NewsRoom

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Section: A

Will former execs continue to get to keep evidence secret? Is simply writing "confidential" on pretrial discovery materials enough to keep them off...

Jeremy Pelzer - jpelzer@cleveland.com

Will former execs continue to get to keep evidence secret? Is simply writing "confidential" on pretrial discovery materials enough to keep them off-limits to the public?

COLUMBUS - A Summit County judge overseeing the upcoming corruption trial of two former FirstEnergy executives is set to decide Friday whether to continue allowing defense attorneys unusual and wide-ranging power to keep potential evidence and exhibits off-limits to the public.

Under an agreement signed last year by Ohio Special Assistant Attorney General Matt Meyer and attorneys representing ex-FirstEnergy CEO Chuck Jones and former top company lobbyist Mike Dowling, either side in the court proceedings can keep pretrial discovery materials secret until after the trial just by writing "confidential" on them.

If the opposing side objected to something being kept under wraps, Summit County Common Pleas Court Judge Susan Baker Ross would decide whether it should be public, under the agreement.

Attorneys for Jones and Dowling - who stand accused of paying a $4.3 million bribe in 2019 to Sam Randazzo just before Randazzo was named the state's top utilities regulator - have labeled numerous pieces of potential evidence as "confidential." They include:

Interviews with potential witnesses, including Steve Strah, Jones' successor as FirstEnergy CEO (until Strah's abrupt retirement in 2022).

Documents that have already been made public, such as a consulting agreement between FirstEnergy and Sam Randazzo, a now-deceased former top state utilities regulator Jones and Dowling are accused of bribing.

Reports of experts asked by the defense to weigh in on the case, including ex-FBI agent Sherine Abadi and Gary Goolsby, an accounting and auditing expert who was removed as partner with Arthur Andersen in connection with the then-accounting behemoth's role in the Enron scandal in 2001.

Other filings submitted by the defense contain numerous redactions, including summaries of Strah's comments and apparent assertions about FirstEnergy and the deferred prosecution agreement it signed with federal prosecutors in 2021.

In addition, Ross has - at least for now - agreed with the defense's attempt to keep secret several exhibits the prosecution has tried to introduce.

Meyer has accused the defense attorneys of abusing the confidentiality agreement by arbitrarily keeping potential evidence secret, as it suits them.

"By insisting on sealing any and all information that they believe might be harmful, it is Jones and Dowling who have pushed the balance far beyond what Ohio law requires," Meyer stated in an Oct. 6 brief.

Meyer has also criticized Ross for allowing Jones and Dowling such wide latitude to keep evidence secret.

"They're not VIPs. They are not special people," Meyer told Ross during an Aug. 4 hearing. "They are criminal defendants like any other criminal defendant that comes before the bar, and the rules require that we do the public's business in public forums, we litigate public issues with public evidence."

But Carol Rendon, Jones' attorney, claimed in her own brief that Jones and Dowling don't want to hide every document produced by the prosecution in their case from the public. Rather, she said, their goal is just to keep witness interviews, and summaries of those interviews, private until after the trial, so as not to taint potential jurors and influence other witnesses.

Rendon noted that prosecutors sought similar confidentiality restrictions on discovery materials in a federal civil suit brought against FirstEnergy by a group of investors who lost money as a result of the House Bill 6 scandal's effect on the utility's stock price.

She raised the prospect that, without a confidentiality agreement, much of the information that they're trying to keep secret would leak to the media via that federal civil suit - a possibility the prosecution says won't happen.

The state's objections, Rendon stated, are "an effort to try this case in the media before it can be tried to a jury."

Ross is expected to weigh in on those arguments after a hearing Friday in Akron.

During the August hearing, Ross said she agreed with Meyer that the confidentiality issue "all of a sudden (became) amplified beyond what I want to deal with.

"This is a new one for me. I've never had a criminal case of this magnitude with a protection order of this - you know, this stipulated confidentiality agreement and protective order of the documents," she said.

However, Ross also said that Jones' and Dowling's "reputations are on the line." She also waived off Meyer's contention that the language of the 2024 agreement - which Ross signed off on - doesn't give the defense the ability to mark anything "confidential" that it likes, and that it's up to the prosecution to convince the judge otherwise.

"You guys entered into this agreement. I didn't write this thing," Ross told Meyer at one point during the hearing.

Ross repeatedly said during the hearing that she wants the two sides in the case to reach some sort of agreement about what should or shouldn't be kept confidential. In the meantime, she said, she'll keep the evidence sealed.

"Once we get to a trial, it can be all public, but maybe some of it needs to be under seal while you guys fight about some of this stuff, about whether it's OK to go to a jury or not because you know that we're just - the jury's - everybody's reading about this case," Ross said.

"Although," she added, "I will say most people have no idea what I'm talking about when I mention this case, believe it or not."

Michael Gentithes, associate dean of academic affairs and a law professor at the University of Akron, said in an interview that it's rare to see an attempt to keep so much pretrial information secret.

However, he added, the overall nature of the dispute is quite common - in court proceedings, one side often argues that details should be kept out of the public eye, while the other side complains that their opponents are going too far.

"At some point, the judge will have to make a decision on that balance," Gentithes said. "It's just a difficult question for judges to answer."

Prosecutors say Jones and Dowling engaged in a years-long scheme to pay off Randazzo in order to secure favorable treatment from the Public Utilities Commission of Ohio. Text messages between the three state that Randazzo at times overruled PUCO staff and other commissioners to secure policy decisions that resulted in a windfall for FirstEnergy.

Jones and Dowling have pleaded innocent to more than two dozen felony counts, including first-degree felony charges of engaging in a pattern of corrupt activity, bribery, and telecommunications fraud, as well as third-degree felony charges of bribery, money laundering, and tampering with records.

The two are set to go to trial in January. If convicted, they could each face a lengthy prison sentence.

In addition, Jones and Dowling are facing federal charges that they arranged to pay $60 million in FirstEnergy bribes to former Ohio House Speaker Larry Householder to pass and defend House Bill 6, a 2019 state energy law that included enormous benefits for their company.

Householder is currently serving a 20-year prison sentence for accepting the bribes.

Randazzo, who was also indicted in Summit County and in federal court, took his own life in April 2024.

---- Index References ----

Company: FIRSTENERGY CORP; FEDERAL BUREAU OF INVESTIGATION

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Financial Fraud (1FI18); Fraud (1FR30); Social Issues (1SO05))

Industry: (Electric Utilities (1EL82); Energy & Fuel (1EN13); Utilities (1UT12))

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NewsRoom

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Australian Online

October 29, 2025

Angry investors vote to dump James Hardie chair Anne Lloyd

Tansy Harcourt, Eric Johnston

James Hardie's board was humiliated by shareholders who united to dump its chairman and two directors as punishment for their role in the disastrous $15bn Azek acquisition.

Chair Anne Lloyd, Rada Rodriguez and Peter-John Davis were ousted from James Hardie ahead of its annual meeting on Thursday. The stunning rebuke represents the biggest governance crisis for the company since it shifted its headquarters offshore in the wake of its asbestos controversy two decades ago.

The meeting itself took less than 15 minutes without hearing a single question from shareholders. It follows the building materials major putting investors off-side with its high-priced buyout of Azek, and bypassing an Australian shareholder vote to issue dilutive new shares to pay for the deal.

That anger was compounded by directors seeking a fee increase and revamping pay for chief executive Aaron Erter despite overseeing James Hardie's share price destruction.

"We are honoured to have served on the James Hardie board," said Ms Lloyd after confirming she had been sacked. "While we are naturally disappointed by the anticipated outcome ... we remain confident that the board is acting in the best interest of shareholders and delivering strong strategic leadership.

"We will continue to engage constructively with shareholders."

Proxies lodged ahead of the meeting showed shareholders voted against the re-election of Ms Lloyd, Mr Davis and Ms Rodriguez by 67.3 per cent, 52 per cent and 59 per cent respectively.

Shareholders also rejected the proposed increase to the director fee pool, the awarding of shares to Mr Erter, and 66 per cent voted against the remuneration report.

The remaining James Hardie directors will now consider the next chair.

David Pace from Greencape Capital described it as the biggest shareholder heist he's seen in 33 years: "the price paid renders the transaction an appalling financial decision impairing group returns into perpetuity."

Shareholders were spun so hard he wondered how Ms Lloyd might "lie straight in bed".

"I don't think you will find anyone that likes this transaction," Wilson Asset Management investor John Ayoub said. "In the short and medium term it has raised a lot of questions about due diligence that was taken by both sides."

However, shareholders may be stuck with Mr Erter.

"I think it's probably wise for Aaron to see it through," Mr Ayoub said. "He's the one who decided this is the right strategy so now he needs to execute on it."

In a speech released ahead of the meeting, Mr Erter said James Hardie knows it has more work to do to win back support from investors and "we take the perspectives of all shareholders seriously".

James Hardie shareholders are furious they weren't given a vote on the heavily dilutive "friendly" deal agreed at a 37 per cent premium to Azek's share price at the time. And Azek shareholders are suing because even though they got a vote, James Hardie announced a significant profit downgrade that it allegedly knew about and did not disclose.

US law firm Robbins Geller Rudman & Dowd this week filed a class-action lawsuit against James Hardie and some of its top executives on behalf of American investors that bought shares between May 20 and August 18.

James Hardie shares have fallen 32 per cent this year, compelling Wilson Asset Management to buy the dip. Mr Ayoub said "it was nice to see some accountability".

Norges Bank said in its proxy voting intentions: "Shareholders should have the right to seek changes to the board when it does not act in their best interest."

Succession contenders

Now that Ms Lloyd has lost her job, James Hardie will need to elect a new chair. Jesse Singh, who was the Azek chief executive until the James Hardie takeover completed, received strong shareholder backing for his position and is likely to be the top candidate ahead of Howard Heckes who survived despite a 44 per cent vote against him.

Mr Ayoub said Mr Singh could revive James Hardie from its self-inflicted mess.

"Most Australians have had limited dealings with Jesse other than through this takeover, so I'd imagine most shareholders have somewhat of a tainted view on him, but he did build a very successful business in Azek, and this is going to be more of a US-centric stock," he said.

"We've only got so many options when it comes to playing the US housing cycle, and notwithstanding the current trials and tribulations, this is still a high quality company which you're getting at a very cheap valuation in a historic context."

While the US housing market has come under pressure in the past 12 months, there has been an upswell of commitment from US policymakers to start firing the housing market again.

On August 19, James Hardie disclosed that sales in North America fibre cement declined by 12 per cent due to customer destocking.

This is the basis of the class action allegation that "investors remained unaware that sales in James Hardie's largest business segment were experiencing inventory loading by channel partners, with the hallmarks of fraudulent channel stuffing, and not sustainable customer demand as represented".

The annual meeting was held in Dublin on Thursday morning Australian time, where James Hardie has its legal headquarters.

---- Index References ----

Company: ROBBINS GELLER RUDMAN & DOWD LLP; WILSON ASSET MANAGEMENT, LP; GREENCAPE, INC; NORGES-IT LIMITED

News Subject: (Business Management (1BU42); Corporate Events (1CR05); Corporate Groups & Ownership (1XO09); Equity Instruments (1EQ90); Executive Personnel Changes (1EX23); Finance Management (1FI66); Funding Instruments (1FU41); HR & Labor Management (1HR87); Mergers & Acquisitions (1ME39); Proxy Fights (1PR20); Shareholder Activism (1SH43); Stock Markets (1ST45))

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NewsRoom

Securities

ZoomInfo Investors Advance Claims Over Sales After Pandemic Bump

Oct. 29, 2025, 10:24 AM PDT

ZoomInfo investors can proceed with claims against the marketing technology company and top executives over statements about sales practices and revenue as Covid-19 pandemic demand slipped, a federal court ruled.

The investors adequately alleged material misstatements and the necessary level of intent for securities fraud on behalf of a proposed class, Judge Tiffany M. Cartwright said for the US District Court for the Western District of Washington.

But the shareholders failed to state securities fraud claims against Carlyle Group Inc. and two other investment funds, as well as one claim against an executive, Cartwright said. They may ask to replead those claims if they wish, she said.

The suit is among many stemming from changing customer demand patterns during and after the pandemic.

ZoomInfo Technologies Inc., which derives nearly all its income from database subscriptions, reported record financial results during the Covid-19 pandemic as businesses emphasized digital sales and marketing, the lawsuit said. But after the initial wave of demand abated, numerous customers attempted to reduce their use or abandon the product, the suit said.

The company allegedly used aggressive sales tactics and poor customer vetting to amplify contract numbers as it approached its initial public offering, which was completed in June 2020. It allegedly misrepresented the sustainability of demand and violated accounting standards for expected future revenue for existing contracts. The company's CEO and co-founder Henry Schuck touted "record engagement levels" shortly before the stock lock-up period ended in December 2020, enabling him and two other executives to sell millions of dollars' worth of stock. In Schuck's case, he allegedly sold about $1.1 billion worth of shares over a period of months.

Disclosures from late 2022 through mid-2024 brought ZoomInfo's stock price down significantly in a series of tumbles, the investors said. After a high of more than $77 per share in November 2021, it traded at $8.01 per share on Aug. 6, 2024.

Cartwright said statements about expected contract revenue satisfy the requirement for a material misstatement. And one executive is subject to a claim he participated in a manipulative scheme based on allegations of “inflating ZoomInfo’s RPO and share price by abandoning due diligence to sell to risky customers, suppressing unpleasant market data, and coercing renewals from customers unlikely to pay,” she said.

The executives’ stock sales themselves don’t give rise to an inference of fraudulent intent, or scienter, because “no control period exists to which the Court can compare the allegedly suspicious trades” given that ZoomInfo’s stock began trading just before the events at issue, the judge said. But former employees’ accounts, the individual defendants’ roles in the company, and other factors sufficiently support scienter, she said.

Labaton Keller Sucharow LLP is lead counsel for the investors. Orrick Herrington & Sutcliffe LLP represents ZoomInfo, its executives, and an investment fund associated with Schuck and another co-founder. Goodwin Procter LLP represents Carlyle and private equity firm TA Associates Management LP.

The case is State Tchrs. Ret. Sys. of Ohio v. Zoominfo Techs. Inc. , 2025 BL 386634, W.D. Wash., No. 3:24-cv-05739, 10/28/25 .

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Securities

Link Motion Investor Advances Suit Over Claimed Tech Giant Stake

Oct. 29, 2025, 2:49 PM PDT

A Link Motion Inc. investor can proceed with New York state fraud claims over the Chinese software company's statements about a computer corporation's purported investment in its subsidiaries, a federal court ruled.

But the investor, retiree Wayne Baliga, can't maintain his common law fraud claim as it relates to holding and buying more Link Motion American depositary shares following a short-seller's report discrediting the acquisition, Judge Victor Marrero said Wednessday. Marrero's ruling in the US District Court for the Southern District of New York adopted a magistrate judge's recommendation over Link Motion's objection.

Baliga alleges Link Motion and its founder, Vincent Wenyong Shi, falsely represented that an affiliate of Chinese state-owned computer company Tsinghua Tongfang was taking a majority stake in the subsidiaries, while the actual buyer was a company controlled by Shi

Marrero said the retiree showed his reliance on news reports, press releases, and filings related to Link Motion, including about the prospect of the subsidiaries' sale and explanations about payment delays

Baliga's claims for securities law violations in the case—which isn't a class action—aren't addressed in the opinion.

Lewis & Lin LLC and Greenberg Traurig LLP represent Baliga. Felicello Law PC represents Link Motion and Shi.

The case is Baliga v. Link Motion Inc. , S.D.N.Y., No. 1:18-cv-11642, 10/29/25 .

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Securities

Customers Bancorp Solo-Share Investor Drops Class Action Bid

Oct. 29, 2025, 11:57 AM PDT

A Customers Bancorp Inc. shareholder dropped putative class claims alleging the bank hid deficiencies in its anti-money laundering practices after he failed to be named lead plaintiff in the case.

Investor Chun Yao Chang filed notice with the US District Court for the Eastern District of Pennsylvania he was voluntarily dropping his lawsuit against the holding company of Customers Bank on Tuesday, two days before a scheduled status conference. Judge Juan R. Sánchez in June ended Chang's hopes of leading a class of investors in his suit, which also alleged the bank understated heightened compliance risks from its digital asset business.

Chang only bought one share during the approximately five-month class period in 2024, on which he said he lost about $16, Sánchez said when denying him lead plaintiff status

Chang, who sued in December 2024 and was the only litigant in this case, didn't present sufficient information to suggest he had "the experience and sophistication to adequately protect the class's interests," Sánchez said

"We are very pleased with this just result," said Todd G. Cosenza, a partner at Willkie Farr & Gallagher LLP who served as counsel for the bank and Executive Chairman Jay Sidhu

An attorney for Customers Bancorp's former Chief Financial Officer Carla A. Leibold declined to comment. Attorneys for Chang his attorneys didn't immediately respond to a request for comment.

Willkie Farr represents the bank and Sidhu; Weir LLP represents the company and Sidhu locally. Dailey LLP represents Leibold. The Rosen Law Firm PA represents Chang.

The case is Chang v. Customers Bancorp, Inc. , E.D. Pa., No. 2:24-cv-06416, notice filed 10/28/25 .

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Securities

Opendoor Investor Seeks Approval of Settlement With SPAC Backer

Oct. 29, 2025, 1:23 PM PDT

Opendoor Technologies Inc. would benefit substantially from corporate reforms under a settlement with a venture capitalist and company leaders over the house-flipping startup's blank-check merger, an investor said in a filing seeking final approval of the deal.

Granting final approval of the derivative suit settlement is appropriate, investor Samhita Gera told Judge Michael T. Liburdi of the US District Court for the District of Arizona in her motion filed Tuesday.

Gera's suit targets current and former Opendoor executives and directors along with Chamath Palihapitiya, whose Social Capital VC fund backed a special purpose acquisition company that took Opendoor public.

The SPAC "inherited a business that was a far cry from revolutionizing the residential real estate market and offered little in the way of financial growth or success," Gera alleged in the latest version of her complaint on behalf of the company. The defendants misled investors about the capability of Opendoor's real estate pricing algorithm, she said.

Several other derivative actions and books-and-records demands have been filed in Delaware federal and state courts surrounding the merger, according to the filing. Liburdi dismissed a proposed class action over substantially the same issues in 2024, and dismissed an earlier version of Gera's suit the same year.

The reforms at the center of the proposed settlement include the creation of a compliance committee and an auditing oversight position, and two governance analyses over the next four years.

Gera is also seeking approval of a nearly $2 million fee payment for her counsel that the defendants' insurers have agreed to cover.

McKay Law LLC and the Brown Law Firm PC represent Gera. A&O Shearman and Womble Bond Dickinson (US) LLP represent the defendants.

The case is Gera v. Palihapitiya , D. Ariz., No. 2:23-cv-02164, motion filed 10/28/25 .

Securities

Snap Inks $65 Million Deal to End Investors' Ad Revenue Suit (2)

Oct. 29, 2025, 5:48 AM PDT; Updated: Oct. 29, 2025, 9:36 AM PDT

Snap Inc. agreed to a $65 million settlement over proposed class claims the technology giant misled investors about how Apple Inc. privacy changes would impact its advertising business.

The claims had winnowed to a single alleged misstatement in 2021, making continued litigation more difficult, the public pension fund leading the case said while seeking preliminary approval of the deal in the US District Court for the Central District of California.

If approved by presiding Judge George H. Wu, the settlement would end almost four years of litigation of the investors' claims against Snap, CEO Evan Spiegel, and a former executive. That included a revival by the US Court of Appeals for the Ninth Circuit on the alleged inference of former Chief Business Officer Jeremi Gorman's intent to mislead in comments about advertisers' adoption of a new user-activity tracking tool.

Snap draws most of its revenue from selling advertisements. Certain ad partners relied on a tool to track Apple users that was curbed by the iPhone maker's privacy update, originally scheduled for 2020.

Gorman allegedly assured investors in April 2021 that Apple's delayed rollout of the change gave Snap and advertisers time to implement and test an alternative tracking tool, and that most of the company's partners had successfully made the switch.

Her purportedly misleading comments caused a spike in Snap's stock price, the suit said.

Then Snap's share price plunged more than 26% on Oct. 22, 2021, the day after the Snapchat owner revealed it missed revenue estimates in the third fiscal quarter. Executives said the Apple change that summer impacted its ad business more than expected.

It was the stock's sharpest one-day decline since its 2017 market debut, according to data compiled by Bloomberg.

Snap and the executives agreed to a settlement class of those who acquired Snap securities or call options, or sold put options, from Feb. 5, 2021, through Oct. 21, 2021, according to the pension fund's Oct. 27 motion seeking the court's initial blessing of the agreement.

The deal came while the Oklahoma Firefighters Pension and Retirement System's motion for class certification was pending.

"We believe this is an excellent result for the lead plaintiff, Oklahoma Firefighters' Retirement System, and the class as it resolves the litigation which the district court had twice dismissed before the 9th Cir reversed," said in an email Joseph E. White III, cofounder of Saxena White PA, lead counsel for the pension fund.

Paul, Weiss, Rifkind, Wharton & Garrison LLP and Bird, Marella, Rhow, Lincenberg, Drooks, & Nessim LLP represent Snap and the two executives. Neither of these law firms nor Snap immediately responded to emails seeking comment.

The case is Black v. Snap Inc. , C.D. Cal., No. 2:21-cv-08892, 10/27/25 .

(Updates to include a comment from the investor's counsel in the 11th paragraph.)

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Securities

Tesla Wants Top Delaware Court to Chop Big Lawyer Paydays (1)

Oct. 29, 2025, 8:05 AM PDT; Updated: Oct. 29, 2025, 9:47 AM PDT

A fee award for the shareholder attorneys who challenged four years of pay for Tesla Inc.'s board should be cut by more than $100 million, the electric vehicle-maker argued Wednesday before the Delaware Supreme Court.

It's the second time this month that Tesla has argued that the state's elite trial-level business court granted an excessively generous fee award to attorneys representing shareholders challenging compensation decisions, including the record-setting pay package it offered to CEO Elon Musk.

Tesla wants the high court to trim a $176 million award to roughly $70 million for the attorneys for the pension fund that settled their derivative lawsuit challenging pay from 2017 to 2020 for directors including Musk, Oracle Corp. founder Larry Ellison, Musk's brother Kimbal, and a son of media mogul Rupert Murdoch.

"This is an extraordinary fee award for what was an ordinary amount of litigation," said Tesla's attorney, Morgan Ratner of Sullivan & Cromwell LLP.

Justice Karen L. Valihura noted the fee awarded by the Delaware Chancery Court was $60 million more than the Delaware judiciary's budget last year "for a case that settled midstream."

"Do we have to be concerned about the public's perception of the size of these fees as a matter of acceptability of corporate governance and our oversight of it?" she asked the pension fund's attorney, Andrew Dupre of Akerman LLP.

"Let me first forcefully argue that the Delaware judiciary's budget should be increased," he replied.

Net Benefit

The Tesla accord was one of the three largest ever reached in Delaware, and the Chancery Court applied the correct standards even as it substantially cut the attorneys' original $230 million fee award request, he said. "This is a Goldilocks case. It is correct as a matter of both size and lodestar."

Under the terms of the settlement, Tesla's board must return stock and options valued up to $735 million and forgo three years of pay worth $184 million. The high court's full five-member panel wasn't asked to decide the fairness of the deal or the transactions that prompted the litigation.

The Chancery Court erred when it calculated the net benefit to the company based on the value of the options the directors were giving up, Ratner said. "They are not an asset on the balance sheet the way that cash is."

"How about the argument that if we don't consider the investor-level benefits, it will discourage derivative cases from being brought?" Chief Justice Collins J. Seitz asked her.

The pension fund didn't argue for investor-level benefits, Ratner said. "Treating investor-level benefits as the source of the number here is pretty hard to square with how this court has talked about derivative suits."

Musk and the directors asked the justices to affirm the settlement over the objections of one investor, Michael Levin, who writes "The Activist Investor" newsletter. Neither the directors nor Levin argued Wednesday before the justices.

Rare Awards

Nine-figure lawyer paydays are uncommon, but not unheard-of, in Delaware. The high court cautiously approved them last year when it affirmed a $267 million award for lawyers who reached a $1 billion settlement over a contentious stock conversion at Dell Technologies Inc.

The Chancery Court ignored the justices' warning about the public perception of windfalls in megafund cases, Ratner said. "This is a windfall any way you slice it," she said.

In a separate appeal seeking the restoration of a record-setting CEO pay package for the world's richest person, Tesla asked the high court to cut a $345 million fee award to attorneys for investor Richard Tornetta.

Tornetta's attorneys argued Oct. 15 that the fee was appropriate, given the size of the benefit created by his litigation—rescission of the largest pay package in human history. Tesla's attorney proposed a $54 million fee award as an appropriate alternative, if the justices uphold the Chancery Court's rejection of Musk's pay package and its June 2024 ratification by Tesla shareholders.

"No matter what, this court should take the fees down," Jeffrey Wall of Sullivan & Cromwell LLP said then.

The fee awards in the board compensation case and the dispute over Musk's CEO pay were both ordered by the same judge, Chancellor Kathaleen St. Jude McCormick.

Tesla is also represented by DLA Piper LLP (US) and Bayard PA. Musk and other Tesla directors are represented by Richards, Layton & Finger PA and Cravath, Swaine & Moore LLP. The Police and Fire Retirement System of the City of Detroit is also represented by Bleichmar Fonti & Auld LLP and Fields Kupka & Shukurov LLP.

The case is In re Tesla, Inc. Dir. Comp. S'holder Litig., Del., No. 53,2025, oral arguments 10/29/25 .

(Updates with additional reporting throughout.)

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US judges question whether Argentina YPF case belongs in US

reuters.com/business/energy/us-judges-question-whether-argentina-ypf-case-belongs-us-2025-10-29

Reuters October 29, 2025

The headquarters of Argentina's state energy company YPF is seen in Buenos Aires, Argentina February 10, 2021. Picture taken February 10, 2021. REUTERS/Matias Baglietto Purchase Licensing Rights, opens new tab

NEW YORK, Oct 29 (Reuters) - At least two U.S. judges on a panel considering whether Argentina must pay investors $16.1 billion after seizing control of state-owned oil company YPF (YPFDm.BA), opens new tab in 2012 questioned on Wednesday whether the case belonged in the United States.
The judges were part of a three-judge panel of the 2nd U.S. Circuit Court of Appeals in Manhattan that on Wednesday reviewed Argentina's bid to set aside a trial judge's September 2023 award to two minority shareholders of YPF.
Argentina has argued the case should have been heard at home, and questioned the judge's interpretations of Argentine law.

Burford Capital (BURF.L), opens new tab has funded much of the litigation and could receive billions of dollars if the award were upheld. Its shares fell more than 10% after the two judges made their comments.
Reporting by Jonathan Stempel in New York

Our Standards:

Securities

Bezos-Musk Space Feud Case Lands at Delaware Supreme Court

Oct. 29, 2025, 10:42 AM PDT

A Delaware Supreme Court inundated with cases targeting Elon Musk turned its attention Wednesday to the other half of the space rivalry between two of the world's richest people.

A pension fund is seeking to revive its lawsuit blaming the "bitter public feud" between Musk and Amazon.com Inc. founder Jeff Bezos for delays plaguing Project Kuiper, a satellite venture that's among the costliest endeavors in the tech giant's three-decade history. Musk's record fortune is worth $472 billion, while Bezos is No. 4 on the Bloomberg Billionaires Index at $252 billion.

Amazon's Project Kuiper is meant to directly rival Starlink, the global mega-constellation of satellites run by Musk's SpaceX, which has a years-long head start. Policy shifts put in motion by the Trump administration could raise the stakes of the unfriendly competition by redeploying $43 billion worth of broadband internet subsidies previously reserved mainly for fiber-based technologies.

Amazon has until 2026 to send up the first 1,600 satellites and three more years to launch the next batch. That broader backdrop barely came up during the appeal proceedings, which zoomed in on allegations that the board made no effort to oversee self-dealing by Bezos as he directed billions from Amazon to his own rocket company, Blue Origin, despite SpaceX's superior capabilities.

A Delaware Chancery Court judge dismissed the case in February, saying the shareholder suit offered no good reason to doubt the board's impartiality. Corporate directors "can always do more," but they're only liable for oversight failures if they "deliberately do essentially nothing," Vice Chancellor Nathan A. Cook said at the time.

Anitha Reddy, an attorney for Bezos and the board, defended that ruling during Wednesday's roughly 50-minute hearing. Amazon's directors had no reason to think Bezos improperly influenced the contract negotiations with Blue Origin, according to Reddy, who said the legal standard—bad faith—requires intentional wrongdoing, not some "species of negligence."

Amazon's board shouldn't face liability "for not instituting so-called negotiation guardrails when they had no reason to believe they were necessary," Reddy said. "The standard is about whether or not directors utterly failed to attempt to fulfill their fiduciary duties, not whether they could have asked for more information."

Vivek Upadhya, counsel for the pension fund, stressed the "billions of dollars flowing directly from Amazon to a company owned and controlled by Amazon's CEO and chairman." The sheer scale of the conflict of interest made the Blue Origin contract "a truly exceptional transaction" requiring attentive board supervision, regardless of the actual role Bezos played in negotiations, according to Upadhya.

"Delaware law doesn't require that directors harbor some innate suspicion" before taking steps to manage conflicts, but the board "failed to lift a finger," he said.

The justices offered few glimpses into their thinking, sticking mostly to technical points. Unlike some other high-profile jurists, members of Delaware's top court typically refrain from asking the types of leading questions that can telegraph which way they're leaning.

Bezos and the other board members are represented by Ross Aronstam & Moritz LLP and Wachtell, Lipton, Rosen & Katz. The Cleveland Bakers and Teamsters Pension Fund is represented by Grant & Eisenhofer PA.

The case is Cleveland Baker & Teamsters Pension Fund v. Bezos , Del., No. 127, 2025, oral argument held 10/29/25 .

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News | **Civil Appeals**

'Public Nuisance?' 4th Circuit Revives Lawsuit Against Opioid Distributors

"[W]e hold that under West Virginia common law, the conditions resulting from the over-distribution of opioids can constitute a public nuisance," the U.S. Court of Appeals for the Fourth Circuit ruled, reviving a public nuisance lawsuit against opioid distributors represented by Reed Smith; Williams & Connolly; and Covington & Burling.

October 29, 2025 at 04:40 PM By **Sulaiman Abdur-Rahman**

What You Need to Know

- The U.S. Court of Appeals for the Fourth Circuit has revived a public nuisance lawsuit against opioid distributors AmerisourceBergen, Cardinal Health and McKesson.
- Kellogg, Hansen, Todd, Figel & Frederick filed the successful appeal on behalf of West Virginia local government plaintiffs.
- Covington & Burling; Williams & Connolly; and Reed Smith represent the opioid distributor defendants.

Credit: Svyatoslav Lypynskyy/Adobe Stock

The U.S. Court of Appeals for the Fourth Circuit has revived a public nuisance lawsuit against several opioid-distribution companies accused of addicting and harming thousands of people who live in West Virginia's City of Huntington and Cabell County.

"[W]e hold that under West Virginia common law, the conditions resulting from the over-distribution of opioids can constitute a public nuisance," Senior Judge Barbara Milano Keenan wrote in the 49-page opinion for the Fourth Circuit filed Tuesday.

Circuit Judges Robert B. King and DeAndrea Gist Benjamin concurred with Keenan's opinion, tossing a trial court's judgment and remanding the matter to U.S. District Senior Judge David A. Faber of the Southern District of West Virginia for further proceedings.

Faber's 2022 decision in favor of defendants AmerisourceBergen Drug Corp., Cardinal Health Inc. and McKesson Corp. erroneously held West Virginia common law does not permit public nuisance claims based on the distribution of prescription drugs, the Fourth Circuit ruled.

"We also hold that in assessing the local governments' claim, the district court misconstrued the distributors' duties under the Controlled Substances Act," Keenan wrote in the Fourth Circuit's decision. "This error materially affected the court's analysis of the distributors' conduct. The court's analytical error also materially affected its rulings on proximate causation and remoteness."

David C. Frederick argued the successful appeal on behalf of plaintiffs in Huntington and Cabell.

"We're gratified by the Fourth Circuit's careful and meticulous ruling that the opioids distributors can be held liable for the public nuisance they created," Frederick, a partner at Kellogg, Hansen, Todd, Figel & Frederick, said in a statement shared with Law.com and the National Law Journal.

"Huntington and Cabell County were devastated by the opioid crisis and the need for abatement remedies is still crucial to assist the community in addressing the crisis," Frederick added.

During oral arguments before the Fourth Circuit, Reed Smith partner Robert A. Nicholas represented AmerisourceBergen, now known as Cencora; Williams & Connolly partner Enu Mainigi represented Cardinal Health; and Covington & Burling partner Paul W. Schmidt represented McKesson.

"We are disappointed with the Fourth Circuit's decision and continue to believe Judge Faber correctly concluded AmerisourceBergen substantially complied with its obligations under the Controlled Substance Act, based on the Court's careful consideration of the testimony from dozens of witnesses and extensive documentary evidence presented during a three-month trial," a Cencora spokesperson said in a statement.

“We are considering next steps, including potentially seeking further appellate review of the Fourth Circuit’s decision,” the Cencora spokesperson added.

“We are reviewing the court’s decision and evaluating next steps in this matter,” a McKesson spokesperson said Wednesday in a statement.

Cardinal Health declined to comment.

The Fourth Circuit rendered its decision in *City of Huntington, West Virginia v. Amerisourcebergen Drug Corp.*, No. 22-1819.

Page printed from:

California Brief

Edison Releases Final Settlement Offer for Eaton Fire Survivors

Oct. 29, 2025, 11:24 AM PDT

Edison International's Southern California Utility unveiled a final Eaton Fire compensation plan Wednesday that sweeps in more residents but leaves unchanged its repair offer for smoke-damaged standing homes.

Settlement applications are now open to nearly twice as many residents with standing homes contaminated by smoke, soot, and ash after Edison extended its eligibility zone beyond the perimeter of the Los Angeles County fire. It continues to offer a flat rate of $10,000 to remediate smoke damage that residents say isn't enough to cover testing and cleanup.

"We listened to more than a thousand voices and learned what matters most to those impacted by the Eaton Fire: clarity, fairness and speed," said Edison International CEO Pedro Pizarro in a news release. "This input helped SCE refine the program to respond directly to the community's needs."

Survivors organized this month to demand the utility provide a more fair and reasonable plan for residents who can't afford to wait years for litigation to conclude. They said the September settlement draft proposal unduly values children less than adults, and challenged its offerings for renters and business owners, saying the plan failed to recognize all fire-related losses.

The January blaze killed 19 people and destroyed more than 9,000 homes and other buildings. The federal government has demanded that Edison repay the cost of fighting the fire.

Edison in September estimated its settlement rebuild compensation for a 1,500 square foot home would be about $900,000. The finalized plan could provide more than $1 million. It offers $115,000 in non-economic damages for each adult and $75,000 for each child whose home burned down, an increase from the draft plan.

The settlement would offset rebuild offerings with residents' insurance coverage, which was another focus of Altadena groups' criticism. The utility also increased its loss-of-use payment offering and provision for attorneys fees.

The plan is expected to reduce Edison's exposure in extensive mass tort litigation in Los Angeles state court. Hundreds of residents have sued the utility over the fire that start near the base of one of its transmission lines. Pizarro said at a third quarter earnings call Tuesday the utility's equipment is "likely" to be found associated with the start of the Eaton fire without additional evidence.

The draft plan and its update were created in consultation with September 11th Victim Compensation Fund administrator Kenneth Feinberg, the utility said.

Applications close Nov. 30. Residents will receive an offer within 90 days of submitting their claims, the utility said. They'll be allowed to request reconsideration of the offer through a review process that Edison expects to last up to nine months.

The first trial in Edison's California Superior Court, Los Angeles County coordinated proceedings is scheduled for January 2027.

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News | **Class Actions**

Four Plaintiffs' Firms Back Data Breach Lawsuits Against Conduent Business Services

Consumers have filed several class-action complaints this week in the U.S. District Court for the District of New Jersey against a digital business solutions company, Conduent Business Services, each alleging that the company's negligence led to a large-scale data breach of their fellow consumers' health and insurance information.

October 30, 2025 at 09:33 AM By **Nicholas Malfitano**

Photo: Shutterstock

Consumers have filed several class action complaints this week in the U.S. District Court for the District of New Jersey against a digital business solutions company, Conduent Business Services, each alleging that the company's negligence led to a large-scale data breach of their fellow consumers' health and insurance information. According to the suits, those affected by the data breach are now facing increased risk of identity theft and were not informed of the situation until months after it occurred.

Takeaway: Data breaches continue to be cases that attract prominent litigation. Last month, Texas Attorney General Ken Paxton filed a lawsuit against PowerSchool, a California-based educational software company, alleging security shortcomings that led to a data breach affecting more than

880,000 Texas students and teachers. The suit claims hackers accessed unencrypted data through a subcontractor's account in December, obtaining names, addresses, Social Security numbers, medical records, disability information, and bus stop locations.

Court: U.S. District Court for the District of New Jersey

Case Type: Breach of contract

Industry: Business services

Lawyers: Firms like Carella Byrne Cecchi Brody & Agnello, Milberg Coleman Bryson Phillips Grossman, Shamis Gentile and Lynch Carpenter are representing the plaintiffs. Counsel for Conduent has not yet entered an appearance in these cases.

Liability Arguments: Consumers Erin Adams-Griffin, Kevin Amende, Reagan Smith, Peggy Bordelon and Brian Marshall individually filed class-action complaints alleging that Conduent, of Florham Park, New Jersey, utilized insufficient security procedures to protect the personal, private identifying and health information for themselves and thousands of their fellow consumers. As a result, they say a large-scale data breach occurred, and an internal investigation determined that an unauthorized third-party had access to the defendant’s IT Network from Oct. 21, 2024, to Jan. 13, where it could obtain the private information in question. The suits allege that consumers impacted by the breach are now left at a higher risk of being the victims of identity theft and that they were not informed of the breach until earlier this month.

Damages Arguments: The plaintiffs seek class certification, appropriate monetary relief, injunctive relief, credit monitoring, pre-judgment and post-judgment interest, attorney fees and costs for claims of negligence, negligence per se, breach of contract, breach of fiduciary duty, unjust enrichment and invasion of privacy among the suits.

What the lawyers are saying: James E. Cecchi of Carella Byrne Cecchi Brody & Agnello in Roseland, New Jersey; Mark K. Svensson of Milberg Coleman Bryson Phillips Grossman in New York City; Leanna A. Loginov of Shamis Gentile in Miami; and Gerald D. Wells of Lynch Carpenter in Philadelphia are representing the individual lead plaintiffs and did not immediately return requests for comment. Conduent did not answer a request for comment at the time of publication.

Radar scan: Among hundreds of class-action suits of alleged breach of contract brought this year at the federal level, Blake Elwood and Terry Merrifield filed suit Thursday in the U.S. District Court for the Northern District of Georgia against home appliance manufacturing company Sunbeam Products. The plaintiffs alleged that Sunbeam manufactured Oster French Door countertop ovens with faulty doors, which they argue can cause burn injuries. The suit seeks over $5 million in damages.

Caption and complaints: *Adams-Griffin v. Conduent Business Services*, *Amende v. Conduent Business Services*, *Smith v. Conduent Inc.*, *Bordelon v. Conduent Business Services*, *Marshall v. Conduent Business Services*.

Dates filed: Oct. 27 and Oct. 28

Judge: Judges Michael E. Farbiarz, Julian Xavier Neals and Brian R. Martinotti

These actions were surfaced by Law.com Radar, which delivers real-time alerting on new litigation across more than 2,600 state and federal courts. Click here to get started and be first to act on opportunities in your region, practice area or client sector.

Class Action

Manage Newsletters

Snowflake Loses Two More Bids to Dismiss Data Breach Plaintiffs

Oct. 30, 2025, 8:19 AM PDT

Summary by Bloomberg AI

AI Generated

- A federal judge largely failed to dismiss education and financial institutional plaintiffs from Snowflake's data breach litigation case, allowing negligence and consumer protection claims to advance.
- The data breach compromised different sets of data, including ethnicity, citizenship, and financial information from the Los Angeles Unified School District, and 560 million customer records from Ticketmaster.
- The financial institution plaintiffs can pursue their complaint against Snowflake and Ticketmaster, but cannot seek declarative or injunctive relief, with the court finding that Snowflake and Ticketmaster had a duty to the financial institutions sufficient for a negligence claim.

Cloud company Snowflake's data breach litigation woes got worse as two bids to dismiss education and financial institutional plaintiffs from the case largely failed to convince a federal judge.

The Los Angeles Unified School District was just one of the at least 165 companies and organizations which had their data stolen because cybercriminals hacked into Snowflake's systems. Parents and students from Los Angeles were able to convince the US District Court for the District of Montana to let their negligence and consumer protection claims advance Wednesday.

The data breach compromised different sets of data depending on the victim. Cybercriminals lifted ethnicity, citizenship, academic, economic, and financial information from the school district since it paid an intermediary—Innive—that stored information in Snowflake.

They also stole 560 million customer records from Ticketmaster which compromised not just event and order details, but information relating to the purchasing card—including at least its last four digits and the expiration date. A Visa report indicated the breach also compromised unique payment card numbers, according to financial institutions that opted to sue Snowflake.

The financial institution plaintiffs convinced Judge Brian Morris to let much of their complaint against Snowflake and Ticketmaster advance. This follows an earlier ruling where consumer plaintiffs defeated Snowflake's motion to dismiss, and much of Ticketmaster's.

"The fraudulent charges on the payment cards and associated reimbursements made by the Financial Institution Plaintiffs represent actual monetary losses that clearly prove an injury-in-fact," Morris said. It's plausible the injury is traceable to the breach, though Snowflake and Ticketmaster are free to question at summary judgment whether the specific data lifted could've compromised the payment card numbers.

Snowflake and Ticketmaster had a duty to the financial institutions sufficient for a negligence claim, the court said. And the alleged failure to sufficiently require multi-factor authentication plausibly describes a breach of that duty. Snowflake says it did require multi-factor authentication to store payment card info.

Providing the payment card information is a benefit to Ticketmaster and to Snowflake, which runs a data storage and protection business, sufficient to maintain an unjust enrichment claim, Morris said. "No controlling authorities hold that an unjust enrichment claim cannot be sustained when a plaintiff pleads legal claims in the alternative."

However, the financial institutions can't pursue declarative or injunctive relief. A Ninth Circuit case "clearly forecloses the use of the" Declaratory Judgment Act "without a separate affirmative cause of action," Morris said.

Garlington Lohn & Robinson PLLP and Paul Hastings LLP represented Ticketmaster. Holland & Hart LLP and Quinn Emanuel Urquhart & Sullivan LLP represented Snowflake.

Migliaccio & Rathod LLP, Graybill Law Firm PC, DiCello Levitt LLP, Heenan & Cook, and Goetz, Geddes & Gardner PC are co-lead counsel.

Western Justice Associates PLLC and Pittman, Dutton, Hellums, Bradley & Mann PC represented the financial institutions, led by New Orleans Firemen's Federal Credit Union.

The case is In re Snowflake, Inc., Data Sec. Breach Litig. , D. Mont., No. 2:24-md-03126, 10/29/25 .

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Class Action

Manage Newsletters

Visa Escapes Federal Damages Claims From Cardholders, Merchants

Oct. 29, 2025, 2:52 PM PDT

Summary by Bloomberg AI

AI Generated

- Visa Inc. won't face damages claims in a lawsuit by cardholders and merchant plaintiffs who allege the company monopolizes the debit card market.
- Judge John G. Koeltl granted in part and denied in part Visa's motion to dismiss, allowing the plaintiffs to pursue only injunctive relief.
- The plaintiffs want to invalidate Visa's user agreements with competitors and potential rivals, as well as halting other conduct such as bundling credit services or credit incentives with debit network.

Visa Inc. won't face damages claims in a lawsuit by cardholders and merchant plaintiffs who allege the payments giant monopolizes the debit card market.

Judge John G. Koeltl of the US District Court for the Southern District of New York, in an opinion docketed Wednesday, granted in part and denied in part Visa's motion to dismiss, allowing the plaintiffs to pursue only injunctive relief.

The two proposed class actions mirror allegations in a case brought by the Justice Department against Visa last year that is proceeding after a judge denied the company's motion to dismiss. The cardholder and merchant plaintiffs both allege that Visa used contracts with banks and merchants to agree not to compete with competitors or potential rivals.

In his order, Koeltl said the cardholder plaintiffs adequately alleged antitrust standing in seeking injunctive relief under the Sherman Act but ruled that they can't seek damages because they aren't direct purchasers. Only direct purchasers can sue for damages under the Supreme Court's 1977 decision in *Illinois Brick Co. v. Illinois*, he said.

As injunctive relief, the plaintiffs want to invalidate Visa's user agreements with competitors and potential rivals, as well as halting other conduct such as bundling credit services or credit incentives with debit network.

Koeltl dismissed the Sherman Act claims for damages without prejudice.

He also said that the cardholder plaintiffs adequately alleged they have antitrust injury under California's Cartwright Act, which allows indirect purchasers to sue.

"The fact that the cardholder plaintiffs are indirect purchasers of Visa's services necessarily raises a risk of duplicative recovery and complex damages apportionment," Koeltl said. "But denying antitrust standing solely on these grounds would contravene California's policy decision to allow indirect purchaser claims under the Cartwright Act."

He dismissed with prejudice the cardholders' antitrust claims brought under laws of Illinois and Arkansas, and dismissed without prejudice the state consumer protection claims.

Koeltl also granted Visa's motion to dismiss the merchant plaintiffs' damages claims under the Sherman Act.

"Because the merchant plaintiffs have alleged that they are indirect purchasers of Visa's services, *Illinois Brick* bars their claims for damages under the Sherman Act," he said.

He similarly dismissed the merchant plaintiffs' federal antitrust claims for damages without prejudice and dismissed some consumer protection claims without prejudice.

Visa is represented by Arnold & Porter Kaye Scholer LLP and Wilkinson Stekloff LLP. The plaintiffs are represented by firms including Joseph Saveri Law Firm LLP and Cohen Milstein Sellers & Toll PLLC.

The case is In re Visa Debit Card Antitrust Litig. , S.D.N.Y., No. 1:24-cv-07435, 10/29/25 .

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News | **Litigation**

Plaintiffs Bar Files Initiatives to Counter Uber's Fee Cap Measure

The Consumer Attorneys of California says ride-hailing companies should be liable for drivers' misconduct.

October 29, 2025 at 09:52 AM By **Cheryl Miller**

Uber pickup sign at Dulles International Airport in Virginia. Photo: Diego M. Radzinschi/ALM

Three weeks after Uber Technologies Inc. submitted initiative language to cap contingency fees in car-crash suits, the lobby for California's plaintiff bar countered with its own proposed ballot measures that take direct aim at the ride-hailing giant.

The Consumer Attorneys of California filed the trio of potential initiatives with the attorney general's office on Tuesday, setting up a potentially costly ballot-box battle as the two sides maneuver toward the 2026 election.

One of the measures, seizing on reports and allegations in lawsuits that thousands of Uber passengers have been sexually assaulted, would make the company financially liable for drivers' misconduct. The Consumer Attorneys have run television ads during World Series broadcasts this week highlighting the claim that Uber received complaints of driver wrongdoing "almost every eight minutes" between 2017 and 2022.

The second initiative, dubbed the "Rideshare Company Public Accountability Act," would hold so-called transportation network companies responsible for driver negligence "whether or not the driver is categorized as an independent contractor."

The third measure would add one sentence to California's constitution: "The State shall not deny or interfere with the right of any person to contract with counsel of their choice to protect their legal rights." More significantly, the initiative language asserts that if voters approve both the Uber measure and "The People's Right to Contract With Counsel of Choice Act," only the Consumer Attorneys' initiative will take effect.

A Consumer Attorneys representative could not be reached for comment Thursday evening. A post on the organization's Instagram site said, "Consumer Attorneys of California fights back—filing three initiatives in response to Uber's attempt to dismantle consumer rights."

A message left with Uber's corporate office was not immediately returned.

It's unclear what the plaintiffs lawyers' ultimate strategy is with the trio of initiatives.

They are unlikely to pursue all three given the enormous costs of gathering qualifying signatures and forming an effective election campaign. And alone, it's doubtful they could match the financial resources of Uber and Lyft, which spent tens of millions of dollars in 2020 to pass an initiative allowing their drivers to be classified as independent contractors.

The CAOC has leveraged the threat of a proposed initiative in the past to derail a ballot-box threat.

After a business-back group in 2007 filed a measure to limit class actions, the plaintiffs bar retaliated with three of its own proposed initiatives, including one requiring shareholder approval of corporate executives' pay packages. Both sides eventually withdrew their measures.

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Analysis | **Legal Technology**

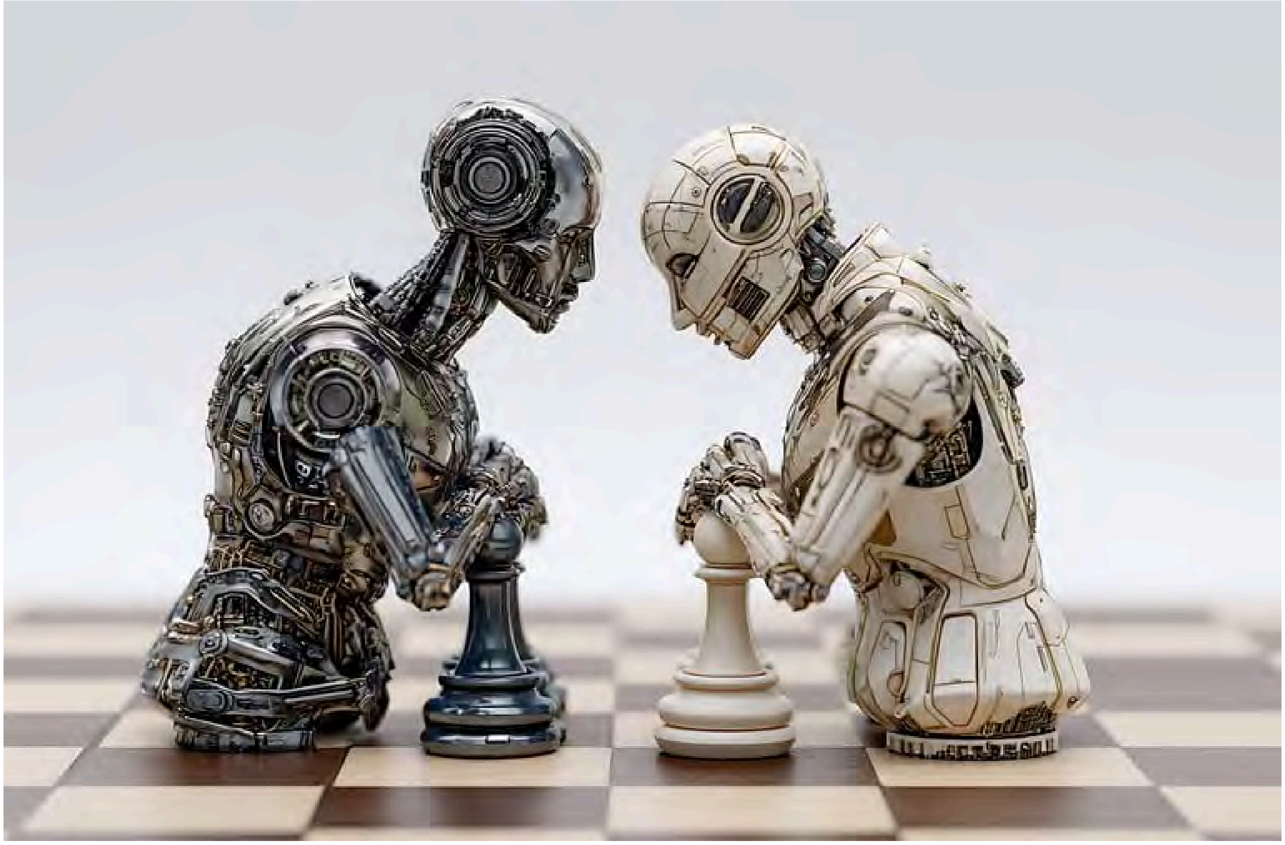
In Race to Innovate, Plaintiffs Firms Are Leading the Charge

Plaintiffs firms tend to be ahead of their defense-side counterparts when it comes to experimenting with emerging legal technology.

October 29, 2025 at 12:27 PM By **Aleeza Furman**

What You Need to Know

- Plaintiffs firms that tend to be ahead of large corporate firms when it comes to adopting emerging legal tech.
- Because of differences in their financial structures and client relationships, plaintiffs firms have greater incentive and freedom to try new tools.
- As new generative artificial intelligence-powered tools introduce greater efficiencies into the business and practice of law, plaintiffs firms' faster tech adoption may change certain dynamics of how litigation plays out.



Credit: Ayon Future/Adobe Stock

Despite their resources, Big Law firms are not typically the ones leading the legal industry in technological experimentation. Rather, experts say, it's plaintiffs firms that tend to be the fastest adopters of emerging legal tech.

Because of differences in their financial structures and client relationships, plaintiffs firms have greater incentive and freedom to try new tools compared to firms that represent large corporations. And as new generative artificial intelligence-powered tools introduce greater efficiencies into the business and practice of law, plaintiffs firms' faster tech adoption may change certain dynamics of how litigation plays out.

Jerry Zhou, founder and CEO of personal injury legal AI platform Supio, contended that emerging technology can act as a "level setter" for plaintiffs firms, whose opponents tend to have more resources at their disposal.

"With AI, you're able to scale these plaintiff firms in ways where they can better serve their clients and get much better delivery on outcomes, because they aren't funded as well," Zhou told Legaltech News. "They're not on the billable hour of a giant corporation, where they have armies and armies of lawyers getting paid for every hour they spend on understanding and sifting through all this data and prepping."

Zhou said firms that operate on the billable hour model have less incentive to work efficiently through a matter than firms that are paid based on outcome. As a result, he asserted, defense firms often adopt new tech at the behest of a client rather than on their own initiative.

"With plaintiff's firms," Zhou said, "they're much more proactive in being on the cutting edge because they're just looking for the best tools to better serve their clients."

Thomas Kline, co-founder of Philadelphia-based personal injury firm Kline & Specter, asserted that the differing approaches to tech adoption are part of a longstanding history of plaintiffs firms being nimbler and more innovative than their defense-side counterparts.

That paradigm is driven not just by differences in financial incentives, but also by differences in the two sides' relationships with clients.

"Plaintiffs lawyers largely, in the management in their cases, report to themselves, and defense firms largely report to corporate counsel, and so everything is slower and more cumbersome and more cautious [for the defense]," Kline told Legaltech News.

Kline said his firm has explored a range of use cases for gen AI, but there are limits to how he is willing to use the tech at this point. For instance, in the context of litigation, Kline said gen AI is a great tool for evaluating cases and gathering data points, but less so for creating materials that will go before a judge.

“A safe haven of use of AI is some place where you're using it for research purposes to assist your litigation, the litigation strategy, not necessarily swearing to a court that it’s true and accurate,” Kline asserted. So while he may use gen AI to create a medical chronology for a case, Kline said he would not use the tech to draft legal filings.

“As a rule,” he contended, “plaintiffs firms are not writing their briefs with AI.”

Kline noted that his firm’s approach to vetting and procuring tech is not necessarily representative of what plaintiffs shops as a whole are doing. He said that, as a larger operation, Kline & Specter has more IT staff than many plaintiffs firms have lawyers.

Making Up for Resource Gaps

With most personal injury firms being made up of only a handful of attorneys, not all plaintiffs lawyers agree that their side has a longstanding technological headstart over their opposition. Nasser Abujbarah, managing attorney of Phoenix, Arizona-based personal injury firm Phillips Law Group, contended that defense firms “are night and day ahead of us in terms of adopting tech.”

According to Abujbarah, the insurance companies that work with defense firms have deep pockets and have been using AI for decades, whereas most plaintiffs firms lack the resources to invest in expensive new tech. However, that dynamic is beginning to change, he added.

While defense firms have historically had greater access to tech, Abujbarah told Legaltech News, that gap is closing as more plaintiff-focused products come out and AI tools become more widely available.

“Now that the access has leveled out and now anybody can access these things, there's no doubt about it now that the plaintiffs are the ones kind of taking these new ventures on, being a little bit more nimble,” Abujbarah said.

Abujbarah predicted that the increasing accessibility of legal technology will allow plaintiffs firms to take on a greater number of cases, pursue them further, and obtain more favorable results. “If that barrier is being released, that resource barrier and the information barrier—and I think generative AI can bridge the gap on both those things quickly for folks—and there is going to be more litigation,” he said.

Legal Tech Divides

Because plaintiffs and defense firms operate differently in many areas, to some degree they have diverging tech needs. For instance, the two sides run their businesses and manage documents in very different fashions, so products designed for those sorts of tasks tend to be more directed toward one side or the other.

Some newer legal tech startups have emerged on the scene in recent years that specifically serve plaintiffs firms, with newer companies like Supio, Eve and EvenUp each drawing in tens of millions of dollars worth of funding in the past year.

But in other areas, emerging tools are increasingly designed for both sides to use.

For example, Zach Posner, co-founder of The LegalTech Fund, said, both plaintiffs and defense firms can make use of tools that review and analyze medical records. “They both need to understand what's in that medical record and how it fits into this case,” Posner said. “And we're seeing the tech be very specific at this stage. So you’re going to see a lot more of the same tech being used on both sides.”

In the current legal tech market, Posner predicted, the division between plaintiff-side products and defense-side products will likely become less pronounced.

“Historically, there's been a huge delineation between the two where you serve one or you serve the other,” Posner said. “I think that's going to get blended right now, because these tools are coming out in a very specific way.”

Supio’s Zhou said he sees there being certain elements of legal practice, such as legal research, where both sides’ tech needs are similar. “As we evolve into unique AI solutions, I think there will be some overlap there,” he said, “but they will always have their own unique differentiation."

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Eye on the Industry

Boies Schiller, Cooper & Kirk Team Up With Republican Florida AG

Oct. 30, 2025, 2:00 AM PDT

Summary by Bloomberg AI

AI Generated

- Florida Attorney General James Uthmeier is pushing to be one of the nation's most aggressive GOP top cops and is leaning on outside counsel to launch suits against tech giants and corporate titans.
- Uthmeier's office is relying on firms like Boies Schiller, whose founder David Boies is a Democratic megadonor, to take on high-profile litigation for the state.
- Uthmeier's approach has been controversial, with Democratic candidate José Javier Rodríguez criticizing the lack of transparency in awarding contracts and the appearance of conflict in handing out contracts to friends.

Florida Attorney General James Uthmeier (R) is pushing to be one of the nation's most aggressive GOP top cops. And he's leaning on outside counsel, including a firm founded by a Democratic megadonor, to launch suits against tech giants and corporate titans.

Roughly every month since Gov. Ron DeSantis (R) tapped his chief of staff Uthmeier, Florida has announced another big mark. Snap Inc., Roku, Pornhub, Roblox, Robinhood, Target Corp., and others have been sued or served with subpoenas foreshadowing costly litigation over allegations that the businesses have harmed Florida consumers, children, or pension recipients.

"We are going to swing big. We are going to fight the right fights," Uthmeier said in an interview with Bloomberg Law. "We're more aggressive now than we've ever been, but it also does require outside counsel assistance."

The 400-attorney office is relying especially on Boies Schiller, the firm whose founder, David Boies, is best known in Florida for his representation of Al Gore's campaign in the 2000 presidential election recount.

Since then the firm has built a strong relationship with Republican officials and hired some former state government lawyers to build out a team taking on high-profile litigation for the state.

"DeSantis and Uthmeier represent a more robust forward-leaning brand of conservatism and policy making," said Jesse Panuccio, a partner at Boies Schiller's Fort Lauderdale office. He was former associate attorney general in Trump's first administration and general counsel for US Sen. Rick Scott (R) when he was governor.

"What comes with that are court challenges—as the policy is more ambitious you get more lawsuits," he said.

The big swings Uthmeier is taking, and with whom he's teaming up, could be a factor in next year's Florida attorney general election.

Democratic candidate José Javier Rodríguez said Uthmeier isn't transparent enough on how the state is awarding these contracts.

"The attorney general has said only his friends and only the people who agree with him on DEI can serve the people of Florida," said Rodríguez, a former state senator. "The appearance of conflict, whether it looks like these contracts are being handed out to friends, is important."

Courting Controversy

Controversy has followed Uthmeier in the nine months since he took office.

He's been a driving force behind the Everglades migrant detention center called Alligator Alcatraz, and a federal judge sanctioned him for telling local law enforcement they're free to enforce state crimes for migrants after the federal court blocked him from enforcing the law. Boies Schiller is helping Florida defend both cases.

Uthmeier's office is full steam ahead, collecting roughly $200 million in the last six months from settlements, judgments, and fines. Offensive maneuvers include investigating companies that work on ESG ratings, and launching a first-in-the nation office helping parents fight school systems which "seek to 'treat,' indoctrinate, or collect data from students without parental involvement." He's also blocked all government contracts for law firms that participate in diversity, equity, and inclusion initiatives.

His work has received attention from one Florida denizen in particular: President Donald Trump, who in an Oct. 8 Truth Social post endorsed him in the 2026 race.

"The office has never been more productive and we've never had more ongoing cases," said Uthmeier, who replaced Ashley Moody (R) after she was appointed to the US Senate.

'Mission Aligned'

Tackling his agenda takes more lawyers than Uthmeier has among his ranks.

State lawmakers axed roughly 7% of his office's budget, and Uthmeier is petitioning the Florida Supreme Court to let out-of-state attorneys represent Florida without taking the bar for three years in an effort to fill dozens of his office's vacant positions.

To fill the gaps Uthmeier has turned to old friends, like Charles J. Cooper, the founder of Cooper & Kirk, one of Washington's premier boutiques.

They met when Uthmeier was attending Georgetown Law and invited Cooper to receive a Federalist Society award. This year Cooper—whose firm is a longtime fixture representing conservatives—served on Uthmeier's transition team and his firm is representing Florida in a case accusing Snapchat of allegedly addicting children to its app. The firm is taking the Snap case on contingency, per a contract obtained by Bloomberg Law.

Uthmeier "has put the attorney general's aggressiveness on steroids," said Cooper, especially when it comes to "pursuing the kind of family-friendly, child-protective conservative polices" where they're "mission aligned."

'Bottomless Bench'

Uthmeier, who approves all outside counsel contracts for state agencies, said many of the firms working for the state are taking "low bono" reduced rates or working on contingency contracts to preserve taxpayer cash.

Recent contracts show Cooper & Kirk charging Florida around $700 per hour depending on the case. A recent contract with Boies Schiller showed the firm charged the state $875 per hour for partner work and $625 for associates.

Legal bills in the hundreds of thousands of dollars are fairly common as high profile litigation pits the Sunshine State against entertainment, financial, and social media giants. With DeSantis and Uthmeir pushing policy and litigation priorites, Florida will continue to find itself in courtfacing major companies, and major law firms will continue raking in fees for outside work.

"As state AGs take on the biggest companies in the world, which have unlimited defense budgets and a bottomless bench of Big Law lawyers, the need for assistance from similarly resourced firms on the state side may increase," Panuccio said.

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Litigation

Manage Newsletters

FirstEnergy Beats Fired Lawyer at Trial After DEI Critique

Oct. 30, 2025, 9:10 AM PDT

Summary by Bloomberg AI

AI Generated

- FirstEnergy Corp. won a trial in Cleveland over whether utility officials retaliated against one of its in-house labor lawyers and fired him for raising concerns about a diversity, equity, and inclusion program.
- The jury returned its verdict in favor of defendant FirstEnergy and against the plaintiff, David S. Farkas, who said he was fired after expressing concerns that portions of the DEI program violated state and federal law.
- FirstEnergy said in court filings that Farkas was fired because he inappropriately touched a female colleague and made demeaning comments about women in the workplace, and that his concerns about the DEI program "had nothing to do with that decision" to fire him.

FirstEnergy Corp. won a trial in Cleveland over whether utility officials retaliated against one of its in-house labor lawyers and fired him for raising concerns about a diversity, equity, and inclusion program.

The jury returned its verdict Wednesday following a trial in Cuyahoga County Common Pleas Court that began Oct. 20. FirstEnergy said in court filings that the lawyer, David S. Farkas, was fired because he twice inappropriately touched a female colleague and made demeaning comments about women in the workplace.

It wasn't immediately clear what questions the jury answered. A docket entry noted that the verdict was "in favor of defendant and against the plaintiff," and a county clerk of courts office employee said in an email that the verdict form wasn't yet available.

Farkas' attorney didn't immediately respond to a request for comment, nor did a FirstEnergy spokeswoman.

The utility hired Farkas in 2011 to handle labor and employment issues. Farkas, who sued in 2023, said he consistently received high marks and was promoted in 2017 to senior corporate counsel.

The same year, the utility started its DEI program, and Farkas had concerns that portions spelling out financial incentives to hire and promote people based on race, gender, and other protected characteristics violated state and federal law, his court filings stated.

Farkas expressed these concerns to multiple FirstEnergy officials and said his performance ratings plummeted as a result.

In early 2022, Farkas emailed Senior Vice President and Chief Legal Officer Hyun Park and said he was discriminated against because of the way the DEI program was run and that he was denied a promotion for raising concerns about the program.

FirstEnergy hired a Jenner & Block LLP attorney to investigate Farkas' complaints, who found his retaliation allegation unfounded and didn't investigate his discrimination claim, Farkas said. During that investigation, his then-supervisor complained about an incident from four years prior in which Farkas allegedly inappropriately touched her because she was angry about his complaints against the company.

The utility, meanwhile, said the Jenner & Block investigation revealed two instances of inappropriately touching the supervisor and one of Farkas making comments about women not belonging in the workplace and in leadership positions. The utility retained the firm Croke Fairchild Duarte & Beres LLC to conduct another probe, which ultimately led to Farkas' firing in September 2022.

Farkas' problems with the DEI program "had nothing to do with that decision" to fire him, FirstEnergy's trial brief said.

He also brought claims that he was unfairly denied a promotion because he's a White man and that certain people helped discriminate and retaliate against him. However, the only claim at issue at trial was for retaliation.

Farkas is represented by Haber LLP. FirstEnergy is represented by Gair Gallo Eberhard LLP and Buckingham, Doolittle & Burroughs LLC.

The case is Farkas v. FirstEnergy Corp., Ohio Ct. Com. Pl., No. CV-23-986280, jury verdict 10/29/25 .

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Securities

Manage Newsletters

Podcast

Plan to Drop 10-Qs Threatens to Trip Up Analysts' AI Models

Oct. 29, 2025, 12:35 PM PDT

A Trump administration push to reduce the frequency of corporate earnings reports risks hurting the accuracy of artificial intelligence-fueled models used by analysts, an accounting adviser said.

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Chief financial officers and other C-suite leaders would in turn need to address greater reputational risk if a plan to give public companies the option to file financial reports semiannually instead of quarterly advances, according to Steve Soter, vice president and industry principal at financial compliance platform Workiva.

Companies prepare and submit quarterly reports, called Form 10-Qs, to the Securities and Exchange Commission's filing system in XBRL format, which makes the information more easily accessible and computer-readable, Soter said. Analysts' models consume this data to provide analysis and observations.

Depriving investors and analysts' AI models of this information increases the risk of erroneous analysis and ensuing reputational damage, Soter said.

On this episode of Talking Tax, Bloomberg Tax financial accounting reporter Jorja Siemons spoke with Soter about what steps C-suite leaders can take to mitigate data risks if the SEC reporting schedule shifts.

Do you have feedback on this episode of Talking Tax? Give us a call and leave a voicemail at 703-341-3690.

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Securities

Shell Says It's Open to Scrapping Quarterly Earnings If Peers Do

Oct. 30, 2025, 1:59 AM PDT

Shell Plc would follow its industry peers if there was a wider move to scrap quarterly earnings, but wouldn't lead the effort, said Chief Financial Officer **Sinead Gorman**.

Wall Street's main regulator is "prioritizing" a proposal from President Donald Trump to reduce the frequency of corporate earnings reports. Shell has more capital deployed in the US than any other country, Gorman said, a large presence in Houston and significant operations in the Gulf of Mexico.

"We run on a monthly basis anyway to drive both investment decisions and just operational performance, so we can work with whatever is the appropriate setup," Gorman said on a call with journalists on Thursday after Shell reported third-quarter earnings. "We will move with peers rather than ahead of any of them, given that our view is that transparency is better."

Shell posted adjusted net income of $5.43 billion for the quarter, beating analyst estimates as a rebound in the performance of its oil and gas traders offset weaker energy prices.

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Securities

Opinion

Matt Levine’s Money Stuff: Put the Data Center in the Box

Oct. 29, 2025, 11:31 AM PDT

Coffee pod financing

The modern artificial intelligence boom has created a boom in financial engineering. A lot of people who run big tech companies and AI labs think that they will collectively need to spend trillions of dollars over the next few years building data centers to train and run AI models, buying chips to put in those data centers, buying electricity to run those data centers, and building power plants to provide that electricity.

Trillions of dollars is a lot of money for anyone, but particularly for big tech companies like Meta Platforms Inc. and Alphabet Inc., which started out as venture-backed software companies. The model there is well known: You start in a garage, you promise to change the world, you raise equity financing from venture capitalists who believe in your vision, your vision works, you scale up rapidly with very low marginal costs (just serving another web page), and eventually you become giant and profitable. When you are giant and profitable, (1) your venture capital investors get very rich and (2) you have a lot of free cash to spend on weird moonshot projects but also on the costs of running your now-quite-capital-intensive business. That is, you have a lot of cash to build data centers to serve all your web pages.

But multitrillion-dollar AI capital spending breaks that model. Those companies each make tens of billions of dollars of profit a year on hundreds of billions of revenue, but not quite trillions of dollars. And the supply of venture-type financing for AI projects is limited, in part because there aren’t trillions of dollars of venture funding — “it turns out that the supply of science-fiction-suspension-of-disbelief capital is really quite large but not trillions of dollars,” I wrote the other day — but also in part because *building data centers and power plants* doesn’t offer venture-type returns. A data center is a big building with computers in it. If you get a 100x return on your investment building a building, something has gone wrong. Building novel cutting-edge computer models that become superintelligent is the sort of science-fiction world-changing technological project that should get a 100x return, but renting floor space to those models is not. It should get, you know, a normal return.

And so the obvious thing to do is to sell *debt* to build the data centers. You know, borrow a trillion dollars, build a bunch of data centers and nuclear plants and whatnot, generate $100 billion a year of revenue from them, use $70 billion of that to pay interest on the debt, etc. Normal stable returns to pay back debt.

But the big tech companies do not want to sell debt to build the data centers, in part for real risk-management reasons but also I think a little bit for aesthetic reasons. Microsoft has Aaa/AAA credit ratings, better than the US government; Alphabet is Aa2/AA+, Meta is Aa3/AA-. Their capital-light history and huge profits have left them with very little debt and very strong credit, and they do not want to undermine that by borrowing hundreds of billions of dollars, which would bring down their ratings.

Meanwhile if you start up Joe's Data Centers and try to raise a trillion dollars to build buildings to rent out to Meta, you will have a hard time doing that, for reasons like (1) who are you? and (2) how do investors know that Meta will actually rent your buildings?

The problem is:

1. The AI buildout should be financed by debt investors.
2. Debt investors want to buy debt of the big tech companies, because they are good credits.
3. The big tech companies do not want to sell debt, because they are good credits.

This is a very easy problem to solve! This is known technology! What you do is:

1. There's a box, and the box will build the data centers. (Schematically the box is often a "special purpose vehicle" or a "joint venture," though in some cases the box is an actual public company but *not* a huge software company.)
2. The big tech companies promise to make some payments (rental payments, etc.) to the box. These payment obligations are not "debt," in the sense that the tech companies' accountants decide that they do not count as debt on the companies' balance sheets, and the credit ratings agencies decide that they do not count as debt for credit ratings purposes.
3. The *box* goes out and sells debt to investors. The pitch to investors is "the big tech company promised to make payments to this box, and the box will pass those payments along to you, so if you think about it the debt of the box is just as good as the debt of the tech company." And the investors believe that.

It is a simple sort of arbitrage: If you can convince your ratings agencies and accountants that it's *not debt*, and you convince the debt investors that it *is debt*, then you can raise cheap debt financing without it counting against your pristine credit profile.

The details are complicated but that's why bankers and lawyers make money. Here's a recent Bloomberg News story about a Meta data center:

Under the SPV structure, Meta is not borrowing the capital itself, the financing entity is. Meta, in turn, will be the developer, operator and tenant of the project, which is scheduled to be completed in 2029, the people said. Through its 20% stake in the project, it'll provide almost $6 billion of construction funding, according to a ratings report.

The SPV structure helps tech companies avoid placing large amounts of debt on their balance sheets and gives Wall Street investors the option to put money against physical assets, making them investment-grade. Structured investments are becoming more in demand as insurers and other types of investors search for debt tied to assets.

And here's The Information on the Meta deal:

It took a year and some financial acrobatics, but Meta Platforms and a small army of bankers and lawyers were able to secure funding for a $27 billion data center project without doing any immediate damage to the company's finances. …

Investors this month snapped up the bonds used to fund Meta's massive Louisiana data center project, Hyperion, which is a big part of the company's AI ambitions. Bond giant Pimco and BlackRock, the world's largest asset manager, were among the buyers of the $27.3 billion debt offering, issued by an entity called Beignet Investor. Investment firm Blue Owl is putting up $2.5 billion in equity.

To make the deal work, Meta placed the Hyperion project into a special purpose vehicle. Blue Owl will own an 80% stake in the SPV and control its board, allowing Meta to keep the debt off its balance sheet. Meta further limited the financial impact by breaking up its leases into four-year chunks so rating agencies wouldn't consider them debt.

To get the deal done the way it wanted, Meta walked a tightrope through accounting rules, bond rating agencies and financial regulators. Its goal was to limit its long-term liabilities, a key measure of a company's financial health, said analysts and people with knowledge of the process. Meta obtained a letter from the SEC effectively approving its proposed accounting treatment for the project, the people said. …

Meta also reached out to credit rating agencies Moody's and Standard and Poor's to ensure the deal wouldn't harm its strong investment grade rating, one of the people said. Both agencies said last week the transaction shouldn't have any immediate impact on Meta's credit rating, though both also highlighted risks with the deal.

That is, as far as the ratings agencies are concerned, the box that is raising money to build the data center is *not Meta*, so its debt is not Meta's debt and doesn't affect Meta's credit ratings. (Here is the S&P report reaffirming Meta's AA- rating and explaining why S&P "will not consolidate the debt issued by the JV into Meta's financials.") Meta's backing of the box is sufficiently flexible not to count as debt. On the other hand, Meta's backing of the box is sufficiently robust that the box's credit rating is only one notch below Meta's. The Information adds:

The bonds for the Hyperion data center priced with a coupon of almost 6.6%, roughly a percentage point higher than Meta's outstanding corporate bonds and in line with the average junk bond. That's a higher yield than investors would expect given that S&P rated the Hyperion bonds A+, safely within the investment-grade spectrum.

I should say that the big tech companies did not *invent* this technology to build AI data centers. This sort of thing — project finance, non-consolidated joint ventures, borrowing out of boxes — has a long history in a lot of capital-intensive industries.

But it does seem to be coming into a new golden age. A lot of factors are aligning. Companies want to raise trillions of dollars of debt financing to build data centers. Those companies are very ratings-sensitive and also very concerned about maximizing equity returns, so they can really benefit from a bit of structure. The companies are full of smart engineers, so they appreciate smart (financial) engineering. And they have gotten used to paying their AI engineers tons of money in a very competitive market, so they won't blink at paying at the top of the market for financial engineering.

Another factor, though, is the rise of private credit. Private credit firms are obvious partners for this sort of thing: They have tons of money, they really want to do investment-grade financing, and they are fine with weird structure. If you go to a traditional bond investor and say "hey we've got a fun bond for you but to do it you will need to invest $2.5 billion in the equity of a joint venture," they might say "that sounds cool but our mandate doesn't really let us own equity, particularly not in a private company." If you go to an investment bank and say that, they might say "that sounds cool but given the current regulatory capital situation we are going to have a hard time coming up with $2.5 billion to invest in the equity of a private company." If you go to Blue Owl and say that, they will say "yes perfect that sounds lucrative, done." The modern suppliers of go-anywhere flexible capital are the big alternative asset managers, and there is demand for that capital. Liz Hoffman writes:

You think companies are built with equity and debt? That's cute, today's masters of the universe will chuckle while patting your head.

What used to be called simply "investing" or "lending" has been replaced by "capital solutions" — hybrid equity, kickers, and cash flows tailored to match the returns promised to investors on the other side. Growing pots of money now resemble liquid sand, moldable into whatever shape will fit the money hole in front of it. … And the rise of insurance money in investing has created patient capital that in many cases fits those money holes better than blunter instruments.

And while the AI boom is maybe the most obvious application for these capital solutions, it is not the only one. Once you are comfortable with the basic technology — build a box, let someone else own it, incur some obligations to the box, issue debt out of the box — there are lots of ways to use it.

Coffee for instance. Bloomberg's Paula Seligson reports:

Keurig Dr Pepper Inc. had a problem: Investors were skeptical of how much debt the company would be taking on with its proposed acquisition of JDE Peet's NV.

To alleviate those concerns, the company chose to tap $7 billion of financing that won't weigh on its debt levels, including a type of investment that's become popular for private credit players to provide in recent months.

Apollo Global Management Inc. and KKR & Co. are providing the financing, according to a statement on Monday. The firms will make a $3 billion convertible preferred stock investment in the soon-to-be-separated beverage company, while the remaining $4 billion will be an investment into a newly formed joint venture that will manufacture coffee pods. Goldman Sachs Alternatives is also investing in the venture.

Private credit funds are pumping more money into newly formed JVs as a way of providing financing, a structure that doesn't add debt to the balance sheet of the company receiving the funds. While Keurig didn't disclose the deal's exact structure, companies typically promise to keep using the assets going into the JV and create a set of cash flows. Keurig's newly formed JV will house its US and Canada single-serve manufacturing assets, with Keurig keeping a controlling interest and operating control.

Essentially, a private credit firm doles out the capital in the form of equity, but then repackages it into notes that can more easily fit within their portfolios. Most of these transactions are structured to be investment-grade, which generally attracts insurer capital.

You set up a box, you put the K-cup manufacturing in the box, a private credit firm buys the box, you promise to buy K-cups from the box, the box issues debt. To the ratings agencies, it's not *your* debt, so it doesn't affect your ratings, but to the investors, it kind of *is* your debt, so they'll buy it. It's a general-purpose technology and it is getting a lot of use.

Box spreads

An interesting fact about the US listed options market is that it lends everyone money at the same rate. For instance. Today I could sell a put option on Tesla Inc. stock with a strike price of $600 and an expiration date of Dec. 18, 2026, a little more than a year from now. That option trades at around $195 per share; Tesla's stock is around $460. That option obligates me to pay $600 for a share of Tesla in December 2026. If you buy that option, you are paying me $195 now and expecting me to pay you $600 in a year for a share of Tesla. (That is not all you are doing — this is *mostly* a bet on Tesla's stock price — but it is part of what you are doing.) But what if I don't? You don't even know who I am — you bought this option on an anonymous exchange — so how do you know I'll be good for the $600 in a year?

The answer is, roughly, "clearing." You don't expect *me* to pay you back: You are owed the $600 by a central clearinghouse (in the US, the Options Clearing Corp.), and the central clearinghouse is owed the $600 by my broker, and my broker is owed the $600 by me. You expect the clearinghouse to pay you because it is very highly rated and carefully managed and backed by its members and sort of "too big to fail." The clearinghouse expects my broker to pay it because my broker is a responsible, regulated, well-capitalized broker and also because my broker has posted collateral with the clearinghouse, collateral that is sufficient to cover its obligations and marked to market each day. My broker expects me to pay it because (1) it knows what's in my brokerage account and (2) it also has collateral from me to make sure I will meet my obligations (and to post, in turn, with the clearinghouse). The system all basically works.

So my broker will demand collateral from me to make sure I pay back the $600. But what it won't do is charge me *interest* on the $600. The way this trade works is:

1. Today, you pay me $195.
2. In a year, I pay you $600 and you give me a share of Tesla. (Maybe, depending on Tesla's stock price).
3. I post mark-to-market collateral with my broker to support my $600 obligation.

But that's it; there are no other cash flows. In a sense I owe you $600, in a sense I owe my broker $600, but I never pay interest to either of you. It's not *free* credit, mind you: The price of the option implicitly accounts for the fact that I get money today and only have to pay it back in a year; there is an interest rate built into the price of the option. But, because the interest rate is built into the price of the option, it is the same for anyone who buys or sells the option: If I sell that option I get $195, if Susquehanna sells the option it gets $195, so I am paying the same implicit interest rate as Susquehanna. Maybe I am posting more collateral to my broker than they are posting to theirs, but we pay the same *rate*.

Selling an in-the-money put option is only approximately "borrowing money," but you can sharpen the approximation. For instance:

1. I sell a $600 strike put option for $195 and buy a $600 strike call option for $77: No matter what happens to Tesla's stock in a year, I will be buying it for $600. And I get paid $118 today, because $600 is higher than Tesla's stock price today: I am agreeing to overpay for it in a year, so I am getting paid now.
2. I buy a $300 strike put for $30 and sell a $300 strike call for $201: No matter what happens to Tesla's stock in a year, I will be selling it for $300. And so I get paid $171 today, because $300 is lower than Tesla's stock price today: I am agreeing to sell it too cheap in a year, so I am getting paid now.

The sum of these transactions is that (1) I get about $289 today (the $118 from Trade 1 plus the $171 from Trade 2), (2) next year I will pay back $300 (the $600 I pay in Trade 1 minus the $300 I get in Trade 2) and (3) nothing else. I won't buy or sell any Tesla stock, because the trades cancel out. Tesla is not actually involved here in any way. I'm just getting $289 today and paying back $300 in a year. It's just a loan. I'm paying about $11 for the loan, or about 3.8% of the $291 that I am borrowing.

This is called a "box spread," and the thing to notice is that anyone can do it. Big options trading firms can do it, and I can do it, and the options trade on an exchange, and we can all get roughly the same price. We can all borrow at about 3.8%. I am probably a worse credit risk than a big options trading firm, but that doesn't matter. If the market tried to charge me a higher interest rate — if this box spread sold for $270, say — then the big options trading firms would rush in to buy these options because they would be underpriced.

The interest rate is embedded in the price of the publicly traded options, so everyone gets the same rate. The rate will vary a bit based on option market conditions but it should be somewhere close to the risk-free rate, somewhere in the ballpark of the Treasury rate. (Because, again, the magic of clearing means that this is a fairly risk-free instrument, so if it paid much more than Treasuries everyone would be doing it. We have talked about an exchange-traded fund called BOXX that lends money in the box spread market, trying to earn a Treasury-like return; if the return was way higher it would do way more of that.)

If you are a high-net-worth retail investor and you have millions of dollars of stock in a brokerage account, you can go to your broker and ask for a loan secured by your portfolio. Your broker will be thrilled to give you a loan. What will it cost? I don't know, but your broker will *decide* how much it costs, in a market that is (1) competitive but (2) segmented. Your broker knows who you are and how much this lending business is worth. If you have $1 billion in your account it will probably cost less than if you have $1 million, etc.

Whereas, if you have millions of dollars of stock in a brokerage account and you go sell some box spreads, you will just sell the box spreads at the market price of box spreads. Effectively you will borrow money from the options market at the risk-free rate, secured by your portfolio of stocks. Of course you are *not* a risk-free borrower, and if your portfolio of stocks *goes down* you will get a margin call from your broker, and if you don't put up more collateral bad things will happen. But if your portfolio is much bigger than the loan you'll probably be fine.

This is extremely not investing or borrowing or anything else advice, but there is perhaps a market opportunity here. Bloomberg's Lu Wang, Yiqin Shen and Vildana Hajric report that this "strategy powers SyntheticFi, a San Francisco-based fintech" founded by a former Stripe Inc. employee named Tony Yang who borrowed $650,000 from the box spread market to buy a house in 2021 and thought "hey I could productize this":

Box spread loans, also called synthetic borrowing, aren't accessible to every buyer. They require sizable portfolios to back them. But for those with the assets, they offer speed, flexibility, and often a lower cost than traditional bank credit — plus potential tax advantages.

Once a tool for hedge funds and family offices, box-spread loans now sit alongside direct indexing, custom portfolios, and options overlays — all pitched as tax-efficient ways to gain financial control. For affluent investors, they're a means to stay invested, defer taxes, and unlock liquidity without touching traditional lenders. ...

Synthetic borrow could disrupt the lending environment, according to Sam Gaeta, founder of Defined Financial Planning.

"Banks often rely on other value-added services, such as securities-backed lending, to win wealth management business," he said. "If we can offer a solution that allows clients to access liquidity using the margin power of their investment portfolio at an implied interest rate similar to the risk-free rate, the banks lose some of that leverage in their value proposition to clients."

Right, if you go to your bank and ask to borrow against your portfolio, they will charge you a rate that makes sense for your relationship. If you go to the options market and ask to borrow against your portfolio, it will charge you the risk-free rate.

Best Egg

I'm sorry I know it's dumb but this stuff remains funny to me:

Barclays agreed to buy Best Egg, betting on consumer finance in the U.S. as part of CEO C.S. Venkatakrishnan's bid to boost the British bank's stock.

Barclays is paying $800 million for Best Egg, which was founded in 2013 and arranges personal loans for customers through its online platform. Delaware-based Best Egg sells the loans it makes on to asset managers, earning fees for facilitating and servicing the debts.

Barclays, which has sizable investment-banking and credit-card businesses in the U.S., aims to use the flow of loans from Best Egg to deepen relations with asset-management clients. ...

Best Egg services about $11 billion in personal loans and is expected to facilitate more than $7 billion this year. Barclays said it plans to keep a small portion of Best Egg's new loans on its balance sheet, giving it skin in the game.

The U.S. fintech firm mostly arranges unsecured loans of up to $50,000 for customers with high FICO scores. Barclays intends to wind down Best Egg's smaller vehicle-equity loan business, said a person familiar with its plans.

Like. You walk into the bank and you say "I would like to borrow up to $50,000 for purposes." The banker is like "ah yes, you want a loan! Lucky for you! That is a business we just got into five minutes ago! Through our new subsidiary Best Egg! Here let me help you pull up the website and fill out the online form. If the algorithm likes your credit, we will approve the loan and get it funded by some asset managers, though of course we will keep a small portion on our balance sheet to align incentives." And you are like "wait you are a bank don't you just … have money … and … make loans" and the banker is like "oh you dear sweet summer child, that is not how banking works at all." It isn't! Now!

Hard knockz

I walk around New York City with some frequency, but apparently not in the right neighborhoods or wearing the right clothes, because I have never been approached by a TikToker, Instagrammer or YouTuber asking me to reveal my salary or give a tour of my apartment or name eight countries that start with A. But I also look at Instagram with some frequency, and from Instagram it definitely seems like in certain neighborhoods you can't go five feet without being accosted for a person-on-the-street interview.

"How old were you when you became a millionaire," an Instagrammer called @theschoolofhardknockz asks people, for instance, and honestly that is a great opener. He seems to be doing well with it: He has more than 7 million Instagram followers, and the top three interviews on his page right now are with Tom Brady, Tom Cruise and Shaquille O'Neal. The fourth interview is from Oct. 26, and it's with a tech executive who is not broadly famous and in fact is not named in the interview at all. But that opener still works. "Excuse me sir, how old were you when you became a millionaire," asks @theschoolofhardknockz, and the tech executive says "ohoho this guy" and pats him on the shoulder. And answers the question! (He became a millionaire four years ago.) And keeps answering some follow-up questions, like "in what line of business" (technology) and "what do you do in tech" ("CRO for Snowflake"), even as his handler tries to pull him away. Hmm maybe … maybe don't answer that last one? Don't get your employer's name into your Instagram person-on-the-street interview? I don't have any great reason why not, just I personally would not do that. But it's fine, it's not like you're giving away material nonpublic information to a person-on-the-street Instagram interviewer, right? Right?

Theschoolofhardknockz: What did you guys do in revenue last year?

Snowflake Chief Revenue Officer: We're going to exit this year at probably just over about $4.5 billion.

Theschoolofhardknockz: You're going to exit this year at $4.5 billion? Are you serious?

Snowflake CRO: And we're getting to $10 billion in a couple of years. Keep track of us.

Is that the sort of guidance that one is supposed to share in Instagram person-on-the-street interviews? No, turns out to be the answer, because Snowflake filed an 8-K the next day:

On October 26, 2025, the Instagram account named "theschoolofhardknockz" posted an interview on Instagram and related platforms with an executive officer of Snowflake Inc. (the "Company") in which the officer made certain statements regarding the Company's future results. Under the Company's Corporate Disclosure Policy, this officer is not a designated spokesperson authorized to disclose financial information on behalf of the Company. As a result, investors should not rely upon such statements. The Company reaffirms the revenue guidance for Q3 and full-year FY26, originally issued on August 27, 2025, as part of the announcement of its financial results for the fiscal quarter ended July 31, 2025. The Company notes that it will release its Q3 FY26 financial results in accordance with its standard practices. The Company's guidance philosophy remains unchanged.

Here is the full-year revenue guidance that Snowflake released in August (and reaffirmed this week), which has revenue of just under $4.4 billion (not just over $4.5 billion). I mean ... the company's guidance philosophy has changed slightly, hasn't it? Not the official philosophy, sure, but if the executives are going around doing Instagram interviews they might not be able to help themselves.

The stock was up about 3% on Monday and oh man if @theschoolofhardknockz *traded* before posting that interview, oh man.

Things happen

Fed Cuts Rates Quarter Point, Sets End to Balance-Sheet Runoff. Nvidia Becomes First $5 Trillion Firm as AI Rally Picks Up Steam. Morgan Stanley Buys EquityZen in First Deal for CEO Ted Pick. Cable cowboy' John Malone to step down from media and telecoms empire. Citi probe did not interview women who complained about executive's conduct. Tens of Thousands of White-Collar Jobs Are Disappearing as AI Starts to Bite. Business Insider asks: Is Stone Street cool?

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1. Maybe they should! When I was an investment banker, I sometimes went to pitches where we advised companies on what credit rating to target. There was some sort of complex mathematical model involved, but the answer was always "BBB-," for reasons that are obvious if you think about it for a bit. (Basically debt is cheaper than equity, so you want to issue as much debt as you can, but investment-grade debt is cheaper than junk debt — and being investment-grade lowers all sorts of other costs — so you want to be investment-grade if you can. So having the lowest possible investment-grade rating is the best.) That is, the big tech companies' preference for pristine balance sheets may be partially aesthetic rather than economic.
2. Obligatory Enron mention.
3. This is all quite stylized and the December '26 $600 puts don't exactly trade a lot so don't, like, go do options math on these numbers.
4. Classically the interest rate is "the risk-free rate," though in the bad old days there was some variation in practice about whether that was Libor or Treasuries or something else.
5. If Tesla's stock is at $550, you will exercise the put and sell me the stock for $600; if it's at $650, I will exercise the call and buy it from you at $600. All numbers are stylized; they are loosely based on Bloomberg screen prices for December 2026 options as of yesterday, but I have zhuzhed them a bit to solve for about T 20 interest.
6. And in fact big options traders tend to think of the box spread rate *as* their funding rate, since they actually can go borrow money in the box spread market. Someone once told me that "Don Wilson used to use box spreads on S&P options to benchmark the rate at which he would fund DRW traders (and, in some cases, loan money to other proprietary trading firms). In honor of Don, they called the rate DIBOR."
7. I don't think he did. For one thing, the 8-K came out at 6:09 a.m. on Monday, before the market opened, though I don't actually know when the interview was recorded. Also in a world of 24ish-hour stock trading there will be more opportunities to trade on Instagram interviews outside of market hours.

News from Bloomberg Terminal

Pay Now, Merge Later

Oct. 30, 2025, 10:35 AM PDT

By Matt Levine

(Bloomberg Opinion) --

Metsera

An important problem in mergers and acquisitions is antitrust risk. The most obvious potential buyers of a company are often its competitors, and the bigger the competitor is, the more it might be willing to pay. If Company A has 50% of the market and Company B has 20% and Company C has 10%, Company A will probably be willing to pay more for Company C than Company B will, because having 60% of the market will give it a lot of market power.

But antitrust law works the opposite way: Antitrust regulators tend to prefer deals where the company is *not* acquired by a competitor, and if it has to be acquired by a competitor, they would prefer that it be acquired by a smaller competitor rather than a larger one. If Company A has 50% of the market, it will have a hard time getting approval for an acquisition of Company C.

There is a theoretical optimization where the ideal merger is "sell the company to the biggest competitor that can get antitrust approval." You rank all the target company's competitors by size, the biggest will pay the most and the smallest will pay the least, but then you cross off all of the competitors who are too big to get antitrust approval.

The problem with this approach is that you don't really know in advance what deals will get antitrust approval. The antitrust regulators probably won't tell you in advance: You need to sign a merger agreement with one buyer and *then* try to get approval. There are some standard economic models that regulators use, and your antitrust lawyers can often give you reasonably good advice about what deals will or won't be allowed, but there is going to be some area of uncertainty. And so it is not particularly uncommon for a company to try to sell itself and end up choosing between two offers:

1. One from a smaller competitor who will pay less money but has less antitrust risk, and
2. One from a bigger competitor who will pay more money but has more antitrust risk.

If you take Deal 1, you get a reasonably high likelihood of a fairly certain amount of money. If you take Deal 2 and it goes through, you get more money. But if it doesn't go through, that's bad: You waste months or years on the antitrust approval process, you're distracted from running your business, and ultimately when Deal 2 fails Deal 1 might no longer be available.

Deal 2 is more money, though. You will be tempted. You will go to the bigger competitor offering more money and say "hi, we want to take your deal for more money. But if the deal doesn't go through that's a disaster. So you have to, like, really really promise that it will go through." The buyer can't *exactly* do that — it doesn't control the antitrust approval process — but it can do *something*. Standard approaches include:

- The buyer can promise to do whatever regulators ask — divest assets, agree to conduct restrictions, whatever — to get antitrust approval. (This is generally called a "hell or high water clause.")
- The buyer can promise to pay a big breakup fee to the target if the deal doesn't go through for antitrust reasons. (This is generally called a "reverse termination fee," because a regular termination fee is normally paid by the *target* if *it* backs out of the deal.) The breakup fee doesn't solve the problem — if the deal is terminated for antitrust reasons, that's still quite bad for the target — but at least the target gets some money.

From first principles you could imagine other approaches. Here's one:

> The buyer can agree to pay cash for the target, and just give the target shareholders the cash now. Then, if the deal gets antitrust approval, the deal will close and the buyer will acquire the target. If the deal *doesn't* get antitrust approval, the deal won't close and the buyer won't acquire the target. But the target shareholders will keep the money! The buyer will have extremely strong incentives to get the deal done, because it has already paid for the target. And the target shareholders don't really care: They've already got the money, so they no longer have any antitrust risk.

I have never seen that approach before, but there are occasional gestures in that direction. In 2022, Spirit Airlines Inc. signed a deal to sell itself to Frontier Airlines Inc., but then it got a better offer from a bigger competitor, JetBlue Airways Corp., with a higher price but more antitrust risk. So Spirit jilted Frontier and signed with JetBlue, and JetBlue paid Spirit shareholders $2.50 per share in cash *before* getting antitrust approval. And then it *didn't* get antitrust approval, and Spirit shareholders got to keep the money. But $2.50 per share was only like 7% of the deal value. It's not like JetBlue paid the *entire* deal price in advance.

Here's this!

Metsera, Inc. (NASDAQ: MTSR) ("Metsera") today announced that its Board of Directors had determined, after consultation with its outside counsel and financial advisors, that an unsolicited proposal that Metsera received from Novo Nordisk A/S (Nasdaq Copenhagen: NOVO B) ("Novo Nordisk") to acquire Metsera (the "Novo Nordisk Proposal") on October 25, 2025 constitutes a "Superior Company Proposal" as defined in Metsera's existing Merger Agreement with Pfizer (the "Pfizer Merger Agreement").

Novo Nordisk's Proposal is structured in two steps. In the first step, immediately following the signing of a definitive agreement, Novo Nordisk would pay Metsera $56.50 per Metsera common share in cash as well as certain amounts in respect of Metsera employee equity and transaction expenses. In exchange, Metsera would issue Novo Nordisk non-voting preferred stock representing 50% of Metsera's share capital. On the same day, Metsera would declare a dividend of $56.50 per Metsera common share in cash, to be paid ten days later.

In the second step, which would happen only after receiving approval from Metsera shareholders and relevant regulators, Metsera shareholders would receive a contingent value right ("CVR") of up to $21.25 per share in cash based on development and regulatory approval milestones substantially similar to those agreed in the proposed merger between Metsera and Pfizer, and Novo Nordisk would acquire the remainder of the outstanding shares of Metsera.

This proposal values Metsera at up to $77.75 per share, for a total of approximately $9.1 billion, representing an approximate 133% premium to Metsera's closing price as of September 19, 2025, the last trading day before the Pfizer transaction was announced.

Metsera is a US biotech firm that is developing weight-loss drugs. Last month, it signed a merger agreement to sell itself to Pfizer Inc. for (1) $47.50 per share in cash ($4.9 billion total) plus (2) a contingent value right worth up to $22.50 per share if Metsera's drugs hit clinical and regulatory milestones, for a total of up to $70 per share. (The CVR is pretty common in biotech deals: Pfizer didn't want to pay full value for Metsera if its drugs turned out not to work.) Pfizer is a gigantic pharmaceutical company, but it is having weight-loss troubles: "The US pharmaceutical group did have its own obesity pill in development, but it flopped after one patient in a clinical trial developed signs of liver injury." So it wants Metsera, and it seems to have relatively little antitrust risk.

Novo Nordisk, meanwhile, is a gigantic pharmaceutical company that makes Ozempic and Wegovy. So it's huge in weight loss, which makes it a good buyer of Metsera but also a bad antitrust risk. In September it offered to buy Metsera "for up to $10.5 billion" in the form of $6.5 billion in cash at closing and up to $4 billion of CVR, [1] significantly more than Pfizer was offering. Metsera went with Pfizer anyway, concluding that while Novo's proposal "had a higher cash and nominal value than the Pfizer proposal," it "presented a variety of risks" involving antitrust. [2] So it signed with Pfizer.

And then Novo came back with more money, $56.50 to $77.75 per share, versus Pfizer's $47.50 to $70. But it also agreed to pay the money up front: Novo would pay Metsera about $6.5 billion "immediately following the signing of a definitive agreement," and Metsera would pay that out to shareholders (at $56.50 per share) "ten days later." The shareholders would get the money essentially immediately, before antitrust review and even before a shareholder vote.

For its $6.5 billion, Novo would get "non-voting preferred stock representing 50% of Metsera's share capital." It would have 50% economic ownership of Metsera, but no voting rights. Because US antitrust rules are triggered by the acquisition of voting stock, Novo can get this preferred stock without any antitrust approval.

And then off they would go to try to (1) get Metsera's shareholders to approve the merger and (2) get US antitrust regulators to approve it. Will they get antitrust approval? I dunno. Pfizer is mad; it put out a press release this morning saying:

Pfizer Inc. (NYSE: PFE) is aware of the reckless and unprecedented proposal by Novo Nordisk A/S (NYSE: NVO) to acquire Metsera, Inc. (NASDAQ: MTSR). It is an attempt by a company with a dominant market position to suppress competition in violation of law by taking over an emerging American challenger. It is also structured in a way to circumvent antitrust laws and carries substantial regulatory and executional risk. The proposal is illusory and cannot qualify as a superior proposal under Pfizer's agreement with Metsera, and Pfizer is prepared to pursue all legal avenues to enforce its rights under its agreement.

But what if they *don't* get antitrust approval? Well, then, Metsera's shareholders keep the money. (Though they don't get the CVR worth up to $21.25 per share.) The money is already gone. Metsera can just bop along as a public company, though with half of its stock in the form of non-voting shares owned by Novo.

Or, of course, Metsera can try to sell itself again. To Pfizer, for instance. Maybe Pfizer would still pay $4.9 billion for it. The problem is that, if Novo ends up *not* buying Metsera, it will own $6.5 billion of preferred stock; if Metsera sells itself to someone else, it will have to pay back that $6.5 billion in cash when the deal closes. [3] So, if the Novo deal falls through, it will not exactly be easy to find a new buyer: The new buyer would have to pay $6.5 billion in cash to pay out Novo, and Metsera's shareholders wouldn't get any of that $6.5 billion. But of course they'd already have their money.

The fun trade here is: What if Metsera's shareholders take the money and then *vote down* the deal? They will get their $56.50 in cash before the shareholder vote. If they vote yes, then there will presumably be a long slog to get antitrust approval. If they vote no, then the deal will be terminated and Metsera will be free to run itself independently or sell itself to another bidder. If it sells itself to someone else, Novo will get the first $6.5 billion of the deal price but the shareholders will get the rest.

That's probably not worth it: Novo's deal has a higher total value than anyone else has offered, plus presumably Pfizer is going to be mad about all of this and might not wait around forever. But it is an interesting solution to the *antitrust* problem. If you are a Metsera shareholder and you think there's no way that the Novo deal will get antitrust approval, then the Novo deal is … great? You get a lot of cash now, then you walk away and find a better buyer.

I should say, that's how it's supposed to work. It's not clear that it *will* work that way. Metsera hasn't signed with Novo yet; it has just announced that the Novo deal could be "superior" to the Pfizer one, giving Pfizer an opportunity to match it. Pfizer might come back with a higher bid, but it also might come back with a lawsuit. It's not wrong that the Novo deal is "structured in a way to circumvent antitrust laws," and perhaps it can block Metsera from taking the Novo deal. But you can see why Metsera would be tempted.

Musk pay stuff

Larry Page and Sergey Brin founded Google Inc. in 1998. When they took it public in 2004, it had two classes of stock: Class A stock, with one vote per share, and Class B stock, with 10 votes per share. Page and Brin each had about 16% of the Class B stock, giving each of them about 15.8% of the voting power of the company. Over time, other Class B shareholders converted their stock into Class A to sell it. Page and Brin sold some stock too, but not that much, so that, by 2012, they each had about 39% of the Class B stock and about 28% of the voting power. The founders now controlled the company. But that was precarious. If they sold more stock, or if Google issued a lot more low-vote Class A stock for employees or acquisitions, the founders might dip below 50%. They didn't want that.

So in 2012 Google announced a new plan: It would issue a new class of stock, Class C, with *zero* votes. New employee stock grants and acquisitions could be made using zero-vote Class C stock, without diluting Page and Brin's voting power.

This was a significant change in the governance of Google. Page and Brin would be able to control Google forever, even as it kept issuing more stock. Google acknowledged that it was weird, but the founders said:

The proposal we announced today is consistent with the governance philosophy we articulated when we took the company public, as well as the trend for newer technology companies to adopt strong dual-class structures. We believe that it will provide great competitive strength—insulating Google from short-term pressures, whatever the source, for a long time to come, while also giving us more flexibility around equity grants.

Investors and others have always taken a big bet on us, the founders, and that bet will likely last longer as a result of these changes.

That is: Google concluded that it was good *for public shareholders* to make sure that its founders could control the company forever, so it changed the terms of its charter to make sure that would happen. Thirteen years later, Page and Brin control about 27% and 25%, respectively, of the voting power of the company, which is now called Alphabet Inc.

This was controversial: Google's board essentially handed more voting power to Page and Brin, for free. Google's argument was that giving them this extra voting power was good for outside shareholders. Just like any executive-compensation decision, there is a conflict: Companies give executives stock to motivate them to do a good job, but the stock that the executives get comes at the expense of the other shareholders. It would be better in isolation for the shareholders to give the executives less, but you need to give them enough to motivate them. In the case of heavily involved founders of giant world-changing companies, you need to give them a lot. What Google gave Page and Brin did not have an obvious dollar value, but clearly "you can control Google forever" was *worth* a lot, and it was a *new* transfer of value to the founders: It was something that they didn't have before, but that the board decided to give them, to keep them motivated to run Google.

Obviously shareholders sued, but the case settled and the plan went ahead with minor modifications. Steven Davidoff Solomon wrote:

There is a principle in Delaware that control of a company is something of value that presumably should be paid for. Yet the Class C plan allows Mr. Brin and Mr. Page to maintain control for a longer period of time than they otherwise would have — and they were paying nothing for it.

They were *paying* nothing for it, but that is generally true of executive compensation decisions: Executives get stock grants not because they pay for them, but as a reward and motivation for their work. The Google Class C plan was not *described* as an executive compensation plan, and it wasn't one in the traditional sense. [4] But that is the right way to understand it: Page and Brin were, in the board's judgment, critical to the work Google did, and the board was creative in finding ways to give them what they wanted to keep them engaged, motivated and aligned. And what they wanted was not *money* — they were already zillionaires — but *control*.

We have talked a few times about Tesla Inc.'s plan to give Elon Musk, its CEO, Technoking, biggest shareholder and quasi-founder, $1 trillion worth of stock as a new executive compensation plan. I think that this — "$1 trillion worth of stock" — is the wrong way to look at it. Elon Musk did not ask Tesla for $1 trillion worth of stock, and Tesla's board did not set out to give it to him. What Musk asked for was, very clearly, *25% of the voting power* of Tesla's stock. He does not currently have 25% of the voting power; exactly how much he has is murky because of a continuing court case over his *previous* executive compensation plan, but I tend to use 15% as a rough estimate. The new plan would fix that: It would give him an extra 12% of the stock, getting him to a bit more than 25%. [5]

So Musk demanded 25% to keep being motivated and engaged and aligned at Tesla, and Tesla's board seems to have believed him that, if he didn't get it, he would stop being engaged, motivated and aligned. (This is easy to believe; he's got a lot going on.) The Financial Times reports:

Tesla chair Robyn Denholm has stepped up her campaign to win shareholder support for Elon Musk's $1tn pay package, warning there is no "Elon mark 2" if the carmaker's board is forced to try to replace the chief executive.

Denholm and other Tesla board members are meeting this week with the company's largest institutional investors which include Vanguard, BlackRock and State Street, to lobby for the plan ahead of a vote on November 6.

Musk has threatened to walk out if shareholders vote down a new package of stock options that could be worth up to $1tn over the next decade.

Denholm confirmed that Musk's public threats had also been communicated privately to the board, but refused to explain Tesla's contingency plan if shareholders reject the pay deal. Denholm has also written to shareholders warning of his potential departure if his package is not approved.

"This is a vote for shareholders on the future of Tesla," Denholm told the Financial Times. "There's just not anybody, either inside or outside the organisation, that is Elon today," she said.
So the board set out to solve the problem by giving him 25%. Here are two naive ways to do that:

1. Give him an extra 12% of the stock right now. Tesla's equity market capitalization is about $1.5 trillion, so 12% of the stock would be worth something like $180 billion. That's a lot of money but not, you know, *that* much money, in the scheme of (1) the value that Tesla has created for shareholders and (2) the board's estimate of Musk's importance to the company.
2. Give him super-voting shares. *Don't* give him extra stock. Just amend Tesla's charter to create one-vote Class A shares and two-vote Class B shares, and then convert all of Musk's stock into Class B. He gets two votes per share, or about 26% of the voting power. [6] Problem solved. How much is that worth? I have no idea. A lot! But *less than $180 billion*, surely: Plan 1 above would increase his voting power by also increasing his economic share of Tesla; Plan 2 would increase his voting power *without* increasing his economic share.

The board did not do either of those things. Why not? Well, the problem with Plan 1 is that public-company boards of directors feel pretty compelled to base executive compensation on *forward-looking pay for performance*; you can't give a CEO $180 billion just because you think he's a good guy. If you are going to give him a ton of money, it has to be contingent on him meeting aggressive *future* targets.

Unfortunately, in the case of Tesla, that has the effect of inflating the headline value of the pay package. Tesla can't just give Musk 12% of the stock right now (worth $180 billion); it has to give him 12% of the stock only in future states of the world where the stock is up a lot. This means that, in those states of the world, his pay package will be worth $1 trillion. (Because Tesla will be worth $8.5 trillion.) So the headline value of the package today is $1 trillion. Which sounds very high! It is in a sense easier to object to a $1 trillion pay package for Elon Musk — a trillion dollars! — than it is to object to a $180 billion package, even though the trillion-dollar package — which only pays out in very high stock-price scenarios — is worth *less*.

What is the problem with Plan 2? The FT says:

Denholm told the FT that the special committee set up to design the pay package — which was made up of her and director Kathleen Wilson-Thompson — explored whether there was a way to give Musk the voting rights he wanted without the vast payout.

"There wasn't an instrument that you could use that could do that," she said. "We searched high and low for it, but so we ended up using restricted stock, which does have economic rights."

Ehhhhh, look, I hear you. Plenty of tech companies have dual-class stocks to entrench founder control, but normally those are put in place before the company goes public. Asking the shareholders of a longtime public company to approve a *new* dual-class structure to give its CEO more control seems pretty awkward. (The Google precedent is interesting, but it didn't give the founders any *more* high-vote shares; it just made future share issuances zero-vote.) I am sure that Denholm and Wilson-Thompson *did* explore the possibility, and their lawyers told them it would be tough.

Still? Isn't it … strictly better? Elon Musk, according to him, doesn't want $1 trillion worth of new stock, or even $180 billion. (You don't have to believe him, by the way: He has *sold* Tesla stock to, among other things, buy Twitter and troll Elizabeth Warren, and his voting stake would be higher if he hadn't done that. He does have uses for money!) He just wants to control 25% of Tesla's vote, so that he can have robust but not absolute control of the robot army he is building.

The simple way to do that is to give him 25% of the vote *without* giving him any new economic ownership. Would that satisfy him? I don't know, but he seems to be *saying* it would. Would it be legal? I don't know, but Tesla is incorporated in Texas now so kind of anything is possible. Would shareholders approve it? I don't know, but if they would approve the trillion-dollar pay package (not certain! "Tesla Chair Says It's Unclear If Musk Pay Package Wins Approval," reports Bloomberg News), then they should be willing to approve this, since it is strictly cheaper for them. [7]

It would be weird and difficult to pay Elon Musk solely in *votes*, not in *shares*, or *money*. But he says it's what he wants, and the board says it's what they want, and surely it should be what shareholders prefer. They should do it!

Cockroaches

We have talked a lot in recent weeks about "late-cycle credit accidents" involving possible double-pledging of collateral. You make some windshield wipers, you sell the windshield wipers to auto parts stores, you send them some invoices, they have 90 days to pay, and you borrow against the invoices from a trade finance company. The "invoices" are, in the first instance, just electronic files. Perhaps they are entries in a spreadsheet, or emails from your customers saying "yes send me the wipers I'll pay in 90 days" that you forward to your lenders.

What's to stop you from selling the same invoice twice to two different trade finance companies? The long good answer is "the trade finance companies have due diligence processes to check on their collateral, and there is a system of publicly recorded liens that should prevent the double-pledging of invoices." The short bad answer is "often nothing." In the current credit boom, the answer is often nothing. And so there have been collapses at Tricolor Holdings and First Brands and Cantor Group and 777 Partners, accompanied by allegations of double-pledging. "When you see one cockroach, there are probably more," said Jamie Dimon after the Tricolor collapse, and they keep popping up.

This is all sort of convoluted and inefficient. If you are getting real money from trade finance firms by just sending them electronic files and saying "here's an invoice," sure you might send the same invoice to two different trade finance firms, or three, or 20, but *why do you need an invoice at all*? I mean, you need to send them something; you need to send them some electronic file that looks like an invoice. But you don't need to sell actual windshield wipers to actual auto parts stores to generate actual invoices. You just need, like, a word processor. Generating electronic files is free! The Wall Street Journal reports:

BlackRock's private-credit investing arm and other lenders are trying to recover hundreds of millions of dollars after falling victim to what they called a "breathtaking" fraud, marking another breakdown in an opaque corner of the U.S. debt markets.

The lenders have accused Bankim Brahmbhatt, the owner of little-known telecom-services companies Broadband Telecom and Bridgevoice, of fabricating accounts receivable that were supposed to be used as loan collateral. The lenders filed suit in August. They said Brahmbhatt's companies owe them more than $500 million.

Brahmbhatt disputes the allegations of fraud, his lawyer said.
The loans were made by HPS, a private credit firm that BlackRock bought this year, to entities run by Brahmbhatt, including one named Carriox. Carriox would apparently borrow from HPS against customer receivables from telecom companies. But, oops:

In July, an HPS employee noticed irregularities with certain email addresses that purportedly came from Carriox customers, the people said. In their August lawsuit, the lenders said that the emails came from fake domains mimicking real telecom companies, and that a review of past emails showed the same irregularities. When HPS officials asked Brahmbhatt about the irregularities, he assured them there was nothing to worry about, the people said. Then he stopped answering their phone calls.

Here is the complaint that the lenders filed in August, saying that "through forged contracts with telecommunication companies … and the fabrication of email messages to look as if sent by telecommunications companies, Brahmbhatt created an elaborate balance sheet of assets that existed only on paper." Or only on email:

For example, email messages purportedly sent by the Belgian telecommunications company Belgacom International Carrier Services SA, often known as BICS, were sent from the internet domain "belgacomics.com" rather than BICS's actual internet domain "bics.com." Similarly, an email message purportedly sent by the Australian telecommunications company Telstra was sent from the internet domain "telstra-au.com" rather than Telstra's actual internet domain "telstra.com.au." The Lenders informed Plaintiff that they have reviewed 10 additional email confirmations from 2024 and discovered the same fabrication.

Upon information and belief, multiple telecommunications companies have confirmed that the internet domains contained in these email messages were fraudulent, with BICS stating unequivocally: "This is indeed a confirmed fraud attempt, we do not own the belgacomics.com domain name and have nothing to do with these emails."

Yes, look, if you have a thriving financial system in which people lend hundreds of millions of dollars of real money secured by *forwarded emails*, you are going to end up lending some money against some fake emails.

AI reviews

I wrote the other day about AI performance reviews. Apparently JPMorgan Chase & Co. “has given employees the option to use its in-house artificial intelligence system to help write year-end performance reviews”: They can “use the US bank’s large language model to generate a review based on prompts they give it.” I made the standard jokes (“one assumes that the reviews are also read by AIs,” etc.), but I did not really think this through. I just vaguely assumed that you would prompt the system with some facts or adjectives or whatever: “Write a review for Jane, who is really good at financial modeling but who sometimes italicizes percentages wrong in pitchbooks and goes home before 3 a.m.,” that sort of thing.

But then I got an amazing email from someone who says that he works at JPMorgan and has taken the next logical step:

In the solicited feedback requests by employees or their managers at JPM, you can prompt AI to write a review, OR you can simply use the “AI Assist” button to generate a review first without any prompts required (and then presumably edit and personalize it). AI uses the person's job description to get started, then adds corporate-speak fluff based on seemingly nothing.

Here's a sample of no-prompt feedback: “I wanted to highlight your excellent work in the Financial Controller role. Your contributions to our team’s success have been invaluable. One area you could further enhance your impact is by ensuring that all financial reports are not only accurate but also submitted promptly. Timely reporting is crucial for effective decision-making and strategic planning. Keep up the great work, and I look forward to continuing our collaboration!”

“Hmm this is a financial controller,” the AI thinks, “she is probably pretty precise but maybe takes too long double-checking everything, let’s go with that.” Incredible! Reasonable! Reasonable-ish! In like two years every performance review in the world will be written exactly like that. [8] You’ll go into the review system, you’ll have a list of colleagues to review, you’ll push the “Write Automated Review” button, the computer will just absolutely make stuff up based on its generic guess about what someone might say in a performance review, it will present you with a draft, you will skim it briefly and have a rueful laugh, and you will hit “submit.” And then the AI will fire everyone.

Things happen

How a flashy Utah-based leasing firm lent billions to First Brands. Meta, Microsoft Test Investors With AI-Fueled Spending Surge. Meta Looks to Raise at Least $25 Billion From Bond Sale. Microsoft to Double Data Center Footprint in Two Years. Caterpillar’s Shares Soar on AI Data Centers’ Drive for More Power. Binance Boosted Trump Family’s Crypto Company Ahead of Pardon for Its Billionaire Founder. Options Pros See Opportunity in Retail-Aimed Structured Products. Jerry Jones Says He Has Unlocked a $100 Billion Gas Bounty in This Drilling Inferno. Copper Prices in London Hit Record High on Supply Fears. UBS to Appeal Swiss Ruling on $17 Billion Credit Suisse Bond Wipeout. JPMorgan Tokenizes Private-Equity Fund on Its Own Blockchain. 67.

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1. This is quoted from page 39 of the "Background of the Merger" section of Metsera's proxy statement. (The Wall Street Journal reports that "Party 1" in the proxy is Novo Nordisk.)

2. That's from page 45 of the proxy, and I am eliding things a bit here. In fact Metsera proposed, and Novo kind of agreed to, a form of the structure that it ended up with, and it's not totally clear to me why Metsera said no in September and yes now.

3. The certificate of designation of the preferred stock is included with to the merger agreement that Metsera filed today, and it says (section 9.1) that "The Company shall redeem all, but not less than all, of the issued and outstanding shares of Series C Non-Voting Convertible Preferred Stock upon either (i) the closing of the transaction that is the subject of the definitive agreement (such agreement, relative to the Merger Agreement, a 'Topping Bid Agreement') that the Company enters into concurrently with the termination of the Merger Agreement pursuant to Section 8.01(d)(ii) of the Merger Agreement ... or (ii) the closing of a Subsequent Transaction … at the Preference Redemption Price; provided, that, upon a Preference Redemption Event in the event of a Subsequent Transaction as described in clause (ii), the Holders may elect to receive upon notice to the Company, in lieu of the Preference Redemption Price, the same kind and amount of consideration as holders of Common Stock are entitled to receive in such Subsequent Transaction, on an as-converted basis." The "Preference Redemption Price" is par, that is, the $6.5 billion that Novo pays upfront. So basically if Metserra sells itself to someone else for, like, $20 billion, Novo gets $10 billion (its as-converted value), but if it sells for less than $13 billion Novo gets its $6.5 billion back in cash. There does not seem to be double-dipping: Novo can get *either* $6.5 billion *or* half of the total consideration, but not both (i.e. not $6.5 billion plus half of what's left over).

4. Though Page and Brin were executive officers: Page came back as CEO in 2011, and Brin's title was "co-founder" but he remained involved in management.

5. Note that 15% plus 12% is less than 27%, because the new shares are newly issued and dilute the old shares. See pages 58-59 of the proxy on the "Adjusted Share Count."

6. That is, (15% x 2) / (85% x 1 15% x 2).

7. I mean, the trillion-dollar package is contingent on hitting ambitious stock-price and operational targets, while my "just give him dual-class stock" is not. But you could *make* it contingent on targets, why not?

8. To be fair, my reader emphasizes: "This is for feedback requested from colleagues that is considered as a part of the performance review process, not for the performance reviews themselves (where AI can be used but only after being provided with prompts)."

Securities

Musk's $1 Trillion Tesla Pay Package Opposed by Calpers (1)

Oct. 30, 2025, 7:07 AM PDT

California Public Employees' Retirement System, the largest public pension plan in the US, is planning to vote against Elon Musk's $1 trillion Tesla Inc. compensation agreement, delivering a setback for the company's plan to award one of the most lucrative pay packages in corporate America.

"The CEO pay package proposed by Tesla is larger than pay packages for CEOs in comparable companies by many orders of magnitude," Drew Hambly, Calpers' global equities investment director, said in an emailed statement, adding that the pension plan typically measures proposed compensation against performance and industry norms.

"It would also further concentrate power in a single shareholder," he said.

Calpers owns about 5 million shares in Tesla, according to data compiled by Bloomberg.

Musk has been pushing the pay package ahead of a key shareholder vote at the automaker's annual meeting on Nov. 6 in Austin. The world's richest man spent the company's earnings call this month urging investors to back the plan and criticizing the shareholder advisory firms that have come out against it.

His $1 trillion compensation agreement is a plan that spans 10 years and requires Musk to meet certain benchmarks to earn the full payout. Musk could also receive more shares, allowing him to own at least 25% of the automaker.

Read More: Musk Hijacks Tesla Earnings Call to Vouch for His Pay Plan

Some of Musk's historical pay packages have also come under scrutiny. Last year, Calpers Chief Executive Officer **Marcie Frost** said the pension was against a proposed $56 billion pay package for Musk. The plan was also previously opposed to a 2018 agreement that was valued in excess of $50 billion. That pay package was eventually struck down by a Delaware court, although Tesla is appealing that decision.

(Updates with more context in the second paragraph.)

--With assistance from **Eliyahu Kamisher**.

Securities

Manage Newsletters

Fiserv Stock Plunges 47% as Results Confound Wall Street (1)

Oct. 29, 2025, 9:55 AM PDT

Summary by Bloomberg AI

AI Generated

- Fiserv Inc. stock suffered a record plunge after the company slashed its outlook for full-year earnings and unveiled third-quarter results that confounded Wall Street analysts.
- Chief Executive Officer Mike Lyons said he discovered that Fiserv wasn't going to be able to deliver on its previous promises to investors after he undertook a broad-based review of the business in recent months.
- Fiserv unveiled sweeping changes to the company's top leadership and board of directors, including replacing the firm's longtime chief financial officer and promoting Chief Operating Officer Takis Georgakopoulos to be co-president.

Fiserv Inc. stock suffered a record plunge after the fintech slashed its outlook for full-year earnings and unveiled third-quarter results that confounded Wall Street analysts.

Chief Executive Officer **Mike Lyons**, who took the reins in February, said he discovered that Fiserv wasn't going to be able to deliver on its previous promises to investors after he undertook a broad-based review of the business in recent months.

Lyons on Wednesday replaced the firm's longtime chief financial officer, and unveiled sweeping changes to the company's other top leadership and board of directors. It's a major shakeup at the company that was led for years by **Frank Bisignano**, who now oversees the Social Security Administration.

"More financial surprises emerged in the start of Q3," Lyons told analysts on a conference call. "That prompted not just the annual strategic planning process, but this much more rigorous review into our financials. And that was also driven by some of the stuff we're hearing from our clients."

Fiserv shares, which more than doubled from the end of 2022 through last year, lost as much as 47% on Wednesday before moderating slightly. The stock was down 41% to $74.49 at 12:44 p.m. Wednesday.

Spreads on the company's dollar-denominated 5.15% bonds due in 2034 widened 19 basis points to 102 basis points as of 9:58 a.m. in New York, according to Trace.

Analysts expressed surprise at how quickly the business appears to have soured. **Trevor Williams** at Jefferies said the magnitude of the earnings miss and forecast cut "is difficult to comprehend."

"To be frank, we are struggling to recall a miss and guide down to this degree in any of the sub-sectors we have covered during our time on the Street," **Matthew Coad**, an analyst at Truist Financial Corp., said in a note to clients.

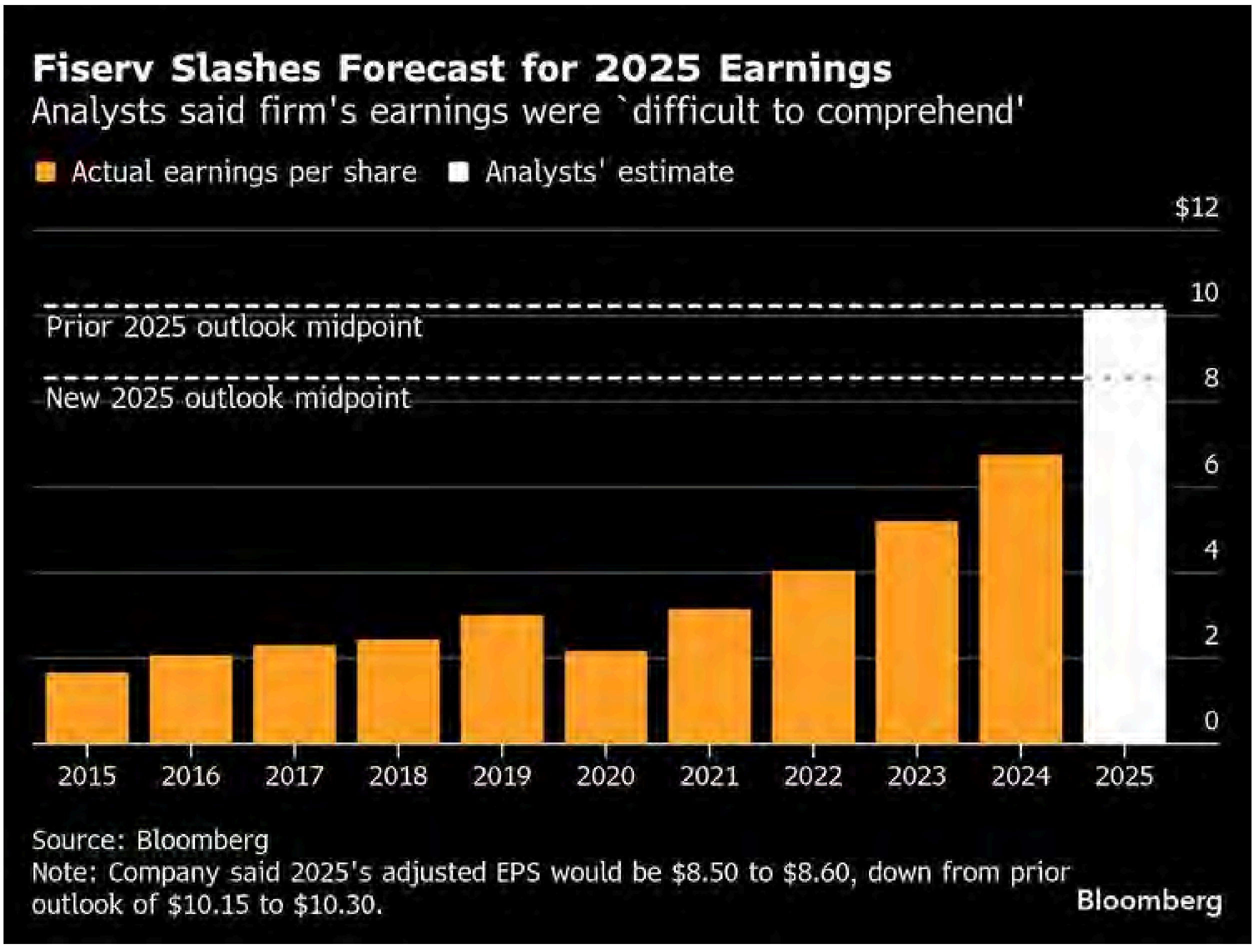
Read more: Fiserv Sinks as Outlook 'Difficult to Comprehend': Street Wrap

Founded in 1984, Milwaukee-based Fiserv is a behemoth in the world of financial technology, and got its start offering data-processing services for banks and other financial institutions. Six years ago, it acquired the payment-processing giant First Data, which gave it a greater foothold in the business of facilitating credit-card payments for merchants around the country.

First Data was, for years, led by Bisignano. He took over as CEO of Fiserv following the acquisition, a position he held until earlier this year, when he was tapped to lead the Social Security Administration by President Donald Trump. Bisignano will also serve as CEO of the Internal Revenue Service, a new position at the agency.

Lyons has sought to shore up investor confidence in the business, even as it faced an uncertain macroeconomic environment.

Much of that work was undone on Wednesday as Fiserv cut its forecast for this year's adjusted earnings per share to $8.50 to $8.60 from the $10.15 to $10.30 it previously anticipated. Adjusted third-quarter revenue and EPS fell well short of analysts' estimates .



At the heart of the declines is Fiserv's financial-solutions division, which provides the underlying technology for legions of banks and credit unions across the country. Revenue from the division fell 3% in the third quarter, while its margins plummeted to 42.5% — down about five percentage points from the same period a year earlier.

"There are certainly some areas where we are dissatisfied with our recent performance," Lyons said. "We found that our challenges are largely driven by our own doing, not the result of a material change in our positioning."

Fiserv elevated Paul Todd to become its next chief financial officer, replacing **Bob Hau**, who had held the role since 2016. The company also promoted Chief Operating Officer **Takis Georgakopoulos** to be co-president alongside **Dhivya Suryadevara**, who was most recently CEO of Optum Financial Services and Optum Insight at UnitedHealth Group.

The company announced three additions to its board – Gordon Nixon, **Céline Dufétel**, and Gary Shedlin. Nixon will take over for Doyle Simons as independent chairman of the board, while Shedlin will become chair of the audit committee.

With those three additions, Fiserv's board will be comprised of 11 members, six of whom will have been appointed in the last two years.

Still, the moves didn't seem to mollify investors. Wednesday's stock plunge brought this year's decline to more than 60%.

"Management responses weren't convincing on what drove the steep change in revenue assessment, or inspire confidence that there will be no more surprises," **Diksha Gera**, an analyst at Bloomberg Intelligence, said. "It leaves a lot of uncertainty around how conservative or aggressive these cuts are and how much more to go."

(Updates shares in fifth paragraph.)

--With assistance from **Emily Nicolle** and **Phil Kuntz**.

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Fiserv’s $30 Billion Wipeout Followed Client Revolt on Fees

bloomberglaw.com/bloombergterminalnews/bloomberg-terminal-news/T4YEKWGOYMTC

Emily Mason, Jenny Surane October 30, 2025

A Clover payment device at a restaurant in New York.
Photographer: Yuki Iwamura/Bloomberg

By Emily Mason and Jenny Surane

(Bloomberg) --
When joined early this year, he was stepping into a fintech riding high with a record stock price. But the new top boss soon found himself firefighting a series of customer gripes.

Over and over, clients repeatedly voiced frustration that they’ve had enough of the superfluous fees they were being charged for Clover, Fiserv’s flagship point-of-sale system, according to people familiar with the matter, who asked not to be named discussing non-public deliberations. They were increasingly looking to take their business to cheaper alternatives, like ’s Square or , and they weren’t looking back.

A Clover payment device at a restaurant in New York.
Photographer: Yuki Iwamura/Bloomberg

For Lyons, this wasn’t just a matter of winning back angry customers. His predecessor — who left the company in May to take a job in US President Donald Trump’s administration — had pinned much of the company’s forecasts for future growth on Clover continuing to outperform the market.

Early into the job, Lyons ordered a deeper analysis of the firm's finances involving his top deputies across its merchant and banking divisions.

The results of that review were unveiled on Wednesday: Lyons vowed to undo much of the pricing changes Clover had introduced. He also outlined a new technology strategy and slashed the full-year outlook for his company's earnings, sending shares careening downward 44% — wiping out $30 billion of the company's market capitalization along the way.

Fiserv shares fell further on Thursday, down as much as 6.7%, deepening shareholder losses.

For years, digital payments looked untouchable — revenue growth inched ever higher, margins were expanding and there was seemingly endless demand from small businesses as they sought to shift away from cash. Now, though, competition has intensified and investors have become less forgiving.

But Fiserv's latest stock meltdown — one of the most stunning collapses in recent memory for the fintech world — isn't tied to a failure of technology so much as of management discipline: pricing missteps, overpromised growth, and a culture slow to register customer demand. For investors, it's a reminder that even the most entrenched players in the digital economy can stumble.

"This wasn't a reset I wanted or expected," Lyons told analysts on a conference call on Wednesday. "There were a whole bunch of embedded assumptions — away from the major projects — that even with strong execution would have been hard to do."

'Empty Fees'

Bisignano, for his part, doesn't think he left the firm with goals that were too lofty and blames the stock drop on Lyons' tenure, according to people familiar with his thinking, who asked not to be named discussing non-public information.

Clover arrived as a startup with a newfangled point-of-sale payments option in 2010. Rather than the clunky systems of years past, it had a sleeker, white design that merchants liked. Two years in, the company was acquired by First Data.

At the time, First Data was known for providing payment services to retail giants like and But executives increasingly wanted to push into the lucrative niche catering to small businesses, which often had less power and know-how to negotiate lower rates than larger merchants.

Clover ultimately became key to that effort. The tiny white devices helped First Data — which was acquired by Fiserv in 2019 — notch quarter after quarter of growth as the company sold millions of the little machines.

Frank Bisignano, commissioner of the US Social Security Administration, left, and US President Donald Trump in the Oval Office of the White House in Washington, DC, US, on Thursday, Aug. 14, 2025.
Photographer: Will Oliver/EPA/Bloomberg

As time went on, Bisignano and his top deputies, looking to ensure the device remained a money maker for Fiserv, started loading up the product with a slew of fees as part of its so-called "value-added services" for merchants.

The move juiced revenue in the short term but the results of Lyons's review suggest it might have cost Fiserv in the long run when it comes to customer satisfaction.

"We wonder how much VAS is strong software versus empty fees," , an analyst at , said in a note to clients. "In a competitive market like merchant processing, innovation is king, and we think Fiserv's ability to take economic share is impaired as the company had been focused on short-term performance, trading that for long-term competitive advantage."

‘All Gas, No Brake’

When Bisignano departed to take over as head of the Social Security Administration, all outward signs pointed to a job well done. Fiserv’s stock had nearly doubled during his tenure and he had promised shareholders in a 2023 investor day that the company would deliver revenue growth of at least 9% in the medium term.

A closer look, though, reveals some cracks were starting to show. At the start of the year, analysts flagged that revenue from Clover was growing far faster than the payment volumes the system was processing — normally the two would increase at similar rates.

When asked about the unit’s future growth prospects at the time, Bisignano brushed away concerns.

“There’s no pivots going on here — we’re not rethinking,” Bisignano told analysts on a conference call in February, one of his last as CEO and chairman of Fiserv’s board. “We’re all gas, no brake on this baby and that’s kind of how we’re playing it. And we love it.”

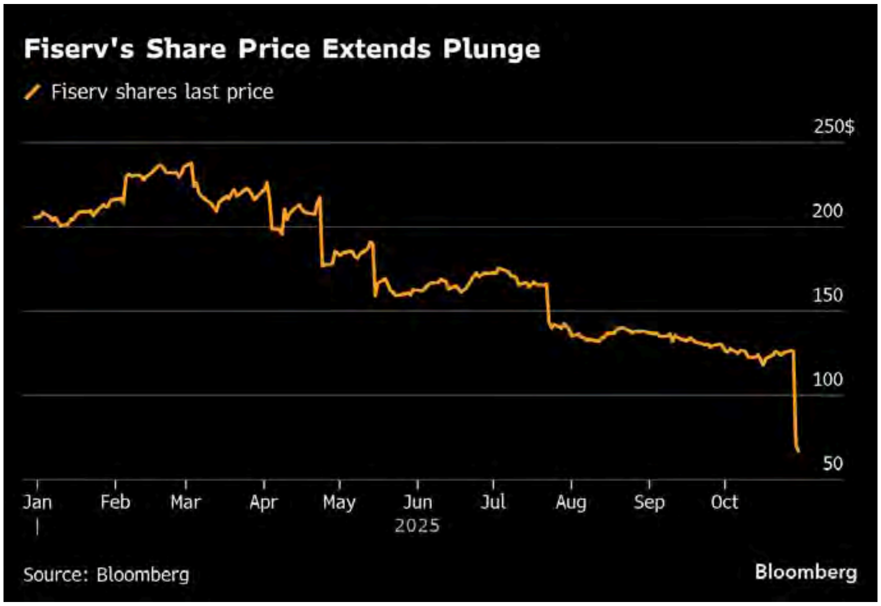
More signs of weakness emerged in July, when one of the company’s investors — the City of Hollywood Police Officers’ Retirement System — sued Fiserv, alleging Bisignano had misled shareholders when he laid out a series of lofty revenue goals in 2023.

That year, the company had begun to phase out the use of its older payments software Payeezy, according to the lawsuit. As Fiserv “forcibly migrated as many as 200,000 merchant locations on Payeezy to Clover” it juiced the unit’s revenue, the lawsuit states.

But shortly after these clients were moved onto the new system, the company started seeing a significant number of them depart for rivals, the lawsuit alleges. Fiserv, for its part, “disagrees with the claims and will vigorously defend itself in the lawsuit,” according to a company spokesperson.

By then, investors were starting to smell weakness. Shares cratered 19% in the month of July as Lyons made his first stab at reining in analyst expectations for growth of the business.

“No excuses,” he said this week. “We found that our challenges are largely driven by our own doing.”



While the Clover woes had started to surface, Wednesday’s results came with another surprise for investors: Revenue from the firm’s financial-solutions division, which provides the underlying technology for thousands of banks and credit unions across the country, fell 3% in the third quarter, while its margins plummeted to 42.5% — down about five percentage points from the same period a year earlier.

Customers in that division, which suffered a major technology outage earlier in the year, had also been putting pressure on Lyons in recent months, according to people familiar with the matter. They wanted to see the company rolling out better products at a faster clip, they said.

In the end, Bisignano’s move into government couldn’t have been better timed. The former executive divested his stake between May 16 and July 1, meaning he ultimately avoided hundreds of millions of dollars in losses from the company’s plunging stock price this week.

Accepting the government role gave Bisignano another valuable perk. In May, he was granted a certificate of divestiture, deferring capital gains tax on the Fiserv sales provided he invested the proceeds in approved assets such as Treasury bills or broadly-based mutual funds.

Read more: Bisignano Ducks $300 Million Fiserv Loss With Move to Trump Role

Lyons, meanwhile, is left to clean up the mess. A former executive at , he announced he was overhauling his top leadership team and bringing three new board members to help him with the job.

“It’s like when a person comes into the ER — it usually starts with one pain here and there, one thing leads to another and you get this massive organ failure,” said , an analyst at Mizuho who continues to have an outperform rating on the stock. “I’m not giving up. If the patient survives the organ failure, you can actually come out of it. The reset is painful but it’s not game over.”
--With assistance from .

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OpenAI

Delaware top lawyer warns of legal action if OpenAI fails to act in public interest

Sam Altman's concessions to win approval from US officials expose his company to litigation and non-profit oversight

OpenAI chief Sam Altman had to make multiple concessions that require the company to prioritise AI safeguards © FT montage/Getty Images

George Hammond, **Cristina Criddle** and **Stephen Morris** in San Francisco

Published 13 MINUTES AGO

One of the top US officials overseeing OpenAI's restructuring has warned she will take legal action against the ChatGPT maker if it fails to stick to public interest pledges Sam Altman agreed in negotiations to unlock the deal.

Kathy Jennings, the attorney-general of Delaware, told the Financial Times she consented to the deal after securing multiple binding legal commitments from Altman, OpenAI's chief executive. They require the $500bn start-up to prioritise AI safety over its shareholders' commercial gain.

The final agreement, announced on Tuesday, puts key decisions, including launching a public listing, in the hands of the non-profit OpenAI Foundation, which has a 26 per cent stake in the for-profit arm, called the OpenAI Group, worth $130bn.

"Anyone who is familiar with our work knows we are not shy to go into the courtroom to benefit the public if we need to," said Jennings, who has previously taken legal action challenging Elon Musk's so-called Department of Government Efficiency.

The complex restructure was finalised late on Monday night, after direct talks between Altman, Jennings and her California counterpart, Rob Bonta, according to multiple people with direct knowledge of the process.

OpenAI's chief financial officer, Sarah Friar, worked in parallel to negotiate financial terms directly with Amy Hood, her counterpart at Microsoft, which is OpenAI's biggest shareholder under the new structure, they added.

The deal, after more than a year of negotiations, enables investors to hold equity for the first time and unlocks a future stock market offering.

Altman said on Tuesday that an IPO was the most likely path for the AI group, though the company said it was too early to settle the timing or size of the raise. "An IPO is not our focus, so we could not possibly have set a date," the company said.

As part of the restructuring discussions, Jennings and Bonta sought to codify language in OpenAI's charter, which lays out principles to ensure AGI — AI which surpasses human intelligence — benefits humanity.

It also commits OpenAI to join forces with any "safety-conscious" rival that has a good chance of reaching OpenAI's goal of creating AGI within a two-year timeframe.

"The charter was important to us [and was] one of the key concessions that we got," said Owen Lefkon, a senior attorney in Jennings's office, who worked on the agreement. "Up until this week, it was just a page on a website. As of today, the company has committed to two state attorneys-general that it will be used to execute the mission going forward."

Jennings said Altman's agreement to place OpenAI's safety and security committee, which has the power to block the release of AI models, under the OpenAI Foundation rather than the OpenAI Group was also "a critical turning point in our discussions".

"The question all along was whether OpenAI would reorient away from its charitable goals and towards profit-making. [Tuesday's] agreement has meaningful provisions which mean the mission controls the operations," said Jill Horwitz, a professor at Northwestern University and UCLA and expert in non-profit law.

These commitments mean OpenAI's shareholders — including SoftBank and venture capitalists such as Thrive Capital and Khosla Ventures — are still exposed to unique risks from the start-up's governance.

But it is unclear how some of these requirements will work in practice. Microsoft chief executive Satya Nadella on Tuesday questioned the definition of AGI, calling it a "nonsensical word".

Microsoft, which has invested $13.75bn into OpenAI, agreed new terms with the start-up after Hood and Friar "took the deal offline and away from the lawyers" to iron out the final details last week, according to a person with knowledge of the matter.

The companies signed a draft agreement on September 11, and set a 45-day countdown to finalise terms by this week. The last piece to fall into place was a pledge from OpenAI to spend $250bn with the technology giant's cloud arm over time.

"That was the final sticking point to be resolved and it got finalised over the weekend between Sarah and Amy," said one person with knowledge of the talks. The pair both worked at Goldman Sachs in the early 2000s and have known each other for decades.

Microsoft, which will take a 27 per cent stake worth $135bn in the OpenAI Group, extracted another important concession: the group and its AI chief Mustafa Suleyman are now free to pursue AGI on its own and with third parties, having been prevented from doing so under the previous contract.

OpenAI, meanwhile, insisted on being able to ringfence significant pieces of "AGI-level" research from Microsoft, provided those were not commercialised, according to a person familiar with the discussions.

https://www.wsj.com/finance/currencies/binance-trump-crypto-pardon-cz-changpeng-zhao-1007fde9

How a Billionaire Felon Boosted Trump's Crypto Company en Route to a Pardon

Binance facilitated $2 billion purchase of World Liberty's stablecoin and built its technology; clemency for Changpeng Zhao surprised some in administration

By Angus Berwick Follow , *Patricia Kowsmann* Follow and *Rebecca Ballhaus* Follow

Oct. 29, 2025 9:00 pm ET

ABU DHABI—Changpeng Zhao, crypto's richest man, flew home from a California jail a year ago to recuperate in a secluded neighborhood of $30 million villas on a white-sand island here. He worked on his kite-surfing, caught up with friends in beachside clubs and kept his 100-foot yacht, Da Moon, moored nearby.

Despite his freedom, all wasn't well. Binance, Zhao's crypto exchange—owned by a felon and shackled by U.S. authorities—was struggling. Its new overseers were turning the screws to eliminate the practices that had made it a giant money-laundering mill. Binance's top legal staff were certain the company was doomed.

Then Donald Trump's surging presidential campaign presented an opportunity.

Around the time of the election, Zhao's representatives began discussions with allies of Trump, saying they wanted to find a solution to Binance's legal troubles in the U.S. and offering a deal with a Trump family business, according to people familiar with the discussions.

Once Trump won, Binance formed a high-level task force to strike a deal with the Trumps' nascent cryptocurrency venture, World Liberty Financial, that Binance could leverage into clemency for Zhao, other people familiar with the matter said.

This spring, Binance took steps that catapulted the Trump family venture's new stablecoin product, enhancing its credibility and pushing its market capitalization up from $127 million to over $2.1 billion.

Trump granted Zhao a presidential pardon last week, likely paving the way for the world's largest crypto-trading platform to return to the U.S., from where it was banned after the company pleaded guilty in 2023 to violating anti-money-laundering rules. At the time, the government said Zhao had caused "significant harm to U.S. national security" by allowing sanctioned Iranian crypto exchanges, Russian drug-traffickers, Hamas militants and other criminal groups to move billions of dollars through the exchange.

The pardon marks the most distinct instance yet of Trump using the powers of his office to benefit someone at the center of deals that have enriched his family.

Ahead of the launch in March of World Liberty's dollar-pegged cryptocurrency, USD1, Binance deployed a team of over a dozen engineers to build the technology behind the currency, people familiar with the project said.

Binance then struck a deal for an Emirati state investor to buy a minority stake in Zhao's crypto exchange. Binance asked that the $2 billion purchase price be paid using USD1, people familiar with the transaction said.

The use of USD1 boosted World Liberty, hugely expanding its market cap and giving it new clout. That in turn helped with sales of its other cryptocurrency, WLFI, which has a value that fluctuates on the market. World Liberty's business partners have cited its stablecoin's success as a reason to invest in WLFI.

World Liberty raked in about $1.4 billion in revenue over the past year from WLFI sales, far more than the president's real-estate portfolio ever earned annually. World Liberty's website says the company is about 40% owned by a Trump family entity that is entitled to three-quarters of the company's revenue from those sales.

Binance's deployment of engineers and its involvement in the Emirati deal's currency haven't been previously reported.

Zhao departing federal court in Seattle in April 2024, where he was sentenced to four months in prison after pleading guilty to violating anti-money-laundering requirements. JASON REDMOND/AFP/GETTY IMAGES

Representatives for World Liberty said the company had never discussed a pardon. Tom Clare, a lawyer representing the company, said World Liberty "has never assisted in, facilitated, or influenced a decision on Mr. Zhao's presidential pardon."

The company does support the pardon, World Liberty spokeswoman Gail Gitcho said. "Everyone who has been a victim of Joe Biden's lawfare has rightfully been pardoned," she said.

Gitcho also said Zhao, who is known as CZ, hasn't been a financial backer of World Liberty and denied that Binance was involved in arranging the use of USD1 in the deal with MGX, the Emirati state investor that bought a stake in Binance. "CZ has never given WLFI a single dollar," Gitcho said, referring to World Liberty.

She described the relationship as typical of any company that uses the crypto exchange. World Liberty's "dealing with Binance is like selling ice cream and dealing with the milk distributor," she said.

Wayne F. Dennison, a lawyer for Binance, said there was no impropriety. He said that since Binance is the world's largest crypto exchange, it is practically impossible for any crypto project to avoid engagement in some way with it.

Dennison said Binance "did not control the stablecoin chosen by MGX" and said neither Binance nor Zhao acted as a relationship facilitator or financier to World Liberty.

White House press secretary Karoline Leavitt said, "Neither the president nor his family have ever engaged, or will ever engage, in conflicts of interest."

Trump said last week that Zhao had been "persecuted by the Biden administration" and that he gave him a pardon "at the request of a lot of very good people."

Trump special envoy Steve Witkoff, who co-founded World Liberty with his son Zach and the Trump family last fall, had recently expressed that he was confident in a pardon, a person familiar with the matter said. An administration official said this was false. Gitcho said Steve Witkoff "has never had any operational control" of World Liberty.

The pardon's timing surprised some administration officials, according to people familiar with the matter. Some administration officials had expressed concerns about the optics of pardoning the head of a foreign company that was convicted of severe anti-money-laundering violations, and how such a move could encourage wrongdoing by others, some of the people said. A White House official denied the pardon caused any surprise.

Inside the Justice Department, some officials thought a pardon was unlikely because it wasn't in the U.S. interest to reopen the door to Binance, according to people familiar with their thinking.

The pardon crowns Zhao's efforts to leave behind his persona non grata status and return to his role as an industry titan feted by foreign leaders, with more riches than ever before.

It will likely help Binance to operate again in the U.S., formerly one of the exchange's largest markets, contributing as much as a third of its billions of dollars in annual revenue.

The company has been subject to monitoring by the Justice and Treasury departments since last year to ensure Binance exited from the U.S. and complied with anti-money-laundering laws. The Justice monitorship could end, although a Treasury monitor, scheduled to continue until 2029, will likely remain, according to people familiar with the monitorships.

The Justice and Treasury departments declined to comment on the monitorships.

Binance had already been wriggling free from these overseers, petitioning Treasury officials for their removal in March and slow-walking or blocking many of the monitors' requests to review internal records and interview employees, some of those people said.

Dennison, the Binance lawyer, said, "Binance and its legal team remain committed to complying with all legal requirements with integrity and transparency."

And prior to the pardon, Zhao's business was making fresh inroads in the U.S. Binance's own cryptocurrency, BNB, has been accessible to American investors through U.S.-listed companies that are piling into the token, helping double Zhao's net worth over the past year to at least $80 billion.

President Trump spoke positively about crypto during the campaign at an event in Nashville in July 2024. JON CHERRY/GETTY IMAGES

'What the hell happened'

Zhao was already thinking about his future under a possible Trump presidency while sharing Cell No. 5 in Lompoc's federal prison with a double-murderer who was a bad snorer, according to interviews with crypto podcasters and others after his release.

He was serving a four-month sentence, after pleading guilty in late 2023 to failing to maintain an effective anti-money-laundering program and resigning as Binance's chief executive. According to the U.S. allegations against him, Binance's top compliance official once told colleagues that Zhao didn't want the exchange to vet users' identities and that its customers were "here for crime." Zhao told employees it was "better to ask for forgiveness than permission," prosecutors said.

As part of his plea, Zhao agreed not to involve himself again in Binance's day-to-day operations, and U.S. authorities imposed a record $4.3 billion fine on the company itself.

At Lompoc, Zhao occupied himself by running a study group to teach fellow inmates about crypto, and guards asked him for trading tips, he later told an interviewer.

Halfway into his jail term, Zhao was surprised to see on TV that Trump, while on the campaign trail, had declared himself pro-crypto at a Nashville bitcoin conference, reversing his prior skepticism.

"I'm still sitting in prison, and I'm like, 'What the hell happened,'" Zhao said in a separate interview. In another, he said: "Obviously this would be a good guy for our industry, and also for any sort of people who have a criminal charge, unfairly I think."

He emerged in September to a strange new world, in which crypto was now politically fashionable—a reversal from the Biden administration's efforts to crack down on the industry through regulation, lawsuits and criminal investigations.

On his return to Abu Dhabi, where he had settled with his romantic partner and Binance co-founder, Yi He, and their children, Zhao tweeted he needed some time to figure out his next steps. He gave a cautious onstage interview at a Binance event in Dubai a month later, saying he wanted to stay far from politics and had to respect his plea deal. Though he noted, "Everything changes. Agreements can be updated with new agreements. Even governments change."

At Binance, the mood had soured. Though still sporting some 250 million users around the world, the exchange's share of the crypto trading market had sunk to its lowest level in almost four years, according to researcher CCData.

The U.S. monitors—particularly lawyers at New York firm Sullivan & Cromwell, appointed by Treasury—flooded executives with requests to interview employees, tighten checks on clients and scrutinize billions of dollars of past transactions. Binance's top legal staff believed U.S. authorities would end up punishing Binance with even tougher measures for failing to comply.

Zhao's criminal troubles were also holding up Binance's expansion plans in Europe, as well as its efforts to get new licenses in the United Arab Emirates and elsewhere.

Binance task force

Trump launched World Liberty in September 2024, saying it would help make "America the crypto capital of the world." The company's aim, according to its founding document, was to spread adoption of dollar-backed cryptocurrencies, known as stablecoins, to uphold dollar dominance.

The project raised $20 million from WLFI sales over its first month. "Nobody really believed in us in the beginning," Zach Witkoff said recently at a conference, saying that last year some crypto players had called the company "a joke."

The internal task force under Zhao's replacement as CEO, Richard Teng, studied how to move money into the Trump family company, inspired by crypto tycoon Justin Sun's $30 million purchase of WLFI tokens from World Liberty announced soon after the election in November, according to people familiar with the working group. The Securities and Exchange Commission later paused a fraud case against Sun. A spokesperson for Sun previously said that his investment decisions aren't politically motivated.

Binance didn't make a purchase. Instead it committed a team including its Hong Kong-based stablecoin chief to build the blockchain technology for USD1, people familiar with the project said.

Gitcho, the World Liberty spokeswoman, said Binance provided World Liberty with so-called smart contracts, which govern how a stablecoin operates on the blockchain, "to save WLFI the headache of reproducing them, but not in exchange for anything."

Eric Trump and Donald Trump Jr. in August after the World Liberty Financial co-founders rang the Nasdaq opening bell. PAOLA CHAPDELAINE FOR WSJ

In October 2024, World Liberty hired one of Zhao's close friends, Rich Teo, who had run a Binance stablecoin product that was shut down two years ago following an order from a New York regulator.

Teo didn't respond to a request for comment. Gitcho said Teo wasn't hired due to any relationship with Zhao.

Zhao and his partner He in early December hosted big Binance clients and high-profile guests, including Elon Musk's father Errol Musk, on a yacht docked alongside Abu Dhabi's Grand Prix racetrack. Also aboard was Bilal bin Saqib, a Pakistani tech entrepreneur whom World Liberty would later name an adviser. Guests danced on deck to a DJ and a saxophonist, while Formula One cars tore past.

A few days later, Zhao mingled with Eric Trump and Steve Witkoff at a bitcoin conference in the city. Afterward, Witkoff, whom Trump had appointed as a special White House envoy, surveyed people close to the U.S. case against Zhao, a person familiar with the talks said.

Gitcho said Eric Trump has met Zhao a couple of times but said, "Our understanding is that neither Steve nor Eric met with CZ" at the conference. An administration official denied that Witkoff held a meeting with Zhao at the conference or that he had surveyed people. White House spokeswoman Anna Kelly disputed any implication that Witkoff has conflicts of interest.

In parallel, representatives of Trump's family—including Witkoff—held deal talks with Binance representatives, including about taking a financial stake in Binance.US, the exchange's moribund U.S. arm that operates separately, The Wall Street Journal previously reported. Binance set up Binance.US in 2019 as a bare-bones American platform obeying U.S. rules. The thinking among many at the time: If a Zhao pardon occurred and Binance settled its legal troubles, the global giant could absorb its U.S. arm.

Zhao denied, in a post on X after the Journal article, that he discussed a Binance.US deal with anyone, adding that, "No felon would mind a pardon." Gitcho said nobody at World Liberty knew anything about any Binance.US talks. An administration official denied that Witkoff had any involvement in such deal talks.

A deal in the Gulf

Meanwhile, Zhao had been in talks with Abu Dhabi's royal family about an investment in Binance for several years, with his legal troubles holding a deal up. He curried favor in Abu Dhabi by backing a local tech incubator and building personal ties to the royals via a circle of well-connected friends on the city's luxurious Saadiyat island.

In March, Binance announced a deal with MGX, an investment firm run by the brother of the U.A.E.'s president, Sheikh Mohamed bin Zayed Al Nahyan. MGX would take a minority stake worth $2 billion, the first time an institutional investor had bought into the exchange. To mark the occasion, Sheikh Mohamed invited Zhao to his ornate private palace where he typically welcomed foreign dignitaries, hidden from the city across an inlet by a dense bank of trees.

"God has willed it," Zhao, who had obtained Emirati citizenship, tweeted in Arabic with a photo of the pair, wearing a traditional thobe.

But before the deal was sealed, Binance had a request. It asked MGX to pay the $2 billion purchase price in the soon-to-be-released World Liberty stablecoin, people familiar with the deal said. The Emiratis agreed.

A World Liberty executive told a business associate around that time that Abu Dhabi's royal family had a keen interest in enabling Trump's crypto ambitions. Gitcho, the World Liberty spokeswoman, said the executive had no recollection of making such a statement.

To complete the transaction, MGX bought USD1 from World Liberty, handing the Trump family venture a $2 billion cash pile. World Liberty holds those funds in reserve to maintain the coins' 1-for-1 tie to the dollar, unless the USD1 tokens are swapped back into real-world cash. The company invests the reserves in Treasurys and pockets the interest. If held for a year, the $2 billion sum would generate about $80 million in profit for World Liberty.

The size of the MGX deal rocketed USD1 up the rankings of largest stablecoins. Gitcho said there were "tons of other massive deals on the table for USD1. It was only a matter of time before someone picked up on it."

People close to the transaction at the time privately expressed confusion about MGX's choice of USD1 and sought to understand why the stablecoin had been selected, according to people familiar with the matter.

A spokeswoman for MGX said Binance requested the transaction be settled in cryptocurrency, and MGX then selected USD1 after examining factors including "business suitability."

In late April, Zhao met Zach Witkoff and Saqib, the Pakistani crypto entrepreneur, at a glitzy beachfront restaurant on Saadiyat's St. Regis resort for a private Binance summit for top clients. A U.A.E. executive who oversaw the MGX investment—and is also a World Liberty adviser—attended, too, along with a lobbyist representing both Binance and World Liberty. The following evening, while a drone show spelled out MGX above the sea, World Liberty began issuing the USD1 for the deal. MGX finalized its stake in Binance two days later.

MGX transferred the $2 billion in USD1 to Binance, and since then Binance has been holding most of those tokens on its own platform, according to blockchain data and people familiar with the deal.

Gitcho said Zhao and Zach Witkoff are friends and that the World Liberty team was at the summit to meet with MGX to discuss the firm's interest in USD1.

In June, World Liberty announced a partnership with a crypto-trading platform called PancakeSwap to "drive USD1 adoption." The platform, which is administered by Binance, offers rewards and prizes to traders using coins in the Binance blockchain ecosystem. The partnership sent USD1's trading volumes soaring, the Journal previously reported.

Gitcho said Binance hasn't been boosting USD1 through PancakeSwap and that World Liberty has many partnerships.

Improving fortunes

At a Binance Clubhouse event in Dubai several days after the Binance summit, Zhao told a gathering that he was a victim of "a war on crypto by the last administration. But now there is a counter-reaction. Now they'll let us accelerate much faster."

In a podcast interview published in early May, Zhao said his lawyers had submitted an application for a pardon two weeks earlier. He decided to apply after the Journal and others reported he was seeking a pardon, he said, adding that he thought he "might as well just officially apply."

Allies of Zhao were beginning to privately express frustration that a pardon hadn't yet materialized, particularly as Trump had pardoned several other crypto tycoons, including Silk Road founder Ross Ulbricht. They lamented that it hadn't been as straightforward as anticipated and sought advice, people familiar with the discussions said.

Justin Sun, Zach Witkoff and Eric Trump at a crypto event in Dubai in May. ANNA NIELSEN FOR WSJ

In the spring, Zhao embarked on a world tour to encourage foreign leaders to introduce more favorable crypto regulations.

In Pakistan, Zhao met the deputy prime minister with Saqib, who had become a globe-trotting ambassador for World Liberty, and joined a state crypto council Saqib headed. "You are not just a man, you are a movement," Saqib told Zhao during a sit-down at Lahore's Mughal-style fort.

Saqib then arranged a visit by Zach Witkoff to sign an agreement between Pakistan's government and World Liberty. Binance is also in line to obtain one of the first crypto-exchange licenses granted by Pakistan's new crypto regulator, people familiar with the process said. Pakistan's government in May appointed Saqib as a special assistant on crypto, with oversight over that regulator.

Gitcho said Saqib has been helping World Liberty "create a framework to export stablecoin to other countries." Saqib and Zhao knew each other separately from World Liberty, which has never helped Zhao "in any capacity," she said. Saqib didn't respond to requests for comment.

In a sign of Zhao's improving fortunes in the U.S., he struck deals to boost the value of Binance's BNB cryptocurrency with U.S. investor money.

The so-called crypto-treasury strategy, whereby publicly listed companies issue shares and debt to fund the purchase of certain cryptocurrency, has been a hot trend on Wall Street. In the case of Binance, the previous administration would likely have scrutinized those deals in light of the Treasury Department and other orders against Binance, former administration officials said.

The value of all BNB tokens in circulation has gained 75% since July to $154 billion. Zhao owns at least half of them, according to former Binance executives and filings.

Meanwhile, Binance ramped up its lobbying efforts in the U.S.

The company has hired four U.S. lobbying firms this year, spending about $800,000 on lobbying in the first nine months of this year after hiring no lobbyists the previous year, according to federal records. Of that, $450,000 went to a firm run by Ches McDowell, a lobbyist close to the Trump family. Binance hired the lobbyist to push for a pardon and on crypto policy issues, records show.

Binance paid $260,000 to another company, BakerHostetler, to lobby on crypto policy and "executive relief." One of its lobbyists, Teresa Goody Guillén, who had been at the private Binance summit for top clients in April, also represented World Liberty this year in letters to Congress.

Representatives of Binance sought to make the case that Zhao's actions wouldn't have been prosecutable under the current administration, according to a person familiar with the discussions. The White House agreed with that view, the person said.

But resistance to a pardon among both political parties remained. Among some Trump advisers, there was an awareness that pardoning a business associate of the Trump family could trigger congressional scrutiny if Democrats retake the House in next year's midterm elections, people close to the discussions said.

Rep. Jerry Nadler (D., N.Y.) wrote in a post on X last week, "Trump is selling pardons to anyone who can personally profit him. It's a shameful abuse of power and a mockery of justice."

Palantir co-founder Joe Lonsdale, a top Trump supporter, posted on X last week, "POTUS has been terribly advised on this; it makes it look like massive fraud is happening around him in this area."

Laura Loomer, a confidante of Trump, publicly rebuked a potential pardon earlier this month, citing Zhao's Chinese origin and Emirati citizenship. "You know who gets Emirati citizenship when they weren't born in the UAE? People who are trying to evade punishment for crimes," she wrote on X.

Zhao retorted that he no longer holds Chinese citizenship, adding, "Please do not project your stereotypes onto others." In a separate tweet, he said a pardon would be "great news."

His wish was finally answered last week. Confirming the pardon Oct. 23, Leavitt, the White House press secretary, said, "The Biden administration's war on crypto is over."

Weeks before the pardon, Zhao had already tweaked the description on his X account. Instead of "ex-binance," it now just read, "binance."

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The Latest on Crypto

Coverage of bitcoin and other cryptocurrencies, selected by the editors

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Meta's 2026 Plan to Spend Even More on AI Shakes Investors (2)

Oct. 30, 2025, 6:47 AM PDT

Summary by Bloomberg AI

AI Generated

- Mark Zuckerberg warned that Meta Platforms Inc. will need to spend even more aggressively on artificial intelligence in the year ahead, reigniting concerns from investors.
- Meta signaled that capital expenditures would be "notably larger" next year than in 2025, during which it expects to drop as much as $72 billion.
- The company's shares slid as much as 14% on Thursday, the biggest intraday decline since April 2024, signaling a shift in optimism from investors about the relentless spending.

Mark Zuckerberg warned that Meta Platforms Inc. will need to spend even more aggressively on artificial intelligence in the year ahead, reigniting concerns from investors who sent its shares plunging on concerns that the massive investments won't pay off.

In justifying the spending, the company's chief executive officer described an unsatiated appetite for more computing resources that Meta must work to fulfill to ensure it's a leader in a fast-moving AI race. "We want to make sure we're not underinvesting," he said on a call with analysts Wednesday after posting third-quarter results. Meta signaled in the earnings report that capital expenditures would be "notably larger" next year than in 2025, during which it expects to drop as much as $72 billion.

Zuckerberg and Meta Chief Financial Officer **Susan Li** spent much of the call working to convince analysts that Meta's AI investments are paying off now — and will in the future — by helping the company better target ads and content. Revenue rose 26% to $51.2 billion in the third quarter, signaling that Meta's core advertising business, which generates about 98% of that revenue, remains strong.

In the current period, Meta projected revenue will be $56 billion to $59 billion. Analysts, on average, estimated $57.4 billion, according to data compiled by Bloomberg.

The Meta CEO wasn't concerned that the social media company may build more data centers and computing capacity than it needs to power its own AI systems. If Meta develops too much computing power, he said, the excess capacity could improve the core business. The company could also find a way to sell it, he said, the way rivals Microsoft Corp. and Alphabet Inc.'s Google already do.

Zuckerberg's bigger point: "I think that it's the right strategy to aggressively front-load building capacity."

In the face of Zuckerberg's comments, many Wall Street analysts were leery about the possibility of overspending. The shares of Menlo Park, California-based Meta slid as much as 14% on Thursday, the biggest intraday decline since April 2024. The plunge signals a shift in optimism from investors about the relentless spending: Meta shares had gained 28% this year through Wednesday's close.

"Meta's earnings reveal the growing tension between the company's massive AI infrastructure investments and investor expectations for near-term returns, with rising spending on artificial intelligence capabilities weighing on sentiment despite solid underlying business performance," Jesse Cohen, a senior analyst at Investing.com, said in an email.

That tension was evident on the earnings call , with one analyst saying to Zuckerberg that there were "obviously" some concerns on the investment.

And yet, this year's spending spree isn't poised to stop. Meta said its capital expenditures for 2025 will be $70 billion to $72 billion, slightly raising the lower end of its previous outlook of $66 billion to $72 billion. So far this year, Meta has clocked $50 billion in capital expenditures, signaling more investment to come.

Less than a day after issuing the projections, Meta was said to be targeting the sale of at least $25 billion in investment-grade bonds. The anticipated size, which Bloomberg reported Thursday according to people familiar with the matter, would make Meta's deal one of the largest of 2025.

Li said Wednesday that Meta's total expenses will "grow at a significantly faster percentage rate in 2026 than 2025." She attributed the increasing costs to future infrastructure spending and the needs of Meta Superintelligence Labs.

Zuckerberg commentary on spending has looked even further out. Speaking at a dinner President Donald Trump hosted for tech executives in September, the Facebook founder said that he expects the company to spend at least $600 billion in the US through 2028. Later that evening, Zuckerberg was caught on an open microphone telling Trump, "I wasn't sure which number you wanted to go with."

Li shortly thereafter clarified at a conference that the $600 billion figure refers to the company's projections for total US spending this year through 2028, including on infrastructure, talent and other operations.

Some analysts cautioned that the spending comments cast a shadow on what has otherwise been a thriving business.

"Unfortunately, Meta's strong revenue and user growth in Q3 is tainted by significantly increased costs across the board," Mike Proulx, an analyst at Forrester, said in a note, also noting a streak of losses from Meta's AI-enabled hardware unit known as Reality Labs.

Reality Labs reported a $4.4 billion operating loss in the third quarter, while bringing in $470 million in sales. The company also said that it expects lower year-over-year revenue from the unit in the fourth quarter, partially due to retail partners procuring its Quest virtual reality headsets during the current quarter to prepare for the holiday season. Li said the company expects sales of its AI-enabled glasses, such as the Ray-Ban Metas, to increase even as the Quest headsets face a slowdown.

The company also reported third-quarter net income of $2.71 billion, which included a one-time, non-cash income tax charge of $15.9 billion due to the implementation of the US tax bill signed into law in July, Meta said in the statement . Without the accounting charge, Meta said net income would have increased 19% to $18.6 billion.

Looking beyond the third quarter, the company said it expects a "significant reduction" in US federal cash tax payments for 2025 and years to come due to the new law.

(Updates share move in seventh paragraph and bond sale in 11th paragraph)

--With assistance from **Kurt Wagner**.

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Securities

Manage Newsletters

Meta Escapes CFPB Probe Into Financial Services Advertising

Oct. 30, 2025, 7:44 AM PDT

Summary by Bloomberg AI

AI Generated

- Meta Platforms Inc. said it is no longer facing potential penalties from the Consumer Financial Protection Bureau over advertising for financial services on its platforms.
- The CFPB informed Meta that it closed the investigation on Sept. 25, according to the company's quarterly securities filing.
- The investigation focused on advertising by third-party financial services companies as well as disclosures and controls on Meta's social media platforms.

Facebook and Instagram parent Meta Platforms Inc. said it is no longer facing potential penalties from the Consumer Financial Protection Bureau over advertising for financial services on its platforms.

The CFPB informed Meta Sept. 25 that it closed the investigation, the company said in a quarterly securities filing posted Thursday. The closed probe is the latest in a broad enforcement pullback instituted by acting CFPB Director Russell Vought and another win for the tech giant over Biden-era scrutiny.

The CFPB didn’t immediately respond to a request for comment.

CFPB enforcement staff in September 2024 told Meta that they may recommend an enforcement action, giving the Menlo Park, Calif.-based company a chance to respond to the agency’s findings, according to the securities filing.

The investigation focused on advertising by third-party financial services companies as well as disclosures and controls on Meta’s social media platforms, the company said.

The CFPB had targeted Meta and other Big Tech companies under former Director Rohit Chopra, a Biden appointee. But the agency shifted course under Vought, and President Donald Trump in May formally repealed a CFPB rule that would’ve subjected payment apps operated by Facebook, Apple Inc., Alphabet Inc.'s Google, and other tech companies to direct supervision.

Meta reported third quarter earnings that fell short of analyst projections overall due to a one-time $16 billion tax charge. The company also reported that it plans to spend significantly more on artificial intelligence development.

The CFPB has closed out a host of consent orders before they were scheduled to end and dropped more than 20 cases that were being litigated in federal courts since President Donald Trump fired Chopra in February. The agency has also effectively stopped supervising most companies under its purview—especially nonbanks offering financial services—and filed only one enforcement action since February, while Vought has made several attempts to lay off most staff.

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Securities

Ex-Filing Agent Pleads Guilty in Insider Case on Data for Edgar

Oct. 29, 2025, 1:13 PM PDT

A Brooklyn man who worked for a private business that provides services for companies filing to the Securities and Exchange Commission's Edgar system, pleaded guilty to using confidential client information to make trades that led to more than $2.2 million in illicit profits.

Justin Chen, 31, pleaded guilty Wednesday to one count of conspiracy to commit insider trading for taking non-public information about at least 11 publicly traded stocks, including Purple Innovation Inc., Ondas Holdings Inc., SigmaTron International Inc., and Signing Day Sports Inc. He faces as much as 46 months in prison.

Chen, who was was accompanied by nearly a dozen relatives, told US District Judge **Orelia Merchant** that he knew the information he traded on was confidential. "I am sincerely sorry for my actions," he said.

Chen and his friend Jun Zhen were first charged by the US in June and the pair were arrested at New York's John F. Kennedy International Airport as they attempted to board a flight to Hong Kong, prosecutors said. Zhen pleaded guilty last week and both men are scheduled to be sentenced in March.

Elizabeth Mo, a lawyer for Zhen, declined to comment.

Both men worked for EdgarAgents LLC, a New York firm that helps companies format financial reports they file with the SEC by adding machine-readable electronic tags and other services. As part of their jobs, they saw confidential information about clients, including news about upcoming mergers that could move the market, the US said. Chen was an assistant manager while Zhen was a typeset assistant.

Prosecutors said that between March and June 2025, the men obtained information about the companies, which announced they had entered into merger agreements "that resulted in significant increases in the share price of each company's stock."

The US said the pair conducted many of their trades "within hours" and "sometimes minutes" of each other suggesting, they were coordinating their trading. EdgarAgents, which cooperated with the probe, was not accused of wrongdoing.

The US also seeks the forfeiture of more than $700,000 in bank accounts belonging to the two men as well as three 18-karat gold Rolex watches seized by the FBI when the men were arrested on June 28.

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Anthony Aarons

California Brief

Microsoft Says It’s Recovering From Global Cloud Outage (1)

Oct. 29, 2025, 3:54 PM PDT

Microsoft Corp. cloud services are recovering from an outage that disrupted its workplace software products and the operations of several companies, including Alaska Air Group Inc.

The outage hit a service called Azure Front Door, which acts as an entry point for web applications built atop the company’s servers, beginning at about noon Wednesday New York time, the company said. The product includes tools that route internet traffic to nearby data centers for faster access. At one point Wednesday afternoon, Microsoft’s Azure cloud status page reported network issues across all of its data center regions worldwide.

The error cascaded to more than a dozen other Azure services, including employee authentication services, cybersecurity tools and databases. Microsoft rolled back the change that caused the error, and said in an update that it anticipated restoring all of its services by 7:20 p.m. New York time

The outage prevented people from checking in for Alaska Airlines flights, halted votes set to be held inside the Scottish parliament and knocked out features of Microsoft’s Copilot-branded artificial intelligence service. Other major sites like that of Starbucks Corp. and Kroger Co. were down Wednesday, though those companies didn’t publicly identify the source of the issue.

Air New Zealand flights were delayed as online check-in and other services were affected, the airline said. Some international flights departing Auckland were delayed by more than one hour, according to the airport website.

Microsoft, which reported financial results hours after the outage began, declined to comment beyond its public status updates.

Last week Amazon.com Inc.’s cloud division suffered one of the worst outages in its history, taking down its most important cluster of data centers and disrupting the operations of hundreds of companies and consumer apps. The event dragged on for about 15 hours before the company managed to get all of its services back online.

(Updates with Air New Zealand delays in the fifth paragraph.)

California Brief
Insight

Stablecoin Accounting Treatment Requires More Than Semantics

Oct. 30, 2025, 1:30 AM PDT

Should certain cryptocurrencies known as stablecoins be counted as cash and cash equivalents? Figuring this out involves more than semantics. Whether companies can include stablecoins in “cash equivalents” on their balance sheets significantly affects liquidity metrics and risk perceptions.

That’s why the debate over the accounting treatment of stablecoins matters to companies, accountants, and auditors, as well as investors, regulators, and markets. Clear financial reporting underpins investor confidence and financial stability by extension.

Not Created Equal

Stablecoins are tokens designed to maintain a stable value, typically by pegging to a fiat currency such as the US dollar. In theory, they bridge the gap between volatile cryptocurrencies and stable cash, supporting uses from trading and cross-border payments to decentralized finance.

The GENIUS Act, enacted in July, established the first US regulatory framework for payment stablecoins—fiat-pegged tokens that offer no yield, guarantee one-to-one redemption for dollars, and are fully backed by high-quality liquid assets such as cash and short-term Treasuries.

The Act requires issuers to be federally or state-licensed, publish monthly audited proof-of-reserve reports, and certify their accuracy under penalty of law. It also bars the use of reserves for lending or investment and grants token holders priority claims on those reserves in insolvency.

For these regulated tokens, compliance matters most and it can’t be taken for granted. Notably, the world’s largest stablecoin issuer, Tether, remains outside the GENIUS Act’s scope, as it is a foreign entity and doesn’t provide all US users with direct redemption rights. It’s unclear how Tether will take steps toward compliance.

Stablecoins outside the GENIUS framework take many forms. Commodity-backed tokens such as Tether Gold are tied to gold prices; risk-asset-backed tokens such as DAI rely on volatile cryptocurrencies; and algorithmic coins such as the failed TerraUSD are sometimes not backed by any assets.

A new category may soon emerge: corporate coins, such as those reportedly explored by Walmart Inc. and Amazon.com Inc. Such tokens could fall under the GENIUS Act if they're fully backed by reserves and redeemable for US dollars.

However, if they rely on internal corporate credit or aren't fully redeemable, they would likely be treated as stored-value instruments under consumer-protection laws rather than payment stablecoins.

One stablecoin's "digital dollar" can be far more reliable than another's. Any discussion of treating stablecoins as cash or cash equivalents must grapple with this diversity.

Rules Fall Short

In December 2023, the Financial Accounting Standards Board issued ASU 2023-08, the first authoritative US guidance on accounting and disclosure for crypto assets. To fall within its scope, a token must:

- Meet the definition of an intangible asset as defined in the Codification
- Not provide the holder with enforceable rights to, or claims on, underlying goods, services, or other assets—meaning its value must arise solely from its existence on a blockchain or distributed ledger
- Be created or reside on a distributed ledger based on blockchain or similar technology
- Be secured through cryptography
- Be fungible
- Not be created or issued by the reporting entity or its related parties

While ASU 2023-08 stops short of clarifying how stablecoins should be accounted for, the second criterion alone would exclude many of them, as such tokens purportedly provide holders with enforceable redemption rights backed by reserve assets. Even if these stablecoins fall outside the ASU's scope and therefore aren't recognized as intangible assets, that doesn't automatically qualify them as cash or cash equivalents.

Under existing US generally accepted accounting principles, ASC 230-10-20 defines cash equivalents as short-term, highly liquid investments that are readily convertible to known amounts of cash and so near maturity that they present insignificant risk of changes in value.

For payment stablecoins covered by the GENIUS Act, whether they meet this definition depends on how strictly the criteria are applied, because such tokens technically lack a maturity date. The FASB hasn't yet taken a position on their qualification.

The GENIUS Act, however, covers only a narrow segment of the stablecoin market, and neither the law nor current accounting guidance clarifies the treatment of other types of stablecoins.

Necessary Regulatory Coordination

The cash question of stablecoins may not have a universal answer, or one that any single regulator can resolve. While the FASB will ultimately determine how stablecoins should appear on corporate balance sheets, the appropriate accounting treatment depends on each token's structure, rights, and obligations, which vary widely across issuers.

In the meantime, the Big Four accounting firms have weighed in. For example, guidance from PwC highlights key considerations such as the stablecoin's purpose, redemption rights and limits, collateralization, counterparty risks, and the legal enforceability of redemption claims.

Stablecoins' design and operation differences make a uniform accounting approach infeasible. Recognizing this gap, the FASB chair recently added a project on digital assets to the board's agenda. The initiative aims to explore targeted improvements to accounting and disclosure standards, including whether certain payment stablecoins could qualify as cash equivalents under US GAAP.

Accounting clarity alone isn't enough. The appropriate treatment will also hinge on legal and audit frameworks. In particular, whether payment stablecoins qualify as cash equivalents crucially depends on issuers' compliance with the GENIUS Act and the safeguards it mandates. Although the Act intended to provide a legal framework rather than accounting guidance, its core requirements for full backing, audited reserves, and enforceable redemption rights determine how closely these tokens resemble cash.

Transparency also remains a concern. While the Act requires monthly audited proof-of-reserve reports, stablecoin-specific audit guidance hasn't been available, leaving these engagements to rely on general auditing and attestation frameworks. In the past, such attestations often excluded liabilities, overlooked internal controls, and omitted the terms under which reserves are held.

With robust legal and audit frameworks in place, payment stablecoins could justifiably be treated as cash equivalents. If this treatment isn't permitted, companies will likely refrain from material holdings of stablecoins, as doing so would understate their liquidity positions simply because of accounting classification.

However, absent such safeguards, classifying any stablecoins as cash equivalents could open the door for risky assets to masquerade as risk-free holdings on corporate balance sheets—a tempting distortion.

Author Information

Vivian Fang is the Sznewajs Family Chair in Finance at the Kelley School of Business, Indiana University. She has been teaching and researching cryptocurrencies since 2018.

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DexCom Misled Investors About Its Diabetes Tech, Suit Says

By **Emilie Ruscoe**

Law360 (October 29, 2025, 8:45 PM EDT) -- Medical device maker DexCom is facing a proposed investor class action in Manhattan federal court alleging the company hurt shareholders by failing to disclose changes to a glucose monitoring device affecting the reliability of the device's readings.

In a **complaint** filed Monday, investor Erik Prime said DexCom Inc. shares were artificially inflated prior to a series of regulator announcements and other reports about certain DexCom continuous glucose monitoring systems, which are used to manage metabolic diseases such as diabetes.

Specifically, the company overstated how accurate its flagship Dexcom G7 is, downplaying "the true scope and severity of the issues and health risks posed" by the devices, according to the filing.

Prime pointed to the company's March disclosure that it had received a warning letter from the U.S. Food and Drug Administration about some of its manufacturing processes and quality management systems, asserting that disclosure of the probe precipitated a 9% decline in trading prices of the company's shares, from nearly $78 to under $71.

The FDA letter, later posted to the regulator's website, stated that unauthorized modifications DexCom made to sensors for its G6 and G7 devices resulted in "larger inaccuracies" in the devices' readings, which the FDA said can "cause higher risks for users who rely on the sensors to dose insulin or make other diabetes treatment decisions."

On the heels of the publication of the full FDA letter, trading prices for DexCom shares fell by over 4%, from more than $75 to just over $72, Prime said.

DexCom trading prices tumbled two more times in September, according to the complaint. The investor said the first drop came after an equity research firm published a note about the company downgrading its rating for DexCom in connection with concerns about the accuracy of its devices.

Following publication of that note, DexCom stocks fell more than 3% from about $80.50 to $78 per share, the shareholder alleged.

The second decline occurred following a news report that issues with the G7 product were more widespread than previously known.

Following that report, Prime said, trading prices for DexCom shares fell nearly 12%, from over $76 to under $68.

The investor also pointed out that when he filed suit, the company's public statements describe the device as "the most powerful" continuous glucose monitoring system and "the most accurate CGM available."

As of Wednesday afternoon, DexCom shares were trading at about $68.50 per share, close to the trading price Prime cited following the final alleged corrective disclosure described in his suit.

The proposed class would include those who purchased DexCom shares between July 26, 2024, and Sept. 17, 2025.

DexCom is separately facing a **consumer class action** over the G7 system issues described by plaintiffs.

Also in September, DexCom **largely escaped** a separate proposed investor class action alleging the company hid its struggles to keep up with growing demand for its devices.

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

The investors are represented by Jeremy A. Lieberman, J. Alexander Hood II and James M. LoPiano of Pomerantz LLP.

Counsel information for DexCom and other defendants wasn't immediately available.

The case is Prime v. DexCom Inc. et al., case number 1:25-cv-08912, in the U.S. District Court for the Southern District of New York.

--Editing by Covey Son.

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Link Motion Chair Can't Get Investor's Final Claim Clipped

By **Emilie Ruscoe**

Law360 (October 29, 2025, 9:24 PM EDT) -- A New York federal judge agreed Wednesday to cut certain fraud claims by a Link Motion investor against the chair of the China-based software company, while allowing others to proceed over the chair's objections.

In an order in Manhattan federal court, U.S. District Judge Victor Marrero adopted a magistrate judge's June recommendation, dismissing investor Wayne Baliga's fraud claims relating to certain Link Motion share purchases made in the summer of 2018, while leaving in place other fraud claims involving share purchases Baliga made in January 2018.

The case centers on claims Baliga brought in a December 2018 suit, alleging Link Motion had fallen victim to "a massive, multiyear fraud," in which investors were led to believe the company was engaging in "legitimate hundred-million dollar corporate transactions."

In the latest version of the complaint, from September 2023, Baliga alleges Link Motion Chair Vincent Wenyong Shi orchestrated the scheme "for the purpose of looting LKM's most valuable assets and lining defendant Shi's pockets."

On Wednesday, Judge Marrero agreed with U.S. Magistrate Judge Valerie Figueredo's holding that Baliga's claims could not stand with respect to Link Motion share purchases he made in the summer of 2018 because he hadn't pointed to the alleged misstatements Link Motion made that he had relied on at the time.

However, Judge Marrero also agreed with the Judge Figueredo in allowing Baliga's claims over shares he purchased in January 2018 to proceed.

In doing so, Judge Marrero overruled Shi's objections to keeping those claims alive. The Link Motion chair had argued the January 2018 claims should be tossed because Baliga hadn't alleged a "justifiable reliance" on Link Motion's statements.

Among other things, Shi had argued that Baliga's "allegations do not evidence that '[he] changed [his] behavior in response to believing defendants' alleged misrepresentations,'" according to Judge Marrero's summary of the objections.

Judge Marrero disagreed.

"The court cannot conclude that just because Baliga continued to purchase [Link Motion's American depository shares] after the alleged fraud was exposed, he would have also purchased them in January 2018 with full information," the order said. "Because Baliga pleaded numerous facts indicating reliance, a lack of 'changed behavior,' does not conclusively negate that alleged reliance."

The latest report and recommendation comes after Judge Marrero gave Baliga a final shot at amending his suit.

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

Baliga is represented by Toby S. Soli, Brian Straw and Miriam G. Bahcall of Greenberg Traurig LLP.

Seiden Law LLP is the court-appointed receiver for Link Motion.

Shi is represented by Rosanne E. Felicello and Michael James Maloney of Felicello Law PC.

The case is Baliga v. Link Motion Inc. et al., case number 1:18-cv-11642, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Craig Clough. Editing by Drashti Mehta.

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Levi & Korsinsky To Lead Modivcare Securities Class Action

By **Sydney Price**

Law360 (October 29, 2025, 7:34 PM EDT) -- Levi & Korsinsky LLP will lead a proposed class of investors accusing patient transportation company Modivcare Inc. of failing to disclose that its contract renegotiations with customers negatively affected its bottom line.

According to **the order** signed by U.S. District Judge Gordon P. Gallagher on Monday, Levi & Korsinsky client Christopher Skrypski is considered the most adequate lead plaintiff and alleged losses of approximately $185,000 during the class period.

The order denied requests from three other movants who claimed losses between approximately $1,300 and $22,000 and are represented by Pomerantz LLP, Scott + Scott Attorneys at Law LLP and Abraham Fruchter & Twersky LLP.

Judge Gallagher rejected an argument from competing movant Irving Firemen's Relief and Retirement Fund, which is represented by Abraham Fruchter, that Skrypski is an "atypical plaintiff" because he previously worked at CareFinders, a company that was acquired by Modivcare.

"Movant Skrypski denies having ever received any non-public material information from any of the individuals identified in [Irving Firemen's Relief and Retirement Fund]'s brief or anyone else at Modivcare," the order said.

The suit was launched by shareholder Dinesh Kalera in January and alleged that Modivcare misled the public to believe certain contracts mitigated risks to its free cash flow when they actually stifled the company's liquidity.

Modivcare provides nonemergency medical transportation services directly to customers and Medicaid agencies and managed care organizations typically make payments for those services, according to the complaint.

The suit's class period begins Nov. 3, 2022. On that day, Modivcare touted the "benefits" of the newly negotiated contracts to investors, saying the contracts were a "win-win" and that they allowed Modivcare to share increasing transportation costs, the suit said.

The truth began emerging, the suit said, May 3, 2023, the day Modivcare announced its first quarter 2023 earnings. Modivcare revealed it experienced a reduction of cash flow from operations during the quarter, the complaint said.

After continuing to suffer from negative cash flow over the year, Modivcare announced Sept. 12, 2024, that it would "undertak[e] actions to seek additional capital, including filing a shelf registration statement" with the U.S. Securities and Exchange Commission to improve its liquidity.

On this news, shares of Modivcare fell $18.43, or about 59%, to close at $12.76 per share on Sept. 12, 2024, the complaint said.

A few days later, Modivcare announced it was downwardly adjusting its guidance on earnings before interest, taxes, depreciation and amortization, primarily due to "segment pricing accommodations made to strategically retain and expand key customer relationships," the suit said.

On that news, shares of Modivcare fell $1.40, or about 10%, to close at $12.72 per share on Sept. 15, 2024, according to the complaint.

In addition to Modivcare, the suit names individual defendants CEO L. Heath Sampson, Chief Financial Officer Barbara K. Gutierrez and Modivcare's mobility segment Chief Financial Officer Kenneth Shepard.

The suit accuses the defendants of acting with scienter, or actual knowledge of wrongdoing or reckless disregard, and violating the Exchange Act.

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

The proposed class is represented by Adam M. Apton, Gregory M. Potrepka, Morgan M. Embleton and Shannon L. Hopkins of Levi & Korsinsky LLP.

Modivcare and the individual defendants are represented by Allison K. Kostecka, Brian M. Lutz, Lydia F. Lulkin and Monica K. Loseman of Gibson Dunn & Crutcher LLP.

The case is Kalera v. Modivcare Inc. et al., case number 1:25-cv-00306, in the U.S. District Court for the District of Colorado.

--Editing by Stephen Berg.

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ZoomInfo Must Face Investors' Accounting Fraud Suit

By **Jessica Corso**

Law360 (October 29, 2025, 7:59 PM EDT) -- A Washington federal judge is allowing investors in software provider ZoomInfo Technologies Inc. to move forward with claims that the company acted to conceal post-pandemic customer losses, but threw out allegations against controlling shareholders that the judge said lacked a factual basis.

U.S. District Judge Tiffany Cartwright denied a motion to dismiss filed by ZoomInfo and its former executives, ruling on Tuesday that suing investors provided testimony from over a dozen witnesses that the company was selling subscriptions to customers it knew couldn't pay and that it hid that fact through accounting tricks.

The facts presented by those witnesses "suggest the individual defendants were aware of collectability issues, customer nonpayment, and low likelihood of renewal," Judge Cartwright said.

She did, however, dismiss allegations against DO Holdings, TA Associates, and Carlyle Group, with suing investors claiming the firms were controlling shareholders that benefited from their insider knowledge of problems at the company.

The judge said that the plaintiffs' claims failed to show how those defendants, who she referred to as sponsor defendants, had any involvement in the day-to-day operations of ZoomInfo.

"Plaintiffs do not allege how much voting power the sponsor defendants held, whether it amounted to majority voting power, or whether or how they 'acted together to [exercise] control,'" Judge Cartwright said.

She did leave open the possibility for the plaintiffs to amend their complaint, if they can explain first how the proposed amendments would cure any deficiencies related to the claims against dismissed defendants.

A representative for ZoomInfo declined to comment. Representatives for the controlling shareholders didn't immediately respond to a request for comment.

Representatives for the investors didn't immediately respond to a request for comment.

The proposed class action, led by the State Teachers Retirement System of Ohio and Ohio Public Employees Retirement System, **was filed** in 2024 and claims that investors lost billions of dollars once cracks in ZoomInfo's sales and accounting practices began to show.

Suing investors claim that the company, which sells sales and marketing software to other businesses, began pressuring its own sales agents to pump up their numbers ahead of its 2020 initial public offering.

Those pressure tactics led ZoomInfo to sell subscriptions to businesses without conducting due diligence to determine whether they could pay for those contracts, the investors allege.

They also allege that ZoomInfo benefited from a post-pandemic boom in business as companies used the funding they were given through the federal government's Paycheck Protection Program to temporarily pay for ZoomInfo's services.

The lawsuit claims that ZoomInfo and its executives knew this business wasn't sustainable long-term but inflated its financial metrics to make it appear as if it did expect customers to stick around and to hide the fact that it knew some of its current customers wouldn't pay their bills.

Suing investors say that ZoomInfo's stock lost 80% of its value between its 2020 public launch and the announcement of a $33 million write down in 2024.

ZoomInfo **has said** it believed its disclosures regarding its remaining purchase obligations — a forward-looking estimate of future revenue the company had yet to deliver from existing subscriptions — to be true when made, and that the suit does not show the company's accounting was wrong or violated generally accepted accounting principles at any point in time.

The investors are represented by Eric Belfi, Michael Canty and Francis McConville of Labaton Keller Sucharow LLP, Bradley Keller and Joshua Selig of Byrnes Keller Cromwell LLP and Shawn Busken of the Ohio Attorney General's Office.

ZoomInfo Technologies, its former executives and the controlling shareholders are represented by Paul Rugani, Alexander Talarides and James Kramer of Orrick Herrington & Sutcliffe LLP.

The case is City of Pontiac Police and Fire Retirement System v. ZoomInfo Technologies Inc. et al., case number 3:24-cv-05739, in the U.S. District Court for the Western District of Washington.

--Additional reporting by Sydney Price. Editing by Emily Kokoll.

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Taro Pharma Beats Investor Suit Over $43-Per-Share Buyout

By **Katryna Perera**

Law360 (October 29, 2025, 7:22 PM EDT) -- A New York federal judge tossed a proposed class action brought by minority shareholders of Taro Pharmaceutical Industries Ltd. that alleged the company and its majority shareholder misled them during the approval process for a $43-per-share buyout, finding the minority shareholders have failed to plead any actionable misstatements or omissions.

U.S. District Judge Cathy Seibel issued an **opinion and order** Monday stating that the proxy statement issued to minority shareholders relating to the buyout by majority shareholder Sun Pharmaceutical Industries Ltd. did not contain any material false statements or omissions, and the judge granted Taro's dismissal motion with prejudice.

Minority shareholders sued the company last year, claiming that the proxy statement failed to specify whether the merger's financial adviser, BofA Securities Inc., "recommended the amount of consideration to be paid" in the transaction.

The shareholders note that relevant regulations say a proxy solicitation must "state whether the subject company or affiliate determined the amount of consideration to be paid or whether the outside party recommended the amount of consideration to be paid." But shareholders claim this detail was omitted.

However, in her Monday decision, Judge Seibel said the proxy statement complied with this requirement by explicitly stating that "[t]he type and amount of consideration payable in the merger was determined through negotiations between the [Special Committee of Taro's Board of Directors] and Sun Pharma, rather than by any financial advisor, and was approved by the special committee, the [Taro's] audit committee and the board."

This disclosure makes clear that the consideration amount was determined by the company and not recommended by BofA, the judge said.

Judge Seibel also rejected the shareholders' theory that BofA might have recommended to the special committee a "target price" it should attempt to get through negotiations, and that this material fact was undisclosed in the proxy, saying there are no supporting factual allegations.

"The proxy made clear that BofA's only opinion was that the consideration to be paid to the shareholders was fair, and that BofA had 'expressed no opinion or view as to any terms or other aspects or implications of the merger,'" the opinion stated.

"Plaintiff's strained interpretation of the proxy statement as leaving open the possibility that BofA had some greater, undisclosed role in determining the merger consideration does not state a plausible omission claim, and certainly not with the particularity required under the [Private Securities Litigation Reform Act]," the opinion said.

According to the opinion, the minority shareholders further contend that the proxy statement misstated or "inadequately disclosed" the methodology or procedures BofA used in its financial analysis, and more specifically, how the financial adviser incorporated a $141 million estimated litigation loss contingency amount related to an ongoing multidistrict civil litigation in which Taro was a defendant.

The opinion said Taro's board had approved an estimate of $141 million, "which had been calculated based on settlement offers Taro had previously made to plaintiffs, and the special committee directed BofA to use this $141 million figure in its financial analysis."

On Monday, Judge Seibel concluded that, viewed alone, the portion of the proxy statement that the shareholders pointed to regarding this claim could be misleading.

"The proxy statement states that 'the net cash of the company of $1,295 million as of Sept. 30, 2023' was added to the range of implied enterprise values, and plaintiff does not dispute that the net cash of Taro as of that date was that amount," the opinion said. "While this statement is thus literally true, it fails to mention BofA reduced this net cash balance by the 'settlement and loss contingencies as of June 30, 2023' before estimating the value per share."

Therefore, investors reading only the proxy statement's summary of BofA's discounted cash flow analysis might not have realized that the litigation loss contingency amount was taken into account with the estimated share value, according to the opinion.

However, Judge Seibel further stated that if the BofA summary is read in the context of the entire proxy statement, no reasonable investor would think that the estimated share values did not include the litigation loss contingency amount.

"The fact that BofA included the litigation loss contingency in its valuation, and doubled the contingency amount for the sensitivity analysis, was repeatedly disclosed in the 'background to the merger' section before the reader would even reach the summary of the BofA opinion," the opinion said. "The summary also described in detail the impact of the dispute over the loss contingency calculation on the parties' negotiations."

While it is true that the summary did not "explicitly detail" how the litigation loss contingency amount was incorporated into the calculation by BofA, that does not render the proxy statement misleading, the judge said.

Finally, the minority shareholders accuse the defendants of violating proxy statement requirements by disclosing recommendations in favor of the transaction issued by proxy advisory firms Glass Lewis and ISS without including the firms' full reports or specifying whether Taro paid for them, according to the opinion.

However, Judge Seibel said the opinions of Glass Lewis and ISS "were merely the recommendations of independent proxy advisory firms; they were not selected by or prepared for Taro, nor did they play any role in the negotiation of the transaction."

Taro and Sun Pharma in January 2024 jointly announced that they had entered into an agreement under which Sun Pharma would purchase all outstanding ordinary shares of Taro that it did not already own for $43 per share, which represented a 48% premium over the closing price per share on the day before Sun submitted its first public offer, as well as a 13% increase over Sun's initial proposed purchase price of $38 per share, according to the opinion.

The merger agreement was unanimously recommended by Taro's special committee and audit committee, and approved by Taro and Sun Pharma's respective boards. Shareholders approved the merger in May 2024, and the transaction closed a month later.

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

The minority shareholders are represented by Arthur Stock, Mitchell Breit and Tyler Litke of Milberg Coleman Bryson Phillips Grossman PLLC, and Guri Ademi and Jesse Fruchter of Ademi LLP.

The defendants are represented by Jeffrey D. Hoschander, Samuel A. Stuckey and Mallory Tosch Hoggatt of Allen Overy Shearman Sterling.

The case is Mitchell v. Taro Pharmaceutical Industries Ltd. et al., case number 7:24-cv-06818, in the U.S. District Court for the Southern District of New York.

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Tesla Urges Del. Justices To Cut $176M Atty Fee In Options Suit

By **Jeff Montgomery**

Law360 (October 29, 2025, 4:33 PM EDT) -- Warning of a "shaking of public confidence," a Tesla Inc. attorney on Wednesday asked Delaware's Supreme Court to cut a $176.2 million class attorney fee award to $40 million in a case that saw Delaware's chancellor cancel $730 million in the electric car company's director stock options.

Morgan L. Ratner of Sullivan & Cromwell LLP told the five justices that the fee award is "a windfall any way you slice it," falling just short of the highest fee-multiplier-based amount ever awarded by a Delaware court in a derivative case.

The court "needs to explain why that kind of extraordinary result is fitting," Ratner argued.

At issue is Chancellor Kathaleen St. J. McCormick's decision in January granting the fee to McCarter & English LLP, Fields Kupka & Shukurov LLP and Bleichmar Fonti & Auld LLP after more than four years of litigation over claims that Tesla's directors raked in "outrageous" compensation packages that cost the company hundreds of millions of dollars.

Tesla's attorneys argued that the Chancery decision relied on an 11.6-times multiplier of class attorneys' "lodestar" fees, producing a rate of $8,200 per hour. That compared with a $5,000 hourly fee and seven-times multiple awarded in a $1 billion cash settlement in a Dell Technologies Inc. case focused on claims targeting Dell's effort to exchange Class V stock for shares of Dell common stock. That case was decided in the Court of Chancery in 2023 and affirmed last year.

"This is not just a matter of an abuse of discretion, choosing one number or the other," Ratner said. "I think the court got it legally wrong" in settling on an 11.6-times fee multiplier.

But Samir Shukurov of Fields Kupka & Shukurov LLP, counsel for lead plaintiff Police and Fire Retirement System of the City of Detroit, said Tesla incorrectly argued for a grant date fair value rather than the $458 million based on the time of settlement.

"I believe everyone agrees we have real current market value of breaching fiduciaries," Shukurov told the justices. "Our argument is it's not an abuse of discretion to use real, current, market-day values as recorded in the stipulation."

Justice Karen L. Valihura asked Shukurov what the justices should do with public policy concerns focused on past fee award litigation.

"Tesla makes the interesting observation in their brief that your fee is $60 million over and above the entire budget for the entire judiciary in the state of Delaware, for a case that settled," Justice Valihura said. "At some point, do we have to be concerned about the public perception of the size of the fee as a matter of acceptable corporate governance and our oversight?"

Shukurov argued that Tesla's multiplied hourly rate of $8,200 fell between the $5,300 paid in the Dell litigation and $9,700 paid for class attorneys who handled the Activision Blizzard Inc. case, which settled last year.

Justice Abigail M. Legrow said, "It may be there is value in these returned options, from Tesla's perspective, but why is that value based on the strike price, or the value to directors, as opposed to some other value to Tesla that isn't in the record?"

"I think all the values are in the record," Shukurov said. "We agreed on the real, current, present day value of the options. What Tesla is saying is, 'That's fine for settlement approval. We need a different number for fee approval — we need to disconnect those two things.'"

Chief Justice Collins J. Seitz Jr. told Ratner, "In the case law that we have about these kinds of benefits, we said they're hard to quantify, therefore we typically don't try to quantify that benefit, but there the benefit arguably was quantified."

The high court is being asked to make a decision about "where to draw the dividing line between benefits to stockholders and benefits to the corporation," Justice Seitz said, but "I must tell you, I am struggling with it."

Ratner said the trial court needed to recognize that the $8,200-per-hour rate used for the fee calculation "is extraordinary, and needs to explain why that kind of extraordinary result" fits case law.

"This is an extraordinary fee award for what is really an ordinary amount of litigation," Ratner said.

The Detroit retirement system is represented by Andrew S. Dupre of Akerman LLP, Derrick Farrell, Javier Bleichmar, Joseph A. Fonti, Nancy A. Kulesa, George N. Bauer and Thayne Stoddard of Bleichmar Fonti & Auld LLP and William J. Fields, Christopher J. Kupka and Samir Shukurov of Fields Kupka & Shukurov LLP.

Elon Musk and the other Tesla parties are represented by Raymond J. DiCamillo, Kevin M. Gallagher and Kyle H. Lachmund of Richard Layton & Finger PA and Vanessa A. Lavely of Cravath Swaine & Moore LLP.

Tesla is represented by John L. Reed and Ronald N. Brown of DLA Piper, Jason C. Jowers, Brett M. McCartney and Sarah T. Andrade of Bayard PA and Brian T. Frawley, Matthew A. Schwartz, Jeffrey B. Wall and Morgan L. Ratner of Sullivan & Cromwell LLP.

The case is In re: Tesla Inc. Director Compensation Stockholder Litigation, consolidated, case numbers 52,2025 and 53,2025, in the Supreme Court of the State of Delaware. The lower court case is Police and Fire Retirement System of the City of Detroit v. Elon Musk et al., case number 2020-0477, in the Court of Chancery of the State of Delaware.

--Editing by Brian Baresch.

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Wash. Judges Probe Starbucks Shareholders' Labor Claims

By **Ben Adlin**

Law360 (October 29, 2025, 6:58 PM EDT) -- Washington state appellate judges on Wednesday pushed shareholders suing Starbucks Corp. leaders to identify exactly where in their lawsuit they claimed the coffee retailer intentionally turned a blind eye to alleged union-busting efforts by store managers.

Starbucks shareholders suing the coffee giant's leaders were pushed by a Washington state appellate panel to identify where in their complaint does it say the company turned a blind eye to alleged union-busting efforts by store managers. (Photo by Nate Koppelman/Sipa USA via AP Images)

An attorney for the shareholders, Maxwell R. Huffman of Scott + Scott Attorneys at Law LLP, argued that the case is about the "willful blindness" of Starbucks to identify and address managers' responses to union organizing. He agreed with acting Chief Judge Bill Bowman's assertion that the shareholders would need to show "that Starbucks in bad faith or intentionally failed to implement a system of oversight."

"OK, where in your complaint do you allege that?" Judge Bowman asked. "Where can we look for your best evidence of that?

Huffman began to explain that Starbucks' board of directors had previously commented on the importance of store employees and the risk of harm to the company if it mishandled workers' attempts at unionization. Judge J. Michael Diaz cut him off.

"I think it's a little more literal," Judge Diaz said. "Like, point to the spot in your complaint that you're actually making allegations that get you over these hurdles."

At issue on appeal is Starbucks' request to throw out the suit — an ask **rejected by a state trial court** in May 2024. Starbucks appealed the ruling, and in September 2024, Court of Appeals Commissioner Jennifer Koh determined that the lower court had **likely ruled in error.**

Commissioner Koh also said the shareholders had failed to demonstrate that individual defendants in the case — including former CEOs Howard Schultz and Kevin R. Johnson as well as Starbucks board members — should be held personally liable for the company's response to unionization efforts.

To hold the officers personally liable, Judge Diaz continued, the plaintiffs need to show that they "knowingly and intentionally failed to create a reporting system."

"Where are you alleging that they knew what they were supposed to do and then actually failed to do that?" the judge asked.

Huffman replied that a combination of factors supports that claim, including statements by Starbucks leadership and in the company's U.S. Securities and Exchange Commission filings about the need for a reporting system.

Starbucks' intentional failure to implement such a system, he added, "is shown by the lack of documents that the company produced" during discovery in the case.

Judge Bowman replied that the evidence shows that Starbucks had "committees that were responsible for gathering the information, that these committees held meetings [and] that in fact they actually talked about the particular labor unrest."

"So even though the documents didn't specifically say what was in place," he said, "it doesn't seem to be disputed that some of these things were already in place. The argument seems to be they just weren't sufficient."

Huffman pointed to a responsibility he said corporate leaders have under a 1994 state appeals court ruling in Senn v. Northwest Underwriters Inc. to stay informed of company business. That opinion, he told the three-judge panel, established "an affirmative duty to beware of the affairs of the company they serve and that they can be held liable for activities of other officers and directors which they should reasonably know about."

Arguing for Starbucks and the individual defendants in the case, Mark Yohalem of Wilson Sonsini Goodrich & Rosati PC contended at Wednesday's hearing that subsequent rulings "made clear that even under Senn, a corporate officer cannot be held liable unless the officer knowingly and in bad faith commits or condones a wrongful act."

Judges also asked about the shareholder's so-called Caremark claim, which under Delaware law requires an "utter failure" of stewardship by a majority of a board's members in order to proceed.

Yohalem contended that the plaintiffs failed to meet the high legal standard for a Caremark claim. It's not enough to say Starbucks and its officers were merely negligent or could have done a better job monitoring store managers' response to attempts at unionization, he told the panel.

"To satisfy a Caremark claim, you have to show something so egregious that it amounts to being disloyal to the company," he said.

Judge Diaz clarified that "Caremark hasn't been adopted by any court in our state yet," though he noted that courts "have not rejected it, either."

Yohalem replied by citing Commissioner Koh's **determination** last year, which said that "Delaware authority does not appear to support litigation of a premature Caremark claim and Washington appellate courts have not yet recognized Caremark claims."

"This is the third time you've mentioned Commissioner Koh," Judge Diaz responded. "That doesn't bind us in any way. There's nothing, really, that we have to consider based upon the way she's framing the case."

In the shareholders' **2023 derivative lawsuit**, filed on behalf of themselves and the company, they argued that Starbucks stock value suffered because of leaders' failure to adequately respond to store managers' allegedly illegal activities hamstring organizing efforts. Though the company's union-busting efforts began as early as 2019, they claimed, board members didn't begin discussing the matter until a 2022 meeting.

Starbucks, in its effort to have the suit dismissed, said board members had two full days meetings on labor issues and heard a presentation in June 2022 from outside counsel and former National Labor Relations Board Chair Philip Miscimarra.

"The substance is in the record," Yohalem told the appeals panel Wednesday. "You would have to believe that the committees were meeting over and over again and doing nothing at those meetings."

Acting Chief Judge Bill Bowman and Judges J. Michael Diaz and David S. Mann sat on the panel for the Washington Court of Appeals, Division I.

Shareholders Joe W. Trimm and Andre Rodney are represented by Maxwell R. Huffman, Justin Reliford and Elizabeth K. Dragovich of Scott + Scott Attorneys at Law LLP, and by Kim D. Stephens and Rebecca L. Solomon of Tousley Brain Stephens PLLC.

Starbucks Corp. and the individual defendants are represented by Mark Yohalem, Gregory Watts, Tyre Tindall and McKinney Wheeler of Wilson Sonsini Goodrich & Rosati PC.

The case is Joe W. Trimm et ano. v. Starbucks Corp. et al., case number 867342, in the Washington Court of Appeals, Division I.

--Additional reporting by Rachel Riley and Sydney Price. Editing by Leah Bennett.

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Opendoor Investors Ask For Final OK Of Reforms Settlement

By **Katryna Perera**

Law360 (October 29, 2025, 9:11 PM EDT) -- Investors of Opendoor Technologies Inc. have asked an Arizona federal judge to give the final OK to a settlement that includes corporate governance reforms and $1.9 million in attorney fees, to end a derivative suit that claimed they were misled about the efficacy of Opendoor's artificial intelligence pricing algorithm used to buy and sell homes.

Plaintiff Samhita Gera filed a **motion** for final approval on Tuesday, stating that the settlement, if approved, would resolve four derivative actions that were filed and consolidated.

The motion states that under the terms of the deal, Opendoor has agreed to implement several corporate governance reforms, including forming a management-level compliance committee, creating a head of internal audit role and implementing a "benchmarking best practices review" to compare Opendoor's corporate governance practices against peer companies.

According to the motion, the formed compliance committee will establish procedures to monitor and assess compliance with the Real Estate Settlement Procedures Act and other applicable real estate laws and regulations, while the new head of internal audit position will be tasked with strengthening Opendoor's internal audit function. The reforms will remain in place for four years, according to the motion.

"The reforms are specifically designed to prevent the type of misconduct alleged in the derivative matters and are tailored to bring value to Opendoor," the motion states. "Requiring Opendoor to maintain the reforms for at least four years will also allow the reforms to become embedded into Opendoor's policies, practices, and corporate culture."

Gera also asked the court to approve $1.9 million in attorney fees to investors' counsel from McKay Law and The Brown Law Firm, and a $2,500 service award to each of the plaintiffs and an additional shareholder.

According to the motion, the court granted preliminary approval to the deal last month. Gera argued that final approval should be granted because the settlement provides an immediate and substantial benefit to Opendoor and its shareholders, and because significant risks existed with continued litigation.

Opendoor is an "iBuying" real estate company that buys and sells properties through an online platform that, according to the motion, purportedly relies on a proprietary artificial intelligence pricing system.

The consolidated suit alleged that Opendoor's top brass caused the company to make false and misleading statements about its pricing algorithm, financial prospects, legacy business value and certain alleged conflicts of interest.

In addition, the investors claimed the defendants caused Opendoor to undertake a "questionable" merger transaction at the company's expense and failed to maintain adequate internal controls.

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

The investors are represented by Michael C. McKay of McKay Law LLC and Timothy Brown and Saadia Hashmi of The Brown Law Firm PC.

The defendants are represented by John C. Gray of Womble Bond Dickinson LLP and Adam S. Hakki and Lyle Roberts of Allen Overy Shearman Sterling LLP.

The case is Gera v. Palihapitiya et al., case number 2:23-cv-02164, in the U.S. District Court for the District of Arizona.

--Editing by Drashti Mehta.

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3 Pharmaceutical Firms Will Pay $4M To Tribes In Opioid MDL

By **George Woolston**

Law360 (October 29, 2025, 5:53 PM EDT) -- Indivior, Sun Pharmaceuticals and Zydus Pharmaceuticals have inked deals to compensate tribes for their role in the opioid crisis, according to stipulated dismissals entered on Wednesday in Ohio federal court.

The three pharmaceutical companies will collectively pay more than $4 million to the Big Sandy Rancheria of Western Mono Indians of California, the Consolidated Tribal Health Project in California, the Keweenaw Bay Indian Community in Michigan, and the Mentasta Traditional Council of Alaska, according to settlement documents.

The tribes agreed to dismiss their claims against the companies with prejudice in the multidistrict litigation targeting opioid manufacturers, distributors and pharmacies as part of the deal, according to the orders signed by U.S. District Judge Dan Aaron Polster.

The **settlements** were reached earlier this year, court documents said. Indivior will pay a total of $2.46 million; Sun will pay $1.04 million, and Zydus will pay $500,000.

Zydus, Sun and Indivior are among the companies that have been accused of contributing to the opioid crisis. Companies named in the MDL have further been accused of downplaying the risks of opioids and failing to monitor suspicious orders, fueling a nationwide epidemic.

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

The tribes are represented by Sonosky Chambers Sachse Miller & Monkman LLP, Hobbs Straus Dean & Walker LLP, Robins Kaplan LLP, Keller Rohrback LLP, Frazer PLC, Levin Papantonio Rafferty, Lieff Cabraser Heimann & Bernstein LLP, and Skikos Crawford Skilos & Joseph LLP.

Indivior is represented by Maria R. Durant and Caitlyn A. Mancuso of Hogan Lovells.

Sun is represented by Michael Connelly and Hyung Steele of Troutman Pepper Locke LLP.

Zydus is represented by Lauren S. Colton of Hogan Lovells.

The MDL is In re: National Prescription Opiate Litigation, case number 1:17-md-02804, in the U.S. District Court for the Northern District of Ohio.

--Additional reporting by P.J. D'Annunzio and Jonathan Capriel. Editing by Adam LoBelia.

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Pharmacies Say $1.5B Damages Too Much In Fla. Opioid Suit

By **Cara Salvatore**

Law360 (October 30, 2025, 12:07 AM EDT) -- CVS, Walgreens and Walmart on Wednesday grilled an economics expert witness over his opinion that they owe as much as $1.5 billion to a group of Florida hospitals that treated opioid-harmed patients, with defense counsel suggesting damages shouldn't be based on the full sticker price of the medical care.

The pharmacy chains had chances to cross-examine plaintiffs' damages expert Joseph Mason, an economist, in a trial that started Sept. 22 over claims the three major pharmacies abdicated their duty to question or reject dubious opioid prescriptions, thereby fueling an addiction crisis that left hospitals holding the bag for the cost of treatment. The plaintiffs in the case include 26 hospitals in 15 Florida counties, including Tampa General Hospital.

Brian Swanson of Bartlit Beck LLP, who represents Walgreens, asked Mason on Wednesday about the two different damages models he's offered. In the first model, Mason said $528 million in damages is warranted for hospitals' unpaid or underpaid treatment of opioid issues when you count opioid treatment billing codes categorized as the patient's "principal diagnosis" or "admitting diagnosis" and exclude all others, such as opioid issues arising incidentally to treatment for cancer.

In the second model, Mason said $1.49 billion in damages is warranted when you set aside billing codes, called ICD codes, and instead categorize nonpayments or underpayments by payer type: insured or uninsured.

Swanson suggested to Mason that the $1.5 billion model is invalid because Mason based it on hospitals' "chargemaster," or their internal compendium of the full sticker prices. Hospitals often discount from the chargemaster. Swanson made the point to Mason that various witnesses have testified that most of the time, hospitals don't receive payment for 100% of charges on the chargemaster.

Swanson showed Mason a billing record in which a patient with the condition traumatic hemopneumothorax owed $155,299 under the chargemaster price while the actual amount billed for that patient's treatment was only $20,027.

Tara Fumerton of Jones Day, who represents Walmart underscored the point, asking Mason how or why it was valid to use the chargemaster prices as a foundation for damages.

"I've already testified I view [the chargemaster] as akin to the economic cost of providing a service, an attempt to measure those economic costs — which is separate from a financial cost, a financial accounting cost," Mason said.

"Theres a moral obligation to take care of people, a hygiene concern, a public health concern," he said. "And this is a very regulated industry with a lot of support in place to try to provide these services for these patients that need this care. And that's the manner in which these hospitals have been harmed in the eyes of an economist, and that's what I've attempted to measure."

Swanson also got Mason to agree that his models did not, for example, account for the number of opioid prescriptions written. They didn't account for heroin or fentanyl-caused hospital treatment, as opposed to treatment caused by legal pills.

The hospitals are represented by Warren Burns, Darren Nicholson, Hannah Crowe and Laura Soundy Seggerman of Burns Charest LLP.

Walgreens is represented by Brian Swanson, Kaspar Stoffelmayr, Jean Tinkham, Michael Nance, Jordan Golds and Rachel Smith of Bartlit Beck LLP, and Alec Schultz of Hilgers Graben PLLC.

Walmart is represented by Tara Fumerton of Jones Day and David Markus and A. Margot Moss of Markus/Moss PLLC.

CVS is represented by Eric Delinsky, Marcos Hasbun, Ariella Muller, Alexandra Miller, Paul Hynes Jr., Adam Fotiades, Steven Herman and Christopher MacColl of Zuckerman Spaeder LLP.

The case is Florida Health Sciences Center, North Broward Hospital District et al. v. CVS et al., case number CACE19018882, in the Seventeenth Judicial Circuit Court of Florida.

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Del. Justices Mull Call To Revive Amazon-Blue Origin Suit

By **Jeff Montgomery**

Law360 (October 29, 2025, 7:31 PM EDT) -- An Amazon.com stockholder attorney told Delaware's justices on Wednesday that the company's board "failed to do a thing" as founder Jeff Bezos convinced directors to pump billions into the Blue Origin space launch business with purportedly scant oversight, looking to salvage a Court of Chancery derivative suit dismissed in January.

Vivek Upadhya, addressing the full five-member court, said the record of Amazon's board in approving Bezos-championed spending on Blue Origin "at least inferentially" supports a finding of bad faith in overseeing the deals with Bezos, who founded both companies.

Upadhya referenced the landmark ruling in the In re Walt Disney Corporation derivative litigation in the mid-2000s, where the court found a company committee took an "ostrich-like" approach to a CEO's conflicted hiring decision.

Tests for bad faith that have emerged since, Upadhya said, include intentional harm to a corporation, gross indifference or failure to act in the face of a known fiduciary duty.

The third test, Upadhya said, "is the standard that we believe applies here today and that we believe the conduct of Amazon's board falls into," with the board facing costly risks and pressured by a conflicted Bezos.

Upadhya described as "perplexing" that "these directors, in responding to a conflict that was so dire, so obvious and so material, failed to do a thing."

Justice Karen L. Valihura observed that two members of Amazon's board were conflicted. "The other nine were disinterested and independent. None had any kind of financial interest in this," she said.

Upadhya said the complaint, while alleging conflicted acts, does not have traditional conflict claims with respect to the rest of the board.

Justice Gary F. Traynor asked if the stockholders were arguing that the justices should infer from the board's alleged failure to manage conflicts that Bezos interjected himself into the process.

"Our hope of surviving or having the Court of Chancery reversed does not depend on finding, or an inference, that Mr. Bezos was involved or somehow twisted the process," Upadhya said, adding the stockholders were entitled to that inference because of the board's conduct.

Anitha Reddy of Wachtell Lipton Rosen & Katz told the justices that the stockholders must show at least six members of the company's board could not exercise independent business judgment with respect to their demands.

"Nine of Amazon's directors are outside directors," Reddy said, adding that none contested. Yet the "plaintiff insists this is the exceptional case in which concededly independent and disinterested directors are liable for acting in bad faith."

Attorneys for Bezos and the board argued that majority director independence undermined claims that demand on the board to investigate would have been futile.

"Plaintiff does not allege a single fact, let alone a particularized fact, to suggest any reason to question management's description" of contract terms, Reddy said.

Upadhya asked how it was that "in responding to an alleged conflict," none of the directors "thought to raise their hands and say, 'Hold on a minute, maybe Mr. Bezos should be recused.'"

Amazon agreed to an $11 billion launch services agreement in March 2022, with Blue Origin accounting for about $5 billion. The complaint said the approval was issued despite the board operating "almost entirely" in the dark on a matter potentially tested according to the court's entire fairness standard, which requires both fair price and a fair process.

The suit accused those named of approving through a "virtually nonexistent process" a series of related-party contracts with Bezos' wholly owned rocket company, Blue Origin, to launch satellites for Amazon's "Project Kuiper." Dollar amounts in company and stockholder briefs were redacted.

The Project Kuiper satellite initiative, which got approval from the Federal Communications Commission in 2020, envisions the deployment of a constellation of 3,236 low-Earth orbit satellites to create a worldwide broadband network.

Vice Chancellor Nathan A. Cook dismissed the suit on Feb. 24, by way of a long comment on a court authorizing sheet for a two-page draft dismissal order, noting: "I ultimately conclude that I cannot say it better than defendants' counsel has already said it."

The vice chancellor added that the primary demand futility arguments amounted to "quibbles over the board's decision-making process." He observed that "plaintiff nonetheless struggles to make this a case about bad faith. But it is not," finding that the complaint suggests, "at most, that the directors could have done more."

Upadhya noted statements that Blue Origin's board had no particular reason to respond to or be concerned about Bezos.

"The conflict is the reason," Upadhya said. "Delaware law requires that directors, when told about a conflict, they seek to extinguish it. They seek to protect a corporation from it. They don't seek to roll the dice."

The justices said they would take the arguments under advisement.

The proposed class is represented by Christine M. Mackintosh, Vivek Upadhya and Demetrius M. Davis of Grant & Eisenhoffer PA.

Jeffrey P. Bezos and the Amazon board are represented by Garrett B. Moritz and Benjamin M. Whitney of Ross Aronstam & Moritz LLP and William Savitt, Anitha Reddy, Adam M. Gogolak and Daniel B. Listwa of Wachtell Lipton Rosen & Katz LLP.

The case is Cleveland Bakers and Teamsters Pension Fund V. Jeffrey P. Bezos et al., case number 127,2025, in the Supreme Court of the State of Delaware.

The case under appeal is 2023-0868, in the Court of Chancery of the State of Delaware.

--Editing by Philip Shea.