and corporate governance reforms.

Fortinet didn't immediately respond to an emailed request for comment on behalf of itself and the individual defendants.

Rigrodsky Law PA represents Pittrof.

The case is Pittrof v. Xie , N.D. Cal., No. 5:25-cv-08592, complaint filed 10/8/25 .

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Litigation

Manage Newsletters

Cummins Settles Investor Class Claims Over Emissions Compliance

Oct. 10, 2025, 9:36 AM PDT

Cummins Inc. reached a settlement with a shareholder who alleged the engine-maker hid skirting emissions laws by making engines with unauthorized devices.

The investor leading the case asked the US District Court for the Southern District of Indiana Thursday for 45 days to tidy up the deal, move for its preliminary approval, and seek conditional class certification.

Another investor initiated this lawsuit after Cummins said it expected to record a \$2.04 billion charge related to federal and California investigations of its emissions certification and compliance process for engines primarily used in pick-up trucks

This included a nearly \$1.68 billion settlement with the US Environmental Protection Agency, Department of Justice, and California Air Resources Board, which the agencies described in 2024 as the “largest civil penalty in the history of the Clean Air Act and the second largest environmental penalty ever”

Cummins’ stock price fell 2.87% to close at \$236.99 on Dec. 22, 2023, the day after it announced the expected charge

The Rosen Law Firm PA, which didn’t immediately respond to an email seeking comment, is lead counsel for lead plaintiff Richard Kraemer. Pavlack Law LLC is local counsel. Wilmer Cutler Pickering Hale & Dorr LLP and, locally, Faegre Drinker Biddle & Reath LLP represent Cummins and two current and one former top executive. Neither of these law firms nor Cummins immediately responded to emails seeking comment.

The case is Baker v. Cummins Inc. , S.D. Ind., No. 1:25-cv-00430, 10/9/25 .

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Litigation

Manage Newsletters

WK Kellogg-Ferrero Deal Investor Suit Over Goldman Ties Ends (1)

Oct. 10, 2025, 7:34AM PDT; Updated: Oct. 10, 2025, 8:22AM PDT

A WK Kellogg Co. shareholder lawsuit is moot following further disclosures about its acquisition by Ferrero International SA, a federal judge said.

Judge Edmond E. Chang ordered Thursday to terminate the case, which sought to hold up the deal pending further information about Goldman Sachs & Co.'s financial relationship with Kellogg and affiliates. The investor, George Konel, had told the US District Court for the Northern District of Illinois before the deal closed his claims were moot as a result of further corporate disclosures.

Ferrero completed its \$3.1 billion acquisition of Kellogg last month

Konel wanted more information in Kellogg's disclosures about the amount of money Goldman's supposed to make off of affiliate Kellanova's \$36 billion sale to Mars Inc., which is still pending regulatory review

Cereal maker Kellogg spun off from the snacking company now called Kellanova in 2023, and Goldman provided a fairness opinion of Kellogg's deal with Ferrero

Ademi & Fruchter LLP represented Konel, who had sued Kellogg and its board in August. Neither Goldman, which declined to comment in an email, nor Ferrero were party to the suit.

Konel's attorneys didn't immediately respond to an email soliciting comment, nor did Kellogg or Ferrero.

The case is Konel v. WK Kellogg Co. , N.D. Ill., No. 1:25-cv-09418, 10/9/25 .

(Updates to include that Goldman declined to comment in the sixth paragraph.)

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Securities

Delaware's Leo Strine Urges Business Leaders to Back Rule of Law

Oct. 9, 2025, 11:53 AM PDT

One of corporate law's most influential jurists Thursday called on business executives, university officials, and law firm leaders to stand up forcefully against President Donald Trump's escalating attacks on the rule of law.

Former Delaware Chief Justice Leo Strine, who also previously served as chancellor—chief of the state's elite trial-level business court—delivered the cri de coeur at the end of a keynote address to roughly 200 attorneys, judges, and professors assembled at the University of Delaware.

His speech was met with a sustained standing ovation from virtually everyone in the room.

"The current moment does not involve the ordinary policy back-and-forth expected in a free society," Strine said. "It involves a deliberate effort to undermine the foundations of genuine freedom, which rests in the idea that those who wield power must do so in a manner faithful to the law."

Without naming the president directly, he assailed business leaders for buckling under pressure from the Trump administration on ethical stances they took in recent years, including pledges to promote racial justice, fight climate change, and ostracize participants in the Jan. 6, 2021, insurrection at the US Capitol.

"As we meet in October 2025, the facts underlying those stated beliefs have not themselves changed, but many of those stated beliefs have either been outright reversed, diluted to mocktail form, or swallowed by those who gave them voice," Strine said. "We cannot pretend by our silence that this is a normal moment. If we do, we are complicit."

Strine, now practicing at Wachtell, Lipton, Rosen & Katz, has faced controversy this year over his role in an overhaul that weakened judicial review of many self-dealing transactions—part of an effort to restore Delaware's reputation with founders and insiders threatening to move their companies away from the world's longtime corporate capital. The state funds roughly a quarter of its budget with billions in fees on more than 2 million business entities.

Thursday's speech—at an event celebrating the 25th anniversary of the university's Weinberg Center for Corporate Governance—left no doubt about where he stands on the larger issues.

"Much more than short-term stockholder returns are in the balance," Strine said. "The American experiment is in grave danger right now. The mirror test is one each of us must face each day. Will we be counted? Doing it in isolation is much more difficult. Will we pull together and pass that test?"

He received a second standing ovation a few moments later, when he was presented with the university's medal of distinction.

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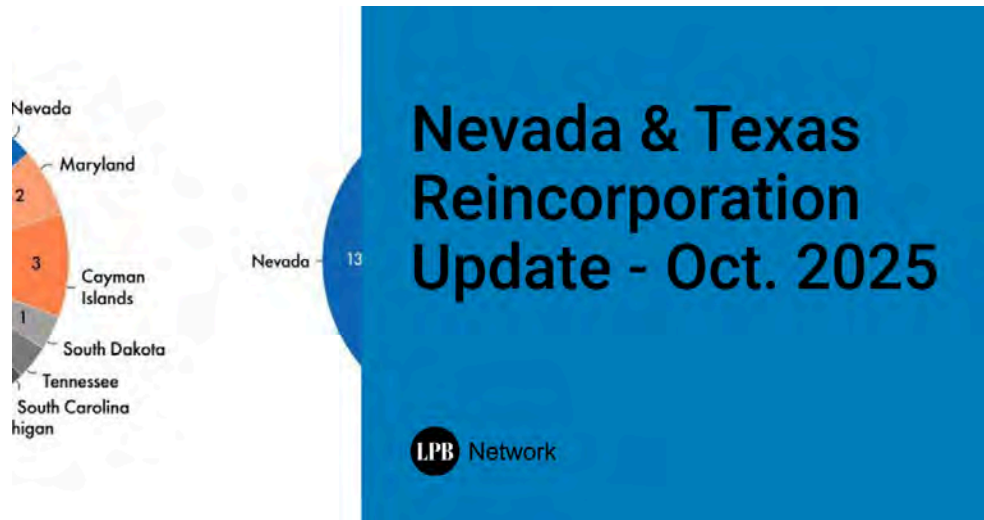
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Nevada & Texas Reincorporation Update – Oct. 2025

LPB [businesslawprofessors.com/2025/10/nevada-texas-reincorporation-update-oct-2025](https://www.businesslawprofessors.com/2025/10/nevada-texas-reincorporation-update-oct-2025)

Benjamin P. Edwards

October 9, 2025



By [Benjamin P. Edwards](#) on October 9, 2025

We're at about two months since the [last update](#) on this front, and I wanted to share my current chart for 2025. As always, if you know about any moves that I've missed, please reach out.

I've got updated charts, differences of opinion about how well-developed Nevada's case law is, some highlights and concerns about the [Glass Lewis blog post](#) on reincorporation that dropped today, and a quick highlight of the [Guess, Inc.](#) proxy that revealed its board had voted to attempt to move to Nevada before a take-private offer arrived.

Nevada

Nevada had another two public companies announce attempts to move to Nevada,

Algorhythm Holdings and Capstone Holding.

2025 Nevada Domicile Shifts

	Firm	Result	Notes
1.	Fidelity National Financial	Pass	
2.	MSG Sports	Pass	
3.	MSG Entertainment	Pass	
4.	Jade Biosciences	Pass	Jade merged with Aerovate.
5.	BAIYU Holdings	Pass	Action by Written Consent
6.	Roblox	Pass	
7.	Sphere Entertainment	Pass	
8.	AMC Networks	Pass	
9.	Universal Logistics Holdings, Inc.	Pass	Action by Written Consent
10.	Revelation Biosciences	Fail	97% of votes cast were for moving. There "were 1,089,301 broker non-votes regarding this proposal"
11.	Eightco Holdings*	Fail	Votes were 608,460 in favor and 39,040 against with 763,342 broker non-votes. The proposal was filed in 2024 and the vote results were announced in 2025. It's on the list for now, but you could also count it in 2024.
12.	DropBox	Pass	Action by Written Consent
13.	Forward Industries	Pass	This is New York to Nevada. Votes were 427,661 for and 96,862 against with 214,063 Broker Non-Votes

14.	Nuburu	Fail	87% of the votes cast were in favor of the proposal. 11% against 1.6% Abstained. There were 12,250,658 Broker Non-Votes.
15.	Xoma Royalty	Pass	
16.	Tempus AI	Pass	
17.	Affirm	Pass	
18.	Liberty Live	Pending	This is a split off from a Delaware entity to Nevada
19.	Netcapital	Fail	This was a proposed move from Utah to Nevada. It failed with 541,055 votes in favor and 1,456,325 votes against.
20.	Algorhythm Holdings	Pending	Meeting set for Nov. 20
21.	Capstone Holding Corp	Pending	Meeting set for Nov. 18

The Capstone Holding proxy contains this rationale for Nevada with an interesting bit bolded:

Nevada is a nationally-recognized leader in adopting and implementing comprehensive and flexible corporation laws that are frequently revised and updated to accommodate changing legal and business needs. In light of our growth, our Board believes that it will be beneficial to the Company and its stockholders to obtain the benefits of Nevada's corporation laws. **Nevada courts have developed considerable expertise in dealing with corporate legal issues and have produced a substantial body of case law construing Nevada corporation laws. Because the judicial system is based largely on legal precedents, the abundance of Nevada case law should serve to enhance the relative clarity and predictability of many areas of corporation law, and allow our Board and management to make business decisions and take corporate actions with greater assurance as to the validity and consequences of such decisions and actions.**

This is not something I ordinarily hear about Nevada. My view is that our caselaw is somewhat limited, but that limitation is mitigated by our clear statute. Curious, I searched around on EDGAR and found a few other companies shifting to Nevada had used similar language in the past:

- [Intelligent Buying](#) in 2020. This was a proposal to go from California to Nevada.
- [HFactor](#) in 2023. This was a proposal to go from Georgia to Nevada.
- [Oracle Health](#) in 2022. This was a conversion from Delaware to Nevada.

Notably, this language contrasts with [Fidelity National Financial](#)'s proxy which stated:

Nevada case law concerning the application of its statutes and regulations is more limited than in Delaware due in part to Nevada's more statute-focused approach. As a result, to the extent Nevada's statutes do not provide a definitive answer and a Nevada court must make a determination about issues concerning the Company's governance without clear guidance or precedent, the Company and its stockholders may experience less predictability with respect to whether certain corporate decisions or transactions are proper and/or the extent to which stockholders maintain the right to challenge such decisions or transactions.

Texas

Texas recently picked up United States Antimony Corporation from Montana.

2025 Texas Domicile Shifts

Firm	Result	Notes
1. Zion Oil and Gas	Pass	
2. Mercado Libre	Withdrawn	
3. Dillard's	Pass	12,791,756 votes for and 1,477,174 votes against
4. United States Antimony Corporation	Pass	Shift from Montana to Texas . 20,626,385 votes in favor. 11,816,235 against. 35,888,464 broker non-votes.

Glass Lewis on Reincorporation

Earlier today, Glass Lewis released a blog post on [reincorporation](#). I want to highlight a few findings and flag my concerns about how reliable the analysis may be on some points:

- Reincorporation attempts are on the rise. Glass Lewis evaluated 29 proposals in 2025, a 70.06% increase from 17 proposals in 2024 and a 45% increase above the 20 proposals in 2023.
- Controlled companies were much more likely to reincorporate. Glass Lewis found that 55% of the companies in their set had “significant or controlling shareholders”
- Nevada surpassed Delaware as a reincorporation destination with 13 firms announcing for Nevada and 8 for Delaware.
- “Delaware companies have faced an increasingly litigious environment where shareholder lawsuits and the amount of plaintiff fees awarded have increased.”

I appreciate being able to see the Glass Lewis post as a way to cross-check my attempts to monitor this space. My largely hand-compiled set seems to have more firms than Glass Lewis. For example, Glass Lewis states:

While all but one reincorporation proposal from the 2025 proxy season was approved, average support for these proposals declined from 88.7% in 2024 to 81.1%. **Revelation Biosciences was the only company that failed to receive majority support, with just 35% of the votes cast in favor and 60.9% abstaining. The overall decline in shareholder support indicates that shareholders were more critical of these proposals than in past seasons, particularly when the company proposed to leave Delaware.**

This gave me pause for two reasons: (1) I don’t think that is correct factually; and (2) I have three other failed votes on my list, Eightco Holdings, Nuburu, and Netcapital. Let’s run through my quibbles.

(1) The Math Seems Wrong

This is the [Revelation Bioscience 8-K](#) announcing results. Here is how it presents the vote information:

Proposal 2 – Change of Domicile

The proposal to change the Company’s domicile from Delaware to Nevada, notwithstanding 97% of stockholders present voted in favor of the proposal, did not receive the required number of affirmative votes from the outstanding shares to pass at this time, based on the votes listed below:

For	Against	Abstain
2,956,575	73,597	20,134

There were 1,089,301 broker non-votes regarding this proposal.

My calculation had 97% of the votes cast being in favor of the proposal. There were 2,956,575 votes in favor, 73,597 against, and 20,134 abstain. There were also 1,089,301 broker non-votes. Technically my math came out to 96.92716075% in favor. I’m not confident

relying on the Glass Lewis post to conclude that shareholders are growing more critical of these proposals. It wasn't just 35% of the votes cast that were in favor in Revelation Biosciences, it was about 97% of the votes cast being in favor. It didn't pass because of the large number of broker non-votes.

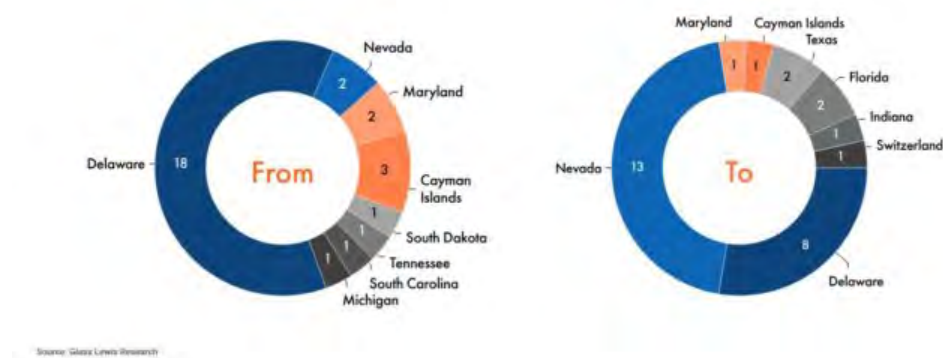
(2) There Are Other Failed Votes

Here, I have four failed votes in 2025. It could be three total if you count Eightco in 2024. But I just don't think it's right.

- Eightco could go in 2024 or 2025 as the proposal came in December 2024 and the vote result came out in [January 2025](#). I have it on my list, but it could just as easily be excluded.
- Nuburu held their meeting on [July 9, 2025](#), and the results came out on [July 14, 2025](#).
- Netcapital held its meeting on [September 11, 2025](#), and the results came out on [September 12, 2025](#).

It may just be that I'm trying to catch anything that pops up on EDGAR and Glass Lewis is using a more limited set of companies on this one.

But there are other things too. Glass Lewis also has two companies attempting to go to Texas and I've got four. I also haven't tried to track everything, just companies going to Nevada or Texas. This is the Glass Lewis chart:



I also want to drop a note about this line in the Glass Lewis post that could be read as indicating Nevada *just now* established a specialized business court.

Nevada's amendments included: defining controlling shareholders and the fiduciary duties of controllers, establishing safe harbors in conflicted transactions, making certain adjustments to Nevada's statutory business judgment rule, **and establishing a specialized business court.**

Here, I want to add a footnote that Nevada already has a specialized business court. It's a business court docket handled by a subset of Nevada's elected judges. In the 2025 session, Nevada achieved first passage for a [constitutional amendment](#) to authorize the creation of an *appointed* business court. We also have a recently formed [Judicial Commission](#) to look at reorganizing and modernizing the existing business court.

Guess, Inc.

Although I didn't add it to the chart, [Guess, Inc.](#) also recently revealed that it had planned to propose a move to Nevada before a take-private offer arrived. On October 3, it put out a preliminary proxy statement with some interesting disclosures:

In August 2024, the Guess Board created a committee of the Guess Board comprised solely of independent and disinterested directors **to evaluate a potential redomestication of Guess to a jurisdiction outside of Delaware** (the "Redomestication Committee"). **Willkie Farr and Gallagher LLP ("Willkie") was retained by the Redomestication Committee as its legal counsel.**

In November 2024, WHP approached Paul Marciano and Carlos Alberini regarding a potential strategic transaction involving Guess. . .

In early February 2025, following months of deliberation, **the Redomestication Committee of the Guess Board recommended, and the Guess Board resolved, that it was in the best interests of Guess and its stockholders for Guess to redomesticate to Nevada.**

On March 13, 2025, the Guess Board received a letter from WHP. . . containing a non-binding proposal to acquire the outstanding shares of Guess Common Stock . . .

Following receipt of the WHP Proposal, **the Redomestication Committee ceased consideration of a potential redomestication of Guess, and no such redomestication was ever effectuated.**

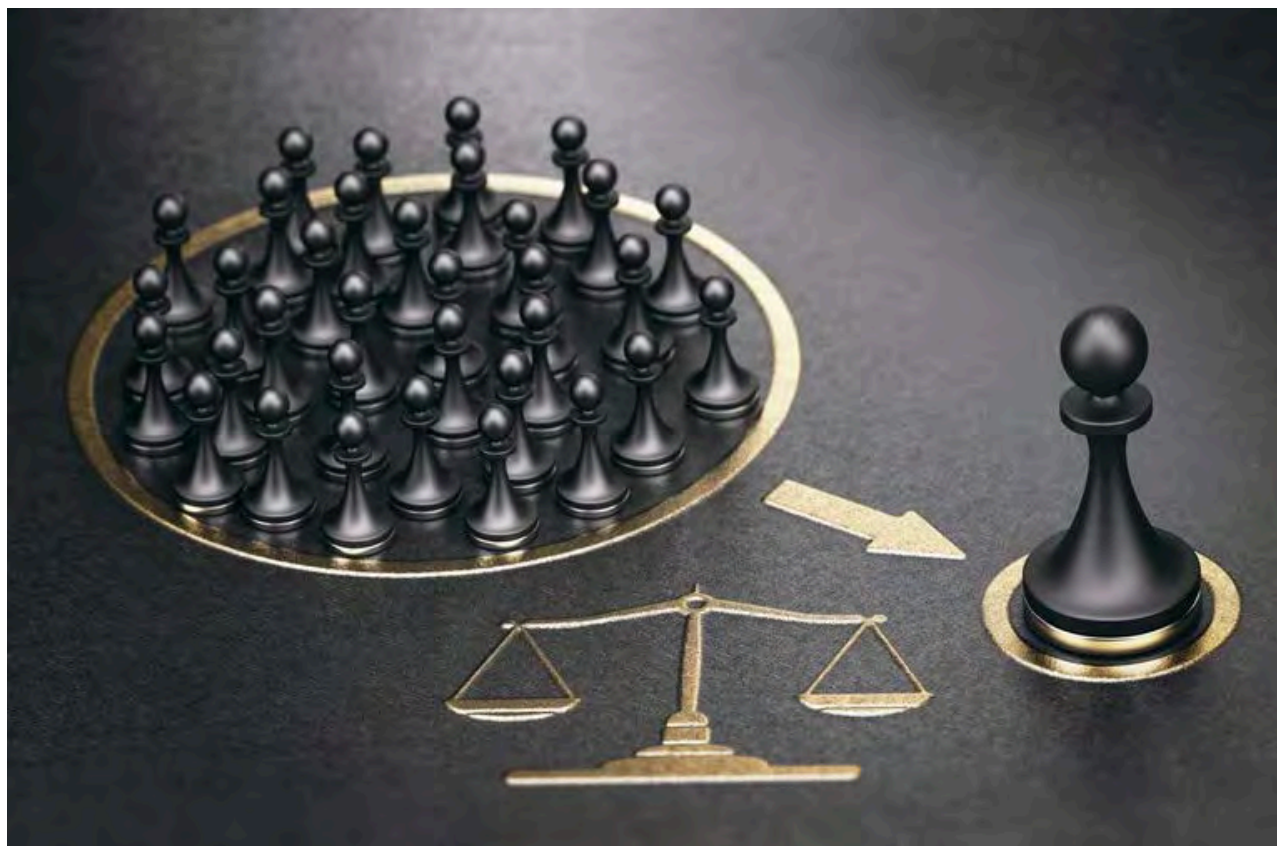
What interests me about this is the timeline when companies consider whether they want to shift from one jurisdiction to another. It appears that Guess ran a seven-month process with an independent committee and counsel to evaluate the options. What we don't know is the reasons the committee and board had for picking Nevada. Corporations often give different reasons in their proxy statements and it has been interesting to follow their rationales.

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Claimant Organizations Score Important Class Action Victory in the Netherlands

The Netherlands has emerged as a key jurisdiction for collective actions in Europe.

October 08, 2025 at 03:48 PM By  **Linda A. Thompson**



Credit: Olivier Le Moal/Adobe Stock

An Amsterdam court has delivered a judgment that lawyers say could make it easier for claimants to recover damages in collective actions centering on privacy breaches.

The interim [judgment](#) was delivered in a case that joined parallel mass proceedings filed against Chinese social media company TikTok by three groups—Stichting Massaschade & Consument (“Mass Damage & Consumer Foundation”), Take Back Your Privacy Foundation, and Stichting Onderzoek Markinformatie (“Foundation for Market Information Research,” also known as SOMI).

The foundations are being advised by Brandeis, Scott + Scott and Solv Advocaten, while Dutch independent law firm De Brauw Blackstone Westbroek is advising TikTok. The three class actions claimed damages totaling €6 billion, €1.5 billion, and €1.4 billion, respectively.

“This is great news for all consumers claiming immaterial damages from Big Tech in WAMCA proceedings,” said Noor Hogerzeil, counsel at Dutch litigation firm Lindenbaum. WAMCA is the Dutch acronym for the law governing collective actions in the Netherlands.

Since the law was overhauled in 2020, the Netherlands has emerged as a key jurisdiction for collective actions in Europe. Approximately 100 cases have been filed so far, several targeting large U.S. tech companies including Oracle, Salesforce, Facebook and Google, with the backing of litigation funders such as Omni Bridgeway, Innsworth Capital and BPGL.

However, many of the cases have languished in the procedural phase, and to date, not a single case has awarded damages to consumers. The law is currently undergoing a review by the Dutch government aimed at [assessing whether it is working as it should](#).

Hogerzeil said that legal teams for the companies being targeted in the class actions had consistently put forward as many preliminary defenses as possible in an attempt to delay proceedings. But with the new court decision establishing that non-material damages can also be claimed in collective proceedings, “future WAMCA-proceedings in which immaterial damages are claimed will likely reach the merits phase sooner,” Hogerzeil said.

The Amsterdam appeals court’s decision overrules a judgment by a lower Amsterdam district court, which had ruled that immaterial damages claims must be assessed on an individual basis, and allowed only the claims filed by Stichting Massaschade & Consument and Stichting Take Back Your Privacy to move forward.

Diederik van der Kooij, counsel at Dutch independent firm Houthoff, described the decision as “an important win” for the claims organizations. But they still face hurdles, he said.

Under Dutch law, immaterial damages can only be claimed when a person has suffered emotional harm, he explained.

“If TikTok is using your personal data, and thus infringes GDPR, but you do not even know this, and you just get an experience that is more tailored to your personal preferences, how can you show that you suffered emotional harm?” he asked. “A claim organization would say because you lost control over your data, but it is far from clear that this in itself [constitutes] harm.”

Van der Kooij also pointed to another aspect of the decision that may hurt ongoing collective actions targeting large tech companies.

Until now, lawyers for Big Tech have consistently argued that class actions on an opt-out basis are not allowed under EU GDPR rules and that, instead, only an opt-in regime is possible. However, a Rotterdam court recently asked for guidance from the Court of Justice of the European Union, the

top court for EU law matters, on this question, giving “serious credibility to this argument,” van der Kooij said.

The Rotterdam court decided to turn to the EU court with these so-called preliminary questions in August after being confronted with [a class action brought against Amazon](#) over its alleged improper processing of account holders’ personal data.

Amazon is being advised by De Brauw.

According to a [legal document](#) filed by the Rotterdam court, the EU court’s decision will also be relevant to pending collective actions against Oracle, Google and Adobe, in addition to the TikTok case. It generally takes about 16 months for the EU court to deliver a preliminary ruling from the date a case is filed.

The Amsterdam appeals court stayed the part of the proceedings related to EU privacy infringements until the Court of Justice of the European Union has answered the questions raised by the Rotterdam court.

“This also shows the importance of this argument,” van der Kooij said. “If the ECJ says that article 80 [of the] GDPR does not allow GDPR damages class action on an opt-out basis, GDPR class actions will probably go away.”

According to a court press release, a decision as to whether the case will go back to the lower court or stay with the Amsterdam appeals court has not yet been made.

TikTok and De Brauw have been contacted for comment.

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Securities

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Sutter Health's \$4.3 Million Retirement Plan Deal Gets Court Nod

Oct. 10, 2025, 9:16 AM PDT

A \$4.3 million class settlement benefiting Sutter Health workers secured initial court approval, paving the way for resolution of a lawsuit challenging the target-date funds in the California health-care system's retirement plan.

The agreement is expected to benefit about 73,000 people covered by the Sutter plan since July 2014.

Judge Lee H. Rosenthal granted preliminary approval to the deal and scheduled an April 10, 2026, fairness hearing in an order issued Thursday in the US District Court for the Eastern District of California

Rosenthal, who sits in the US District Court for the Southern District of Texas, was assigned to the case in 2024, amid the Eastern District of California's judicial emergency involving heavy case loads and an insufficient number of judges

The lawsuit, which advanced past Sutter Health's motion to dismiss in 2023, says the health system acted imprudently and disloyally in keeping a suite of actively managed target-date funds in its employees' retirement plan

Sutter Health is represented by Jackson Lewis PC. The employees are represented by Miller Shah LLP, Capozzi Adler PC, and Rosman & Germain APC.

The case is In re Sutter Health ERISA Litig. , E.D. Cal., No. 1:20-cv-01007, 10/9/25 .

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California Brief

Edison's Eaton Fire Payment Offer Challenged by Survivors (1)

Oct. 9, 2025, 7:00 AM PDT; Updated: Oct. 9, 2025, 1:21 PM PDT

Hundreds of Eaton Fire survivors have organized to demand Edison International strengthen its compensation program for those impacted by the deadly wildfire that started near one of its Los Angeles area transmission lines.

The draft plan proposed by the utility isn't fair or reasonable, said the set of recommendations released Thursday by the Eaton Fire Survivors Network.

Nine months after the fire, survivors who are waiting for payments say their mental health and marriages are under strain; their children have nightmares; and thousands remain scattered or displaced, Joy Chen, who leads the survivors' group, said during a Thursday news conference.

"We need to be seen as actual human beings and not numbers, not just another tragedy," said Zaire Calvin, whose sister died in the fire. "We need to be seen as human beings who worked hard for everything that we have, and everything was taken from us."

The plan provides too little compensation for smoke-damaged facilities, renters, and small businesses, and fails to recognize all fire-related losses, including community-level and cultural ones, the report said. Edison should commit to paying all survivors first, before insurers, governmental entities, or hedge funds, and it should pay for housing until displaced residents can return, the group wrote.

The group is comparing Edison's proposal with what Pacific Gas & Electric, an electric utility in Northern California, paid survivors of wildfires it caused. In Chapter 11 bankruptcy, PG&E agreed to settle claims with victims of the Butte, North Bay, and Camp Fires for \$13.5 billion.

"Edison's compensation program can set a new standard: one that restores trust by centering the voices of those most directly affected," the report said.

"Some of us will pursue litigation, others hope for early settlement, but we share one goal: help shape a plan that is fair, reasonable, and sufficient to move rebuilding forward—and that especially protects those most at risk of being left behind or pressured into inadequate offers," the group wrote.

Southern California Edison has said its equipment may be linked to the start of the Eaton fire, but an investigation remains ongoing. The company hasn't accepted responsibility for the January blaze that killed 19 people and destroyed more than 9,000 buildings.

Still, facing hundreds of lawsuits, including a demand from the federal government that it repay the cost of fighting the fire, Edison in July announced its compensation program for survivors.

The program will launch this fall and Edison has said it plans to start issuing payments early in 2026, about a year before the first trial in mass tort litigation against Edison is scheduled to start.

Draft guidelines released for comment in September put rebuild compensation for a 1,500 square foot home at around \$900,000. Survivors would receive \$10,000 for each structure with smoke damage. The draft also provides significantly less compensation for children whose homes were destroyed than adults.

"In many respects, Edison's draft mirrors the same gaps and limitations that have already stalled recovery through our insurance system," the survivors wrote.

Ken Feinberg, the lawyer who oversaw the 9/11 victims fund, has consulted with Edison on the plan, though the extent of his involvement is unclear. An Edison news release in July said he's not involved in reviewing claims or the program's administration. The utility hosted a series of workshops with survivors in September.

"We have heard and taken the feedback from those meetings along with what was shared today and we will update the program as needed," said SCE spokeswoman Diane Castro.

(Adds reporting throughout.)

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Palisades Fire plaintiffs sue agencies, utilities over alleged systemic failures

DJ [dailyjournal.com/articles/387968-palisades-fire-plaintiffs-sue-agencies-utilities-over-alleged-systemic-failures](https://www.dailyjournal.com/articles/387968-palisades-fire-plaintiffs-sue-agencies-utilities-over-alleged-systemic-failures)

LA Fires,

Civil Litigation

Oct. 10, 2025

Palisades Fire victims expanded their lawsuit, accusing multiple government agencies and utilities of negligence that allegedly contributed to Los Angeles' worst fire, including water shutoffs, faulty power poles and unchecked vegetation.

Palisades Fire plaintiffs expanded the scope of their lawsuit with a master complaint that names nearly a dozen government agencies and utility companies that they assert contributed to the conflagration.

The extensive filing late Wednesday is the culmination of months of research. It organizes the defendants into three groups: governmental entities, non-public entities, and the Palisades Bowl defendants. It reiterates the individual plaintiffs' claim that the Palisades Fire was caused by an earlier fire that was not properly extinguished. It also blames various entities for alleged contribution to the destruction by negligence.

"The most significant thing that surprised me was the systemic failures by so many utilities and agencies," Alexander Robertson IV said on Thursday. "For example, LADWP couldn't shut off the power to their powerlines to the Palisades. Many wooden power poles snapped and broke because they were overloaded with communication equipment."

Robertson is the founder of Robertson & Associates and co-lead counsel for thousands of Palisades Fire victims.

The Palisades Fire is believed to be the worst fire in Los Angeles history. It destroyed more than 6,800 homes and businesses, damaged some 970 structures, and led to 13 deaths. The initial complaint blamed the Los Angeles Department of Water and Power for an empty water reservoir and dry fire hydrants, which stymied efforts to contain the blaze. Grigsby, et al. v. City of Los Angeles acting by and through the Los Angeles Department of Water and Power, 25STCV00832 (L.A. Super. Ct., filed Jan. 13, 2025).

LADWP is represented by Munger, Tolles & Olson LLP and denies responsibility.

Robertson noted that many of the claims were specific to particular neighborhoods.

"We expect each individual plaintiff will be given the opportunity to file a shortform complaint indicating what defendants and causes of action they're pursuing. For example, people in Malibu may go after the Las Virgenes Municipal Water District," Robertson said.

The complaint says that homes in the water district's service area were damaged because the agency allegedly shut off the water supply as the fire approached the Las Flores Canyon community on Rambla Pacifico: "Because of the lack of water, plaintiffs and firefighters were unable to effectively fight the fire, and the Palisades fire consumed these plaintiffs' homes unabated."

Las Virgenes Municipal Water District representatives could not be reached for comment.

The J. Paul Getty Trust is accused of failing to trim the vegetation around the Getty Villa in Pacific Palisades, which the plaintiffs say caused it to ignite and the fire to spread to adjacent properties.

"Getty is reviewing the materials and is unable to provide further comment at this time," said the art museum's assistant director of news and media relations, Alexandria Sivak.

Southern California Gas Company was sued because its gas lines allegedly did not purge or shut down, leading to explosions that sent embers into the wind, the plaintiffs claim. SoCalGas representatives did not respond to a request for comment on Thursday.

Southern California Edison (SCE) was also sued because its wooden power poles in its service area in Malibu snapped, the plaintiffs claimed. The complaint says that the utility was implicated in previous wildfires because of the poles and did not take any steps to mitigate the risks in Malibu. Edison is accused of causing the Eaton Fire in Altadena that same night, a claim that the utility denies. Edison recently publicized a non-litigation compensation program for Eaton Fire victims while vigorously denying liability in court. *Gursey v. Southern California Edison*, 25STCV00731 (L.A. Super. Ct., filed Jan. 13, 2025).

"This complaint serves as a divisive distraction to community members, and SCE will vigorously defend this case through the legal process," Edison spokesman David Eisenhower said of the Palisades Fire filing. Hueston Hennigan LLP defends Edison in the Eaton Fire case. Eisenhower wasn't sure if the firm would defend Edison in the Palisades matter.

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California Brief

GM's \$150 Million Engine Defect Settlement Earns Final Approval

Oct. 9, 2025, 4:59 PM PDT

General Motors LLC and three consumer classes received final approval for a \$150 million settlement resolving litigation over alleged oil-consumption defects seen in several car models produced after Feb. 10, 2011.

Judge Edward M. Chen, of the US District Court for the Northern District of California, granted preliminary approval for the agreement in June and consummated the deal in a Thursday order after receiving no objections from the class members. Consumers from various states sued GM in 2016 alleging unjust enrichment, breach of warranty, and fraudulent omission, among other claims.

The settlement includes California, Idaho, and North Carolina consumers who currently own or lease 2011-2014 truck and SUV models with Generation IV Vortec 5300 LC9 engines, which allegedly consumes an improperly high amount of oil causing internal engine damage.

GM agreed to pay \$57 million in attorneys fees and costs, in addition to \$30,000 service awards for the three lead plaintiffs.

The court will retain jurisdiction to enforce the terms of the settlement .

Beasley, Allen, Crow, Methvin, Portis & Miles PC and DiCello Levitt LLP were appointed class counsel. Morgan, Lewis & Bockius LLP, Kirkland & Ellis LLP, and Quinn Emanuel Urquhart & Sullivan LLP represented GM.

The case is Del. Valle v. GM LLC , N.D. Cal., No. 16-cv-07244-EMC, order filed 10/8/25 .

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AI Missteps in Transactional Work Are Slow to Surface, but 'Time Bombs' Are Likely

Litigators have made news headlines for AI 'hallucinations' discovered in public court documents, but transactional lawyers, whose work is more private, have dodged the same scrutiny. Experts still urge continued caution as the technology becomes more prevalent.

October 08, 2025 at 02:30 PM By  **Jon Campisi**

What You Need to Know

- While litigators have gotten into trouble over artificial intelligence misuse, transactional lawyers have, by and large, stayed out of the public eye for similar issues.
- Litigation is more public than deal work, so cases involving mistakes tied to AI in M&A and related matters appear to be in the minimum.
- Regardless of practice area, experts urge all lawyers to have upfront discussions with clients about AI use.



Credit: Ewa/Adobe Stock

Incidents involving litigators whose mishaps with artificial intelligence use in brief writing and other public court filings have been highly publicized, but AI missteps in transactional work have been less publicized, given the work product behind M&A is far less visible.

But that doesn't mean transactional attorneys can't negatively impact deals should they engage in the improper use of newer technologies; it's just a different set of guardrails that ensure the work product remains free of mistakes caused by technology.

In transactional work, lawyers may use AI programs to create first drafts of documents in M&A deals, review contracts and lease agreements, and create templates for real estate transactions, among other tasks, experts say.

Any good lawyer in a transactional deal would make sure to read documents presented by the other side ahead of time to avoid complications due to technology glitches, and that attention to detail is likely why the public doesn't hear much about issues with AI in deal work as opposed to litigated cases, said Roy Hadley, special counsel with Morris Manning & Martin who focuses on technology deals.

"That's why you don't hear it as much on the transactional side in a final deal," Hadley said. "In theory, the other lawyer, the other side, has read the document and made sure that it's correct."

When reviewing items like contracts, using large language models with retrieval-augmented generation and other grounding techniques can help reduce the risk of hallucinations when using technology in transactional work, said Beverly Rich, vice president of AI and innovation at UnitedLex, a legal data solutions company.

"Transactional work can be less directly adversarial than litigation, and because documents typically go through multiple drafts and review cycles, there are more opportunities for errors or AI hallucinations to be identified and corrected," Rich said.

Hadley said transactional lawyers can still run into situations where confidential information that has been put into a memo and is then used to train an internal model could inadvertently leak certain identifiable information, so transactional lawyers must remain extra vigilant.

"You have to put the appropriate guardrails in and you really have to train the model to say if Client A is going against Client B, can we bring certain information over?" Hadley said. "Or, are we anonymizing information from the get-go?"

Transactional lawyers who misuse AI are in danger of not only potentially blowing up big deals and suffering the corresponding financial consequences but also suffering from reputational risks, and possibly increased insurance costs, when AI is used improperly.

“When it happens, it has the potential to be a blockbuster,” said Jeffrey Lowe, a Washington, D.C.-based law firm adviser with CenterPeak. “I think those time bombs are already out there.”

In litigation, mistakes tied to improper use of AI are generally discovered during the course of a case, and may not alter the outcome if caught in time, but if mistakes are made with AI use in transactional work that go unnoticed they may not be discovered until after final deal paperwork is already submitted, potentially leading to disastrous financial consequences, Lowe said.

“It could easily have a multi-million, or even billion dollar effect,” he said.

Insurance Implications

One repercussion of lawyers misusing AI could be an increase in insurance premiums, since attorneys often hold errors and omissions and professional liability policies to help guard against malpractice and professional negligence claims.

Experts say that most law firms go through an annual process with their insurers to address risk management and discussions about AI use are likely already occurring.

“I think insurers are asking questions about AI, but I don’t think we’re seeing the risks linked to AI being dramatically led or transformed by the insurance industry, partly because it’s a soft market at the moment,” said Stephen Revell of Lexington Consultants, a law firm advisory group. “I don’t believe we are seeing policies with AI exclusions.”

Currently, insurers feel that it’s not commercially viable to exclude all AI exposure because the technology “touches on everything that everybody does,” said Raymond Tittmann, founder and managing partner of Tittmann Weix LLP, a law firm that advises insurers on issues such as new technology and emerging risks.

At the moment, any negligence or malpractice tied to improper AI use would likely be viewed by insurers as no different than any other act of professional negligence, experts say.

While underwriters aren’t adding AI exclusions to policies at the moment, they are trying to better understand some of these newer risks tied to technologies as AI use becomes more commonplace.

“I think there’s a lot of interesting ways that that’s yet to play out,” Tittmannn said.

AI in Transactional Work Not New

Some experts note that AI, in some form or another, has been used in transactional work much longer than it has been used in litigation, which could account for the fact that transactional lawyers seemingly have less problems with the technology than litigators.

“The use of technology is definitely impacting transactional practices, and has been for many years, but the more extensive use and availability of AI and the way in which we can use AI has brought several issues to the forefront,” said Revell, of Lexington Consultants. “Is it a new problem? On some level, no.”

Revell said he has not personally heard about cases where transactional lawyers have been sued for negligence specifically tied to AI use in deal work, but, “then again, I would not be surprised if ‘accidents’ have happened and clients are unhappy, it just gets much less publicity than some of the high profile issues with AI we have seen in a litigation context.”

“I suspect there are claims, but these are relatively early days, and it doesn’t surprise me that we aren’t seeing publicity around claims,” he said.

Experts also note that clients typically give their transactional lawyers the go-ahead to use AI programs ahead of time, so there aren’t typically any surprises during the course of a deal that may be connected to technology use.

Whether lawyers are getting sued over mishaps from AI use is hard to determine, and a scan of public court cases involving AI misuse as a category highlighted in a [George Washington University Law School](#) database shows that most litigated issues are tied to the technology itself, but not necessarily related to professional negligence or malpractice claims against lawyers.

Start With Client Discussions

Regardless of whether a litigator or a transactional lawyer is using AI in the course of their work, any reputable attorney will want to ensure they’re having discussions regarding AI use with clients, experts say. Having an open dialogue, they say, is the first step toward ensuring a positive experience with the technology.

“I personally would think any lawyer would want to make sure that their clients know what they’re doing and how they’re doing it, especially in something like this, that’s new and a novel approach, and I think there’s value to that,” said John Skakun, a partner with Sidley Austin.

Skakun said he personally prefers to use AI “strategically rather than for efficiency.”

“We use it, essentially, as almost another person in the room to help us think through negotiating strategy,” he said. “The strategy-versus-efficiency dynamic, I think, is sometimes lost for a lot of folks who don’t actually think about this. I think we have to learn and continue to create better processes so that we get the benefits while also then catching and preventing the detriments.”

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Securities

Manage Newsletters

AI's Growth Leaves Financial Regulators Struggling to Catch Up

Oct. 10, 2025, 7:01AM PDT

Summary by Bloomberg AI

AI Generated



- Regulators are at an “early stage” in tracking the risks posed to the financial system by the rapid adoption of artificial intelligence.
- The Financial Stability Board noted “significant gaps” in understanding how AI can contribute to the financial sector’s riskiness, citing challenges such as third-party dependencies and model governance.
- The FSB warned that the use of generative AI may create greater third-party dependencies and increase threats to the financial sector, including “financial fraud and the ability of malicious actors to generate and spread disinformation in financial markets”.

Regulators are still at an “early stage” in their efforts to track the risks posed to the financial system by the rapid adoption of artificial intelligence, global financial watchdogs warned on Friday.

In a report to the G20, the Financial Stability Board said that while many global authorities had tried to “enhance their AI-related data collection initiatives” there were still significant gaps in their understanding of how AI can contribute to the financial sector’s riskiness.

“Certain vulnerabilities, such as third-party dependencies, market correlations, cyber risks, and model governance challenges, are particularly difficult to monitor due to limited data availability, lack of transparency, and the evolving nature of AI systems,” the report noted.

Third party dependencies – where regulated financial services firms rely on unregulated technology companies for critical infrastructure – have also drawn scrutiny in other areas like cloud computing. In the report, the FSB called out generative AI as a potential area of concern since interest in it is high among financial firms who would face “significant constraints in cost and talent acquisition if they were to try and develop these models internally.”

"The choice is often between using these models or no use of GenAI at all," the FSB wrote. "However, the continued and expanding use of GenAI may create greater third-party dependencies among FIs on the service providers for these leading GenAI models."

Banks including The Goldman Sachs Group Inc and HSBC Holdings Corp have deployed GenAI for everything from [boosting](#) back office productivity to empowering wealth managers to offer more personalized advice.

The FSB said GenAI's broader evolution could also increase threats to the financial sector by increasing "financial fraud and the ability of malicious actors to generate and spread disinformation in financial markets".

The update about the challenges in monitoring AI's threat to financial industry comes days after the Bank of England and International Monetary Fund [warned](#) of the potential for soaring AI valuations to trigger a sharp market correction. The report was commissioned by the South African presidency of the Group of 20 and delivered before this month's meetings in Washington.

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Deep Dive

OpenAI Risks Billions as Court Weighs Privilege in Copyright Row

Oct. 10, 2025, 2:02 AM PDT

OpenAI Inc.'s failure to shield internal communications about pirated books from copyright plaintiffs threatens to expose the company to billions in damages and potentially debilitating sanctions.

Authors and publishers suing the artificial intelligence giant have secured access to some Slack messages and emails discussing OpenAI's deletion of a dataset containing pirated books and are seeking additional attorney communications about the decision. If they succeed, the communications could demonstrate willful infringement, triggering enhanced damages of as much as \$150,000 per work.

The stakes reach beyond a hefty damages award. If the court finds that OpenAI destroyed evidence anticipating litigation, sanctions could follow. The judge could issue monetary penalties, limit OpenAI's defenses, or even issue a default judgment in plaintiffs' favor.

The case will test the Manhattan court's willingness to hand over hallowed attorney communications to a wave of copyright owners suing key players in the AI industry over how they train large language models. Authors and publishers sought similar communications from Anthropic PBC in their AI copyright class action, before that case settled in August for a record \$1.5 billion.

"Finding out what attorneys said or what clients said to attorneys and back and forth probably gives us a lot of evidence regarding state of mind," said David Schultz, a professor at Hamline University. The disclosure would be an "enormous" blow to OpenAI's defense, he said.

The US District Court for the Southern District of New York last week ordered OpenAI to turn over most employee communications about the data deletion that the AI company argued were protected by attorney-client privilege. OpenAI may appeal the decision. A separate bid for OpenAI's correspondence with in-house and outside attorneys remains pending.

Mounting Pressure

AI companies' state of mind is front and center in dozens of copyright lawsuits, as a finding of willful infringement can increase damages to \$150,000 per work, from \$750. Tens of millions of books and news articles are at issue in the dozen copyright cases against OpenAI that were consolidated in April in the Manhattan court for pretrial activity.

Anthropic said its was pushed to settle with book authors in August due to "inordinate pressure" to avoid a trial that could have put the company on the hook for as much as \$1 trillion in damages for downloading of millions of pirated books from Library Genesis, the pirate library OpenAI also downloaded, before deleting the data.

The OpenAI plaintiffs are similarly positioning themselves for a settlement, even though the OpenAI case isn't as far along as the Anthropic lawsuit when the parties struck a deal, Saint Louis University law professor Yvette Joy Liebesman said. OpenAI's internal communications could serve as a "bigger bargaining chip" if they reveal willfulness or spoliation, which could set a tangible estimate for potential damages.

"There may be a smoking gun, we don't know," she said. But the plaintiffs' attorneys are "going to get as much information as possible to get as much money for plaintiffs as possible."

Novel Strategy

Plaintiffs are pursuing a rare combination of arguments to pierce attorney-client privilege, a protection courts rarely breach.

They first contend OpenAI waived its privilege for attorney correspondence by selectively disclosing one reason for deleting the LibGen data, saying it was due to "non-use."

"You can't pick and choose what you're going to introduce into the record," said Schultz, noting that the US Court of Appeals for the Second Circuit, where the Manhattan court sits, doesn't recognize selective waiver.

OpenAI has walked back its statement, claiming the "due to" phrasing was never intended to disclose privileged reasons for the removal and that its revision to remove to the wording wasn't a "flip flop," as plaintiffs described it.

But the damage may be done. The fact OpenAI put forth a reason is "pretty damning" even if the company now claims the wording was accidental, said New York Law School professor Rebecca Roiphe. "The plaintiffs' point of 'no take backs' is right."

She noted OpenAI offered "the most innocuous reason" for deletion. "If the attorney conversations confirm that, then why are they fighting it so hard?"

‘Nuclear Option’

The plaintiffs are also invoking the crime-fraud exception to privilege, arguing OpenAI's communications may reveal criminal copyright infringement or intentional destruction of evidence.

If an attorney advised OpenAI to destroy the data rather than to simply stop using it, that lawyer could be considered a participant in the infringement, Liebesman said.

That argument is the “nuclear option” because courts rarely find privilege waived, to prevent parties from constantly seeking disclosure, said Snell & Wilmer LLP Partner Nathan Mammen. He's never seen the crime-fraud exception asserted in a copyright case. It's more common in patent cases when accused infringers claim the invention is invalid because the patent owner committed fraud on the US Patent and Trademark Office.

It'd be “remarkable” if OpenAI's counsel, Latham & Watkins LLP and Morrison & Foerster LLP, were recommending destruction when that's “clearly spoliation” of evidence, said Roiphe.

The firms didn't immediately respond to requests for comment. OpenAI didn't comment on the privilege issue.

Potential Punishment

Schultz, Roiphe, and Mammen all predicted Judge Ona T. Wang would order in camera review, where the court examines the documents in private before issuing a decision.

Her recent order mostly rejecting OpenAI's privilege contentions over related documents could make her gravitate towards plaintiffs, Mammen said, since she's already found the company improperly withheld materials.

“If a party is acting aggressive, that just predisposes the judge,” Roiphe added.

If the records reveal spoliation, the court could issue an adverse inference instruction against OpenAI, telling the juries in any later trials to assume the evidence would have been unfavorable to the company and destroying it gave it an unfair advantage. The court could even tell the jury to assume OpenAI's conduct is willful.

“Juries hear that and it's a very powerful stick,” Mammen said. “It doesn't guarantee the outcome, but it's a heavy thumb on the scales.”

The case is In Re: OpenAI, Inc. Copyright Infringement Litigation, S.D.N.Y., No. 25-md-03143 .

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Analysis | **Artificial Intelligence**

Risks Abound for Employers as California AI Hiring Rule Kicks In

“The first step that employers should really focus on is to conduct a thorough audit of what tools they’re using,” said Jillian Ambrose, counsel at Crowell & Moring.

October 10, 2025 at 10:40 AM By **Brendan Pierson**



Credit: xy/Adobe Stock

Employers need to be careful in how they use artificial intelligence and other automated tools in hiring decisions in light of a new California regulation, which could be the beginning of a larger push by states to regulate AI in hiring, attorneys say.

The rule, which took effect at the beginning of this month, makes clear that any computer-based system used in hiring decisions that discriminates against protected categories, either explicitly or by having a disparate impact, violates California anti-discrimination law. It also bars automated tools that elicit information about an applicant’s disability or criminal history.

The regulation states that an employers’ efforts to test its systems for bias, or failure to do so, will be relevant to anti-discrimination claims against it, though it does not explicitly require them to do

such testing.

Compliance with the new rule will have multiple components, legal experts say.

“One of the biggest challenges for employers in trying to comply with this regulation is trying to understand all the tools that they may already be using,” said Jillian Ambrose, counsel in Crowell & Moring’s employment practice. She noted that the rule’s definition of an automated decision system was broad, covering commonly used tools like resume-ranking software that hiring teams may use, but not exclusively rely on, in their decisions.

“The first step that employers should really focus on is to conduct a thorough audit of what tools they’re using,” Ambrose said.

Other kinds of systems covered by the rule include online evaluation tests, AI tools that analyze videos of candidates’ interviews and systems for sending out targeted marketing and recruiting materials to potential applicants.

Once they have identified what tools are covered by the rule, employers need to ensure that the tools are used appropriately and not simply allowed to run blindly, according to Ferry Lopez, a partner in K&L Gates’ labor and employment practice.

“Human oversight is critical,” Lopez said, adding that teams that handle AI tools in hiring “need to be trained on when and how to override” them to avoid potential discrimination.

For example, she said, if an online test poses an obstacle for a person with a disability, the employer needs to make sure that there is a clear, easy way to offer the applicant an accommodation.

Mayer Brown attorneys said in a client note that there was particular risk around AI products that aim to “analyze an applicant’s interview an applicant’s tone of voice, facial expressions, or other physical characteristics or behavior,” as they may have a discriminatory effect “based on race, national origin, gender, disability, or other protected characteristics.”

Another important step employers should take is auditing third-party vendors that provide automated decision systems before contracting with them, according to a client note from attorneys at DLA Piper. The regulation deems such vendors to be “agents” of the employers that use them, meaning that employers can be liable for what they do.

Employers should also perform regular anti-bias audits on tools they already use, the DLA Piper lawyers said.

Employers will also need to be ready for the possibility of more litigation. There is already a pending federal lawsuit, certified as a class action in June, alleging that human resources software provider Workday's AI screening system disproportionately rejected job applicants over 40 before they ever received interviews.

Lopez said the California rule could open the door to more such lawsuits in the state. One way for employers to protect themselves, she said, is to ensure they comply with the rule's requirement to maintain data records for their automated tools going back four years, which they could use to prove that the tools are not discriminatory when faced with a claim.

Finally, employers should be ready for other states to pass similar, but not necessarily identical, rules.

Illinois and Colorado have both passed laws around the use of AI in hiring that are similar to California's. Texas on the other hand, has a law prohibiting intentional discrimination through automated systems, but not disparate impact.

Those laws are all set to take effect next year, although Colorado's law has already been postponed due to failed negotiations by state legislators to modify aspects of it, and details remain uncertain.

Meanwhile, New York, Massachusetts, Connecticut and Washington are also considering laws that would affect AI hiring.

Ambrose said that the potentially growing patchwork is creating a complex, challenging compliance environment for employers.

"I don't know that there's a consensus yet on what that should look like," Ambrose said. The lack of definitive guidance at the federal level makes it more complicated."

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Ex-Ohio GOP Chair Matt Borges, convicted of role in HB6 scandal, leaves prison early

[cleveland.com/news/2025/10/ex-ohio-gop-chair-matt-borges-convicted-of-role-in-hb6-scandal-leaves-prison-early.html](https://www.cleveland.com/news/2025/10/ex-ohio-gop-chair-matt-borges-convicted-of-role-in-hb6-scandal-leaves-prison-early.html)

By Jeremy Pelzer, cleveland.com

October 9, 2025

1. [News](#)

- Published: Oct. 09, 2025, 11:20 a.m.



Former Ohio Republican Party chair Matt Borges (right) and his attorneys Todd Long and Karl Schneider arrive at the Potter Stewart U.S. Courthouse in Cincinnati in 2023. Borges, who became a lobbyist, got a 5-year prison sentence for his role in the House Bill 6 scandal. He was released Wednesday after serving about two years in a minimum-security prison. (David Petkiewicz, cleveland.com, file)David Petkiewicz, cleveland.com

By

- [Jeremy Pelzer, cleveland.com](#)

COLUMBUS, Ohio— Former Ohio Republican Party Chairman Matt Borges was released from federal prison after serving less than half of the 5-year sentence he received for his role in the House Bill 6 corruption scandal.

Borges, a Columbus-area lobbyist, was moved Wednesday from a minimum-security federal prison camp in Morgantown, West Virginia -- his home for the past two-plus years -- to a halfway house in Cincinnati, according to the Federal Bureau of Prisons.

He'll now spend the next year either living in a halfway house or remaining confined to his house in suburban Columbus, Borges said in a letter to his wife Kate [that she posted on her blog](#). After that, the blog stated, he'll spend an additional year under supervision by a probation officer.

Borges left prison early because of credits he earned under the federal First Step Act, [according to the blog](#). That law allows federal inmates to shave time off their sentences for participating in recidivism reduction programs and educational classes.

Your feedback matters

Do you think the two years or so that Matt Borges served in prison was too much, too little, or an appropriate punishment for his role in the House Bill 6 scandal?

Your Feedback

In June 2023, [Borges was sentenced](#) to five years in prison, followed by three years of supervised release, for offering a \$15,000 bribe in the summer of 2019 to a GOP operative named Tyler Fehrman.

At the time, Borges worked as a lobbyist for a FirstEnergy subsidiary that, under HB6, received a (since-repealed) \$1 billion-plus ratepayer bailout for two northern Ohio nuclear power plants.

Borges approached Fehrman seeking inside information into a campaign to repeal HB6, an energy law that then-Ohio House Speaker Larry Householder pushed through the legislature with the help of \$60 million in bribes from Akron-based electric utility FirstEnergy.

At Borges' trial, [prosecutors played a recording](#) in which Borges told Fehrman that if he notified the media about their conversation, "I'll have to blow your house up." Borges later said he was joking, though [Fehrman told cleveland.com |The Plain Dealer](#) that Borges' comment "terrified" him.

Borges [appealed his conviction](#), arguing that, among other things, he wasn't aware that the pro-HB6 organization was engaged in illegal activity.

However, last May [a federal appeals court panel rejected Borges' arguments](#). "All told, Borges had a deep knowledge of (and involvement in) Householder's bribery scheme," the court held.

Householder, meanwhile, was [sentenced to 20 years in prison](#) the day before Borges received his sentence. The Perry County Republican is currently at a minimum-security prison camp in Columbiana County.

Before becoming a lobbyist, Borges was Ohio Republican Party chair from 2012 until 2017, overseeing the party as Ohio moved from the nation's quintessential swing state to a solidly red one.

However, [party leaders voted him out](#) after the 2016 general election because of his tepid support for President Donald Trump's campaign.

While in prison, Borges described via the blog [working on the prison's ranch](#), as well as teaching classes on [yoga](#), [writing](#), and [outer space](#). Ahead of his release, [he wrote](#), his fellow inmates working at the ranch got him an ice cream cake.

In one letter to his wife [posted to the blog in late July](#), Borges wrote that while he has been "surrounded by weirdos, drug addicts, and untreated mental health patients," his time at his minimum-security prison was "still a lot better than being around violent maniacs and being locked in a room or a cell all day long, like a lot of places are."

"Without question, this whole experience has been unequivocally bad," Borges wrote. "But from what I've heard and the things I've seen, it could've been a whole lot worse."

[Jeremy Pelzer](#)

Jeremy Pelzer has worked in the Columbus bureau of cleveland.com and The Plain Dealer since 2013. Prior to that, Pelzer worked for Gongwer News Service in Ohio and covered government and politics in Illinois,...



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Ex-Ohio GOP Chair Matt Borges released early to halfway house

 usersync.getpublica.com/usersync

Dave DeNatale

October 9, 2025

[Crime](#)

Former Ohio GOP Chair Matt Borges, convicted in \$60M FirstEnergy bribery scheme, gets early release from prison

Borges served less than half of his five-year sentence for his role in the HB6 scandal involving FirstEnergy. He was transferred to a halfway house in Cincinnati.

Updated: 4:07 PM EDT October 9, 2025

CINCINNATI — [Matt Borges](#), the former chairman of the Ohio Republican Party who was convicted for his role in [the \\$60 million bribery scheme involving FirstEnergy and House Bill 6](#), has been released from prison after serving less than half of his five-year sentence.

As first reported by Jeremy Pelzer of [3News media partner Cleveland.com](#), Borges was transferred Wednesday from a minimum-security federal prison camp in Morgantown, West Virginia -- his home for the past two-plus years -- to a halfway house in Cincinnati. According to a letter to his wife, Kate, [that was posted on her blog](#), Borges says he will spend from now until Oct. 3, 2026 at a halfway house or in home confinement. He will follow that with one year of supervised probation.

Borges was arrested along with then-Ohio House Speaker Larry Householder and three others in 2020 for charges related to bribery and money laundering for their efforts to push through a nuclear plant bailout measure known as House Bill 6. Generation Now, the 501(c)(3) nonprofit through which much of the money flowed, was also charged.

In June of 2023, the 53-year-old Borges [was sentenced to five years in prison and three years of probation](#) for his part in the scandal. Specifically, Borges was found to have offered a bribe in exchange for inside information on a referendum campaign aimed at repealing the bailout law.

Householder, who was removed from his role as State House speaker days after his arrest and eventually expelled from the chamber altogether, was convicted for his role in the scandal in 2023 and is currently serving a [20-year prison sentence](#). He is also facing [a total of](#)

[10 charges filed against him at the state level by Ohio Attorney General Dave Yost](#), including theft and tampering with records. A trial in Cuyahoga County Common Pleas Court is scheduled to start in November, according to the court docket.

The convictions of Householder and Borges [were upheld by the Sixth Circuit Court of Appeals](#) in May. "Larry Householder was Speaker of the Ohio House of Representatives. A jury found him guilty of conspiring to solicit and receive almost \$60 million in return for passing a billion-dollar bailout of a failing nuclear energy company. A jury also found lobbyist Matthew Borges guilty of playing a role in Householder's conspiracy. Because we find no reversible error, we affirm their convictions," the panel of three judges stated [in their ruling](#).

The \$60 million scheme was secretly funded by Akron-based FirstEnergy Corp. in service of its nuclear subsidiary FirstEnergy Solutions, now operating independently as Energy Harbor. [FirstEnergy admitted to its role in the operation](#) and agreed to pay a \$230 million fine, while a number of top executives, including CEO Chuck Jones, were fired.

3News has reached out to Borges' attorney for a reaction and will post any updates in this story.

3News' Tyler Carey and the Associated Press contributed to this report

Elon Musk's Political Pivot Is a Case Study in Opportunism, New Book Argues

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Max Chafkin

October 10, 2025

Illustration: Dave Murray for Bloomberg

By Max Chafkin

(Bloomberg Businessweek) --



Illustration: Dave Murray for Bloomberg

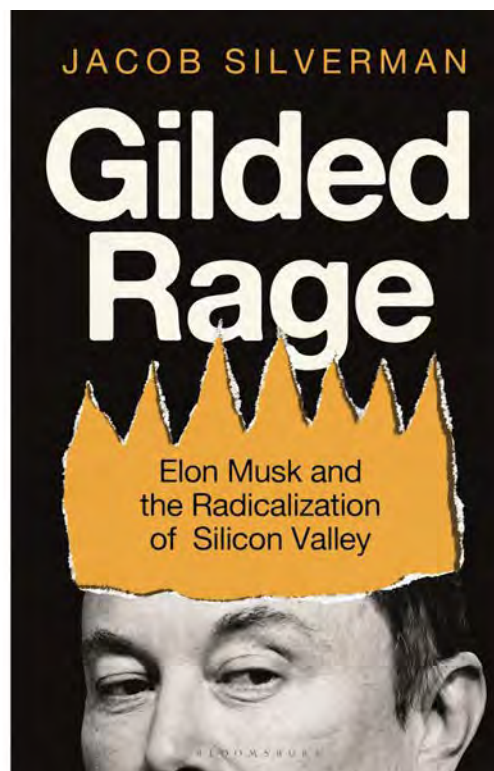
From the moment in October 2024 when Elon Musk stepped on stage at a political rally in Pennsylvania — [giddily jumping up and down](#) while encouraging thousands of Trump supporters to “fight, fight, fight” — journalists, political analysts and politicians have [puzzled over](#) what exactly prompted him to shift his political allegiances so dramatically.

How did the chief executive officer of what was once the world's most visible green energy company, who'd for a time styled himself as a pro-immigrant, pro-gay rights environmentalist, come to support a candidate who opposed all of those things? Why did Musk, who'd previously seemed most animated by technological questions rather than political ones, suddenly seem fixated on the supposed sins of the left and the so-called “woke mind virus?” What, exactly, had made him so angry?

Many explanations have been offered in recent years: Perhaps Musk was radicalized by his relationship with his daughter, who is trans. Perhaps Musk, an incorrigible scroller who seems to spend every waking moment on the social media platform he owns, simply fell down the same radicalizing rabbit hole that has been ruining Thanksgiving dinners since Baby Boomers got on Facebook. Or perhaps it involved a deteriorating relationship with former US President Joe Biden.

In his new book, *Gilded Rage: Elon Musk and the Radicalization of Silicon Valley* ([Bloomsbury Continuum, Oct. 7](#)), journalist [Jacob Silverman](#) spends some time on each of these factors as he explains how many in the tech industry came to find common cause with the Trump administration. But Silverman proposes an additional explanation for Musk's radicalization, offering a rationale that helps explain not only why Musk went for Trump, but why so many of his contemporaries did as well. The short version is: greed.

The slightly longer explanation is rising interest rates, specifically the 2022 end of so-called zero-interest rate policies, or ZIRP. In Silverman's telling, tech leaders enjoyed a decade's worth of free money, used it to build up unprecedented wealth, and, when suddenly presented with a bill in the form of a [cryptocurrency crash](#) and a potential tech slowdown, allied with Republicans to keep the good times rolling. That their scheme seems to have worked (so far, at least) is either a triumph of private-sector ingenuity and a new political paradigm, or a serious threat to American democracy, depending on your point of view. Silverman, who previously co-wrote a best-selling book about crypto scams, [Easy Money](#), definitely falls into the latter camp.



Musk is a prominent figure in this story, but he's not the only one. Early on, Silverman says his book is a "group biography, with a shifting cast of characters" who "are all headed in the same troubling direction." These people share an admiration of authoritarian politics, a comfort with foreign influence (especially from Saudi Arabia and other Gulf states) and a desire to wring dollars out of the federal government via contracts and favorable tax policy. Many are weapons manufacturers, or at least aspire to sell weapons to the Defense Department.

The decision to treat Musk and other right-leaning tech CEOs and investors as members of the same team gives the book a frenetic pace, and I sometimes felt like I was staring at a conspiratorial cork board, following Silverman's red string from Musk to his secret X backers in the Middle East (who Silverman [unmasked as part of his reporting](#)), to Marc Andreessen (the venture capitalist who informally advised Trump during the presidential transition), to Changpeng Zhao, the crypto entrepreneur who managed to somehow go to [prison for charges related to money laundering](#) and then emerged with [his wealth and reputation seemingly intact](#).

Ultimately, though, the structure fits the material, and Silverman makes a convincing case for how tech became radicalized. By grounding his argument in money rather than red-pilling, he avoids fixating on the many outrageous social media posts of Musk and others, and instead offers a plausible explanation for why so many of Trump's most powerful allies in tech (including Musk and Andreessen) once presented themselves as moderate Democrats.

This isn't to say ideology plays no role in Silverman's story. He also explores how Peter Thiel set the example Musk followed: An early and enthusiastic Trump backer, Thiel created a political network of right-leaning techies who have helped staff Trump's second administration.

Silverman has some firsthand experience of this world. He opens the book in 2019, when he briefly took a job as a ghostwriter for a little-known biotech entrepreneur and enjoyed the perks of the ZIRP life: high wages, gratifying (if amorphous) goals and not a lot of actual work. His boss, we learn, was a young man named Vivek Ramaswamy, who would move on from his biotech firm, Roivant, to start an anti-woke investment firm, Strive Asset Management, backed by Thiel. Neither Strive nor Roivant has been an unequivocal success, although Ramaswamy's personal fortunes have been moving up and to the right ever since. He wrote a best-selling book that railed against the dangers of "woke capitalism" and [then ran for president](#). After endorsing Trump, Ramaswamy was made co-chair of Musk's so-called Department of Government Efficiency (DOGE). He is now running for [governor of Ohio, with Trump's support](#).

Silverman's experience in the private sector was clarifying. "I learned about the failure of this new class of financiers, venture capitalists, and tech moguls to create anything enduring," he writes. "So many of them, it seemed, had gotten rich via some form of financial engineering, a combination of insider connections, cunning use of the law and tax loopholes, and huge sums of cheaply borrowed cash that they could leverage on big bets." When the ZIRP party ended, Silverman argues, members of this new class responded with rage, and then political advocacy, concluding that Republicans, rather than Democrats, were more likely to give them what they needed to get even richer.

The suggestion that Silicon Valley's achievements are more about market manipulation than genuine innovation is debatable, and could be interpreted as sour grapes from a former employee. But Silverman's critique contains a truth that tends to be ignored even by the most strident Silicon Valley critics. Musk's achievements are real — he has sold a great number of electric cars — but he is no stranger to financial engineering. Andreessen helped create the web browser, but he also spent years promoting a dubious vision of [financialized technology known as Web 3](#). Similar observations could be made about Thiel, Mark Zuckerberg and Ramaswamy.

Silverman's book ends with Musk assuming leadership of DOGE and frantically firing civil servants. Google's co-founder Sergey Brin had personally protested Trump's banning travel from some Muslim-majority countries in 2017; eight years later, his company helped bankroll Trump's inauguration. Writes Silverman: "The old Silicon Valley was gone."

This conclusion feels inevitable and — for anyone who came of age in an era summed up by Google's old corporate motto, "Don't be evil" — perhaps a bit dispiriting. Tech's old idealism, if it ever really existed, has apparently been replaced with cynical self-interest and a will to power.

But how lasting will that power be? Since helping to engineer Trump's election, Musk has muddled [through a series of setbacks and self-owns](#), including his failure to elect a judge in Wisconsin, his ouster from the White House, and a sudden drop in sales of his electric cars. Meanwhile Trump's economic policies, especially his slapdash approach to imposing tariffs, have damaged the fortunes of some of the president's most enthusiastic supporters — Musk included.

Three years from now, it seems possible — maybe even inevitable — that Musk and his buddies will look back on the Biden years and ask what exactly they were so mad about.

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US opens Tesla probe after more crashes involving its so-called full self-driving technology

C [courthousenews.com/us-opens-tesla-probe-after-more-crashes-involving-its-so-called-full-self-driving-technology](https://www.courthousenews.com/us-opens-tesla-probe-after-more-crashes-involving-its-so-called-full-self-driving-technology)

Associated Press

October 9, 2025

The new probe covers 2,882,566 vehicles, essentially all Teslas equipped with full self-driving technology, or FSD, of which there are two types.

[Associated Press](#) / October 9, 2025

Tesla's EV charging connector is pictured at a charging station in Anaheim, Calif., June 9, 2023. (AP Photo/Jae C. Hong, File)

WASHINGTON (AP) — Federal auto safety regulators have opened yet [another investigation](#) into Tesla's so-called full-self driving technology after dozens of incidents in which its vehicles ran red lights or drove on the wrong side of the road, sometimes crashing into other vehicles and injuring people.

The National Highway Traffic Safety Administration said in a filing dated Tuesday that it has 58 incident reports of Tesla vehicles violating traffic safety laws while operating in full self-driving mode. In reports to regulators, many of the Tesla drivers said the cars gave them no warning about the unexpected behavior.

In August, a [Miami jury found that Tesla](#) was partly responsible for a deadly 2019 crash in Florida involving its Autopilot driver assist technology — which is different than full self-driving — and must pay the victims more than \$240 million in damages.

Tesla said it would appeal the decision.

The new probe covers 2,882,566 vehicles, essentially all Teslas equipped with full self-driving technology, or FSD, of which there are two types. Level 2 driver-assistance software, or "Full Self-Driving (Supervised)," requires drivers to pay full attention to the road. The company is still testing a version that does not require driver intervention, something that the automaker's owner and CEO Elon Musk has been promising to roll out for years.

The new investigation follows a host of other probes into the FSD feature on Teslas, which has been blamed for several injuries and deaths. Tesla has repeatedly said the system cannot drive itself and human drivers must be ready to intervene at all times.

Tesla is also under investigation by NHTSA for a “summon” technology that allows drivers to tell their cars to drive to their location to pick them up, a feature that has reportedly led to some fender benders in parking lots. A [probe into driver-assistance features](#) in 2.4 million Teslas was opened last year after several crashes in fog and other low-visibility conditions, including one in which a pedestrian was killed.

Another investigation was launched by NHTSA in August looking into why Tesla apparently [has not been reporting crashes promptly](#) to the agency as required by its rules.

NHTSA investigations can often lead to recalls.

Musk is under pressure to show that the latest advances in its driver-assistance features have not only fixed such glitches but have made them so good drivers don’t even need to look out the window anymore. He recently promised to [put hundreds of thousands of such self-driving Tesla cars and Tesla robotaxis](#) on roads by the end of the next year.

Tesla shares fell 2% Thursday.

Categories / [Business](#), [Consumers](#)

Tesla rolls out lower-cost Model Y Standard variant in European markets

 [reuters.com/business/retail-consumer/tesla-prices-standard-model-y-41700-norway-its-website-shows-2025-10-10](https://www.reuters.com/business/retail-consumer/tesla-prices-standard-model-y-41700-norway-its-website-shows-2025-10-10)

Marie Mannes, Akash Sriram

October 10, 2025

A Tesla Model Y electric vehicle travels along a highway near San Juan Capistrano, California, U.S. July 1, 2025. REUTERS/Mike Blake/File Photo [Purchase Licensing Rights, opens new tab](#)

STOCKHOLM, Oct 10 (Reuters) - Tesla ([TSLA.O](#)), [opens new tab](#) launched the new, lower-priced standard version of its best-selling Model Y SUV in Europe on Friday, aiming to reinvigorate demand in a market that has weakened sharply over the past year.

The new Model Y Standard, unveiled earlier this week, marks Tesla's latest push to boost demand in the region, where sales of its electric vehicles have been slowing and competition is intensifying.

In Germany, the variant is priced at 39,990 euros (\$46,304), about 5,000 euros lower than the cheapest Model Y versions in Europe prior to the launch.

However, the more affordable model is set to face a [crowded field](#) of European and Chinese brands offering smaller EVs below 35,000 euros.

Tesla also introduced a [Standard variant](#) of the Model 3 in the U.S. earlier this week but the variant was not listed on websites for most European markets.

To achieve lower prices, Tesla has pared back some features in the new versions. The Model Y Standard comes with reduced interior lighting, fewer speakers, fabric seat covers and does not include Autosteer as standard.

""It is a very competitive price. It is a car with very good tech and good size for that price, and they will compete well in the market with others there," said Christina Bu, secretary general of the Norwegian EV Association.

The company has priced the new version of the Model Y SUV at 421,996 Norwegian crowns (\$41,714) in Norway, according to Tesla's website.

The vehicle costs 499,990 Swedish crowns (\$52,521) in Sweden. Tesla said the model would be available in Germany, Norway and Sweden in November or December.

The move comes as Tesla grapples with softening demand across Europe. New registrations have fallen sharply this year in several markets despite earlier refreshes to the Model Y lineup.

Norway, however, [remains an exception](#), where deliveries of the revamped Model Y surged earlier this year following strong local incentives and improved supply. Meanwhile, the lower-cost version of the Model Y was not available in Ireland and the UK, where cars are right-hand drive, according to Tesla's website.

(\$1 = 10.1163 Norwegian crowns)

(\$1 = 9.5198 Swedish crowns)

(\$1 = 0.8636 euros)

Reporting by Marie Mannes, writing by Louise Breusch Rasmussen and Anna Ringstrom, editing by Essi Lehto and Maju Samuel

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

[Marie Mannes](#)

Thomson Reuters

Stockholm-based company news correspondent who mainly covers anything to do with retail and industrial companies in Sweden as well as other sectors with Swedish companies. She previously covered the general Nordic stock market from Gdansk, reporting on a range of subjects, from companies exiting Russia to M&As and supply chain concerns. Marie has degrees in journalism and international relations and is keen on finding stories that drive the market and that have unreported elements to it.

[Akash Sriram](#)

Thomson Reuters

Akash reports on technology companies in the United States, electric vehicle companies, and the space industry. His reporting usually appears in the Autos & Transportation and Technology sections. He has a postgraduate degree in Conflict, Development, and Security from the University of Leeds. Akash's interests include music, football (soccer), and Formula 1.

SEC Chair Atkins On The Decline In Public Companies

 fcpaprofessor.com/sec-chair-atkins-on-the-decline-in-public-companies

October 10, 2025

Some people and groups seemingly want more Foreign Corrupt Practices Act enforcement regardless of enforcement theory, resolution vehicle used, or other relevant data points.

For instance, the SEC (compared to the DOJ) has rather limited jurisdiction to enforce the FCPA.

The SEC only has jurisdiction over “issuers” and associated persons (FCPA speak for publicly traded companies or those with reporting obligations to the SEC).

The number of “issuers” has significantly declined in recent years.

In [this recent speech](#), SEC Chair Paul Atkins stated that one of his top priorities as SEC Chair “is to make being a public company an attractive proposition for more firms.”

Atkins stated:

“Let’s face it: in many quarters and for many reasons, taking a company public is no longer so “cool” as it once was. There are approximately 4,700 exchange-listed companies today, compared to a high point of approximately 7,800 in 2007. My goal is to reverse this trend—to “Make IPOs Great Again” —and it involves three pillars. First, we must simplify and scale the SEC’s disclosure requirements to reduce the costs of preparing SEC filings and, at the same time, make them more comprehensible. Second, we must de-politicize shareholder meetings and return their focus to voting on director elections and significant corporate matters. Finally, we must reform the litigation landscape for securities lawsuits to eliminate frivolous complaints, while maintaining an avenue for shareholders to continue to bring meritorious claims.

[...]

... [T]he declining number of public companies [...] is not inevitable or irreversible. It is a signal that the costs of being a public company, coupled with the politicization of shareholder meetings, and ever-present specter of costly, frivolous litigation, have negatively impacted the vibrancy of our capital markets. Taken together, these forces have eroded American competitiveness; locked retail investors out of many of the most dynamic companies; and pushed entrepreneurs to seek capital elsewhere, either in the private markets or competing jurisdictions.”

Securities

SEC Chair Says Agency Aims to Curb Shareholder ESG Proposals (1)

Oct. 9, 2025, 7:17 PM PDT; Updated: Oct. 9, 2025, 7:40 PM PDT

The Securities and Exchange Commission will rethink a federal regulation that requires companies to include ESG-related shareholder proposals in their proxy filings, chairman Paul Atkins said late Thursday.

Atkins, speaking at the University of Delaware, said the SEC's previous position had driven the "politicization of shareholder meetings."

Eight decades after the rule on shareholder proxy access was first promulgated, changing circumstances—including the falling number of publicly traded US corporations—call for a fresh look at "the rule's fundamental premise," he said, specifically criticizing investor initiatives tied to environmental, social and governance goals.

The agency is now set to reevaluate whether investors should "be able to force companies to solicit for their proposals—to the extent that shareholder proposal is a proper subject under state law—at little or no expense to the shareholder," he said. "I think it's only prudent for the commission to reassess the original intent."

The announcement reflects a broader campaign by Atkins—who has repeatedly pledged to "make IPOs great again"—to undo the policies pushed by his predecessor, Gary Gensler, in favor of President Donald Trump's priorities. In September, he said the SEC is considering curtailing the disclosures companies have to make about the hazards confronting them.

He also pushed the idea of moving from quarterly to semiannual reporting after Trump suggested it.

In an update to its regulatory agenda published in August, the SEC said it's looking to revise shareholder proposal rules to ease "compliance burdens" and help companies choose what is considered "material" to disclose to investors.

Although it's a matter of state rather than federal law whether a shareholder proposal should be included in proxy filings, there's substantial authority suggesting the law in Delaware—home to two-thirds of Fortune 500 companies—frowns on ESG-related proposals, according to Atkins. "I can tell you that I have very high confidence that the SEC staff will honor that position," he said.

He cautioned, however, that the agency would follow a formal agency rulemaking process that “does not happen overnight.”

Warning to Delaware

Atkins also warned Delaware’s leaders directly that they risk driving companies to other states unless they get on board with the Trump administration’s agenda.

His remarks came at a gala dinner hosted by the university’s Weinberg Center for Corporate Governance. In addition to the agency’s shifting stance toward shareholder proposals, Atkins focused on its embrace last month of mandatory arbitration provisions covering securities fraud claims against companies going public.

The SEC chair delivered the statement to a room filled with VIPs celebrating the center’s 25th anniversary, including Delaware Chief Justice Collins J. Seitz Jr., retired Chancellor Andre G. Bouchard, and former US House Majority Leader Dick Gephardt, all of whom also spoke from the podium.

Atkins’ tone was collegial, but it was hard to miss the unstated “or else” when he discussed the conflict between his agency’s views and Delaware’s recently enacted Senate Bill 95, which bars mandatory arbitration provisions. The statute took effect Sept. 1.

“For companies that consider mandatory arbitration to be a viable aspect of their dispute resolution strategy, SB95 has effectively eliminated Delaware as an option for incorporation,” Atkins said. “I hope that Delaware’s legislature will revisit the prohibition.”

He explicitly raised the specter of a so-called “DExit,” the prospect of a corporate exodus from the world’s corporate capital that has lit a fire under Delaware’s political class in recent years. A few months before SB95 took effect, state lawmakers passed a different bill, SB21, overhauling its best-in-class corporate laws in an effort to restore Delaware’s reputation with founders and other insiders alarmed by a wave of court rulings cracking down on conflicts of interest.

“The pressure is on, and alternatives to Delaware are growing,” Atkins said—a nod to efforts by Texas and Nevada to lure businesses away. He referred in similar terms to another section of SB95 banning bylaws and charter clauses that shift legal fees onto investors who bring unsuccessful corporate lawsuits.

“If SB21 was one step forward by Delaware to modernize its corporation law, the prohibition of mandatory arbitration and fee-shifting for federal securities law claims in SB95 were two giant steps backwards,” he said.

Not long after those remarks concluded, Seitz took the stage to offer the Weinberg Center a tribute. He began with an apparently spontaneous response to Atkins: “We appreciate your views in Delaware, and I’m sure they’ll be considered seriously,” Seitz said.

(Updates with additional reporting starting at eighth paragraph.)

Securities

Federal Prosecutors Are Looking Into First Brands Collapse

Oct. 9, 2025, 1:28 PM PDT

Federal prosecutors are looking into the circumstances around the spectacular collapse of auto-parts supplier First Brands Group, according to a person familiar with the matter.

The inquiry by Justice Department attorneys is in early stages, said the person, who asked not to be identified because the review isn't public. The Financial Times earlier reported the Justice Department probe as being run out of Manhattan US Attorney's office.

Spokespeople for the Justice Department and First Brands didn't immediately respond to a request for comment. Lawyers representing certain First Brands directors and owners of the business didn't immediately return a message seeking comment.

First Brands collapsed into bankruptcy at the end of September after lenders grew increasingly concerned over off-balance-sheet financing that the company was using to manage its day-to-day cash flow. The bankruptcy has ensnared major financial firms.

[Read More: First Brands Creditor Seeks Investigation of 'Vanished' Cash](#)

A newly appointed board committee is now investigating the company's use of roughly \$2.3 billion of off-balance sheet financing, Chief Restructuring Officer Charles Moore said in a court filing. Some of the inventory backing these facilities "may have been commingled" with collateral securing a separate asset-backed loan facility.

[Read More: First Brands Blindsides Wall Street in 'Black Box' Loan Fiasco](#)

--With assistance from **Jonathan Randles**.

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Securities

AMD Product's Total Wipeout Offers Warning as Firms Seek 3x ETFs

Oct. 9, 2025, 8:08 AM PDT

In the month that issuers made a bold push for highly leveraged single-stock ETFs in the US, a tiny product across the Atlantic just showed how dangerous they can be.

GraniteShares was forced to shutter its 3x Short AMD exchange-traded product on Monday after shares of Advanced Micro Devices Inc. surged as much as 38%, wiping out its value. The ETP — listed in London and Italy — aimed to offer three times the inverse return of AMD's shares and had gathered about \$3 million in assets before its closure, according to data compiled by Bloomberg.

A notice on the GraniteShares website announced that "as the NAV is now zero, no redemption payments will be made. Trading in the affected ETP has been suspended and the securities will be delisted in due course in accordance with exchange procedures." **Will Rhind**, CEO of GraniteShares, declined to comment.

The product's implosion comes days after GraniteShares — and a handful of other issuers, including Defiance ETFs, ProShares and Direxion — applied with the Securities and Exchange Commission for leveraged products designed to deliver three times the daily return of some of the market's hottest trades. Though such products already exist in Europe, they largely don't trade in the US given volatility rules set by the regulator that cap how much leverage a fund can offer.

Read more: Wall Street Tests Regulators' Risk Appetite With 3x ETF Bids

"I think this proves that blow-up risk is a real possibility for a 3x stock ETF," said Bloomberg Intelligence's **Athanasios Psarofagis**. "But I doubt even such an event will deter investors."

US issuers have filed applications that, if successful, would add dozens of such products into the market. Among them are leveraged and inverse 3x funds centered on the often-volatile shares of companies such as Tesla Inc. and meme stocks like Opendoor Technologies Inc., as well as cryptocurrencies including Bitcoin, Ether and Solana.

The first filing, from Defiance ETFs, included 3x long and short AMD ETFs, while a ProShares filing and another from Leverage Shares included potential 3x AMD ETFs. GraniteShares submitted two applications — one for crypto-focused funds, and another for a pair that tracks Tesla.

The filings come after 2x funds proved wildly popular with American investors. How the proposed US vehicles intend to get around SEC volatility directives wasn't immediately clear. They are, however, a step up the risk ladder in a rapidly growing market where issuers are forced to push the envelope in order to stay competitive.

"Single-stock blowups are practically inevitable, especially in today's fast-paced environment," said **Todd Sohn**, senior ETF analyst at Strategas Securities. "The question is: when does it arrive in the US, a much larger market?"

--With assistance from **Sam Potter**.

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Securities

Manage Newsletters

Trump Ties Boost Data Center IPO as Dealmakers Embrace the Brand

Oct. 9, 2025, 12:40 PM PDT

Summary by Bloomberg AI

AI Generated



- Firms raising hundreds of millions of dollars in the equity market are increasingly touting their links to President Donald Trump.
- The craze for stocks like the SPACs led by Brandon Lutnick, or a Bitcoin miner and treasury company co-founded by Eric Trump, reflects investors' desire to capitalize on a White House that has leaned into making deals.
- More than 20 publicly-traded companies have ties to the president's family, the current administration or Trump's inner circle, with the vast majority being crypto sector deals.

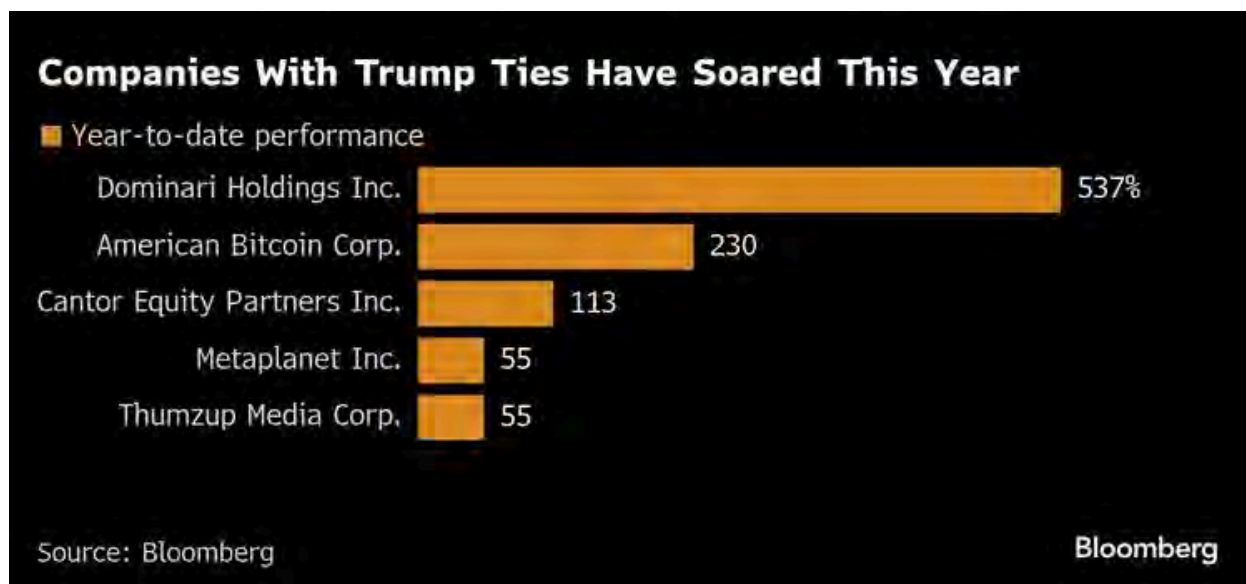
From a data center startup with one customer to special purpose acquisition companies helping form hoarders of speculative crypto tokens, firms raising hundreds of millions of dollars in the equity market are increasingly touting their links to President Donald Trump.

Fermi Inc., the real estate investment trust co-founded by Trump's former US Secretary of Energy Rick Perry, joined the party last week when it raised \$682.5 million in an IPO, and shares have powered higher despite having no revenue and a non-binding agreement with its sole tenant to date. It's the latest in a string of blank-check deals, private placements and other fundraising activities by companies that count Trump associates as advisers.

Read More: [Rick Perry's REIT Fermi Surges 55% After \\$683 Million IPO](#)

The craze for stocks like the SPACs led by **Brandon Lutnick**, the son of billionaire US Commerce Secretary Howard Lutnick, or a Bitcoin [miner](#) and treasury company co-founded by **Eric Trump**, reflects investors' desire to capitalize on a White House that has leaned into making deals. It's also the product of a market that has become increasingly narrative-driven and frothy in certain corners, with sharp rallies for companies in sectors like crypto that are far more in favor with this administration than the last one.

"You have this environment where he has proven that with the flick of a finger he can move markets and everyone wants to be in on the trade to get in on that," said **Mark Malek**, chief investment officer at Siebert.



Fermi's whopping \$15.8 billion valuation comes despite being formed in January and losing \$6.37 million from its inception through the end of June. For Malek, it brings back memories of the dot-com bubble of the late 1990s.

"Clearly it is aligned with the administration's agenda, clearly there's some political push behind it, but the fact of the matter is that people are just chasing sexy ideas without reading prospectuses," he said.

The company's branding leans heavily into Trump, including naming its data center project the President Donald J. Trump Advanced Energy and Intelligence Campus, according to an earlier filing.

More than 20 publicly-traded companies have ties to the president's family, the current administration or Trump's inner circle. While some of those such as Fermi are plays on artificial intelligence, or in the case of GrabAGun Digital Holdings Inc., a firearms [retailer](#), the vast majority are crypto sector deals. They include several of Brandon Lutnick's blank check vehicles brought to market by Cantor Fitzgerald, which his father previously led, and other firms associated with the Trump family, including Eric Trump's American Bitcoin Corp. and ALT5 Sigma Corp., which is accumulating an obscure Trump-linked token.

Read More: Trump Family Turns Presidency Into Most Lucrative Venture Yet

Though crypto's rapid advance into equity markets has plenty to do with the Trump Administration's support, several of the sector's biggest success stories have no apparent ties to the president. They include two of the year's best performing US initial public offerings, stablecoin heavyweights Circle Internet Group Inc. and crypto exchange Bullish.

The Trump administration's pro-crypto stance has produced a wave of conventional IPOs. Circle and Bullish both worked to go public via SPAC deals while Joe Biden was president but the deals were held up by US regulators.

"If you are a crypto company or a blockchain company and you have a sufficient amount of scale, now is the time to go public," said **Jimmy Williams**, Jefferies Financial Group Inc.'s head of West Coast technology equity capital markets.

"There is some uncertainty about what the next administration will do with crypto," Williams said in an interview. "I don't think we'll go backwards but this administration is more forward-leaning than we've seen in recent history."

The difference in the performance of shares in newly-listed digital asset stocks is stark when compared to their peers. These companies, excluding those that raised less than \$300 million in US IPOs this year, have soared an average of 106% from their offer price. That compares to an average return of roughly 26% for those away from the industry, data compiled by Bloomberg show.

"There's no question that this is the right environment for crypto companies," said Siebert's Malek. "There's no question this would not have happened under a Harris administration."

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Securities

Manage Newsletters

CoreWeave Insiders Sold \$1 Billion Post-IPO as AI Rich Cash Out

Oct. 10, 2025, 5:32 AM PDT

Summary by Bloomberg AI

AI Generated



- Leaders at CoreWeave Inc. sold shares worth more than \$1 billion after a lockup on the stock lifted in mid-August.
- Director Jack Cogen sold shares worth \$477 million in the quarter, while co-founder Brannin McBee netted \$426 million, according to data from the Washington Service.
- Including CoreWeave, seven of the top 10 insider sellers in the third quarter came from companies making money from artificial intelligence, Washington Service data show.

Leaders at AI computing company CoreWeave Inc. sold shares worth more than \$1 billion after a lockup on the stock lifted in mid-August, putting them among the top 10 individual insider sellers of the third quarter.

It was insiders' first chance to cash out since CoreWeave's March initial public offering minted four new billionaires. Since then, the stock has surged more than 250%. Director Jack Cogen sold shares worth \$477 million in the quarter, while co-founder Brannin McBee netted \$426 million, according to data from the Washington Service, which tracks such buying and selling. Both sold shares as part of pre-arranged 10b5-1 plans tied to price targets and joined several other insiders in cashing out. A representative for CoreWeave declined to comment.

Some of New Jersey-based CoreWeave's investors followed suit, with its biggest institutional owner Magnetar Financial LLC selling nearly \$1.9 billion worth of shares over the same time period. The Illinois-based hedge fund still owns more than 20% of the company's Class A shares, an October filing shows. Magnetar declined to comment.

Including CoreWeave, seven of the top 10 insider sellers in the third quarter came from companies making money from artificial intelligence, Washington Service data show. In a quarter where Nvidia Corp. crossed the [\\$4 trillion mark](#), [minting two new billionaires](#) in its C-suite, and Larry Ellison's fortune soared [by \\$89 billion in a day](#) after his Oracle Corp. reported strong AI-related demand, it's yet another indicator of how much the AI boom has boosted markets and the fortunes of company insiders.

Shares of Arista Networks Inc. , the Santa Clara, California-based networking company, hit a record in September after its analyst day. The company's Chief Executive Officer Jayshree Ullal sold more than 6 million shares in the quarter under her 10b5-1 plan, adopted in December. Already one of the richest self-made women with a \$6.9 billion fortune, she was the second-biggest insider seller during the quarter, with sales grossing \$861 million.

Nvidia's Jensen Huang continued with a planned sale of 6 million shares, grossing over \$743 million in the third quarter. Nvidia insiders sold shares worth nearly \$1.5 billion in the first three quarters of 2025, according to Washington Service data.

All of the quarter's insider sellers were dwarfed by Amazon.com Inc. founder Jeff Bezos , who completed the planned sale of 25 million shares, including nearly 22 million during the third quarter. The \$4.9 billion he garnered was more than the remaining nine sellers on the list combined.

Here are the top insider sellers during the third quarter, according to the Washington Service:

1. Jeff Bezos

Chair, Amazon.com Inc.

Total shares sold: 21,675,074

Total value sold: \$4,917,587,545

Bezos wrapped up the [biggest insider sale of the year](#) so far in July after unloading over 21 million shares in a month. In total, the Amazon founder sold 25 million shares under a pre-arranged 10b5-1 trading plan between June and July, which netted him nearly \$5.7 billion. Bezos has now sold over \$50 billion of Amazon shares since 2002, but has only [bought one share](#) in that time, according to data compiled by Bloomberg. Bezos often uses the proceeds to fund his other ventures, like space company Blue Origin. A spokesperson for Seattle-based Amazon didn't respond to a request for comment.

2. Jayshree Ullal

CEO, Arista Networks Inc.

Total shares sold: 6,436,040

Total value sold: \$861,396,780

Arista's stock surge has already made Ullal [one of the world's richest women](#) , and she cashed in as the company hit new highs in September. The maker of networking equipment is expected to be a big beneficiary of planned AI infrastructure projects and has seen its stock climb more than 40% this year. Ullal adopted a 10b5-1 plan in December to sell 7.4 million shares in addition to any performance-related stock units, according to filings. She has already sold 7.5 million shares so far in 2025 worth nearly \$1 billion, making her the fourth-largest insider seller of the year ahead of Meta Platforms Inc.'s Mark Zuckerberg. A spokesperson for Arista declined to comment on the sales.

3. Jensen Huang

CEO, Nvidia Corp.

Total shares sold: 4,275,000

Total value sold: \$743,302,862

The world's ninth-richest person has almost completed the anticipated sale of 6 million shares of Nvidia. Huang adopted a plan in March to sell the stock by the end of the year. He [began selling](#) in June and has so far unloaded nearly 5 million shares, including the 4.3 million sold in the third quarter for \$743 million. While the plan was initially valued at \$865 million based on Nvidia's share price at the time, Huang is now expected to net around \$1 billion as the company's stock continues to reach new highs, according to Bloomberg calculations. A spokesperson for Nvidia declined to comment.

4. Jack Cogen

Director, CoreWeave Inc.

Total shares sold: 5,112,004

Total value sold: \$477,148,645

Cogen has been on CoreWeave's board since September 2017 when the company was still focused on cryptocurrency mining. Its pivot to using its data centers for AI infrastructure has been [a lucrative one](#) for Cogen, a private investor. He previously led Natsource Asset Management, where two of CoreWeave's founders met. He was also a director at CoreWeave CEO Michael Intrator's hedge fund, Hudson Ridge Asset Management, which Intrator shut down to build what eventually became CoreWeave. Cogen adopted a 10b5-1 plan in May that anticipated selling 3.4 million shares between September and May 2026, based on the market price reaching certain thresholds. A representative for CoreWeave declined to comment on the sales.

5. Frank Sloatman

Chairman, Snowflake Inc.

Total shares sold: 2,060,703

Total value sold: \$462,789,128

Snowflake's Sloatman is a billionaire after taking three companies, including Snowflake, public. He remains chairman of the Montana-based cloud computing company after stepping down as CEO last year. He adopted a 10b5-1 trading plan in March, planning to sell roughly 3 million shares by the end of the year. Sloatman didn't respond to a request for comment.

6. Brannin McBee

Chief development officer, CoreWeave Inc.

Total shares sold: 4,000,000

Total value sold: \$425,982,704

CoreWeave co-founder McBee sold all of the shares included in a 10b5-1 plan he adopted in May, which amounted to 14% of his total stake, according to Bloomberg calculations. The sales, tied to certain threshold prices, netted the billionaire more than \$425 million. McBee started his career as an energy and agriculture trader before co-founding CoreWeave in 2017. He started out as chief strategy officer, but transitioned to chief development officer last year. McBee has a net worth of \$3.9 billion, according to the Bloomberg Billionaires Index. A representative of CoreWeave declined to comment.

7. Tony Ressler

Co-founder, Ares Management Corp.

Total shares sold: 2,000,000

Total value sold: \$356,774,492

Ares co-founder Ressler topped the Bloomberg Billionaires Index's list of billionaires of the private credit boom after the Los Angeles-based investment firm's shares soared nearly 50% in 2024. This year has been tougher, with shares down 17%. In August, Ressler transferred 2 million shares out of the Ares Owners Holding partnership to an LLC he controls and sold them for \$357 million. Ressler's \$12.2 billion fortune includes stakes in the NBA's Atlanta Hawks and MLB's Milwaukee Brewers. A spokesperson for Ressler declined to comment.

8. Herald Chen

Director, AppLovin Corp.

Total shares sold: 700,000

Total value sold: \$312,751,176

The former chief financial officer of AppLovin [appears on the list for the second straight quarter](#), unloading 700,000 shares for nearly \$313 million. His sale of 1.8 million shares in 2025 has garnered him over \$718 million total, placing him among the top 10 insider sellers for the year so far, according to Washington Service data. Chen stepped down from his executive role at the mobile ad tech company at the end of 2023 and has been exercising many of the stock options granted to him when he was recruited from KKR & Co. in 2019. He helped take the Palo Alto, California-based company public in 2021 and was one of the beneficiaries of its subsequent 650% stock gain. Some of those gains were erased on Monday after the stock slid 14% on [a Bloomberg report](#) that the Securities and Exchange Commission has been probing AppLovin's data collection practices. Representatives for AppLovin didn't respond to a request for comment.

9. Baiju Bhatt

Director, Robinhood Markets Inc.

Total shares sold: 2,833,953

Total value sold: \$296,203,110

Robinhood's co-founder sold 2.8 million shares worth nearly \$300 million in the third quarter, including 1.6 million not included under his pre-existing trading plan. Bhatt had been co-CEO of the trading platform until 2020 when he stepped down and became chief creative officer, a role he held until February 2024. Last year, he announced a new company, Aetherflux, which wants to pull solar power from space. Bhatt and his co-founder Vlad Tenev [recently made it](#) onto the Bloomberg Billionaires Index of the world's 500 wealthiest people after Robinhood's stock quadrupled in 2025. Bhatt is worth \$8.9 billion, according to the the index. Bhatt and representatives for Robinhood did not respond to requests for comment.

10. Brian Armstrong

CEO, Coinbase Global Inc.

Total shares sold: 700,000

Total value sold: \$268,227,400

The third quarter was a big one for the crypto industry as Bitcoin [hit record highs](#) and President Donald Trump expanded his support of digital assets. Coinbase's share price spiked to a record in July after Trump signed into law the first federal bill to regulate stablecoins. In attendance was Armstrong. The billionaire crypto executive adopted a 10b5-1 plan in August 2024 to allow for the potential sale of 3.75 million shares. He's been selling roughly every two weeks, filings show. Armstrong posted on social media in 2022 that he was selling some of his Coinbase stake to fund scientific research and NewLimit, a biotech startup he co-founded that's focused on longevity. A representative for Coinbase declined to comment on the sales.

--With assistance from Dylan Sloan .

California Brief

Insight

Sarepta Crisis Reveals Valuable Leadership Tips for Executives

Oct. 10, 2025, 1:30 AM PDT

Sarepta Therapeutics found itself in turmoil after patient deaths raised safety questions about Elevidys, Sarepta's gene therapy for Duchenne muscular dystrophy.

Compliance officers may see this as a case study in risk. But many executives view this as a distant spectacle—unique, dramatic, and irrelevant to their own business.

It's in that gap that risk takes root. The fundamentals of Sarepta's story aren't unique, and the lessons matter for every small-company leader trying to balance rapid growth with sufficient oversight.

What Happened

Duchenne muscular dystrophy is a devastating and rare genetic disease. Parents must watch as their children slowly lose muscle function, stop walking, and, typically, die before 30. They're desperate for options and their activism has fueled research.

Sarepta's Elevidys therapy uses a virus to deliver genetic material to muscle cells. It doesn't cure DMD but can slow progression. When Sarepta's small trials failed to prove efficacy, parents and physicians came forward with compelling stories and videos.

This prompted an intense debate at the Food and Drug Administration over data versus anecdotal evidence. The agency ultimately granted approval pending a larger study. When that trial also failed to meet endpoints, regulators again wrestled with hope versus evidence before expanding approval.

Then, this year, fatalities of patients who had tried Elevidys emerged. Liver damage is a known risk of viral delivery, but no deaths had occurred in trials and safety didn't weigh heavily in the FDA's efficacy debate. The FDA opened an investigation, paused trials, and strengthened label warnings. Sarepta cooperated but resisted the agency's request to halt US shipments.

Patient groups again weighed in. And Vinay Prasad, the FDA's head of gene therapy and vaccines, resigned from the agency amid reported political pressure—only to be reinstated days later. As a critic of the Elevidys approval, his leadership is expected to sharpen the FDA's scrutiny of biologics.

Evolving Stakeholders

This story highlights different issues than the familiar kickbacks and promotional concerns that dominate biopharma compliance. Small companies may need to prioritize risk differently.

Investors. When deaths began emerging, Sarepta's stock plummeted—a dynamic that inevitably attracts the plaintiff bar. Shareholders allege the board failed to oversee risk while management overhyped Elevidys and downplayed safety. Yet Sarepta's 10-K filings outlined the risks, and the Elevidys label has always carried a prominent liver-damage warning.

A flashpoint came when Sarepta revealed a third patient death two days after an investor call. The death had occurred in a trial of a different Sarepta therapy using the same viral delivery vehicle. Analysts balked, and on a follow-up call, the CEO insisted it wasn't unrelated to Elevidys and thus not "material."

Courts may not equate judgment calls in a fast-moving crisis with securities fraud, much less a board's abdication of oversight. Sarepta's investors are sophisticated, and the FDA ultimately agreed the third death was unrelated to Elevidys.

But splitting hairs publicly over the materiality of disclosing a patient death can undermine credibility with regulators, patients, and business partners alike.

Patients. Patient voices helped win Elevidys approval, and their outcry brought urgency when the FDA paused shipments. Yet critics, including Prasad, question the influence companies may have over advocacy groups. Sarepta allegedly pressured one group that diverged from its messaging while another group's founder petitioned the FDA for stronger label warnings in the wake of patient deaths.

The flood of available information is changing relationships among companies, patients, and the FDA. This evolution is felt profoundly where rare diseases are involved. Parents making life-altering decisions for their children research relentlessly. They know they're taking risks but appreciating it fully is harder.

There's a difference between reading "organ toxicity is possible, but manageable" and grasping "a death will likely occur at some point, and despite everyone's best efforts, it could be your child." One father said he would rather have his son alive and in a wheelchair at age 35 than die as a teenager. Rejected His 15-year-old son died of acute liver failure after receiving the treatment.

Employees. Sarepta managed the downturn by restructuring from the top down and cutting a third of its workforce. Staff might have accepted the decision—until Securities and Exchange Commission filings revealed raises for new leaders. Rumors also spread after a Reddit post claimed workers learned of terminations through the company's Workday platform.

These may sound like isolated missteps of a company in crisis, but today's labor market, coupled with frustration over artificial intelligence and shifting workplace norms, has made employee loyalty fragile. Unhappy staff may become whistleblowers, but social media leaks cause instant reputational damage, often hitting small companies hardest.

Takeaways for Leaders

People and companies are seldom as they appear in the headlines. Look for the humanity that lies beneath. The excruciating pressure of balancing competing concerns while external critics circle goes largely untold. But it's felt in C-suites and boardrooms everywhere.

Executives: Understand the tradeoffs. Think critically about how your actions might affect key stakeholders. Invite devil's advocates into decision-making. You don't have to follow their guidance blindly, but their judgment and perspective can clarify what you *must* do to meet regulatory obligations, what you *can* do legally, and what you *should* do given the circumstances.

A crisis narrative is hard to control. But thoughtful decision-making is better able to withstand scrutiny and may keep words such as "transparency," "trust," and "responsibility" from becoming accusations.

Risk Professionals: Focus on what matters. Resist getting buried in low-value tasks. Your political capital is finite, and protecting the company's credibility with key stakeholders is the best use of it. Help colleagues build systems they can run so you can stay focused on emerging risks.

The goal isn't just having "a seat at the table." It's being sought out before decisions are made because leaders can't imagine making high-stakes judgment calls without your input. That kind of influence defines effective compliance leadership. And it's earned long before a crisis hits.

Sarepta's story is unique, but the themes are universal. And internalizing them may help your small company meet its own moment—whatever that may be.

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Write for Us: Author Guidelines

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Tivity Health Investors Seek Final OK Of \$17M Settlement

By **Emilie Ruscoe**

Law360 (October 9, 2025, 6:01 PM EDT) -- An investor in fitness program administrator Tivity Health Inc. has asked a Nashville federal judge for a final nod for an over \$17 million deal ending claims the company misled investors about its financial prospects after its \$1.3 billion acquisition of troubled weight-loss meal delivery company Nutrisystem.

In a Wednesday filing, the institutional investor leading the suit asked U.S. District Judge Waverly Crenshaw Jr. to grant final approval to the proposed settlement, telling the court that the agreement is "eminently fair, reasonable, adequate, easily satisfies the standards of approval [under relevant rules], and provides a very favorable result for the class."

The investor cited a report's finding that in 2024, the median settlement sum for securities class actions was about \$14 million and said the settlement in this case is larger than that and thus represented a "very favorable recovery."

"Accordingly, the proposed settlement is a very good result for the class," the pension fund said.

The investor also said it was seeking 25% of the settlement fund, or nearly \$4.3 million, as a fee for its counsel, telling the court its attorneys spent 29,700 hours on the case over the past five years and incurred expenses of over \$1.9 million.

"The proposed attorneys' fees are reasonable in light of the work performed and the results obtained, and a 25% award is consistent with or lower than attorneys' fee percentages that courts have approved in similar cases," the investor said.

In the operative complaint, from November 2020, the investor alleges that the company bought Nutrisystem when the meal delivery company was in "dire straits."

Tivity was eventually forced to tell investors that "the nutrition business has not worked out as well as planned since the completion of the acquisition in March 2019," a concession it made on the same day it announced a \$377 million charge related to its Nutrisystem acquisition.

The investor pointed to market records showing that following that announcement, trading prices for Tivity shares more than 45%, from \$22.50 to about \$12.50.

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

The Sheet Metal Workers Local 33 Cleveland District Pension Fund is represented by Christopher M. Wood, Shawn A. Williams, Snehee Khandeshi, Darren J. Robbins, Ellen Gusikoff Stewart, Jason A. Forge, Debra J. Wyman, David W. Mitchell, Sara B. Polychron and Rachel C. Braby of Robbins Geller Rudman & Dowd LLP, Jerry E. Martin and Seth M. Hyatt of Barrett Johnston Martin & Garrison LLC and Michael E. Heffernan of Allotta Farley Co. LPA.

Tivity and its executives are represented by David L. Balser, Jessica P. Corley, Lisa R. Bugni, Brandon R. Keel, Ronni D. Solomon and Logan R. Hobson of King & Spalding LLP and Joseph B. Crace Jr. and Briana Sprick Schuster of Bass Berry & Sims PLC.

The case is Robert Strougo v. Tivity Health Inc. et al., case number 3:20-cv-00165, in the U.S.

District Court for the Middle District of Tennessee.

--Additional reporting by Sydney Price and Lauren Berg. Editing by Emily Kokoll.

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WPP Faces Investor Suit Over AI-Focused Strategy

By **Sydney Price**

Law360 (October 9, 2025, 8:18 PM EDT) -- Communications holding company WPP PLC on Thursday was hit with a shareholder's proposed class action accusing it of overhyping the success of its artificial intelligence-based media arm amid increasing macroeconomic pressures.

WPP's recently rebranded media segment uses data analytics and AI to "create, plan and buy" media campaigns for global clients, according to the suit filed by shareholder Jack Marty. Shares of WPP fell nearly 20% when the company announced in July that it had "seen a deterioration in performance" in the second quarter of the year, which it attributed to economic uncertainty impacting client spend, the suit states.

Prior to the July announcement, WPP had touted the likelihood its media segment would increase and retain clients, the complaint says.

"The company's media arm was not equipped to compete effectively and had begun to lose market share to its competitors," the suit claims.

The suit's proposed class period begins Feb. 27, the day WPP announced its full-year 2024 financial results and WPP Global CEO Brian Lesser detailed a high-level vision for "GroupM" — the previous name for WPP's media segment — for the year. Lesser told investors WPP's strategic priorities "will position us as the industry leader."

In addition to WPP and Lesser, outgoing WPP CEO Mark Read and WPP Chief Financial Officer Joanne Wilson are defendants in the suit.

For the next several months, the defendants told investors they remained confident in WPP's full-year financial projections despite seeing lower-than-expected growth for GroupM, the suit says.

Then, on May 28, WPP announced that "WPP Media" would replace GroupM as the company's media arm, and WPP Media would implement an AI-focused strategy to help clients "stay ahead of rapidly changing consumer behavior and unlock the limitless opportunities for growth that AI will create," according to the complaint.

The truth began to emerge, the suit contends, several weeks later on July 9, the day WPP reduced its full-year guidance to fit its lowered expectations and more pessimistic outlook. WPP said the transition to WPP Media was "not yet" translating to better business performance, and the segment had "suffered with a deficit of new business opportunities," according to the suit.

The same day, Read announced he would retire as CEO, effective Dec. 31.

Investors reacted swiftly and negatively to the announcements, and shares of WPP declined by \$6.48 each, or about 18%, to close at \$29.34 on July 9, according to the suit.

The suit accuses the defendants of violating the Exchange Act and claims their misrepresentations and omissions are not protected by the safe harbor provisions of securities laws.

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

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

Counsel information for WPP was not immediately available Thursday.

The case is Marty v. WPP PLC et al., case number 1:25-cv-08365, in the U.S. District Court for the Southern District of New York.

--Editing by Kristen Becker.

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Vestis Shareholder Alleges Deception Before Aramark Spinoff

By **Sydney Price**

Law360 (October 9, 2025, 7:35 PM EDT) -- Executives and directors of uniform supplier Vestis Corp. were hit this week with a shareholder's derivative suit accusing them of concealing Vestis was underfunded prior to being spun off by food services giant Aramark in 2023, leaving Vestis unable to grow its revenue and retain customers.

According to the **complaint** filed by shareholder Thomas Dove on Monday, Vestis shares fell nearly 40% in May following an announcement that it "lost business in excess of new business," posted lower-than-expected results for the quarter, and withdrew previously issued financial guidance for the year.

Prior to the announcement, the company downplayed severe underinvestment in its uniform division, which began years before the 2023 spinoff and left the business with outdated facilities and an underperforming sales force, the complaint alleges.

In addition to nominal defendant Vestis, the suit's individual defendants include former CEO Kimberly Scott, former Chief Financial Officer Rick Dillon and several directors.

The suit's relevant period begins Oct. 2, 2023, the first day Vestis began trading on the New York Stock Exchange. Throughout the relevant period, the defendants praised the execution of their business strategy, the suit states.

But the truth began to emerge, the suit alleges, on Feb. 6, 2024, the day Vestis revealed to investors that it had an "unfortunate loss" of a national account prior to the spinoff. The same day, Vestis announced that Chief Operating Officer Chris Synek, who had joined the company less than six months prior, was resigning. Synek is not a defendant in the derivative suit.

Following the announcements, shares of Vestis fell \$2.88 each, or about 13%, to close at \$19.42 per share on Feb. 7, 2024, according to the suit.

A few months later, Vestis announced that its financial results were "not in line with expectations" and that the underperformance was due to short-term challenges related to "sales productivity and deliberate moderated pricing actions," the suit states.

Vestis shares fell \$8.31, or about 45%, to close at \$10.16 on May 2, 2024, according to the suit.

About a year later, on May 7, 2025, the truth "fully emerged," the suit alleges, when Vestis announced lower-than-expected financial results and said it was revising downward its full-year 2025 guidance, citing "a significant decline in volume" as customers seasonally adjusted demand for workplace supplies.

Vestis shares fell \$3.27, or about 38%, to close at \$5.44 on May 7, according to the suit.

The complaint also notes Vestis is facing a **securities class action** over similar alleged misconduct in the U.S. District Court for the Northern District of Georgia. That suit **survived a dismissal bid** by Vestis in September.

The derivative suit accuses the defendants of violating the Exchange Act, wasting corporate assets,

being unjustly enriched and breaching their fiduciary duties.

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

Dove is represented by Michael I. Fistel Jr., Mary Ellen Conner and Murray House of Johnson Fistel PLLP.

Counsel information for Vestis and the individual defendants was not immediately available Thursday.

The case is Dove v. Scott et al., case number 1:25-cv-05733, in the U.S. District Court for the Northern District of Georgia.

--Editing by Amy French.

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Mobile Game Co. To Pay \$25M To End Chancery Investor Suit

By Jarek Rutz

Law360 (October 9, 2025, 5:28 PM EDT) -- A China-based mobile gaming company has agreed to pay \$24.75 million to settle a Delaware Chancery Court class action accusing it of engineering a \$600 million share buyback that unfairly cemented its control of the company.

The **agreement**, filed late Wednesday, follows more than two years of litigation over allegations that Playtika Holding UK II Ltd., the controlling shareholder of Israeli-based Playtika Holding Corp., breached its fiduciary duties by manipulating Playtika Corp.'s self-tender's structure to benefit itself at the expense of minority investors.

"Plaintiffs and plaintiffs' counsel have concluded that the terms and conditions of the settlement and this stipulation are fair, reasonable, and adequate to plaintiffs and the other class members ... and in their best interests," Playtika Ltd. said in the settlement papers.

The settlement, which requires court approval, resolves the allegations, which the defendants continue to deny, saying they settled to "eliminate the uncertainty, risk, burden, and expense of further litigation and allow Playtika to operate without further distraction or diversion of personnel."

The original April 2023 complaint said that in Playtika Corp.'s 2022 self-tender, Playtika Ltd. exploited a "safety valve" in the agreement, enabling it to withdraw shares and retain its majority position after gauging market participation.

In the self-tender, Playtika Corp. offered to repurchase up to \$600 million of its stock at \$11.58 per share.

In May 2024, former Vice Chancellor Sam Glasscock III called this move "problematic" but dismissed "with some reluctance" Playtika Corp.'s top executives — CEO Robert Antokol and Chief Financial Officer Craig Abrahams — from the case when the court found no facts showing they structured or approved the tender's allegedly unfair terms.

The settlement followed extensive discovery that included 70,000 documents, much of it in Mandarin, and negotiations over compliance with Chinese evidence laws. While Playtika Corp. is Israeli-based, its Playtika Ltd. is based in Shanghai, China.

Part of Playtika Ltd.'s settlement decision, it stated, was "the difficulty and obstacles to compelling Chinese nationals to provide deposition testimony in the action and/or appear at trial given various restrictions under Chinese law."

Under the agreement, Playtika Ltd. will fund the \$24.75 million settlement within 25 business days of the court scheduling a hearing.

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

Scott G. Kormos and Jordan Klein are represented by Peter B. Andrews, Craig J. Springer, David Sborz, Jacob D. Jeifa, Jackson Warren and Andrew J. Peach of Andrews & Springer LLC, Ned Weinberger, Mark Richardson and Jiahui Wang of Labaton Keller Sucharow LLP and Christopher Quinn of Kahn Swick & Foti LLC.

Playtika Holding UK II Ltd. is represented by R. Judson Scaggs and Susan Wood Waesco of Morris Nichols Arsht & Tunnell LLP and Kirk Anderson of Paul Weiss Rifkind Wharton & Garrison LLP.

Robert Antokol and Craig Abrahams are represented by Brian C. Ralston of Potter Anderson & Corroon LLP and Charles R. Hallinan of McGuireWoods LLP.

The case is Scott G. Kormos et al. v. Playtika Holding UK II Ltd., case number 2023-0396, in the Court of Chancery of the State of Delaware.

--Additional reporting by Jeff Montgomery. Editing by Dave Trumbore.

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Nissan, Drivers Reach Deal To End Faulty Brake Claims

By **Emily Field**

Law360 (October 9, 2025, 7:39 PM EDT) -- Nissan North America Inc. and drivers on Thursday reached a settlement in principle in Tennessee federal court that would end multistate claims alleging the automatic braking systems in certain Nissan vehicles would sometimes trigger and cause the cars to stop suddenly, creating an unpredictable hazard.

The drivers and Nissan informed U.S. District Judge William Campbell about the settlement during a telephone conference, according to a minute entry. The settlement — the terms of which have not been disclosed — comes nearly a year after the Sixth Circuit unwound a class certification for the drivers of certain Nissan Rogue, Altima and Kicks models.

The drivers in the litigation claimed that the radar connected to the braking system detects nonexistent obstacles, needlessly activating the automatic brakes. They alleged Nissan knew about the issue, but concealed it from buyers.

A Middle District of Tennessee judge in 2023 **certified 10 state classes** of drivers who purchased model years 2017-2021 Nissan Rogues, Altimas and Kicks in California, Connecticut, Florida, Illinois, Massachusetts, Missouri, New York, Ohio, Pennsylvania and Texas.

But in November 2024, the Sixth Circuit in a **published opinion** dismantled the class, saying the lower court judge didn't take into account some of the software upgrades that may have fixed the alleged flaw for some of the class vehicles.

The three-judge federal appellate panel said the district court judge glossed over potential differences among the class members and their various state law claims.

According to the panel, Nissan presented evidence that it offered two software upgrades that mitigated the problem of false activation of the automatic braking system for at least some of the class vehicles. The district court judge should have considered whether those fixes make it impossible to determine if the brakes were defective on a classwide basis, the panel said.

Judge Campbell had said common questions included whether the automatic braking systems are defective, whether Nissan knew of the defect, whether Nissan concealed the defect and whether Nissan's conduct rose to the level of violating certain laws and statutory protections.

But the panel held that "analyzing the various manifestations of the alleged defect is necessary to assess whether common evidence could vindicate the plaintiffs or Nissan on a classwide basis."

"The district court must closely examine the effect of these changes on remand. If a reasonable jury could answer 'yes' to the defect question for those members of the class who did not receive updates and 'no' for those who did, the question does not represent a common one within the meaning of Rule 23," said U.S. Circuit Judge Jeffrey S. Sutton, referencing the Federal Rules of Civil Procedure's requirement that class claims turn on common questions.

The drivers had contended that delving into the efficacy of the software upgrades was unnecessary at the class certification stage and should be left for the merits phase of the litigation.

However, the panel said that "analyzing the various manifestations of the alleged defect is necessary

to assess whether common evidence could vindicate the plaintiffs or Nissan on a classwide basis."

The judge failed to perform a sufficiently detailed, element-by-element analysis of the state claims for each class, the panel also found, noting that the elements of consumer fraud and warranty claims differ from state to state.

A Nissan representative declined to comment. Representatives for the drivers didn't immediately respond to requests for comment on Thursday.

The class is represented by DiCello Levitt, Stranch Jennings & Garvey PLLC, Bailey & Glasser LLP, Beasley Allen Law Firm and Smith Krivoshey PC.

Nissan is represented by E. Paul Cauley Jr. and S. Vance Wittie of Faegre Drinker Biddle & Reath LLP, and Brigid M. Carpenter of Baker Donelson Bearman Caldwell & Berkowitz PC.

The case is In Re: Nissan North America Inc. Litigation, case number 3:19-cv-00843, in the U.S. District Court for the Middle District of Tennessee.

--Additional reporting by Carolyn Muyskens. Editing by Lakshna Mehta.

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ICE Accused Of Warrantless Arrests In Colorado Suit

By **Zach Dupont**

Law360 (October 9, 2025, 9:10 PM EDT) -- Secretary of Homeland Security Kristi Noem and two directors with U.S. Immigration and Customs Enforcement were named in a proposed class action in Colorado federal court Thursday accusing immigration officials of making illegal, warrantless arrests of Colorado residents.

Four people represented by the Colorado ACLU and others who say they were subject to warrantless ICE arrests this year filed the proposed class action against Noem, ICE acting director Todd M. Lyons and Robert Guadian, ICE's Denver field office director, alleging that agency officials violated federal law by not establishing whether the plaintiffs were flight risks before making arrests.

"ICE agents are ignoring the law's clear requirement to assess flight risk before making a warrantless arrest," the complaint states. "Instead, they are scrambling to fill arbitrary quotas set by the administration, causing chaos and terror in neighborhoods throughout Colorado."

A spokesperson for ICE declined to comment Thursday.

The proposed class action was brought following the arrests of four people in Colorado this year: Refugio Ramirez Ovando, Caroline Dias Goncalves and two men who are referred to only by their initials, J.S.T. and G.R.R.

The complaint says Ramirez Ovando is a legal resident of the United States who's lived in Colorado for 20 years and was arrested in May without a warrant or probable cause by ICE as he was leaving for work. The complaint states that Ramirez Ovando was held in a detention center in Aurora, Colorado, for more than 90 days and that "an ICE agent later admitted that they had been looking for someone else and that Mr. Ramirez was arrested by mistake."

In June, the suit says, ICE detained Dias Goncalves, a 19-year-old University of Utah student, in Mesa County after a sheriff's deputy stopped her on the highway for a traffic violation and alerted ICE agents to her whereabouts after Dias Goncalves said she moved to the United States from Brazil when she was a child.

The lawsuit says ICE arrested Dias Goncalves shortly after her interaction with Deputy Alexander Zwinck and detained her for 15 days, leading the Colorado Attorney General's Office to file a lawsuit against Zwinck for violating state law by sharing Dias Goncalves' information with immigration officials, a case that was eventually dropped.

J.S.T. and G.R.R. have been residents of the United States for more than a decade and were detained by ICE without a warrant or probable cause — J.S.T. during a raid on his apartment complex and G.R.R. during a raid on a nightclub where he was waiting to pick up a friend, the suit says. Both men spent more than a month in a detention facility, the complaint says.

"The individual plaintiffs' experiences are representative. ICE agents arrested each of them without a warrant and without any evaluation that they were likely to flee before a warrant could be obtained," the complaint says. "If they had, they would have learned that each individual has lived in their respective communities for years, has deep family or community ties, has a long history of local employment or schooling, and presents no likelihood of escape, let alone probable cause."

The complaint claims that the arrests violated the Immigration and Nationality Act of 1965, which requires immigration officials to comply with two conditions before making a warrantless arrest: they

must have "reason to believe" that the individual is illegally in the United States and that he is "likely to escape before a warrant can be obtained for his arrest."

"It's critical that before ICE engages in warrantless arrests ... they do it in a manner that complies with what's been on the books for 60, 70, 80 years. This is not a new requirement," Tim Macdonald, counsel for plaintiffs and the legal director for the ACLU of Colorado, told Law360. "It's important not just for our immigrant communities. It's important for everyone across all of our communities because the erosion of civil rights for some is a dangerous slope that is likely to lead to the erosion of civil rights for everybody."

The complaint claims that ICE's warrantless arrests also violate its own internal policies. In 2022, ICE issued a statement of policy as part of a settlement in *Castañón Nava v. DHS* that said immigration officers were "required to consider the totality of the circumstances in evaluating an individual's 'likelihood of escape,' including an individual's community ties," the suit says.

"In May 2025, DHS and ICE claimed that the settlement had expired and then immediately rescinded the broadcast statement of policy and encouraged its agents to engage in warrantless arrests," the complaint says.

The complaint says the court in *Castañón Nava v. DHS* "recently found that, under the current administration, ICE committed repeated, material violations of the settlement by engaging in warrantless arrests" and extended the settlement agreement to Feb. 2, 2026, ordering ICE to reissue the statement of policy.

Although only four people are named as plaintiffs in the proposed class action, the complaint says many more Colorado residents have been subject to illegal, warrantless arrests, and many more Coloradans "now live in fear and at daily risk because of federal immigration agents' indiscriminate practices."

The complaint says that since the start of the year, ICE has arrested "almost 2,000 people in Colorado" and that immigration lawyers have fielded calls from dozens of people across the state who say they were arrested without a warrant or probable cause.

"Without court intervention, we know from the top down that they will continue to terrorize communities across Colorado, violate the law and engage in these warrantless mass arrests, pulling people out of their cars, pulling people out of their apartments with no warrants and without the probable cause that's required under the law," Macdonald said.

The plaintiffs seek class certification, a declaration that ICE's actions violate federal law and an injunction prohibiting further violations of the Immigration and Nationality Act. Counsel for the plaintiffs filed a motion for a preliminary injunction in tandem with the complaint Thursday.

"We are going to seek an injunction to stop ICE's illegal actions," Kenzo Kawanabe of Olson Grimsley Kawanabe Hinchcliff & Murray LLC told Law360. "We've asked the court to issue an injunction doing a number of things, but first and foremost that ICE has to follow the law, and that includes having an individualized determination of probable cause as to legal status as well as flight risk."

The plaintiffs are represented by Kenzo Kawanabe, Sean Grimsley and Bianca Miyata of Olson Grimsley Kawanabe Hinchcliff & Murray LLC, by Timothy R. Macdonald, Annie Kurtz, Emma Mclean Riggs, Sara Neel and Scott Medlock of the ACLU of Colorado, and by Hans Meyer of the Meyer Law Office.

Counsel information for the government was not immediately available Thursday.

The case is *Ramirez Ovando et al. v. Noem et al.*, case number 1:25-cv-03183, in the U.S. District Court for the District of Colorado.

--Editing by Karin Roberts.