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Zoom Judge Approves \$150 Million Investors Deal, Cuts Legal Fees

Nov. 5, 2025, 3:01 PM PST

Zoom Video Communications Inc.'s \$150 million settlement of investor class claims over alleged app flaws received a federal judge's go-ahead even as he set the amount of plaintiffs' lawyers' fees at less than half of their request.

Instead of the asked-for \$28 million, a more than \$10 million attorneys' fee—a "very generous" award of four times the hourly billing, or lodestar, calculation—is appropriate, Judge James Donato of the US District Case for the Northern District of California said Tuesday. The amount "amply rewards the efficiencies realized by the settlement without conferring a windfall," Donato said.

A shareholder sued the teleconferencing company in April 2020 alleging it concealed the truth about the app's vulnerability to hackers and unauthorized disclosure of personal information to third parties like Facebook Inc.

Donato says he has granted final approval to the classwide settlement, indicating that the ruling occurred in a hearing, but no written order is yet docketed

As to attorneys' fees, a "lodestar cross-check reveals that an 18.75% award would gift a bonanza"—a multiplier of 10—to class counsel Robbins Geller Rudman & Dowd LLP, Donato said

Cooley LLP represents Zoom.

The case is Drieu v. Zoom Video Comms. Inc. , N.D. Cal., No. 3:20-cv-02353, opinion filed 11/4/25 .

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Judge slashes 'problematic' fee request in Zoom investor settlement

2023 SECDBRF 4094 • By Nicole Banas

WESTLAW Securities Enforcement & Litigation Daily Briefing • November 05, 2025

(November 05, 2025) - A California federal judge has awarded reduced attorney fees to [Robbins Geller Rudman & Dowd LLP](#) in connection with a \$150 million class-action settlement of a securities fraud lawsuit against Zoom Video Communications Inc.

In re Zoom Securities Litigation, No. 20-cv-2353, 2025 WL 3078702 (N.D. Cal. Nov. 4, 2025).

In a Nov. 4 order, U.S. District Judge James Donato of the Northern District of California said it would be "grossly unreasonable" to award lead counsel Robbins Geller the \$28.1 million in fees that it requested for its work on a case that had required a "minimum of toil."

The judge lowered the fee to \$10.4 million, saying it would fairly compensate the law firm for its work without providing a windfall.

Suit: Exaggerated data security

The consolidated lawsuit alleged that Zoom and CEO Eric Yuan misled investors in 2019 about its security capabilities, including its use of end-to-end encryption and its data privacy practices.

Zoom falsely stated in its privacy policy that it "may collect" certain personal data when customers used Facebook to create or sign into a Zoom account, the suit said.

The company not only collected personal information but sent it to Facebook, including data from users who did not have an account on the social network, the complaint said.

Zoom's share price fell in March and April 2020 as a series of media reports revealed data security and privacy issues, the suit said.

The parties reached an agreement in 2023 to settle the suit for \$150 million, but the District Court denied preliminary approval in 2024 because of issues with the proposed forms of notice.

Lead plaintiff Adam Ali filed a renewed motion for preliminary approval earlier this year, which Judge Donato granted May 28.

Ali filed motions in July for final settlement approval and for attorney fees totaling 18.75% of the settlement amount, or \$28.1 million. He also requested more than \$262,000 in reimbursement of litigation expenses for Robbins Geller and a nearly \$49,000 award for himself.

The District Court granted final settlement approval after a hearing Oct. 9 and took the motion for attorney fees under consideration.

'Bonanza' fee rejected

Judge Donato said the attorney fees request was "problematic for several reasons."

Robbins Geller argued that the request was well below the 25% benchmark rate for settlements in the 9th Circuit, but the benchmark is less applicable in settlements of more than \$100 million, the judge said.

Awarding nearly 19% of the class recovery would "gift a bonanza" to lead counsel for just over 3,500 hours of legal work, Judge Donato said.

He performed a lodestar cross-check to measure the attorneys' investment of time in the litigation. The lodestar indicates an average hourly rate of \$738, but the requested fee would provide nearly \$8,000 an hour, Judge Donato said.

An award of that size "has no place in a straightforward securities class action like this one, and arguably no place in any other case," the judge said.

He applied a "very generous multiplier" of four times the lodestar, resulting in a fee of more than \$10.4 million.

Judge Donato also approved Robbins Geller's requested litigation expenses, but he denied the award for Ali.

The plaintiff did not provide a factual basis to establish that his time should be compensated at an hourly rate of \$650 or that the amount was tied to specific costs or lost wages, the judge said.

Shawn A. Williams of Robbins Geller represented Ali in the settlement, and Patrick E. Gibbs of [Cooley LLP](#) represented the defendants.

By Nicole Banas

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[Companies](#)

Guest Post: Changing the Mindset About Securities Class Actions

K [dandodiary.com/2025/11/articles/securities-litigation/guest-post-changing-the-mindset-about-securities-class-actions](https://www.dandodiary.com/2025/11/articles/securities-litigation/guest-post-changing-the-mindset-about-securities-class-actions)

Kevin LaCroix

November 6, 2025

Teresa Milano

Doug Greene

Observers of securities class action litigation know that virtually every securities suit that survives dismissal ultimately settles. Very few securities suit go to trial. In the following guest post, Teresa Milano, SVP, Lockton, and Doug Green, Partner, BakerHostetler, suggest that securities litigation overall would benefit if more cases were tested on the merits. The authors provide suggestions of how the goal of merits-based case resolutions might be realized. I would like to thank Teresa and Doug for allowing me to publish their article as a guest post on this site. I welcome guest post submissions from responsible authors on topics of interest to this site's readers. Please contact me directly if you would like to submit a guest post. Here is the authors' article.

A company makes an announcement. The company's stock price suddenly drops. Shareholders file a securities class-action (SCA) lawsuit accusing the company's senior leaders of making false or misleading statements. After an unsuccessful motion to dismiss, the defendants decide to settle rather than fight the suit in court.

This has become an all-too-familiar scenario for many public companies. With SCAs rarely litigated through summary judgment, much less through trial, companies are subject to a self-perpetuating cycle that can lead to significant financial consequences. The plaintiffs' bar is incentivized to file more cases, which drives up directors and officers liability (D&O) insurance costs and ultimately reinforces the expectation that most SCAs will settle without ever being tested on their legal merits.

While it will require a significant change in thinking, public companies can take action to help end this vicious cycle.

The backdrop and reality

The data reveals a stark reality: Out of more than 6,800 SCAs filed since 1995, fewer than 1% have gone to trial. [In the past decade alone, just two cases have resulted in a verdict.](#) The vast majority of these cases are resolved through either settlement (approximately 46%) or dismissal (about 43%).

A steady stream of SCAs is filed each year. While there are some peaks and troughs, filings hover around 200 to 225 per year, with 229 SCAs filed in 2024 and 2023. Correspondingly, settlements remain a significant factor, with 88 settlements totaling \$3.7 billion in 2024 and 83 settlements totaling \$4 billion in 2023.

As filings and settlements continue to rise, the costs of defending these lawsuits — largely paid by insurers — climb, pushing D&O premiums higher. This reinforces a cycle that motivates the plaintiffs' bar to file even more cases, creating legal uncertainty and making it difficult for companies, directors, officers, and insurers to know how claims would actually be decided on class certification, summary judgment, or trial.

Why aren't SCAs defended through summary judgment or trial?

A confluence of factors creates a powerful incentive for parties to settle rather than face the uncertainty of trial. Many SCAs are filed following a stock drop, with the potential for massive damages reaching into the hundreds of millions or even billions of dollars.

Beyond the financial exposure, the defense of these lawsuits is a costly and resource-intensive process. Litigation defense typically involves extensive document discovery, fact witness testimony (including from directors and officers), expert witness reports and depositions, and a host of motion practices, all against the backdrop of an uncertain trial outcome. Additionally, defending these lawsuits can be a major distraction to a company's core business and can attract unwanted public attention, all while carrying the possibility of setting a legal precedent that could embolden further filings against the company.

There's also a practical reason why so few SCAs are tested on the merits. As noted above, the dismissal rate is near 50%, which is better than other types of litigation. Understandably, defendants feel their cases should be dismissed and don't give much thought beyond that. Discovery is stayed during the motion to dismiss process, so defense counsel doesn't get steeped in the facts. In days gone by, defense counsel would conduct a meaningful background review before filing a motion to dismiss, but for various reasons, that's no longer standard practice.

The convergence of these factors means that, if a court denies a motion to dismiss, the defendants are surprised and worried, and defense counsel doesn't really know if the case is defensible on the merits. At that point, the easiest thing to do is settle — and thus too few cases are tested on the merits.

But the “strategy” of reflexive settlement only deepens an unsustainable cycle. If it continues, it will lead to more claims and settlements, driving up D&O costs and further emboldening the plaintiffs' bar, ensuring companies face a continuous stream of new lawsuits.

Driving meaningful change

Breaking this perpetual cycle is essential to restoring a fair legal environment. This requires a fundamental shift in companies' mindset and strategy to ensure more SCAs are tested on their merits.

An effective step would be to reinstate a meaningful background review at the beginning of a case. This doesn't need to be a ransacking; experienced defense counsel can do it for less than \$150,000 in most cases. If there may be an economic defense on class certification, it may make sense to have an economist do enough work to preliminarily advise on its strength. This work, too, won't break the bank.

With a background review, defense counsel is able to provide better strategic advice. We suggest an upfront background review meeting with the individual defendants, the insurers, and broker to make a strategic plan that extends beyond the motion to dismiss. After all, more than half of all cases survive the motion to dismiss, so planning ahead is key.

- If the case involves a potentially significant economic defense on class certification, defense counsel can be ready to push for an early class certification motion and potentially seek to stay or limit fact discovery in the meantime.
- If the case is highly defensible on the merits, the defendants might provisionally decide to defend the case through summary judgment or trial, if necessary. We say “provisionally” because defendants can always decide to settle — if that makes sense — as the case develops.

- If the case is uncertain, defense counsel, the defendants, the insurers, and broker can make a plan to further assess the case monthly or quarterly as it plays out. In that way, defendants avoid the reflex to simply settle.

There are two important qualifications. First, defendants need to begin this process when they consider defense counsel. Far too often, defendants focus solely on a defense counsel's motion to dismiss record. But, again, most cases aren't dismissed, so defendants must take a broader perspective. Defendants should consult their broker and insurers for input on the right lawyers for a particular case, including those with the ability to shepherd the case through class certification, summary judgment, and trial.

Second, defense counsel needs to be able to size up the case to provide good advice about the ability to safely litigate it beyond the motion to dismiss. There are a host of legal and economic factors that bear on this assessment. For purposes of this post, we note that two things are critical:

- Defense counsel needs to be highly experienced in defending securities class actions past the motion to dismiss stage.
- The decision to litigate the case beyond the motion to dismiss should be made with the involvement of a company's broker and insurers, who see a lot of cases and have excellent insights.

Conclusion

The current state of SCA litigation is characterized by a high settlement rate and a lack of proving the merits of a case, which benefits the plaintiffs' bar. To combat this trend, a concerted effort must be made to defend more SCAs through summary judgment or trial. To do this, defendants, defense counsel, insurers, and brokers need to work collegially to pick the right cases in which to test the merits. Only by testing the merits more often can we restore balance and break the cycle of ever-increasing lawsuits and D&O costs.

Bottom line: More SCAs need to be litigated, even through trial.

<https://www.cornerstone.com/insights/press-releases/securities-class-action-filings-remain-steady-while-size-of-filings-increased-substantially-in-first-half-of-2025>

The Private Securities Litigation Reform Act was enacted in 1995 to help deter frivolous lawsuits. Among other things, the Reform Act heightened pleading standards and created a safe harbor for forward-looking statements.

<https://www.cornerstone.com/insights/press-releases/securities-class-action-filings-remain-steady-while-size-of-filings-increased-substantially-in-first-half-of-2025>

For the Plaintiff: *Hsu v. Puma Biotechnology, Inc.* (C.D. Cal. 2022); For Defendant: *In re Tesla Inc. Securities Litigation* (N.D. Cal. 2023).

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<https://www.nera.com/insights/publications/2025/recent-trends-in-securities-class-action-litigation-2024-full-y.html?lang=en>.

<https://www.cornerstone.com/wp-content/uploads/2025/03/Securities-Class-Action-Settlements-2024-Review-and-Analysis.pdf>.

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Securities

New York Pension Funds Ask SEC to Ax Curbs on Investor Suits (1)

Nov. 5, 2025, 11:19 AM PST; Updated: Nov. 5, 2025, 2:55 PM PST

New York pension plans and other big investors have called on the SEC to reverse a new policy that lets companies push shareholders' fraud claims into arbitration instead of litigation.

The Securities and Exchange Commission in September limited shareholders' longstanding court access for a "costly, unproven, and unwieldy system of private arbitration," New York city and state pension plans said in a Nov. 3 letter to SEC Chairman Paul Atkins. Chicago Teachers' Pension Fund, Denver Employees Retirement Plan, and dozens of other institutional investors and advocates joined them in the letter.

The SEC's action permits companies to insert clauses in their registration statements to force investors into arbitration instead of litigation to resolve securities fraud claims. The new policy isn't binding on companies, but could "influence issuer behavior," according to the Republican-led agency.

The SEC sought to provide "clarity that such provisions are not inconsistent with the federal securities laws," Atkins said in September. Investor attorneys have slammed the move.

"Forced arbitration creates costly, uncertain, and inefficient proceedings that benefit no one—not participants, not plan sponsors, and ultimately not the companies themselves," Michael D. Scott, executive director of the National Coordinating Committee for Multiemployer Plans, said in a statement to Bloomberg Law on Wednesday. The pension plan advocate was among the signatories.

An SEC spokesperson declined to comment, saying the agency was unable to respond to many inquiries from the press during the ongoing shutdown.

(Updates to include statement from Michael D. Scott, executive director of the National Coordinating Committee for Multiemployer Plans. An earlier version included a statement that was provided to Bloomberg Law in error.)

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Insight

Negating Former Employees' Confidential Witness Testimony

Nov. 6, 2025, 1:30 AM PST

Summary by Bloomberg AI

AI Generated



- The Northern District of California remains a hotspot for securities litigation, with tech companies facing challenges including earnings misses, workforce reductions, and stock price declines that can trigger securities class actions.
- Confidential witnesses, usually former employees, are often cited in securities class actions to support allegations of fraudulent intent, but their statements can be biased, unreliable, or mischaracterized.
- Companies can reduce their risk by taking proactive steps, such as training key personnel to respond to investigators, preserving records, and approaching depositions strategically to challenge confidential witness statements.

Entering the fourth quarter of 2025, the Northern District of California remains a hotspot for securities litigation. In a year marked by turbulent market conditions, tech companies have faced a series of challenges—including earnings misses, workforce reductions, and stock price declines.

These events often trigger securities class actions as plaintiffs' firms seize on negative market reactions to allege companies defrauded investors. When layoffs coincide with stock drops, companies face an additional challenge—the use of confidential witnesses.

Confidential witnesses are usually former employees whose anonymous statements are cited in securities class actions to support allegations of fraudulent intent. They're portrayed as insiders with firsthand knowledge of the practices that allegedly misled investors. As insiders, their statements can carry weight—often becoming the key allegations that allow a securities case to avoid early dismissal.

Confidential Witnesses Allegations

Congress enacted the Private Securities Litigation Reform Act of 1995 to curb the reflexive filing of securities fraud suits and to prevent plaintiffs from using discovery as a fishing expedition. The statute requires plaintiffs to allege detailed and specific facts before gaining access to discovery—a heightened pleading standard that has reshaped the early stages of private securities litigation.

To meet this standard, plaintiffs' firms often turn to private investigators who scour social media to identify former employees who have left the company during key periods. These investigators find individuals willing to speak with them and provide statements that will add more substance to the complaint.

Sometimes confidential witnesses are biased against their former employer—particularly if they were laid off, demoted, or terminated under contentious circumstances. Their statements may reflect personal grievances rather than reality, and they may lack insight into broader company operations or decision-making. Confidential witnesses are also sometimes unaware of the role they're playing in litigation. They may not realize their offhand comments to an investigator have been quoted in a complaint or used to support allegations of fraud.

The methods used to elicit statements can also raise concerns about their reliability. The plaintiffs' private investigators may imply the company is "under investigation" before asking leading or suggestive questions. This framing can influence how former employees interpret their experiences or recollections.

As a result, statements may be incomplete, out of context, or mischaracterized in the complaint. It isn't uncommon for witnesses to later disclaim or recant statements—particularly once they understand how their words have been used in the broader context of the litigation.

Reluctance to Dismiss

Even when faced with allegations that appear exaggerated, unsupported, or demonstrably inaccurate, Rule 11 sanctions remain elusive. In practice, courts rarely impose sanctions without concrete evidence of bad faith. As a result, sanctions motions are filed infrequently and rarely granted.

Courts have also been reluctant at the pleadings stage to consider declarations signed by witnesses recanting the statements that have been attributed to them in the complaint.

Defendants have had more success leveraging the plaintiffs' own allegations to challenge statements made by witnesses.

Within the Ninth Circuit, confidential witness statements must both suggest scienter and be described with enough particularity to establish personal knowledge and reliability. If a witness didn't work for the company during the relevant period, lacked access to key information, or offers secondhand accounts, courts are less likely to credit their statements.

However, courts are required to accept the complaint's allegations as true and may not weigh credibility or resolve factual disputes. This means that even questionable statements—if presented with enough detail—can force defendants into discovery. The inability to challenge the substance of allegations early in the case can be particularly frustrating for companies facing litigation based on statements a witness later disavows.

A key test for confidential witnesses often comes at summary judgment, when defendants can present deposition testimony and documentary evidence that refutes the allegations in the complaint. By this time, witness identities have been disclosed and their statements tested in deposition—often focusing on whether they made the quoted statements and how they were approached by plaintiffs.

While courts don't weigh credibility at summary judgment, they do assess whether there is a genuine dispute of material fact. If testimony refutes the allegations in the complaint or reveals problems in how the statements were obtained, it can help demonstrate that plaintiffs lack sufficient evidentiary support to proceed to trial.

Handling Confidential Witnesses

When litigating securities fraud cases, defense counsel should focus on developing a clear record while being cognizant that courts are inclined to be deferential to individuals who are willing to testify against their former employers. Counsel should:

Clarify the witness's role in the case during their deposition. Taking the time to provide a background on the litigation, including who the defendants are, what they have been accused of, and the plaintiffs' theory of the case.

Consider approaching depositions as opportunities to establish basic, uncontested facts such as limited experience or lack of firsthand knowledge. These depositions don't need to be adversarial; often, a straightforward chronology of events or clarification of roles is enough to undercut the allegations.

Maintain a neutral tone. Courts are sensitive to the risk that witnesses feel intimidated by their former employer's counsel.

Pre-Litigation Strategies

Given the challenges posed by allegations, companies should take proactive steps to reduce risk before litigation begins:

Plaintiffs' investigators sometimes contact current or former employees under the guise of informal networking or even without a clear purpose. Train key personnel how to respond to unsolicited outreach by investigators and advise them on when to escalate the issue.

Confidential witnesses may include individuals with performance issues or unresolved grievances. Coordinate with HR to conduct memorialized exit interviews and preserve performance evaluations, which can help contextualize or discredit statements during litigation.

Preserve records of key decisions, strategic response memos, communications, and performance metrics. This information can be critical in rebutting vague or inaccurate allegations.

Confidential witnesses remain a challenging aspect of securities class actions. Plaintiffs often cite their statements to survive early dismissal—even when those statements later fall apart under scrutiny. By preparing in advance and approaching these witnesses strategically, companies can maintain control over the litigation and reduce their overall exposure.

This article does not necessarily reflect the opinion of Bloomberg Industry Group, Inc., the publisher of Bloomberg Law, Bloomberg Tax, and Bloomberg Government, or its owners.

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Securities

J&J, Kenvue Rebuffed on Fresh Look at IPO Case, Early Appeal

Nov. 5, 2025, 3:32 PM PST

Johnson & Johnson, its spinoff Kenvue, and Kenvue's underwriters can't relitigate the sufficiency of investor claims about the new company's IPO and won't be given an immediate appeal, a federal court ruled.

Judge Zahid N. Quraishi's decision Tuesday means the companies will have to face claims that Kenvue's initial public offering documents omitted a long-simmering risk that the Food and Drug Administration would deem a nasal decongestant ingredient ineffective. The suit is pending in the US District Court for the District of New Jersey.

Quraishi ruled in March that the complaint plausibly alleged that statements tied to Kenvue's IPO and subsequent exchange offer failed to disclose the "very real possibility" that the FDA's review of a key ingredient in nasal decongestant drugs could find it ineffective and that the committee's vote was imminent

The companies didn't meet the standards for Quraishi to reconsider his opinion, and they didn't show interlocutory appeal was appropriate

Carella, Byrne, Cecchi, Brody & Agnello PC represents the lead plaintiff. McCarter & English LLP represents Kenvue, J&J, and the individual defendants. Paul Hastings LLP represents the investment banks.

The case is *Hammond v. Kenvue Inc.*, D.N.J., No. 3:23-cv-20998, 11/4/25 .

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Securities

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Viatris Investors Lose Bid to Revive Biosimilars Spinoff Suit

Nov. 6, 2025, 7:44AM PST

Summary by Bloomberg AI

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- The Third Circuit said Viatris Inc. investors can't proceed with a lawsuit claiming the drugmaker misrepresented its commitment to its biosimilars business segment.
- The investors alleged the company told investors it was committed to biosimilars in 2021 and didn't specify that its strategic review included that segment for possible elimination.
- The appeals court affirmed a dismissal by the US District Court for the Western District of Pennsylvania, saying the investors didn't sufficiently show a misrepresentation.

Viatris Inc. investors can't proceed with a lawsuit claiming the drugmaker misrepresented its commitment to its biosimilars business segment, the Third Circuit said Thursday.

The investors didn't sufficiently show a misrepresentation, the US Court of Appeals for the Third Circuit said in an unsigned opinion. The appeals court affirmed a dismissal by the US District Court for the Western District of Pennsylvania.

Viatris spoke about a restructuring and a strategic review after it formed from Pfizer Inc.'s Upjohn Inc. division and Mylan NV in 2020, according to the parties' briefs.

The suit alleged the company told investors it was committed to biosimilars in 2021 and didn't specify that its strategic review included that segment for possible elimination.

The pharmaceutical giant then surprised investors with a decision to sell off its key biosimilars division in February 2022, causing a 24% stock drop, the investors said.

Both sides faced tough questions from Judges Thomas M. Hardiman, Cheryl Ann Krause, and Cindy K. Chung at oral argument Sept. 10.

Although the allegations “support an inference that Viatrix contemplated the status of biosimilars as noncore at some point in the preceding year,” the investors didn’t show Viatrix was “not committed” to the segment on any particular day, the panel said in its opinion.

“And in any event, Viatrix’s SEC disclosures cautioned that Viatrix was conducting a comprehensive review of its business and specifically alluded to the possibility of material divestitures,” the opinion said.

Cohen Milstein Sellers & Toll PLLC and Flannery Georgalis LLC represented the investors. Wilson Sonsini Goodrich & Rosati represented Viatrix.

The case is *In re Viatrix Inc. Sec. Litig.*, 3d Cir., No. 24-02977, unpublished 11/6/25 .

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Securities

Manage Newsletters

Ex-Lottery.com Officers, Advisers Face SPAC Investor Claims (1)

Nov. 6, 2025, 9:27 AM PST; Updated: Nov. 6, 2025, 10:17 AM PST

Summary by Bloomberg AI

AI Generated



- Ex-Lottery.com Inc. executives and their financial advisers will face investor claims they misled shareholders about the blank-check merger that took it public in 2021.
- Vice Chancellor Morgan T. Zurn ruled that the investors' story about an "expansive scheme to mislead stockholders" was sufficiently supported by their complaint.
- The complaint alleges B. Riley Securities Inc., Chardan Capital Markets LLC, and the Lottery.com executives aided and abetted breaches of fiduciary duty by the directors and officers of the special purpose acquisition company.

Ex-Lottery.com Inc. executives, including two who pleaded guilty to securities fraud charges, and their financial advisers will face investor claims they misled shareholders about the blank-check merger that took it public in 2021.

Vice Chancellor Morgan T. Zurn ruled from the bench Thursday that the investors' story about an "expansive scheme to mislead stockholders" was sufficiently supported by their complaint.

The complaint in Delaware's Chancery Court alleges B. Riley Securities Inc., Chardan Capital Markets LLC, and the Lottery.com executives aided and abetted breaches of fiduciary duty by the directors and officers of the special purpose acquisition company that combined with the former AutoLotto Inc.

During a lengthy hearing in Wilmington, Del., Zurn pulled a stack of papers that appeared to be several inches thick from a box, indicating it was B. Riley's motion to dismiss and related exhibits.

"When you send me a motion to dismiss that looks like this, it's probably reasonable the claim has been stated," she told B. Riley's attorney, John Loftus of DLA Piper LLP (US). "The size of what you sent me almost speaks for itself."

He apologized for the weight of the documents presented in response to "a very dense complaint." Loftus told the judge, "We felt we were left with little choice but to pick off and address all of these allegations."

The motions to dismiss glossed over facts such as the startup was failing, its employees were leaving, and its financial prospects before the merger "weren't inspiring," said Justin Reliford of Scott & Scott Attorneys at Law LLP, representing the shareholders leading the litigation.

All the defendants knew the deal was "wrongful" even as they continued to manipulate Lottery.com's projections post-closing, he said. "The only reason to keep adjusting the numbers upwards after you sign deal documents is to mislead stockholders."

Read More: From SPAC Dreams to Riviera Mirage: How Lottery.com Imploded (1)

The former Lottery.com executives include CEO Tony DiMatteo, CFO Ryan Dickinson, and chief revenue officer Matthew Clemenson. Dickinson and Clemenson pleaded guilty in May to charges stemming from a scheme to fraudulently inflate the value of a company promoting itself as the equivalent of Uber or Doordash for lottery ticket sales.

Those pleas came in a case federal prosecutors filed against the ex-CEO of the blank-check company, Trident Acquisition Corp., that acquired Lottery.com to take it public. Vadim Komissarov pleaded not guilty to charges he defrauded Trident investors by reporting fake revenues for Lottery.com and selling his shares before anyone found out.

Zurn previously approved a \$2.6 million settlement that allowed Komissarov and other Trident directors and officers to exit the Chancery Court litigation.

Chardan's attorney, Andrew Milam of Richards Layton & Finger PA, sought to distance the company from the defendants who settled and face criminal charges elsewhere.

"If there are real bad guys in this case, they aren't here," he told Zurn.

DiMatteo's attorney, Geoffrey Grivner of Buchanan Ingersoll & Rooney PC, said the idea that Lottery.com's valuation was misleading or false came from Komissarov's "interpretation" of the projections, not DiMatteo's knowledge that the numbers were fake.

"He's the CEO," Zurn said.

Lottery.com has overhauled its C-suite, rebranded as SEGG Media Corp., and pivoted to sports entertainment.

The Trident shareholders leading the complaint are also represented by Grant & Eisenhofer PA, Christensen Law LLC, Levi & Korsinsky LLP, Bronstein, Gewirtz & Grossman LLC, and Kehoe Law Firm PC. Dickinson and Clemenson are represented by Prickett, Jones & Elliott PA and McDermott Will & Schulte LLP. Chardan is also represented by Goodwin Procter LLP.

The case is In re Lottery.com, Inc. S'holders Litig., Del. Ch., No. 2023-0395, bench ruling 11/6/25 .

(Updates story with reporting throughout.)

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Bloomberg Law

Manage Newsletters

Amazon Books and Records Inquiry Limited in Scope by Chancery

Nov. 5, 2025, 5:28 PM PST

Amazon.com Inc. must grant a stockholder limited access to records, a Delaware judge ruled Wednesday in an opinion that also imposed limits on the use of obtained information.

Amazon was ordered in a letter opinion to produce certain board-level documents related to antitrust compliance and investigations, Vice Chancellor Bonnie W. David said. But the scope of the inspection sought by the Roberta Ann K.W. Wong Leung Revocable Trust was narrowed to only apply to the US and Italy, rejecting a request to include all of Europe.

The order stems from a July Delaware Supreme Court ruling in the records and books case where the state high court overturned a decision rejecting the investment trust's demand for documents. The decision fell in the shadow of Delaware lawmakers tightening requirements for investors seeking access to company documents.

The records Amazon must produce are from July 1, 2021, to the present, which is a tighter window than the trust's proposed September 2018 start date. The trust must start with formal board materials before seeking informal communications, such as communications between directors and the corporation's officers and senior employees, the letter opinion said. Use of the records in litigation is also limited to Delaware courts.

"Plaintiff has failed to articulate any legitimate reason why it should be permitted to file suit outside of Delaware," David said.

Prickett, Jones & Elliott PA represents the trust. Ross Aronstam & Moritz LLP represents Amazon.

The case is Roberta Ann K.W. Wong Leung Revoc. Trust v. Amazon.com Inc. , Del. Ch., No. 2023-1251, 11/5/25

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Securities

Carlyle Group Wins Authentix Deal Appeal, Ending Long Legal Saga

Nov. 5, 2025, 10:06 AM PST

Carlyle Group Inc. prevailed on appeal Wednesday against efforts to revive litigation challenging its \$77.5 million private equity sale of anti-counterfeiting company Authentix Inc.

The Delaware Supreme Court upheld a decision rejecting allegations that Carlyle was driven by an urgent exit timeline to squeeze out minority investors at an unfair price when it flipped Authentix to Blue Water Energy LLP. The judge who ruled for Carlyle shot down the idea that its “bog-standard” private equity business model created a meaningful conflict of interest.

That decision in January 2025 by Vice Chancellor Sam Glasscock III, who retired from Delaware’s Chancery Court the same day, was his third in the case and fourth in the broader dispute.

The wider court fight encompassed both the shareholder lawsuit asserting fiduciary breaches by Carlyle and separate statutory appraisal litigation asking the judge to second-guess the sale price from scratch.

Glasscock’s four rulings included a novel decision—later upheld by the state’s top court—that said companies can require investors to waive their appraisal rights.

But he went the other way on the mirror-image issue of a potential fiduciary duty waiver. Even if that’s permissible—a question the judge didn’t answer—it would require explicit language unlike the vague promise by Authentix investors to “raise no objection,” Glasscock said.

The Delaware Supreme Court’s decision finally closes the book on the long-running legal saga.

The case is Manti Holdings LLC v. Carlyle Group Inc. , Del., No. 112, 2025, 11/5/25 .

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Securities

Manage Newsletters

EQT's \$168 Million Investor Class Accord Gets Court Go-Ahead (1)

Nov. 6, 2025, 7:31AM PST; Updated: Nov. 6, 2025, 7:48AM PST

Summary by Bloomberg AI

AI Generated



- EQT Corp. earned a federal court's final approval for a nearly \$168 million settlement of investor class claims the company overhyped the benefits of its Rice Energy Inc. acquisition.
- Judge Robert J. Colville awarded investors' counsel 28% of the settlement sum in attorneys' fees, plus interest, and about \$8.21 million to pay litigation expenses.
- The settlement ends over six years of litigation and releases allegations the natural-gas corporation boasted about the 2017 acquisition and then hid integration difficulties.

EQT Corp. earned a federal court's final approval for a nearly \$168 million settlement of investor class claims the company overhyped the benefits of its Rice Energy Inc. acquisition.

Judge Robert J. Colville's approval of the deal ends over six years of litigation, releasing allegations the natural-gas corporation boasted about the 2017 acquisition of the oil-and-gas company and then hid integration difficulties. The US District Court for the Western District of Pennsylvania judge Nov. 4 awarded investors' counsel 28% of the settlement sum in attorneys' fees, plus interest, and about \$8.21 million to pay litigation expenses.

The class includes those who got EQT stock from June 19, 2017, through June 17, 2019; held either EQT or Rice shares as of the end of Sept. 2017 and could vote on the deal that November; and/or acquired EQT stock in exchange for Rice shares through the deal.

EQT denied wrongdoing in the settlement of the suit, which alleged the stock price suffered when information about difficulties surfaced.

S. Douglas Bunch, a partner at Cohen Milstein Sellers & Toll PLLC, co-lead counsel for investors, called the agreement “a favorable result for investors as it provides an immediate cash recovery and resolves further litigation.” Co-lead counsel Salvatore Graziano of Bernstein Litowitz Berger & Grossmann LLP added, “we are pleased to have achieved such an excellent recovery in a hard-fought case.”

Kirkland & Ellis LLP and Reed Smith LLP represent EQT. Neither of these law firms nor EQT immediately responded to emails seeking comment.

The case is *In re EQT Corp. Sec. Litig.*, W.D. Pa., No. 2:19-cv-00754, final order and judgment 11/4/25 .

(Updates with a comment from Salvatore Graziano in the fifth paragraph.)

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Securities

Virgin Galactic Investors Seek OK of \$8.5 Million SPAC Suit Deal

Nov. 5, 2025, 11:02 AM PST

Virgin Galactic Holdings Inc., its leaders, and a prominent venture capitalist have agreed to an \$8.5 million settlement of investors' claims that the company misrepresented spacecraft safety before going public, according to court filings.

The proposed settlement with the space tourism company, founder Richard Branson, and others is fair and should receive preliminary approval, the investors told the US District Court for the Eastern District of New York in a supporting memorandum of law filed Tuesday.

The deal is among several bringing suits over special purpose acquisition company mergers to a close. Chamath Palihapitiya, whose Social Capital VC fund backed the SPAC that brought Virgin Galactic public, is also in the process of helping settle a SPAC-related derivative suit brought by an Opendoor Technologies Inc. investor.

The investors alleged that Virgin Galactic's Unity spaceship was plagued by problems that the company, Branson, "SPAC king" Palihapitiya, and other leaders concealed. Immediately after a February 2019 test flight in which a Unity craft was badly damaged, the company touted the expedition as going "safely to space and back," they said.

The investors also asserted claims related to Branson's flight on a Unity craft that allegedly deviated from a safe path on its descent. Immediately after the flight on July 11, 2022, the company referred to the flight as "flawless," the investors said. Branson allegedly sold all his shares that were available for sale a month later.

But Judge Allyne R. Ross trimmed the suit substantially, and declined to reconsider her conclusions or allow an immediate appeal.

Under those circumstances, the settlement terms are good for the class, the lead investors said in their request for preliminary approval.

The \$8.5 million settlement amount, 2.8% of the \$302 million in maximum recoverable damages, “is a very good result” given the risks of continued litigation “and the fact that the Court had previously dismissed claims constituting 90% of Plaintiffs’ maximum damages,” they said.

Class members with dismissed claims will be able to participate alongside those with actionable claims, but the agreement allocates about 88% of the settlement total to the actionable claims and 12% to the dismissed claims, they said. The settling parties include current and former defendants in the case.

In another SPAC-related settlement deal in the works, Gingko Bioworks Holdings Inc. would get \$4 million from leaders who allegedly overvalued the biotech company before its merger with a SPAC under a pending settlement. And XL Fleet Corp., a green energy company that now does business as Spruce Power, recently got approval to distribute its \$20 million SPAC-related class settlement.

Glancy Prongay & Murray LLP and the Rosen Law Firm PA are lead counsel for the investors. Latham & Watkins LLP represents the defendants.

The case is Lavin v. Virgin Galactic Holdings, Inc. , E.D.N.Y., No. 1:21-cv-03070, memorandum filed 11/4/25 .

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Securities

Manage Newsletters

ImmunityBio's Shareholder Reforms Agreement Gets Court Sendoff

Nov. 6, 2025, 9:39 AM PST

ImmunityBio Inc.'s current and former leadership garnered a court's final blessing to end stockholder allegations they caused the company to overstate regulatory approval odds for its bladder cancer therapy.

The biotechnology company agreed to add a new independent director to its board among other reforms lasting for at least four years, Judge Gonzalo P. Curiel said while granting final approval of the settlement. The US District Court for the Southern District of California judge on Wednesday stamped a fee and expense award of \$850,000 to the investors' counsel to be paid by ImmunityBio's insurers.

ImmunityBio said in 2023 the Food and Drug Administration rejected its therapy's application because of deficiencies identified at a contractor's manufacturing facility; its stock price plummeted 55% that day

The Food and Drug Administration ultimately approved the therapy, Anktiva, in 2024

Curiel earlier this year gave his final approval to ImmunityBio's \$10.5 million investor class settlement over similar issues

Wilson Sonsini Goodrich & Rosati PC represents current and former executives and board members, including Dr. Patrick Soon-Shiong, and the company as a nominal defendant. Kuehn Law PLLC is shareholders' lead counsel. Attorneys from these firms didn't immediately respond to emails seeking comment. Nor did ImmunityBio.

Wolf Haldenstein Adler Freeman & Herz LLP, Schubert Jonckheer & Kolbe LLP, The Rosen Law Firm PA, Shuman, Glenn & Stecker, and Rigrodsky Law PA also represented various shareholders who sued or made pre-suit board demands.

The case is *In re ImmunityBio, Inc. S'holder Derivative Litig.*, S.D. Cal., No. 3:24-cv-02014, judgment 11/5/25.

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Securities

Drugmaker to Pay \$15 Million to End Investor's FDA Letter Suit

Nov. 5, 2025, 1:24 PM PST

Applied Therapeutics Inc. agreed to fork over \$15 million plus stock warrants to resolve investor allegations the biopharmaceutical company misrepresented approval odds for treatment of a rare metabolic disorder treatment.

Applied will offer warrants to buy up to one million shares of common stock with an exercise price of \$0.48 each, with a term of one year from settlements enactment, the shareholder leading the proposed class said while seeking preliminary approval of the deal Tuesday. Assuming the US District Court for the Southern District of New York approves the accord, investor Dr. Martin Dietrich's lead counsel will decide whether or when to exercise these warrants, sell resulting shares, or give out the shares or cash proceeds to authorized class members.

Dietrich's lead counsel, Wolf Popper LLP, will seek up to 20% of the sum—\$3 million—in attorneys' fees and 20% of any warrant proceeds plus interest, plus \$50,000 in expenses reimbursed. Judge Denise L. Cote, who is presiding over the case, will have to approve the deal to end allegations Applied and two former executives hid problems with clinical testing before revealing the Food and Drug Administration wasn't approving the company's new drug application for govorestat in 2024.

The company said Nov. 27, 2024, the FDA turned down its application for the drug to treat classic galactosemia, a rare metabolic disorder that prevents someone from correctly processing a sugar found in milk. Former CEO Shoshana Shendelman also received an FDA letter that day about an inspection of its pediatric study to treat galactosemia, finding issues of deleted electronic data and dosing deviations, Dietrich's most recent complaint said. But the company didn't disclose the warning letter until five days later in a federal filing on Dec. 2. The FDA posted the warning letter dated Nov. 27 online Dec. 3.

The quick succession of revelations spurred a deep stock decline, Dietrich said.

Shendelman stepped down that December.

The settlement class would include those who got Applied stock on a US exchange from Jan. 3, 2024, through Dec. 2, 2024.

"We are pleased to have reached a resolution of this case for the benefit of Applied Therapeutics investors and look forward to presenting the merits of the settlement to the Court," said Joshua W. Ruthizer, a partner at Wolf Popper.

Govorestat is being developed for the treatment of multiple rare diseases.

Applied declined to comment on the settlement.

Wilmer Cutler Pickering Hale and Dorr LLP represents Applied Therapeutics. Kirkland & Ellis LLP represents Shendelman. McGuireWoods LLP represents former Chief Medical Officer Riccardo Perfetti. None of these law firms immediately responded to emails seeking comment.

The case is In re Applied Therapeutics Sec. Litig. , S.D.N.Y., No. 1:24-cv-09715, 11/4/25 .

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Securities

Bristol-Myers Reaches \$239 Million Celgene Investor Deal (2)

Nov. 5, 2025, 5:37 AM PST; Updated: Nov. 5, 2025, 12:16 PM PST

Bristol-Myers Squibb Co., which acquired Celgene Corp., and two former Celgene executives agreed to pay \$239 million to end an investor class action alleging they misrepresented the approval prospects of a multiple sclerosis drug ozanimod, now sold as Zeposia.

The investor leading the class sought preliminary approval Tuesday from the US District Court for the District of New Jersey, which would end almost eight years of litigation with the pharmaceutical company formerly known as Celgene that was bought out by Bristol-Myers in 2019.

"Bristol Myers Squibb is pleased to have reached an agreement to resolve this matter, allowing the company to continue focusing on its core mission to discover, develop, and deliver innovative medicines that help patients prevail over serious diseases," a company spokesperson said in an email.

About \$159.3 million, two-thirds of the amount, plus interest would be distributed among class members if the agreement's terms are approved by Judge Michael E. Farbiarz. The stockholder class counsel will request attorneys' fees not to exceed 30% of that sum and reimbursement of expenses up to \$5.75 million.

"We are gratified by this result for Celgene's shareholders which we believe to be among the ten largest-ever investor recoveries in the Third Circuit," said class counsel Matthew Mustokoff, a partner at Kessler Topaz Meltzer & Check LLP.

Farbiarz partly denied defendants' request to shed class claims last year, saying a reasonable jury could find former executives acted with the level of intent to carry securities fraud claims against Celgene for failing to disclose a risk the US Food and Drug Administration would reject the drug's application.

The agreement came with a 2026 trial looming over claims the company made years earlier related to ozanimod's pending approval and to sales of Otezla, a pill for treating psoriasis and psoriatic arthritis. Pressure on defendants to settle often skyrockets to stave off continued litigation costs and potentially steep damages.

The class includes those who obtained Celgene stock in the year-long period starting on April 27, 2017. On April 29, 2018, Morgan Stanley issued a report indicating Celgene needed to do more testing, delaying the timeline for ozanimod's potential approval.

That and prior disclosures about ozanimod and Otezla had hurt Celgene's stock price, according to the suit led by investor AMF Pensionsforsakring AB, a Swedish occupational pensions company.

Bristol-Myers in 2020 gained FDA approval of ozanimod to treat relapsing forms of MS.

AMF alleged misrepresentations and omissions regarding three Celgene drugs—ozanimod, Otezla, and candidate GED-0301.

The company touted them as ways to financially make up for the patent protections of multiple myeloma treatment Revlimid, its flagship drug, starting to expire, according to the suit. Claims regarding GED-0301 were previously dismissed.

Judge John Michael Vazquez granted the investors class certification in 2020 before he retired.

Carella, Byrne, Cecchi, Brody & Agnello PC and Seeger Weiss LLP are class liaison counsel. Bernstein Litowitz Berger & Grossmann LLP is additional counsel.

Latham & Watkins LLP, Jones Day, and Gibbons PC represent Celgene and the two officers. None of these three law firms immediately responded to emails seeking comment.

The case is *In re Celgene Corp. Sec. Litig.*, D.N.J., No. 2:18-cv-04772, notice filed 11/4/25.

(Updates with Bristol-Myers' comment in the third paragraph.)

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Letter to the Editor | **Class Actions**

Letter to the Editor: Defense Counsel Responds to Plaintiff-Side View of Class Action Discovery

The reality—familiar to those who routinely defend large-scale class actions—is that discovery asymmetry is more often deployed against corporate defendants than wielded by them. Proportionality, not tropes of corporate power abuse, should guide judicial oversight.

November 06, 2025 at 02:00 PM By **Stephen Broome**



Stephen Broome, with Quinn Emanuel Urquhart & Sullivan. Courtesy photo

Adam Levitt's [recent column](#) "Criminalizing the Plaintiffs—Defendants' Tactical Discovery Attacks on Class Representatives" paints a picture of corporate defendants systematically abusing discovery to intimidate class action plaintiffs and obscure wrongdoing. That depiction, while rhetorically powerful, is about as balanced as a unicycle. It omits critical context and oversimplifies how discovery actually operates in modern class action litigation.

The reality—familiar to those who routinely defend large-scale class actions—is that discovery asymmetry is more often deployed against corporate defendants than wielded by them. Proportionality, not tropes of corporate power abuse, should guide judicial oversight.

The Real Discovery Burden

Levitt suggests defendants routinely “weaponize” discovery through overbroad requests and procedural skirmishes. But in many complex cases, it is plaintiffs’ counsel—often large, well-resourced firms—that impose the heavier discovery burden. Defendants may be asked to search a decade or more of internal communications, testing data, and regulatory files across dozens of custodians—millions of pages of documents, often at enormous cost—while plaintiffs resist producing basic materials such as proof of purchase, relevant medical records, or communications concerning the alleged injury.

Courts applying Rule 26’s proportionality standard should recognize that such imbalance can distort the truth-seeking process just as much as the excesses Levitt attributes to defendants. Discovery should be reciprocal, not reflexively asymmetrical.

Restoring Context and Proportionality

The complaint about taking documents “out of context” is particularly ironic, given that cherry-picking emails for their scandal value is practically an art form in modern class action litigation. Anyone who has defended a corporation knows how easily an isolated internal email, stripped of its surrounding thread and practical realities, can be mischaracterized as evidence of intent or malice. Context is critical, and both sides bear responsibility for ensuring that evidence is fairly presented rather than selectively excerpted to serve narrative advantage.

When defendants seek discovery into how a named plaintiff came to file a case or into previous participation in other suits, those requests are not efforts to “criminalize” plaintiffs. They often go to legitimate issues of standing, adequacy, and credibility—central elements of class certification under Rule 23. Courts have long recognized that limited discovery on those topics may be appropriate safeguards to ensure the putative class is represented by someone who understands and can fairly advance the claims.

Professional Plaintiffs and Counsel-Driven Litigation

There is also a legitimate and recurring concern with so-called “serial” or “professional” class representatives. Experience shows some named plaintiffs have served in numerous cases, sometimes with minimal personal knowledge of the underlying facts. When such individuals are recruited largely to satisfy procedural prerequisites rather than to vindicate a personal injury, discovery into their understanding of the claims and their relationship with counsel serves a proper gatekeeping function.

These inquiries are not about vilifying plaintiffs—they are about ensuring that the class action device, one of the most powerful in our civil justice system, is used responsibly and consistent with its intended purposes.

A Shared Responsibility

The class action mechanism is vital when used appropriately. Rule 23 allows consumers and employees to seek redress for widespread harms that would otherwise go unremedied. But the same mechanism can be distorted when litigation becomes primarily a vehicle for fee recovery rather than consumer benefit, or when discovery is used tactically to exhaust resources and coerce settlement rather than to illuminate the truth.

Both sides bear responsibility to keep discovery proportional, transparent, and tethered to the claims and defenses at issue. Courts too play a key role in enforcing the neutrality of the process, by applying the discovery rules even-handedly, regardless whether the party is an individual or a corporation, a plaintiff or a defendant.

The Path Forward

Levitt is correct about one thing: Discovery should “illuminate the facts, not distort them.” But fairness requires acknowledging that distortion can and does occur on either side. The goal should not be to score rhetorical points about which bar is worse, but to restore equilibrium in discovery practice and reinforce judicial confidence that Rule 26’s proportionality principle governs all litigants equally.

When discovery serves that purpose—balanced, disciplined, and fact-focused—the class action mechanism can fulfill its promise of collective justice without becoming a tool of tactical gamesmanship. That ultimately is a goal every serious practitioner should share, regardless of which side of the “v.” they most often represent.

Stephen Broome *is a partner at Quinn Emanuel Urquhart & Sullivan, where he co-chairs the data privacy and security practice.*

Page printed from: <https://www.law.com/nationallawjournal/2025/11/06/letter-to-the-editor-defense-counsel-responds-to-plaintiff-side-view-of-class-action-discovery/print/>

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Litigation

Manage Newsletters

Anthropic Settlement Judge Sets Hearing on Tricky Opt-Outs (1)

Nov. 6, 2025, 9:12 AM PST; Updated: Nov. 6, 2025, 10:15 AM PST

Summary by Bloomberg AI

AI Generated



- Authors in a \$1.5 billion copyright class action settlement with Anthropic PBC requested a federal judge to limit communications with class members by ClaimsHero Holdings LLC, which they say is tricking authors into opting out of the deal's payout.
- Judge William Alsup scheduled a hearing for Nov. 13 to address the authors' request, and ClaimsHero has until Nov. 12 to respond to the motion.
- The authors claim that ClaimsHero's website may confuse authors and cause them to accidentally forfeit their rights under the settlement, which could pay each author roughly \$3,000 per work Anthropic owes.

Authors navigating a \$1.5 billion copyright class action settlement with AI developer Anthropic PBC convinced a federal judge to grant an expedited hearing to address a company they say is tricking authors into opting out of the deal's payout.

After the named plaintiffs flagged the third-party claims company ClaimsHero Holdings LLC to the US District Court for the Northern District of California earlier this week, Judge William Alsup on Thursday scheduled a hearing Nov. 13 on their request to limit the company's communications with class members. The authors said ClaimsHero's website encourages authors who believe they qualify for a settlement payout to fill out a form that may actually exclude themselves from the deal.

ClaimsHero has until Nov. 12 to respond to the authors' motion to limit communications.

The authors' filing this week requesting a quick hearing said ClaimsHero's misleading communication risks "confused, uninformed opt-outs, chills participation, and subverts the Court-approved notice and claims process—harms that compound with every day the campaign remains live."

As a part of the settlement, which involves nearly 500,000 works, each author qualifies for a share of roughly \$3,000 Anthropic owes per work it was accused of downloading from pirate websites.

"These communications are especially pernicious given their timing before direct long-form and email notices issue, when the risk of confusion and accidental forfeiture of rights under the settlement is high," the authors added.

The fight is the latest episode in what's one of the earliest and largest settlements across a wave of copyright lawsuits over how AI companies accessed copyrighted works and trained their large language models.

Anthropic agreed in August to resolve the Bartz authors' claims that the company illegally acquired books from pirate websites while it was building its flagship AI model, even though the company convinced a judge that the training itself was fair use. Alsup preliminarily approved the deal in September.

ClaimsHero didn't immediately respond to a request for comment.

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

The case is Bartz v. Anthropic PBC , N.D. Cal., No. 3:24-cv-5417, order issued 11/5/25 .

(Updates with judge's order in first through third paragraphs and case caption.)

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Thousands of Marshall Fire victims settle with Xcel Energy

 [courthousenews.com/thousands-of-marshall-fire-victims-settle-with-xcel-energy](https://www.courthousenews.com/thousands-of-marshall-fire-victims-settle-with-xcel-energy)

Amanda Pampuro

November 5, 2025

The remains of a Subway in Louisville, Colorado, following the Dec. 30, 2021, Marshall Fire.
(Amanda Pampuro/Courthouse News)

BOULDER, Colo. (CN) — Over the last month, 2,000 plaintiffs signed settlements with Xcel Energy, agreeing to withdraw their claims against the utility for losses in the 2021 Marshall Fire, attorneys representing the utility told a Colorado judge on Wednesday.

“With respect to the individual plaintiffs, we already have 2,000-plus signed up, and we anticipate that we will have binding agreements with a majority of the plaintiffs,” said attorney Kevin Orsini, who represents the utility.

An investigation by the Boulder County Sheriff’s Office attributed two causes to the blaze on Dec. 30, 2021: embers from a loose Xcel Energy power line and the remains of a scrap fire that had been buried on Christmas Eve.

Winds reaching 100 mph stirred the sparks through drought-dried brush and ignited the 6,000-acre fire across Boulder, Broomfield, Louisville and Superior, claiming the lives of two people and destroying 1,000 structures along the way. With damages in the billions of dollars, the Marshall Fire has been dubbed the state’s most destructive fire to date.

Over the last four years, thousands of individual plaintiffs filed more than 300 lawsuits against Xcel Energy, in addition to public entities and [subrogating](#) insurance companies.

The evening before jury selection was [scheduled](#) to start in September, Xcel Energy announced it had reached a settlement with the plaintiffs, while declining to admit fault for starting the fire.

Since September, Orsini said the parties have been working to move the agreements from principal onto paper.

“We’re not able to stand up here today and say we’re done-done, given the number of parties, but the confidence we had when we reported a month ago that we had settled a majority of the claims, that remains,” said Orsini who practices

with the New York firm Cravath Swaine.

To date, Orsini estimates fewer than 10 individual plaintiffs have rejected the settlement and intend to go to trial.

Attorney Eve-Lynn Rapp, who represents several plaintiffs, suggested the probate system may be more appropriate for processing the thousands of settlement agreements. First Judicial District Judge Christopher Zenisek said he was open to the suggestion, though it lay outside his area of expertise.

One individual representing his mother's estate, David Smith, urged the court to ensure speedy relief reaches the plaintiffs.

"The Marshall Fire process has been going for four years — let's move forward," Smith said. "Let's get past this."

Zenisek agreed.

"I share that sentiment," Zenisek said. "Let's get past the finished line tie it up, and make sure we do so in a way that people don't have second thoughts."

While the complaints were filed in Boulder County, which resides in Colorado's 20th Judicial District, Zenisek stepped in from nearby Jefferson County to oversee the proceedings following a local judge's recusal.

Although none of the settlements require Zenisek's approval, he agreed to schedule a status conference on Jan. 14, 2026, to ensure the process moves efficiently.

Categories / [Business](#), [Courts](#), [Environment](#), [Regional](#)

Massachusetts high court sounds sympathetic to massive tobacco verdict

 [courthousenews.com/massachusetts-high-court-sounds-sympathetic-to-massive-tobacco-verdict](https://www.courthousenews.com/massachusetts-high-court-sounds-sympathetic-to-massive-tobacco-verdict)

Thomas F. Harrison

November 5, 2025

(Hans/Pixabay via Courthouse News)

BOSTON (CN) — The Massachusetts Supreme Court sounded likely to uphold a huge punitive damages award against cigarette maker Philip Morris when it heard oral arguments Wednesday.

“I don’t understand how your argument holds together, with all due respect,” Justice Gabrielle Wolohojian told Philip Morris’ lawyer, Scott Chesin of Shook, Hardy & Bacon in New York.

Armand Fontaine’s wife, Barbara, died of lung cancer at age 60 after decades of smoking Marlboros and Parliaments, both made by Philip Morris. A jury awarded \$8 million in compensatory damages and a whopping \$1 billion in punitive damages, which the trial judge later reduced to \$56 million.

Billion-dollar jury verdicts are rare but not unheard of. A [study](#) by the U.S. Chamber of Commerce found that there was an average of about one a year in the U.S. between 2011 and 2019.

On appeal, Philip Morris argued the court should wipe out the verdict entirely and give it a new trial because the jury was obviously motivated by passion and prejudice. But Wolohojian countered, “So we should overrule the compensatory damages because the punitive damages were too high?”

Chesin acknowledged a new trial would be a “rare remedy,” but “the jury wrote one check,” and the total amount was grossly disproportionate.

“The compensatory damages weren’t grossly disproportionate,” Wolohojian shot back.

“There’s never been another case where a judge reduced an award by 95% and didn’t say there was passion and prejudice,” Chesin argued.

But Wolohojian replied, “There’s no necessary conflict between finding that a jury wasn’t motivated by passion and yet the verdict is too high.”

Fontaine's lawyer, Celene Humphries of Spring City, Tennessee, said the amount of the punitives was the only evidence of passion or prejudice, so "it's really a remittitur argument."

And Justice Dalila Wendlandt seemed to agree. "The judge here looked at multiple factors and said this was a very attentive jury, very discerning, and I reject Philip Morris' argument that they were just operating on passion. And I don't see a response to that."

Chesin also argued the court should adopt safeguards to prevent runaway jury verdicts, including requiring punitive damages to be supported by clear and convincing evidence and bifurcating trials so the jury doesn't hear about the defendant's wealth before deciding on liability.

In this case, the jury was told that Philip Morris had a value of \$3 billion and took in \$20 million in profits daily.

But the justices seemed unimpressed. Justice Scott Kafker noted that U.S. Supreme Court precedent generally limits punitive awards to a single-digit multiplier of the compensatory damages — which happened here because the \$56 remitted award was seven times the compensatory damages.

"Isn't the single-digit rule the best protection you've got, much better than clear and convincing evidence and bifurcated trials?" Kafker asked Chesin.

Justice Elizabeth Dewar did probe Humphries, asking what would happen if the jury had awarded \$800 trillion in punitives. "Wouldn't there be some question of passion and prejudice?" she asked.

"The critical fact is resources," Humphries said. "Trillions doesn't match up to their resources. But this was 17 days of revenue for them — that's shorter than the trial."

She added, "Sometimes a jury returns \$100,000 in punitives, and that's not even a traffic ticket to Philip Morris."

If the court does approve the award, it would make history — to date, the largest punitive award ever upheld on appeal in Massachusetts was only \$18 million.

Categories / [Appeals](#), [Business](#), [Courts](#), [Law](#), [National](#)

PayPal wins dismissal of US consumer lawsuit over transaction fees

 [reuters.com/legal/government/paypal-wins-dismissal-us-consumer-lawsuit-over-transaction-fees-2025-11-06](https://www.reuters.com/legal/government/paypal-wins-dismissal-us-consumer-lawsuit-over-transaction-fees-2025-11-06)

Mike Scarcella

November 6, 2025

PayPal app is seen on a smartphone in this illustration taken, July 13, 2021.

REUTERS/Dado Ruvic/Illustration [Purchase Licensing Rights](#) , [opens new tab](#)

Nov 6 (Reuters) - PayPal ([PYPL.O](#)) , [opens new tab](#) has persuaded a federal judge in California to dismiss a nationwide consumer lawsuit that accused the online payments giant of inflating transaction costs by illegally blocking retailers from offering discounts for cheaper payment methods.

U.S. District Judge Jeffrey White in Oakland on Wednesday [said](#) , [opens new tab](#) the plaintiffs in the proposed class action had not shown that PayPal wields sufficient market power, a necessary threshold in lawsuits alleging violations of antitrust law, or that consumers suffered any direct harm.

The [lawsuit](#) , [opens new tab](#) claimed PayPal's contracts with merchants led to higher retail prices across the e-commerce market. White dismissed the plaintiffs' federal antitrust claim and related allegations under various state laws.

The judge said the plaintiffs can file an amended lawsuit by December 12.

San Jose-based PayPal had no immediate comment on Wednesday, and lawyers for the plaintiffs did not immediately respond to a request for comment.

The lawsuit said PayPal, which owns the peer-to-peer payments app Venmo, imposes the highest transaction fees among payment processors.

The complaint said it was seeking class action status on behalf of millions of PayPal users.

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PayPal has denied any wrongdoing, telling the court that the company's merchant provisions "simply seek to ensure equal treatment and a level playing field."

In seeking dismissal of the case, PayPal told White that the lawsuit failed to show that the company's practices were causing consumers to pay more for goods and services.

White said the lawsuit lacked details about rival payment platforms. He also said the claims of injuries were speculative.

The case is Sabol v. PayPal Holdings Inc, U.S. District Court for the Northern District of California, No. 4:23-cv-05100.

For plaintiff: Ben Harrington of Hagens Berman Sobol Shapiro, and Brian Clark of Lockridge Grindal Nauen

For PayPal: Adam Hakki, Richard Schwed and Patrick Hein of A&O Shearman

Read more:

[Visa, Mastercard agree to \\$199.5 million settlement in merchants' class action](#)
[Apple, Visa and Mastercard win dismissal of merchant antitrust lawsuit over payment fees](#)

[Mastercard defeats mobile wallet platform's antitrust lawsuit](#)

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News from Bloomberg Terminal

Social Media Giants Must Stand Trial on Addiction Claims

Nov. 6, 2025, 10:24AM PST

Summary by Bloomberg AI

AI Generated



- A judge ruled that Meta Platforms Inc., ByteDance Ltd., Alphabet Inc. and Snap Inc. must face trial over claims that they designed social media platforms to addict youths.
- The companies could cumulatively face billions of dollars in damages and be forced to change how children use the platforms if they ultimately lose.
- Young users claim that excessive screen time has led them to suffer depression, anxiety, insomnia and eating disorders, while others have engaged in self-harm and even died by suicide.

By Madlin Mekelburg and Maia Spoto (Bloomberg Law)

(Bloomberg) --

Meta Platforms Inc., ByteDance Ltd., Alphabet Inc. and Snap Inc. must face trial over claims that they designed social media platforms to addict youths, a judge ruled, clearing the way for the first of thousands of cases to be presented to juries.

Los Angeles Superior Court Judge Carolyn B. Kuhl late Wednesday ruled against the companies on their last chance to avoid trial. Kuhl trimmed a negligence allegation from one case, but allowed other claims to proceed after lawyers have spent years pouring through evidence and dueling over legal theories.

The flood of lawsuits that started about three years ago targets Meta's Instagram and Facebook, ByteDance's TikTok, Alphabet's YouTube and Snap's Snapchat. If the companies ultimately lose, they could cumulatively face billions of dollars in damages and be forced to change how children use the platforms.

Thousands of cases have been filed by individuals, school districts and state attorneys general. One group of suits is being supervised by Kuhl. Another is pending in federal court in Oakland, California.

Lawyers for the social media companies argued during a hearing before Kuhl in October that plaintiffs had failed to present enough evidence showing that the designs of each platform – including algorithms that curate content, endless scrolling and personalized notifications – directly caused a litany of harms alleged in the suits.

Read More: 'Massive Legal Siege' Against Social Media Companies Looms

Young users claim excessive screen time has led them to suffer depression, anxiety, insomnia and eating disorders, while others have engaged in self-harm and even died by suicide.

"These rulings affirm that tech companies must face accountability for the design choices they make – choices that can profoundly affect the mental health of young users," the group of lawyers representing the youths and families who are suing said in a statement. "We are grateful that the court recognized the importance of letting a jury decide whether these platforms caused harm to these plaintiffs."

Representatives of the companies didn't immediately respond to requests for comment.

The case is Social Media Cases JCCP, JCCP 5255, California Superior Court (Los Angeles).

(Updates with comment from plaintiff lawyers in seventh paragraph. A previous version of the story corrected the day the ruling was issued.)

--With assistance from Kurt Wagner and Alexandra S. Levine.

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Federal Judge Tentatively Rejects TikTok's Plea to Stay Minor Privacy Cases

In a tentative ruling Wednesday, U.S. District Judge George Wu said he would reject TikTok's motion to stay the lawsuits alleging privacy violations against users under 13.

November 05, 2025 at 06:31 PM By  **Amanda Bronstad**

What You Need to Know

- TikTok had argued to stay the class actions so that the U.S. Department of Justice could pursue its similar case against the social media platform.
- U.S. District Judge George Wu, tentatively denying a stay, cited 'various external factors such as the present government shutdown or changes to the ownership of the TikTok platform.'
- U.S. District Judge George Wu tentatively allowed the claims 'in large part' to move forward, but dismissed class actions brought under the laws of 41 states that were different from where the lead plaintiffs resided.



TikTok app displayed on an iPhone. August 7, 2020. Photo: Diego M. Radzinski/ALM

A California federal judge tentatively refused on Wednesday to stay a dozen privacy class actions brought on behalf of TikTok's users under 13, even though the U.S. Department of Justice is pursuing a similar case against the social media platform.

TikTok had argued to stay the cases should they not be dismissed given that discovery in the DOJ's case would overlap, potentially leading to inconsistent rulings. But plaintiffs, opposing the stay, argued that witnesses could forget facts and that TikTok's [real motivation was to destroy evidence](#) because it had rolling data deletion policies.

In his tentative ruling, U.S. District Judge George Wu of the Central District of California, who is set to hear arguments on Thursday, wrote "that there is at least a fair possibility that plaintiffs will permanently lose evidence within defendants' possession if their case is deferred until the resolution of the DOJ action."

"Moreover," he continued, "trial in the DOJ action has already been pushed back once and may be further impacted by various external factors such as the present government shutdown or changes to the ownership of the TikTok platform, potentially further prolonging plaintiffs' ability to proceed with their case."

On Sept. 25, President Donald Trump signed an executive order designed to reduce TikTok's Chinese owner to less than 20%. Among the possible American investors in TikTok, which is based in Los Angeles but owned by Chinese company ByteDance, are Oracle co-founder Larry Ellison.

Wu also concluded that the plaintiffs could pursue their private actions alongside the DOJ's case, which is brought under the Children's Online Privacy Protection Act, or COPPA, and that any discovery overlap would be minimal given that both cases are before him.

Separately, in the same tentative opinion, Wu allowed the claims "in large part" to move forward, but dismissed class actions brought under the laws of 41 states that were different from where the lead plaintiffs resided.

A TikTok representative did not respond to a request for comment, and its lawyer, Daniel Petrocelli, of O'Melveny & Myers in Los Angeles, declined to comment.

Derek Loeser, of Seattle's Keller Rohrback, who is co-lead class counsel, did not respond.

'Plaintiffs Have Sufficiently Alleged That Defendants Entice Children'

In 2019, the DOJ, acting on behalf of the Federal Trade Commission, obtained an injunction against TikTok's predecessors, Musical.ly and Musical.ly Inc., and a [\\$5.7 million civil penalty](#) for COPPA violations. But the DOJ filed a new complaint in 2024 in the Central District of California for

potential civil penalties against TikTok, which allegedly violated the terms of that injunction by continuing to collect the personal information of children under 13. A 10-day jury trial in the DOJ's case is planned for May 11, 2027.

The class actions alleged TikTok knowingly allowed children under 13 to create user accounts without parental consent, then shared their personal information with third parties for advertising purposes. Because COPPA does not allow for a private right of action, the class actions bring claims for unfair competition and invasion of privacy under various states, plus unjust enrichment and negligence.

In its motion to dismiss, TikTok, which has a "Kids Mode" for those under 13, argued that plaintiffs misrepresented their age and that it fully disclosed its data collection practices. Plaintiffs, opposing dismissal, insisted TikTok ignored requests from parents to delete the accounts, which it knew were created by kids under 13, and that Congress never intended to prohibit lawsuits related to COPPA.



Judge George H. Wu

In his tentative ruling, Wu found plaintiffs had standing under Article III of the U.S. Constitution to bring various privacy claims.

"Under the light most favorable to plaintiffs, plaintiffs had a reasonable expectation that their data protected under COPPA would not be collected, used, or shared without the requisite notice and consent," he wrote. "Plaintiffs have sufficiently alleged that defendants entice children with brands, influencers, and content targeted for them despite representing that the full access platform was for users 13 and older; defendants knew TikTok was violating COPPA; and defendants failed to delete underage accounts and ignored parental deletion requests."

As to unfair competition and unjust enrichment claims, Wu wrote that plaintiffs sufficiently alleged that their privacy had value.

"The court finds such allegations sufficient to demonstrate that there is a market for children's data at the pleading stage, one defendants have allegedly found quite lucrative," he wrote. "The court agrees with the growing number of courts that there may be a property interest in at least some of the personal information defendants allegedly collected from plaintiffs here."

However, Wu agreed with TikTok that many of the lead plaintiffs lacked standing because they didn't live in the states under which they brought their class claims. Specifically, plaintiffs were from eight states: California, Connecticut, Florida, Georgia, Missouri, New York, Pennsylvania and Washington. But they brought claims of intrusion upon seclusion and unjust enrichment on behalf of class members in 41 other states.

Plaintiffs had argued that the state laws were similar and that the issue could be addressed at the class certification stage.

“Even if the court were to agree with plaintiffs that it has discretion to defer resolving whether they may bring multistate claims in states that are not domiciled or injured until class certification, the standing issues presented by this case are more efficiently resolved at this stage,” Wu wrote.

He gave class counsel 30 days to add class representatives from the other states.

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Jones Day partner Eric C. Tung wins 9th Circuit confirmation, 52-45

DJ [dailyjournal.com/articles/388415-jones-day-partner-eric-c-tung-wins-9th-circuit-confirmation-52-45](https://www.dailyjournal.com/articles/388415-jones-day-partner-eric-c-tung-wins-9th-circuit-confirmation-52-45)

Eric C. Tung

On a party-line vote, U.S. Senate voted 52-45 Wednesday to confirm Jones Day partner Eric C. Tung to the 9th U.S. Circuit Court of Appeals.

Tung will replace 9th Circuit Judge Sandra S. Ikuta, an appointee of President George W. Bush who announced in March that she would take senior status pending confirmation of her successor.

He will not change the partisan breakdown of the 9th Circuit, which has 16 judges appointed by Democratic presidents and 13 judges picked by Republican presidents. Tung is the 11th judge chosen by President Donald Trump on the 9th Circuit, which has 29 active judges.

A 2010 graduate of the University of Chicago Law School, Tung has no judicial experience. But he served as a clerk for U.S. Supreme Court Justices Antonin Scalia and Neil M. Gorsuch, both of whom he described as role models during a Senate Judiciary Committee hearing in July.

He was a prosecutor with the U.S. attorney's office in Los Angeles from 2016 to 2017, then served as counsel for the Justice Department's Office of Legal Policy in 2017. He joined Jones Day as an associate in 2019, then in 2022 became a partner at the firm, where he focused on appeals.

Tung, who was a philosophy major at Yale University, also served as a Bristow Fellow with the Justice Department's Office of the Solicitor General from 2011 to 2012 and as an associate with Munger, Tolles & Olson LLP from 2014 to 2016. He also clerked for Gorsuch when the justice was a judge on the 10th U.S. Circuit Court of Appeals from 2010 to 2011.

During his nomination hearing, Tung avoided answering questions about a wide range of constitutional questions, saying they are "live issues" that may come before him.

That includes same-sex marriage and same-sex intimate contact, telling Sen. Adam Schiff, D-California, that they were "binding precedent" *Obergefell v. Hodges*, 576 U.S. 644 (2015); *Lawrence v. Texas*, 539 U.S. 558 (2003).

But Democratic senators pointed out that, during a March appearance before the UCLA Federalist Society, Tung said the answers to "whether there's a constitutional right to abortion, same-sex marriage, sodomy ... the answer for the originalist is simple: no."

Schiff pressed Tung during the hearing, saying, "You're not answering my question."

"You're asking about my personal views," Tung said.

"I'm asking about your legal views," Schiff replied.

Tung acknowledged he was friends with Mike Davis, a former GOP chief counsel for judicial nominations who is known to play a key role in helping to choose judicial nominees and who once characterized Democrats as "relentless and evil."

Asked by U.S. Sen. Cory Booker, D-New Jersey, if he agreed with Davis' assessment, Tung demurred.

"You're asking me to comment on a political question and as a nominee to a judicial position, I cannot comment or speculate on that," Tung said, adding that anyone who appears before him on appeal would be "accorded full consideration of their argument."

U.S. Sen. Alex Padilla, D-CA, spoke out against Tung's nomination before the vote, saying that he and Schiff reached out to the Trump administration to consider "more mainstream Republican candidates who President Trump had previously nominated for district judgeships" but were rebuffed.

Presidents do not have to consider the opinions of the opposing party when nominating circuit court judges if they have the Senate majority. Republican senators complained about failing to be consulted about President Joe Biden's circuit court nominees as well.

Speaking of Tung, Padilla said: "He's made clear that, under his constitutional philosophy, there's no protection for rights that most Americans take as fundamental, including the rights to reproductive freedom, marriage equality, and even private, consensual relationships."

But Republicans can confirm Trump's nominees easily, as they have a 53-47 majority in the Senate as well as a 12-10 majority on the judiciary committee, which approved Trump's nomination by that margin in September.

The Senate voted 51-46 to cut off debate on Tung's nomination on Monday.

Tung will maintain chambers in Pasadena, according to the 9th Circuit.

#388415

Craig Anderson

Daily Journal Staff Writer

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Bloomberg Law

Manage Newsletters

Former DOJ, Jones Day Lawyer Confirmed as Ninth Circuit Judge

Nov. 5, 2025, 9:29 AM PST

Summary by Bloomberg AI

AI Generated



- Eric Tung, a former Justice Department lawyer, was confirmed to a US appeals court seat in California over the objections of the state's Democratic senators.
- Tung has been a frequent legal advocate for the cryptocurrency industry and has signed amicus briefs in cases such as *SEC v. Binance Holdings Inc.* and *Moore v. Harper*.
- Democratic criticism of Tung's nomination focused on his statements and writings regarding same-sex marriage, gender roles, and abortion access, with Sen. Alex Padilla saying Tung believes in an extreme conception of the Constitution that rejects equality and liberty.

Eric Tung, a former Justice Department lawyer, was confirmed to a federal appeals court seat in California over the objections of the state's Democratic senators.

The Republican-led Senate voted 52-45 on Wednesday along party lines to confirm the Donald Trump nominee to the US Court of Appeals for the Ninth Circuit.

He'll replace another conservative, Judge Sandra Segal Ikuta, who announced plans to assume partial retirement when her successor is appointed.

Tung is Trump's sixth appellate nominee confirmed so far in his second term, leaving only an Eighth Circuit vacancy among the federal appeals courts at the moment. No nominee has been announced yet.

A former federal prosecutor and counsel in the Office of Legal Policy, Tung has been a litigator at Jones Day for more than half a decade.

The Pasadena, California, lawyer has also been a frequent legal advocate for the cryptocurrency industry. He signed an amicus brief in *SEC v. Binance Holdings Inc.* that argues that standalone sales of stablecoins are not securities, a position some critics say would limit oversight of cryptocurrency markets.

Outside his commercial litigation practice, Tung signed onto another amicus brief in *Moore v. Harper* that defends what's known as the independent state legislature theory, which argues that state legislatures should have near unlimited power to set rules for federal elections. The Supreme Court rejected the theory.

Democratic criticism of Tung's nomination focused on his statements and writings over the past 20 years regarding same-sex marriage, gender roles, and abortion access.

California's senators opposed the nomination and condemned the Trump White House for going against their judgment.

"Mr. Tung believes in an extreme conception of the Constitution that rejects equality and liberty. He wants to turn back the clock to exclude much of the American public from equal justice," Sen. Alex Padilla said before a committee vote on the nomination.

Jones Day's issues and appeals practice head, Traci Lovitt, said Tung's career is "marked by exceptional scholarship, unwavering honesty, and a deep commitment to fairness and the rule of law."

"The Ninth Circuit would benefit from his wisdom, integrity, and sound judgment," Lovitt said in a statement.

Tung was also supported by Mike Davis, a conservative legal advocate and close ally to the Trump White House. Davis, a friend of Tung's, is consulting the administration on nominations.

DOJ, Private Practice

Tung clerked for Justices Antonin Scalia and Neil Gorsuch between stints as a federal prosecutor in Los Angeles and a lawyer in the Justice Department's Office of Legal Policy handling judicial nominations.

His Jones Day practice has focused on commercial litigation in federal district and appellate court.

In *Gary Martirosyan v. UPS*, he was the lead appellate advocate for UPS against claims that the company failed to provide reasonable accommodations for an employee's disability and violated the Fair Employment and Housing Act.

Tung persuaded the Ninth Circuit in to affirm a lower court's holding that a non-union role was a reasonable accommodation because no union position met the union-member employee's disability restrictions.

He's also been a go-to lawyer for the crypto industry. He represented the Blockchain Association in its amicus brief supporting six users of Tornado Cash, a crypto mixing service sanctioned by the US Treasury Department for allegedly facilitating the laundering of more than \$7 billion of virtual currency. The Fifth Circuit held that the Department overstepped its authority with its sanction.

Confirmation Pushback

Progressives pushed back on Tung for his purported views regarding civil rights, gender roles, and reproductive health access issues.

Tung was asked about remarks he gave at a Federalist Society event this year during which he said that “whether there’s a constitutional right to abortion, same-sex marriage, sodomy,” the answer “for the originalist is simple: no.”

When asked during his confirmation hearing whether he believed in the right to same-sex marriage in *Obergefell v. Hodges* or interracial marriage in *Loving v. Virginia*, Tung said he is in an interracial marriage but declined to give a “personal view” on same-sex marriage that he said was the intent of Sen. Adam Schiff’s questioning. He said he’d follow Supreme Court precedent in *Obergefell*.

Tung also had a tense exchange at the hearing with Padilla over purported remarks he made as a Yale University undergraduate, which included saying “I believe in gender roles,” that “women are simply better than men at some things,” and that “When these radical feminists try to blur gender roles, they undermine institutions like marriage—institutions which hold society together.”

When Padilla pressed Tung on whether he still believed that “women should stay home and not go out to the workplace,” Tung said “the suggestion that I think women should not be afforded with the same professional opportunities as men is inaccurate” and praised his wife’s professional accomplishments.

Competitive Shooter

Tung, a Woodland Hills, California-native, attended Yale for undergrad and earned a law degree from the University of Chicago.

Tung is Chinese American and a Catholic convert, according to a news interview he gave following the death of Pope Francis. “He was such a symbol of mercy and tenderness in the Church. I became Catholic under his papacy, and so I will miss him very much,” he said.

He’s also a competitive shooter as a member of the International Defensive Pistol Association, according to his Senate Judiciary disclosure.

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<https://bsky.app/profile/jeffhorwitz.bsky.social/post/3m4xiigqjhc2p>



Jeff Horwitz

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Meta earns \$3.5 billion every six months from showing Facebook and Instagram users 15 billion "higher legal risk" scam ad impressions a day, internal documents state.

That haul vastly exceeds how much the company expects regulators To fine it for running scam ads.

www.reuters.com/investigatio...

<https://www.reuters.com/investigations/meta-is-earning-fortune-deluge-fraudulent-ads-documents-show-2025-11-06/>

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November 6, 2025 at 3:46 AM 🌐 Everybody can reply

570 reposts 120 quotes 1.2K likes 87 saves

35

690

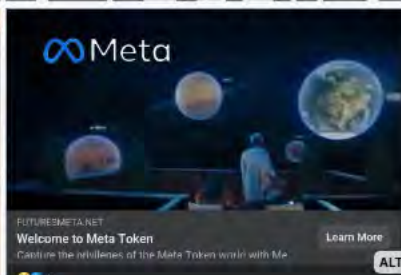
1.2K



markmcan.bsky.social @markmcan.bsky.social · 5h

I catalogued FB's scam epidemic for a while. Gave up trying to report them, Meta didn't even remove the scams pretending to be Meta itself

wallet! Daily earnings up to 10%! It only takes 10 minutes to contact us to make you a qualified miner.



1

5

53





NEOLUDDITE ACTION @butlerian-jihad.bsky.social · 4h

Do you have this online somewhere?



markmcan.bsky.social @markmcan.bsky.social · 4h

Nope, sorry. Happy to email you a bunch if you DM me an address



Menotti Minutillo @menotti.bsky.social · 4h

Reading the article, it's even quite worse than that.

They have high suspicions that these are scams, but since it doesn't meet a 95% confidence threshold, they simply charge **more** to run the ad instead of another remediation.



Eryn Wyld @erynwyld.bsky.social · 6h

Reading this makes me so happy that I deleted all my META accounts.

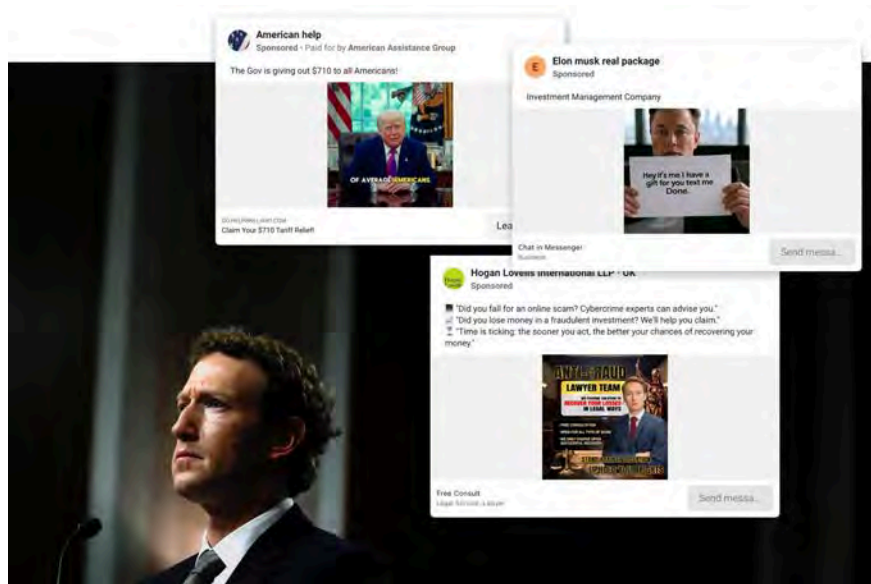


Meta is earning a fortune on a deluge of fraudulent ads, documents show

 [reuters.com/investigations/meta-is-earning-fortune-deluge-fraudulent-ads-documents-show-2025-11-06](https://www.reuters.com/investigations/meta-is-earning-fortune-deluge-fraudulent-ads-documents-show-2025-11-06)

Jeff Horwitz

November 6, 2025



Meta CEO Mark Zuckerberg testifying before the U.S. Senate Judiciary Committee in January 2024. The company is under regulatory pressure on a number of fronts, including ads for scams on its platforms. Ad screenshots via Reuters. Zuckerberg photo: REUTERS/Evelyn Hockstein

Meta internally projected late last year that it would earn about 10% of its overall annual revenue – or \$16 billion – from running advertising for scams and banned goods, internal company documents show.

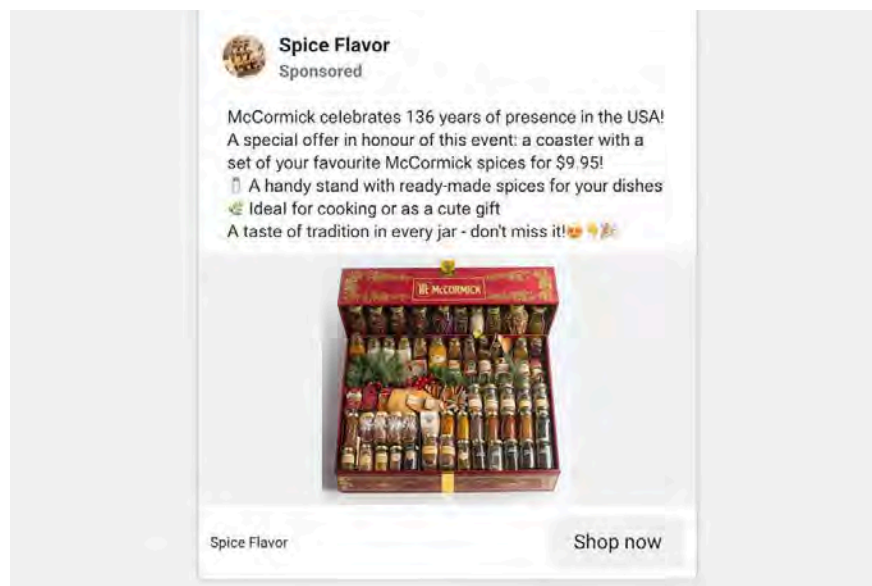
A cache of previously unreported documents reviewed by Reuters also shows that the social-media giant for at least three years failed to identify and stop an avalanche of ads that exposed Facebook, Instagram and WhatsApp's billions of users to fraudulent e-commerce and investment schemes, illegal online casinos, and the sale of banned medical products.

On average, one December 2024 document notes, the company shows its platforms' users an estimated 15 billion "higher risk" scam advertisements – those that show clear signs of being fraudulent – every day. Meta earns about \$7 billion in annualized revenue from this category of scam ads each year, another late 2024 document states.

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Much of the fraud came from marketers acting suspiciously enough to be flagged by Meta's internal warning systems. But the company only bans advertisers if its automated systems predict the marketers are at least 95% certain to be committing fraud, the documents show. If the company is less certain – but still believes the advertiser is a likely scammer – Meta charges higher ad rates as a penalty, according to the documents. The idea is to dissuade suspect advertisers from placing ads.

The documents further note that users who click on scam ads are likely to see more of them because of Meta's ad-personalization system, which tries to deliver ads based on a user's interests.



Item 1 of 4 Meta estimates that it shows its users 15 billion scam ads a day. These screenshots show false ads Meta removed from Facebook after Reuters flagged them. Spice maker McCormick confirmed the ad in its name was fake. Elon Musk, the White House and law firm Hogan Lovells had no comment. Screenshot via REUTERS

[1/4]Meta estimates that it shows its users 15 billion scam ads a day. These screenshots show false ads Meta removed from Facebook after Reuters flagged them. Spice maker McCormick confirmed the ad in its name was fake. Elon Musk, the White House and law firm Hogan Lovells had no comment. Screenshot via REUTERS

The details of Meta's confidential self-appraisal are drawn from documents created between 2021 and this year across Meta's finance, lobbying, engineering and safety divisions. Together, they reflect Meta's efforts to quantify the scale of abuse on its platforms – and the company's hesitancy to crack down in ways that could harm its business interests.

Meta's acceptance of revenue from sources it suspects are committing fraud highlights the lack of regulatory oversight of the advertising industry, said Sandeep Abraham, a fraud examiner and former Meta safety investigator who now runs a consultancy called Risky Business Solutions.

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"If regulators wouldn't tolerate banks profiting from fraud, they shouldn't tolerate it in tech," he told Reuters.

In a statement, Meta spokesman Andy Stone said the documents seen by Reuters "present a selective view that distorts Meta's approach to fraud and scams." The company's internal estimate that it would earn 10.1% of its 2024 revenue from scams and other prohibited ads was "rough and overly-inclusive," Stone said. The company had later determined that the true number was lower, because the estimate included "many" legitimate ads as well, he said. He declined to provide an updated figure.

"The assessment was done to validate our planned integrity investments – including in combatting frauds and scams – which we did," Stone said. He added: "We aggressively fight fraud and scams because people on our platforms don't want this content, legitimate advertisers don't want it and we don't want it either."

"Over the past 18 months, we have reduced user reports of scam ads globally by 58 percent and, so far in 2025, we've removed more than 134 million pieces of scam ad content," Stone said.

Some of the documents show Meta vowing to do more. "We have large goals to reduce ad scams in 2025," states a 2024 document, with Meta hoping to reduce such ads in certain markets by as much as 50%. In other places, documents show managers congratulating staffers for successful scam reduction efforts.

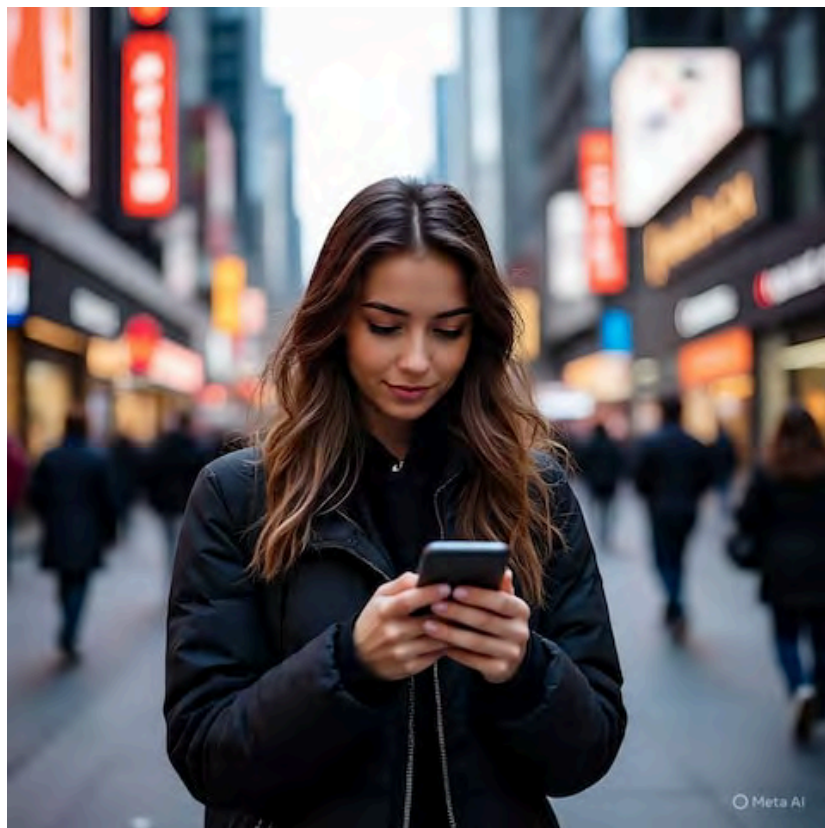
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- [Meta's AI rules have let bots hold 'sensual' chats with kids, offer false medical info](#)



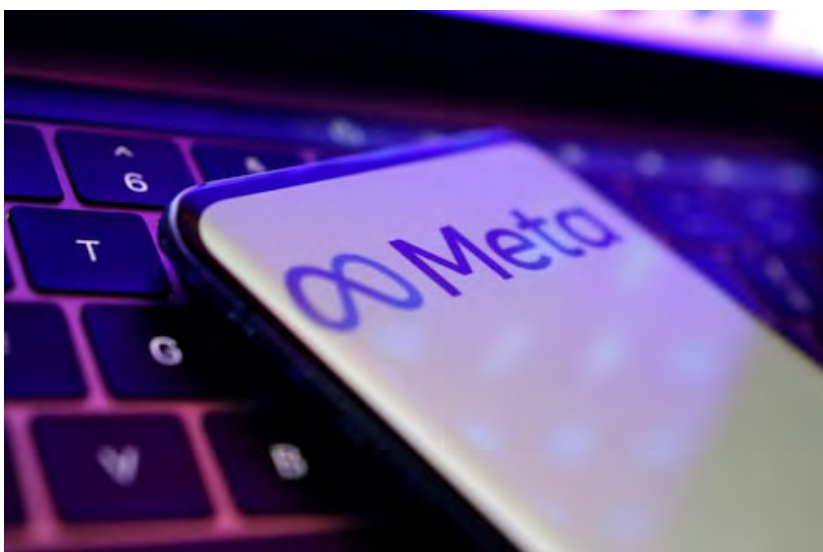
- [Meta's flirty AI chatbot invited a retiree to New York. He never made it home.](#)



- [We set out to craft the perfect phishing scam. Major AI chatbots were happy to help.](#)



- [US senators call for Meta probe after Reuters report on its AI policies](#)



At the same time, the documents indicate that Meta's own research suggests its products have become a pillar of the global fraud economy. A May 2025 presentation by its safety staff estimated that the company's platforms were involved in a third of all successful scams in the U.S. Meta also acknowledged in other internal documents that some of its main competitors were doing a better job at weeding out fraud on their platforms.

"It is easier to advertise scams on Meta platforms than Google," concluded an internal Meta review in April 2025 of online communities where fraudsters discuss their trade. The document doesn't lay out the reasons behind that conclusion.

The insights from the documents come at a time when regulators worldwide are pushing the company to do more to protect its users from online fraud. In the U.S., the Securities and Exchange Commission is investigating Meta for running ads for financial scams, according to the internal documents. In Britain, a regulator

last year said it found that Meta's products were involved in 54% of all payments-related scam losses in 2023, more than double all other social platforms combined.

The SEC and the UK regulator didn't respond to questions for this report. Meta's Stone referred Reuters to the company's latest SEC disclosures, which state that the company's efforts to address illicit advertising "adversely affect our revenue, and we expect that the continued enhancement of such efforts will have an impact on our revenue in the future, which may be material."

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The regulatory pressure on Meta to do more to fight scams occurs as the company, in a race with competitors, is pouring money into artificial intelligence and plans as much as \$72 billion this year in overall capital expenditures. While acknowledging the spending is "a massive amount of capital," chief executive Mark Zuckerberg has sought to reassure investors that Meta's advertising business can bankroll it.

"We have the capital from our business to do this," he said in July, when announcing that to support AI, Meta was constructing a data center in Ohio that will be the size of New York City's Central Park.

In the internal documents, Meta weighs the costs of beefing up its enforcement of scam ads against the toll of financial penalties from governments for failing to protect its users.

The documents make clear that Meta aims to reduce its illicit revenue stream in the future. But the company is concerned that abrupt reductions of scam advertising revenue could affect its business projections, according to a 2025 document that discusses the impact of "violating revenue" – income from ads that violate Meta's standards, such as scams, illegal gambling, sexual services or dubious health products.

The documents note that Meta plans to try to cut the share of Facebook and Instagram revenue derived from scam ads. In the meantime, Meta has internally acknowledged that regulatory fines for scam ads are certain, and anticipates penalties of up to \$1 billion, according to one internal document.

But those fines would be much smaller than Meta's revenue from scam ads, a separate document from November 2024 states. Every six months, Meta earns \$3.5 billion from just the portion of scam ads that "present higher legal risk," the document says, such as those falsely claiming to represent a consumer brand or public figure or demonstrating other signs of deceit. That figure almost certainly exceeds "the cost of any regulatory settlement involving scam ads."

Rather than voluntarily agreeing to do more to vet advertisers, the same document states, the company's leadership decided to act only in response to impending regulatory action.

Stone disputed the strategy documents' assertions that Meta should only act if forced. That isn't the company's policy, he said.

| It is easier to advertise scams on Meta platforms than Google.

Internal Meta review from April 2025.

Meta has also placed restrictions on how much revenue it is willing to lose from acting against suspect advertisers, the documents say. In the first half of 2025, a February document states, the team responsible for vetting questionable advertisers wasn't allowed to take actions that could cost Meta more than 0.15% of the company's total revenue. That works out to about \$135 million out of the \$90 billion Meta generated in the first half of 2025.

"Let's be cautious," wrote the manager overseeing the effort, noting that the allowed revenue hit included both scam ads and "benign" ones that were mistakenly blocked. "We have specific revenue guardrails."

Meta's Stone said that the 0.15% figure cited came from a revenue projection document and was not a hard limit.

Amid intensifying pressure to do more to combat scams on Meta's platforms, executives presented Zuckerberg with a plan in October 2024 for what they called a moderate approach to scam enforcement. Instead of a rapid crackdown, the company would focus its efforts on countries where it feared near-term regulatory action, according to a document that outlined the strategy.

Following the meeting with the CEO, Meta executives in charge of enforcing the integrity of the company's platforms settled on trying to reduce the percentage of revenue attributable to scams, illegal gambling and prohibited goods from an

estimated 10.1% in 2024 to 7.3% by the end of 2025. By the end of 2026, Meta aims to further cut that figure to 6%, and then to 5.8% in 2027, the strategy memo and other documents show.

Disgorgement of Revenue. Any resolution with a global regulator could involve disgorgement or forfeiture of revenue associated with fraud and scams ads. The Company estimates that revenue generated from policy violating scam ads that present higher legal risk is approximately \$3.5 billion (for H2 2024). This is likely the outside order of magnitude for the cost of any regulatory settlement involving scam ads, though disgorgement/forfeiture would likely be assessed for revenue across multiple halves.

An excerpt from a November 2024 strategy document discussing Meta's scam ad revenue and legal risks. Screenshot via REUTERS

A SURGE IN ONLINE FRAUD

In 2022, a document from that year notes, Meta discovered a six-figure network of accounts pretending to be members of the U.S. military deployed in war zones. The accounts were sending millions of messages a week trying to charm Facebook users into losing their money. Sextortion – in which scammers obtain sexual images of a user, often a teenager, under false pretenses and then blackmail them – also was becoming commonplace on Meta's platforms. And a torrent of fake accounts pretending to be celebrities or represent major consumer brands were bamboozling users worldwide.

But despite the surge in online fraud, another 2022 document notes the company's "lack of investment" in automated scam detection back then. Meta classified scam ads as a "low severity" problem – viewing them as a bad "user experience," the document says.

Internal documents show that Meta directed staffers then to focus mainly on fraudsters masquerading as celebrities and usurping major brands. Such "impersonation scams" risked upsetting advertisers and public figures, one 2022 document notes, and thus threatened to reduce user engagement and revenue.

But ongoing layoffs at Meta were hindering enforcement. A planning document for the first half of 2023 notes that everyone who worked on the team handling advertiser concerns about brand-rights issues had been laid off. The company was also devoting resources so heavily to virtual reality and AI that safety staffers were ordered to restrict their use of Meta's computing resources. They were instructed merely to "keep the lights on."

Stone said that while layoffs had occurred, the company had substantially expanded the number of staff addressing scam advertising in recent years.

Meta also was ignoring the vast majority of user reports of scams, a document from 2023 indicates. By that year, safety staffers estimated that Facebook and Instagram users each week were filing about 100,000 valid reports of fraudsters messaging them, the document says. But Meta ignored or incorrectly rejected 96% of them.

Meta's safety staff resolved to do better. In the future, the company hoped to dismiss no more than 75% of valid scam reports, according to another 2023 document.

Erin West, a former Santa Clara County prosecutor who now runs a nonprofit devoted to combating scams, said Meta's default response to users flagging fraud was to ignore them.

"I don't know I've ever seen something taken down as the result of a single user report," she said.

Last October, a recruiter for the Royal Canadian Air Force woke up to find herself locked out of her Facebook account. The woman, who spoke on condition of anonymity because of her military status, had been hacked.

Soon a picture of a fake employment badge with her face on it appeared on her account – along with the text, "I'm super happy to announce I'm crypto currency certified."



A sign at Meta headquarters in Menlo Park, California. "We aggressively fight fraud and scams because people on our platforms don't want this content, legitimate advertisers don't want it and we don't want it either," says spokesman Andy Stone. REUTERS/Carlos Barria

The recruiter said she immediately filed multiple reports with Meta. As weeks went by without a response, her account began claiming that she had struck it rich with crypto – even acquiring land for a dream home – and she wanted to give her friends the same opportunity.

The recruiter said her supervisor tried to get the Royal Canadian Mounted Police to help, but was told that Meta doesn't usually respond to hacked-account reports from the Mounties. So the recruiter warned her friends not to interact with her account and asked them to report her account to Meta, too.

Asked about the incident, the RCMP said it regularly raises reports of abuse on platforms such as Meta, but declined to comment on the specific case.

Nothing happened. After about a month, Mike Lavery, a former Canadian army officer who the recruiter had worked with years before, called her. He'd lost C\$40,000 (about \$28,000) after investing in the crypto scam.

"I thought I was talking to a trusted friend who has a really good reputation," Lavery told Reuters about the recruiter's hijacked Facebook account. "Because of that, my guard was down."

The recruiter said she cried when Lavery told her what had happened. "People were being harmed because they trust me," she said. She said she pleaded with friends to continue reporting her rogue account.

"Dozens of people reported it, multiple times each," she said, estimating that Meta received more than 100 reports. By the time Meta finally took her hacked account offline, at least four other military colleagues had been defrauded, she said.

Brian Mason, an Edmonton Police investigator, was able to help track C\$65,000 of the victims' stolen funds to Nigeria. But recovering the money would likely be difficult or impossible, he told Reuters, because "the money was converted into bank accounts in Nigeria that we can't touch."

Meta declined to comment on the air force recruiter's hacked account or its victims.

HOW META POLICES FRAUD

Internally, Meta refers to scams like this one as "organic," meaning they don't involve paid ads on its platforms. Organic scams include fraudulent classified ads placed for free on Facebook Marketplace, hoax dating profiles and charlatans touting phony cures in cancer-treatment groups.

According to a December 2024 presentation, Meta's user base is exposed to 22 billion organic scam attempts every day. That's on top of the 15 billion scam ads presented to users daily.

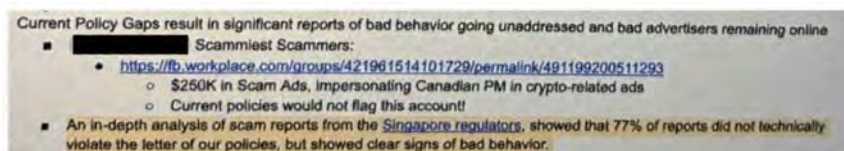
Meta polices fraud in a way that fails to capture much of the scam activity on its platforms, some of the documents indicate.

After police in Singapore gave the company a list of 146 examples of scams targeting that country's users last fall, Meta staff found that only 23% actually violated the platform's policies. The other 77% "violate the spirit of the policy, but not the letter," a Meta presentation about the police reports notes.

The deceptive marketing flagged by Singaporean police that Meta didn't act on included "too good to be true" offers of 80% off a designer fashion brand, promotions for fake concert tickets, and job ads posted by entities falsely claiming to be major tech companies.

Other Meta safety staffers also documented instances in which the company's rules on scams didn't appear to cover obviously bad behavior. In April, staffers noted that they'd discovered \$250,000 in scam crypto ads from an account claiming to belong to Canada's prime minister.

"Current policies would not flag this account!" an internal document says. Meta's Stone said the ads were removed for other reasons. The prime minister's office didn't reply to a request for comment.



An excerpt from a 2025 document noting that Meta's rules on scams had "gaps." Screenshot via REUTERS

THE 'SCAMMIEST SCAMMERS' LIST AND 'PENALTY BIDS'

Even when advertisers are caught red-handed, the rules can be lenient, the documents indicate. A small advertiser would have to get flagged for promoting financial fraud at least eight times before Meta blocked it, a 2024 document states. Some bigger spenders – known as "High Value Accounts" – could accrue more than 500 strikes without Meta shutting them down, other documents say.

Fraudulent ad campaigns can reach massive size: Four removed by Meta earlier this year were responsible for \$67 million in monthly advertising revenue, a document reviewed by Reuters shows.

To draw attention to the company's perceived failures, an employee earlier this year began issuing reports highlighting that week's "Scammiest Scammer." The report profiled whichever advertiser had earned the most user complaints about scams in the past week.

Colleagues praised the initiative. But being name-checked in the report wasn't always enough for such accounts to get shut down. A check by Reuters of five accounts cited in one Scammiest Scammer report found that two were still live more than six months later, including one that was running ads for unlicensed online casinos. After Reuters flagged those two accounts to Meta, they were taken down.

Reuters was unable to reach the entities behind the accounts.

The company last year developed a novel approach to reduce scam advertising and keep its enforcement costs low: It began charging suspected fraudsters more.

To advertise on Meta's platforms, a business has to compete in an online auction. Before the bidding, the company's automated systems calculate the odds that an advertiser is engaged in fraud. Under Meta's new policy, likely scammers who fall below Meta's threshold for removal would have to pay more to win an auction.

Documents from last summer called such "penalty bids" a centerpiece of Meta's efforts to reduce scams. Marketers suspected of committing fraud would have to pay Meta more to win ad auctions, thus impacting their profits and reducing the number of users exposed to their ads.

For Meta, the financial impact was mixed: While the company would sell fewer scam ads, it would make more money from those that it did, offsetting some of the lost revenue.

Stone said that the goal of the effort was to reduce overall scam advertising by making suspicious advertisers less competitive in Meta's ad auctions.

In the months following the implementation of the penalty bid program, Stone said, testing showed both a decline in scam reports and a slight decline in overall ad revenue.



Zuckerberg at a January 2024 Senate Judiciary Committee hearing on online child sexual exploitation. Regulators worldwide are pushing Meta to do more to protect users from child predators, online fraud and other risks. REUTERS/Evelyn Hockstein

Reporting by Jeff Horwitz. Edited by Steve Stecklow and Michael Williams.

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News from Bloomberg Terminal

Elon Wants His Votes

Nov. 6, 2025, 10:49AM PST

By Matt Levine

(Bloomberg Opinion) --

Happy Elon Vote Day

Tesla Inc. will hold its annual shareholder meeting this afternoon, with the main item on the agenda being shareholder approval of Elon Musk's new \$1 trillion stock compensation package. Will the shareholders vote yes? I mean? Yes? You have come this far. To hitch your wagon to Elon Musk for all these years and then be like "nah, *this time* he is asking for too much" seems a little silly. If this pay package is approved, maybe Elon Musk will turn Tesla into an \$8.5 trillion robot company over the next decade, which will be great for shareholders. But if this pay package is *not* approved, (1) he probably won't and (2) he might leave in a huff and turn Tesla into a, you know, \$300 billion not-robots company over the next week. You don't really have a choice. Bloomberg's Kara Carlson writes:

If shareholders vote against the proposal, Musk "will take it as a negative sign on his leadership," [Tesla board chair Robyn] Denholm said last week at Bloomberg's office in New York. She warned it's likely that Musk will leave, or not be an active executive at Tesla, if the measure fails. ...

Corporate governance experts say the offensive leaves investors with little choice, even if they don't support a trillion-dollar payday for the CEO.

"If you're a rational shareholder of Tesla, you're stuck between a rock and a hard place," said Brian Quinn, a professor at Boston College Law School. The referendum on Musk, he said, is "basically a coercive vote."

Right, if you are a shareholder of an Elon Musk company, the deal is (1) you give him whatever he wants whenever he wants it and (2) the stock goes up. *Obviously* corporate governance experts hate that; it's terrible governance; really it's no governance at all. Some investors hate it too, but the remedy for them is not to invest in Elon Musk companies, and they mostly don't. The people who invest in Elon Musk companies are mostly fine with the deal, and that really is the deal.

Obviously if the shareholders vote no things will get interesting! Money Stuff does not normally publish on Fridays, but if Musk's pay package gets voted down and he trashes the place and storms out tonight, I might have to see you back here tomorrow. But I'm betting he'll get his money.

I have written a few times about an oddity in this package, which is that, according to Musk and Tesla's board, the point here is *not* to give Musk \$1 trillion of value, but rather to give him sufficient control over Tesla's planned "robot army." Musk wants at least 25% of the vote so that he can control the robots, but he only owns about 15% of the shares, and the only way to get him to 25% is to give him a huge new slug of economic ownership. And the only way to give him a huge new slug of economic ownership is to make the new shares contingent on aggressive operational and stock-price targets, which in turn means that the nominal value of the new shares, in the state of the world in which he gets them, is \$1 trillion. Embarrassing for everyone.

And so we have talked about various potential approaches to give Musk 25% of the voting power of Tesla *without* giving him new economic ownership. For the most part those approaches seem impractical, and Denholm told the Financial Times that Tesla "searched high and low" for a way to give Musk more votes without more economic ownership and couldn't find one.

But a couple of readers have emailed me with one more idea. The idea is a *shareholder agreement*: Tesla could sign an agreement with Musk saying that, as long as Musk is a 15% shareholder of Tesla, he has certain control rights. He gets to designate some board members, say, or he gets veto power over certain business decisions, or he can decide on Tesla's robotics investments. Give him veto power over the board firing him as CEO. You give him *contractual* control over the robot army, control that can't be overridden by a shareholder vote.¹ That gives him the control he wants, without any more shares.

Can Tesla do that? Well! The precedent is that Moelis & Co., the investment bank, had a shareholder agreement a bit like that with Ken Moelis, its founder and chief executive officer. (Not robots, I mean, but Ken Moelis got to pick the board of directors and had a right of approval over financing decisions, budgets, new business lines, executive hiring and firing, etc.) A Moelis & Co. shareholder sued, arguing that the company couldn't give up that much power to one shareholder-CEO. A Delaware court agreed, finding that those decisions have to be made by the board, not a shareholder; we talked about the ruling last year. It was controversial, and ultimately it was overturned by statute: Delaware's legislature passed a new law saying that companies could have shareholder agreements handing over control rights to a shareholder.

² So, yes, a Delaware public company *could* do that.

But Tesla is not a Delaware public company: It was, but then a Delaware court struck down Musk's previous big pay package, so Tesla reincorporated to Texas in a huff. Everyone assumes that Texas law will generally be friendlier to Musk than Delaware was, and that the move to Texas will generally give Tesla more power to give Musk whatever he wants.

But not this! Texas's law about shareholder agreements is more restrictive than Delaware's; Tesla *could* enter a shareholder agreement like that, but only if it is approved by *all* shareholders, which is practically impossible in a public company.³ Because it is a Texas company, Tesla *can't* just hand Musk control over its robot army. It has to hand him a huge pile of stock instead.

People are worried about bond market liquidity

The problem of bond market liquidity is that sometimes I want to sell a bond, and sometimes you want to buy the same bond, but they are rarely the *same* time. There are a lot of bonds out there, and the probability that I will want to sell \$10 million of one particular bond at the exact moment that you want to buy \$10 million of that exact bond is low.

So traditionally dealers have intermediated bond trades: If I want to sell a bond, I call up a trader at a big bank and ask for a price, and she buys the bond from me, and she holds onto it for a while, and an hour or day or week later you call her up and ask to buy that bond, and she has it and sells it to you. She ties up her bank's capital and takes market risk (if the bond goes down while she holds it, she loses money) to facilitate our trading. Also she doesn't sit there passively: She's constantly calling me to see if I have any bonds to sell, calling you to see if you want to buy any bonds, etc., trying to make stuff happen. For putting in this effort and taking this risk, she gets paid: She buys the bond from me at, say, 99.5 cents on the dollar, and sells it to you at 100, earning a spread of 0.5 cents on the trade.

I used to write a lot that "people are worried about bond market liquidity," and what they were worrying about was the breakdown of this system. The big bond dealers used to be investment banks, and post-crisis capital and trading regulation made it harder for the banks to intermediate bond trades using their own balance sheets, and if they didn't who would? This worry has become a lot less prominent in recent years, largely because that question got answered. It turns out that the big proprietary trading firms will increasingly intermediate bond trades, and also, more surprisingly, bond exchange-traded funds can help with the job. (If I want to sell some bonds, it turns out I can plop them into an ETF, and if you want to buy some bonds, you can pop them out of the ETF; the ETF's balance sheet sort of replaces the dealer's.)

Still there is in principle an entirely different solution to the problem. Instead of a someone (bank, prop trading firm, ETF) buying from me when I want to sell and selling to you when you want to buy, the bond market could just put out an announcement saying "hey if you want to buy or sell bonds, meet here at 4 p.m. each weekday." The problem of coordinating in *time* is not *that* hard to solve. Just pick a time. Make it the same time every day. And then if I want to sell, I show up at 4 p.m., and if you want to buy, you show up at 4 p.m., and we trade with each other without needing any intermediation.

This is not a perfect solution, because if I get a hankering to sell at 10 a.m. I have to wait six hours to actually do it, and I might get antsy. Also many bonds trade quite infrequently, so if I show up at 4 p.m. on Tuesday and you show up at 4 p.m. on Friday we won't trade with each other. But it does have benefits. For one thing, if I am a natural seller and you are a natural buyer and we meet at the same time in the same place, I can sell the bond at 99.75 and you can buy it at 99.75: I'm selling it directly to you, without paying a spread to a dealer, so I get a higher price and you pay a lower price than we would in an intermediated market.

Bloomberg's Caleb Mutua and Isabelle Lee report:

MarketAxess Holdings Inc. is seeking to bring a feature of fast-twitch equity markets to the relatively sedate \$9 trillion universe of corporate bonds: the daily closing auction.

The electronic trading company plans to launch a daily “closing print” for corporate bonds – the first standardized end-of-day price in a market long defined by opaque, ad hoc quotes. The goal is to deepen liquidity and lower trading costs, but the worry is there’s a tradeoff if it squeezes dealer profits tied to the very inefficiencies it would eliminate. ...

While dealers long accustomed to the profits eked out from the inefficiencies brought about by traditional voice trading and request-for-quote processes may take an initial hit, [MarketAxess Chief Executive Officer Chris] Concannon views auctions as a new way to provide and profit from liquidity by offsetting multiple clients’ supply and demand imbalances. The auction format will allow dealers to also act as principals while capitalizing on price discrepancies that emerge during concentrated trading windows, he added. The old line is that many corporate bonds trade “by appointment,” so you might as well just set up a standing appointment.

Private markets are the new public markets

A crude story you might tell about retail stock brokerages is that stocks are boring. Meme stocks notwithstanding, US public companies are generally bigger and older and more stable than they used to be, and their stocks trade very efficiently. Offering stock trading to retail investors won’t get them all that excited, and it won’t make you that much money. The action is elsewhere. Offer them zero-day options! Offer them crypto! Offer them sports betting!

Or the real fun is in private markets; offer them that:

Charles Schwab will acquire Forge Global for \$660mn, uniting the private share marketplace with the large stock brokerage at a time when many big technology start-ups are delaying IPOs to remain closely held. ...

“Through Forge’s leading marketplace, we’re uniquely positioned to deepen liquidity, improve transparency, and further democratise access to this increasingly important source of wealth creation for investors,” said Rick Wurster, chief executive of Schwab, in a statement.

The prospective deal comes just a week after Morgan Stanley acquired EquityZen, a direct competitor of Forge Global. Groups including OpenAI and SpaceX have secured valuations in private markets reaching hundreds of billions of dollars.

This year, Texas-based Schwab rolled out an alternative investment platform that allowed clients with more than \$5mn in investible assets to get access to private equity and hedge fund investments.

Historically the main distinction between public companies and private companies was that you could buy public companies’ stocks in your brokerage account, but you *couldn’t* buy private companies that way. That distinction kind of made sense to me, but it is collapsing.

Reverse crypto treasury

Remember crypto treasury companies? The idea was that, for a surprisingly long time, the US stock market would pay \$2 for \$1 worth of crypto. So if you had a big stash of cryptocurrency, the move was to wrap it in a public company and sell shares of that company. The shares would trade for more than the value of the crypto, and you could sell new shares to buy more crypto and push up the value of your company more, etc., in what I called a “perpetual motion machine.” Well. “Perpetual” went too far. This worked for ... longer than I expected, but still only for a few months. I mean, Strategy Inc. (formerly MicroStrategy) invented it and has been doing it more or less successfully for years, but really the widespread vogue for crypto treasury companies – and their ability to sell stock at huge premiums to net asset value – got going in earnest only about a year ago.

And now it's pretty dead. Bloomberg's Suvashree Ghosh and Alice French report:

Bitcoin's slide below \$100,000 for the first time since June has ratcheted up pressure on shares in digital-asset treasury firms, or DATs – Wednesday's tentative bounce around \$103,000 notwithstanding. The average value of tokens held by treasury firms now barely equals their combined market capitalization and debt – down sharply from earlier this year, when the holdings offered a much larger cushion. Retail investors seeking exposure through public companies like Metaplanet Inc., KindlyMD Inc., and Strategy Inc. have lost billions of dollars in value. And that was before the latest selloff.

An oversupply of DATs, waning retail and institutional buying, and fierce competition for day-trader capital are breaking what had been the virtuous cycle of this year's crypto rally.

Now, some firms built to hoard tokens are selling into weakness – exerting the very pressure they were meant to offset.

Ah well. Strategy still trades at a premium to net asset value. But lots of others trade at a *discount* to net asset value, meaning that the obvious trade is to sell crypto to buy back stock:

Metaplanet in late October announced plans to start buying back its shares, borrowing up to half a billion dollars to do so via a credit facility secured against its Bitcoin holdings. A growing number of firms whose stated aim is to stockpile tokens are taking even more drastic steps. Sequans Communications S.A. just sold 970 Bitcoin to redeem some of its convertible debt. ETHZilla recently dumped \$40 million worth of Ether to shore up its shares.

True believers in a HODL-based crypto treasury strategy find this annoying, but you kind of have to admire it as a trading strategy. I wrote recently that “it's possible that, with the right mindset, a *volatile* crypto treasury company premium is even better than a *consistently high* one.” Schematically the trade is:

1. Borrow \$100 to buy \$100 worth of crypto, put it in a pot, and sell shares of the pot for \$200.
2. Use \$100 of the money you raised to pay back your borrowing, and the other \$100 to buy \$100 more of crypto.
3. Now the pot has \$200 of crypto in it and trades at a valuation of \$400.
4. Wait.
5. Eventually people will realize this is dumb and the shares of the pot trade down to, say, \$150.
6. Sell \$150 worth of crypto to buy back the stock.
7. Now you have \$50 worth of crypto for free.

If this is a one-off thing – if the vogue for crypto treasury companies has come and gone – then, hey, free \$50. If this is cyclical – if crypto treasury companies come back next year – then you can keep doing it over and over again. A crypto volatility perpetual motion machine.

Legal realism

The good story is that government regulators make regulatory decisions based on their wise and well-informed views about what best serves the public interest. There are various bad stories. Perhaps their decisions are influenced by intellectual capture by the industry they regulate, or ideological hostility to that industry, or laziness, or stupidity, or empire-building, or grandstanding, or a desire to position themselves to move into lucrative private-sector jobs, or simple bribery, or complicated bribery, or I am sure you can think of other bad things. What percentage of regulatory decisions fall into one of the bad buckets? It seems hard to measure, but you probably have an estimate and it's probably high.

Are regulatory decisions ever influenced by personal pique? Does a regulator ever say, like, "that guy cut me off in traffic the other day, so I am going to deny him a regulatory approval"? Probably? Sometimes people leave private sector jobs and go into government and take actions that favor their former employer. Surely sometimes people leave private sector jobs *on bad terms*, and go into government and take actions that *harm* their former employer?

I do not generally see a ton of stories like that, though I have to say they have picked up a lot in the Trump administration. President Donald Trump got mad at Elon Musk, for instance, and threatened to terminate SpaceX's government contracts; the tone at the top is very much "regulate by personal vendetta." Here's an unusually vivid case:

A Food and Drug Administration official who resigned on Sunday was sued by a Canadian pharmaceutical company [Aurinia Pharmaceuticals Inc.], which accused him of soliciting a bribe and tanking its stock with false statements as part of a revenge campaign against a former colleague.

Dr. George Tidmarsh was hired in July by FDA Commissioner Dr. Marty Makary to lead the agency's drug division, a top role regulating much of the country's pharmaceutical industry that gave Tidmarsh a prominent perch in the Department of Health and Human Services headed by Robert F. Kennedy Jr. ...

A lawyer for Tidmarsh, Joseph Galda, said that he didn't solicit a bribe. ...

Tidmarsh in September posted on LinkedIn that an FDA-approved kidney drug, voclosporin, had "not been shown to provide a direct clinical benefit for patients," a highly unusual move for a government official in his position. The FDA said when it approved the drug in 2021 that the medicine had shown a "clinically meaningful benefit" in trials. Tidmarsh later took down the post and said he had been speaking in a personal capacity.

But the stock of Aurinia, the only maker of voclosporin, dropped 20% in a few hours, wiping out more than \$350 million of market value, according to the lawsuit.

Here is the lawsuit, which alleges that Tidmarsh had a "longstanding personal vendetta against Kevin Tang, who currently serves as Chair of the Board of Aurinia and manages Tang Capital Partners, LP," Aurinia's largest shareholder. Tidmarsh used to be the chief executive officer of La Jolla Pharmaceutical Co., where Tang was also a big shareholder and chairman of the board, but Tang pushed him out in 2019. And:

Over the next six years, Dr. Tidmarsh repeatedly threatened that he would exact revenge against Mr. Tang over these ousters, writing in texts and emails to Mr. Tang and his business associates that he would "be exposed," that there was "[m]ore bad karma to come," that "[t]he pain is not over," and that "I'm Not powerless."

And then he joined the FDA and allegedly seized the opportunity, posting that drugs produced by Tang's companies were bad and that the FDA should revoke their approvals. He didn't actually do it, but posting about it was enough to drive down Aurinia's stock. (It has since recovered, and Tidmarsh's resignation from the FDA was particularly good for the stock.)

Anyway Aurinia sued Tidmarsh for defamation, but a reader emailed to ask the obvious-for-me question, which is: Is it *securities fraud*? I mean, the stock went down. I assume that Tidmarsh wasn't trading Aurinia's stock, so this theory is a stretch, but still. Driving down a public company's stock out of pique does seem bad.

Things happen

One Battle After Another – The AMC Saga. Pfizer Preps Improved Offer in Metsera Bidding War. OpenAI Isn't Yet Working Toward an IPO, CFO Says. Robinhood Bets Big on Prediction Markets. Disney Signs DraftKings as ESPN's New Sports-Betting Partner. US Companies Announce Most October Job Cuts in Over 20 Years. Homebuilders Bet on 1% Mortgage Rates to Wake Up US Buyers. JPMorgan hit with record fine from German finance watchdog. Brussels opens probe into Deutsche Börse and Nasdaq over derivatives. Egan-Jones Probed by SEC Over Its Credit Ratings Practices. Crypto exchange Coinbase fined €21.5mn by Irish central bank. EchoStar Takes \$16.5 Billion 5G Hit, Sells SpaceX More Spectrum. EU Is Set to Dramatically Rewrite ESG Rules for Fund Managers. Using Premium Credit-Card Rewards Is Becoming a Part-Time Job. End of The Line: how Saudi Arabia's Neom dream unravelled. Somali pirates board first ship in 18 months. JPMorgan's Billionaire Clients Want Sports Teams More Than Fine Art.

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1. Or that can be overridden only by, say, a 75% shareholder vote. Write whatever you want in the contract. Musk has said "there needs to be enough voting control to give a strong influence, but not so much that I can't be fired if I go insane."
2. See Delaware General Corporation Law section 122(18), saying that a company can "make contracts with 1 or more current or prospective stockholders (or 1 or more beneficial owners of stock), in its or their capacity as such. Without limiting the provisions that may be included in any such contracts, the corporation may agree to: (a) restrict or prohibit itself from taking actions specified in the contract, (b) require the approval or consent of 1 or more persons or bodies before the corporation may take actions specified in the contract (which persons or bodies may include the board of directors or 1 or more current or future directors, stockholders or beneficial owners of stock of the corporation), and (c) covenant that the corporation or 1 or more persons or bodies will take, or refrain from taking, actions specified in the contract (which persons or bodies may include the board of directors or 1 or more current or future directors, stockholders or beneficial owners of stock of the corporation)."
3. See Texas Business Organizations Code section 21.101(b): "A shareholders' agreement authorized by this section must be: (1) contained in: (A) the certificate of formation or bylaws if approved by all of the shareholders at the time of the agreement; or (B) a written agreement that is: (i) signed by all of the shareholders at the time of the agreement; and (ii) made known to the corporation; and (2) amended only by all of the shareholders at the time of the amendment, unless the agreement provides otherwise."

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Tesla Inc**Tesla shareholders to vote on Elon Musk's \$1tn pay deal**

World's richest man has warned he will quit if investors fail to back the largest pay package in history



Protesters rally against Elon Musk's \$1tn pay deal with Tesla in Austin, Texas, on Wednesday © AFP via Getty Images

Stephen Morris in San Francisco

Published 5 HOURS AGO



Tesla shareholders are set to vote on Elon Musk's \$1tn pay deal on Thursday after the mercurial billionaire warned he will quit if the proposal fails.

Musk has argued he needs the package of additional shares to increase his control of the electric-vehicle maker to at least a quarter, up from 16 per cent, to protect Tesla from activist investors as it builds powerful artificial intelligence models and an “army” of millions of humanoid robots.

[Tesla](#) shareholders must decide whether the risk of losing Musk as chief executive outweighs the governance and societal concerns of awarding the world's richest man what could be the [biggest corporate payday](#) in history.

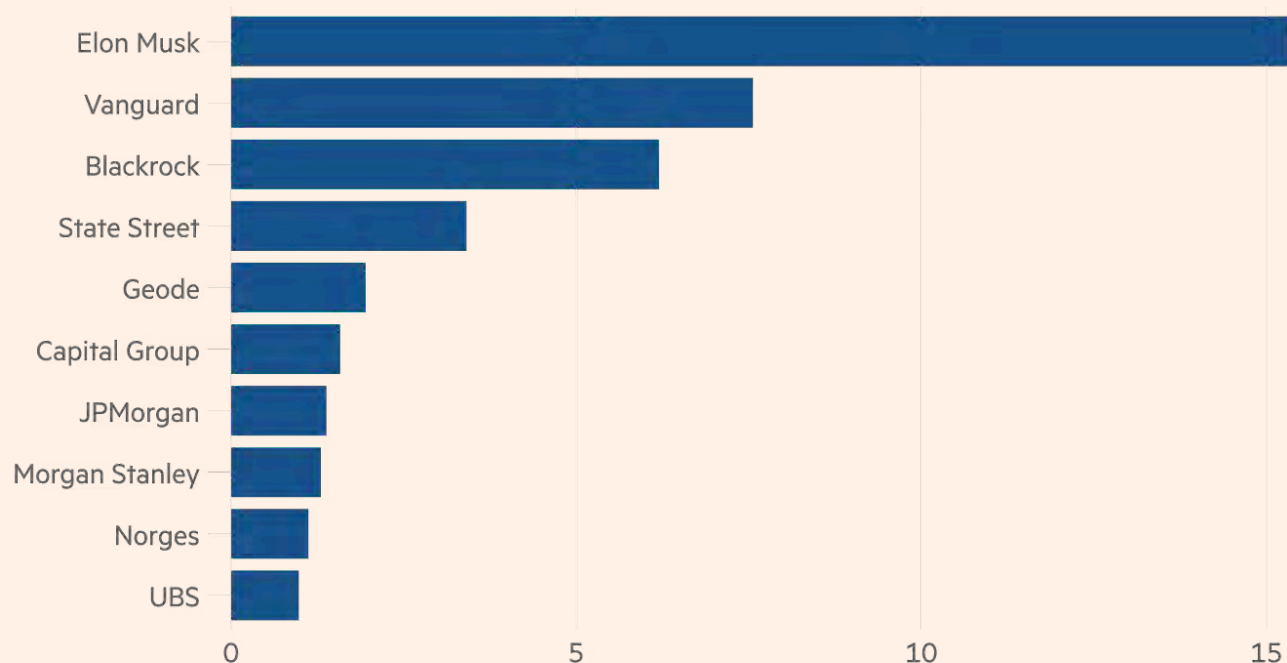
The results of the vote are due to be announced at Tesla's annual meeting at its Texas Gigafactory on Thursday afternoon.

Crucial to the outcome are Tesla's three largest outside shareholders — Vanguard, BlackRock and State Street — which own 7.5 per cent, 4 per cent and 3.4 per cent respectively, according to the carmaker's filings.

Smaller investors including [Ron Baron](#) and Cathy Wood of Ark Invest have said they would vote in favour. Musk and his brother Kimbal, who is on the board, are allowed to vote under Texas laws. They have had to recuse themselves in prior matters about his pay.

Tesla's top 10 shareholders

Ownership share (%)



Source: Bloomberg

Tesla suffered a setback earlier this week when Norway's oil fund, the seventh-largest shareholder with a 1.1 per cent stake, said it would [vote against](#) the package. Norway's \$2.1tn oil fund said it is "concerned about the total size of the award, dilution and lack of mitigation of key person risk".

Proxy advisers Institutional Shareholder Services and Glass Lewis [counselled](#) investors to vote against the proposal. They criticised its "striking magnitude" and lack of "prescriptive elements" to ensure Musk prioritises Tesla over his other ventures.

For the package to pass, the majority of votes cast must be in favour, with abstentions counting against.

Chair Robyn Denholm, chief financial officer Vaibhav Taneja and general counsel Brandon Ehrhart spent last week in New York lobbying top investors for their support, warning of a [bleak future](#) for the \$1.4tn carmaker should it lose Musk.

Denholm said in recent [interviews](#) with the Financial Times that the share price could collapse without Musk at the helm and that a package of this size is the only way to motivate the world's richest man to put in superhuman effort and achieve "impossible things".

Musk's market cap milestones are massive

Tesla's historical market cap — and Musk's future milestones



Musk's wealth and pay have been the subject of years of controversy and lawsuits. He has amassed a \$460bn fortune across his empire including SpaceX and xAI. But Tesla stock accounts for the majority of his liquid assets.

A Delaware court struck down his prior pay deal last year. Even though Tesla surpassed targets that seemed impossible when they were set in 2018, the court determined that the \$56bn package was excessive and the board was too close to Musk.

Tesla won a [vote to reapprove](#) the 2018 pay deal at its annual meeting last year, but the judge upheld her decision and it is now being appealed against at the state's supreme court.

Under the new package, Musk would receive no salary or bonus and would collect shares in instalments unlocked by increases in Tesla's market value, combined with ambitious profit and sales milestones.

To get the full amount, Musk needs to sextuple Tesla's valuation to \$8.5tn, boost earnings 24-fold to \$400bn and sell millions of robots and autonomous driving subscriptions. He cannot sell any stock for seven-and-a-half years.

Investors will also vote on other issues at the meeting in Austin, including the re-election to the board of longtime Musk ally Ira Ehrenpreis — which ISS and Glass Lewis said investors should vote against because of his closeness to the chief executive.

Another shareholder proposal calls for Tesla to invest billions in xAI, Musk's AI start-up.

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Mike Scarcella

November 5, 2025

A media relations associate demonstrates a front crash prevention test on a Tesla car in Virginia, U.S., July 22, 2019. Picture taken July 22, 2019. REUTERS/Amanda Voisard [Purchase Licensing Rights, opens new tab](#)

Nov 5 (Reuters) - Tesla's [\(TSLA.O\), opens new tab](#) auto insurance unit was sued in federal court in Arizona on Tuesday over allegations that it has systematically underpaid millions of dollars in claims by withholding required coverage for uninsured and underinsured motorists.

Plaintiffs Athena Boggs and Jared Miiller said in the [proposed class action, opens new tab](#) that Tesla General Insurance is violating an Arizona law that requires auto insurers to include written offers of uninsured and underinsured motorist coverage that match bodily injury liability limits.

The lawsuit said the alleged violations by Tesla, led by billionaire entrepreneur Elon Musk, have left injured policyholders without adequate compensation.

Tesla did not immediately respond to a request for comment.

A lead attorney for the plaintiffs, Robert Carey, called the lawsuit the first of its kind, and said his law firm was investigating similar claims in other states.

Tesla launched its auto insurance unit in 2019, promising what Musk at the time called a "vastly better" service than rival providers. Tesla General Insurance, formerly known as Newport Insurance Company, began offering auto policies in Arizona earlier this year, according to the lawsuit.

A Reuters [investigation in 2023](#) showed a raft of consumer complaints about Tesla's insurance practices.

The new lawsuit cites a May vehicle crash that injured one of the plaintiffs. The other driver carried \$100,000 in liability insurance. Tesla paid \$25,000 in underinsured benefits, below what the plaintiffs say Arizona law mandates.

The plaintiffs also said Tesla should have allowed the plaintiffs to rely on "stacked" coverage, which is permitted in Arizona in some circumstances. Stacking lets a motorist combine uninsured or underinsured motorist coverage for multiple vehicles on a single policy.

The lawsuit said Tesla did not meet the specific criteria in Arizona that could have justified barring the plaintiffs from stacked coverage.

The lawsuit seeks damages for breach of contract and other allegations for a proposed class estimated to include 100 or more motorists.

The case is Athena Boggs and Jared Miiller v. Tesla General Insurance Inc, U.S. District Court, District of Arizona, No. 2:25-cv-04108-MTM.

For plaintiffs: Robert Carey, John DeStefano and E. Tory Beardsley of Hagens Berman Sobol Shapiro

For defendant: No appearances yet

Read more:

[Tesla sued by family who says faulty doors led to wrongful deaths from fiery crash](#)

[Tesla settles two lawsuits on 2019 California crashes related to Autopilot software](#)

[Tesla's auto insurance arm hit with consumer class action in California](#)

[Tesla launched its own car insurance. These drivers say it's a lemon.](#)

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Jeff Green's \$5 Billion Pay Plan Upheld by Delaware's Top Court

Nov. 6, 2025, 8:22 AM PST

Summary by Bloomberg AI

AI Generated



- Trade Desk Inc. founder Jeff Green prevailed on appeal against shareholders seeking to upend a trial court ruling that let him keep a pay package potentially worth \$5.2 billion.
- Delaware's top court upheld the compensation deal, which was the second-largest ever for a CEO when it was issued in 2019.
- The decision affirmed a ruling by Vice Chancellor Paul A. Fioravanti Jr., who said business ties between Green and the directors who approved the comp package weren't extensive enough to cast doubt on the board's impartiality.

Trade Desk Inc. founder Jeff Green prevailed on appeal Thursday against shareholders seeking to upend a trial court ruling that let him keep a pay package potentially worth \$5.2 billion.

Delaware's top court upheld the compensation deal, which was the second-largest ever for a CEO when it was issued in 2019. The "mega grant" became the biggest CEO equity package when a Delaware Chancery Court judge voided Elon Musk's record \$56 billion deal in a landmark 2024 ruling—also on appeal—that led the world's richest man to launch a two-year pressure campaign against the state's judiciary.

Read More: Musk Pay Case Hangs Over Appeal of Jeff Green's \$5 Billion Deal

The decision affirmed a ruling by Vice Chancellor Paul A. Fioravanti Jr., who said in February that business ties between Green and the directors who approved the comp package weren't extensive enough to cast doubt on the board's impartiality.

Green—with a net worth of \$3.4 billion, according to the Bloomberg Billionaires Index—recently moved Trade Desk from Delaware to Nevada, which has looser corporate accountability rules. Before the relocation, he confronted a wave of shareholder cases taking aim at his influence over the company and the ways he's allegedly wielded it to enrich himself.

He's represented by Wilson Sonsini Goodrich & Rosati PC. Trade Desk and its other board members are represented by Potter Anderson & Corroon LLP and Latham & Watkins LLP. The investors are represented by Ashby & Geddes PA, Hach Rose Schirripa & Cheverie LLP, Levi & Korsinsky LLP, Purcell & Lefkowitz LLP, and Smith, Katzenstein & Jenkins LLP.

The case is In re the Trade Desk Inc. Deriv. Litig. , Del., No. 114, 2025, 11/6/25 .

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Opinion

Matt Levine's Money Stuff: Hedge Fund Charged Clients for Art

Nov. 5, 2025, 10:59 AM PST

Pass-through fees

I write from [time](#) to [time](#) about the economic structure of modern multi-strategy “pod shop” hedge funds. Stereotypically a hedge fund invests its clients’ money and gives the clients the returns, after taking some fees – classically 2% of assets and 20% of returns – for itself. The modern pod shops are not like that. They charge “pass-through fees,” meaning that they invest their clients’ money, earn returns, pay their expenses out of the returns, pay their employees large performance-based bonuses out of the returns, and then give most of what’s left to the clients. The deal with the clients is not “we get 20% of the returns and you get 80%.” The deal with clients is more like “we aim to meet our cost of capital by giving you a risk-adjusted return, net of fees, that you are generally happy with.”

In this, I have argued, the hedge funds are like banks, or really like any other business: They do not give their investors (bank shareholders, hedge fund limited partners) a fixed share of their revenue; instead, they (1) pay their employees what they need to pay in a competitive market for talent and (2) aim to compound returns for their investors at a rate that exceeds their cost of capital. The “cost of capital” is a somewhat hypothetical thing. But in the long run, either you give your investors enough returns to make them happy, and your fund grows, or you don’t, and the investors take their money back. And unlike shareholders in a bank, hedge fund investors can – eventually – take their money back.

The analogy is not exact. The clients of a hedge fund are not actually shareholders of a business. They have a contract – a limited partnership agreement – with the hedge fund, and the contract lists what expenses the fund can pass through to the clients, and the list is not literally “whatever we want.” The hedge fund has to disclose in advance the specific categories of things that it might spend client money on. In February, Bloomberg News [published a fun story](#) combing through big hedge funds’ filings to find what they are allowed to spend pass-through fees on, and though the short answer is “pretty much everything,” the long answer is long. A partial list :

... 401(k) matching, administrators, bonuses, buyouts of prior deferred compensation, certain employee perks, costs relating to resuming in-person work following the Covid-19 pandemic, employee gifts, industry conferences, professional development related expenses, severance arrangements, bank service fees, brokers, class action recovery and monitoring, fees and expenses paid to prime brokers, filing fees, general partner liability insurance, marketing, public relations, valuation agents, commuter reimbursement plans, cost of first-class airfare, drinks, gathering for employees and their guests, snacks, Bloomberg terminals, corporate access charges, research, software, trading systems, market data, internet, data center costs, rent, security deposits, utilities ...

It's pretty much everything you might need to run a hedge fund business, but not literally everything. A bank's managers use their business judgment to decide what to spend money on, and all of the money they spend is effectively charged to the shareholders. A pass-through hedge fund's managers mostly do the same thing: They use their business judgment to decide what to spend money on, and they spend it, and then by default they charge it to the clients. But every once in a blue moon they will spend money on something arcane or weird or aggressive – a private jet, say – and they will go to charge it to the clients, and someone in the finance or compliance department will pipe up and say “uh actually we have a long list of stuff we can charge to our clients, but this isn't on the list.” And then one or more of the following things will happen:

They'll charge it to the clients anyway, and the compliance person will grumble.

They won't charge it to the clients – the management company (which is in most cases mostly owned by the guy who founded the hedge fund) will pay for it – and the manager will grumble.

They'll put it on the list, for next time. And maybe the clients will be like “oh sure, we're paying for hundreds of millions of dollars of portfolio manager bonuses, what's one private jet.” But maybe the clients will grumble. “No come on we're not buying you a jet.”

The constraint on the hedge fund is not *only* that it has to earn its cost of capital; it also has to pass through expenses to clients that the clients can stomach. The clients can stomach a lot! But there might be limits.

Anyway :

Capula Investment Management's former chief US compliance officer accused the hedge fund firm of wrongfully firing him for raising concerns about the expensing of artwork and private jet travel as well as certain trading activity.

Igor Abramov sued London-based Capula late Monday in Manhattan federal court, claiming he was subject to retaliation and terminated in July after suggesting the \$32 billion firm might be violating Securities and Exchange Commission regulations on pass-through expense disclosure, conflicts of interest and risking investor funds.

Can a hedge fund charge clients for the cost of buying art to hang on its office walls? I mean, as a conceptual matter, sure, why not. (Banks buy office art with shareholder money.) But it has to be on the list, and if you put it on the list there is some chance that the clients will push back, saying “oh come on you can't use our money to buy yourself art.” But you don't want to come to work in an office with bare walls. And you don't want to spend your own money if you can avoid it. It is a conundrum.

Here is Abramov's complaint. Capula moved from more of a 2-and-20 model to more of a pass-through model, because pass-through fees have become the norm in recent years:

In December 2021, Capula launched its Capula Multi-Strategy Master Fund Limited (the "MS Fund") which contained a "pass-through expense" ("PTE") structure pursuant to which Capula would be able to charge, without any limit, directly to the MS fund's underlying investors ... a broad range of its operating "overhead" costs. The expenses charged by Capula to the MS Fund investors via the PTE mechanism included multi-million "sign-on" and compensation packages of Capula's portfolio managers, hundreds of thousands of dollars in placement agent costs for recruiting such portfolio managers, as well as significant compensation (totaling millions of dollars) for other Capula employees, partners and consultants who performed "work in relation to the MS Fund". ...

Capula induced investors to invest in the MS Fund with the uncapped PTE structure on the basis that by agreeing to allow Capula to charge these additional uncapped multi-million dollar expenses to the MS Fund investors (in lieu of typical, capped management fees), Capula would be able to retain the most talented, and generally highly compensated, portfolio managers, which would ostensibly deliver stronger returns for the investors.

Right, that's the deal: If you give us discretion to pay portfolio managers as much as we want, using your money, we will get better portfolio managers, who will make more money for you. But there are details to worry about:

In fulfilling his compliance officer duties, Plaintiff emphasized that, under the SEC's federal regulations, Capula's expenses must be clearly and specifically disclosed to the investors in the relevant fund's offering prospectus prior to Capula initiating such charges. As part of his compliance communications, Plaintiff pointed out that the SEC had recently adopted even more stringent regulations regarding fund expenses and disclosures to ensure greater investor protection and prevention of inappropriate conduct by investment managers that would breach their fiduciary duties to investors.

He claims that at some point he found out that "Artwork and Private Air Jet Travel expenses had been charged to the MS Fund investors" without disclosure. So he "instructed" his bosses that, "pursuant to Capula's fiduciary duties under the SEC regulations, Capula must now notify the MS Fund investors regarding any expenses that had previously been charged to them by Capula without their knowledge, including Artwork and Private Air Jet Travel," and that it would have to reimburse the investors for those charges. And they said no:

Mr. Corsalini strongly disagreed with Plaintiff and indicated that Plaintiff was not sufficiently "commercial" in his U.S. compliance role and did not understand the current "market practices" with respect to the PTE issue ...

Plaintiff was told he was raising immaterial issues and was referred to on multiple occasions as not "commercial." ...

During an annual performance review conducted by [Capula Chief Legal Officer Jonathan] Bloom with Plaintiff via telephone on October 30, 2024, Mr. Bloom indicated to Plaintiff that management was quite unhappy with Plaintiff's handling of the PTE issues and that new management, specifically, [Chief Executive Officer Enrico] Corsalini, believed that Compliance must be more "commercial." Mr. Bloom informed Plaintiff that if Plaintiff failed to dramatically change his "inflexible" compliance approach, Mr. Corsalini would restructure U.S. Compliance to get Compliance in the U.S. "off his back", that it would impact Plaintiff future- and compensation-wise, and that Plaintiff's role and compensation would be severely diminished.

I have to say that I kind of sympathize with the managers here. Generally speaking I see their point that "current 'market practices' with respect to the PTE issue" are kind of "ehhh pass through whatever you want," and it is not especially commercial for your compliance officer to insist that you carefully disclose everything. But he's a compliance officer! That kind of is his job.

Data center hedging

One casual way to describe the modern economy is that:

1. Artificial intelligence labs like OpenAI and tech "hyperscalers" like Meta Platforms Inc. have committed to spend, collectively, trillions of dollars to build out AI infrastructure.
2. They don't have trillions of dollars.
3. But they will pay for it over time with their hundreds of billions of dollars of AI-related revenue.
4. They don't have hundreds of billions of dollars of AI-related revenue either.
5. But they will.
6. You can tell because of their *valuations*. OpenAI's equity is worth \$500 billion. The only way its equity is worth \$500 billion is if its future cash flows are sufficient to (1) cover its hundreds of billions of dollars of spending commitments and (2) leave hundreds of billions of dollars left over for its equity investors.
7. That is, all of the future AI cash flows are not *directly observable* – you can't extrapolate them from *current* AI cash flows or anything – but they can be *inferred* from equity-market enthusiasm for AI.

This is, you know. This is fine. This is the point of financial markets, to tell you what the future will be like. Modern AI has a science fiction flavor to it, and its future economic impact is, at this point, necessarily speculative. "It may be difficult to know what role money will play in a post-[artificial general intelligence] world," [says OpenAI](#) , but they would say that. The *market* is telling you that, in a post-AGI world, a lot of money is going to flow to AI equity investors. Which also implies that there will be a lot of cushion for AI *creditors*. If you lend money to finance a data center for the AI boom, you can get [an A+ rated bond and a 6.6% coupon](#) , not because AI data centers have a long track record of paying back their debt but because the companies here are so giant that surely the debt is safe.

Still it could make you nervous. It could make you nervous if you are an AI skeptic. But it could also make you nervous if you are an AI *lender*. If you are basically in the business of lending billions of dollars to build data centers and earn 6.6% returns, then your upside is, you know, 6.6% returns, and your downside is that all of this is massively overblown and the data centers will be full of tumbleweeds in three years. You might think about hedging. The Financial Times reports:

Deutsche Bank is exploring ways to hedge its exposure to data centres after extending billions of dollars in debt to the sector to keep up with demand for artificial intelligence and cloud computing.

Executives inside the bank have discussed ways to manage its exposure to the booming industry as so-called hyperscalers pour hundreds of billions of dollars into building infrastructure for their AI needs that is increasingly funded by debt. ...

Sceptics have pointed out that billions of dollars have been deployed in an untested industry with assets that quickly depreciate in value due to the rapid change in technology.

Deutsche has lent predominantly to businesses that service hyperscalers such as Alphabet, Microsoft and Amazon, and the debt is secured against long term contracts that promise steady returns, according to two people familiar with the bank.

Right, yes, the *debt* is secured by long-term contracts with the hyperscalers, but your confidence in those *contracts* will depend a bit on your views of how well AI will work out for them. But how do you hedge?

The German lender is looking at options including shorting a basket of AI-related stocks that would help mitigate downside risk by betting against companies in the sector. It is also considering buying default protection on some of the debt using derivatives through a transaction known as synthetic risk transfer (SRT).

[SRT](#) , sure, fine, that's just economically transferring the credit risk of the debt to other investors. But shorting AI stocks is the interesting hedge. On the one hand it is terrifying, and you have to size it right: If the AI boom is *bigger* than people expect, then those stocks will go up a ton (and you'll lose a ton on your hedge), while the debt will still just pay 6.6%. On the other hand, there is a logic there. All of this AI debt is in some sense predicated on AI equity; the equity values of AI companies are how you know that the debt is sustainable. So if the debt makes you nervous you can short the stocks.

ETF share lending

Some people buy stocks, hoping that they will go up. Other people sell stocks short, hoping that they will go down. To sell stocks short, you [borrow some stock](#) from somebody who owns it, you sell it, you wait for it to go down, you buy it back, and you return it to your stock lender, paying the lender a fee for the loan. The stock lenders are essential to the transaction.

Which is maybe a little weird. You are betting against the stock, you are hoping it will go down, you are perhaps even *trying* to drive it down. But the stock lenders are people who own the stock, and presumably they want it to go up. You are, in some sense, enemies. If there were no short sellers, presumably the stock's price would be higher, which would be good for its owners, including the stock lenders. Why should the stock lenders lend you their stock so that you can do your dirty little short selling?

And in fact, in various meme-stock episodes, you will sometimes see efforts to get people to *stop* lending their stock to short sellers, with the explicit goal of forcing them to buy back their shorts and push the stock price higher.

But for the most part, if you want to short a stock, someone will lend you the stock. Why? There are various possible answers, but an important one is: Some stock lenders *don't* actually care if the stock goes up. In particular, stock *index funds* are not exactly in the business of buying stocks that will go up. Index funds are in the business of (1) giving investors the performance of the stock index and (2) charging extremely low fees. If an index fund can lend out its stock holdings, it will collect some money from the borrowers, which can cover some of its expenses or improve the returns to its investors. If its stock lending makes the stocks go down, that's not the index fund's problem: The stocks go down, so the index goes down, but the index fund's investors get exactly what they expected, which is the performance of the index.

And so, customarily, stocks with a lot of index-fund ownership are relatively easy to short (the index funds will cheerfully lend you their shares), while stocks with a lot of, for instance, founder-CEO ownership are hard to short (the founder-CEO probably *won't* lend you her shares, and will get mad if you ask).

Incidentally this is a nice counterpoint to the argument that you sometimes hear that index funds make stock prices less efficient. That [argument](#) goes something [like](#) : "Index funds buy stocks indiscriminately, and in fact they tend to buy high (as companies get big and are added to indexes) and sell low (as they get smaller and drop out). As markets are dominated by index funds, there will be no one left to make prices correct." But the point here is that index funds reduce the constraints on short sellers, which has a tendency to make prices more efficient: If some stock is overvalued, short sellers can step in to sell it, because they can borrow the stock easily.

Still, this might annoy you a little bit if you are an investor in index funds. (You don't *just* want the performance of the index; you also want the index to go up.) But not as much as it might annoy the Bank of Japan, which spent most of the last 15 years buying equity exchange-traded funds to push up Japanese stock prices, lower the cost of capital and stimulate the economy. (This program started in 2010, and the BOJ [announced in September](#) that it would start unwinding it.) Here is a fun paper from Mitsuru Katagiri, Junnosuke Shino and Koji Takahashi, titled "To Lend or Not to Lend: The Bank of Japan's ETF Purchase Program and Securities Lending":

This study investigates the role of passive investors in the equity lending market by utilizing the expansion of exchange-traded fund (ETF) markets due to the Bank of Japan's (BOJ) ETF purchasing program. We find that the BOJ's purchases increase equity prices particularly for stocks with limited availability in the equity lending market. However, over the longer term, the BOJ's cumulative purchases reduce lending fees, thus weakening the program's effects. These findings suggest that ETF managers supply stocks that constitute ETFs to the equity lending market, and the lending behavior of ETFs, influenced by the BOJ's program, alleviates short-selling constraints.

I mean they definitely pushed the prices of stocks up, by buying [half a trillion dollars](#) of ETFs. But they pushed them up by *less* than they would have if they had not loaned those stocks out. From the paper:

Our empirical analysis finds that an increase in the share of passive investors raises the supply of lendable stocks. In addition, we find that the flow of the BOJ's purchases has an insignificant effect on lending fees in the short run, suggesting that the upward shift in the demand curve caused by the BOJ's purchases offsets the increase in the supply of lending stocks. ... We further show that the cumulative increase in passive investment significantly reduces lending fees over longer horizons, thereby helping to ease short-selling constraints.

It apparently got easier to short Japanese stocks as the Bank of Japan started buying all of those stocks.

Tariffs

The US Supreme Court held oral arguments on President Donald Trump's blanket tariffs today. I have [written](#) about the [case](#) a few [times](#), and it has always [seemed](#) very clear to me. The US Constitution says that only Congress can impose taxes. Tariffs are taxes. These taxes were imposed by the president, not by Congress. There is a statute – IEEPA, the International Emergency Economic Powers Act of 1977 – in which Congress delegated to the president some power to regulate international commerce in an emergency. But:

1. The power to regulate international commerce does not necessarily include the power to impose taxes. (The Securities and Exchange Commission regulates stock trading, but can't just unilaterally impose taxes on it.)
2. IEEPA requires an emergency, an "unusual and extraordinary threat" to US national security. Surely *all* trade with *all* foreign countries cannot be an unusual and extraordinary threat.

So IEEPA does not authorize tariffs, if it did authorize tariffs it would not authorize these tariffs, and even if it did that might be an unconstitutional delegation of Congress's taxing power. It just seems like a very easy case!

On the other hand, if the Supreme Court strikes down the tariffs, Trump will post mean things on Truth Social, which is also an important part of the [legal realist analysis](#). The Constitution [does not operate itself](#), and the Supreme Court is "not final because we are infallible."

But it still seems like an easy case to me, and from what I have seen it seems like an easy case to the Supreme Court as well. "Supreme Court Appears Skeptical of Trump's Tariffs" and "Key Justices Show Early Skepticism of Trump's Tariff Power" are some of the headlines this afternoon, and the Kalshi and Polymarket probabilities of a Trump win fell from about 40% to about 30% during the argument.

Trump does love tariffs, though, and [there are other statutes](#) that *do* more clearly give him the power to impose tariffs. These statutes have more restrictions; they are limited in size or time or require fact-finding and due process. A possible long-term outcome here is that Trump will mostly get to impose his tariffs, but he will have to do it by following the law.

Things happen

Wall Street [Bonuses](#) Projected to Jump for Second Straight Year. [Equity Traders](#) Seen Grabbing This Year's Biggest Bonus Hikes. JPMorgan discloses US inquiry into alleged debanking practices. Carl Icahn, Nearing 90, Is Still Trying to Right His Empire. [SBF](#) Faces Skeptical Judges at Appeal of FTX Fraud Verdict. [Ripple](#) Says Fortress, Citadel Securities Invest \$500 Million. 'Casino-Like' Market Powers [Robinhood](#) to 450% Gain in Trump Era. Does momentum exist in prediction markets? Eighteen arrested in connection with alleged global online fraud network. Wall Street Drops Fear of ' [Hot Commie Summer](#) ' in Overture to Mamdani. Trader Jeff Yass Is Giving \$100 Million to 'Anti-Woke' University of Austin. Burger King Braces for the Demise of the Penny. UK Police Recover £12 Million in [Dinosaur Bones](#) From Laundering Suspect. *The Great British Bake Off* Is a Great British [Betting Zone](#) . "Lairmore said co-workers gave him a sandwich-shaped plush toy and a patch reading 'felony footlong' as gag gifts."

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1. Today [Bloomberg News has a story](#) about how Bank of America Corp. is not quite earning its desired cost of capital but is promising to fix that: It "expects to lift return on tangible common equity to 16% to 18% within three to five years, up from roughly 15% now, while keeping a firm grip on spending, it said in a presentation ahead of its investor day on Wednesday in Boston."

2. I have formatted this as a block quote, but it isn't really; I have just picked some items from the Bloomberg News list and strung them together with commas.

3. This is true of banks and other businesses, too, by the way. It's pretty common for shareholder activist campaigns to attack public company managers not **only** for getting bad returns but **also** for overspending on perks or wasteful investments. The quality of the spending matters, somewhat independently from the overall returns.

4. Is this true? You could make a sort of second-order argument like "robust short selling makes market prices more efficient and deters fraud, which raises the overall valuation of *good* stocks by avoiding market-for-lemons problems."

5. Often this is just, like, people posting on Reddit "take your stock out of your margin account so that your broker won't lend it out," but sometimes it is organized by companies. We've [talked about BTCS Inc.](#), a crypto-y company that has paid "bividends" in crypto. To get the recent bividend you had to move your stock from custody at your broker to the company's transfer agent, which the company touted quite explicitly as a way to "aggressively protect our company and our shareholders from institutions that short our stock to profit at your expense." If your stock is in a margin account at your brokerage, your broker might lend it out for you; if it's not, they won't. Other companies [go further in this direction](#).

6. I once [listed some](#): "You might think 'this hedge fund is going to short the stock anyway by borrowing it from someone and paying a fee, so I might as well get the fee.' You might think 'this hedge fund thinks the stock will go down, but it is wrong, and I will profit from its folly.' You might think 'actually this hedge fund isn't really betting that the stock will go down, but doing some sort of market-neutral or options market-making or convertible arbitrage strategy, so there is nothing offensive about its shorting.' You might think 'I am actually an index fund paid to track an index, so I don't much care if my stocks go up or down, and getting a little stock-lending income can help me offset my expenses.'" A possibly even more important one is that you are a levered investor (for instance, a retail trader with a margin account, or a hedge fund with a prime brokerage account), and to get financing for your position you hand your shares over to your broker, which then lends them out to short sellers.

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BDO LLP**Accounting firm BDO and two former partners fined £6mn for misconduct**

UK regulator finds failings allowed a senior manager's dishonest action to go undetected for several years



The findings deal a fresh blow to BDO, which has suffered repeated admonishments from UK and US regulators for poor audit quality
© Charlie Bibby/FT

Ellesheva Kissin

Published 8 HOURS AGO



The UK accounting regulator has fined BDO and two former partners more than £6mn for “extremely serious” misconduct and poor audit quality systems that spanned several years.

The Financial Reporting Council said on Thursday that an investigation following findings of dishonest conduct by a senior manager on dozens of [BDO](#) UK audits between 2015 and 2019 found that the firm and two audit partners had failed to properly oversee the audits.

It comes after the FRC's findings in November that the senior manager, Amanda Nightingale, had [created false audit evidence](#), deceived BDO's audit clients, and inserted electronic copies of lead audit partners' signatures in audit reports and in Companies House documents without their approval.

The regulator found that the two partners, John Everingham and Kevin Cook, failed to check Nightingale's work, resulting in some audit reports being issued with no audit evidence obtained.

Internal reports raising concerns about her honesty and integrity were dealt with inadequately, the FRC said, while the firm's audit quality systems from 2012 to 2019 were also deficient.

The FRC fined BDO £6.5mn, reduced to £5.9mn after a settlement discount, while the firm will also pay more than £700,000 for the regulator's costs.

The findings deal a fresh blow to BDO, which has suffered repeated admonishments from regulators in the UK and [the US](#) for poor audit quality, with the firm performing the [worst among its peers](#) in the UK this year.

The US firm is [under fire](#) for giving auto parts manufacturer First Brands a clean bill of health just months before it collapsed into bankruptcy, while the Financial Times reported this week that BDO Singapore employees had acted as company secretaries to a [sprawling international scam empire](#).

BDO UK has repaid fees to six of the companies it audited and will be made to do so to the others, which were not named by the FRC. BDO must also report to the regulator on its audit quality systems every six months for the next two years.

Everingham's fine was increased by 5 per cent to £210,000 to reflect "non-cooperation" with the investigation, the FRC said, before being reduced to £189,000 with a settlement discount. He has been banned from audit work for six years.

Cook was fined £90,000 with the discount and banned from audit work for three years.

Jamie Symington, the FRC's deputy executive counsel, said the BDO partners "adopted a fundamentally flawed approach to this role which involved a serious abrogation of their responsibilities".

"The failings admitted by BDO and the two partners enabled the senior manager's dishonest course of conduct to go undetected over several years," he said. "Even when evidence of the senior manager's misconduct did emerge, the firm failed to take the steps necessary to investigate it and to protect their clients."

BDO apologised for the “serious mistakes” made before 2020, admitting that its “internal controls were not good enough”, that it did not respond adequately to internal reports, and that it should have detected the misconduct earlier.

The partners and the senior manager have left BDO, it said, adding that the firm’s leadership team took immediate action once alerted and has worked to strengthen systems and controls.

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JPMorgan Chase & Co**JPMorgan hit with record fine from German finance watchdog**

BaFin imposes its highest ever penalty of €45mn on European arm of Wall Street bank



The BaFin penalty relates to weaknesses in JPMorgan's internal processes for detecting and reporting potential money laundering or terrorism financing transactions © Bloomberg

Florian Müller in Frankfurt

Published 9 HOURS AGO



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Germany's financial watchdog BaFin has imposed a record €45mn fine on JPMorgan Chase for shortcomings in its anti-money-laundering controls.

JPMorgan's Frankfurt-based subsidiary, from which it runs its wider European business, was found to have "systematically" failed to file suspicious activity reports on time between October 2021 and September 2022, [BaFin](#) said on Thursday.

JPMorgan has grown to become [Wall Street's biggest bank](#), with an \$850bn market capitalisation that exceeds that of its rivals Bank of America, Citigroup and Wells Fargo combined.

The BaFin penalty relates to weaknesses in the bank's internal oversight processes for detecting and reporting potential money laundering or terrorism financing transactions. BaFin said the size of the fine reflected the scale of the breaches as well as [JPMorgan](#)'s size.

It is the largest fine BaFin has issued against a bank to date, as the regulator seeks to take a tougher stance on compliance and reporting failures. The previous record was a €40mn penalty levied on Deutsche Bank in 2015 for similar shortcomings.

"The fine relates to historical findings and the timing of our Suspicious Activity Report filings did not impede any investigations by the authorities," JPMorgan said. It added that the bank was "deeply committed to detecting, preventing and reporting money laundering and financial crimes".

People familiar with the bank's processes said JPMorgan had since overhauled its systems and tripled the number of people in its financial crimes compliance unit compared with 2021.

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<https://www.wsj.com/business/airlines/judge-agrees-to-dismiss-boeing-criminal-case-tied-to-737-max-crashes-448075ae>

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Judge Agrees to Dismiss Boeing Criminal Case Tied to 737 MAX Crashes

Trump administration moved in May to drop charges, months after firm agreed to plead guilty to violating earlier settlement order

By [Dave Michaels](#) [Follow](#)

Updated Nov. 6, 2025 11:17 am ET



A Boeing 737 MAX airplane outside the company's manufacturing facility in Renton, Wash. DAVID RYDER/BLOOMBERG NEWS

The Justice Department's request to drop criminal charges against [Boeing](#) tied to two fatal plane crashes was granted on Thursday, despite objections from some victims' families who wanted the case to go to trial.

A federal judge in Fort Worth, Texas, agreed with prosecutors' request to dismiss the nearly five-year-old case, which stems from an investigation of [Boeing's](#) role in two plane accidents that killed 346 people. The crashes were tied to an automated flight-control feature on the 737 MAX that errantly triggered.

The outcome saves Boeing from the brink of prosecution, which it faced last year after the Justice Department said it [had violated an earlier settlement](#) agreement. The aerospace company [agreed in July 2024 to plead guilty](#) rather than face trial on the original charge. It was also due to accept an independent compliance monitor.

The Trump administration reversed that decision in May after Boeing [lobbied for a fresh look](#) at the case. The Justice Department said that Boeing would pay more in fines and compensation to families but that [the case should be dismissed](#) and no monitor should be imposed.

The criminal case stems from Boeing's admission that former employees deceived air-safety regulators before the two deadly crashes in 2018 and 2019. The employees allegedly misled an official about an automated cockpit feature, hoping to reduce how much training airline pilots would need to fly the plane. The Justice Department charged one former Boeing employee with fraud, although a [jury acquitted him](#).



Family members held photographs of Boeing 737 MAX crash victims before a Senate Commerce, Science and Transportation Committee hearing in Washington, D.C., in October 2019. SARAH SILBINGER/REUTERS

Justice Department lawyers argued in September at a hearing before the judge, U.S. District Judge Reed O'Connor, that the case should now be dropped. O'Connor agreed that courts have limited ability to second-guess decisions to drop or not bring charges against defendants. Courts can step in, he said, only if prosecutors have bad-faith reasons for such decisions, such as taking bribes or wanting to shirk their work.

O'Connor said in his order, made public Thursday, that prosecutors hadn't acted in bad faith, but he disagreed with them that dismissing charges "is in the public interest."

O'Connor criticized some of the Justice Department's underlying arguments for dismissal. He said the government's claim that it might lose if the case went to trial was "unserious." Boeing had earlier made an admission of wrongdoing, he noted.

The judge also agreed with some of the families' claim that the resolution "fails to secure the necessary accountability to ensure the safety of the flying public."

Boeing said it was "committed to continuing the significant efforts we have made as a company to strengthen our safety, quality, and compliance programs."

Paul Cassell, a lawyer for some of the crash families, had urged O'Connor to order the case to trial by appointing a special prosecutor. Cassell criticized the government for making a deal that said the company wouldn't face trial even if O'Connor declined to dismiss the charges. O'Connor also declined to appoint the special prosecutor.

Cassell said Thursday that he would appeal the decision to the U.S. Court of Appeals for the Fifth Circuit. "We believe the judiciary can step in to prevent this travesty of justice," Cassell said.

Boeing has agreed since 2021 to pay fines to the government totaling \$486 million and nearly \$1 billion in government-ordered compensation to the families of the deceased passengers.

Some families of victims who spoke at the September hearing said they think Boeing bought its way out of trouble. They had asked the Justice Department to take the case to trial and let a jury decide whether Boeing was responsible for the deaths of their loved ones.

Write to Dave Michaels at dave.michaels@wsj.com

Videos

Private Market Boom, Not SEC Regulations, Driving IPO Decline, Experts Say

The falling number of public companies has less to do with onerous regulations for public markets than the strength and attraction of private markets, experts say.

November 05, 2025 at 07:10 PM By  **Dan Novak**



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

U.S. Securities and Exchange Commission Chair Paul Atkins has made clear his desire to incentivize more companies to go public, arguing that regulatory hurdles and compliance costs keep companies private.

The number of public companies has fallen from 6,500 in 1997 to 4,700 today, according to market advisory firm Meketa. Some of the world's largest and most valuable companies like SpaceX and OpenAI are choosing to stay private.

Atkins has put forward proposals hoping to boost the number of initial public offerings, such as reducing disclosure requirements and making reporting semi-annual instead of quarterly, as well as reducing shareholder proposals and lawsuits. But legal experts say the falling number of public

companies has less to do with onerous regulations for public markets than the strength and attraction of private markets, which the SEC helped make possible.

“The regulations matter, but the bigger story is just the huge growth of money in private markets,” said University of Michigan law professor Gabriel Rauterberg. “We could get rid of all regulations for public markets and that would not be the biggest piece of the puzzle.”

Rauterberg added the regulatory burdens required of public markets deters entry for some companies but “that’s not all to say it’s a mistake.”

Harvard Law School’s John Coates said blaming disclosures rules for the lack of public companies is “just false.”

“It has to do with globalization and scale and the value of keeping information private for a founder of a company that wants to get to big scales,” he said.

There has also been a reduction in public firms in large part because of company mergers, said Columbia University law professor John Coffee.

Although the number of publicly held companies has declined, “the total market capitalization of publicly held companies, of course, is getting bigger and bigger,” he said.

The most significant restrictions on raising private capital have been weakened since the 1980s, starting with Regulation D, argued Duke University corporate law professor Elisabeth De Fontenay in a 2017 law review article. The 1982 Regulation D created safe harbors from registration for private offerings, exempting “accredited investors” almost entirely.

“Regulation D has allowed a far wider array of investors to participate in the private markets than its architects could have anticipated,” De Fontenay wrote.

Now, the Trump administration and the SEC are hoping to make it easier for retail investors to invest in private markets, including through their retirement accounts. Atkins’ desire to make it easier for everyday Americans to invest in private markets is also a stance that conflicts with pushing more companies into IPOs, said University of Pennsylvania securities law professor Jill Fisch.

“To the extent you think more companies should go public, but you make it easier to raise money privately, those are kind of inconsistent positions,” she said. “I guess it’s not entirely clear to me what the SEC’s objectives are.”

Rauterberg said having strong markets, both private and public, is valuable to the economy, and it is natural for the SEC to want to bolster both.

“I sympathize with the SEC in confronting this dilemma that you want [public and private markets] to be well-functioning, robust market ecologies,” he said. “And there is this tension where the more attractive you make the private one, on some margin you're affecting the propensity of companies to go public.”

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Robbins Geller's 'Eye-Watering' \$28M Fee Bid Cut To \$10.4M

By **Katryna Perera**

Law360 (November 5, 2025, 2:07 PM EST) -- A California federal judge has rejected a \$28 million attorney fee request from Robbins Geller Rudman & Dowd as part of a \$150 million investor settlement with Zoom, calling it an "eye-watering figure," and saying the firm can collect about \$10.4 million instead.

U.S. District Judge James Donato issued an **order** on Tuesday saying the firm's request to be awarded 18.75% of the settlement fund in attorney fees, which equates to roughly \$28 million, is "problematic for several reasons."

According to Judge Donato, a lodestar cross-check of the requested 18.75% percentage-of-recovery fees award reveals that the award "would gift a bonanza to Robbins Geller," and would be "grossly unreasonable."

"The lodestar indicates an average hourly rate of \$738.45 for the legal work done in this case. An 18.75% award would result in an average hourly rate of \$7,973.52. That is an eye-watering figure," the order states. "An hourly rate \$7,973.52 has no place in a straightforward securities class action like this one, and arguably no place in any other case."

The 18.75% requested award includes a lodestar multiplier of 10, according to the order, and Judge Donato noted that the typical multiplier is between one and four.

Additionally, Robbins Geller has not demonstrated that the factors the court may consider in evaluating a percentage-of-recovery fees award warrant an 18.75% fee award. Judge Donato said he agrees that the settlement was a "solid" achievement, but it is not "exceptional."

"There is no evidence that this case involved a novel or untested legal theory, unusual evidentiary complications, or any other additional challenges outside the norm," the order states. "The benefit conferred on the class was entirely monetary, and as we have seen, the burdens Robbins Geller faced on the path to settlement were comparatively light as securities class actions go."

Therefore, Judge Donato elected to use the lodestar method with a multiplier of four and awarded \$10.4 million in attorney fees and roughly \$262,000 in legal costs.

Finally, the judge denied a \$48,000 service award request for lead plaintiff Adam Ali after noting **last year** that he never awards more than \$1,500 to lead plaintiffs.

"Ali filed a rather cursory declaration stating that he is the CEO of an e-commerce company and seeks compensation for '75 hours of time expended representing the class,'" the order states. "His declaration did not establish that the \$48,750 is tied to specific costs and expenses incurred, or wages lost, in representing the class. It also did not provide a factual basis to establish that Ali's time should be compensated at an hourly rate of \$650."

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

The investors **filed suit** in 2020, claiming that Zoom misrepresented its security measures and data privacy protections in its initial public offering documents. According to the shareholders, this became clear after Zoom's videoconferencing service was widely adopted during the early days of the COVID-

19 pandemic, and subsequent media reports raised doubts about the company's actual encryption capabilities and customer data management.

In early 2022, Judge Donato **dismissed** the majority of the claims but said Zoom must continue to fight a fraud claim stemming from allegations that it lied to investors about its encryption offerings.

The parties began mediating a few months after that order was handed down, according to the **motion for preliminary approval**, filed in October.

That motion states that the deal covers individuals across the country who purchased or acquired Zoom Video Communications Inc. stock between April 2019 and April 2020. The settlement amount will be distributed to authorized claimants based on the relative size of their claims, and the amount of the payment will depend on how many class members file valid claims and the aggregate value of those claims.

There were roughly 48.7 million shares of Zoom common stock outstanding as of December 2020, according to the motion.

The class is represented by Darren Robbins, Shawn Williams, Ellen Stewart, Patton Johnson and Heather Geiger of Robbins Geller Rudman & Dowd LLP.

Zoom is represented by Patrick Gibbs, Tijana Brien and Craig TenBroeck of Cooley LLP.

The case is In re: Zoom Securities Litigation, case number 3:20-cv-02353, in the U.S. District Court for the Northern District of California.

--Additional reporting by Bonnie Eslinger. Editing by Patrick Reagan.



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Ex-SEC Attys Urge Full 9th Circ. Review of Zillow Decision

By **Katryna Perera**

Law360 (November 5, 2025, 8:23 PM EST) -- Law professors and two former general counsel of the U.S. Securities and Exchange Commission have voiced support for Zillow Group Inc.'s bid for the Ninth Circuit to take a second look at its high-profile securities case, arguing that the full court should review a September ruling that upheld class certification in an investor suit over the real estate site's now-shuttered home-buying program.

The professors and former SEC lawyers filed an **amici curiae brief** on Monday, urging the Ninth Circuit to rehear en banc a **panel decision** from September that found a lower court properly applied the U.S. Supreme Court's **Goldman** decision in **granting** class certification.

The Goldman ruling set a new standard for certifying shareholder class actions, ordering lower courts to examine whether a corporation's alleged misstatements were too generic to have artificially increased the price of the company's stock.

In its ruling, the panel said the suit's identified disclosures "revealed new information showing the extent of Zillow's home-pricing struggles," and the alleged misrepresentations suggested that Zillow, "while struggling to get its pricing model right, had made 'progress ... in strengthening [its] pricing models.'"

But the disclosures revealed new information about how the pricing struggles threatened Zillow as a business and "suggested that its earlier statements may have obscured how Zillow's pricing model misfired," the panel said, and therefore, there was enough of a match between the misstatements and the disclosures to satisfy the Goldman standard.

However, on Monday, the professors and former SEC attorneys said the panel erred in finding that there was a sufficient match between the alleged misrepresentations and disclosures under Goldman. The two former SEC attorneys on the brief are Brian Cartwright and Simon Lorne. Cartwright served as the regulator's general counsel from 2006 to 2009, and Lorne served as general counsel from 1993 to 1996.

The professors on the brief include Elizabeth Cosenza, an associate professor at Fordham University, and Joseph A. Grundfest from Stanford Law School, who also served as SEC commissioner from 1985 to 1990.

"Goldman requires not simply that the statements relate to the same 'subject matter,' but that they be 'truthful substitutes' such that the stock price drop can be considered a fair proxy for the purported inflation attributed to the challenged statements," the brief states.

"Here, the panel did exactly what Goldman says should not be done — treating a specific 'back-end' disclosure that business results 'did not meet expectations' as a proxy for a 'front-end' disclosure about 'faith in our business model,'" the brief further states.

Additionally, the amici argued that the panel decision failed to acknowledge that the market had been informed that Zillow's home-buying business was struggling weeks before the alleged corrective disclosures were made.

"The same information (and more) found in the allegedly 'corrective' bank report had already been

reported by other publications days and weeks prior to the stock drop. Waving aside this record, the panel summarily concluded that those news and analyst reports were 'not widely discussed or accessible,'" the brief states.

But such a conclusion ignores the foundation of the presumption of shareholder reliance from the Supreme Court's 1988 decision in **Basic Inc. v. Levinson** , according to the brief, which holds that the "price of a stock traded in an efficient market fully reflects all publicly available information about the company and its business."

"A court cannot allow a plaintiff to invoke that presumption in order to establish reliance and then turn around and ignore the central thesis of that presumption when defendants attempt to rebut it," the brief states.

Finally, the amici argue that the panel's "missapplication" of both the Goldman test and the Basic presumption will have "far-reaching consequences," if not corrected.

"By ... requiring only a general subject-matter match and turning the Basic efficient market presumption into a one-way ratchet, class certification in this circuit will become near-automatic in inflation maintenance cases," the brief states. "This will force companies into costly coerced settlements — ultimately harming, not protecting, investors."

In a statement to Law360 on Wednesday, Robert J. Giuffra Jr. of Sullivan & Cromwell LLP, counsel for the amici, reiterated the brief's arguments, saying, "The Ninth Circuit should hear the Zillow appeal en banc because the panel's misapplication of the Supreme Court's 'mismatch' test removes a critical guardrail against abusive, event-driven securities litigation and directly conflicts with the Second Circuit's decision in Goldman."

Meanwhile, counsel for the investors, Steve Berman of Hagens Berman Sobol Shapiro LLP, called the amici brief an "overreach."

"In September [2021], Zillow said they had their home pricing locked in and then in November they said the opposite and the stock crashed, a perfect match," Berman said. "Zillow and the amicus briefs are stretching to try to get this issue to the Supreme Court. The shoe doesn't fit."

Counsel for Zillow did not immediately respond to requests for comment on Wednesday.

The law professors and former SEC general counsel are represented by Robert J. Giuffra Jr., Jeffrey T. Scott, David M.J. Rein and Matthew A. Schwartz of Sullivan & Cromwell LLP.

The investors are represented by Catherine Y.N. Gannon, Lucas Gilmore, Reed R. Kathrein, Karl Barth, Sean Matt and Steve Berman of Hagens Berman Sobol Shapiro LLP and Gregory Castaldo and Stacey M. Kaplan of Kessler Topaz Meltzer & Check LLP.

Zillow is represented by Peter B. Morrison, Virginia F. Milstead and Winston Hsiao of Skadden Arps Slate Meagher & Flom LLP and Sean C. Knowles of Perkins Coie LLP.

The case is Jaeger v. Zillow Group Inc. et al., case number 24-6605, in the U.S. Court of Appeals for the Ninth Circuit.

--Editing by Linda Voorhis.



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Quantum Again Faces Investor Suit Over Reporting Errors

By **Rachel Konieczny**

Law360 (November 5, 2025, 6:54 PM EST) -- A Quantum Corp. shareholder has filed a federal lawsuit against the Colorado-based data storage company, alleging its leadership made false and misleading statements about its accounting practices that have and will continue to cost the company millions.

In the shareholder derivative complaint filed Tuesday in Colorado federal court, Felicia Marti alleged Quantum's senior executive officers and directors violated the Securities and Exchange Act when they failed to disclose the company had improperly recognized revenue for the fiscal year ended on March 31. The misrepresentations, Marti alleges, were material to her in voting to issue \$200 million of Quantum common stock pursuant to a January 2025 standby equity purchase agreement, among other voting matters.

Quantum's leaders also breached their fiduciary duties by failing to maintain adequate oversight and control systems, abusing their ability to control and influence the company, benefiting from unjust enrichment, grossly mismanaging the company's assets and business, and wasting corporate assets, Marti claimed.

"The conduct of the individual defendants complained of herein involves a knowing and culpable violation of their obligations as directors and officers of Quantum, the absence of good faith on their part, or a reckless disregard for their duties to the company and its shareholders that the individual defendants were aware or should have been aware posed a risk of serious injury to ... Quantum," the complaint said.

According to Marti, Quantum stock fell approximately 10% after the company filed a notification of late filing with the U.S. Securities and Exchange Commission in June 2025 that announced it had delayed filing its annual report due to the company's ongoing review of its revenue recognition accounting practices.

The company's stock prices fell another 8% after Quantum announced in August 2025 that its chief financial officer would be resigning from his role after being appointed less than five months prior, Marti said.

A spokesperson for Quantum declined to comment Wednesday, as did counsel for Marti.

Tuesday's lawsuit comes after several similar claims have been brought against Quantum.

In September, an investor filed a proposed class action against Quantum **accusing** the company of securities fraud by making false representations to investors through earnings reports for the 2024 fiscal year.

Just last month, another Quantum investor filed a shareholder derivative complaint against the company's top executives and board members for allegedly falsifying financial statements and failing to fix weak internal controls.

Marti's lawsuit names as defendants former Quantum President, CEO and director James Lerner; former CFO Kenneth Gianella; principal financial officer Laura Nash; board chairman and company director Donald Jaworski; CEO, President and company director Hugues Meyrath; and company

directors John Fichthorn, John Tracy and Emily White, in addition to Quantum itself.

Marti is represented by Timothy Brown of The Brown Law Firm PC.

Counsel information for Quantum Corp. was not available Wednesday.

The case is Felicia Marti v. James J. Lerner et al., case number 1:25-cv-03524, in the U.S. District Court for the District of Colorado.

--Additional reporting by Zach Dupont. Editing by Jay Jackson Jr.

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Celgene Inks \$239M Investor Deal Over Drug Pipeline Claims

By **Katryna Perera**

Law360 (November 5, 2025, 7:02 PM EST) -- Celgene Corp. has agreed to a \$239 million settlement with investors to resolve claims that the biopharmaceutical company hyped up its share price by failing to disclose timeline and growth problems with two of its drugs, ending the case after seven years of litigation and with a January 2026 trial date looming.

The investors, led by AMF Tjänstepension AB, filed a **motion** for preliminary approval of the deal on Tuesday in New Jersey federal court, saying the settlement is an "outstanding" achievement for the class.

The investors said the court should grant the first green light to the deal because, while they believe their claims are meritorious and "supported by substantial evidence," they also recognize the risks of going to trial or the possibility of a posttrial appeal, which may prevent class members from securing any recovery.

The motion also seeks an award of attorney fees worth 30% of the settlement fund, or approximately \$71.7 million, and litigation costs of no more than \$5.75 million.

"If the foregoing amounts are approved, approximately \$159.3 million or 66.7% of the settlement amount (plus interest) will be distributed to authorized claimants," the motion states.

The certified settlement class includes all individuals and entities that purchased Celgene common stock between April 27, 2017, and April 27, 2018, according to court filings.

The suit, launched **in 2018**, alleged that Celgene boosted its share price by covering up the need for extra testing for the multiple sclerosis medicine ozanimod that complicated the timeline and potential approval of the company's application to the U.S. Food and Drug Administration, and that Celgene hid problems with market expansion for another of its drugs, Otezla.

As the 2022 expiration date for Celgene's flagship chemotherapy drug Revlimid approached, the company began to "prop up" its stock price by touting Otezla and ozanimod as "sources of revenue to fill the void," the investors said.

Celgene claimed in U.S. Securities and Exchange Commission filings that ozanimod was slated for FDA approval in late 2017 based on successful phase three trials, even though it hadn't completed crucial phase one testing, the complaint said.

The FDA ultimately declined to review the new drug application for ozanimod, and a series of stock price declines ensued as additional details surfaced about testing problems and delays, according to the complaint.

Celgene also exaggerated the growth prospects for Otezla, "despite receiving repeated internal warnings that achieving this guidance was impossible," the complaint said.

The company repeatedly told investors that Otezla would reach up to \$2 billion in net sales by 2017, despite knowing there were problems with the drug's pricing strategy, effectiveness and patient access, according to the complaint.

Following disappointing third-quarter 2017 results, Celgene's stock plunged by 16%. It fell again in 2018 by \$8.66, when Celgene revealed that it had received a "refuse to file" from the FDA regarding ozanimod, which is a "rejection of the [new drug application] as facially deficient," according to court filings.

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

The class is represented by Andrew L. Zivitz, Matthew L. Mustokoff, Margaret E. Mazzeo, Jamie M. McCall and Nathan A. Hasiuk of Kessler Topaz Meltzer & Check LLP, Salvatore J. Graziano, Adam H. Wierzbowski Robert F. Kravetz and Aasiya Mirza Glover of Bernstein Litowitz Berger & Grossmann LLP, James E. Cecchi and Donald A. Ecklund of Carella Byrne Cecchi Olstein Brody & Agnello PC, and Christopher A. Seeger of Seeger Weiss LLP.

Celgene and its executives are represented by Kevin M. McDonough, Andrew Clubok, Susan E. Engel and Michele D. Johnson of Latham & Watkins LLP, Nina Yadava, Rajeev Muttreja and Sarah Efronson of Jones Day, and Lawrence S. Lustberg and Kate E. Janukowicz of Gibbons PC.

The case is In Re: Celgene Corp. Securities Litigation v. Celgene Corp. Inc. et al., case number 2:18-cv-04772, in the U.S. District Court for the District of New Jersey.

--Additional reporting by Carla Baranauckas. Editing by Melissa Treolo.

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EQT Gets Final OK For \$168M Merger Benefits Settlement

By **Matthew Santoni**

Law360 (November 5, 2025, 5:01 PM EST) -- A federal court gave its final approval Tuesday to a \$167.5 million settlement between EQT Corp. and its shareholders, closing out a class action that claimed the company overstated the operational benefits of its \$6.7 billion merger with Rice Energy in 2017.

U.S. District Judge Robert Colville signed off on the deal, noting that there had been no objections and only 10 opt-outs after the settlement administrator notified 121,654 potential shareholder class members.

"This court hereby fully and finally approves the settlement set forth in the stipulation in all respects ... and finds that the settlement is, in all respects, fair, reasonable, and adequate to the class," he wrote in **his order** Tuesday.

The plaintiffs' counsel called the settlement fund "the largest securities class action recovery ever in the history of the Western District of Pennsylvania and the 14th largest in the history of the Third Circuit."

"We are pleased that this hard-fought litigation has reached settlement," S. Douglas Bunch of Cohen Milstein Sellers & Toll PLLC, co-lead counsel for the shareholders, said in a statement Wednesday. "It is a favorable result for investors as it provides an immediate cash recovery and resolves further litigation."

The settlement covers individual and institutional shareholders who had purchased EQT stock between June 2017 and June 2019, held stock in EQT or Rice as of September 2017 and voted in either company's November 2017 special shareholder meetings, and/or got shares of EQT stock in exchange for their Rice stock as part of **the companies' merger**.

Originally led by the Cambridge Retirement System, shareholders **sued EQT in 2019** with claims that executives had oversold the benefits of the merger with Rice Energy. At the time, the merger's proponents claimed combining the companies' adjacent oil and gas leases would allow longer, more productive horizontal wells. But there were more gaps between the leased lands than promised, the suit said, so the longer wells did not materialize and the combined company's stock sank.

EQT had allegedly promised that the 2017 merger would bring \$2.5 billion in synergies and save the company \$100 million in 2018. Instead, the cost of drilling in the third quarter of 2018 increased \$300 million, the investors said. In addition, a 13% stock drop following reports of the jump in capital expenditures erased "nearly \$700 million in shareholder value in a single day," the investors said.

Now led by the Government of Guam Retirement Fund, Eastern Atlantic States Carpenters Annuity Fund and Eastern Atlantic States Carpenters Pension Fund, the shareholders **sought approval for the settlement deal** in June, telling the court that the parties reached the agreement after six years of litigation and three mediation sessions.

Judge Colville granted the deal **his preliminary approval** in July.

The judge's order of final approval noted that EQT denies "any wrongdoing, liability, or violation of law or regulation whatsoever" by signing the settlement and that its agreement to the settlement

can't be used against the company in any other litigation, arbitration or criminal proceedings.

Representatives for EQT did not immediately respond to requests for comment Wednesday.

The class is represented by Steven J. Toll, Daniel S. Sommers, S. Douglas Bunch, Christina D. Saler, Benjamin F. Jackson and Alexandra Gray of Cohen Milstein Sellers & Toll PLLC, Salvatore J. Graziano, Adam H. Wierzbowski, Jesse L. Jensen and Robert Kravetz of Bernstein Litowitz Berger & Grossmann LLP, and Michael A. Comber of Comber Miller LLC.

EQT is represented by Lindsey Weiss Harris, Alexander J. Rodney, Ashley Paige Grolog, Daniel R. Cellucci, Jacob Rae, Rachel Fritzler, Sandra C. Goldstein, Sarah Schultes and Stephanie Taylor of Kirkland & Ellis LLP, Danielle Rose, Genna Leigh Sinel and Martine Beverly Forneret of Kobre & Kim LLP, and James L. Rockney of Reed Smith LLP.

The case is In Re: EQT Corp. Securities Litigation, case number 2:19-cv-00754, in the U.S. District Court for the Western District of Pennsylvania.

--Additional reporting by Emilie Ruscoe. Editing by Nick Siwek.

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Virgin Galactic Investors Push For Approval Of \$8.5M Deal

By **Rae Ann Varona**

Law360 (November 5, 2025, 8:21 PM EST) -- Virgin Galactic agreed to pay \$8.5 million to resolve a proposed class of investors' accusations that the space tourism company failed to disclose safety issues from two test flights, according to a motion to approve the deal filed Tuesday in New York federal court.

A group of investors tells the court the settlement reached with Virgin Galactic Holdings Inc. and individuals, including Virgin Galactic founder Richard Branson and its CEO Michael Colglazier, is substantively fair, reasonable and adequate, especially in light of the risks investors would face if they continued with litigation.

The case "is about literal rocket science" and involves "complex mathematical equations and physics concepts," the investors say.

They argue that such complexity would likely benefit the Virgin Galactic parties because the jury will "presume they are authorities."

They note that principal fact witnesses for Virgin Galactic include a former NASA administrator and Virgin Galactic pilots who have already flown into space.

The investors also say that when the parties reached the proposed settlement, a statement Branson made following a July 2021 test flight was the only alleged false statement in the case.

"The statement was made hours after Branson had flown into space, fulfilling what he had claimed for decades was one of his key life goals," the investors say. "The jury might well have found that his statement resulted from elation rather than recklessness or an intent to defraud."

In their motion for preliminary approval, the investors note that the proposed \$8.5 million settlement comes after four years of "hard-fought litigation," reviewing more than 100,000 pages of documents, taking or defending 14 depositions and an unsuccessful mediation.

The proposed class action, first filed in May 2021, raised claims based on Virgin Galactic's alleged failure to disclose safety problems encountered during a February 2019 test flight, ahead of Virgin Galactic going public via a reverse merger with a special purpose acquisition corporation.

Investors claim that while Virgin Galactic had created an impression that the company was on the "cusp of commercial spaceflight," its prototype spaceship, "Unity," had in reality been grounded because a "critical part necessary for survival" had "popped," risking the lives of all onboard.

The suit also accuses the company of concealing that a July 2021 test flight carrying Branson temporarily but dangerously strayed from its trajectory and airspace.

The district court **nixed** several claims from a second amended version of the investors' suit in August 2023, leaving intact certain claims against Virgin Galactic, Branson and former SPAC creator and Chairman Chamath Palihapitiya, including a claim based on Branson's alleged misstatement following his July 11, 2021, flight.

Branson had said after the flight that Virgin Galactic "never had any major, major technical issues" in

its 17 years and that the July 2021 flight was "absolutely and utterly flawless," according to the suit.

The court **refused** to reconsider its decision, after which investors filed additional amended complaints. The suit's remaining investors filed their latest and fourth amended complaint in June, which includes claims concerning alleged misstatements from July 2021 and August 2021 concerning Branson's July 2021 flight.

The investors say in their Tuesday motion for preliminary approval of the settlement that proving loss causation and damage at trial would also be "risky, complicated, and uncertain, involving conflicting expert testimony." They said there was also a chance they'd lose on appeal should they win at trial.

"The sheer duration of securities class actions also imperils recovery," the investors note. "Securities class actions are so lengthy and so complex that plaintiffs risk that the law will shift beneath their feet..."

They say that while the court had initially upheld their claims as to the February 2019 flight accident, it later dismissed them "based on an intervening controlling decision."

That dismissal nixed one of their theories and cut damages by 80%, the investors say.

Lead counsel for the investors also plan to seek for themselves and additional counsel, a percentage of the common fee fund award in an amount not to exceed roughly 33%.

That proposed attorney fee amount is "reasonable considering the work performed and the results obtained," the investors say, adding that the amount is also "consistent with awards in similar complex class action cases."

Under the settlement, each authorized claimant will receive their pro rata share of the net settlement fund, the investors state.

They say the allocation plan also allocates a larger portion of the net settlement fund to the case's actionable claims relating to the July 2021 flight than to dismissed claims.

"Such a distinction is reasonable because the dismissed claims faced an arduous and risky path to recovery," the investors argue.

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

The investors are represented by Kara M. Wolke, Ex Kano S. Sams II and Joseph D. Cohen of Glancy Prongay & Murray LLP and Jonathan Horne and Laurence M. Rosen of The Rosen Law Firm PA.

The Virgin Galactic parties are represented by Kevin M. McDonough, Corey A. Calabrese, Kristin N. Murphy, Michele D. Johnson, Ryan A. Walsh and Colleen C. Smith of Latham & Watkins LLP.

The case is Shane Lavin et al. v. Virgin Galactic Holdings Inc. et al., case number 1:21-cv-03070, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Katryna Perera and Sydney Price. Editing by Kristen Becker.



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Smart Lock Co. Investors Seek Final OK Of \$2M Settlement

By **Emilie Ruscoe**

Law360 (November 5, 2025, 7:19 PM EST) -- Investors in the smart lock system company formerly known as Latch sought an initial nod for their \$1.95 million settlement of claims that the company misrepresented "nearly every key business metric" it tracked in the lead-up to its 2021 go-public merger with a special purpose acquisition company.

In a filing Tuesday in Delaware federal court, investor Scott Schwartz asked U.S. District Judge William C. Bryson to grant preliminary approval to the proposed settlement, describing the settlement as providing an "excellent recovery for the settlement class."

The settlement sum reflects that "estimating class-wide damages in this case is particularly challenging given that potential class members acquired non-public Legacy Latch shares in many different private transactions, at different times, at different prices" prior to the company's SPAC transaction, the investor said. But nonetheless, Schwartz said, the parties' agreed-upon sum "is well within the bounds of reasonableness."

The investors' legal team, which includes attorneys from Bragar Eigel & Squire PC, Fishman Haygood LLP and deLeeuw Law LLC, seeks a fee of approximately one-third of the settlement fund and more than \$22,000 to reimburse certain litigation costs and Schwartz has asked for an \$8,000 award for representing the class.

The settlement, which is subject to court approval, would end claims that Latch's premerger registration statement misrepresented its sales revenue and its sales timelines.

The company also pushed through hardware sales to include certain sales in certain quarterly revenue reports and touted "technology and products that either did not have a proof of concept and would not be usable or deliverable," the complaint said.

The investor claimed the alleged misrepresentations have been "a financial catastrophe," noting that immediately following the merger that brought the company public, it traded at about \$10 a share and when Schwartz filed suit in January 2023, trading prices for its shares had fallen below \$1.

According to its website, the company is now known as Door. It has denied the investor's allegations.

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

Schwartz is represented by Lawrence P. Eigel, Brandon Walker and Marion C. Passmore of Bragar Eigel & Squire PC, Brent B. Barriere, Jason W. Burge and Kaja S. Elmer of Fishman Haygood LLP and P. Bradford deLeeuw of deLeeuw Law LLC.

Counsel information for the defendants wasn't immediately available Wednesday.

The case is *Schwartz v. Latch Inc. et al.*, case number 1:23-cv-00027, in the U.S. District Court for the District of Delaware.

--Editing by Stephen Berg.



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Institutional Investors Rip SEC's 'Radical' Forced Arb. Policy

By **Dorothy Atkins**

Law360 (November 5, 2025, 8:54 PM EST) -- A coalition of more than 60 major institutional investors and pension systems slammed the U.S. Securities and Exchange Commission's recent "radical" policy reversal allowing some newly public companies to adopt mandatory arbitration clauses, arguing the move harms both investors and companies, which will face "numerous, time-consuming and costly individual arbitrations."

In a four-page, Nov. 3 letter to SEC Chairman Paul Atkins, the institutional investors, which collectively manage trillions of dollars in direct assets and represent over \$8 trillion globally through umbrella organizations and associations, argued that the commission's recent "radical departure" from decades of precedent will destabilize confidence in the U.S. market to the detriment of both investors and companies themselves.

The letter notes that the SEC's abrupt **Sept. 17 policy change** permitting companies to include forced arbitration provisions in their corporate charters is a "complete reversal" of the SEC's long-standing policy, which had effectively barred such forced shareholder arbitration clauses.

"The SEC made this drastic change without hearing from investors and corporations in any public comment process which would have revealed widespread opposition to this policy change," the letter says.

The institutional investors argue that the new policy will shield companies that violate federal securities laws from public accountability, putting investments at risk and "stripping investors of their well-established rights to recover losses on a class-wide basis and in a proceeding that provides them with full due process."

The policy will also cost companies in both the short term and long term as they will inevitably face immediate and costly legal challenges, which will create uncertainty in the interim, as well as numerous, time-consuming and costly individual arbitrations over the long-term, the investors argue.

"Multiple arbitrations will inevitably inconvenience corporate executives who will have to respond to seriatim discovery requests and provide live testimony in tens if not hundreds of separate depositions, with no efficient mechanism for class-wide resolution or finality, and often without the right to appeal an adverse judgment," the letter says.

The letter notes that shareholder class action lawsuits are currently the primary method of enforcing federal and state investor protection laws, and they give companies an efficient mechanism to resolve classwide allegations.

Meanwhile, forced private arbitration is a "costly, unproven and unwieldy system," which can lead to differences in the law without deterring future misconduct or reducing future litigation risks, the letter says.

"This should worry corporations and their leaders as they may face multiple adverse judgments from multiple private arbitration panels (with limited rights of appeal), leading to an inability to adequately assess the risk to the company posed from any alleged securities laws violations," the complaint says.

For years, forced arbitration provisions have been rejected by multiple stakeholders — including prior SEC commissioners, proxy advisories, investor protection organizations, state securities regulators and publicly traded corporations and their counsel, the letter says.

The investors' letter also notes that in January 2020, a proxy proposal to permit forced securities arbitration at Intuit failed to pass, drawing just 2.5% of the shareholder vote, with institutions like Vanguard and State Street voting against it.

The institutional investors additionally took issue with recent **comments** Atkins made suggesting that Delaware should consider amending its corporate code to permit forced arbitration and institute fee-shifting provisions that require the losing party to cover costs.

"These efforts are particularly misplaced because they are at odds with federalism concerns, and it is beyond the SEC's purview to regulate matters of state corporate law," the letter says.

The letter was signed by New York State Common Retirement Fund trustee Thomas DiNapoli, NYC Comptroller Brad Lander, who is also an investment adviser to the New York City Retirement Systems, and the National Coordinating Committee for Multiemployer Plans, among others.

Michael D. Scott, director of the National Coordinating Committee for Multiemployer Plans, said in a statement Wednesday that as fiduciaries, multiemployer plan trustees have a legal duty to protect their participants' retirement, health and other welfare benefits.

However, the SEC's policy change will make it "far more difficult" for fiduciaries to fulfill that duty "by stripping plans of established legal tools to recover losses when companies defraud investors," he said.

"Forced arbitration creates costly, uncertain, and inefficient proceedings that benefit no one — not participants, not plan sponsors, and ultimately not the companies themselves," Scott said.

A representative for the SEC said Wednesday that due to the federal government shutdown, the SEC's public affairs office is not able to respond to requests for comment.

In addition to the institutional investors, multiple other funds and entities, including the California Public Employees' Retirement System, the Council of Institutional Investors and the International Corporate Governance Network have **submitted their own letters** similarly opposing the SEC's recent policy shift permitting forced arbitration.

Following the SEC's policy change announcement, on Sept. 17, the agency's lone Democratic commissioner, Caroline Crenshaw, publicly opposed forced arbitration provisions, and noted that securities class actions returned \$3.7 billion to investors in 2024, compared to only \$345 million recovered through SEC enforcement actions.

--Additional reporting by Jessica Corso. Editing by Jay Jackson Jr.



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4 Firms Fueling Website Tracking Claims, Cyber Insurer Says

By **Allison Grande**

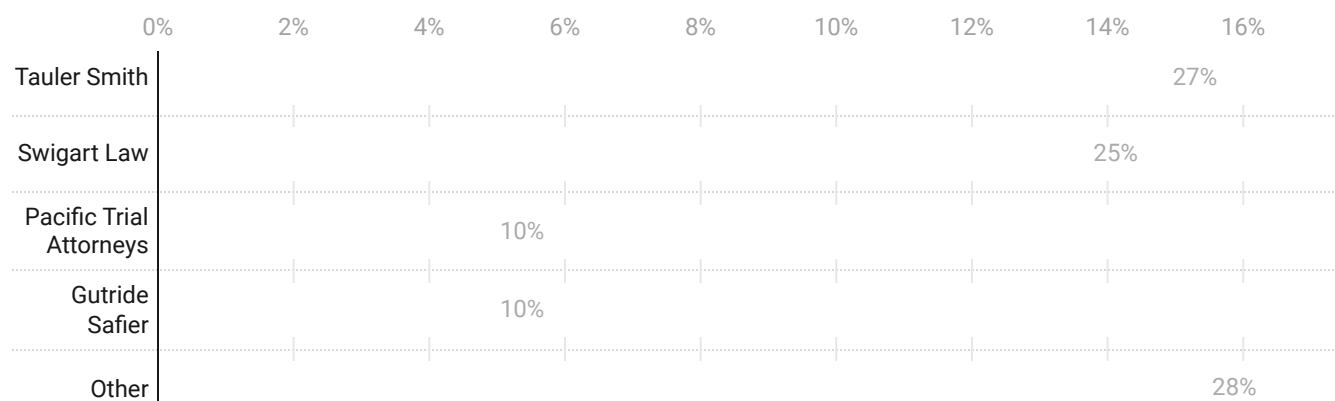
Law360 (November 5, 2025, 10:22 PM EST) -- A quartet of California-headquartered consumer law firms were behind nearly three-quarters of the website tracking and data privacy claims that both large and small businesses have reported to cyber insurer Coalition Inc. in recent years, according to a new report released Wednesday.

According to Coalition's The State of Web Privacy report, billed as the cyber insurance industry's first comprehensive analysis of wrongful data collection litigation, data privacy has "rapidly emerged as the next frontier of digital risk," as businesses have over the past decade increasingly faced not only regulatory scrutiny but also a growing crush of private actions accusing them of gathering or sharing consumers' personal data without permission.

Out of the nearly 200 cyber insurance claims pertaining to data privacy that policyholders have reported to Coalition Insurance Solutions Inc. since July 2023, four plaintiffs' firms — Tauler Smith LLP, Swigart Law Group APC, Pacific Trial Attorneys and Gutride Safier LLP — represented the claimants in 72% of these matters, the report revealed.

Leading the Pack

Four law firms were responsible for nearly three-quarters of web privacy claims that have been reported to cyber insurer Coalition Inc. from January 2023 to July 2025.



These firms primarily focus on sending "a high volume" of "templated demand letters" that are designed to "trigger costly settlements before a case is filed," according to the report.

"This repeatable formula follows the successes of law firms that have fought high-stakes battles with enterprise organizations to win multimillion-dollar awards," the cyber insurer reported, pointing in particular to Meta Platforms Inc.'s \$650 million settlement **in 2020** for alleged violations of Illinois' Biometric Information Privacy Act and Advocate Aurora Health **agreeing to pay** \$12.25 million in 2023 to resolve claims that it illegally shared users' private information with third parties like Facebook's parent Meta and Google through tracking pixels embedded on its website and other digital

offerings.

With respect to the unlawful data collection claims that have been reported to the cyber insurer over the past almost three years, Tauler Smith, a Los Angeles-based firm that specializes in high-stakes commercial litigation, has led the charge, accounting for 27% of all web privacy claims, according to the report.

"The firm's playbook appears to involve sending the same demand letter to multiple businesses while slow-rolling the formal filing of a lawsuit," the report said. "The demand letters often outline allegations concerning violations of [the California Invasion of Privacy Act, or CIPA,] based on the use of tracking technologies provided by TikTok, LinkedIn, X, and data brokers (among others)."

Facing the potential for hefty statutory damages and unwelcome public exposure, businesses at the center of these claims were "sometimes inclined to offer a nuisance-value settlement rather than proceed to court, incentivizing a quick resolution and minimizing legal expenses for both parties," according to the report.

Swigart Law, which pressed 25% of these reported web privacy claims, as well as Pacific Trial Attorneys and Gutride Safier, which were each responsible for 10% of these claims, similarly relied on generic demand letters that typically centered on alleged violations of CIPA, which prohibits the unlawful recording of or eavesdropping on private communications, the report said. These letters generally accused companies of breaking the law by using the Meta Pixel and other tracking technologies that companies typically embed on their websites to monitor user behavior and enhance targeted advertising, the report noted.

The demand letters sent out by Swigart Law generally asserted that every instance of unauthorized data sharing with third parties through these tracking technologies constituted a single violation of CIPA subject to \$5,000 in statutory damages, according to the report. Pacific Trial Attorneys typically held off detailing the offending tracking technologies until companies responded to their one-page demand letters, while Gutride Safier's claims usually focused on misconfigured privacy controls that resulted in users continuing to be tracked by websites even after they had opted out of the practice, the report said.

"Plaintiffs' attorneys have found repeatable strategies that make it easy to launch allegations of wrongful data collection, relying on the fact that everyday tools like tracking pixels, analytics scripts, and chatbots are deeply embedded across millions of websites," the report added.

Representative from these four law firms couldn't be reached for comment Wednesday.

The claimants in the remaining 28% of claims reported to Coalition were represented by "various law firms" that "were less likely to rely on mass-produced demand letters or boilerplate allegations," the cyber insurer reported, in warning companies to "be prepared for bespoke lawsuits and legal theories" in addition to mass arbitration demands and legal claims.

"Law firms that did not follow a web privacy playbook were more likely to formally file a lawsuit to initiate the civil litigation process, including discovery, depositions, and trial," the report said. "As a result, bespoke web privacy legal actions are fewer in number but can be more complex and resource-intensive."

While nearly three-fourths of the web privacy claims fielded by the cyber insurer alleged violations of CIPA, more than 50 distinct laws and causes of action were relied upon across these disputes, the report found.

However, the cyber insurer noted that it handled only three claims that referenced the European Union's General Data Protection Regulation, which took effect in 2018, or the California Consumer Protection Act, which went live in 2020 and contains a limited private right of action that allows consumers to sue for certain data breach-related claims.

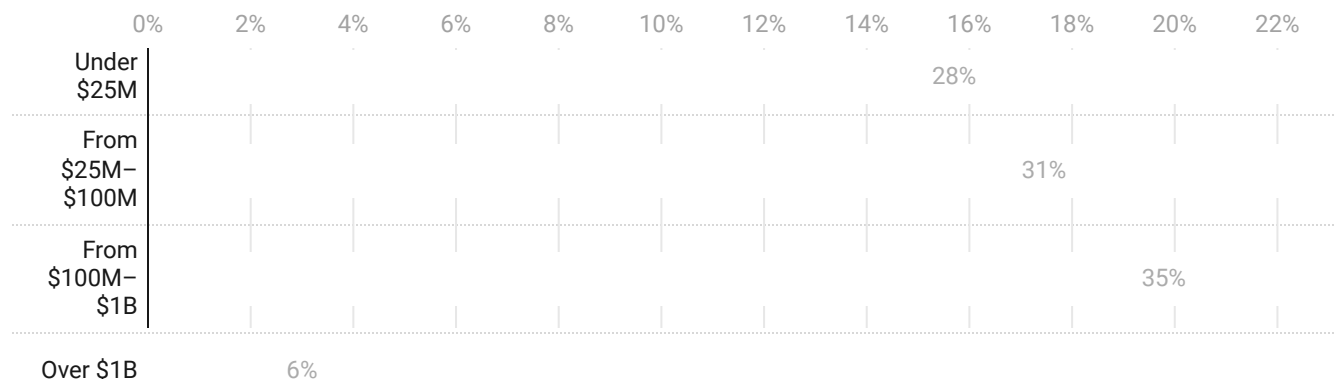
Instead, claimants typically related on statutes like CIPA, which dates back to 1967, and the decadesold Video Privacy Protection Act to hold companies liable for alleged data misuse fueled by modern tracking technologies, according to the report.

"As a result, many businesses, even those investing heavily in compliance with modern privacy frameworks, remain unexpectedly vulnerable," the report said.

The size of the businesses being targeted is also notable, according to the report, which found that nearly 60% of web privacy claims were reported by small and midsize businesses, or SMBs, with less than \$100 million in revenue, while less than 10% targeted businesses with more than \$1 billion in revenue.

Small Businesses Feeling the Heat

Nearly 60% of web privacy claims reported to Coalition came from businesses with less than \$100 million in revenue.



While these figures are at least "partially attributable to the fact that Coalition has historically focused on providing cyber policies to small businesses," the "sheer volume of claims dispels the myth that SMBs are not exposed to web privacy claims," according to the report.

"Once reserved for high-profile disputes with major technology providers, web privacy claims are now impacting businesses of all sizes in nearly every sector," including businesses within industries that are not typically considered consumer-facing, such as transportation and construction, the report added.

The report's release coincided with Coalition's introduction Wednesday of its Active Privacy Protection, a comprehensive suite of product enhancements, coverage benefits and research that policyholders and brokers can use to proactively evaluate their exposure to wrongful data collection claims.

"By scanning websites for potential privacy exposures, surfacing insights to brokers and policyholders, and proactively alerting them to new litigation trends, we're helping policyholders address privacy issues before they could become lawsuits," Tiago Henriques, chief underwriting officer at Coalition, said in a statement.

In addition to analyzing cyber claims it's received, Coalition's latest report also provided insights on potential data privacy risks based on scans of websites tied to 5,000 global businesses.

The report found that "outdated privacy policies remain common." While 73% of websites with very high traffic updated their privacy policies within the past year, that number dropped to under 50% for websites with medium, low and very low user traffic, according to the report.

Website banners that seek consumers' consent for specific data collection and sharing practices also became more scarce as the popularity of websites declined, with these banners being detected on 61% of websites with very high traffic but only 14% of websites with very low traffic, providing potential areas for exposure and opportunities for improvement among companies, the report found.

"Businesses that fail to address data privacy risks may become targets of opportunistic litigation that shows no signs of slowing down," the report said. "Conversely, businesses that proactively manage

data collection practices, disclose them transparently, and respond swiftly to customer concerns are far better positioned to withstand scrutiny and prepare for the future."

--Editing by Michael Watanabe.

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Anthropic Deal Opt-Outs May Have Been 'Lured,' Authors Say

By **Rae Ann Varona**

Law360 (November 5, 2025, 11:25 PM EST) -- Authors who struck a landmark \$1.5 billion settlement with Anthropic PBC to resolve their copyright infringement class action told a California federal judge Tuesday that an Arizona law firm is tricking class members into opting out of the deal through an "aggressive social media advertising campaign."

The authors urge the court to stop Arizona-based ClaimsHero Holdings LLC from using "deceptive bait-and-switch tactics" like using social media ads that invite people to check their eligibility to file a claim for compensation on ClaimsHero's website.

The ads lead to ClaimsHero's website, where people are then tricked into believing that they are submitting a claim when they, in reality, may be "giving up the right" to settlement funds, the authors assert.

"After luring class members in with promises of a 'three minute' 'claim application' for Anthropic, ClaimsHero's signup process actually gets class members to authorize ClaimsHero to do the opposite," the authors say in their motion. "Those who complete ClaimsHero's signup process authorize ClaimsHero to opt out of the settlement on their behalf and relinquish any right — for all owners of a given work — to a distribution from the settlement."

Authors in the class action have **accused** Anthropic of exploiting their copyrighted works through "largescale theft" to train its flagship large language model, "Claude."

They say that while Anthropic styled itself as a public benefit company, the San Francisco-based generative AI company "wrought mass destruction" to holders of copyrighted works.

U.S. District Judge William Alsup held in June that it was **fair use** for Anthropic to use the copyright-protected material to train Claude, but also ruled Anthropic would have to go to trial on the authors' piracy claims.

But in August, Anthropic **announced** it had reached a deal to end the authors' suit. More details on the deal, including the \$1.5 billion settlement amount, came out in September when the authors filed a motion seeking preliminary approval of the class settlement.

Judge Alsup initially **refused** to sign off on the proposed deal, saying that he was "disappointed" by some missing components, including a finalized list of works to be included in the settlement, a class list, a claim form, a process for notification, allocation or procedures for dispute resolution, among other details.

He then gave his preliminary blessing for the settlement in late September. Counsel for the authors touted the deal as a "**historic** settlement" that will result in the "largest copyright recovery of all time."

In preliminarily approving the deal, Judge Alsup noted during a hearing that the deal has an "abort clause" in the event that a high percentage of class members decide to opt out of the deal. The specific percentage agreed upon, however, is confidential, he said.

But any opt-outs of the deal might not be intentional, according to the authors' Tuesday motion for

an order limiting ClaimsHero's communications with class members.

The authors say "virtually everything" about ClaimsHero would lead a reasonable person to understand that the company is a claims aggregator and not a law firm representing opt-outs.

According to their motion, class counsel discovered over the weekend that ClaimsHero had launched a webpage titled "Anthropic Copyright Infringement" that was accompanied by an "aggressive social media advertising campaign intended to drive traffic to the website."

The authors say ClaimsHero circulates paid advertisements on Facebook and Instagram that lure class members into visiting its website to quickly check if they're eligible to file a claim for compensation.

They say that up until Monday afternoon, the website invited class members to start a claim.

According to the authors, a "Frequently Asked Questions" section near the bottom of ClaimsHero's website stated that the company was representing authors and rights holders who intended to opt out of the Anthropic settlement. But the text was only visible to those who scrolled all the way to the bottom and clicked on the question, they add.

Class counsel reached out to ClaimsHero and met with the company Monday, asking it to identify who used the website to submit opt-outs and all marketing associated with the asserted scheme, according to the motion.

But ClaimsHero refused, insisting its marketing was appropriate, and it made only "superficial changes" to its webpage, the authors claim.

They argue that the webpage "still confuses claims for opt-outs and, in any event, fails to disclose all the court-approved information class members need to make an informed choice."

The authors contend that ClaimsHero did not and "still does not" explain the consequences of opting out, including that opting out forfeits eligibility for payment to any settlement funds.

ClaimsHero's webpage also doesn't explain that after opting out, the only way one can seek recovery from Anthropic is to file a separate lawsuit, the authors note.

They argue that the court can "and should" order ClaimsHero to remove its webpage and related solicitations, disclose all of its marketing efforts, produce records of individuals it engaged with or who signed up, and allow class counsel to issue a corrective notice to those individuals that provides complete and accurate information regarding the settlement and their rights.

Counsel for the authors declined to comment. ClaimsHero did not immediately respond to a request for comment late Wednesday.

The authors and publishers are represented by Rachel Geman, Jacob S. Miller, Danna Z. Elmasry, Daniel M. Hutchinson, Jallé H. Dafa, Amelia Haselkorn and Betsy A. Sugar of Lieff Cabraser Heimann & Bernstein LLP, Justin A. Nelson, Alejandra C. Salinas, Rohit D. Nath, Michael Adamson, J. Craig Smyser and Samir H. Doshi of Susman Godfrey LLP, Scott J. Shoulder and CeCe M. Cole of Cowan Debaets Abrahams & Sheppard LLP, Jay Edelson of Edelson PC, and Matthew J. Oppenheim of Oppenheim & Zebrak LLP.

Counsel information for ClaimsHero was not immediately available.

The case is Andrea Bartz et al. v. Anthropic PBC, case number 3:24-cv-05417, in the U.S. District Court for the Northern District of California.

--Additional reporting by Gina Kim, Elliot Weld, Adam Lidgett, Hailey Konnath and Bonnie Eslinger. Editing by Kristen Becker.