

Class Action

Manage Newsletters

Boeing Investors Back Damages Model for Class Status on Appeal

Oct. 20, 2025, 9:30 AM PDT

Summary by Bloomberg AI

AI Generated



- Boeing Co. investors told an appellate court they offered a sufficient plan for measuring classwide damages to gain certification in their lawsuit over jet safety statements.
- The investors' expert, Chad Coffman, provided a damages model based on the plaintiffs' out-of-pocket losses that matches their theory of the airplane-maker's liability.
- The investors contend that Boeing's repeated safety claims maintained the company's stock price at artificially high levels, which would've been lower if Boeing had admitted the truth about cutting corners on safety.

Boeing Co. investors offered a sufficient plan for measuring classwide damages to gain certification in their lawsuit over jet safety statements, they told an appellate court.

Their expert, Chad Coffman, provided a damages model based on the plaintiffs' out-of-pocket losses that's widely used in securities fraud cases for good reason. This model "perfectly" matches their theory of the airplane-maker's liability, that shareholders were hurt when they bought stock at prices artificially inflated by misleading safety statements, a pair of institutional investors told the US Court of Appeals for the Fourth Circuit.

Siding with Boeing would make even the simplest shareholder classes uncertifiable, said their brief filed Oct. 17. Boeing's true issue is damages might be difficult to measure under the pension plans' theory of liability, "but that's an issue for the merits, not class certification."

They've satisfied a standard set by a 2013 Supreme Court ruling that a stockholders' theory of damages be consistent with their theory of liability, the investors said.

Stockholders sued Boeing after a 737 MAX 9 door panel blew out on an Alaska Airlines flight last year. The US District Court for the Eastern District of Virginia said investors met their evidentiary burden for class certification, as the “out-of-pocket methodology” for measuring inflation is widely accepted as a traditional damages calculator.

The Arlington, Va.-based plane maker and defense contractor is seeking reversal of that ruling.

The investors contend that repeated safety claims maintained Boeing’s stock price at artificially high levels, which would’ve been lower “if Boeing had admitted the truth: that the company was continuing to cut corners on safety in violation of its commitments to the government.”

Coffman didn’t calculate the damages at this stage because the loss-causation analysis is “highly factual” and requires information obtained through discovery, they said. Regardless of the technique, it’s performed on a classwide basis, meaning the methodology applies no matter an individual investor’s circumstances.

The investors’ proffered expert is co-founder of the Chicago-based Peregrine Economics, serving as a testifying and consulting expert in securities, labor and valuation matters, according to his firm biography.

Class Appeals

Questions of what investors must demonstrate for class status have bubbled up to appellate courts since the 2013 *Comcast Corp. v. Behrend* ruling, under which a defendant can rebut a presumption of classwide reliance on the company’s stock price by presenting a sufficient mismatch between generic corporate misstatements and the revelation spurring a market selloff.

In *Comcast*, the Supreme Court found an antitrust class wrongly certified and that the appellate court erred in not deciding if the proposed damages model could work on a classwide basis.

Settlement pressure intensifies following class certification to avoid discovery costs and the risk of classwide damages at trial.

Coffman didn’t even try to build a damages model that’d fit the theory of the company’s liability, failing to meet certification standards set by *Comcast*, said Boeing’s brief asking the Fourth Circuit to reverse Judge Leonie M. Brinkema’s class approval.

A group of law professors and the Securities Industry and Financial Markets Association echoed Boeing’s argument, saying in amicus briefs the copy-and-pasted damages model that applies generally to securities fraud lawsuits undermines *Comcast*.

Labaton Keller Sucharow LLP, Robbins Geller Rudman & Dowd LLP, and Gupta Wessler LLP on appeal represent the investors, Local #817 IBT Pension Fund and Rhode Island’s general treasurer on behalf of the state’s retirement system. Sullivan & Cromwell LLP and McGuireWoods LLP represent Boeing. None of these law firms nor Boeing immediately responded to emails seeking comment.

The case is In re: The Boeing Co. Sec. Litig. , 4th Cir., No. 25-01492, brief filed 10/17/25 .

Securities

Fluor Shareholder Sues Board, Executives After Record Stock Drop

Oct. 17, 2025, 1:12 PM PDT

Fluor Corp. leadership downplayed the threat of economic uncertainty to customer spending and hid rising costs in construction projects before revealing disappointing second quarter of 2025 financial results, a stockholder lawsuit said.

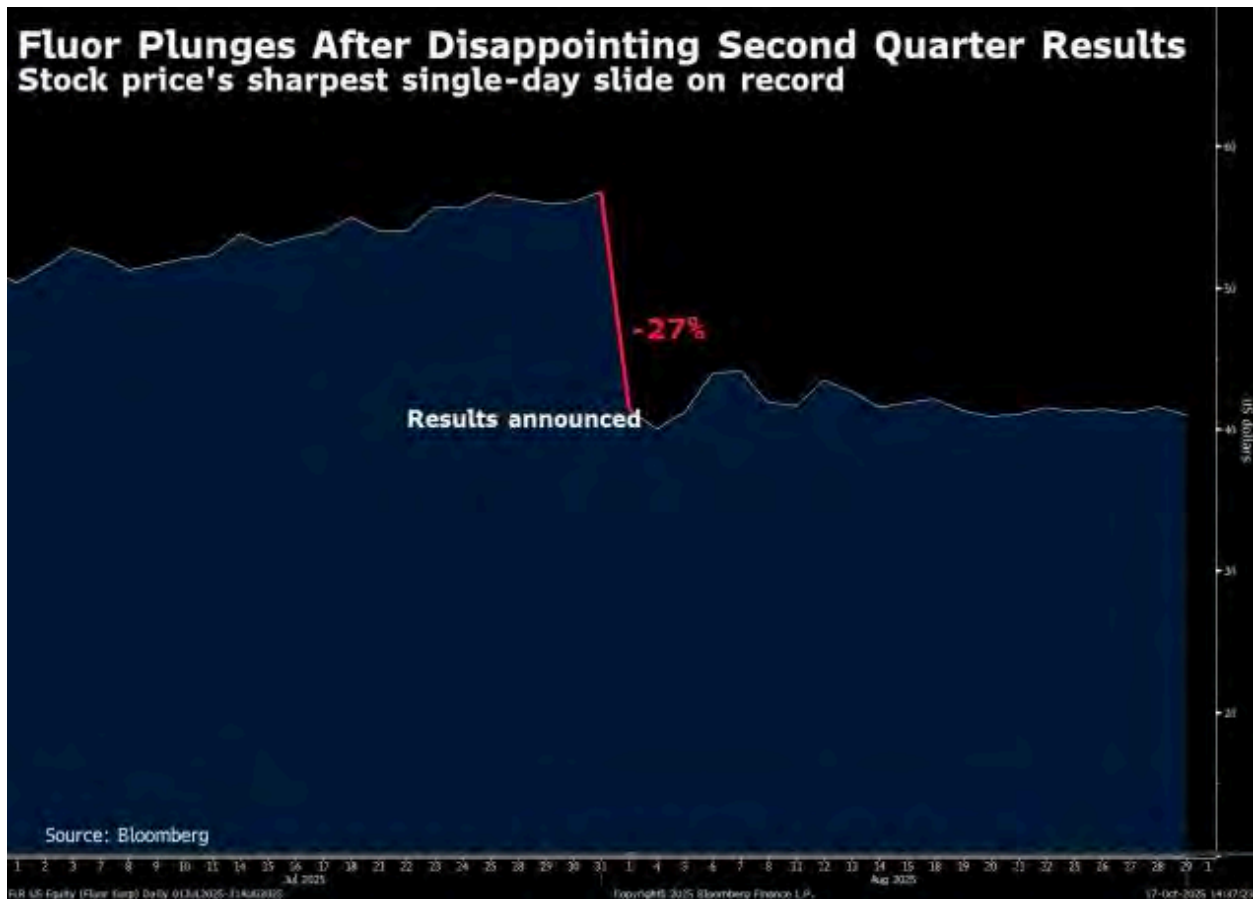
And Executive Chairman David Constable netted about \$6 million off of insider stock sales in the months before a record stock drop on the financial news, the shareholder derivative complaint filed Thursday said.

Fluor's stock price plummeted 27% to close at \$41.42 Aug. 1—its biggest one-day drop since it starting trading in 2000 after its spin-off, according to data compiled by Bloomberg.

That morning, Fluor announced second quarter results that missed consensus estimates for non-GAAP earnings per share and revenue. Disappointing profit results reflected a "\$54 million net impact of cost growth and expected recoveries on three infrastructure projects, due to subcontractor design errors, the related schedule impacts, and price escalation," the press release said.

"Unfortunately, our results for the quarter were impacted by three long-standing infrastructure projects and a shift in expected capital spending from some clients," CEO Jim Breuer said in the release. "We view this shift as temporary and believe that our long-term strategy centered around disciplined project delivery in growth markets will continue to benefit our clients and our shareholders."

Current and former executives and board members hurt Fluor's reputation and wallet in having it mislead investors before this, stockholder Roberto Medina told the US District Court for the Northern District of Texas. Medina alleged wrongdoing from Feb. 18, 2025, through July 31, during which time these leaders forced Fluor to repurchase its own artificially-inflated shares to the tune of \$72.3 million.



The allegations of misleading investors echo a proposed investor class action pending in the same court against Fluor, Breuer, Constable, Chief Financial Officer John C. Regan, and former CFO Joseph L. Brennan.

Medina alleged securities law violations, breach of fiduciary duties, unjust enrichment, abuse of control, gross mismanagement, and waste of corporate assets by 14 current and former brass. Fluor's board also released a misleading 2025 proxy statement seeking shareholder votes on the election of Breuer and reelection of other directors, Medina said.

The Brown Law Firm PC represents Medina, who seeks corporate governance reform, restitution, and damages for Fluor.

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

The case is Medina v. Constable, N.D. Tex., No. 3:25-cv-02816, complaint filed 10/16/25.

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Class Action

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Compass Minerals' Mining Investor Deal Gets Final Court Approval

Oct. 20, 2025, 6:52 AM PDT

Summary by Bloomberg AI

AI Generated



- Compass Minerals International Inc.'s board and top executives earned a federal judge's final approval of a settlement to resolve shareholder allegations that current and former leaders misrepresented the costs and capacity of an upgrade to the company's salt mining system.
- The settlement included Compass Minerals appointing a chief accounting officer and other corporate governance reforms, such as having the board review quarterly reports about mining issues and instituting a compensation "clawback policy".
- Judge Eric F. Melgren gave his final approval to the settlement, in which the company's leaders didn't admit wrongdoing, and the investors' counsel will get \$1.4 million in attorneys' fees, reimbursed expenses, and plaintiffs' awards.

Compass Minerals International Inc.'s board and top executives earned a federal judge's final approval of a settlement to resolve shareholder allegations that current and former leaders misrepresented the costs and capacity of an upgrade to the company's salt mining system.

The investors' counsel will get \$1.4 million in attorneys' fees, reimbursed expenses, and plaintiffs' awards in the deal, which included Compass Minerals appointing a chief accounting officer. Judge Eric F. Melgren of the US District Court for the District of Kansas wrote Oct. 17. The settlement, in which the company's leaders didn't admit wrongdoing, ends derivative actions that alleged lackluster internal controls caused Compass Minerals to mislead investors about the benefits of transitioning a rock salt mine to a new form of mining.

Compass Minerals named Ashley Ward—formerly vice president, corporate controller for the company—chief accounting officer in June

Under the deal, other corporate governance reforms, to be in place for at least eight years, include having the board review quarterly reports about mining issues and instituting a compensation "clawback policy" in which the board can seek reimbursement of incentive compensation tied to an executive's misconduct

Melgren gave his final approval to a related investor class action settlement earlier this year

Rigrodsky Law PA and The Brown Law Firm PC each represent one of the shareholders. Cleary, Gottlieb, Steen & Hamilton LLP and Husch Blackwell LLP represent Compass Minerals—a nominal defendant—and its leadership.

Neither sides' counsel nor Compass Minerals immediately responded to emails seeking comment.

The case is *Stein v. Crutchfield*, D. Kan., No. 2:23-cv-02038, final judgment 10/17/25 .

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Securities

This Week in Chancery Court: Tesla, Squarespace, Hudl and PlayOn

Oct. 20, 2025, 2:00 AM PDT

Elon Musk and Tesla Inc. are back at the Delaware Chancery Court this week for a hearing on some of the remaining claims of corporate wrongdoing filed there before the electric vehicle-maker's reincorporation in Texas.

At the Delaware Supreme Court—amid a packed month of high-profile arguments—appeals of four separate Chancery Court rulings will be heard back-to-back in Dover, Del., on Wednesday. Those rulings involve: legal fees stemming from litigation over the \$3.1 billion sale of Straight Path Communications Inc. to Verizon Communications Inc.; Trade Desk Inc. CEO Jeff Green's compensation package; Carlyle Group Inc.'s \$77.5 million sale of Authentix Inc. to Blue Water Energy LLP; and breach-of-duty claims over the \$497 million sale of Smart & Final Stores Inc. to Apollo Global Management Inc.

These are the highlights from the Chancery Court's calendar:

Monday: Ertel v. Elkins, Del. Ch., No. 2024-0827, hearing 10/20/25.

At issue: Aerial surveillance company TCOM LP and Equinox Innovative Systems Inc. CEO Randy Morser seek to dismiss a lawsuit alleging Morser sabotaged Equinox's sale in order to renegotiate the transaction on self-dealing terms. Former Equinox directors sued the founder in August 2024, claiming Morser's foot-dragging on TCOM's initial offer was intended to stop important investors from exercising certain stock options to gain a say in the transaction. TCOM's attorneys plan to refer during oral arguments to a recent Delaware Supreme Court opinion reversing Chancery Court rulings blaming TC Energy Corp. for driving down the price of its acquisition of Columbia Pipeline Group Inc. with threats to publicly bail on deal negotiations.

Court action: Oral arguments on the motions to dismiss will be held in Wilmington, Del.

Drone Company CEO Sued for Sabotaging Startup to Manipulate Sale

Tuesday: Mich. Elec. Emp. Pension Fund v. Squarespace, Inc., Del. Ch., No. 2024-1041, hearing 10/21/25.

At issue: Vice Chancellor Paul A. Fioravanti Jr. will hear a pension fund's exceptions to a post-trial ruling from Senior Magistrate in Chancery Selena Molina denying its demand for additional internal records from Squarespace Inc. The demand sought Squarespace CEO Anthony Casalena's emails related to the website publishing company's \$7.2 billion sale to Permira Advisers LLC.

Court action: Fioravanti will preside over a hearing in Wilmington, Del.

Squarespace's \$7 Billion Sale Draws Scrutiny From Pension Fund

Tuesday: 2080 Media, Inc. v. Agile Sports Techs., Inc., Del. Ch., No. 2025-0451, hearing 10/21/25.

At issue: Hudl, a video analytics platform for high school sports coaches, seeks to exit a lawsuit claiming it interfered with rival PlayOn's exclusive licenses by launching a streaming service for consumers. PlayOn, a spin-off of Turner Broadcasting System Inc., says Hudl is free to compete but it can't unfairly misappropriate "lawfully bargained-for, exclusive media rights."

Court action: Oral arguments on the motion to dismiss will be held in Wilmington, Del.

High School Sports Streamer PlayOn Hits Rival Hudl With Lawsuit

Wednesday: In re Tesla, Inc. Derivative Litig., Del. Ch., No. 2024-0631, and Perry v. Musk, Del. Ch., No. 2024-0560, hearing 10/22/25.

At issue: Chancellor Kathaleen St. Jude McCormick, whose rejection of Musk's CEO pay package at Tesla is currently being considered by the state's top court, in January combined multiple lawsuits over the billionaire's alleged insider trading, the Twitter Inc. acquisition, and his side projects in artificial intelligence. Musk says investor claims that he improperly sold over \$7.5 billion in Tesla shares don't belong in Delaware because Tesla shifted its incorporation to Texas. He and other board members also have said consolidated claims in the coordinated litigation just "nitpick" his personal behavior when investors should be grateful for their soaring Tesla returns.

Court action: McCormick will preside over a hearing in Wilmington, Del.

Musk Seeks Dismissal of Suit Over \$7.5 Billion Tesla Stock Sale

Friday: Solak v. Mountain Crest Capital LLC, Del. Ch., No. 2023-0469, settlement hearing 10/24/25.

At issue: Vice Chancellor Bonnie W. David must give final approval to a proposed \$1 million settlement to resolve investor claims that the blank-check deal that took Better Therapeutics Inc. public resulted in a windfall for Mountain Crest Capital LLC insiders. David's predecessor allowed investor John Solak to advance his claims in October 2024, saying the case "appears to be the first to deny a motion to dismiss solely on an affirmative statement of investment value in conflict with a failure to also disclose net cash." Solak's attorneys from Cooch and Taylor PA and Newman Ferrara LLP seek a fee award totalling \$325,000.

Court action: The settlement hearing will be held in Georgetown, Del.

Better Therapeutics SPAC Deal Challenge Must Proceed, Judge Says

—*With assistance from Bloomberg Law Automation.*

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Class Action

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Vituity Gets Final Approval for \$8.75 Million 401(k) Settlement

Oct. 20, 2025, 8:33AM PDT

Vituity workers finalized an \$8.75 million class settlement resolving allegations that the California-based health-care company mismanaged their 401(k) plan through high fees and faulty investments.

The deal, which is expected to benefit more than 7,000 people covered by the Vituity plan between November 2017 and January 2025, represents about 32% of the employees' maximum damages in the case, and nearly 90% of the fees Vituity charged the plan for its administrative services during the relevant period. Judge Richard Seeborg granted final approval to the agreement and awarded class counsel nearly \$2.2 million in attorneys' fees and expenses in a pair of orders issued Oct. 17 in the US District Court for the Northern District of California.

The lawsuit says Vituity's 401(k) plan overpaid for administrative services and over-invested in a savings account with paltry returns

Seeborg ruled in 2024 that portions of the case were viable

The settlement also includes a pledge by Vituity—formally known as CEP America LLC—to refrain from charging the plan for its own services

Faegre Drinker Biddle & Reath LLP represents Vituity. Bailey & Glasser LLP and Creitz & Serebin LLP represent the employees.

The case is Nagy v. CEP Am., LLC , N.D. Cal., No. 3:23-cv-05648, 10/17/25 .

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California Brief

'Massive Legal Siege' Against Social Media Companies Looms

Oct. 20, 2025, 2:00 AM PDT

Thousands of plaintiffs' complaints, millions of pages of internal documents and transcripts of countless hours of depositions are about to land in US courtrooms, threatening the future of the biggest social media companies.

The blizzard of paperwork is a byproduct of two consolidated lawsuits accusing Snap Inc.'s Snapchat; Meta Platforms Inc.'s Facebook and Instagram; ByteDance Ltd.'s TikTok; and Alphabet Inc.'s YouTube of knowingly designing their platforms to addict users – allegedly resulting in youth depression, anxiety, insomnia, eating disorders, self-harm and even suicide.

The litigation, brewing for more than three years, has had to overcome numerous hurdles, including the liability shield that has protected social media platforms from facing user-harm lawsuits. The social media companies have filed multiple motions to dismiss the cases on the grounds that Section 230 of the Communications Decency Act prevents them from being held accountable for content posted on their sites.



Meta Platforms CEO Mark Zuckerberg addresses the audience during a Senate Judiciary Committee hearing in Washington in 2024.

Photographer: Kent Nishimura/Bloomberg

Those motions have been largely unsuccessful, and courtrooms across the country are poised to open their doors for the first time to the alleged victims of social media. The vast majority of cases have been folded into two multijurisdictional proceedings, one in state and the other in federal court, to streamline the pretrial discovery process.

The first bellwether trial is scheduled to begin in Los Angeles Superior Court in late January. It involves a 19-year-old woman from Chico, California, who says she's been addicted to social media for more than a decade and that her nonstop use of the platforms has caused anxiety, depression and body dysmorphia. Two other trials will follow soon after, with thousands more waiting in the wings. If successful, these cases could result in multibillion-dollar settlements — akin to tobacco and opioid litigation — and change the way minors interact with social media.

"This is going to be one of the most impactful litigations of our lifetime," said Joseph VanZandt, an attorney at Beasley Allen Law Firm in Montgomery, Alabama, and co-lead plaintiffs' attorney for the coordinated state cases. "This is about large corporations targeting vulnerable populations — children — for profit. That's what we saw with the tobacco companies; they were also targeting adolescents and trying to get them addicted while they were young."

Matthew Bergman, founder of the Social Media Victims Law Center in Seattle, makes a similar comparison to tobacco litigation in the Bloomberg documentary *Can't Look Away: The Case Against Social Media*. "In the case of Facebook, you have internal documents saying 'tweens are herd animals,' 'kids have an addict's narrative' and 'our products make girls feel worse about themselves.' You have the same kind of corporate misconduct," Bergman says in the film, which will be available to view on Bloomberg's platforms on October 30.



Frances Haugen, former data engineer at Facebook, in 2022.

Photographer: Hollie Adams/Bloomberg

Bergman's firm was the first to file user-harm cases against social media companies, in 2022, after **Frances Haugen**, a former Meta product manager-turned-whistleblower, released a trove of internal documents showing the company knew social media was negatively impacting youth mental health. The first case, which is part of the consolidated federal litigation, alleged that an 11-year-old Connecticut girl killed herself after suffering from extreme social media addiction and sexual exploitation by online predators.

What set that case apart was how it got around Section 230's immunity blanket. Bergman argued that his case wasn't about third-party content, which the federal law protects. Instead, he said it hinged on the way social media companies were intentionally designing their products to prioritize engagement and profit over safety.

Since then, thousands of personal injury lawsuits alleging similar youth mental health harms have been filed. Almost 4,000 have been folded into the multijurisdictional proceedings – more than a quarter of them from the Social Media Victims Law Center. They have been joined by more than 1,000 school districts and about three-quarters of all US state attorneys general. Some lawsuits, including one filed by New Mexico's attorney general, are proceeding outside the framework of the consolidated cases and are also expected to go to trial early next year.

"All told, this is a massive legal siege on the social media industry," said Previn Warren, a Washington-based lawyer at Motley Rice who is co-leading the federal cases. "We are the first major litigation to convince the court system that actually there are systemic wrongs on these platforms that victims should be compensated for. When the public becomes aware of the scale of evidence, I suspect that will have an impact on how they perceive their relationship – and their kids' relationships – to social media."

The pretrial discovery process closed in April, with the four defendants handing over more than six million documents and submitting to 150 depositions, including that of Meta Chief Executive Officer Mark Zuckerberg and Snap CEO **Evan Spiegel**. In addition, more than 100 child psychologists, academics and experts have offered evidence.



Evan Spiegel and Mark Zuckerberg

Photographer: Kent Nishimura/Bloomberg

The companies sought to bar all of the plaintiffs' expert witnesses in the state cases from testifying, arguing that they're unreliable, cherry-pick from studies and over-extrapolate from data. That argument failed in state court in late September, with all but one of the proposed witnesses allowed to testify.

The defendants also filed a motion for summary judgment in state court in August, arguing that the plaintiffs haven't produced enough evidence to warrant a trial. The companies said the plaintiffs hadn't shown that mental health harms were caused by social media and that some of the claims, which stretch back to when the plaintiffs first started using social media, should be barred outright by California's statute of limitations.

"These lawsuits fundamentally misunderstand how YouTube works, and the allegations are simply not true," José Castañeda, a spokesperson for the company, said in an email. "YouTube is a streaming service where people come to watch everything from live sports to podcasts to their favorite creators, primarily on TV screens, not a social network where people go to catch up with friends."

A Meta spokesperson said the company disagreed with the allegations raised in the lawsuits and pointed to safety tools the company has rolled out to support its youngest users, including limiting who teens can connect with and the content they see. "We will continue to defend ourselves vigorously in these cases," the spokesperson said.

Snap and TikTok didn't respond to requests for comment.

Los Angeles Superior Court Judge Carolyn Kuhl, who is presiding over the consolidated state cases, is expected to rule on the summary judgment motion in the coming weeks. Yvonne Gonzalez Rogers, a US district court judge in Oakland, California, is overseeing the federal litigation. The first federal trial, in a case filed by a school district in Kentucky, is set to kick off in June.

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Authors sue Salesforce, claim AI trained with pirated books

DJ [dailyjournal.com/articles/388130-authors-sue-salesforce-claim-ai-trained-with-pirated-books](https://www.dailyjournal.com/articles/388130-authors-sue-salesforce-claim-ai-trained-with-pirated-books)

Joseph Saveri of Joseph Saveri Law Firm LLP

An artificial intelligence product is again in the crosshairs of authors who say that copyright infringement is the illicit secret that enables the development of leading commercial AI systems.

Writers accused the cloud-computing software company Salesforce Inc. of having pirated hundreds of thousands of copyrighted books to train its large language model product, known as XGen, according to a putative class action filed in federal court in San Francisco.

The complaint, by Joseph Saveri Law Firm LLP, seeks damages for alleged infringing conduct. *Tanzer et al. v. Salesforce Inc.*, 3:25-cv-08862 (C.D. Cal., filed Oct. 15, 2025). The named plaintiff is E. Molly Tanzer, a Colorado author of multiple books.

Salesforce, San Francisco's largest private employer, occupies the tallest building in the city, Salesforce Tower, an enormous metal and glass obelisk that stands at the heart of the global AI industry in the Bay Area and Silicon Valley.

The Saveri lawsuit came in a week when Salesforce CEO Marc Benioff apologized and reversed his announcement days earlier that he supports the deployment of National Guard troops to San Francisco.

Benioff remained under fire from some quarters for pitching his AI technology to U.S. Immigration and Customs Enforcement to help recruit 10,000 new agents. Benioff said Salesforce would invest \$15 billion in San Francisco over five years on a new artificial intelligence incubator hub.

None of that turmoil was related to his lawsuit, said Joseph R. Saveri, the veteran antitrust and class action practitioner. "We didn't and don't play games with our filings," he emailed Friday. "Our complaint has nothing to do with immigration, ICE or any other side issues."

To make the point that Salesforce owes authors money, Saveri's complaint quotes from a 2024 Bloomberg interview in which Benioff was quoted as acknowledging that artificial intelligence companies "ripped off" training data to build their models, and that "all the training data has been stolen."

The complaint alleges that Benioff also stated, "There's a pretty great company to be built on a standardized set of training data that lets all these companies play a fair . . . game and let the content creators . . . get paid fairly for their work. And I think that bridge has not yet been crossed. And that's a mistake by the AI companies. Very easy to do."

A request for comment from Salesforce went unanswered on Friday. An online docket has not yet identified the company's defense attorneys.

Saveri has filed 11 class actions on behalf of content providers with copyright claims against AI companies, including GitHub Inc., Stability AI Ltd., OpenAI Inc., Meta Platforms Inc., Nvidia Corp., Databricks Inc. and Google LLC.

"Copyright piracy can't ever be fair use," he has said. "It may be a crime." On Friday, Saveri added, "It's important that companies that use copyrighted material for generated AI products are transparent. It's also only fair that our clients are fairly compensated when this happens. Authors deserve both acknowledgment and compensation when their creative work powers commercial technology."

So far, courts have delivered mixed results in AI copyright cases. In June, Senior U.S. District Judge William H. Alsup in San Francisco found Anthropic PBC's AI training process "spectacularly transformative," backing a key defense to copyright claims.

At the same time, Alsup certified part of the Anthropic copyright case for trial--the part in which the plaintiff authors argued that the defendant used pirated copies of their books to develop its product. *Bartz v. Anthropic PBC*, 3:24-cv-05417 (N.D. Cal., filed Aug. 19, 2024).

The ruling led Anthropic to settle the case for \$1.5 billion. The plaintiffs were represented by Susman Godfrey LLP and Lieff Cabraser Heimann & Bernstein LLP.

Just days later, a different judge in San Francisco granted summary judgment to the defense in Saveri's case against Meta, holding that its AI product is "highly transformative."

In his ruling, U.S. District Judge Vince G. Chhabria advised the plaintiffs to develop another element of infringement theory: the claim that in using authors' works without permission, Meta cost them money by diluting the market for sales of their books. *Kadrey et al. v. Meta Platforms Inc.*, 3:23-cv-03417 (N.D. Cal., filed July 7, 2023).

Saveri declined to comment on Chhabria's remarks or on whether he had retooled his approach in his new case against Salesforce.

The phrase "market dilution" doesn't appear in the Salesforce complaint, but it may well come into play later in the case, said an expert on AI litigation, Steven A. Stein of Greenberg Glusker Fields Claman & Machtinger LLP.

"I imagine that will become a focus, given Chhabria's emphasis in the Meta ruling," Stein said. "He really teed up the issue." But Stein pointed out that the Salesforce case has been assigned not to Chhabria but to Senior U.S. District Judge Charles R. Breyer in San Francisco. "He might have an entirely different take on the matter."

Stein noted that only one copyright case involving an AI company has reached the federal appeals courts. In 2020, the maker of Westlaw sued an AI-based legal research startup for using Westlaw's copyrighted headnotes to train its search tool.

A Delaware trial judge rejected the startup's fair use defense, holding that it created a direct competitor to Westlaw. The startup has appealed. *Thomson Reuters Enterprise Centre GmbH v. ROSS Intelligence Inc.*, 25-8018 (3d Cir., filed June 17, 2025)

The Salesforce case may not get far, thinks Mark A. Lemley, a Stanford Law School intellectual property professor who has defended AI companies in copyright cases.

"This is another in a long line of lawsuits filed by the Saveri firm alleging that training AI is illegal," Lemley emailed, noting that he was speaking for himself, not his clients. "Fortunately, the courts that have considered that claim so far have all rejected it, and I expect they will reject this one too."

"The district court in one of those cases did articulate a new legal theory under which copying books without authorization is illegal even if done for a fair use purpose. That isn't the law, and I don't think other courts should or will follow it. But it may encourage more suits like this one hoping to collect money for making copies even though their use is lawful."

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Salesforce Faces Class-Action Copyright Claim From Saveri Law Over AI Training

The suit filed on behalf of writers Molly Tanzer and Jennifer Gilmore is the 11th copyright lawsuit filed by Joseph Saveri Law Firm over the use of protected works to train artificial intelligence.

October 16, 2025 at 06:27 PM By **Michelle Morgante**

What You Need to Know

- The suit alleges Salesforce publicly acknowledged use of the Books3 data set.
- It cites Salesforce CEO Marc Benioff's remarks about "stolen" data used to train AI.
- Members of the proposed class could include thousands of copyright holders.



Salesforce CEO, Marc Benioff. Credit: Global Climate Action Summit via Wikimedia Commons

A new class-action complaint filed by Joseph Saveri Law Firm alleges Salesforce violated the copyrights of authors whose books were downloaded from illicit sites to create the company's artificial intelligence products.

The suit, the [11th copyright claim](#) filed by Saveri against AI companies, was filed Wednesday on behalf of writers Molly Tanzer and Jennifer Gilmore, whose books were part of the pirated Books3 data set allegedly used by Salesforce.

The complaint was filed in the U.S. District Court for the Northern District of California in San Francisco and assigned Thursday to District Judge Charles Breyer.

Salesforce publicly admitted its use of Books3, then later concealed that admission by deleting references to the sources of its large language model training, according to the complaint.

Salesforce CEO Marc Benioff, it said, publicly acknowledged that AI developers “ripped off” data to build their models and that “all the training data has been stolen.”

Citing a [2024 interview with Bloomberg Live](#), the suit quoted Benioff as stating there was an opportunity for a company to build “a standardized set of training data that lets all these companies play a fair ... game and let the content creators ... get paid fairly for their work. And I think that bridge has not yet been crossed. And that’s a mistake by the AI companies. Very easy to do.”

The complaint added: “Benioff is right—technology companies like Benioff’s own Salesforce that use the intellectual property of copyright holders like plaintiffs and class members should fairly compensate them. And that is why plaintiffs bring this lawsuit.”

A representative of San Francisco-based Salesforce said Thursday that the company does not comment on pending legal matters. Defense counsel has yet to appear.



Alleging direct copyright infringement, the suit claims Salesforce’s process of building its LLMs, sets known as the CodeGen and XGen series, downloaded data from the illicit Books3 set made up of more than 196,000 books.

After initially stating in an online post that the training data came from Books3 data known as RedPajama and the Pile, references to those data sets were removed and Salesforce began to instead say its LLMs were trained on “natural language data.”

Jennifer Gilmore, Swiss-born American novelist. Courtesy photo The suit alleges Salesforce violated copyrights by repeatedly copying the protected works as part of its AI development process, stored illicit copies of the pirated works and commercialized its LLMs by incorporating them into its Agentforce AI platform for enterprise customers.

Salesforce infringed on the copyrighted works "on a massive scale," the suit said. "Salesforce downloaded these books from two datasets—The Pile and RedPajama—without authorization from or compensation to their authors. Salesforce then continued copying and storing the datasets, and used them to develop and train the XGen series of LLMs."

The proposed class could include thousands of copyright holders whose works were allegedly infringed dating back to at least Oct. 15, 2022.



Joseph Saveri of Joseph Saveri Law Firm. Courtesy photo

"We look forward to proving our claims to the jury in this case," Joseph Saveri said in an email sent Thursday to The Recorder. "Salesforce allegedly built its AI systems on a library of pirated books. Authors deserve both acknowledgment and compensation when their creative work powers commercial technology."

"This case isn't about opposing innovation, it's about ensuring innovation happens within the bounds of the law," he said. "AI companies cannot claim their data is 'legally compliant' when it includes copyrighted works obtained without permission. Creative professionals are

essential to the cultural and intellectual fabric that AI systems rely on. Their rights deserve protection."

Last week, Saveri Law filed [a class-action claim alleging Apple](#) infringed on the copyrights of neuroscientists whose works were part of the Books3 set used to train Apple Intelligence. Saveri represents plaintiffs in other claims pending against OpenAI, Databricks, NVIDIA, Meta Platforms, Google, Microsoft, Stability AI and GitHub.

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California Brief

Salesforce CEO Apologizes for Pro-Trump National Guard Comments

Oct. 17, 2025, 1:34 PM PDT

Salesforce Inc. Chief Executive Officer Marc Benioff apologized for calling on President Donald Trump to send the National Guard to San Francisco, after almost a week of public criticism from local allies and government officials for his statements.

"Having listened closely to my fellow San Franciscans and our local officials, and after the largest and safest Dreamforce in our history, I do not believe the National Guard is needed to address safety in San Francisco," Benioff wrote Friday in a post on social network X.

The Salesforce co-founder has faced backlash after saying in an interview with the New York Times that he "fully" supports Trump and that National Guard troops should be deployed to San Francisco. On Thursday, venture capitalist Ron Conway, a longtime friend of Benioff's, resigned from the board of Salesforce's philanthropic foundation due to the comments.

For more: [Benioff Slammed by Longtime VC Ally Over San Francisco Comments](#)

"My earlier comment came from an abundance of caution" around the company's annual Dreamforce conference in San Francisco this week, "and I sincerely apologize for the concern it caused," Benioff wrote in the post.

Benioff was long seen as a reliable backer of liberal causes. He donated money to Democrats, advocated for a San Francisco tax increase to fund initiatives to help the city's homeless and threatened to pull investment from Indiana after the state passed a law allowing antigay discrimination on religious grounds.

But like many technology industry leaders, his tone on some issues has been seen as leaning more toward the right during the second Trump administration. He has also spent more time away from San Francisco in recent years.

On Monday, Benioff announced a \$100 million gift to children's hospitals in the city that bear his name and to city schools. He was initially scheduled to announce the donation alongside San Francisco Mayor Daniel Lurie and other city leaders, but the event was canceled, with Salesforce citing rainy weather.

Benioff also faced criticism from billionaire and fellow San Francisco philanthropist Laurene Powell Jobs. In an opinion piece published Friday, she questioned his generosity if he expected control over public policy in return.

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Judge backs class status in antitrust suit against Altria, Juul

DJ [dailyjournal.com/articles/388132-judge-backs-class-status-in-antitrust-suit-against-altria-juul](https://www.dailyjournal.com/articles/388132-judge-backs-class-status-in-antitrust-suit-against-altria-juul)

Oct. 20, 2025

A federal judge tentatively approved class certification in an antitrust lawsuit alleging that a \$12.8 billion Altria and Juul deal illegally eliminated competition in the U.S. e-cigarette market through a non-compete agreement.

U.S. District Court Judge William H. Orrick

A federal judge tentatively granted a motion for class certification in an antitrust action against Altria Group Inc. and Juul Labs Inc. that accuses the companies of entering an illegal \$12.8 billion non-compete agreement that cemented Juul's dominant position in America's e-cigarette market.

The lawsuit, filed in the Northern District of California, claims that Altria agreed to withdraw its own e-cigarette products from the market in 2018 as a condition of acquiring a 35% stake in Juul for \$12.8 billion.

In doing so, the lawsuit claims, Altria -- formerly Philip Morris -- abandoned years of product development and ceded shelf space to Juul, allowing the upstart company to tighten its grip on the closed-system e-cigarette market.

Judge William H. Orrick tentatively approved two classes -- one of direct purchasers of the product such as retailers and another of indirect purchasers such as individual consumers -- ahead of a hearing in San Francisco on Friday.

Following the hearing, Orrick said he would issue an order later that day, though it had not been published by press time. In re Juul Labs, Inc. Antitrust Litigation 3:20-cv-02345-WHO (N.D. Cal., filed Apr. 7, 2020).

Attorneys for the defendants argued that it would be "a mistake" to split the class into those two categories as potentially differing locations for the alleged harm meant they would be governed by different laws.

Attorney for Altria, James M. Rosenthal of Wilkinson Stekloff, told the judge, "No one has tried to do what your tentative suggests. I'm aware of no common law that allows that."

Attorney for the plaintiffs Elana Katcher of Kaplan Fox said at the hearing, "California was the site of the incipient conduct that gave rise to our claim."

Katcher claimed a meeting took place in San Francisco where the parties reached an agreement that Altria would not compete in the e-cigarette space. She said minutes for the alleged meeting contained an agenda item to discuss non-compete clauses.

An attorney for one of the plaintiffs, Andrew Dirksen of law firm CERA LLP, said at the hearing that the Food and Drug Administration's ban on flavored e-cigarettes in 2020 -- aimed at curbing use of the product by minors -- had impacted Juul shares and led to increased competition in the sector.

Juul Labs was also accused of unlawfully marketing its vaping products to minors. As Juul's largest investor, Altria agreed to pay \$235 million to settle 6,000 lawsuits in 2023.

According to the antitrust complaint, Juul quickly rose to dominate the e-cigarette market after its 2015 launch, reaching more than 70% market share by 2018. The complaint claimed that the growth alarmed Altria, the maker of Marlboro cigarettes, which had entered the e-cigarette market through its MarkTen and MarkTen Elite products.

When early attempts to acquire Juul failed, Altria continued to compete--until Juul made clear it would only negotiate if Altria stopped competing entirely, the complaint said.

In October 2018, the complaint claimed, Altria began removing its e-cigarette products from store shelves, and by December it had ceased competing altogether. Two weeks later, the lawsuit alleged; the companies finalized their deal, which included a non-compete clause, board observer rights for Altria, and agreements granting Juul access to Altria's distribution network.

The lawsuit claims this arrangement eliminated price competition, product innovation and rivalry for retail shelf space.

In April 2020, the Federal Trade Commission (FTC) filed its own complaint against Altria and Juul, claiming they had entered into the agreement. It argued that their transaction substantially lessened competition by removing Altria as a competitor in pricing, innovation, promotions and retail shelf space.

That complaint was dismissed in July 2023 after Altria "relinquished its stake in Respondent JLI, fully unwinding Altria's 2018 investment, and that the Respondents had terminated certain relationship and services agreements that Altria and JLI had entered related to the investment," an FTC order stated.

In the federal lawsuit, plaintiff Douglas J. Reece, who said he purchased Juul products directly from the company, is seeking treble damages and injunctive relief on behalf of a proposed nationwide class of consumers. The suit brings claims under Sections 1 and 2 of the Sherman Act and Section 7 of the Clayton Act.

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Judge weighs class bid over Thomas Fire smoke damage

DJ [dailyjournal.com/articles/388118-judge-weighs-class-bid-over-thomas-fire-smoke-damage](https://www.dailyjournal.com/articles/388118-judge-weighs-class-bid-over-thomas-fire-smoke-damage)

Oct. 17, 2025

A Los Angeles judge is weighing class certification for homeowners claiming property damage from smoke and ash caused by the 2017 Thomas Fire, as experts and attorneys spar over damages methodology.

A Los Angeles judge will decide whether to certify a class of plaintiffs who say their homes were damaged impacted by smoke, soot, ash and other airborne particles from the 2017 Thomas wildfire in Ventura and Santa Barbara counties.

Judge Elaine Lu took the plaintiffs' motion under submission on Thursday after hearing arguments about whether an expert analysis of the extent of the damage should form the basis of a separate class action.

Leila J. Noël and A. Barry Cappello of Cappello & Noël LLP in Santa Barbara argued on behalf of the prospective class plaintiffs.

"These people have no incentive; they have no economic ability to hire an attorney and bring an action to get compensation for having lost use of their property," Noël said in support of class certification. "It's precisely the point in a situation like this."

Defendant Southern California Edison was represented by Hueston Hennigan LLP attorneys Andrew K. Walsh and Spencer M. Schmider of Los Angeles, as well as Craig A. Fligor of Newport Beach.

Arguing against class certification, Walsh stated that no California court has ever previously certified a class in wildfire litigation.

"They're asking you to do it based on a theory of damages that would award full market rent when they can't show that the properties were completely unusable," Walsh told Lu.

The Thomas Fire was ignited on Dec. 4, 2017, and was not contained until Jan. 12, 2018. The fire damaged property and affected residents across Santa Barbara and Ventura Counties, with smoke invading and ash falling for weeks. This resulted in an unremitting onslaught of smoke and particulates over the class area, according to the plaintiffs' motion to certify.

The disaster led to mandatory evacuation orders and coordinated civil litigation involving approximately 5,850 individual plaintiffs.

The plaintiffs' motion asks for class certification for residents whose homes experienced levels of smoke, soot, ash and other particulates of about five times an ambient or baseline amount determined by plaintiffs' experts. *Park et al. v. Southern California Edison Company et al.*, BC691146 (L.A. Super. Ct., filed Jan. 24, 2018).

"Those particulates did not dissipate from the wind or from plaintiffs' cleaning efforts," the motion read. "Any wind that removed deposition from a given property was the same wind that re-deposited particulates on that property from an upwind property. The wind was like waves after an oil spill, both taking oil away from the beach while washing oil back onto the beach. And Plaintiffs could not clean up the constant mess of ash and soot. That would have been like trying to dry your car in the middle of a rainstorm."

In opposition, Edison argued that the "five times" threshold put forth by the plaintiffs was arbitrary and unfeasible on a classwide basis.

"Plaintiffs' modified class definition does not fix the inherent flaws in the proposed class, which, as structured, requires plaintiffs to show that (1) every class member lost the use of the affected properties on days when the 'daily deposition amount' met or exceeded five times the daily background amount, and (2) the loss of use that each class member experienced can be calculated as the daily market rent for each affected property," the opposition read. "Plaintiffs have not shown through substantial evidence that they can prove these points on a classwide basis."

Walsh reiterated these arguments at Thursday's hearing.

"You can't get full market value when you can't show how much use of a property a claimant retained," Walsh said. "They haven't put forth evidence, even for the class representatives, of that, and the class representatives testified clearly they retained uses."

In response, Cappello pointed to one of the defense's cited cases, *City of San Jose v. Superior Court*, (1974) 12 Cal.3d 447.

"The court noted certification is proper in other cases where, quote, 'the issue of defendants liability in the class as a whole can be determined by facts common to all,'" Cappello said, further arguing that plaintiffs' counsel had established Edison's liability to all plaintiffs.

#388118

Language in Consumer Class Action Waiver Dispute Must Be Reconsidered, Appellate Division Says

"We discern nothing in the court's decision to reflect the court independently considered the dispute resolution agreement's language as a whole to determine whether it provided the requisite notice that parties waived class actions in court and in arbitration," read the opinion from New Jersey Appellate Division judges Lisa Rose, Patrick DeAlmeida and Ellen Torregrossa-O'Connor.

October 17, 2025 at 03:13 PM By **Nicholas Malfitano**



A recent New Jersey appellate court ruling illustrates the importance of courts needing to fully examine class-action waivers in consumer lawsuits, after what it called a misapplication of one of its own rulings on the subject in another case.

On Tuesday, a per curiam panel from the Superior Court of [New Jersey's Appellate Division](#) sided with plaintiffs Tahisha Roach and Emelia Jackson in their long-standing class action suit against BM Motoring and Federal Auto Brokers, collectively doing business as BM Motor Cars. The Appellate Division's recent decision in *Roach* boiled down to whether the class action waiver in the arbitration agreement at issue still applied, even after other provisions in the accord had been violated. Relying on the Appellate Division's 2022 ruling in *Cerciello v. Salerno Duane, Inc.*, which

said the parties waived “the right to maintain a court action or pursue a class action in court or in arbitration,” a Middlesex County court found that the class waiver was still enforceable.

But the Appellate Division found the lower court’s analysis was lacking. It vacated the ruling and remanded the case to the lower court for it to determine whether customers, like the plaintiffs, received sufficient notice that they would be unable to file class-action suits or arbitrate with the defendants in dispute resolution agreements accompanying their vehicle purchases.

“We discern nothing in the court’s decision to reflect the court independently considered the dispute resolution agreement’s language as a whole to determine whether it provided the requisite notice that parties waived class actions in court and in arbitration,” read the opinion from Appellate Division Judges Lisa Rose, Patrick DeAlmeida and Ellen Torregrossa-O’Connor.

The case at issue dates back nearly a decade, when Roach and Jackson separately purchased used cars from the defendants, alleging they were of subpar quality. They later jointly sued the dealership under the Consumer Fraud Act and other state statutes. However, both plaintiffs’ purchases went along with their signing dispute resolution agreements, which precluded them from litigating against the defendants and required any disputes to be resolved through an arbitration process. Conflicts over that arbitration issue and the suit’s class certification spanned the following seven years of litigation, through all levels of New Jersey courts.

In late 2021, the trial court denied the defendants’ motion to stay all proceedings pending the result of an Appellate Division appeal in *Cerciello*, one that argued class-action waivers may be enforceable, despite any breaches elsewhere in an arbitration agreement. The Appellate Division agreed with that defense argument in *Cerciello* in early 2022.

In August 2022, the defendants again filed to decertify the plaintiffs’ class and cited the *Cerciello* ruling, arguing class waiver agreements are enforceable even when a defendant has otherwise breached an arbitration agreement, thereby “prevent[ing] this plaintiff from proceeding as a class.” In June 2024, the trial court agreed with the defendants on that point and stripped the class of its previous certification.

The plaintiffs once again sought relief from the Appellate Division, claiming the trial court failed to “analyze the DRA language to determine whether it provided ‘clear and unambiguous’ notice that plaintiffs were waiving their right to class actions in court” and misapplied the *Cerciello* ruling in decertifying the class. The plaintiffs argued that the arbitration provision in *Cerciello* expressly said the parties waived their “right to maintain a court action or pursue a class action in court or in arbitration.”

The Appellate Division agreed the ruling was misapplied and found it was “constrained” to vacate and remand the case, since the trial court didn’t give sufficient reasoning about three key issues: whether *Cerciello* was a “duplicate” of the issues in this case, whether the DRA provided sufficient notice about class waivers in arbitrations, and why the trial court vacated its prior order barring defendants from invoking the class waiver provision for failing to timely raise that defense.

“We discern nothing in the *Cerciello* decision that, alone, compels that determination, nor can we identify any specific factual or legal findings supporting the court’s reversing its prior order and enforcing all class action waivers,” the Appellate Division said, vacating the lower court ruling.

“My firm and I are obviously pleased with the decision, and we look forward to moving forward so that the plaintiffs and class members can receive the compensation they're entitled to,” said plaintiffs’ counsel, Henry P. Wolfe, of Dann Law in North Brunswick

Michael V. Gilberti of Jardim Meisner Salmon Sprague & Susser in Florham Park, who represents the defendants, did not immediately respond to a request for comment.

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California Brief

ANALYSIS: More AI-Using Litigants Getting Caught Hallucinating

Oct. 20, 2025, 2:00 AM PDT

Litigants' usage of AI-hallucinated cases, quotes, and citations in briefs and other case filings is becoming increasingly common, based on a Bloomberg Law analysis of court opinions and other judicial orders. In 2025, instances in which lawyers and pro se litigants were caught misusing generative AI have increased sevenfold.

As tech-savvy litigants swiftly adopt artificial intelligence tools, they take on the risk associated with relying on a generative AI chatbot to conduct legal research, often failing to verify hallucinated case law before building their legal briefs. The results of the data analysis bolster the perception that AI misuse is expanding exponentially in the US court system, much to the chagrin of judges and legal professionals.

Mata Mistake Was Just the Beginning

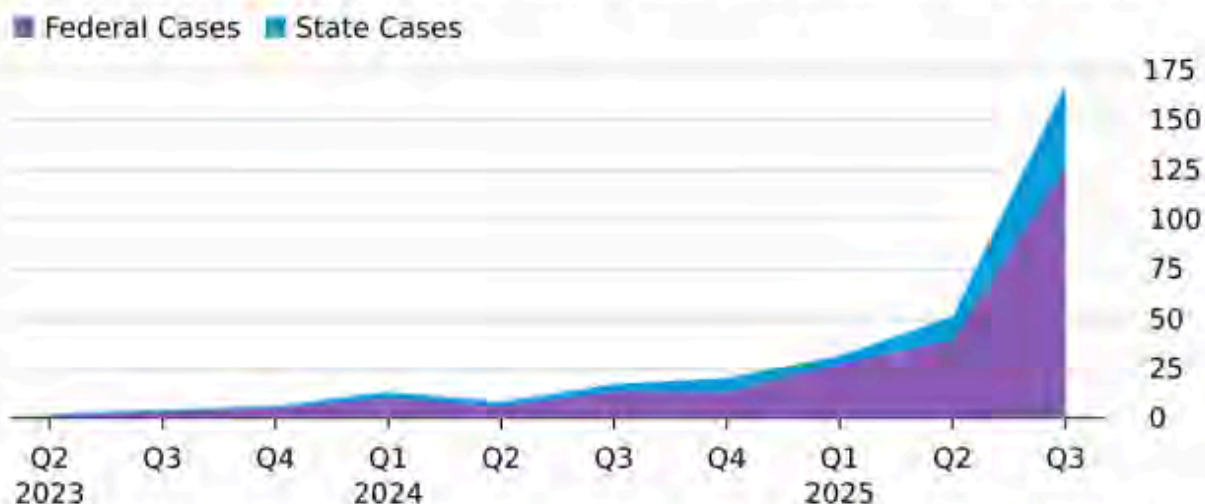
Two years ago, *Mata v. Avianca* put litigants on notice about the perils of relying on a generative AI chatbot to conduct meaningful legal research. The decision stated that an "attempt to persuade a court ... by relying on fake opinions is an abuse of the adversary system."

The Mata case made national headlines, and the negative publicity damaged the attorneys' reputation. But it also caused many bar associations to respond by providing new CLE programs and comprehensive toolkits to educate both bench and bar.

Yet what should have ended the problem was only the opening salvo. According to the data, collected through an analysis of judicial opinions and other orders in Bloomberg Law's dockets and other public sources, the level of known AI misuse clogging the justice system is moving into a new phase of growth, which should concern both attorneys and the courts.

AI Misuse in Litigation Is Skyrocketing

Number of judicial responses to AI-generated errors in court filings



Source: Bloomberg Law

Bloomberg Law

Synthetic Sludge Growing Exponentially in 2025

From 2023 through 2024, the rise in the misuse of generative AI chatbots to produce hallucinated case citations and holdings in legal filings had been modest and gradual. But in 2025, that gradual growth has exploded and recorded instances of hallucinations—so-called “AI Slop”—increased from 31 in Q1 to 51 in Q2 to 167 in Q3, creating a curve that looks more like a wall.

The rising problem of generative AI misuse has judges taking notice and growing increasingly frustrated with litigants.

But attorneys and pro se litigants don’t seem to be getting the message. And the courts’ frustrations with the flow of AI slop-filled briefs are being expressed through a growing list of repercussions. These burgeoning actions include monetary sanctions; dismissal of claims, cases, and appeals; referral to state bar disciplinary boards; and even fee disgorgement. But they can also take the form of non-punitive measures, such as warnings, admonishments, and mere mentions of AI-generated errors submitted by litigants.

All of these actions were counted as instances of AI misuse in this data analysis.

Pro Se Litigants Aren't the Only Misusers

Two years after *Mata*, it might be reasonable to assume that most of the problems with hallucinations in briefing must be stemming from pro se litigants, which state bar associations and even clients have little to no influence over. After all, generative AI models produce attractive, highly confident, plausible legal arguments, and self-represented parties aren't trained to spot errors like attorneys are.

But, as the Bloomberg Law data reveals, that presumption would be wrong. Alarming, it turns out that attorneys are not much more careful than their pro se counterparts when inserting AI-generated output in their legal filings. Through Q3 2025, pro se parties have been responsible for 139 acts of AI misuse this year, compared with 106 instances in which attorneys were sanctioned, admonished, or otherwise called out by courts for AI slop in their legal briefs and other papers.



The problem of hallucinations isn't going away. In a September paper, OpenAI researchers acknowledged that "hallucinations continue to plague the field and are still present in the latest models."

As reported violations accelerate, transgressing litigators should get ready for harsher punishments. After all, the total number of available or reported cases involving AI misuse acknowledged by judges might be a tiny fraction of legal cases in which AI hallucinations go undiscovered, suggesting that the exponential growth of known misuse—by both attorneys and pro se litigants—is only the tip of the iceberg.

Bloomberg Law subscribers can find related content in our In Focus: Artificial Intelligence resource.

US courts set to run out of money, begin furloughs as shutdown lingers

 [reuters.com/legal/government/us-courts-set-run-out-money-begin-furloughs-shutdown-lingers-2025-10-17](https://www.reuters.com/legal/government/us-courts-set-run-out-money-begin-furloughs-shutdown-lingers-2025-10-17)

Nate Raymond

October 17, 2025

The United States Supreme Court is seen in Washington, U.S., March 27, 2023.

REUTERS/Evelyn Hockstein [Purchase Licensing Rights, opens new tab](#)

- Federal judiciary to begin furloughs Monday
- Civil litigation delays mount, but Trump-related cases proceed
- Funding shortfall hits judiciary harder than during last government shutdown

Oct 17 (Reuters) - The U.S. federal court system starting on Monday will begin curtailing non-essential functions and furloughing some employees after exhausting what funds the judiciary had left to sustain paid operations during the U.S. government shutdown.

The announcement, detailed in a [Thursday internal memo, opens new tab](#) reviewed by Reuters, means the federal judiciary will for the first time in nearly three decades be forced to send some of its over 30,000 employees home and require others to work without a paycheck after Congress failed to pass legislation keeping the courts and the rest of the government funded.

The shutdown has already caused widespread delays in civil lawsuits involving federal agencies, as many of their employees have been furloughed. However, judges overseeing numerous legal challenges to Republican President Donald Trump's policies have frequently denied government requests to pause those cases.

Unlike executive branch agencies operating under Trump's purview, the judiciary had after the government shutdown that began on October 1 been able to sustain its paid operations for a few weeks by using fees and other funds not dependent on Congress authorizing new spending.

But tight budgets in recent years meant the judiciary entered the shutdown with less cash available than it had during a 2019 shutdown in Trump's first term in office, during which the courts sustained paid operations for the full five weeks. Funding was, as a result, projected to be [exhausted on Friday](#).

Courts will remain open, and judges and Supreme Court justices will still get paid, thanks to a bar in the U.S. Constitution against a diminution in their pay. Officials in various district courts said they had been informed they could continue paying jurors, at least for now.

JUDICIARY TO START SENDING FURLOUGH NOTICES MONDAY

But Judge Robert Conrad, the director of the Administrative Office of the U.S. Courts, in Thursday's memo told judges and others that the courts had done what they could to maintain operations by deferring planned spending and would enter into a new phase of the shutdown starting at midnight on Monday.

Furlough notices will be distributed that morning, and "orderly shutdown activities will commence," Conrad wrote.

The last time such furloughs occurred within the judiciary was during government shutdowns that occurred during Democratic President Bill Clinton's tenure in 1995 to 1996.

The U.S. Supreme Court will keep hearing arguments and issuing rulings during the shutdown. But while its building will remain open for official business, it will be closed to the public until further notice, Supreme Court spokesperson Patricia McCabe said in a statement.

Exactly how many judicial employees will be furloughed is not clear. Officials in various trial courts said most if not all of their staff would be deemed exempt under the Antideficiency Act as they provide essential services that help them fulfill their core duties under the Constitution of resolving cases and facilitating criminal defendants' right to a speedy trial.

But probation officers, judicial clerks and administrative staff still on the job are set to receive their last paychecks on October 24, a possibility that "is extremely stressful to our employees," said Chief U.S. District Judge Randy Crane of the Southern District of Texas, which covers Houston.

Chief U.S. District Judge Virginia Kendall of the Chicago-based Northern District of Illinois in a statement said she was "concerned that the lack of appropriation will create delays in the court's ability to ensure timely justice."

Federal public defenders, who represent indigent defendants who have a right to a lawyer, working in offices that are part of the judiciary likewise will not get paid, nor will private lawyers who do the same under the Criminal Justice Act.

Those private lawyers' pay has already been delayed since July after funding for them ran out, a development the courts [deem a "crisis."](#)

Reporting by Nate Raymond in Boston, Editing by Alexia Garamfalvi and Alistair Bell

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Oct. 20, 2025, 2:00 AM PDT

"The bar has risen a little bit about what they think is worth pursuing," he said.

An SEC spokesperson said in an email that the agency is unable to comment due to a lapse in appropriations during the government shutdown.

'Bread-and-Butter' Fraud

The SEC brought at least 91 new enforcement suits from Inauguration Day through the end of September, down from 126 actions filed during the same period in 2024, according to Bloomberg Law's review of agency litigation releases and filings.

The overall drop comes as Atkins' enforcers focus more on individual offenders than household name companies.

"The types of entities that have been under scrutiny in the Atkins administration have been SEC registrants, registered investment advisers, and broker-dealers," said Haima Marlier, a partner at Morrison & Foerster LLP and former senior trial counsel at the SEC.

Nearly 33% of enforcement actions brought under this administration so far have focused on offering fraud or insider trading, up from 26% during the same period last year.

"People perceive the Gensler administration as having gone into a lot of areas that were not real fraud, like the off-channel communications cases that were a huge dollar generator," Peavler said, referring to a crackdown on Wall Street's use of unofficial communications tools such as WhatsApp.

"If you look back at the cases brought over this fiscal year, there are cases that involve digital assets, but they also involve that bread-and-butter fraud, which often leads to the agency not needing to make a determination as to whether the asset itself is a security," Marlier said.

The lawsuits in recent months are landing as the agency's ranks of enforcement attorneys experience significant attrition. The SEC is one of many federal agencies that slashed headcounts by offering buyouts and voluntary separation options to career enforcers.

"We are going to learn a lot more in the next six months than we did in the last, and that's because they now have a permanent director of enforcement," Peavler said, referring to the SEC's new enforcement chief, Meg Ryan. "Once you've cleared those initial growing pains, the fork in the road memo, and a wild card with the government shutdown, I do think we will have a better sense."

Keeping Up Compliance

The SEC's appetite for going after individual alleged fraudsters and clear instances of perceived wrongdoing doesn't mean powerhouse public companies should relax their compliance programs.

“There’s a premature assumption that clients aren’t focused on compliance, but they have to be, because it’s not just the SEC,” Marlier said. “Public companies are also still laser focused on compliance because there are powerful state regulators that can launch investigations that are just as similar and intrusive and expensive as the SEC investigations.”

There’s also private litigation. High-dollar securities class action suits boomed in the first half of 2025, with emerging technologies such as artificial intelligence and volatile markets fueling a surge of new cases.

But an SEC shift making it easier for companies going public to force securities fraud claims into arbitration—which Atkins touted as “eliminating compliance requirements that yield no meaningful investor protections”—poses a threat to class actions as a venue for many securities claims that the regulator has shied away from pursuing itself.

The SEC is poised to boost the volume of new cases now that Atkins has tapped Ryan, a former military judge, attorney, and Supreme Court clerk, as enforcement director. But it remains to be seen how much the enforcement unit can make up for this year’s downturn.

“New administrations lead to those kinds of changes,” Peavler said. “I went through four of them when I was at the SEC, and every time you’d have this period of transition where enforcement numbers dropped.”

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Securities

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Opinion

Matt Levine's Money Stuff: Banks Misplaced Some Mortgages

Oct. 20, 2025, 10:52AM PDT

Cockroaches

One fraud you might try is:

1. Find a house that costs \$1 million.
2. Go to a bank and ask to borrow \$800,000 to buy the house.
3. The bank gives you a mortgage loan, you put in \$200,000 of your own money, and you buy the house for \$1 million.
4. List the house for sale for \$900,000.
5. Quickly find a buyer (because you are selling the house at a discount).
6. Say to the buyer "I want an all-cash deal."
7. "No problem," says the buyer, "I have no mortgage contingency and can close quickly."
8. "No I mean I need a lot of \$20 bills in sacks."
9. "Uh okay I guess," says the buyer, and hands you cash in sacks.
10. You hand the buyer the keys. "Pleasure doing business with you!"
11. You don't pay back the bank and skip town with your \$900,000, for a \$700,000 profit.

I am sure that someone has done this successfully at some point in human history! It is quite hard to do in the United States in 2025. Most of the apparatus of modern US real estate is about preventing this. When you buy a house, there is a closing, a ceremonial occasion whose purpose is (1) to make sure that the seller's mortgage gets paid off before the seller sees a dime and (2) to assure the buyer that she *actually owns the house*. Claims on the house – like a mortgage – are publicly recorded, so the buyer (and her lawyer) can see that there's a mortgage on the house that needs to be paid back. But I suppose there are people out there who (1) have \$900,000 in cash and (2) don't know about real estate closings. Maybe you could get them to give you sacks of cash for the keys, and then skip town. It does not seem especially worth trying.

What about doing it at one remove:

1. Find a house that costs \$1 million, and someone who has \$200,000 and wants to buy it.
2. Lend the buyer \$800,000 against the house, which he buys for \$1 million, giving you a mortgage on the house.
3. Go to a bank and say "hi I am in the real estate lending business, I've got this mortgage here, would you lend me some money against it?"
4. "Sure," says the bank, and gives you \$500,000, secured by your mortgage.
5. Go back to the homeowner and say "hey I'll buy that house back for \$1.05 million."
6. "Sure I guess," says the homeowner, who is perhaps your buddy and was always planning to sell you the house.
7. You give him \$1.05 million, he repays your \$800,000 mortgage and keeps \$250,000 (a \$50,000 profit, given that he put up \$200,000 in Step 2).
8. Now you own the house. You are out, net, \$550,000 of cash (you made a mortgage in Step 2 that was repaid in Step 7; you paid \$1.05 million in Step 7; you got \$500,000 from the bank in Step 4).
9. Find someone to buy the house for \$900,000. This is easy: You're selling the house at a discount, and there's no mortgage on the house (it was repaid in Step 7), so there are no liens and no reason for the buyer to be suspicious.
10. Now you are up \$350,000 in cash (\$900,000 from Step 9 minus \$550,000 from Step 8), though you owe the bank \$500,000, so this is not a good trade.
11. Unless you skip town!

You can find variations. (In Step 5, instead of you buying the house, perhaps the homeowner can sell it to someone else and pay off your mortgage. Or perhaps you can sell the mortgage loan itself to another investor.) You have borrowed money from the bank, secured by *your loan secured by the house*, and then you get your loan paid back (or sell it) without paying back the bank.

The insight here is that there is a really well-oiled process for *liens on houses*, and if you try to sell a house without paying off your mortgage someone will probably stop you. But is the second-order process – for *liens on mortgages* – as well-oiled? If you try to pay off a real-estate lender without paying off the bank that financed the real-estate lender, will anybody stop you?

I confess that this is not a question I have generally thought much about. I suppose I would have guessed "yes, of course, the real-estate lender is a company that makes lots of loans and has some big credit facility with a bank, the bank probably keeps track of this stuff pretty carefully, it files all the right financing statements in all the right places, probably there is some mechanism to make sure the money goes where it is supposed to." I am not sure what I thought the mechanism was but, you know, surely this comes up a lot, surely they've got it figured out.

But we [talked last month](#) about alleged double-pledging of collateral in connection with the failures of Tricolor Holdings and First Brands Group Holdings, two car-related companies that might have sold, not *cars* or *car parts* but rather *amounts owed on cars and car parts*, more than once. I wrote:

The point is that it is hard to sell the same physical product more than once, but it is easier to sell the same abstract financial product (like a loan) more than once, and in a world where products are normally sold on credit, you can kind of sell anything twice.

Similarly, perhaps, it is hard to sell a house without paying off the debt on the house, but perhaps easier to sell the debt on the house without paying off the debt on the debt on the house. Maybe? It goes without saying that everything in this column is extremely far from being legal advice.

[Anyway](#) :

Shares of Zions Bancorp and Western Alliance Bancorp plunged Thursday after the companies said they were victims of fraud on loans to funds that invest in distressed commercial mortgages. The disclosures sent the KBW Bank Index to its worst day since April's tariff tantrum.

They followed a warning from JPMorgan Chase & Co. CEO Jamie Dimon about "cockroaches" in the credit market during the bank's earnings conference call on Tuesday. He was referring to the implosions of auto lender Tricolor Holdings and car-parts supplier First Brands Group.

Bloomberg's Yizhu Wang has [more on the alleged fraud](#) :

Zions said in a lawsuit that [its subsidiary] California Bank & Trust is owed the money from two investment funds tied to Andrew Stupin and Gerald Marcil, among other parties.

California Bank & Trust provided two revolving credit facilities to the borrowers in 2016 and 2017 totaling more than \$60 million, to finance their purchase of distressed commercial mortgage loans, according to the lawsuit. The terms gave the bank "first-priority, perfected security interest" in all collateral, including each mortgage loan purchased by the investment funds.

But after an investigation, the lender found that many of the notes and underlying properties were transferred to other entities, and that those properties have already been foreclosed on or were about to be, according to the lawsuit.

"My clients vehemently deny all the allegations of wrongdoing," Stupin and Marcil's attorney, Brandon Tran, wrote in an emailed statement. "These claims are unfounded and misrepresent the facts. We are confident that once all the evidence is presented, our clients will be fully vindicated."

And:

Western Alliance also lent money to the same investor group, for them to originate or buy mortgage loans, according to the bank's lawsuit in August. The outstanding balance of that loan is \$98.6 million.

Western Alliance found that the collateral was supposed to be backed by a first-priority lien, but that wasn't the case. It alleged that the borrower created fake title policies by omitting the senior liens.

And [Wang had another story last week](#) about ties between the Cantor investors and a real estate investment firm that got some of the loans at issue here.

Here are the announcements from Zions and Western Alliance. And here are the lawsuits that Zions and Western Alliance brought against the Stupin-and-Marcil investors (who invested through entities called Cantor Group II, IV and V). The allegations are different, but they rhyme. Zions says that the Cantor investors borrowed from CB&T, secured by some mortgages that they had on commercial properties, and then sold those mortgages without telling CB&T that its collateral was gone:

CB&T has determined that, for each of the underlying collateral real properties for the notes pledged—or intended to be pledged—as collateral, CB&T's security interest was not a first-priority lien, as expressly required by the Security Agreements. To the contrary, the deeds of trust in favor of Cantor II or Cantor IV (and, by extension, CB&T through its security interest in all collateral) were reassigned, diverted to other Cantor-affiliated entities, and/or never properly recorded. In numerous cases, the notes have been transferred to other entities, the underlying properties have already been foreclosed upon or are currently the subject of foreclosure proceedings. ...

And: Many of the new senior lienholders who displaced CB&T's security interests were, in fact, entities owned or controlled by the same individuals behind Cantor II, Cantor IV and the guarantors—including Cantor V. In effect, CB&T's losses became Defendants' gains. Acting through a web of affiliated companies, the borrowers and guarantors orchestrated a scheme that enriched themselves while stripping CB&T of its collateral, all while keeping the bank in the dark for years about the true status of its security interests and the absence of any collateral protection for the more than \$60 million plus in credit it had extended.

While Western Alliance says that the Cantor investors doctored title documents to trick Western Alliance into lending money against first-lien mortgages that weren't:

Because a pledged loan is "Eligible" only if WAB's lien on the underlying real property is valid, first-priority, and perfected, Borrower [Cantor] began providing WAB with doctored title policies purporting to show that WAB's lien on the real property underlying certain pledged loans was first priority. ...

On October 15, 2024, Borrower's employee Jaspreet Singh Sethi provided to WAB a purported Stewart Title Guaranty Company Title Policy No. M-2923-14382 dated October 1, 2024 related to Collateral Loan No. 26, which involves property located at 2522 S. Grove Ave., Ontario, CA with property owner Conejo Riverside Group LLC.

The purported title policy shows WAB's lien on the real property underlying the property as first priority. ...

However, a title search run by WAB after entering into the First Amendment to the BLSA shows a deed of trust for Preferred Bank for \$10,400,000 dated July 11, 2017 recorded July 17, 2017 in the first priority position.

The suggestion here is:

1. There is a public record of mortgages, so anyone can search the record and see if there is already a mortgage on a particular property.
2. Therefore it is basically impossible to "double-pledge" a property: If you have already borrowed \$800,000 against your \$1 million property, and you go to another lender to borrow another \$800,000, the second lender will do a title search, see the existing mortgage, and say no.
3. But what if you have a buddy who is a mortgage lender? What if you go to him and ask to borrow another \$800,000 and he says yes? Then you have borrowed \$1.6 million against your \$1 million property.
4. Then your buddy can go to *his* bank and borrow, say, \$500,000, secured by his \$800,000 mortgage on your property.
5. His bank *might not check the title*: The bank might say "hey this is a first-lien mortgage right," and your buddy will be like "oh sure here's the title report," and the bank might not do its own search to check. Why would it? Your buddy has skin in the game; he has incentives to make sure that he has a good lien on the property, so that he can get paid back. Or so the bank thinks.
6. You and your buddy have, between you, extracted \$800,000 from the first lender and \$500,000 from his bank, for a total of \$1.3 million against your \$1 million house.
7. You skip town together.

It's hard to double-pledge a *commercial property*, but it's easier to double-pledge a *commercial property loan*.

TACO trade

A framework that I [think about](#) a lot is Nick Whitaker and Zachary Mazlish's 2024 essay "Why prediction markets aren't popular." Their answer is that "there is little natural demand for prediction market contracts," because they are "not a natural savings device" and "not a natural gambling device." Traditional financial markets "attract money from pensions, 401(k)s, bank deposits, or brokerage accounts," as well as gamblers "who enter markets for thrills," but prediction markets are not a way to build wealth and not a fun gamble. Traditional markets have a lot of investors who are "not attempting to beat the market by correcting pricing errors," so if you *are* attempting to do that, you will be able to make much money trading against them. Prediction markets lack that supply of price-insensitive investors, so there is not much reward for correcting prices.

If prediction markets are going to be big and influential, they have to solve this problem, by becoming fun gambling markets or by becoming useful savings vehicles or both. The obvious obvious obvious obvious solution is of course to become fun gambling markets: The structure of a prediction market is "you can buy contracts that pay out if your predictions about real-world events come true," football games are real-world events, and betting on football games is fun. Problem solved. We [talk about this all the time](#) : For some bizarre and accidental combination of reasons, prediction markets have become the legally favored way to do sports gambling in the US, and they have jumped enthusiastically into that business.

What about savings? The reason that people put their 401(k)s in stock market index funds is that *stocks generally go up*. A share of stock represents partial ownership of the future profits of a company; an index fund represents partial ownership of the future profits of all the companies; the economy generally grows over time, so the profits of all the companies should grow over time too. So just lazily putting your money into the stock market should get you a nice return (the “equity risk premium”), so people do that, which means that other people can make a living by making stock prices more correct.

Is there any analogue in prediction markets? No? The stock market is broadly positive-sum, as stocks mostly go up with economic growth, but prediction markets are obviously and necessarily zero-sum: Every dollar I make comes at your expense, so there is no way for all the investors to put billions of dollars to work in prediction markets and all earn a positive return. There is no equivalent of the equity risk premium in prediction markets, no equivalent of index funds, no simple trade that everyone should do with positive expected value for all of them.

Although my Bloomberg Opinion colleagues Carolyn Silverman and Tim O'Brien [found something pretty close](#) :

We examined over 300 markets on Polymarket pertaining to actions directly initiated by Trump this year, between Inauguration Day and Sept. 30th. That analysis included everything from tariffs to whether he’d fire a Cabinet official to what executive orders he’d sign. Bettors even wagered on his golf game and the duration of Elon Musk’s White House tenure. On the day each market opened, bettors assigned an average probability of 34% to those events occurring within a specified timeframe. But only 28% actually happened.

While a sophisticated forecaster could have devised a complex betting scheme to exploit this miscalibration, a simple rule would’ve also made you money: Always bet “no.” Betting against Trump taking any action would’ve translated to a 12% return – similar to the S&P 500 index’s gain over the same period. Consistently betting “yes” would have cost you 20% of your money. (We aren’t offering investment advice; we’re just sharing the data.)

Ahahahahaha. There is an intuition for this, isn’t there? Like:

1. The a priori probability of President Donald Trump doing any arbitrary insane thing is, like, 20%.
2. If you are logging on to Polymarket to bet on Donald Trump doing any particular insane thing, it’s because you have some idiosyncratic reason to think he *will* do it: You want him to do it, or you are hedging some bad consequence to you of him doing it, or you have an inside tip from someone in his administration that he’ll do it, or he publicly announced that he’ll do it.
3. Therefore the contracts are systematically priced too high: Everyone is coming to Polymarket to bet on their pet insane things happening, but he’s only got so many hours in the day so only so many insane things will actually happen.
4. Therefore if you systematically fade everything you can reliably make money.

It is not quite index funds: It's still zero-sum, it wouldn't work if everybody did it, and it is not exactly an investment in the long-term growth of the US economy. And yet somehow it feels like a ... sensible medium-term macroeconomic bet? "Everything will be crazy for the next four years, but each particular thing will be slightly less crazy than it looks at first"? Apparently you can make a steady index-fund-like return from that bet.

Elsewhere !

CME Group Inc. is planning to debut financial contracts tied to both sports games and economic indicators by the end of the year, according to people familiar with the matter.

The products would bring the Chicago-based CME into more direct competition with Kalshi and Polymarket, the two platforms for so-called prediction markets that have been making rapid moves into the financial mainstream with the support of Donald Trump Jr., who is an adviser to both companies.

CME is preparing to release its new contracts to the public through futures commission merchants, including the one it is setting up with FanDuel, a part of Flutter Entertainment. But CME could also offer them on other similar platforms, opening it up to traditional retail investing brokerages, according to the people, who declined to be identified because the plans are still private.

Sure!

Hedge fund AI

I guess my thesis would be that, 10 years ago, if you were an optimist about the capabilities of artificial intelligence, there were a few broad categories of stuff that you might be working on:

1. Natural language stuff: Responding to customer service queries, translating from one language to another, etc.
2. Visual stuff: Identifying traffic lights in photographs, etc.
3. Ad stuff: Using data to predict what advertisements to serve with what websites, and how much to charge for them.
4. Financial stuff: Using data to predict what stocks will go up.
5. Astrophysics stuff: Finding black holes or something, I don't know, but the link between astrophysics and all sorts of data techniques seems weirdly robust.

These are all broadly *similar* endeavors. With each of them, you can take some training data (text, pictures, market states), mask something (the next word, the next pixel, the price of the stock the next day), and train the model to predict the masked data point. Do that a bajillion times and the model might get really good and able to do it out of sample.

And so, as the capabilities of AI really did advance, people moved back and forth among these endeavors. Renaissance Technologies is a hedge fund that broadly seems to use AI to predict stock prices; many of its leaders came from the world of computational linguistics. DeepSeek is an important builder of AI chat models; *its* leader came from a hedge fund. Astrophysicists are everywhere.

But it seems to me that, in 2025, the visual and natural-language people have moved ahead of the financial people. I don't think it was obvious in 2015 that this would be the case – I think that in 2015 it might have looked like the practical thing to do with AI skills was going to a hedge fund – but now several generative AI labs have come out of nowhere to achieve huge valuations and everyone who works on a chatbot is a millionaire. They have made popular consumer products and upended businesses and deployed vast resources and turned their leaders into celebrities. They have published papers and open-sourced some of their work. There are lots of chatbots available for \$20 a month that will converse with you in natural language, produce well-researched reports for you, and draw you anything you want in the style of anyone you want. There is not a \$20 model that tells you what stocks will go up.

And so we are in a slightly odd world where people ask the chatbot models what stocks will go up. I once wrote that this approach – using a general-purpose natural-language chatbot to predict stock prices – seems “sort of insane and wasteful and indirect”:

Yet also funny and charming? It is an approach to solving the problem by first solving a much harder and more general problem: Instead of “go through a ton of data to see what signals predict whether a stock goes up,” it’s “construct a robot that convincingly mimics human consciousness, and then train that robot to mimic the consciousness of a particular human who is good at picking stocks, and then give the robot some basic data about a stock, and then ask the robot to predict whether the human would predict that the stock will go up.”

There are versions of this for retail investors: Your retail brokerage might have a chatbot that gives you portfolio advice, or you might just ask ChatGPT yourself. But meanwhile all the big banks and hedge funds are also experimenting with generative AI, not so much in the sense of “we trained a neural net to find what stocks will go up” but rather in the sense of “we got a ChatGPT license for everyone so they can ask it for research summaries and help with Python.” Bloomberg’s Hema Parmar reports :

When Viking Global Investors rolled out its latest in-house artificial intelligence chatbot, traders and dealmakers wasted no time putting it to work.

Teams across the \$53 billion firm sent three questions per working minute to “VikingGPT 2.0” in August – a 400% jump over the same period last year. The proprietary generative AI model is shouldering grunt work, helping staff bat around trade ideas and speeding up operations, according to an investor letter seen by Bloomberg. In one instance, Deputy Chief Investment Officer Previn Mankodi used it as a “skeptical avatar” to challenge an investment thesis.

Here’s what it’s not doing: making wagers on its own.

"Lest you worry we are ceding key decisions to the machines – quite the contrary," billionaire co-founder Andreas Halvorsen wrote in the investor letter. "We have observed that the closer you get to needing to make a judgment call, the less useful AI is." ...

The letter sheds light on the ways top money managers are using generative AI, a technology some view as a potential game-changer and others say is overhyped.

[Last] week, Citadel founder Ken Griffin said the technology isn't helping hedge funds create market-beating returns and hasn't yet meaningfully impacted the industry.

Counterpoint: From the outside, it sure seems like AI has helped Renaissance create market-beating returns for many years. But I know what he means. *Asking a chatbot* to pick stocks doesn't work yet.

Everything is seating charts

I guess there are two theories of an investment bank's headquarters. One theory is that it is an enduring monument to the bank and the visionary chief executive officer who commissioned the headquarters. Here's Jamie Dimon on JPMorgan Chase's fancy new Norman Foster headquarters in Manhattan:

"This building is a labor of love," Dimon said, gesturing at the steel structure's dark-bronze facade. "It is an embodiment that represents our company and where our people are going to work."

He knows he's not going to be around the building forever. But the fortress, visible from Brooklyn, Queens and even lower Manhattan, if you look just right, will remain long after he retires.

"We move paper, that's what we do," Dimon said. "We move paper around. This is a permanent thing."

The other theory is that it is a building with desks and computers where the bankers sit and move the paper. Of course both theories are true; the headquarters can both stand as an eternal monument and also have enough desks. But in practice the two theories are in tension:

Some investment bankers are finding that the building's tall floors and large common areas mean their actual working spaces are more cramped than those at the old digs across the street at 383 Madison Avenue, people who work at the bank said.

You can fit more desks if you *don't* have a four-story golden statue of Jamie Dimon in the lobby but what's the fun of that.

Things happen

BDCs , Private Credit's Most Popular Funds, Are Drawing Scrutiny. Sold Out in India, Panic in London: How the Silver Market Broke. AWS Says Cloud Service Has Recovered After Widespread Outage . Basis Trade Helps Mask Who Owns \$1.4 Trillion of Treasuries. US, Argentina Sign \$20 Billion Swap Deal Before Midterm Vote. How China Took Over the World's Rare-Earths Industry. Kering Backs Away From Beauty With \$4.7 Billion L'Oreal Deal. Runaway Insurance Costs Bring Back Talk of Price Caps. ECB faces lawsuit from staff union over 'intimidation' allegations. "If someone wanted to short the AI bubble , what would they sell?" Money, Women and Taxes: Jeffrey Epstein's Fiery Friendship with a Wall Street Titan. How a Handyman's Wife Helped an Hermès Heir Discover He'd Lost \$15 Billion. The Fraudster Behind Steve Ballmer's NBA Nightmare. "Inevitably, the most difficult family member will choose 'family harmony' as their most important value." Brazen Heist at Louvre Museum Snatches Priceless Royal Jewels. James Fishback's ETFs Are Being Liquidated Against His Will.

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1. Here is a Curbed article titled "How's a Crypto Bro Supposed to Get an Apartment Anyway?"
2. A third possibility – also discussed by Whitaker and Mazlish – is that they could be useful *hedging* markets, so that large sophisticated investors will pay effectively insurance premiums to hedge their risks with prediction markets. (So sharp investors can make money by being on the other side of those hedges.) "In principle," say Whitaker and Mazlish, "there is no reason that some prediction markets couldn't serve as tools for hedging. The problem is that where a conventional prediction market might be useful for hedging, the traditional finance system has usually created a better product." If you think that some election outcome will cause losses in some part of your business, you should hedge the losses, not the election outcome.
3. This is perhaps *slightly* too strong. Stock buyers in some loose aggregate sense buy stock from companies, which sell it not as a bet against economic growth but as a low-risk way to raise money to do economic activity. You could imagine a prediction-market world in which some category of issuers systematically sold prediction contracts to raise money, expecting to lose money on the prediction trades in aggregate but to invest the proceeds to generate an economic return that more than makes up for it. I mean. It's not *easy* to imagine or anything.

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Securities

Opinion

Dimon's Cockroaches Keep Appearing: Paul J. Davies

Oct. 17, 2025, 8:58 AM PDT

The cockroach sightings are multiplying. Two regional US banks disclosed credit losses due to fraud on Thursday in a week when investors were already on edge from the twin failures of Tricolor Holdings and First Brands Group, as well as some choice comments from industry leaders about poor lending standards. The seemingly idiosyncratic blowups could be viewed as one-off stories of poor management or bad behavior with little in common. But as accusations of fraud mount among companies that have been exploiting an over-eager supply of debt, the similarities may grow.

This is what has investors spooked. Each fresh case threatens a domino effect of losses knocking into other apparently good loans, through regional and non-bank lenders and into the heart of the financial system, because of the funding interconnections with larger commercial and investment banks.

Also on Thursday Josh Wander, co-founder of Miami-based private asset manager 777 Partners, was charged with a \$500 million fraud against lenders and investors, which he denies. The firm's former chief financial officer is cooperating with prosecutors after pleading guilty.

The plural of anecdote isn't data, as clever people like to say. But eventually it will become so if the horror stories keep coming.

The week started with Jefferies Financial Group trying to arrest its tumbling share price with an open letter that detailed its small immediate exposure to First Brands losses. This was fine as far as it went, but it neglected the potential for pain through litigation, regulatory fines or reputational costs.

Then JPMorgan Chase & Co. confirmed it took a \$170 million hit related to the Tricolor bust, where the bank believes fraud was involved. Chief Executive Officer Jamie Dimon has adopted the role of Wall Street's wary old warrior in recent years, regularly warning about the troubles he's watching even as the bank has turned in strong profits and few unusual losses.

He didn't hold back on Tuesday's earnings call when quizzed about Tricolor and First Brands. "When you see one cockroach, there are probably many more," he said. "Everyone should be forewarned on this one."

Thursday's news from regional lenders Zions Bancorp NA and Western Alliance Bancorp related to the same investment funds, which had levered up to buy distressed commercial mortgage loans. As with Tricolor and First Brands, the people involved deny allegations of fraud. The losses faced by the two banks are far smaller than in the other cases, but size doesn't necessarily matter when you're starting to worry about an infestation. It was enough to send bank stocks sharply lower on the day and spark falls among Europe lenders early Friday, although many names stabilized after US markets opened again. Still it's turning into a rough few weeks for financial company shares.



Few people in business and finance start out planning to commit fraud, often they get a bit stretched, or a bit greedy, or something small goes wrong, and they use a little lie to bridge a gap. These balance-sheet holes then tend to grow and ultimately turn into a yawning abyss. The financial environment right now will make more people susceptible to bad behavior. This year has brought waves of volatility and uneasy rallies in many markets against a backdrop of extended uncertainty about where inflation and interest rates will go next. Clarity can't emerge when no one is sure what economic or political rivalries the US will target next with its tariffs.

Conditions wouldn't be quite so dangerous if the world hadn't just come through an asset price boom built on floods of public money, deployed to combat the economic pain of the Covid-19 pandemic. A plentiful supply of credit has left some investors and businesses overstretched and vulnerable to small mistakes or minor shocks. But many will hope to escape these incidents quickly, because over the course of the previous decade, everyone became used to central banks bailing out markets with injections of money to damp every major wobble.

As tensions mounted this week, private credit got a lot of negative attention. Dimon, for instance, raised concerns about the underwriting chops of some players, causing executives from big fund managers such as Blue Owl Capital Inc. to throw aspersions back in the banks' direction.

What really matters most is the risk of contagion between these sides. The big potential channel for this is lending to non-banks, which has boomed in recent years, mainly because it is among the most capital-efficient ways for big banks to do any lending at all. This covers a wide range of borrowers, many of whom aren't at all close to the racy end of things.

Loans to private credit fund managers (and their listed peers known as Business Development Companies) are fairly small, according to analysts at JPMorgan. They amount to less than \$100 billion of exposure out of more than \$1 trillion of total funding for non-banks at the end of 2024.

That doesn't mean there's nothing to worry about, according to Kian Abouhossein, an investment banks analyst at JPMorgan. Lending to non-banks has seen extremely rapid growth, which can often mean poor lending standards. More importantly, these institutions have less oversight and thus have more opportunity for regulatory arbitrage. "We witnessed similar risk with First Republic and Silicon Valley Bank, which went undetected due to poor regulatory oversight and arbitrage [in 2023]," Abouhossein wrote this week.

There's a lack of transparency between lenders, investors and depositors, too. That can add to the confusion and fear as things start to go wrong — as I wrote this time last year — even if the worst excesses are themselves relatively small.

Some of these troubles are new and to do with changes to the structure of the financial system since the global financial crisis. But some are as old as finance itself. Walter Bagehot, the Victorian economist, noted in the 1870s how every crisis exposed excessive speculations that no one had previously suspected. "The good times, too, of high price almost always engender much fraud," he wrote. "There is a happy opportunity for ingenious mendacity."

None of these cases is a proven fraud, yet. But the signs of an infestation are troubling indeed.

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US banks**JPMorgan warns First Brands fallout driving up banks' funding costs**

Concerns mount about hidden exposure to private capital firms and hedge funds in wake of credit market wobbles



Investors are worried about the lack of transparency from banks around lending to non-depository financial institutions, JPMorgan analysts say © Michael Nagle/Bloomberg

Ortenca Aliaj and **Robert Smith** in London

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JPMorgan Chase has said that credit worries from the First Brands and Tricolor bankruptcies have driven up banks' funding costs, with investors concerned about lenders' hidden exposure to private capital firms and hedge funds.

The JPMorgan analysts made Monday's comments about the implied cost of equity after last week's sell-off of bank stocks, which was sparked by disclosures by two US regional lenders that they were exposed to alleged fraud by borrowers.

The high-profile collapses of car parts maker First Brands Group and subprime auto lender Tricolor Holdings within weeks of each other have highlighted the complex and often opaque financial arrangements between banks and "non-depository financial institutions".

JPMorgan said banks' lack of transparency about lending to such so-called NDFIs — a broad category that includes private equity groups, private credit firms and hedge funds — was pushing investors to demand higher compensation for owning their shares.

"The recent global banks sell-off was triggered by poor risk management, in our view, as shown by First Brands supply-chain exposures but more importantly, very poor disclosure in relation to [NDFIs] globally across the banking system," JPMorgan analysts said in a note to investors. The note was titled "NDFI exposure analysis: lack of disclosure drives higher implied [cost of equity]".

Regulators have become increasingly concerned about the interconnectedness of banks and NDFIs. The IMF [earlier this month](#) warned of the need for greater oversight of the sector. US and European banks are estimated to have \$4.5tn of exposure to the wider category of non-bank financial institutions, equal on average to approximately 9 per cent of total loan books.

The collapse of First Brands and Tricolor has shown how banks remain exposed to corporate crashes even when a company's borrowing is largely outside the domain of traditional bank lending.

Tricolor raised money from investors in the asset-backed securities market but also relied on credit lines from banks such as JPMorgan, Fifth Third Bank and Barclays to help it package subprime car loans into bonds. All three banks have taken impairments.

While First Brands primarily relied on private debt markets to borrow money, the asset management arms of investment banks such as Jefferies and UBS built up large exposures to its invoice-linked financing.

Disclosures from US banks "lack granularity" and do not "give an overall picture", the JPMorgan analysts said on Monday. They added that European banks were even more opaque than their US peers, with loans listed under the broad umbrella of financial and insurance activities and no breakdown provided.

European lenders can also book lending to NDFIs in legal entities outside the US, as demonstrated by Credit Suisse, which booked risk associated to collapsed family office Archegos Capital Management in its UK business.

As a result, relying on European banks' disclosures was difficult, JPMorgan said, adding to a valuation gap with their US rivals.

The analysts said they expected European banks to provide more detail on their exposure in their third-quarter earnings, which begin this week, as they sought to narrow the discount.

Despite the increase in the implied cost of equity, JPMorgan estimated that the figure would decline from its current level of approximately 11.5 per cent to 10 per cent over time because of solid fundamentals, and could fall further in the long term.

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Earlier this year, JPMorgan refused to comply with new nonbank lending disclosure requirements [left].

Today, JPMorgan attributed recent turmoil in bank stocks to "very poor" nonbank lending disclosure [right].



JPMorgan Chase has dealt a blow to regulators' efforts to understand the relationship between banks, buyout firms and the fast-growing private credit sector by refusing to disclose its lending in an area of increasing systemic concern.

Banking regulators imposed a deadline of February 4 for lenders to disclose year-end exposure to different types of "non-bank financial institutions on a best-efforts basis". Banks have until after the end of the second quarter to be compliant.

America, Citigroup, Goldman Sachs, Morgan Stanley and Wells Fargo have disclosed breakdowns of their lending, providing a window into the extensive relationships banks' linkages with a growing but still opaque part of the financial system.

JPM's largest bank labelled all \$133bn of its lending to non-banks in its quarterly report filed with the Federal Deposit Insurance Corporation rather than breaking it down by type of borrower. That sum is the total loans of all but a handful of the nation's largest banks.

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October 20, 2025 at 7:48 AM 🌐 Everybody can reply

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4



93



333



JPMorgan Chase has dealt a blow to regulators' efforts to understand the depth of ties between banks, buyout firms and the fast-growing private credit sector, declining to disclose its lending in an area of increasing systemic concern.

US banking regulators imposed a deadline of February 4 for lenders to disclose their year-end exposure to different types of "non-bank financial institutions" on a "best-efforts basis". Banks have until after the end of the second quarter to be fully compliant.

Bank of America, Citigroup, Goldman Sachs, Morgan Stanley and Wells Fargo supplied breakdowns of their lending, providing a window into the extent of mainstream banks' linkages with a growing but still opaque part of the financial system.

But the US's largest bank labelled all \$133bn of its lending to non-banks as "other" in its quarterly report filed with the Federal Deposit Insurance Corporation rather than breaking it down by type of borrower. That sum is more than the total loans of all but a handful of the nation's largest banks.

"The recent global banks sell-off was triggered by poor risk management, in our view, as shown by First Brands supply-chain exposures but more importantly, very poor disclosure in relation to [NDFIs] globally across the banking system," JPMorgan analysts said in a note to investors. The note was titled "NDFI exposure analysis: lack of disclosure drives higher implied [cost of equity]".



Jeremy Kress @jeremykress.bsky.social · 4h

From today's FT:

www.ft.com/content/0fb7...



JPMorgan warns First Brands fallout driving up banks' funding costs

Concerns mount about hidden exposure to private capital firms and hedge funds in wake of credit market wobbles

www.ft.com



Nazish Munch @nazishmunch.bsky.social · 4h

Interesting. Wonder if there will be any consequences for the people calling these decisions.



Outtascope @outtascope.bsky.social · 3h

Good one!



nwcorner65.bsky.social @nwcorner65.bsky.social · 2h

Dimon had the Epstein files.



mims-news.bsky.social @mims-news.bsky.social · 3h

Makes sense to me. . .



Securities

Regional Banks Try to Calm Investors After Jittery Stock Plunge

Oct. 17, 2025, 7:21 AM PDT

US regional bank executives sought to calm shaken investors Friday, after revelations of new loan charge-offs linked to fraud sparked the biggest selloff in six months on Thursday.

"Overall credit quality is strong," Truist Financial Corp. Chief Executive Officer **Bill Rogers** said on a conference call. "We have seen in the market some I would say today sort of idiosyncratic and uncorrelated events," he said, adding that his bank is being "hyper vigilant" about credit risk.



Truist CEO Bill Rogers

Photographer: Dustin Chambers/Bloomberg

Shares of Truist and other regional banks rose after several lenders released third-quarter results that showed fewer provisions for loan losses than analysts had predicted. The collapse last month of subprime auto lender Tricolor Holdings amid allegations of fraud, as well as the bankruptcy of car-parts maker First Brands Group, had sparked speculation that banks would be facing significant loan losses if credit markets were starting to crack.

Adding to the concern Thursday was Zions Bancorp, which sank 13% after it disclosed a \$50 million charge-off for a loan underwritten by its wholly-owned subsidiary, California Bank & Trust, in San Diego. And Western Alliance Bancorp tumbled almost 11% after it said it made loans to the same borrowers.

Read More: Banks' Trio of Alleged Frauds Sparks Fear of Broader Issues

But new quarterly results released Friday helped ease those concerns. Fifth Third Bancorp, which had previously disclosed that it had exposure to Tricolor, said its provision for credit losses – or the amount of money put aside to cover loans that may be deemed uncollectable — was \$197 million, compared with analysts' estimates of \$239 million.

Referring to the Tricolor exposure, Fifth Third's chief credit officer, **Greg Schroeck**, said the issue "has received significant scrutiny as part of our comprehensive review of the portfolio," adding that, "given that comprehensive review, we feel very confident in the quality of the remaining clients in that category."



Tim Spence, Fifth Third's CEO, said the bank "did have a relationship historically with First Brands, but we exited it a handful of years ago because of some issues that were identified during the collateral reviews we were doing."

Fifth Third shares rose 2.4% at 10:18 a.m. in New York, while the KBW Bank Index was up 0.5%.

Truist's third-quarter provision for credit losses was \$436 million, down 2.7% from a year earlier and below expectations for \$484.9 million. Net charge-offs were \$385 million, well below analysts' estimate of \$450.6 million.

The Charlotte, North Carolina-based bank had no exposure to Tricolor Holdings, but said it did have some exposure to First Brands. Its shares rose 4%.

Ally, Regions

Auto lender Ally Financial Inc. also reported results Friday and, given the high-profile bankruptcy of Tricolor last month, there had been a particular focus on how it fared. Its loan-loss provision was \$415 million, less than analysts' expectations for \$455 million. Shares of Ally advanced 2.8%.

Regions Financial Corp. also reported smaller provisions than expected, but its shares declined after net interest income fell short of estimates.

At Columbus, Ohio-based Huntington Bancshares Inc., net charge-offs were \$75 million, down 19% from a year earlier and below the \$87.4 million estimate. But the firm's provision for credit losses was \$122 million, up 15% and above the \$106 million estimate. The shares rose 1.2%.

--With assistance from **Phil Kuntz**.

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B&M European Value Retail SA**B&M shares sink as finance chief quits after accounting error**

Failure to 'correctly recognise' £7mn freight costs triggers latest profit warning for UK discount retailer



B&M's shares fell by more than 20% on Monday. The stock has tumbled just over 50% this year © Reuters

Philip Georgiadis, Sam Chambers and Stephanie Stacey in London

Published YESTERDAY | Updated 06:10



The chief financial officer of B&M has stepped down after the discount retailer was forced to cut its profit forecast following an accounting error, sending its shares tumbling to an all-time low.

The London-listed company on Monday said about £7mn of freight costs had not been “correctly recognised” following an update to its operating systems earlier this year.

As a result, B&M is now projecting narrower margins and cut its guidance for adjusted earnings before interest, tax, depreciation and amortisation in the 2026 financial year to between £470mn and £520mn, down from an earlier estimate of £510mn to £560mn.

The retailer announced that chief financial officer Mike Schmidt had decided to step down, but would remain in place while the company searched for a successor.

The profit warning, the latest in a series over the past year, sent B&M's shares down by more than 20 per cent on Monday. The stock has tumbled just over 50 per cent this year, valuing the company at about £1.7bn.

The surprise announcement deepens the problems at a business that was until a few years ago regarded as one of the standout successes on the high street. It comes just two weeks after B&M issued its last profit warning and launched a "decisive" turnaround plan that will include reducing prices and cutting its product range.

Analysts at Shore Capital described the update as "very disappointing" and said it raises concerns that B&M is "less on top of its costs numbers than we would expect" and "running at a lower gross margin than we thought".

B&M said in Monday's statement that while the underlying system issue had been resolved, its board "intends to commission a comprehensive third-party review of this matter".

The retailer imports vast quantities of merchandise from Asia, spanning everything from toys to kitchen appliances and garden furniture.

Bargain Basement?

Share price, pence



Source: LSEG via markets.ft.com

It was initially a beneficiary of the Covid-19 pandemic after being allowed to keep its stores open during lockdowns. But the subsequent surge in inflation drove up its costs and squeezed the spending power of its consumers.

Simon Arora, B&M's former chief executive who had led a long period of successful expansion, left the business in 2022.

The retailer has struggled to respond to sharp competition from other discounters, including Home Bargains, as well as supermarkets.

Schmidt was appointed as the company's finance chief in October 2022, having previously held the same role at furniture retailer DFS, a much smaller business.

Monique Pollard, an analyst at Citi, said investors were "already sceptical" of B&M's previous guidance before Monday's announcement.

Schmidt's departure extends a period of management turbulence for B&M. The retailer, which dropped out of the FTSE 100 last December, announced the departure of chief executive Alex Russo in February, alongside a cut to its profit guidance for its previous financial year.

Schmidt served as interim chief executive until the appointment of Tjeerd Jegen as Russo's permanent replacement in May.

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Securities

Impairment Testing Tops Problems in UK Audits, Watchdog Finds

Oct. 17, 2025, 11:39 AM PDT

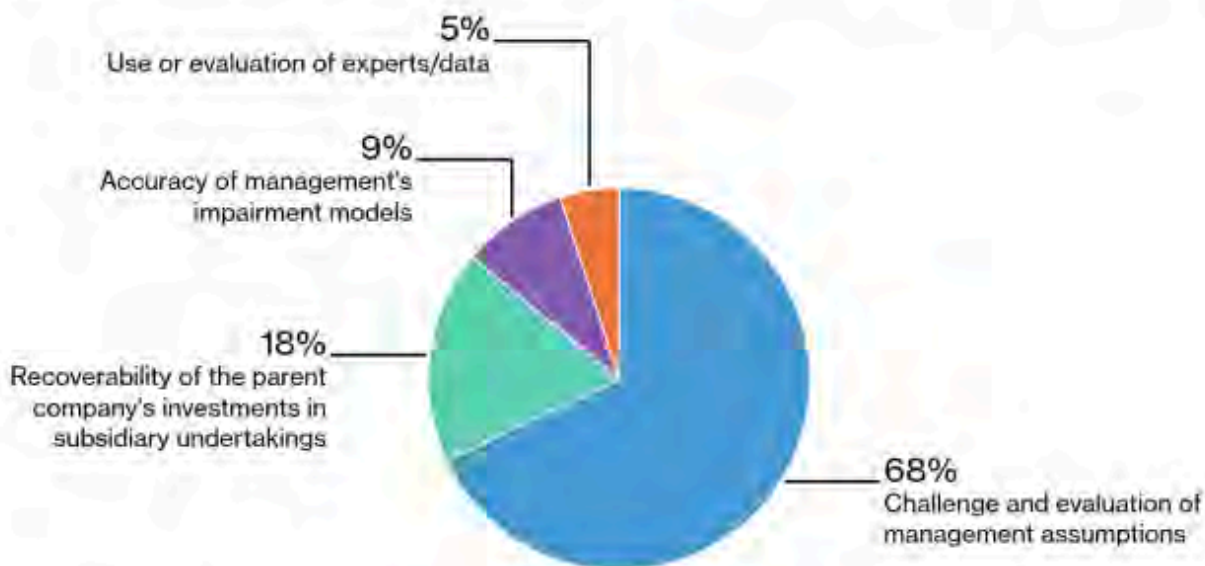
The biggest problem with UK audits is over checking how companies have written down the value of long-term assets such as investments and intangibles, the country's accounting watchdog said.

A review of audit inspection results at the 12 largest UK firms in fiscal years 2024 and 2025 found that the most common flaws uncovered were over impairment of non-current assets, the Financial Reporting Council said. Provisioning was the second most prevalent problem area, including provisioning against banks' expected credit losses.

The FRC's executive director of supervision, Anthony Barrett, said in a statement that the report was designed to help companies maintain audit quality. It is "vital" that the council's regulation "continues to underpin the importance of audit quality without creating disproportionate barriers," he said.

Auditors Fail to Challenge Management on 'Impairments'

UK regulator dings auditors for inadequate tests of assets that lost value



Source: Financial Reporting Council review of 2023-24 and 2024-25 inspections

Note: figures represent share of findings

Bloomberg Tax

Under impairment testing, the value of an asset or an acquisition is evaluated each year. The regulator found problems with auditors' impairment testing in more than a quarter of inspections.

International accounting rules used in the UK also require banks to estimate future credit losses, with problems found at close to 15% of the audits.

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<https://bsky.app/profile/annmlipton.bsky.social/post/3m3ldkbo5m221>



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Also if Musk is doing this it needs to be filed as a proxy solicitation with the SEC

Sleepin Dogo @sleepindogo.bsky.social · 1d

Nothing to see here, but Musk and his bot army trying to stack the Tesla shareholder vote...

\$TSLA \$TSLAQ



October 19, 2025 at 3:20 PM Everybody can reply

8 reposts 45 likes





Ann Monster Lipton @annmlipton.bsky.social · 20h

what i find fascinating is that musk feels this is necessary

he can't seriously think there's a chance he'll fail to get a majority (he personally has somewhere between 16 and 19%! and his brother has stock too!). Maybe he worries about the optics of merely ekeing out a win?



Sleepin Dogo @sleepindogo.bsky.social · 1d

Nothing to see here, but Musk and his bot army trying to stack the Tesla shareholder vote...



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Speaking of Tesla proxies, this is gold...

[bsky.app/profile/slee...](https://bsky.app/profile/sleepindogo.bsky.social)



Sleepin Dogo @sleepindogo.bsky.social · 13d

One of the funnier things I have ever read...

From the Tesla Shareholder 14A

"The Special Committee's Thoughtful, Rigorous and Disinterested Process"

Note also, the non-existent products....

\$TSLA \$TSLAQ



akatzel.bsky.social @akatzel.bsky.social · 19h

Which would be important if he hadn't used his wealth and influence to get the president elected - so he could ignore the SEC.

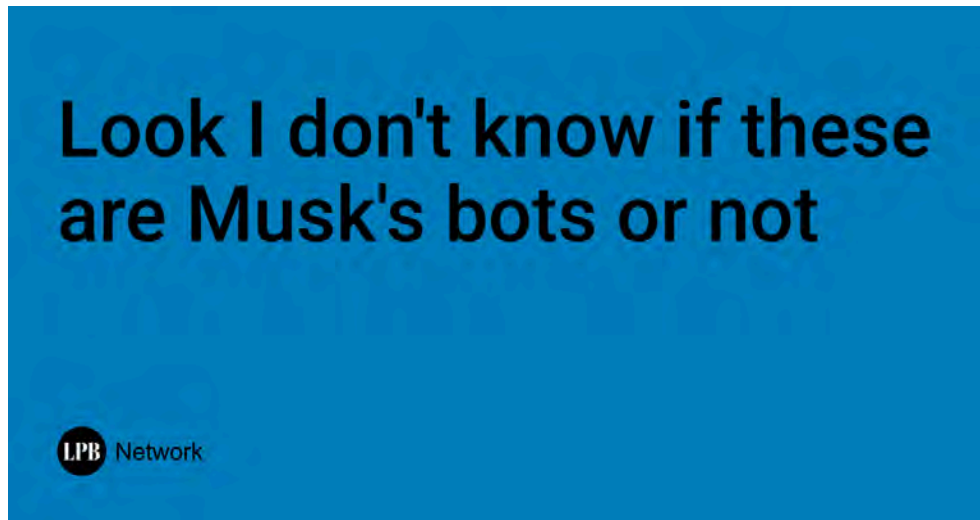


Look I don't know if these are Musk's bots or not

 [businesslawprofessors.com/2025/10/look-i-dont-know-if-these-are-musks-bots-or-not](https://www.businesslawprofessors.com/2025/10/look-i-dont-know-if-these-are-musks-bots-or-not)

Ann Lipton

October 19, 2025



By [Ann Lipton](#) on October 19, 2025

But if he's behind this campaign, [he needs to file on Schedule 14A](#).

(and if it's a Tesla shareholder with a \$5 million stake, [they need to file with the SEC as well](#))

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[Ann Lipton](#)

Ann M. Lipton is a Professor of Law and Laurence W. DeMuth Chair of Business Law at the University of Colorado Law School. An experienced securities and corporate litigator who has handled class actions involving some of the world's largest companies, she joined...

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Securities

Tesla Shareholders Should Reject Musk Pay Plan, ISS Advises (2)

Oct. 17, 2025, 12:51 PM PDT

Tesla Inc. shareholders are being urged by proxy adviser Institutional Shareholder Services to vote against Chief Executive Officer Elon Musk's \$1 trillion compensation plan, adding a potential obstacle as the board works to rally investor support.

This marks the second year in a row that ISS urged shareholders to vote against a pay package for Musk.

Musk oversees an overlapping empire of five companies: Tesla, SpaceX, xAI, Neuralink and the Boring Company.

"Although one of the main reasons for this award is to retain Musk and keep his time and attention on Tesla instead of his other business ventures, there are no explicit requirements to ensure that this will be the case," ISS wrote in the report, which was part of broader voting guidance it issued Friday. The proxy firm cited "unmitigated concerns" with the plan's magnitude and design.

Tesla pushed back in a post on X that urged shareholders to vote in line with the company's recommendations.

"ISS once again completely misses fundamental points of investing and governance," the automaker said.

"It's easy for ISS to tell others how to vote when they have nothing on the line."

In September, Tesla's board proposed the long-awaited and unprecedented compensation package, designed to incentivize Musk to remain engaged with Tesla over the next decade. To unlock the full payout and additional voting control, Musk will need to reach a number of ambitious goals, including growing the company's market value to at least \$8.5 trillion and expanding its car, robotics and robotaxi businesses.

The additional shares Musk could receive would push his holdings in the electric-vehicle maker to at least 25%, according to the terms detailed in a proxy filing.

Musk has threatened to build products outside of Tesla if he can't increase his equity holdings in the company, a key element of the latest compensation plan. While he remains Tesla's largest shareholder, he sold a significant portion of his stock to fund his acquisition of Twitter. The social-media platform, which he renamed X, was acquired by Musk's xAI earlier this year.

Shareholders will vote on the package at Tesla's annual shareholders meeting, set for Nov. 6.

ISS and other proxy firms often have sway over shareholders, and particularly large institutions that hold stock in passive funds. But ISS and fellow proxy firm Glass Lewis both recommended shareholders reject Musk's 2018 pay deal, and about three-quarters of investors still supported the package.

In 2024, a Delaware judge struck down that plan after finding Musk had undue influence over the process and the board had conflicts of interest. Musk later cited the pay dispute as part of the reason why Tesla shifted its corporate home to Texas from Delaware.

The pay package, which fluctuates in value based on the stock price and is currently worth more than \$100 billion, was put to an advisory vote last year. Investors, who ultimately approved the measure, were asked to vote on the matter a second time at Tesla's annual shareholders meeting to demonstrate their backing for the plan.

Tesla's board granted Musk an interim award in August valued at about \$30 billion designed to partially replace the payment. The award would be forfeited in the event that Musk's original pay package is reinstated.

Musk and Tesla resumed their legal fight to appeal the ruling, this time before the Delaware Supreme Court on Oct. 15.

Tesla's board chair **Robyn Denholm** insisted no one but Musk can run the company in a September interview with Bloomberg.

ISS recommended against awarding Musk backpay he would have gotten under the 2018 plan.

The group also urged shareholders to reject a proposal for Tesla to invest in Musk's artificial intelligence company, xAI. Musk previously discussed the idea on an earnings call and in social media posts.

"This is a highly unusual proposal both in terms of the request itself and the way it came to be on the ballot (after CEO Musk reportedly encouraged shareholders to submit proposals on this topic)," ISS wrote.

After ISS issued its recommendations Friday, Tesla promoted a video on X aimed at rallying shareholder support for the pay proposal.

(Adds Tesla's response on social media starting in fifth paragraph.)

Securities

Manage Newsletters

Musk Pay Draws More Pushback as Glass Lewis Urges 'No' Vote (1)

Oct. 20, 2025, 6:53AM PDT

Tesla Inc. shareholders are being urged by a second major proxy adviser to vote against Chief Executive Officer Elon Musk's \$1 trillion compensation package, adding to potential hurdles as the carmaker's board works to secure investor support.

Glass Lewis & Co. said the potential dilution to shareholders and other terms of the proposed pay plan "warrant significant concern." The firm made the recommendation as part of wider voter guidance issued ahead of Tesla's annual shareholders meeting on Nov. 6.

The report echoed recommendations from proxy firm Institutional Shareholder Services that [urged shareholders to vote](#) against the pay plan. Proxy advisers often have sway over shareholders, particularly large institutions that hold stock in passive funds. Both firms recommended voters reject Musk's 2018 pay deal, which about three-quarters of investors still supported.

Tesla called the Glass Lewis recommendation "misguided," saying in an X post Monday that the firm is disregarding the prior shareholder votes in favor of Musk's compensation.

"Glass Lewis's recommendations attempt to override the mandate our shareholders delivered to Elon and ignore the staggering financial results delivered under Elon's leadership, elevating their rigid policies over shareholder value," Tesla said.

Tesla shares rose 1.2% at 9:46 a.m. in New York, giving it a market value of about \$1.5 trillion. The stock was up 8.8% this year through Friday's close.

The upcoming meeting is pivotal for Tesla and its leader after the company proposed an unprecedented [compensation package](#) designed to incentivize Musk to remain engaged over the next decade. To unlock the full payout and additional voting control, Musk will need to reach a number of ambitious goals, including growing the company's market value to at least \$8.5 trillion and expanding its car, robotics and robotaxi businesses.

[Read More: Tesla Offers Elon Musk an Unprecedented \\$1 Trillion Pay Package](#)

Musk has threatened to build products outside of Tesla if he can't increase his equity holdings in the company. He also oversees SpaceX , xAI , Neuralink and the Boring Co.

The additional shares Musk could receive would push his holdings in the electric-vehicle maker to at least 25%, according to the terms detailed in a proxy filing.

In its report, Glass Lewis also opposed a planned advisory vote on Tesla taking a stake in the xAI artificial intelligence business. The firm said it doesn't necessarily disagree with the investment, but that such a decision should be "fully considered and ultimately decided by the board, not shareholders."

(Updates with additional details beginning in sixth paragraph.)

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Proxy firm Glass Lewis joins ISS in urging vote against Musk's \$1 trillion pay package

 [reuters.com/sustainability/boards-policy-regulation/proxy-firm-glass-lewis-joins-iss-urging-vote-against-musks-1-trillion-pay-2025-10-20](https://www.reuters.com/sustainability/boards-policy-regulation/proxy-firm-glass-lewis-joins-iss-urging-vote-against-musks-1-trillion-pay-2025-10-20)

Reuters

October 20, 2025

By Reuters

October 20, 2025 12:14 PM PDT Updated 15 mins ago

Elon Musk attends the opening ceremony of the new Tesla Gigafactory for electric cars in Gruenheide, Germany, March 22, 2022. Patrick Pleul/Pool via REUTERS//File Photo [Purchase Licensing Rights](#) , [opens new tab](#)

Oct 20 (Reuters) - Proxy firm Glass Lewis has recommended that Tesla [\(TSLA.O\)](#) , [opens new tab](#) shareholders vote against the proposed \$1 trillion pay package for CEO Elon Musk, days after ISS also urged investors to reject what might be the largest-ever compensation plan awarded to a company chief.

The Glass Lewis recommendation adds further pressure to Tesla's board, ahead of a closely watched shareholder meeting on November 6 and renews scrutiny of Musk's compensation after a Delaware court earlier voided his \$56 billion pay package.

"Glass Lewis has followed ISS and issued another misguided recommendation that again disregards the fundamental purpose of public companies and who they serve – the shareholders," Tesla said in a post on X.

Glass Lewis said the potential dilution to shareholders and other terms of the proposed pay plan "warrant significant concern."

The two proxy advisory firms had last year also urged shareholders to reject the pay package, calling the compensation excessive.

Reporting by Juby Babu in Mexico City; Editing by Maju Samuel

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- Suggested Topics:
- [Sustainable Finance & Reporting](#)
- [Compensation](#)

It Kind of Seems Like Peter Thiel Is Losing It

F futurism.com/future-society/peter-thiel-antichrist-lectures

Joe Wilkins

October 19, 2025



Illustration by Tag Hartman-Simkins / Futurism. Source: Stephanie Keith / Getty Images

PayPal and Palantir cofounder Peter Thiel has long held outrageous ideological views — and imposed them on the world using his billions of dollars in wealth to do things like [build ICE's massive surveillance panopticon](#), [support the rise of the "New Right,"](#) and destroying Gawker Media by [secretly funding Hulk Hogan's lawsuit against it](#).

His beliefs during that period — an explosive mixture of [race science](#), [libertarianism](#), and [rugged capitalism](#) — might strike many people as noxious, but at least they followed the internal logic of an extremely powerful tech billionaire. Now, though, leaked information is making it sound as though he's actually losing his grip.

For years, [rumors have swirled](#) that Thiel has developed some kind of obsession with the "Antichrist," an entity referenced in the Bible's Book of John and Thessalonians who will supposedly arise during the end times and claim to be God, before ultimately being defeated by Jesus.

If you're wondering whether Thiel is looking at the legend of the Antichrist as some kind of high-minded metaphor for his political convictions, [The Guardian obtained audio](#) this month of Thiel talking about the topic during a recent private appearance — and unfortunately, it's immediately clear that he believes that this mythical figure from the pages of an ancient holy book is a literal entity who will walk the Earth during some kind of hellish apocalypse.

"Some people think of [the Antichrist] as a type of very bad person," Thiel clarified during his remarks. "Sometimes it's used more generally as a spiritual descriptor of the forces of evil. What I will focus on is the most common and most dramatic interpretation of Antichrist: an evil king or tyrant or anti-messiah who appears in the end times."

In fact, Thiel said during the leaked lecture that he's suspicious the Antichrist is already among us. He even mentioned some possible suspects: it could be someone like climate activist Greta Thunberg, he suggested, or AI critic Eliezer Yudkowsky — both of whom just happen to be his ideological opponents.

There's something mortifying about this spectacle: a grown man, supposedly a paragon of rational thinking, scratching around in primeval religious texts to terrify himself with superstitious prophecies, which the people around him entertain because he's wealthy and powerful. There's an old expression, often credited to the Newbery Medal-winning children's author Ellen Raskin: "the poor are crazy, the rich just eccentric."

There are even moments when it sounds as though Thiel might be indulging in something akin to the disordered thinking associated with serious mental illness, making wild associations between numbers and concepts that defy logical thinking — outbursts that would prompt talk of psychiatric intervention if a friend or loved one were to express them. (Preoccupation with the Antichrist can also be a [symptom of severe mental illness](#).)

"Christ only lived to age 33 and became history's greatest man," Thiel pondered at one point during the leaked audio. "The Antichrist has to somehow outdo this. I don't want to be way too literal on the 33 number — I'd rather stress the Antichrist will be a youthful conqueror; maybe in our gerontocracy, 66 is the new 33. But something like these numbers do occur almost mystically through a number of different contexts."

In a sense, it's easy to empathize with someone like Thiel: able to afford any material pleasure he wants, likely long isolated from any real friends, and surrounded by employees effectively paid to agree that everything he utters is genius, even if it makes no sense at all.

Thiel, though, happens to have immense sway over the lives of people around the world via his [various foundations](#), [corporations](#), and [political connections](#). In that sense, whatever's going on with him isn't just sad — for someone as powerful as he is, it's scary.

Perhaps the most ludicrous part of Thiel's strange talk about the Antichrist is that there's an obvious rejoinder to it: wouldn't an actual Antichrist who was bent on world domination eagerly embrace the surveillance and military tech that Thiel so heavily invested in? For that

matter, doesn't the Book of Revelations say that the enemy of God will seek to control commerce, much like Thiel made his fortune doing at PayPal?

In an agonizing exchange early this summer, the [New York Times' Ross Douthat](#) posed that exact question.

"You're an investor in AI," Douthat says. "You're deeply invested in Palantir, in military technology, in technologies of surveillance and technologies of warfare and so on. And it just seems to me that when you tell me a story about the Antichrist coming to power and using the fear of technological change to impose order on the world, I feel like that Antichrist would maybe be using the tools that you are building... Isn't that a concern? Wouldn't that be the irony of history, that the man publicly worrying about the Antichrist accidentally hastens his or her arrival?"

"Look, there are all these different scenarios," Thiel sputtered, seemingly caught off guard by the question. "I obviously don't think that that's what I'm doing."

But of course, that's exactly what an Antichrist would say.

More on Peter Thiel: [Tech Billionaires Accused of Quietly Working to Implement "Corporate Dictatorship"](#)

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FT Asset Management **St James's Place PLC**

How short sellers got burnt by retail investors

Plus, the redemption of St James's Place, investors dump risky bonds, and Wright of Derby at The National Gallery



Carson Block: 'Cycles have become so long and the corrections so short, that the demand for traditional short selling is just not there'
© Bloomberg

Emma Dunkley

Published YESTERDAY



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Does the format, content and tone work for you? Let me know: emma.dunkley@ft.com

One scoop to start: UK chancellor **Rachel Reeves** is looking to boost UK share ownership by [overhauling Isas](#), with potential measures including a minimum holding of British companies and a stamp duty tax break. As **Oliver Wyman's Huw Van Steenis** wrote in the [FT recently](#), a “wholesale change” in regulatory philosophy is required. Reeves is also considering limiting the annual amount in [tax-free cash Isas](#).

In today's newsletter:

- Short sellers blame retail investors for poor returns
- The redemption of UK wealth manager St James's Place
- Big investors scale back risky bond holdings

Short sellers blame retail for poor returns

It's been a tough year for investors who make their money by betting against stocks. These so-called short sellers have suffered their worst returns in half a decade.

[Who's to blame](#) for this? Short sellers are pointing the finger at individual retail investors, write *George Steer*, *Costas Mourselas* and *Amelia Pollard*.

A portfolio of 250 US stocks that are most popular with short sellers has surged 57 per cent this year, hurting the traders betting on those shares' decline, according to calculations by data group **S3 Partners**.

That marks the best run for heavily shorted US stocks since 2020, when the basket gained 85 per cent.

Propelled by an influx of retail investor cash, the rising tide has inflicted heavy losses on short sellers as they are squeezed out of their positions.

“Cycles have become so long and the corrections so short, that the demand for traditional short selling is just not there,” **Carson Block**, founder of short seller **Muddy Waters**, told the Financial Times.

Activist short selling, which involves researching companies and publishing reports, was the only way to consistently make money betting against stocks these days, he added.

“Like all corrections these days, the manifestation of risk is really just an opportunity to BTFD [buy the fucking dip],” said Block.

The rally for unloved stocks has come as artificial intelligence hype and hopes of lower interest rates have powered the S&P 500 to a series of record highs since a sell-off in April sparked by US President **Donald Trump’s** “liberation day” tariffs.

Prominent short sellers, including **Hindenburg’s Nate Anderson** and **Jim Chanos**, who bet against **Enron** before its collapse in 2001, have thrown in the towel in recent years.

US equity markets have marched relentlessly higher thanks in part to the growth of passive investment funds, which buy entire indices indiscriminately.

The redemption of St James’s Place

The UK’s largest wealth manager **St James’s Place** has staged [a remarkable comeback](#), following a bleak period when it suffered criticism over its customer charges and a wave of potential mis-selling claims.

The subsequent pressure on its shares led to the Gloucestershire-based business being ejected from the FTSE 100 last year, before being readmitted, writes *Emma Dunkley*.

But under chief executive **Mark FitzPatrick**, SJP has gone from flop to near the top of the FTSE 100 performers in 2025.

In the past few months, a review from the watchdog has meant SJP has been able to [claw back](#) some £63mn of its £426mn redress pot earmarked for customers who had not received sufficient levels of financial advice, freeing up more cash for the company to buy back its own shares.

Assets under management have hit a record £198.5bn as the wealth manager doubled client inflows in the first half of the year.

Securities

US Subpoenas Builder.ai's Ex-CFO for Auditor Communications

Oct. 20, 2025, 2:25 AM PDT

US investigators are advancing a criminal probe into Builder.ai, demanding a former executive's communications with the firm's UK auditor and with others involved in the financial reporting for the artificial intelligence startup ahead of its June bankruptcy.

Federal Bureau of Investigation officers served former Builder.ai Chief Financial Officer Andres Elizondo at a Dallas area airport in August with a subpoena, said people familiar with the matter, asking not to be identified because the information isn't public. Prosecutors sought information related to alleged violations of laws relating to wire fraud, securities fraud and conspiracy, according to the subpoena reviewed by Bloomberg, without naming the exact target of the probe. The US Attorney's Office in Manhattan has been looking into Builder.ai's financial practices and previously demanded the company turn over documents, Bloomberg News reported in May.

Investigators ordered Elizondo to turn over communications with investors, creditors and other accounting firms that did business with the company, according to the subpoena. They specifically asked for his exchanges with Builder.ai founder **Sachin Dev Duggal** and Paul Goldwin, a partner at accounting firm PKF Littlejohn who had signed off on a Builder.ai affiliate's UK accounts.

The specific demands from the US Attorney's Office for the Southern District of New York, which haven't been previously reported, signal the investigation of the startup once valued at \$1.5 billion is moving forward. Builder.ai collapsed after investors learned it had vastly inflated sales, leading to the biggest bankruptcy of an AI company since the start of the ChatGPT era. Its implosion has served as a cautionary tale for investors pouring vast sums into the technology.

Read More: 'Entrepreneur of the Year' Brings First Big Bust to the AI Boom

The prosecutors asked for all communications and documents related to "Builder.ai/Engineer.ai" and defined that entity as all corporate affiliates and subsidiaries, including Engineer.ai Global Limited, which is the UK entity that Goldwin audited. Builder.ai was founded under the name Engineer.ai, and the original name is still used with some corporate affiliates.

In a statement, PKF Littlejohn said it and Goldwin did not provide any services to Builder.ai, which it described as “the US entity within the group that is under scrutiny.”

“We acted solely as auditors of Engineer.ai Global Limited, the UK entity,” a spokesman for the firm said in a statement. “We have not received a subpoena and have no visibility regarding its contents. We will review any requests for information in line with our professional obligations.”

An attorney for PKF Littlejohn added that their understanding is that the firm and Goldwin are not under investigation themselves. Elizondo, who received the subpoena, is not a suspect or target of the investigation either, a person familiar with his situation said, asking not to be identified discussing private matters.

Prosecutors also broadly requested communications with “current, former, or potential accounting firms,” the subpoena reviewed by Bloomberg shows. While it identifies 10 accounting firms by name, Builder.ai founder Duggal and PKF Littlejohn’s Goldwin are the only two individuals specifically named. Communications with them are the first two requests made in the subpoena issued to Elizondo.

Prosecutors haven’t said that they’re charging anyone in connection with the London-based company’s collapse, and it’s unclear whether anyone will be.

Elizondo’s lawyer, Adam Katz, declined to comment on the subpoena. A spokesperson for Duggal didn’t provide comment, and a spokesperson for Builder.ai didn’t respond to a request for comment. The FBI and the Manhattan US Attorney’s Office also didn’t provide comment.

Builder.ai pitched software that would utilize AI to help users create apps with minimal coding experience. A flood of venture capital money and backing from Microsoft Corp. propelled the company to a \$1.5 billion valuation in 2023, making it one of the UK’s biggest AI startups. Duggal became a fixture of the technology conference circuit.

But behind the scenes, the company was using a web of complex transactions to exaggerate revenue, Bloomberg reported previously, citing documents. Builder.ai’s audit committee found it had inflated 2024 sales by nearly 300%, leading creditors to seize most of its available funds and force it into bankruptcy.



Duggal at the Web Summit Qatar 2024 in Doha.

Photographer: Stephen McCarthy/Sportsfile/Getty Images

In recent months, US investigators gained extensive access to the company's digital records, the people familiar with the situation said. Additional information demands were sent to some of Builder.ai's investors, including the Qatar Investment Authority, one of the people said.

A spokesperson for QIA declined to comment.

Goldwin has a lengthy history with Duggal. Before founding Engineer.ai in 2016, Duggal was the chief executive officer of SMX Corp., a UK firm that resold computer hardware and software. Goldwin became a director at SMX in 2010 and signed off on its financial statements in that capacity for several years, according to UK corporate filings.

He moved to PKF Littlejohn, a London accounting firm, in 2013 and remained an SMX director for another four years.

"Mr. Goldwin became a UK director only in order to oversee that the accounts were filed on time," PKF Littlejohn said of his time at SMX in the statement. "Mr. Goldwin did not know Mr. Duggal in a personal capacity." The firm said Goldwin resigned as an SMX director in January 2017 and that "no auditing services were ever provided."

Goldwin signed off on Builder.ai's UK accounts as its senior statutory auditor for annual accounts from 2020 to 2023. Its last full-year accounts were filed Aug. 15, 2024, for the year ending March 31, 2023.

While small companies often turn to familiar auditors, relying on one that sat on the same board as the CEO could be a red flag to prosecutors, according to Simon Osborne, an executive fellow at the London Business School who focuses on corporate governance. "It doesn't look good," he said. "It's always a question of facts and degree."

There was no trading relationship between SMX and Engineer.ai, according to PKF Littlejohn. "Mr. Goldwin made no management decisions in relation to SMX," it said in the statement.

The Financial Times earlier reported that Elizondo received a subpoena and, in March, reported on connections between Duggal and Goldwin and other auditors.

The US Attorney's subpoena of Elizondo ordered him to appear before a grand jury on Sept. 9 in New York, according to the document reviewed by Bloomberg. But the requirement for him to appear was waived, and he is voluntarily cooperating with the investigation, the person familiar with his situation said.

Elizondo served as CFO from 2021 until 2023. The company didn't find a replacement for the position before going bankrupt.

Prosecutors and the FBI spoke with at least one other former Builder.ai staffer earlier this year, according to a person familiar with the matter, who asked not to be identified because the information isn't public.

--With assistance from **Myles Miller**.

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Securities

Trump Jr. Firm Taps Palihapitiya, Influencers for SPAC (Correct)

Oct. 20, 2025, 6:15 AM PDT

A blank-check vehicle that counts Donald Trump Jr., investor Chamath Palihapitiya and Fox News host Laura Ingraham among its board members is seeking to raise \$260 million in an initial public offering.

The filing offered limited details on what type of company Colombier Acquisition Corp. III would look to combine with, but said its leadership team would be “leveraging our network” to find one, adding that it would look to “fund the next chapter of American Exceptionalism and help Make America Grow Again.”

The special-purpose acquisition company would add to a slew of conservative-aligned business ventures connected to Trump Jr. during his father’s second term in the White House. He announced his role at 1789 Capital, an investment firm co-founded by **Omeed Malik**, in November after President Donald Trump’s re-election. Since then, the firm has backed startups in defense, rare-earth magnets, prediction markets and other industries, and pitched investors on a real estate fund developing properties in South Florida.

Read More: [The Banker Behind the Trump Family’s Quick Wall Street Wins](#)

The SPAC, which counts Malik as its chief executive officer, is seeking to list on the New York Stock Exchange, and shares a number of the executives affiliated with the investment vehicle that merged with online firearms retailer GrabAGun Digital Holdings Inc. in a deal which was completed in July.

Shares of GrabAGun have shed more than two-thirds of their value since debuting. Malik’s other de-SPAC, PSQ Holdings Inc., an online marketplace that says it “values life, family, and liberty,” is down more than 75% from its debut price.

The planned SPAC will join a growing trend of blank checks that have raised billions this year. Nearly \$22 billion has been raised across 104 SPACs in 2025, data from SPAC Research show, easily outpacing the total combined for 2023 and 2024.

The SPAC will be led by Malik with **Paul Abrahamzadeh**, a partner at 1789 and a former co-head of equity capital markets for North America at Citigroup Inc., as president. 1789 partner Joe Voboril will serve as finance chief, a role he held in Colombier’s other SPACs.

The half-dozen director nominees include Trump Jr., Palihapitiya, Ingraham as well as 1789 founder Chris Buskirk, investor and former President of the Thiel Foundation Blake Masters and capital markets veteran Candice Willoughby.

Roth Capital Partners is working on the offering, the filing shows.

(Corrects spelling of Palihapitiya in headline.)

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Acadia Investors Score Partial Win In Fraud Class Action

By **Katryna Perera**

Law360 (October 17, 2025, 7:21 PM EDT) -- A Tennessee federal judge has granted a proposed class of Acadia Healthcare Co. investors a partial early win in their suit claiming the company misled them about the strength of its United Kingdom operations, finding that the investors have presented genuine issues of material fact and that Acadia failed to properly rebut their claims.

U.S. District Judge William L. Campbell Jr. issued an **order** on Thursday, granting the investors **their motion** for summary judgment that focused solely on the issue of reliance, or whether there was a causal connection between the defendants' alleged misrepresentation and the investors' injury.

According to the order, in arguing against granting the plaintiffs partial summary judgment, the defendants said they have evidence showing that the alleged misrepresentations did not impact Acadia's stock price and that at least one of the plaintiffs would have bought Acadia stock irrespective of the alleged fraud.

Specifically, the defendants point to one of the witnesses, Lilly Allen, who they claim can testify to "the lack of a statistically significant decline in Acadia's stock price in reaction to the alleged corrective disclosures."

But Judge Campbell noted on Thursday that several courts have recognized that the "absence of a statistically significant price adjustment does not show the stock price was unaffected by the misrepresentation," and the defendants concede as such.

"A non-statistically significant decline simply does not 'sever the link' between the alleged misrepresentations and corrective disclosures," the order states, quoting from another opinion.

The defendants also argued that an outside investment advisor for the lead plaintiff, the Chicago Laborers' Pension Fund, knew of certain risks before purchasing Acadia stock during the class period, did not think the company was engaged in fraud after reviewing the alleged corrective disclosures, and did not sell its stock after related financial guidance was issued.

However, Judge Campbell said Thursday the defendants do not explain "how the foregoing shows or supports an inference that the investment advisor would have bought or sold Acadia stock even if it had been aware that the stock's price was tainted by fraud. Nor can the court think of any reason."

The judge also pointed out that the identified investment adviser testified that it would not have invested in Acadia stock had it known the share price was artificially inflated by fraud and that it had no way of knowing whether Acadia's statements were true when made because it did not have access to material non-public information or access to internal Acadia documents.

According to the order, Acadia had also filed a cross motion for summary judgment, arguing that the safe harbor provision of the Private Securities Litigation Reform Act bars the suit's claims related to projected earnings at Acadia's U.K. facilities in 2017 and that the suit lacks evidence of loss causation.

The defendants argue that cautionary language included alongside the projected earnings was "undoubtedly 'meaningful'" because it disclosed the exact risk that ended up occurring — failing to meet earnings projections because of "patient admission trends" and "labor costs and labor

management costs in the U.K."

"Defendants argue this cautionary language is more than sufficient to invoke the safe harbor disclosure of a risk that 'might' occur when that risk has already materialized is misleading and does not constitute meaningful cautionary language," the order states.

But Judge Campbell said that "if staffing costs were consistently above budget and occupancy rates were consistently below budget, as the evidence plaintiffs have identified indicates, language cautioning of the risk of these occurrences would not be meaningful and defendants would not be entitled to the safe harbor."

On whether the defendants had actual knowledge that the challenged statements were false or misleading when made, the judge said circumstantial evidence in the suit including that the defendants made unreasonable performance expectations, ignored monthly results and forecasts and sold millions of dollars worth of Acadia stock months before lowering projected earnings guidance, is sufficient to raise a genuine dispute of fact concerning whether the defendants acted with scienter.

Regarding the defendants' claim that the suit lacks loss causation, Judge Campbell said the argument is unpersuasive because it is "premised on a view of the facts in the light most favorable to [the defendants.]"

The litigation, which dates back to 2018, alleges that in an effort to support a flow of referrals that would fill beds at its inpatient and outpatient residential treatment facilities, "Acadia consistently and repeatedly represented to the public and investors that it provided high-quality patient care."

"In reality, and in stark contrast to defendants' public statements, Acadia's tactic of acquiring facilities and then systemically cutting staff generated alarming incidents of abuse, neglect and, on several occasions, death," the investors said.

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

The investors are represented by Christopher M. Wood, Jerry E. Martin, Darren J. Robbins, Sam S. Sheldon, Darryl J. Alvarado, J. Marco Janoski Gray, Ting H. Liu and T. Alex B. Folkerth of Robbins Geller Rudman & Dowd LLP, Justin J. Lannoye of Dowd Bloch Bennett Cervone Auerbach & Yokich, and Michael Bauman of Pitta LLP.

The defendants are represented by Steven A. Riley and Milton S. McGee III of Riley & Jacobson PLC, and David L. Balser, Jessica P. Corley, Lisa R. Bugni, Brandon R. Keel and Ronni D. Solomon of King & Spalding LLP.

The case is St. Clair County Employees' Retirement System v. Acadia Healthcare Company Inc. et al., case number 3:18-cv-00988, in the U.S. District Court for the Middle District of Tennessee.

--Additional reporting by Emilie Ruscoe. Editing by Vaqas Asghar.



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Settlement Balk Jeopardizes \$32M Class Deal In Chancery

By **Jeff Montgomery**

Law360 (October 17, 2025, 8:56 PM EDT) -- An attorney for a large Emisphere Technologies stockholder told a Delaware vice chancellor on Friday that Court of Chancery refusal to allow an opt-out from a \$32 million class settlement in a suit challenging the biotech company's \$1.8 billion sale price "would have to be addressed by the U.S. Supreme Court."

The argument and claim — which sent a settlement hearing into extended session — drew pushback from Vice Chancellor Nathan A. Cook and a declaration from an attorney for Emisphere's controlling shareholder, MHR Fund Management LLC, that a settlement with less than all shareholders would scuttle an all-party deal to end objections to Emisphere's sale to Novo/Nordisk AS.

Before Friday's hearing, however, IsZo Capital LP, Emisphere's largest unconflicted stockholder, called for its exclusion from the deal, alleging that MHR secured an out-of-proportion, \$450 million share of the \$1.8 billion deal with Novo/Nordisk, in a transaction that allegedly failed to acknowledge independent estimates valuing Emisphere at \$2.9 billion to \$3.5 billion.

"We believe our position that the failure to exercise the discretion" allegedly exercised in a 2012 case — In re Celera Corp. Shareholder Litigation — in order to give IsZo an opt-out "would be a violation of discretion, it would be an abuse of discretion," Brant D. Kuehn of Greenspoon Marder LLP, counsel to IsZo, told the vice chancellor.

"Federal courts have never tested the Celera paradigm, as far as we can tell. The Delaware Supreme Court has never been faced with a large holder seeking to opt out" and invoking Celera to support its claim, Kuehn said.

Vice Chancellor Cook told Kuehn that IsZo provided "not much of an analysis" to back up its call for a departure from the state court's reliance on negotiated, non-opt-out settlements to resolve deal disputes, adding "it's not like this is some ancillary point. This was a major point" in the objection.

The vice chancellor added that "it doesn't jive with the incentive structure. It doesn't jive with the evidentiary records of what Novo was willing to pay." He also cited the possibility that, if IsZo succeeds, the "global peace" of class settlements would give way to "multiple trials on whether directors breached their fiduciary duty; five trials with the board of 'Name Your Company.'"

Jonathan B. Oblak of Quinn Emanuel Urquhart & Sullivan LLP, counsel to MHR, said IsZo's opt-out demand "would be a radical change in how these cases are litigated and evolve," adding, "Permitting opt-outs in these circumstances would be contrary to the whole point of having representative litigation."

Christopher H. Lyons of Robbins Geller Rudman & Dowd LLP, counsel to the Emisphere stockholder class, argued that the \$32 million settlement was "well within the range of reasonableness" for hard-fought, complex stockholder litigation that ultimately settled on the recommendation of former U.S. District Court Judge Layn R. Phillips.

"It's problematic. If folks would be getting a discretionary opt-out and that threat looms out there and they're trying to negotiate a resolution, but there's some actual risk you can't negotiate complete peace, particularly under rules advocated by the [IsZo] objector, which more or less amounts to a rule that if there's a large stockholder, they get an opt-out," the vice chancellor said.

"That is now far afield from complete peace," found in a class settlement, the vice chancellor said.

"We think it would be very much the worst possible world," Oblak said.

IsZo is represented by Anthony A. Rickey of Margrave Law LLC and Brant D. Kuehn of Greenspoon Marder LLP.

The plaintiffs are represented by Christopher H. Lyons, Tayler D. Bolton and Randall J. Baron of Robbins Geller Rudman & Dowd LLP, Joel Friedlander, Jeffrey M. Gorris, Christopher M. Foulds and David Hahn of Friedlander & Gorris PA, and Brett M. Middleton of Johnson Fistel LLP.

MHR and its affiliates are represented by Blake Rohrbacher, Andrew L. Milam and Sandy Xu of Richards Layton & Finger PA, and Andrew J. Rossman, Jonathan B. Oblak, Colin E. Gillespie and Charles Sangree of Quinn Emanuel Urquhart & Sullivan LLP.

Special committee members Howard Draft and Timothy McInerney are represented by Robert Y. Sperling, John E. Schreiber, Stacey Yablon and Cristina I. Calvar of Winston & Strawn LLP, and Kevin G. Abrams and April M. Kirby of Abrams & Bayliss LLP.

Timothy Rothwell and Michael Weiser are represented by Kenneth J. Nachbar, Megan W. Cascio and Matthew R. Clark of Morris Nichols Arsht & Tunnell LLP, and William Savitt, Lauren M. Kofke and Sasha H. Kawakami of Wachtell Lipton Rosen & Katz.

The case is In Re Emisphere Technologies Inc. Stockholders Litigation, case number 2021-0025, in the Court of Chancery of the State of Delaware.

--Editing by Melissa Treolo.

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Robbins Geller To Steer REIT Investors' Suit Over \$787M Deal

By **Sydney Price**

Law360 (October 17, 2025, 6:27 PM EDT) -- Robbins Geller Rudman & Dowd LLP will lead a proposed class of investors in real estate investment trust Broadmark Realty Capital Inc. who claim they were misled by executives from the REIT ahead of a \$787 million merger with Ready Capital Corp. in 2023.

Keller Rohrbach LLP will serve as liaison counsel, according to the order signed on Wednesday by U.S. District Judge Lauren King in the Western District of Washington. The order also appointed the firms' client Brian L. Grant to lead the suit. Grant's motion was unopposed, and he is capable of representing the proposed class, the order states.

At the time of Seattle-based Broadmark's 2023 merger, Grant held over 1.5 million shares of the company individually, through his trust and through his family's investment vehicle for which he serves as the general manager, according to the order.

Grant initially **launched the proposed class action** in May. The complaint alleges Broadmark and Ready Capital made materially false and misleading statements in a joint proxy statement issued to shareholders in order to obtain their support for the deal.

The suit names both companies, several of their executives and Ready Capital's asset manager, Waterfall Asset Management LLC, all of which helped prepare the proxy statement, according to the suit.

One of the listed benefits of the deal claimed the merged companies would be able to work together on construction loans and bridge loans to bring in sponsors, the suit said. But the proxy statement left out or misrepresented details about Ready Capital, the investors claimed, such as the fact that the company had several borrowers in its originated portfolio that were struggling financially, and that there were so many multifamily properties in the company's markets that its borrowers couldn't hike up rents to pay off their debt costs.

The shareholders for both companies approved the merger on May 30, 2023, and the deal closed the next day, according to the suit. However, Ready Capital's subsequent quarterly reports allegedly revealed that there were problems with the company's originated portfolio.

Additionally, a mezzanine lender involved in a Portland, Oregon Ritz-Carlton hotel project sued Ready Capital affiliates in March, and the litigation revealed that the project had gone through "drastic challenges" ever since it started in late 2019, such as a damaging water leak and construction delays caused by COVID-19 restrictions and protests, the proposed class said.

The project ended up costing more than planned, and the hotel ended up being worth less than expected, according to a sworn affirmation cited by the shareholders.

Ready Capital's absorption of Broadmark ultimately caused the REIT's shareholders' common stock to lose significant value, they said.

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

The proposed class is represented by James I. Jaconette, Brian E. Cochran, Juan Carlos Sanchez, Kenneth P. Dolitsky and Samuel H. Rudman of Robbins Geller Rudman & Dowd LLP and Juli E. Farris

and Keil M. Mueller of Keller Rohrback LLP.

The defendants are represented by Michael J. Ewart and Alexander M. Wu of Hillis Clark Martin & Peterson PS and Andy Sumner, Lex Mayo, Carissa Lavin and Charles Cox of Alston & Bird LLP.

The case is Grant et al. v. Broadmark Realty Capital Inc et al., case number 2:25-cv-01013, in the U.S. District Court for the Western District of Washington.

--Editing by Emily Kokoll.

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Expert Reports Can't Replace Facts In Securities Fraud Cases

By **Lyle Roberts and Billy Marsh** (October 17, 2025, 5:12 PM EDT)

Editor's note: Law360 welcomes opinionated commentary and debate in our Expert Analysis section. To submit op-eds or rebuttals, or to speak to an editor about submissions, please email expertanalysis@law360.com.

It is not easy for investors to adequately plead that corporate defendants have engaged in securities fraud — and that is by design. As part of the Private Securities Litigation Reform Act, Congress imposed stringent pleading requirements to prevent the proliferation of meritless, but costly, securities litigation.

To plead securities fraud, the PSLRA says that a plaintiff must "specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation ... is made on information and belief, the complaint shall state with particularity all facts on which that belief is formed." [1] The plaintiff also must "state with particularity facts giving rise to a strong inference that the defendant acted with" scienter, i.e., fraudulent intent. [2]

As the PSLRA therefore makes clear, a plaintiff cannot get by on allegations based merely on information and belief, without pleading actual facts that support the claims.

Over the last 30 years, however, the plaintiffs bar has developed several tactics to overcome the PSLRA's demanding, fact-based pleading standard. One tactic involves attaching an expert report or affidavit to a complaint and relying on the expert's opinions to substantiate the complaint's assertions.

In other words, investors with little or no direct evidence of fraud have turned to expert opinions to fill the gap and encourage courts to let cases go forward.

As a general matter, courts have rejected this attempted circumvention of the PSLRA. Notably, two federal appeals courts — the U.S. Court of Appeals for the Second Circuit, in its 2022 **decision** in *Arkansas Public Employees Retirement System v. Bristol-Myers Squibb Co.*, and the U.S. Court of Appeals for the Fifth Circuit, in its 2006 ruling in *Financial Acquisition Partners LP v. Blackwell* — have held that such "opinions cannot substitute for facts under the PSLRA" and cannot rescue claims from dismissal. [3]

The one exception, however, is the U.S. Court of Appeals for the Ninth Circuit.

In 2023, the Ninth Circuit **issued** a decision in *E. Ohman J:or Fonder AB v. Nvidia Corp.*, a case in which the plaintiffs alleged that Nvidia misled investors regarding revenue generated from cryptocurrency-related GPU sales. [4] The plaintiffs enlisted an expert consulting firm to generate speculative estimates for Nvidia's cryptocurrency-related revenue during the class period, and then used the consultant's estimates to plead that there were material gaps between Nvidia's actual cryptocurrency-related revenue and what Nvidia said publicly.

The court held that the consultant's projections, in combination with other factors, were "sufficient to



Lyle Roberts



Billy Marsh

show, even under the demanding pleading standard of the PSLRA, there is a sufficient likelihood that a very substantial part of Nvidia's revenues during the Class Period came from sales of GeForce GPUs for crypto mining," thereby rendering certain Nvidia statements actionably false or misleading.[5]

The Ninth Circuit's Nvidia decision created a clear split among federal appellate courts, with the Second and Fifth Circuits — and lower courts in other circuits[6] — on one side, and the Ninth Circuit on the other. The U.S. Supreme Court initially agreed to take up an appeal of the Nvidia case to resolve the split, but ultimately **declined** to hear the appeal in December 2024, leaving the split intact.[7]

In the wake of the Supreme Court's decision to punt on the issue, the plaintiffs bar has continued to explore how far it can rely on expert reports to overcome dismissal. But plaintiffs have not found much success.

For example, in *In re: Block Inc. Securities Litigation*, the U.S. District Court for the Southern District of New York on Sept. 9 **dismissed** a securities class action where the plaintiffs relied heavily on the opinions of a purported expert.[8] In that case, the plaintiffs alleged that Block experienced a data breach after a former employee accessed data and reports that included employee personal identifying information.

But the plaintiffs could not allege how the breach demonstrated some sort of shortcoming in Block's cybersecurity practices that made Block's prior statements on the topic misleading. So the plaintiffs submitted the opinion of a purported cybersecurity expert who asserted the former employee "would not have been able to use their credentials to access Block's network and download any information" if "minimally effective security programs had been in place." [9]

In dismissing the claims, the court held that the plaintiffs did not adequately explain how "the mere fact of the data breach itself" meant that Block's statements about its cybersecurity practices were false or misleading, "especially considering [the plaintiffs] do not know how the Incident occurred." [10] The court also brushed aside the expert's opinion, holding that "without more, [the expert's] opinion cannot alter that conclusion" and could not rescue the claims.[11]

In another decision from earlier this year, *In re: Checkpoint Therapeutics Securities Litigation*, the Southern District of New York on May 19 **rejected** a plaintiff's attempt to establish scienter through a declaration from a purported U.S. Food and Drug Administration regulatory consultant that opined on what the company's senior managers would have known regarding the status of a license application. [12]

There, the plaintiffs turned to the alleged expert's opinion because they otherwise were unable to allege specific facts suggesting that the company's executives had reason to believe statements made about the company's prospects for receiving the license were false or misleading.[13] The court found that the expert declaration did not support scienter because the expert's assertions were "not based on particularized allegations of fact" and did not "derive from any personal knowledge ... of the events at issue in this case." [14]

Similarly, on July 23, the U.S. District Court for the Northern District of California **dismissed** claims in *In re: Intel Corp. Securities Litigation*, where the plaintiffs relied on an expert opinion to plead that Intel did not comply with generally accepted accounting principles standards in connection with financial reporting for a new business unit called Intel Foundry Services, despite the company having received a clean audit opinion.[15]

The court initially dismissed the claims due in large part to the plaintiffs' "failure to challenge the independent auditors' opinions," which "weaken[ed] an allegation that a defendant violated GAAP." [16] In an amended complaint, the plaintiffs submitted a purported expert's opinion on GAAP and accounting principles in an attempt to overcome the court's prior ruling.[17] But the court considered the expert's stated opinions to be "largely a restatement of the Plaintiffs' allegations with [the expert's] stamp of approval," and those opinions did "not alter the Court's conclusions." [18]

While Nvidia has not yet yielded a sea change in plaintiffs' success at the pleading stage, its overhang poses a threat to the PSLRA's objectives and publicly traded companies. Indeed, the Ninth Circuit's approach in Nvidia is at odds with the plain text of the PSLRA, undermines the statute's

purpose and is a significant issue, given that nearly one-third of all securities class actions are filed in the Ninth Circuit's lower courts.

First, the PSLRA does not speak of opinion; it plainly requires allegations of particularized fact. According to the U.S. Court of Appeals for the Fourth Circuit's 2007 decision in *Teachers' Retirement System of Louisiana v. Hunter*, "The 'all facts' requirement ... determine[s] the legal sufficiency of the complaint under Rule 12(b)(6)."[19]

Federal rules draw sharp distinctions between fact and opinion.[20] There is no reason to believe that Congress envisioned the use of expert opinion as a substitute for well-pled facts when it enacted the PSLRA. And, of course, defendants have no ability to respond with their own experts at the pleading stage of a case where a plaintiff's allegations must be accepted as true.

Second, the Ninth Circuit's approach in the Nvidia case "significantly erodes the heightened pleading requirements for alleging securities fraud under the PSLRA" because "falsity can be established simply by producing an expert witness whose post hoc calculations diverge from a defendant's prior public statements," according to a dissent in the case.[21]

By hiring experts to submit reports containing their opinions or projections, plaintiffs may survive a motion to dismiss, thereby entering the costly discovery stage, at which point the case may be ripe for settlement. Left unaddressed, Nvidia has the potential to invite the type of meritless securities litigation the PSLRA was designed to prevent.

If presented with the opportunity, the Supreme Court should take up the issue once more and expressly reject the use of expert opinions to overcome the PSLRA's heightened pleading standards. Congress has made it clear that there is no substitute for actual facts when investors try to plead securities fraud.

Lyle Roberts is a partner and co-head of U.S. securities and shareholder litigation at Allen Overy Shearman Sterling.

Billy Marsh is a partner at the firm.

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[1] 15 U.S.C. § 78u-4(b)(1).

[2] 15 U.S.C. § 78u-4(b)(2)(A).

[3] *Ark. Pub. Emps. Ret. Sys. v. Bristol-Myers Squibb Co.* , 28 F.4th 343, 354 (2d Cir. 2022); *Fin. Acquisition Partners LP v. Blackwell* , 440 F.3d 278, 286 (5th Cir. 2006).

[4] See 81 F.4th 918 (9th Cir. 2023).

[5] *Id.* at 932.

[6] See, e.g., *City of Atlanta Police Officers' Pension Plan v. Celsius Holdings, Inc.* , 2023 WL 1998174, at *10 (S.D. Fla. Feb. 13, 2023); *In re Under Armour Sec. Litig.* , 409 F. Supp. 3d 446, 454-55 (D. Md. 2019).

[7] *Nvidia Corp., et al. v. E. Ohman J:or Fonder AB, et al.* , No. 23-970 (U.S. Dec. 11, 2024) (improvidently granted).

[8] 2025 WL 2607890 (S.D.N.Y. Sept. 9, 2025).

[9] *Id.* at *3.

[10] Id. at *7.

[11] Id. at *8.

[12] 2025 WL 1434400, at *26 (S.D.N.Y. May 19, 2025).

[13] Id.

[14] Id.

[15] 2025 WL 2092044, at *7 (N.D. Cal. July 23, 2025).

[16] Id. at *9 (citation omitted).

[17] Id. at *10.

[18] Id.

[19] **Teachers' Ret. Sys. of La. v. Hunter** , 477 F.3d 162, 173 (4th Cir. 2007).

[20] See Fed. R. Evid. 701; Fed. R. Evid. 705; Fed. R. Civ. P. 26(a).

[21] Nvidia, 81 F.4th at 955 (Sanchez, J. dissenting).

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Ex-SEC Officials Support Activist Investor Before High Court

By **Jessica Corso**

Law360 (October 17, 2025, 6:41 PM EDT) -- Two former U.S. Securities and Exchange Commission members are among those calling on the U.S. Supreme Court to uphold the ability of investors to sue funds over contracts that violate federal securities laws, saying that the SEC does not have the resources to go after every alleged wrongdoer.

Former SEC members Robert Jackson and Allison Herren Lee, both Democrats, were joined by nearly a dozen other former agency officials and legal scholars supporting the activist investor Saba Capital Master Fund Ltd. before the high court.

Their amicus brief, filed Thursday, argued that plaintiffs like Saba should be allowed to pursue investment funds in federal court based on allegations that the funds have entered a contract that violates the Investment Company Act.

Saba alleges that FS Credit Opportunities Corp. and other closed-end funds did just that when they adopted a Maryland law into their bylaws in 2023 that makes it harder for new shareholders to buy their way into a controlling position of a fund.

The funds, which lost their case before the Second Circuit last year, are asking the Supreme Court to issue a ruling that says only the SEC can sue over contracts that allegedly violate the ICA. The Supreme Court has agreed to hear the case and, on Friday, scheduled oral arguments for Dec. 10.

The funds have **received the backing** of the SEC itself, though Jackson and Lee, among others, noted that the agency has not always taken that position.

Nearly 25 years ago, the SEC told the Second Circuit in a case known as **Olmstead v. Pruco Life Insurance Co.** of New Jersey that there is a private right of rescission under the ICA, according to Thursday's amicus brief. And there is "longstanding congressional recognition" of such a right as well, the amici said, pointing to state securities laws that Congress drew on to draft the provision of the ICA in question in 1940.

The former SEC officials also said that the agency lacks the resources to pursue every instance of an alleged contract violation under the ICA as it currently only has around 4,000 employees to oversee around 17,000 registered funds on top of its other duties.

"To the degree that such compliance is thought to be desirable, decreasing the expected level of rescission of those contracts by requiring that remedy to be sought only by the government would be harmful to investors," according to the amicus brief.

The securities scholars are not the only ones to file a brief in support of Saba Capital on Thursday, with fellow investors Marlton Partners LP and ATG Capital Management also urging the justices to uphold the Second Circuit's ruling.

The Second Circuit upheld a lower court ruling that rescinded each fund's resolution adopting the Maryland law, saying there "exists a substantial risk" that Saba would be blocked from acquiring a beneficial ownership stake in the funds absent the rescission.

The funds say that makes the Second Circuit an outlier, putting it in conflict with the Third, Ninth and

Fourth circuits, which have ruled that there is no private right of action under the ICA provision.

Allowing the Second Circuit's decision to stand "would create intolerable uncertainty for regulated funds, threatening the financial stability and retirement security that funds provide for millions of Americans," the funds said.

In addition to the support they received from the SEC, the funds also saw amici briefs filed in their favor by the U.S. Chamber of Commerce and the Investment Company Institute.

Neither attorneys for Saba nor for the funds immediately responded to a request for comment Friday.

Saba is represented by Susman Godfrey LLP and Clement & Murphy PLLC.

FS Credit and the other funds are represented by Skadden Arps Slate Meagher & Flom LLP, K&L Gates LLP and Sidley Austin LLP.

The former SEC officials are represented by Jamie Crooks of Fairmark Partners LLP.

The government is represented by D. John Sauer, Malcolm Stewart and Matthew Guarnieri of the U.S. Solicitor General's Office and Jeffrey Finnell, Tracey Hardin, Jeffrey Berger and Ezekiel Hill of the SEC.

The case is FS Credit Opportunities Corp. et al. v. Saba Capital Master Fund Ltd. et al., case number 24-345, in the U.S. Supreme Court.

--Editing by Alex Hubbard.

Utah Fires Motley Rice From Opioid Case

By **Jack Karp**

Law360 (October 17, 2025, 3:31 PM EDT) -- The state of Utah has fired Motley Rice LLC from representing it in long-running litigation over the opioid crisis, a spokesperson for the Utah attorney general's office confirmed to Law360 Pulse on Friday.



No reason was made public for Utah's decision to part ways with Motley Rice in the lawsuit against pharmacy benefit managers, but the firm has been fighting OptumRx's efforts to disqualify it from representing the state since July. (Jon G. Fuller / VWPics via AP Images)

No reason was publicly given for the state's decision to part ways with Motley Rice when it comes to the lawsuit against pharmacy benefit managers including OptumRx Inc. and Express Scripts Pharmacy Inc. But the firm has been fighting OptumRx's **efforts to disqualify it** from representing Utah since July.

"We terminated the contract. We did it pursuant to the best interest of the state," Hanna Seariac, the Utah attorney general's director of communications, said in a statement.

OptumRx claims the firm violated ethical rules by previously investigating the pharmacy benefit manager on behalf of Hawaii, Chicago and Washington, D.C., and then suing the company in a private capacity.

Motley Rice's representation of Utah blatantly violates Rule 1.11(c) of the Utah Rules of Professional Conduct, which prevents attorneys from using "confidential government information" obtained when they were "a public officer" in private lawsuits, OptumRx has said.

Utah and the firm said any information the firm obtained during its involvement in earlier government investigations **was available to all other parties** in multidistrict litigation over the opioid crisis and so isn't confidential.

Motley Rice also wasn't a "public officer or employee" when it represented the other governments in those investigations,

something that's required for disqualification. And OptumRx can't show that the firm's access to the information at issue puts the company at a "material disadvantage" given its accessibility in the MDL discovery repository, Utah and the firm insisted.

"For decades, Motley Rice has helped deliver justice to communities that have been harmed by Big Tobacco, opioids, asbestos, terrorism, human trafficking, and more. In landmark cases, Motley Rice has advocated for what is right and held corporations with nearly limitless legal resources accountable for harming Americans and violating the law," Motley Rice spokesperson Alicia Ward told Law360 Pulse Friday.

"The meritless accusations from OptumRx are an attempt to skirt legal responsibility in litigation that alleges in detail how the company put profits ahead of public health by favoring, promoting, and dispensing opioids in exchange for rebates and other fees. Its allegations against Motley Rice have been unanimously rejected and dismissed by six courts," Ward said.

OptumRx has also attempted to disqualify Motley Rice from **representing Los Angeles County and the city of Boston** in lawsuits over the company's alleged role in the opioid crisis and was unsuccessful in disqualifying the firm from **representing plaintiffs in the national opioid litigation**, with an Ohio federal judge saying the company failed to show that the firm's prior representation of states investigating opioids put the company at a disadvantage in the multidistrict litigation.

The company has also failed in its attempts to **remove that Ohio judge**, U.S. District Judge Aaron Polster, and **the special master** from the national MDL.

Attorneys for OptumRx did not respond to requests for comment Friday.

Although he decided not to disqualify Motley Rice from the national MDL, Judge Polster did express concern that the firm in those civil investigations appears to have been able to act both as a public agent or employee and as if the government were a private client, depending on its needs.

"There is a real difference between a law firm's representation of a governmental entity as a private client and a law firm's wielding the authority of that government," the judge said. "The facts happen to work in favor of Motley Rice in this case: Were it not for the standing repository obligations, and the nature of the investigation materials OptumRx produced, the court's discussion and analysis in this order might have been different."

Utah isn't the first state to cut the firm loose from litigation involving the opioid crisis.

Montana's attorney general terminated the firm's representation of that state in 2021, saying only that he had determined that that representation was "not in the best interests of Montana," according to a letter sent to the firm by the Montana attorney general and obtained by Law360.

OptumRx is represented by Bentley J. Tolk and Rodger M. Burge of Parr Brown Gee & Loveless.

Utah is represented by Douglas J. Crapo, Peishen Zhou and Stevenson C. Smith of the Utah attorney general's office.

The case is State of Utah v. Express Scripts Inc. et al., case number 2:25-cv-00088, in the U.S. District Court for the District of Utah.

--Additional reporting by Julie Manganis and Mike Curley. Editing by Stephen Berg.

Update: This story has been updates with comment from Motley Rice and additional context.



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Altria, Juul May Face Certified 'Frankenstein' Antitrust Class

By **Bonnie Eslinger**

Law360 (October 17, 2025, 9:44 PM EDT) -- A California federal judge indicated on Friday that he will likely certify classes of direct and indirect purchasers accusing e-cigarette makers Juul and ex-rival Altria of violating antitrust laws by conspiring to reduce product variety on the market, although Altria's lawyer urged the judge to reconsider and avoid a "Frankenstein" for damage calculations.

U.S. District Judge William Orrick provided the parties with a written tentative decision granting class certification, which included some questions, before hearing oral arguments from the parties on Friday over Zoom. The judge did not announce a final ruling from the bench at the hearing's conclusion, saying he would issue a written order.

A lawyer for Altria, James Rosenthal of Wilkinson Stekloff LLP, began by arguing against the court granting the motions for class certification from the indirect purchaser plaintiffs and indirect reseller plaintiffs. He noted that the judge had asked about California's antitrust law, the Cartwright Act and conflicts it faced with other state laws.

Rosenthal said the differences would surface in how the court handles damages based on different state laws.

For example, half of the 31 states covered by the suit do not automatically treble damages as is done under the Cartwright Act, the lawyer said.

Rosenthal then addressed another question from the judge: if differences in damages could be dealt with in a separate phase of the trial, if liability under the Cartwright Act is determined.

"Can you create this Frankenstein's monster of different laws?" Rosenthal said. "I do not think you can do it."

The lawyer for Altria also told the court that he believes it would be a mistake to bifurcate the trial to provide for a second damages phase, saying many of the experts for the defendants would then be expected to testify twice.

"I do not think you should create this Frankenstein's monster with a multiphase damage case," Rosenthal told the court.

Judge Orrick asked Altria's lawyer to confirm that the conflicts do not involve the question of liability and rather that the concern is focused on damages. Rosenthal agreed.

A lawyer for the plaintiffs, Elana Katcher of Kaplan Fox Kilsheimer, told the court that she represents indirect reseller plaintiffs, but for purposes of Friday's hearing would be arguing on behalf of both indirect classes.

The court's challenge is to "ensure that modest variances" in the laws of other states do not stand in the way of the plaintiffs' ability to pursue their antitrust case, Katcher said.

"If you have 31 different class reps and 31 different classes, it's a more difficult, expensive and challenging claim to prosecute," the lawyer told the court. "And they'll be much fewer of such claims."

Further, the claims in the case are strongly connected to California, Katcher said, noting that the Golden State was the "home" of Juul Labs Inc. "during the conspiracy." It's also one of the largest markets for Juul products, she said.

The court should consider how much the state has at stake in trying to stop the conduct at issue, the lawyer for the plaintiffs said.

"Defendants' argument that differences in enhance damages should suffice to derail California from applying its law ... is not cognizable under California law," Katcher said.

A group of Juul buyers first brought their suit **in 2020**, requesting an injunction to block Altria's \$12.8 billion investment in Juul from 2018 on competition grounds.

But in March 2023, Altria sold the entirety of its minority stake in Juul, prompting the Federal Trade Commission to drop its ongoing challenge to the deal.

The buyers assert that even though the 2018 investment was sold, there's nothing to stop the two companies from recombining in the future.

In recent years, some of the claims have been sent to arbitration. In addition, Judge Orrick in **early 2024** dismissed a request for an injunction to block Altria's already-unwound investment in the company.

The plaintiffs are represented by Betsy C. Manifold, Kate M. McGuire and Thomas H. Burt of Wolf Haldenstein Adler Freeman and Herz, Fred T. Isquith, Sr. of Isquith Law PLLC, Merle C. Meyers and Michele Thompson of Meyers Law Group PC, Robin F. Zwerling and Justin M. Tarshis of Zwerling Schachter and Zwerling LLP, Andrew Dirksen of Cera LLP, Elana Katcher of Kaplan Fox Kilsheimer, Joseph Saveri, Itak Moradi, Ronnie Seidel Spiegel and David Seidel of the Joseph Saveri Law Firm LLP, John D. Radice of Radice Law Firm PC, and Michael Buchman of Motley Rice LLC.

Juul Labs is represented by David I. Gelfand, Jeremy J. Calsyn and Nowell D. Bamberger of Cleary Gottlieb Steen & Hamilton LLP.

Altria is represented by James M. Rosenthal, Jeremy Scott Barber and Jennifer Pavelec of Wilkinson Stekloff LLP.

The case is In re Juul Labs Inc. Antitrust Litigation, case number 3:20-cv-02345, in the U.S. District Court for the Northern District of California.

--Additional reporting by Jared Foretek. Editing by Vaqas Asghar.



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Fla. College Students And Staff Sue Over PFAS Exposure

By **Emily Field**

Law360 (October 17, 2025, 7:32 PM EDT) -- Floridians who attend, work at or live near the College of Central Florida say that their drinking water has been contaminated with so-called forever chemicals leached from firefighting foam used on campus, according to a suit against 3M and others recently removed to federal court.

The class is composed of students, staff, professors and neighbors of the college who seek damages and medical monitoring costs due to their alleged exposure to aqueous film-forming foams, or AFFF, that contained per- and polyfluoroalkyl substances, or PFAS, according to the suit **removed to federal court** on Oct. 15 by another defendant, Tyco Fire Products LP.

A firefighting training school, where students were trained to use firefighting products like AFFF, formerly occupied the campus of the College of Central Florida, according to the complaint.

In August 2018, the Florida Department of Environmental Protection tested well water at the campus and found PFOS and PFAS levels that were "significantly" higher than the national average, the proposed class said.

Levels in two out of the three wells were the equivalent of 250,000 to about 270,000 parts per trillion, while the U.S. Environmental Protection Agency has set safety levels at 70 parts per trillion, according to the suit.

"PFOS and PFOA are highly toxic and carcinogenic chemicals," the plaintiffs said. "The defendants knew or should have known that PFOS and PFOA are persistent when released into the environment and present significant risks to human health and the environment."

This exposure to the chemicals over decades has allegedly caused health problems for the proposed class. Those issues include thyroid disease, kidney cancer, ulcerative colitis and other problems, according to the complaint.

Given that the long-term health effects from exposure to these chemicals have not been fully studied and that there is already "compelling evidence" of their harm, "periodic diagnostic medical exams for populations with PFOS and/or PFOA exposure from contaminated water are reasonably necessary," the plaintiffs said.

One of the named plaintiffs, Jerelyn Zache, has had metastatic breast cancer in her left breast, which required a mastectomy, according to the complaint. She was employed at the school.

She has also had heart issues due to her cancer treatments and has been put into early menopause, the complaint said.

Due to her exposure to the forever chemicals, she said that she is at a higher risk of developing other health problems, like other types of cancer, according to the suit.

Another named plaintiff and school employee, Chiquita Brewton, said she has polycystic ovary syndrome and other health problems, and her minor daughter has been diagnosed with chronic kidney disease as a direct result of her exposure to PFOS and PFOA, the complaint stated.

"Plaintiff Chiquita Brewton has a legitimate fear of developing debilitating injuries in the future as a result of her exposure to PFOS and PFOA, including but not limited to effects on the liver and immune system, high cholesterol levels, kidney cancer, breast cancer and autoimmune diseases," the suit said.

Tyco Fire Products LP said in removing the suit from state court that the complaint belongs in federal court since the foam was made to comply with military specifications for use by the armed forces. Therefore, the case falls under the federal officer removal statute, the company said.

A wave of suits has been filed over alleged PFAS contamination.

Multidistrict litigation against companies that made and sold PFAS has been consolidated in South Carolina federal court. There have been multibillion-dollar settlements struck with individuals seeking compensation for exposure harms and medical monitoring, property owners seeking remediation and cleanup costs, as well as states seeking relief for harms to natural resources.

Representatives for the parties didn't immediately respond to requests for comment on Friday.

The plaintiffs are represented by John B. Agnetti and Michael Reyes Triana of Hoffman Larin & Agnetti PA and Orestes "Rusty" Perez of Master Mediation Inc.

Tyco Fire Products is represented by Michael D. Sloan of Carlton Fields.

3M is represented by Daniel L. Ring and Tyler D. Alfermann of Jenner & Block LLP.

The College of Central Florida is represented by Fred Roberts Jr. of Klein & Klein LLC.

The case is Jerelyn Zache et al. v. 3M Co. et al., case number 5:25-cv-00648, in the U.S. District Court for the Middle District of Florida.

--Editing by Dave Trumbore.



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Major Banks Colluded For 30 Years To Fix Rates, Suit Says

By **Katryna Perera**

Law360 (October 17, 2025, 7:55 PM EDT) -- Several major banks, including JPMorgan Chase, Bank of America and Wells Fargo, have been hit with a proposed class action in Connecticut federal court alleging that for the past 30 years, they have been artificially inflating interest rates on variable-rate loans to consumers and small businesses.

In a **complaint** filed Thursday, plaintiffs Tracy Normandin and J. Allen Sensabaugh said that since 1992, the largest banks in the U.S. have conspired to fix, raise and stabilize interest rates on loans. They alleged the banks did so by "agreeing with each other on the rate each charges its most creditworthy customers for short-term loans," also known as the banks' prime rates, and then reporting those rates to The Wall Street Journal, which publishes the rates.

According to the filing, since 1975, The Wall Street Journal has published the so-called WSJ Prime rate. At first, WSJ Prime was determined by surveying major U.S. banks about their lowest-rate loans and the range of responses was published, including the lowest and highest reported prime rates.

The plaintiffs asserted that this method of reporting encouraged competition among the banks to offer the lowest-rate loans to creditworthy customers.

"Prime customers who received a quote higher than the lowest rate published in the Journal knew they could get a better price elsewhere, and a bank that consistently offered loans above the lowest published rate would lose business to more competitively priced institutions," the complaint read.

Also relevant to the suit is the federal funds target rate or FFTR, which is set eight times per year by the Federal Reserve and indicates the central bank's target rate for the cost to major U.S. banks of borrowing money on the open market.

"As such, [the FFTR] serves as a close proxy for defendants' cost of borrowing money that they subsequently lend to their respective customers. The spread between a bank's prime rate and [FFTR] roughly approximates the minimum gross profit a bank earns when lending money," the complaint said.

The plaintiffs said the conspiracy began in 1992, and that before this, the spread between the WSJ Prime rate and the FFTR varied due to the competitive market, and the median spread between the two was 175 basis points, or 1.75%.

"In other words, the most creditworthy customers of major U.S. banks typically obtained loans at 1.75% above the rate at which banks were able to borrow money for themselves," the complaint states.

However, the plaintiffs allege, since the purported conspiracy began, the spread between the WSJ Prime rate and FFTR has been "exactly 300 basis points on all but 82 days — out of 7,971 and counting."

"Since mid-1994, banks' best customers have been unable to obtain loans at rates below 3.00% above [FFTR] — even though just a few years earlier, prime rates between 1% and 2% above FFTR were the norm," the complaint said. "This has held true nearly every single day for more than 30 years, despite three recessions, the securitization boom, massive bank consolidations, complete

restructuring of banking regulations, and the digital transformation of the industry, and now, artificial intelligence."

According to the complaint, two developments caused the conspiracy to develop. First, the plaintiffs said, in February 1992, The Wall Street Journal changed the way it reported the WSJ Prime rate.

"Instead of publishing the range of prime rates available from major banks, it began publishing one number: 'the rate posted by at least 75% [now 70%] of the nation's 30 [now 10] largest commercial banks,'" according to the complaint. "The Wall Street Journal's new methodology pushed banks — horizontal competitors for consumer loans — toward a single 'consensus' rate."

The suit says this new "consensus" method discouraged competition among banks because smaller, individual banks could no longer exert competitive pressure on other larger banks.

"The change also made it easier for the banks to coordinate prices and to raise them marketwide. Because the Journal identified WSJ Prime as the market consensus price, and minimized the advantage of undercutting that price, banks could confidently coalesce around a consensus price," the complaint said.

"The methodology used to report WSJ Prime thus encouraged banks to coordinate the establishment of an artificial price floor on their respective prime rates," the filing continued. "And the banks did coordinate, almost immediately."

The second development that allowed the conspiracy to flourish began in February 1994, when the Fed first began publishing explicit targets for the FFTR, the plaintiffs alleged.

"By then, the banks had learned to maintain their rates in lockstep. Presented with official target rates, they coordinated to peg their prime rates to these publicly available, high-profile benchmarks," according to the complaint. "After two months during which the banks coordinated the level at which they would set prime rates, they settled on the formula that persists today: FFTR plus 300 basis points."

The plaintiffs argued that the level of "uniformity" seen in the rates can only be the product of collusion because before 1992, "banks faced identical macroeconomic conditions and regulatory frameworks, yet 300 bps prime spreads over FFTR were rare."

"More importantly, the data shows that each bank independently set different prime rates reflecting their individual business circumstances — their balance sheets, operational efficiency, risk appetites, and competitive strategies," the complaint said. "If independent rational decision-making produced the pre-1992 variation in prime rates and spreads, it is not possible that the same independent decision-making produced absolute uniformity post-1992."

The plaintiffs alleged that the collusion between the banks has inflated the interest rate on "trillions of dollars of floating rate debt by the exact amount of the supracompetitive overcharge."

They are seeking to represent a class of all borrowers, whether individuals or nongovernmental entities, that made a payment on a WSJ Prime-indexed home equity line of credit between Oct. 16, 2021, and the the date when the anticompetitive conduct describe in the suit stops.

The suit requests damages, attorney fees, disgorgement and a jury trial. The complaint named JPMorgan Chase, Bank of America, Wells Fargo, Citibank, U.S. Bank, PNC Bank and Truist Bank as defendants.

In a statement provided to Law360 Friday, Patrick McGahan of Scott + Scott Attorneys at Law LLP, counsel for the plaintiffs, said: "This case addresses serious allegations that major U.S. banks have coordinated to maintain artificially high prime rates, resulting in inflated interest charges on variable-rate credit cards and home equity lines of credit held by millions of Americans. We look forward to presenting our evidence in court."

Spokespeople for Wells Fargo, Citibank and U.S. Bank declined to comment Friday.

Representatives of the other defendants did not immediately respond to requests for comment.

The plaintiffs are represented by Peter Cherepanov, Patrick McGahan, Michael Srodoski, Erin Dennehy, Carmen Medici, Patrick Rodriguez, Karin E. Garvey and Matthew Perez of Scott + Scott Attorneys at Law LLP.

Counsel information for the banks was not immediately available.

The case is Normandin et al. v. JPMorgan Chase Bank NA et al., case number 3:25-cv-01749, in the U.S. District Court for the District of Connecticut.

--Editing by Covey Son.

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Newsmax To Build Crypto Reserve With Bitcoin, Trump Coin

By **Aislinn Keely**

Law360 (October 17, 2025, 7:19 PM EDT) -- Newsmax Inc. plans to purchase up to \$5 million worth of bitcoin and President Donald Trump's meme coin in the coming year, joining the ranks of public companies adding cryptocurrency to their strategic reserve.

The conservative news outlet said in an announcement Thursday that its board of directors has authorized the crypto purchase plan and it expects to be the first New York Stock Exchange-listed company to hold Trump Coin, a token launched by the president.

A multitude of public companies have **added bitcoin** to their strategic reserves in recent months, and Newsmax CEO Christopher Ruddy said in a statement that Newsmax's bitcoin purchase will be "an important company marker."

"We are also excited to add Trump Coin to our cryptocurrency plan, as we believe the coin's value should track the success of the Trump presidency, which so far has been impressive," Ruddy said.

Newsmax did not disclose which companies it has engaged to manage its digital assets or which law firms assisted on the matter, but said in its announcement that it has "established comprehensive protocols for digital asset custody and management, partnering with leading institutional cryptocurrency services providers to ensure secure storage and handling of its cryptocurrency reserves."

A representative for Newsmax did not immediately respond to request for comment Friday.

Public companies have added crypto to their balance sheets since 2020, but the practice has grown in popularity in recent months as Trump's administration has committed to cultivating the crypto industry. Newsmax said in its announcement that it will join more than 100 public companies in adopting a crypto strategy, although it will be the first to include the president's token.

Democratic lawmakers have **raised the alarm** over potential conflicts of interest that could stem from the Trump family's crypto dealings, pushing for stronger provisions in pending crypto legislation to prevent arrangements in which individuals and companies might try to curry favor by investing in projects that benefit public officials or their family members.

In September, Newsmax took Fox News to Florida federal court to accuse the network of using anticompetitive practices to monopolize right-leaning television news. Although the claims were dismissed, Newsmax quickly **refiled in Wisconsin**, where the case continues.

--Additional reporting by Craig Clough and Nadia Dreid. Editing by Stephen Berg.

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