Securities

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Acadia to Pay $179 Million in Care Quality Investor Accord (1)

Nov. 25, 2025, 6:53 AM PST; Updated: Nov. 25, 2025, 9:40 AM PST

Summary by Bloomberg AI

AI Generated

- Acadia Healthcare Co. Inc. agreed to pay $179 million to end investor allegations that it misrepresented the adequacy of its patient care, staffing levels, and other metrics.
- The court previously certified a class of those who acquired Acadia stock from April 30, 2014, through Nov. 15, 2018
- The investors’ lead counsel will seek up to one third of the settlement sum in attorneys’ fees and $5.5 million in expenses reimbursed

Acadia Healthcare Co. Inc. agreed to pay $179 million to end investor allegations that it misrepresented the adequacy of its patient care, staffing levels, and other metrics.

The pension funds leading the class asked the US District Court for the Middle District of Tennessee for preliminary approval of the deal Monday. If approved, the agreement would end seven years of litigation over whether the behavioral health care company misled investors about certain issues, including its regulatory compliance and financial projections for its United Kingdom operations. The agreement, in which the company denied the allegations, came weeks after Chief Judge William L. Campbell Jr. rebuffed Acadia’s bid to avoid trial.

The investors’ lead counsel will seek up to one third of the settlement sum in attorneys’ fees and $5.5 million in expenses reimbursed

The court previously certified a class of those who acquired Acadia stock from April 30, 2014, through Nov. 15, 2018

“Obtaining such an outsized settlement for Acadia investors on the brink of trial shows the impact committed lead plaintiffs can have. We look forward to presenting the settlement to the Court,” said Darryl Alvarado of Robbins Geller Rudman & Dowd LLP, lead trial counsel for the investor class

Dowd, Bloch, Bennett, Cervone, Auerbach & Yokich LLP and Pitta LLP also each represent one of the pension funds. King & Spalding LLP and Riley & Jacobson PLC represent Acadia and certain former executives. Neither of these law firms immediately responded to emails seeking comment.

The case is St. Clair Cnty. Emps' Ret. Sys. v. Acadia Healthcare Co. Inc. , M.D. Tenn., No. 3:18-cv-00988, 11/24/25 .

(Updates with class counsel's comment in the sixth paragraph.)

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Bausch Health investors fall short in suit over Valeant scandal

2025 SECDBRF 4346 • By Nicole Banas

WESTLAW Securities Enforcement & Litigation Daily Briefing • November 24, 2025

(November 24, 2025) - A New Jersey federal judge has dismissed with prejudice a securities fraud lawsuit alleging Bausch Health Cos. Inc. downplayed its potential legal exposure to a fraudulent scheme perpetuated by predecessor Valeant Pharmaceuticals International Inc.

Anderson et al. v. Bausch Health Cos. et al., No. 23-cv-3996, 2025 WL 3240904 (D.N.J. Nov. 20, 2025).

The proposed class action failed to show that Bausch's statements in 2020, claiming most of the legacy claims against Valeant had been resolved, were false, U.S. District Judge Zahid N. Quraishi of the District of New Jersey ruled Nov. 20.

The judge also tossed allegations related to a proposed spinoff of Bausch's eye care business and claims related to a lucrative gastrointestinal drug.

The ruling marked the second time the District Court dismissed the suit against Bausch, former Chairman and CEO Joseph Papa and former Chief Financial Officer Paul Herendeen. Judge Quraishi ruled in February that an earlier version of the complaint failed to state a claim for securities fraud under Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C.A. § 78j(b).

'Egregious' scheme

After the dismissal, Bausch shareholders R. Cassian Anderson and Donna S. Preves filed a second amended complaint alleging that Bausch minimized the threat of continued liability for "one of the most egregious securities frauds in history."

Papa stated in May 2020 that most of the legacy Valeant lawsuits had been resolved in a $1.2 billion class-action settlement but some "opt-outs," or direct actions, remained, the complaint said.

He failed to disclose that the opt-out suits could cost the company up to $4.2 billion in damages, according to the complaint.

The new complaint also added allegations to bolster their claim that Bausch concealed the reason for a proposed spinoff of its Bausch + Lomb eye care business.

The defendants falsely touted the spinoff's potential to reduce company debt, but its "central purpose" was to shield B+L assets from recovery in the opt-out suits, the complaint said.

Bausch also concealed that a generic drugmaker had challenged the validity of patents related to the gastrointestinal illness drug Xifaxan, according to the suit.

The defendants moved to dismiss the revised complaint, arguing that it failed to plead a false or misleading statement or omission and other elements of a Section 10(b) claim.

Judge: Speculative claims

Judge Quraishi agreed that Papa's statements about the legacy Valeant litigation were not materially false or misleading when read in context.

"The fact that certain opt-out plaintiffs remained does not negate the fact that the bulk of the litigation and liability had been resolved," the judge said.

Bausch had no obligation to disclose the potential damages, particularly when there are no allegations to support the "maximalist position" taken by the opt-out plaintiffs, Judge Quraishi said.

He also determined that the safe harbor for forward-looking statements applied to most of the alleged misstatements about the proposed spinoff of B+L.

Allegations about the purpose of the spinoff are "entirely speculative," given that it was never completed, the judge said.

The suit also failed to plead a misleading statement or omission about Xifaxan, Judge Quraishi said. Bausch did not have a duty to disclose challenges to the drug patents that were publicly known, he concluded.

Matthew A. Sklar and Omar A. Bareentto of McCarter & English LLP represented the defendants on the motion to dismiss.

Samuel H. Rudman of Robbins Geller Rudman & Dowd LLP and Michael J. Wernke and Thomas H. Przybylowski of Pomerantz LLP represented the lead plaintiffs.

By Nicole Banas

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Manage Newsletters

StubHub IPO Investor Sues Over Financial Results, Stock Drop

Nov. 25, 2025, 10:30 AM PST

Summary by Bloomberg AI AI Generated

- StubHub Holdings Inc.'s initial public offering paperwork misrepresented its free cash flow, an investor's proposed class action said.

- The online ticket marketplace's stock price plunged after it reported quarterly financial results for the first time since going public in September and didn't provide guidance for the current quarter or 2026.

- Stockholder Daniel Salabaj is suing several people and entities who helped facilitate StubHub's IPO, seeking damages for alleged violations of the Securities Act of 1933.

StubHub Holdings Inc.'s initial public offering paperwork misrepresented its free cash flow, leading to a stock decline after its third-quarter financial results were announced, an investor's proposed class action said.

The registration statement and prospectus should've clearly stated StubHub faced changes in the timing of payments to vendors and that was hindering that financial metric, said the investor's complaint filed Monday in the US District Court for the Southern District of New York.

The online ticket marketplace's stock price plunged 21% to close at $14.87 a share Nov. 14, the day after it reported quarterly financial results for the first time since going public in September and didn't provide guidance for the current quarter or 2026.

StubHub announced free cash flow—that which remains after covering operating expenses and capital expenditures—of negative $4.6 million for the third quarter of 2025 compared to a positive $10.6 million the same quarter in 2024. The ticket seller's Nov. 13 press release reported net cash from operating activities was $3.80 million, a decrease compared to $12.4 million in the third quarter of 2024.

StubHub went public at $23.50 a share in September. Its share price closed at $12.01 Monday.

Stockholder Daniel Salabaj is suing several people and entities who helped facilitate StubHub's IPO, among them CEO Eric Baker, the company's board, and 14 underwriters—including JP Morgan Securities LLC, Goldman Sachs & Co. LLC, and BofA Securities Inc.

StubHub's IPO registration statement, referenced in Salabaj's lawsuit, said, "In the first half of 2025, free cash flow was $160.8 million compared to free cash flow of $395.1 million in the first half of 2024. The decrease in free cash flow primarily reflects changes in the timing of cash receipts and payments associated with ticket sales as well as timing of payments to vendors."

The proposed class would include those who acquired StubHub stock pursuant or traceable to the IPO's registration statement and prospectus. Salabaj seeks damages for alleged violations of the Securities Act of 1933, which governs the issuing of stock.

StubHub's stock price also took a hit after a report and announcement that the United Kingdom's antitrust regulator opened investigations into it and other online vendors over sales tactics.

Glancy Prongay & Murray LLP and The Law Offices of Frank R. Cruz represent Salabaj.

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

The case is Salabaj v. StubHub Holdings, Inc. , S.D.N.Y., No. 1:25-cv-09776, complaint filed 11/24/25 .

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Expert Opinion | Securities Litigation

Willful Blindness: A New Pathway to Scienter in the Third Circuit

In a precedential opinion issued on Oct. 15, 2025, the U.S. Court of Appeals for the Third Circuit held that willful blindness, or what other courts have described as an egregious refusal to see the obvious or investigate the doubtful, can support a strong inference of scienter when the undiscovered facts are those that rendered a statement false or misleading.

November 25, 2025 at 09:44 AM By **Jay Dubow**

Erica H. Dressler

Katie Hancin

(l-r) Jay Dubow, Erica Dressler, and Katherine Rose Hancin, of Troutman Pepper Locke. Courtesy photos

In a precedential opinion issued on Oct. 15, 2025, the U.S. Court of Appeals for the Third Circuit held that willful blindness, or what other courts have described as an egregious refusal to see the obvious or investigate the doubtful, can support a strong inference of scienter when the undiscovered facts are those that rendered a statement false or misleading. Prior to this ruling, the Third Circuit had not clearly addressed whether willful ignorance could satisfy the scienter requirement for securities claims. Now, however, the Third Circuit has joined the Second, Sixth, Eighth, Ninth, and Fifth circuits in endorsing a new avenue through which plaintiffs can attempt to establish scienter.

The case, *Handal v. Innovative Industrial Properties,* arose from a fraud perpetrated by a company called Kings Garden, which was a tenant of defendant Innovative Industrial Properties, Inc. (Innovative), a real estate investment trust that purchases real estate and leases the properties back to tenants. Innovative agreed to finance certain capital improvements by its tenants and provided reimbursements for qualifying expenses upon the submission of draw requests. Kings Garden submitted allegedly fraudulent draw requests, ultimately receiving over $48 million in reimbursements.

Innovative sued Kings Garden and disclosed the lawsuit in a Form 10-Q in August 2022. On Sept. 29, 2022, Innovative's stockholders filed a class action under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5. The stockholders alleged that Innovative's failure to detect and prevent the fraud rendered five categories of public statements relating to Kings Garden's tenancy misleading. The stockholders also alleged that Innovative's stock price declined after the fraud was revealed. The challenged statements included: statements that Innovative conducted due diligence on prospective tenants; statements that Innovative evaluated the credit quality of its tenants using publicly available industry information; statements praising Kings Garden's reputation and practices; statements that reimbursements were limited to verified, qualified building improvements; and a Form 8-K disclosure that Kings Garden defaulted on rent in July 2022.

To state a claim under Section 10(b) and Rule 10b-5, a plaintiff must plead the following six elements under heightened pleading standards: a material misrepresentation or omission by the defendant; scienter; a connection between the misrepresentation or omission and the purchase or sale of a security; reliance; economic loss; and loss causation. A plaintiff must specify the who, what, when, where, and how of the alleged misconduct, and plead with particularity facts that give rise to a strong inference that the defendant acted with the requisite state of mind. Importantly, the statements must have been materially false or misleading at the time they were made.

The district court granted Innovative's motion to dismiss with prejudice, finding that while some statements were actionable, the stockholders failed to plausibly plead scienter, as the allegations sounded in negligence rather than fraud. The Third Circuit affirmed the dismissal, holding that although one statement was actionably false, the stockholders did not adequately plead scienter.

Third Circuit's Analysis of the Challenged Statements

The Third Circuit first conducted a careful and detailed analysis of each of the allegedly false or misleading statements.

Statements About Due Diligence

The stockholders alleged that Innovative's statements about relying on its management team to conduct due diligence on prospective tenants, and its representations that property acquisitions were contingent upon the satisfactory completion of due diligence, were misleading. The Court disagreed. Accepting as true the SEC filings containing these statements, the court found that Innovative merely stated its purchase agreements are *typically* subject to due diligence, without promising any particular level of rigor. Moreover, the complaint itself confirmed that Innovative's management team conducted due diligence on Kings Garden. Therefore, the court found that Innovative's statements about performing due diligence were not actionably false or misleading.

Statements About Evaluation of Tenants' Credit Quality

The stockholders further alleged that Innovative's representations about evaluating tenant credit quality by reviewing public financial reports, press releases, and other industry information, along with statements about conducting site visits to discuss tenants' operations, were materially false or misleading because Innovative failed to scrutinize Kings Garden's draw requests and detect the fraud. The court rejected this argument. Even if Innovative failed to scrutinize Kings Garden's draw requests, the stockholders did not allege that those requests, or the documents that accompanied them, were publicly available industry information. Moreover, Innovative did not make a blanket promise to conduct site visits or discuss operations with every tenant. Thus, the statements were not actionable.

Statements Praising Kings Garden

The stockholders also challenged Innovative's statements praising Kings Garden's "distinguished" and "prominent" brand, but the court found these statements were not actionable. It treated them as opinion statements governed by *Omnicare v. Laborers District Council Construction Industry Pension Fund.* Under *Omnicare*, opinions are actionable only if: the speaker did not believe the statement; the opinion is embedded with false factual assertions; or the speaker omits material facts about the basis for the opinion and those facts conflict with what a reasonable investor would take from the statement itself. In the third scenario, which was the applicable scenario here, in order to avoid dismissal, a plaintiff must allege that the speaker was aware of the omitted facts or was willfully blind to material information that could affect the truth of the statement. However, the stockholders did not allege that Innovative knew of the fraud until *after* the statements were made. Therefore, the Court found that these statements were not actionable.

Statements About Reimbursements

The stockholders also challenged two statements related to reimbursements, arguing that Innovative did not disclose Kings Garden's fraud in either statement. The first was Innovative's representation that reimbursements relate only to verified, qualified improvements to buildings and never as funding for any type of loan for any other purpose. The second was Innovative's disclosure that it funded specified amounts for two projects. The court found the first statement actionable because, at the time it was made, some reimbursements were unrelated to verified, qualified improvements. However, the second statement was not actionable because Innovative funded the stated amounts for the projects, and the stockholders did not allege that Innovative knew of Kings Garden's fraud at the time it made the statement.

Statement About Kings Garden's Rent Default

Finally, the stockholders argued that Innovative's Form 8-K disclosure of Kings Garden's failure to pay rent in July 2022 was materially false and misleading because Innovative failed to disclose Kings Garden's fraud. The court disagreed because the Complaint itself alleged that Kings Garden did not pay rent in July 2022, and there was no other indication that Innovative's disclosure was false. Also, given that the subject of the alleged fraud was Kings Garden's rent default and Innovative's investigation of the fraud was incomplete at the time it made the statement, the stockholders did not adequately allege that Innovative had a duty to disclose the fraud.

Individual and Corporate Scienter

Having determined that only one of the alleged statements was actionable, the court then addressed whether the stockholders had sufficiently alleged that defendants acted with scienter when making the statement that reimbursements were limited to verified, qualified improvements. The stockholders argued that the leader of the draw request team was willfully ignorant of red flags in Kings Garden's requests, and that such recklessness satisfied the scienter requirement. While other circuits have held that an egregious refusal to see the obvious or investigate the doubtful (*i.e.*, recklessness) can support a strong inference of scienter, the Third Circuit had not previously ruled on this issue. The Third Circuit adopted this recklessness principle but ultimately found that the leader of the draw request team was not willfully ignorant. The stockholders did not allege that the leader observed anything suspicious and failed to investigate. As a result, the Third Circuit concluded that the stockholders had not adequately pled scienter as to any individual.

The stockholders also attempted to invoke the corporate scienter doctrine, which allows plaintiffs to plead an inference of scienter without attributing it to a particular individual. The Third Circuit had previously neither accepted nor rejected this doctrine, and it declined to take a position in this case, finding that the allegations did not give rise to scienter under any theory. The court emphasized that the corporate scienter doctrine is reserved for rare cases involving statements that are demonstrably false.

The court also rejected the stockholders' argument that Innovative's statement was reckless under *Institutional Investors Group v. Avaya,* where the Third Circuit held that liability may arise when an executive denies pointed inquiries despite knowing there is an obvious risk that such denials would mislead investors. The stockholders did not allege that Innovative's knowledge rendered its statement about reimbursements obviously false. Additionally, unlike in *Avaya*, the statements leading to Innovative's representation were not direct inquiries about Kings Garden's reimbursement arrangement. Finally, because the alleged misrepresentation was limited to a single tenant, the Court found that nonculpable ignorance was a more plausible explanation.

Accordingly, the Third Circuit affirmed the district court's dismissal of the Section 10(b) and Rule 10b-5 claims. Because the court found no predicate Section 10(b) violation, it also upheld the dismissal of the Section 20(a) claim.

Key Takeaways

The *Handal* decision marks a new development in the Third Circuit's approach to scienter in securities litigation. By recognizing that willful blindness can support a strong inference of scienter, the court has opened a new pathway for plaintiffs to plead scienter. However, the decision also underscores the heightened pleading standards imposed by the Private Securities Litigation Reform Act, which requires plaintiffs to allege facts with particularity. The Third Circuit has yet to take a definitive position on the corporate scienter doctrine, leaving an element of uncertainty for litigants. As the Third Circuit's case law continues to evolve, litigants should closely monitor new decisions and remain adaptable in their litigation strategies.

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David Boies and a legal battle over class action settlement funds

reuters.com/legal/litigation/david-boies-legal-battle-over-class-action-settlement-funds-2025-11-25

Jenna Greene November 25, 2025

Lawyer David Boies walks out of the Southern District of New York court, New York, U.S., July 15, 2019. REUTERS/Andrew Kelly Purchase Licensing Rights, opens new tab

Nov 25 (Reuters) - From asbestos to zinc oxide, class action litigation has touched nearly every corner of American industry. So perhaps it was inevitable this day would come: A class action about class actions.

The litigation focuses on a massive, and until now largely overlooked, segment of the legal-services economy: the settlement administrators and banks that manage the distribution of funds once the cases are over.

In recent months, plaintiffs' firms have filed nine class actions accusing major settlement administrators of engaging in a kickback scheme with banks. According to the complaints, the administrators selected the banks to retain and distribute settlement money — often totaling hundreds of millions of dollars — in exchange for payments tied to the interest those funds generate.

In addition, some complaints allege settlement administrators reaped undisclosed profits from "revenue sharing" payments with the issuers of digital credit cards that are sometimes distributed to class members.

The litigation has already set up a clash between two of the most prominent figures in the plaintiffs' bar, David Boies and Christopher Seeger.

They'll face off next week when a federal judicial panel will decide whether to consolidate the cases, opens new tab into multidistrict litigation, and if so, which claims to include and where the cases should be heard.
Filed in federal courts in cities including Manhattan, opens new tab, San Francisco, opens new tab and Philadelphia, opens new tab between April and mid-November, the complaints name three of the largest settlement administrators -- Epiq Solutions, Angeion Group and JND Legal Administration, which together allegedly oversee more than 65% of the market for class action administration.
A JND spokesperson said, "These allegations are baseless as to JND and we look forward to defending ourselves in court."

Epiq and Angeion declined to comment.

Also named are Western Alliance Bank and Huntington National Bank. The two banks allegedly dominate the deposit side of settlement administration. According to the lawsuits, they oversee 80% of settlement funds in class and mass actions, distributing monies to thousands of plaintiffs.

A Western Alliance spokesperson said the complaints “do not accurately portray Western Alliance Bank’s role in the claims administration process, and we plan to vigorously defend ourselves in these actions.” Huntington declined to comment.

Alleging antitrust violations, civil racketeering, breach of fiduciary duty, fraud and unjust enrichment, the suits focus on the period between the initial settlement of a lawsuit and payment to class members.

When a case is resolved, it generally takes months or years before the money is distributed, the lawsuits note. That’s because class members must first be notified, given a chance to object or opt out, and have their claims reviewed and approved. The settlements also require court approval.

In the meantime, the money paid by the defendant is deposited in a bank, both for safekeeping and to earn interest.

According to plaintiffs' lawyers, the “secret kickback” scheme began when interest rates on deposits started to rise in 2021.

“We noticed that in some settlements, class action administrators were still getting extremely low interest rates, which made us highly suspicious,” Boies, whose firm Boies Schiller Flexner filed the first three cases raising the issue, told me. “We decided to do some investigating.”

According to the complaints, firm lawyers interviewed current and former bank employees and learned the defendants were allegedly skimming millions of dollars from class action payouts. They allegedly did so by pocketing the difference between the market interest rate for the funds and the lower interest that the class members received -- money they say should have gone to class members.

The administrators allegedly formed special purpose entities to conceal receipt of the funds, the lawsuits claim.

As the cases get underway, the threshold questions are venue and scope Boies is pushing the Judicial Panel on Multidistrict Litigation to consolidate the cases in the Northern District of California, where he filed a case. He argues that the subject matter should be limited to allegations involving the bank interest rate scheme.

Seeger urges the cases be heard in the Eastern District of Pennsylvania, where his amended complaint was filed, and that the MDL should be more broadly construed. He argues the claims should also include allegations involving digital credit cards, which are often issued to class members to receive their share of a settlement.

Seeger's complaint and several others allege the settlement administrators received hidden payments from the card issuers, breaching their fiduciary duty to class members. Such allegations arose separately earlier this fall in connection with Facebook’s $725 million class action settlement for alleged privacy violations. As I wrote at the time, the judge in that case reviewed the agreement between the settlement administrator, Angeion, and the credit card issuer and allowed the payments to proceed.
The defendants have yet to file substantive responses to the lawsuits. However, each company either favors consolidating the cases into an MDL or takes no position (albeit without conceding any of the requirements for class certification have been met). All endorse the Southern District of New York as the most convenient venue.

Wherever the cases land, the proceedings have the potential to reshape the behind-the-scenes class action landscape. As Seeger put it in an email, "This has the potential to be transformative litigation that will likely require claims administrators to, at a minimum, be more transparent and/or provide more details about how they are profiting."

Jenna Greene writes about legal business and culture, taking a broad look at trends in the profession, faces behind the cases, and quirky courtroom dramas. A longtime chronicler of the legal industry and high-profile litigation, she lives in Northern California. Reach Greene at jenna.greene@thomsonreuters.com

California Brief

OpenAI Must Disclose Attorney Messages in Copyright Lawsuit (2)

Nov. 24, 2025, 12:11 PM PST; Updated: Nov. 24, 2025, 4:02 PM PST

A federal judge ordered OpenAI Inc. to turn over all in-house attorney communications about its deletion of data from a pirate library, saying documents the AI giant fought to shield from authors in a consolidated copyright dispute could demonstrate willful infringement.

Communications among OpenAI attorneys and staff regarding the deletion of data from notorious pirate library LibGen “confirm that such communications are likely probative of willfulness,” Magistrate Judge Ona T. Wang wrote in an order issued Monday in the US District Court for the Southern District of New York.

A finding of willful infringement triggers enhanced damages of as much as $150,000 per work and could expose OpenAI to billions in damages in the class action brought by book authors and their publishers.

OpenAI argued the communications are protected by attorney-client privilege, but Wang ruled OpenAI waived the privilege by asserting the company didn’t know their actions constituted copyright infringement. The order said OpenAI grossly misunderstood case law.

It’s rare for a court to determine a party has waived its attorney-client privilege, said David Schultz, a professor at Hamline University. “I cannot calculate percentages but I place it significantly less than 1% of the cases,” he said in an email.

“We disagree with the ruling and intend to appeal,” an OpenAI spokesperson said in an emailed statement.

Shifting Arguments

The fight stems from a dozen copyright cases against OpenAI that were consolidated for pretrial activity. The lawsuits accuse OpenAI of violating copyrights by training large language models on protected content, downloading pirated works, and producing ChatGPT outputs similar to their works.

OpenAI downloaded pirated copies of books from LibGen in 2018 and deleted the data in 2022. OpenAI says it’s the only training data the company ever deleted.

In 2024, OpenAI told plaintiffs' counsel the data was deleted "due to their non-use." More than a year later, as plaintiffs sought information about OpenAI's reasons for deletion, the company retracted its non-use statement and said its reasons are privileged because the decision was made in consultation with in-house attorneys.

Wang in October rejected OpenAI's privilege assertions over some Slack messages and emails about the LibGen deletion, but she delayed a ruling on the attorney communications.

On Monday, she ruled OpenAI waived privilege both by putting its state of mind at issue, and by "making a moving target of its privilege assertions."

OpenAI "artfully removed" its good faith affirmative defense in a November filing, Wang said, but it continues to dispute the plaintiffs' willfulness allegation. It wouldn't be a stretch for the plaintiffs to posit the communications about the deletion would prove willfulness, she said.

Unless OpenAI explicitly states it will forego asserting a good faith defense, Wang said, it must turn over all communications with in-house counsel from 2022 mentioning LibGen and relating to the reasons for the deletion. She also awarded the plaintiffs additional depositions of OpenAI's in-house lawyers, citing its "ongoing improper privilege assertions."

Susman Godfrey LLP; Lieff Cabraser Heimann & Bernstein; Cowan, DeBaets, Abrahams & Sheppard LLP; and Boies Schiller Flexner LLP represent the authors. Keker, Van Nest & Peters LLP; Latham & Watkins LLP; and Morrison & Foerster LLP represent OpenAI.

The case is In Re: OpenAI, Inc. Copyright Infringement Litigation , S.D.N.Y., No. 25-md-03143, order 11/24/25 .

(Updates with comment in the fifth paragraph.)

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News | **Litigation**

Google Pooh-Poohs Push for Judge to Recuse Himself Over Friendship With Litigation Chief, Calling It Much Ado About Nothing

Judge Haywood Gilliam Jr. and Google's Cassandra Knight became friends in law school. He later officiated her wedding, and she traveled from Europe to attend and speak at his investiture.

November 24, 2025 at 05:09 PM By **Michael Gennaro**

Credit: lindaparton/Adobe Stock

Google is scoffing at arguments that U.S. District Judge Haywood Gilliam Jr. of the Northern District of California should recuse himself from antitrust cases against the tech giant in his court on the grounds that he failed to disclose a decades-long personal relationship with the tech giant's top litigation executive, Cassandra Knight.

The video-sharing platform Rumble, which filed an antitrust suit against Google in February 2021, filed a recusal motion Nov. 12, and the defunct advertising technology company Unlockd, which filed its antitrust case against Google in September 2021, filed its recusal motion on Nov. 19. Both cite a Stanford Lawyer profile of Knight published this summer that revealed the judge and Knight became close friends in law school, that he officiated her 2021 wedding, and that she flew from London to speak at his 2015 investiture ceremony.

The Rumble suit alleged Google wielded its dominant search engine to steer traffic to its streaming platform, YouTube, illegally undercutting Rumble, while the Unlockd suit charged Google banned the company from its app store as well as AdMob, Google's advertising agency, causing the the company to go under.

Gilliam tossed both cases earlier this year, finding that Rumble's claims fell outside the four-year statute of limitations for antitrust allegations and that Unlocked's case relied on unsupported conclusions.

Both companies are appealing to the Ninth Circuit.

In a filing Nov. 21 in the Rumble case, Google argued that Gilliam's friendship with Knight, Google's vice president for litigation and discovery, provides no grounds for disqualification because Knight has had zero involvement in the matter.

"Plaintiff brings the present motion for recusal for the transparent purpose of filing a second motion with the Ninth Circuit for 'judicial notice' of this motion—all in the hope that this will somehow advance its meritless appeal," wrote John Schmidtlein of Williams & Connolly, lead counsel for Google. "The Court should reject this cynical maneuver because any friendship between this Court and Ms. Knight does not require the Court's recusal from this case."

Central to Google's defense is a declaration from Knight herself, stating unequivocally that she has played no role in the Rumble litigation, which was filed more than a year before she joined Google in August 2022.

"I have not attended any court hearings or depositions in this matter, entered an appearance in the case, met with any witnesses relating to the matter, or reviewed any pleadings before they were filed with the Court," Knight stated in her declaration. "I have not discussed case strategy concerning the matter with in-house or external counsel; indeed, I have not discussed this case with outside counsel at all."

Knight noted that she heads a group overseeing more than 200 legal team members who handle hundreds of matters.

She also stated that she has never discussed any Google litigation with Gilliam, "including but not limited to any case involving Google that has been assigned to Judge Gilliam, such as the present case."

Google's nine-page response leans heavily on what Google contends is clear precedent establishing that judges need not recuse themselves simply because they have personal relationships with parties, lawyers, or even employees involved in litigation.

"Federal courts repeatedly have recognized that 'friendship between a judge and a lawyer, or other participant in a trial, without more, does not require recusal,'" the filing states, quoting a 2016 Ninth Circuit case.

The response cited numerous decisions where recusal was denied despite close friendships, including cases where judges were childhood friends with appearing counsel, regularly hunted and camped with nonparty witnesses, or had friendships with parties' family members.

The response did not directly address one of the plaintiffs' most pointed arguments: that Gilliam has recused himself from at least 11 other Google cases since Knight joined the company, plus a 2019 PayPal case when she worked there, suggesting he recognized the appearance of impropriety in those matters.

Rumble and Unlockd have argued this pattern of recusals makes Gilliam's continued involvement in their cases particularly puzzling and problematic.

Google countered that "prior recusals, without more, do not objectively demonstrate an appearance of partiality," citing an Eleventh Circuit decision and multiple district court cases holding that voluntary withdrawal from one case does not mandate recusal in others.

Gilliam, who has not responded to Law.com's request for comment, has scheduled a hearing for Jan. 22, 2026, in Oakland to consider both recusal motions.

Expert Opinion | **Litigation**

Ultra-Processed Food Lawsuits Hit a Snag: 'Martinez' Ruling Sets New Test for Mass Tort Litigators

A pivotal federal dismissal in Martinez v. Kraft Heinz spotlights the evidentiary challenges in ultra-processed food (UPF) lawsuits—especially in connecting specific product exposure to harm. As regulators and attorneys step up scrutiny, mass tort strategies are evolving, with insights from leading expert Dr. Marion Nestle.

November 25, 2025 at 09:38 AM By **Gregg Goldfarb**

Gregg Goldfarb of Gregg M. Goldfarb. Courtesy photo

The 'Martinez' Case: A Reality Check for Plaintiffs

In August 2025, the U.S. District Court for the Eastern District of Pennsylvania dismissed *Martinez v. Kraft Heinz* (No. 2:24-cv-05871), a mass tort suit that targeted top food makers for allegedly addicting teens to ultra-processed foods (UPFs) and causing serious illness. Judge Mia R. Perez ruled the claims were “too vague”—plaintiffs listed over 100 brands, but didn’t demonstrate which products were consumed, when, or how much. The message: Mass tort plaintiffs must tie concrete evidence of product exposure to direct medical harm.

Science, Regulation and the Scope of UPFs

UPFs make up more than two-thirds of kids' daily diets. Recent studies in BMJ (2024) and The Lancet (2025) link these foods to dozens of health risks, fueling government action like California's 2025 executive order to investigate food additives and marketing practices.

Expert View: *Dr. Marion Nestle, acclaimed author and professor of nutritition and public health, on legal headwinds.*

Speaking on my "Cut to the Chase" podcast, Nestle—quoted recently in The New York Times—called attention to the litigation's scientific and regulatory hurdles: "Until regulators define and disclose what constitutes an ultra-processed food, and science clarifies causation, lawsuits will face resistance. Still, the marketing to children, especially given mounting public health evidence, is becoming indefensible."

Her insight underscores the need for attorneys to build tightly documented cases and engage credible expert witnesses to connect product exposure with health outcomes.

Evolving Legal Tactics

- Refine pleadings to show exactly which products caused harm—and how.
- Gather receipts, food diaries and medical records.
- Use recognized systems like NOVA to categorize UPFs.
- Retain expert nutrition scientists to bridge science and policy.

Tobacco Litigation: Playbook or Cautionary Tale?

Plaintiff lawyers cite historic tobacco cases for roadmap potential. *Martinez* referenced a 1999 Minneapolis meeting where food executives discussed—but did not act on—health risks.

Future mass tort success may hinge on "smoking gun" documents and deeper internal discovery.

Aspect	Tobacco Litigation	UPF Litigation
Health Harms	Cancer, heart disease	Diabetes, liver disease, obesity
Industry Knowledge	Known since 1950s	Known since late 1990s
Marketing Tactics	Targeted kids, hid risks	Engineered addiction, targeted kids

Legal Milestones	1998 Settlement	Martinez dismissal—first test case
Payout Potential	Billions	$50,000–$250,000 per claimant

Industry Pushback and Regulatory Trends

Manufacturers argue UPF definitions lack scientific clarity, challenging the basis of emerging lawsuits. Food companies are increasing focus on recipe changes and transparency, but litigation and regulatory pressure continue to build.

Practical Implications for Florida and Beyond

Florida attorneys and firms are already receiving inquiries from parents and advocates. Expect increased consumer claims, class actions, and state-level regulations in line with national trends.

Key Takeaways:

- Attorneys must deliver specific, well-documented pleadings.
- Demonstrate direct links between exposure and harm using credible data and experts.
- Stay ahead of changing regulatory rules and scientific consensus.
- Leverage strategic lessons from tobacco and other mass tort litigation.

Gregg Goldfarb *is a Miami personal injury attorney, environmental advocate and host of "Cut to the Chase" podcast, where he interviews leaders like Dr. Marion Nestle. Contact him at* ***gregg@goldfarblaw.com***.

News | **Antitrust**

Why Did Egg Prices Get So High? Antitrust Suits Say It Wasn't Avian Flu

At least half a dozen class actions have been filed over skyrocketing egg prices this year by individual consumers, restaurants and grocery stores.

November 24, 2025 at 07:37 PM By **Amanda Bronstad**

What You Need to Know

- The lawsuits come after news reports revealed the U.S. Department of Justice launched an investigation into egg prices this year.
- DiCello Levitt, Kirby McInerney, Lockridge Grindal Nauen and CohenMalad filed a motion before the U.S. Judicial Panel on Multidistrict Litigation to coordinate the antitrust cases against the egg industry to Indiana's Southern District.
- The class actions represent both direct purchasers, such as restaurants like Phil-in-Cindy's Lunch, in Jamestown, New York; The Breakfast Joynt in Scottsdale, Arizona; and indirect consumers, whose pocketbook was hit with egg prices that jumped to more than $6 per dozen in March from under $2.

Credit: vladdeep/Adobe Stock

At least half a dozen class actions were filed this month accusing egg producers of conspiring to raise the price of eggs.

The lawsuits, filed in federal courts in Indiana, Illinois and Wisconsin, and flagged by Law.com Radar, follow disclosures earlier this year that the U.S. Department of Justice had launched an antitrust investigation into the egg producers, which include the nation’s five largest: Cal-Maine Foods Inc., Rose Acre Farms Inc., Versova Holdings LLC, Hillandale Farms and Daybreak Foods Inc.

The lawsuits claim the egg producers collaborated by sharing information about their prices while telling the public that the increasing prices were due to an avian flu outbreak that began Feb. 1, 2022.

The class actions represent both direct purchasers, such as restaurants like Phil-in-Cindy’s Lunch, in Jamestown, New York; the Breakfast Joynt in Scottsdale, Arizona; and indirect consumers, whose pocketbook was hit with egg prices that jumped to more than $6 per dozen in March from under $2.

“This has been a very hot button issue,” said plaintiffs’ attorney Blake Yagman, who filed one of the cases on Nov. 18. “Consumers have been into grocery stores and noticed egg prices are two to three times higher than they usually are. One of the reasons the egg industry has said that those prices are higher is because of supply restraints as a result of avian flu. If you’ve reviewed the complaints, you can see there’s a lot of information that cuts to the contrary.”

The suits also name information exchange Urner Barry Publications Inc., which the egg industry allegedly used to inflate benchmark prices, and Egg Clearinghouse Inc., an online trading marketplace.

On Nov. 19, plaintiffs’ firms DiCello Levitt, Kirby McInerney, Lockridge Grindal Nauen and CohenMalad filed a motion before the U.S. Judicial Panel on Multidistrict Litigation to coordinate the antitrust cases against the egg industry to Indiana’s Southern District, where two of them are filed.

A spokesperson for Urner Barry Productions, now called Expana, declined to comment, and a representative at Egg Clearinghouse did not respond to a request for comment.

All the defendant egg producers, which also included Opal Foods and national cooperative United Egg Producers, doing business as the Egg Farmers of America, did not respond to emails requesting comment.

The suits alleged many of the egg producers have been accused of antitrust schemes before. In 2023, a jury in the Northern District of Illinois found Cal-Maine and others liable for price fixing, awarding a verdict of $17.8 million, which, when trebled under antitrust law, came to a total of $53 million for three opt-out plaintiffs. And the states of Texas and New York both accused Cal-Maine and Hillandale Farms of price gouging at the start of the COVID-19 pandemic.

A prior antitrust case coordinated into multidistrict litigation in U.S. District Court for the Eastern District of Pennsylvania alleged egg producers raised prices due to what they attributed to production restraints caused by new animal welfare requirements that reduced the number of laying hens.

"The key difference is that wasn't solely tied to price; it was about creating supply constraints, which would drive up prices," Yagman, of Schonbrun Seplow Harris Hoffman & Zeldes in San Diego, said. "This is a very important case given that eggs are a staple. It's one of the cheapest proteins Americans have access to, and the fact it plays such a prominent role in baking and restaurant usage and breakfast foods, it's an important case because it's a very prevalent part of American life."

The cases are similar, however, to antitrust allegations against meat processors, such as broiler chicken, pork and turkey, which rely on Agri-Stats Inc., an information exchange sued by the DOJ.

In March, news reports disclosed that the DOJ was investigating potential antitrust violations in the egg industry, but prices immediately dropped.

"The speed and magnitude of the price drop strongly suggest that prior egg prices were sustained through coordinated conduct, rather than competitive market forces," the MDL motion says.

New York Attorney General Letitia James also launched her own investigation into egg prices.

Taylor Swift ticket buyers can press ahead with Live Nation lawsuit

reuters.com/legal/government/taylor-swift-ticket-buyers-can-press-ahead-with-live-nation-lawsuit-2025-11-24

Mike Scarcella November 24, 2025

Fans react as Taylor Swift performs, as her record-breaking The Eras Tour comes to an end with the first of her three concerts in Vancouver, British Columbia, Canada December 6, 2024. REUTERS/Jennifer Gauthier Purchase Licensing Rights , opens new tab

Nov 24 (Reuters) - Live Nation Entertainment (LYV.N) , opens new tab and subsidiary Ticketmaster lost a bid on Monday to dismiss a lawsuit by Taylor Swift fans who accused them of mishandling ticket sales for the superstar singer's Eras Tour.

Los Angeles-based U.S. District Judge George Wu ruled , opens new tab that most of the case, brought by about 350 Swift fans, can move ahead. The lawsuit alleged the plaintiffs were unable to secure tickets to the Eras Tour when billions of requests from Swift fans, bots and scalpers overwhelmed Ticketmaster's website in November 2022.

Wu said the music fans, often referred to as Swifties, adequately alleged that Live Nation and Ticketmaster violated federal antitrust law by illegally monopolizing U.S. ticket markets. The judge also kept in place allegations under a California consumer protection law and related breach of contract claims.

Wu dismissed fraud and negligence claims from the lawsuit. The ruling adopted a prior tentative decision , opens new tab that was issued on Nov. 12.

Jennifer Kinder, a lawyer for the fans, on Monday said the plaintiffs were “excited to move closer to our day in court.”

Live Nation and a lawyer for the company did not immediately respond to requests for comment.

The fans claimed Live Nation and Ticketmaster’s control of presales and alleged technical failures deprived them of fair access to tickets, forcing many to pay inflated resale prices.

In a court filing, Live Nation called the lawsuit a baseless "laundry list of grievances about ticket sales for Taylor Swift's The Eras Tour."

Live Nation is separately facing a proposed nationwide class action by Ticketmaster customers who claim the company charges artificially high ticket prices. The companies are also fighting an antitrust lawsuit brought by the U.S. Justice Department and a group of states in federal court in Manhattan.
The case is Barfuss v. Live Nation Entertainment Inc, U.S. District Court for the Central District of California, No. 2:23-cv-01114.

For plaintiffs: John Genga of Genga & Associates; and Jennifer Kinder of Kinder Law

For Live Natioan: Tim O'Mara and Alicia Jovais of Latham & Watkins

Read more:

US Supreme Court rejects Live Nation's bid to move ticket price case to arbitration
Live Nation, law firm Latham face scrutiny over arbitration bid in ticket pricing case
US FTC sues ticket reseller for evading Taylor Swift's Eras tour ticket limits

Litigation

Manage Newsletters

Oil Majors Insist Climate Case ‘Cries Out’ for High Court Review

Nov. 25, 2025, 9:55 AM PST

Summary by Bloomberg AI

AI Generated

- The US Supreme Court must resolve jurisdiction questions in a Colorado city's climate lawsuit before massive liability can be imposed on the energy industry, according to a reply brief filed Tuesday.
- Energy industry attorneys say justices have the jurisdiction to review the questions presented in this case, which center on whether federal law preempts cases that bring climate nuisance and misinformation claims.
- The city and county of Boulder, Colo., argue that the Supreme Court picking up the case would only yield "dead ends", while Exxon Mobil Corp., Suncor Energy Inc., and other major oil petitioners counter that the case is "extraordinarily compelling".

The US Supreme Court must resolve jurisdiction questions in a Colorado city’s climate lawsuit before massive liability can be imposed on the energy industry, according to a reply brief filed Tuesday.

Justices have the jurisdiction to review the questions presented in this case, which center on longstanding arguments over whether federal law preempts cases that bring climate nuisance and misinformation claims, energy industry attorneys said in the brief.

The city and county of Boulder, Colo., told justices that picking up the case while it continues to proceed through state court would only yield “dead ends.” Exxon Mobil Corp., Suncor Energy Inc., and other major oil petitioners counter the case is “extraordinarily compelling.”

“There is no realistic chance that further percolation through state courts handpicked by plaintiffs will benefit the Court, and the Court is unlikely to see a better vehicle for review of the question presented before liability is imposed,” companies said.

The Colorado Supreme Court is one of a handful of other state benches that have allowed these lawsuits to proceed, while a growing number of other state courts have quashed the cases largely for lack of jurisdiction.

US municipalities bringing these challenges want oil and gas companies to pay for alleged climate change deception campaigns used to sell more fossil fuel products to consumers.

So far, the US Supreme Court has declined to wade into these current state court disputes, denying a petition for certiorari in Honolulu's climate case earlier this year.

Paul, Weiss, Rifkind, Wharton & Garrison LLP represents Exxon. Wheeler Trigg O'Donnell LLP represents Suncor.

The case is Suncor Energy USA Inc. v. Cty. Comm'rs of Boulder Cty. , U.S., No. 25-170, Reply Brief 11/25/25 .

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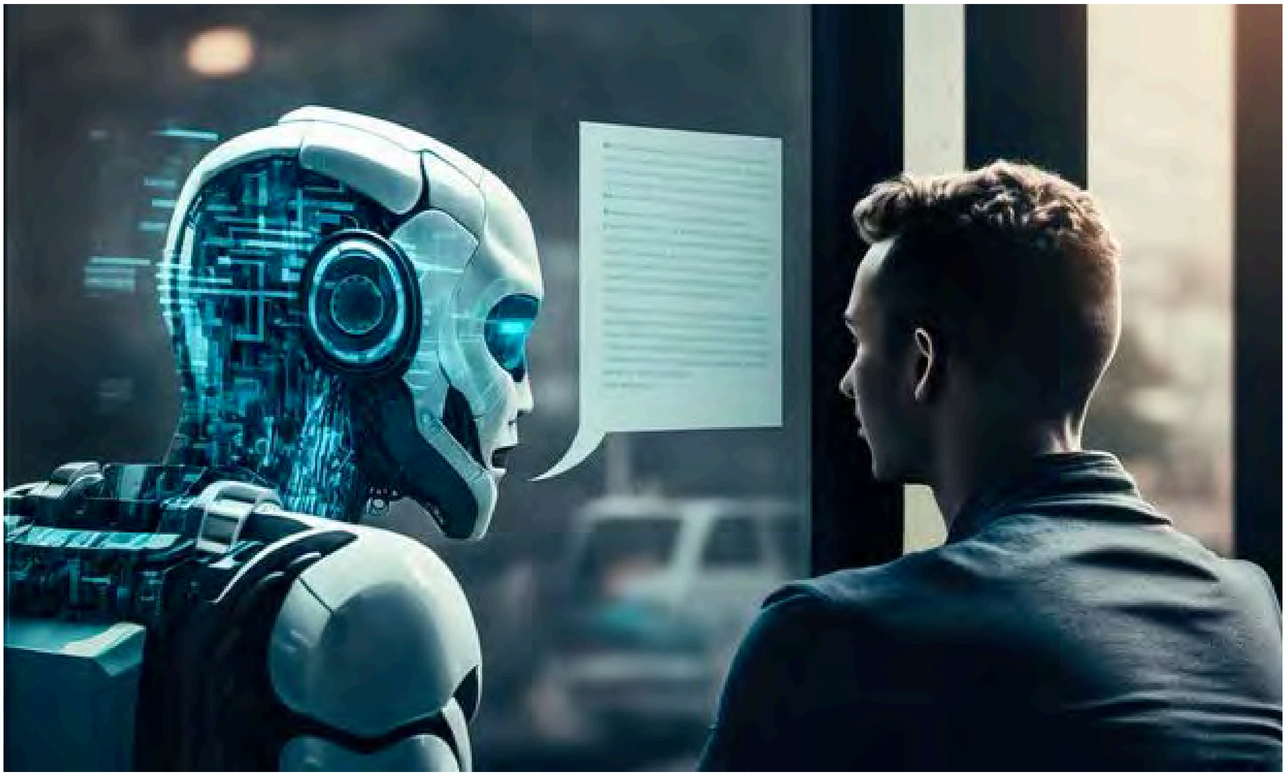
Courts Being Flooded by Wordy AI-generated Documents, Report Finds

Australian research finds self-represented litigants use AI the most.

November 25, 2025 at 04:13 AM By Christopher Niesche



Credit: Limitless Visions/Adobe Stock

Courts around the world are being flooded by documents generated by artificial intelligence, a study of AI case law in ten countries concludes.

The University of New South Wales Centre for the Future of the Legal Profession examined 540 cases where generative artificial intelligence had been in legal proceedings between 2023 and 2025.

“What began as a trickle—just a few recorded cases every other month during 2023 —became a steady stream across 2024 and 2025,” states the Australian report, GenAI, FakeLaw & Fallout.

The U.S. had the highest number of cases where Gen AI was used with 319, followed by Australia with 87.

The research revealed common problems across jurisdictions, including prolix documentation, and ‘flooding’.

This was described as “voluminous, often incoherent or irrelevant material produced using Gen AI, increasing the burden on courts and opposing parties.”

The report also found instances of Gen AI tools generating non-existent cases, incorrect citations, statutory references, or inaccurate legal summaries.

Other problems included submissions containing incorrect, unfocused or irrelevant arguments apparently based on unverified Gen AI outputs or deficient research. Additionally, legal documents prepared using Gen AI could exhibit procedural defects and other substantive errors.

Of the 520 instances of use of Gen AI in legal cases, 351 were by self-represented litigants, with 139 by legal practitioners. Experts of another third party were responsible for 19, while judges were responsible for 11 uses of Gen AI.The cases were most common in lower courts or tribunals.

In one Australian instance of Gen AI use, a self-represented defendant’s written submissions cited 13 cases; 11 did not exist. Some citations were similar to real cases, but none supported the propositions advanced as part of the defence.

The UNSW report said the incident demonstratesthatlitigantswho use Gen AI to prepare court materials must independently verify that AI outputs are legally and factually accurate and support their arguments.

In another instance, a self-represented applicant cited several irrelevant or non-existent cases in her submissions to the Queensland Civil and Administrative Tribunal. The presiding judge stated that along with weakening an applicant’s case, fake citations “waste the time for Tribunal members in checking and addressing these hallucinations. It causes a significant waste of public resources.”

The report considered case from common law and hybrid jurisdictions: Australia, Canada, Hong Kong, India, Ireland, New Zealand, Singapore, South Africa, U.K. and the U.S.

Despite the concerns it raises about the use of AI in the courts, the report concludes: Gen AI presents a practical challenge, not an existential threat.”

"With time, education, sensible governance, and clear accountability, the ethical, responsible and productive adoption of AI in legal proceedings, and in legal services more broadly, is achievable.”

Securities

Texas Drops Court Bids to Revive ESG Curbs for Proxy Firms

Nov. 24, 2025, 12:32 PM PST

Texas Attorney General Ken Paxton on Monday abandoned legal attempts to restore a law which would have limited firms giving investors ESG-related voting guidance.

The US Court of Appeals for the Fifth Circuit is "highly unlikely" to rule on requests by Texas to end a hold on that law, SB 2337, before another court acts, the Republican attorney general said in fil ings withdrawing the state's challenges.

Texas had challenged a judge's August decision pausing the statute before it was set to take effect Sept. 1. That judge, Alan Albright of the US District Court for the Western District of Texas, set a trial for Feb. 2.

SB 2337 requires proxy advisory firms to report they use "nonfinancial factors" in creating recommendations related to environmental, social, and governance issues.

Glass, Lewis & Co. and Institutional Shareholder Services Inc. sued to toss the law in separate cases, saying it violated the First Amendment, among other claims. Paxton called the law "perfectly valid" in court filings.

The cases are Glass Lewis v. Paxton , 5th Cir., No. 25-50771, unopposed motion for voluntary dismissal filed 11/24/25 and Institutional Shareholder Services Inc. v. Paxton , 5th Cir., No. 25-50777, unopposed motion for voluntary dismissal filed 11/24/25 .

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Securities

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Proxy Advisor ISS Retreats From Blanket ESG Voting Guidelines

Nov. 25, 2025, 9:37 AM PST

Proxy advisory firm ISS will no longer default to endorsing shareholder requests for company climate and diversity disclosures, a departure from a previous policy that generally recommended voting for those measures.

Institutional Shareholder Services Inc. will instead evaluate disclosure requests for climate risk, emissions, diversity data, and more on a case-by-case basis for the 2026 proxy season, according to new proxy voting guidelines published Tuesday.

The new policy comes amid pressure from the Trump administration and other Republican leaders to curtail ESG-focused investment and recent news that the Federal Trade Commission has launched an antitrust probe into ISS and fellow proxy advisory firm Glass, Lewis & Co.

ISS cited declining shareholder support for climate and diversity proposals, a changing regulatory landscape, and improved company disclosure practices as reasons for the change.

The update, which will also apply to proposals for transparency around political contributions and human rights, follows a related move last month from Glass Lewis.

Those two firms, which are by far the largest of their kind, are both pursuing and fighting lawsuits in multiple jurisdictions.

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Securities

Manage Newsletters

Matt Levine's Money Stuff: Take the Crypto Out of the Indexes

Nov. 25, 2025, 10:42 AM PST

Programming note: *Money Stuff is off the rest of the week. Happy Thanksgiving!*

Crypto in indexes

For a while, you could sell $1 of crypto on the US stock market for $2 . You could take a tiny public company with a stock market listing but little or no operating business, merge it with a pot of, say, $100 million of Bitcoin or some other cryptocurrency, and sell shares of the pot at a $200 million valuation. This is called a "digital asset treasury company," and it was a great trade and a lot of companies did it, though in recent months it has largely stopped working for the obvious reason (it is dumb).

While it was working, though, one controversy was: Is the stock of a digital asset treasury company *stock?* Should it be in the stock indexes? Should stock mutual funds and index funds buy it? If you allocate 60% of your retirement savings to the stock market, should digital asset treasury companies be in that allocation? The arguments for treating crypto treasury stocks as stocks include:

They are literally stocks.

In some very loose sense, most digital asset treasury companies are not *pure* pools of crypto; they also say some stuff about how they will make the crypto more valuable by doing stuff with it, or educating investors, or whatever. (Plus often they have some residual non-crypto business.) They are companies like any other company, just in an unusual industry, so stock investors should invest in them.

Stock investors — mutual funds, index funds, other institutions with equity investing mandates, retail investors who only buy stocks, etc. — often *can't* get access to crypto by buying crypto directly, or by buying crypto futures, or by buying crypto exchange-traded funds, so these companies are a sort of arbitrage that allow stock investors to get exposure to crypto.

For a while they mostly went up, and stock investors like to buy stocks that go up.

The arguments against include:

They are essentially *investment funds*, and investment funds are *not* generally included in stock indexes or owned by institutional equity managers. (The S&P 500 Index, for instance, excludes closed-end funds, ETFs, business development companies, investment trusts, etc.)

Sure sure sure sure sure they're not just investment funds, they're doing their own special little business to make crypto more valuable, you keep telling yourself that. A crypto treasury company is *mostly* indirect exposure to its crypto holdings.

Stock investors absolutely *shouldn't* have a way to get exposure to crypto. If clients want exposure to crypto, they can put their money in a crypto fund. If clients put their money in a stock fund, they should get exposure to stocks. Giving equity mutual fund managers a way to sneak crypto into their portfolios is bad.

Now crypto treasury company stocks have gone down , and stock investors do not like to own stocks that go down.

I also once made a sillier and more abstract argument for including these companies in stock indexes, which is that the point of a stock index fund is *not to make investment decisions*. Even if you think this is all very dumb — and I did, and do — the point of an index fund is to override your own sense of what is dumb and just give you the market portfolio. If the stock market has decided "hey let's do a lot of crypto treasury companies," then as an index investor you should own a lot of crypto treasury companies, even if you hate that.

I think the default has mostly been "sure, these are stocks, so they are in the indexes until proven otherwise," though none of them has yet made it into the S&P 500. (Strategy Inc., the biggest and first crypto treasury company, has been working on it.) But that is just a default, and I do think the arguments against including them are a little stronger, and last week my Money Stuff podcast co-host Katie Greifeld reported :

That's what JPMorgan Chase & Co. analysts theorize may be one of the factors behind the downward spiral in shares of Michael Saylor's Strategy Inc. A team lead by Nikolaos Panigirtzoglou pointed to a mid-October statement from MSCI, which noted that digital-asset treasury companies — of which Strategy is the posterchild, with its massive Bitcoin horde — may more closely resemble investment funds than traditional companies. As such, MSCI is proposing to exclude so-called DATs from the MSCI Global Investable Market Indexes.

Should Strategy be shown the door, it would face "considerable pressure to its valuation," Panigirtzoglou and team wrote. The analysts estimated that with a market capitalization of $59 billion at the time of writing, roughly $9 billion of Strategy is held in index-tracking vehicles — $2.8 billion of which is following MSCI indices.

There is considerably more money invested in stock indexes than there is in crypto, and some portion of the historical demand to pay $2 for $1 worth of crypto wrapped in stock has come from investors whose mandate was "if it's stock, buy it." Now that demand might fall off.

Prediction contagion

We talked yesterday about possible contagion from crypto to the real economy. The basic mechanism of contagion, as I once described it , is:

People like a thing, so they buy it, so it goes up. More people like it, so they buy more of it, so it goes up more. It goes up steadily enough that people think "ehh I should *borrow* some money to buy even more of this thing," so they do. Eventually a lot of very leveraged investors own a lot of the thing. Then something goes wrong with the thing, its price goes down, the leveraged investors get margin calls, and they have to sell the thing to pay back their loans. Their losses are big enough that they have to sell *other* things, things that were fine, to pay back their loans on the thing that went wrong. The big leveraged investors who owned a lot of the thing that went wrong *also* all own the same *other* things, also with leverage, so there is a generalized crash in the prices of the things that big leveraged investors own.

And the interesting question is: Is there contagion from crypto to, say, stocks or bonds or banking? If crypto prices crash — as they did in 2022, and as they have been doing recently — will that bring down other asset prices? Will it lead to failures of mainstream financial institutions?

Ten years ago it would have been silly to ask this question. Crypto was a hobbyist activity, too small to have much impact on anything else, and there were not a lot of large levered institutional crypto firms. Now, though, crypto is big and mainstream and levered, and there are various possible vectors of contagion:

1. Big stablecoin issuers own tons of US Treasury bills, and if there is a run on stablecoins then those issuers might dump Treasuries.

2. Banks are increasingly crypto-curious, and a bank that makes lots of crypto-backed loans could get burned if crypto falls.

3. A bank that takes lots of *deposits* from crypto firms could face a bank run, if the crypto firms suddenly need cash (due to losses or runs from their own customers); arguably this was the story of Silvergate Capital Corp. in 2023.

4. Mainstream hedge funds and proprietary trading firms have also been crypto-curious at times, which could lead to the normal kind of contagion, where a levered hedge fund has losses on its crypto and needs to sell stocks or bonds to meet margin calls.

5. *Retail* crypto investors might also be (1) levered and (2) heavily concentrated in certain other financial assets, and might have to sell those assets to meet crypto margin calls. We talked yesterday about Bill Ackman's posts suggesting this might have been responsible for a decline in Fannie Mae and Freddie Mac's stocks.

Etc. And one thing I suggested yesterday is that, to some extent, a *goal* of crypto advocates is (and should be!) to create more connections between crypto and mainstream finance, and more vectors of contagion. A world in which a fall in crypto prices could bring down the global financial system is a world in which (1) crypto is probably important and useful and (2) a lot of powerful people will try to prevent a fall in crypto prices.

I don't think we're there yet, but it's a recurring worry every time crypto prices drop, and it gets more realistic each time. Crypto is bigger than it used to be, it's more integrated into the real financial system, and it has far more political support in the US than it did even a year ago. That's just sort of interesting. In a relatively short time, crypto has gone from a minor niche hobby to a mainstream asset class with deep and potentially risky ties to the financial system.

At Sherwood, Luke Kawa reports on a Bank of America research note worrying "that the proliferation of sports betting and prediction markets is creating new economic risks":

"Easy access and gamified interfaces encourage frequent and impulsive wagers, which can lead to overextension of credit and rising loan defaults," wrote a team of analysts led by Mihir Bhatia. "For investors this convergence of entertainment and speculative finance signals heightened behavioral risk that could pressure credit quality, increase delinquencies, and impact earnings for issuers and subprime lenders."

Prediction markets are booming, with much of the growth in activity consisting of what are, in the plainest terms, wagers on sports.

The analysts flag that both academic research and recent surveys suggest these activities tend to result in an increased incidence of financial hardship, with young men and lower-income consumers particularly vulnerable. Bread Financial, Upstart Holdings and One Main Financial are lenders that face "emerging credit risks," per BofA, as these outfits are more exposed to those segments of the market.

I mean! The thesis here seems to be that companies that do a lot of subprime consumer lending are at increased risk because the boom in legal sports gambling and sports-gambling-through-prediction-markets tends to lower people's wealth. That is sort of the *opposite* of the contagion story I told above. It's not like "people put money into prediction markets, prediction markets go up, they get wealthy, they lever their bets, prediction market prices collapse, they lose money, they get margin calls and they have to sell other stuff." For one thing, prediction markets don't really have leveraged traders , though I suppose young men borrowing from Bread Financial and betting on sports are creating their own leverage. Also, prediction markets (and sportsbooks) don't *go up:* You bet on a thing, and either the thing happens and you make money or it doesn't and you lose money. There is no compounding growth, and since the customers are betting against each other or against the (normally profitable) sportsbook, in the aggregate they are not making money.

Still. Prediction markets and legal sports gambling are bigger than they used to be, more integrated into the real financial system, and have far more political support in the US than they did even a year ago. One can dream of a day when prediction markets are so big and integrated that, you know, the Patriots losing a football game, or Barron Trump dropping out of the presidential race, leads to a stock-market crash and a credit crunch. That's how you'll know they've hit the big time.

Hedging

One important part of the social case for prediction markets is that they can help people and companies hedge against real-world risks. If you think that one outcome of the election will be bad for your business, buy prediction-market contracts on that outcome, etc. I am skeptical of this idea for various reasons, but the most important reason is that in the US in 2025 "prediction markets" often means "sports gambling through a regulatory loophole," and I do not believe that a meaningful amount of sports gambling is driven by the hedging of real economic risks.

But people argue otherwise. "If you run a bar near a stadium, your business will be worse if the local team misses the playoffs, so you might bet against them to hedge your real economic risk." Sure sure sure sure sure sure sure, is usually my response. Probably if you look hard enough you can find a bar owner somewhere who has had that thought! But if you're standing in front of a mountain of player prop bets and same-game parlays saying "ooh hedging ooh" you are deceiving yourself.

But you know who is a public company and owns a ton of bars near stadiums, or rather at stadiums? Aramark, the food service business, which runs concessions for 26 US professional sports teams. A reader pointed me to this sentence in Aramark's most recent earnings:

[Food and Support Services] United States revenue growth was led by [good things] — which more than offset a shift in the timing of new account openings and a majority of the Company's MLB teams within Sports & Entertainment ultimately falling out of playoff contention towards the end of the quarter.

Bad luck when all of your baseball teams fall out of playoff contention. To be clear there is no suggestion that Aramark is *hedging* that risk in prediction markets, but surely now some analyst in their finance department is thinking about it.

SolarWinds

SolarWinds Corp. is a software company whose widely used network management platform was hacked by Russian state actors in 2020. This caused its stock to go down. As I often say around here, if a bad thing happens to a US public company, and its stock goes down, it will be sued for securities fraud. In the case of SolarWinds, the US Securities and Exchange Commission sued it for securities fraud in 2023. The specific alleged fraud was, approximately:

1. SolarWinds' various public statements "claimed the Company not only had, but enforced, a strong password policy."

2. In fact, "the password for the Company's Akamai server was publicly available," "a threat actor could use that public password to infect SolarWinds' software updates," and "the password that was publicly available was 'solarwinds123.'"

3. Someone *did* use SolarWinds' easy-to-guess passwords to upload malicious files and hack the system, and the stock went down.

Investors bought the stock thinking that SolarWinds had good passwords, but actually it had bad passwords, and they were deceived. "Bad Passwords Are Securities Fraud" was my headline at the time .

Well, a judge dismissed some of the case last year, and last week the SEC dropped it :

The agency said the decision to seek dismissal is "in the exercise of its discretion" and "does not necessarily reflect the Commission's position on any other case." A SolarWinds spokesperson said the company was "clearly delighted" with the dismissal.

These days, fewer and fewer things are securities fraud.

Napster?

I am old enough to remember Napster as, uh, the service where my less law-abiding friends downloaded their music at the turn of the century, but apparently the name has been passed around since then and now it's some sort of metaverse company that keeps announcing but not closing multi-billion-dollar investment rounds. At Forbes, Phoebe Liu reports:

On November 20, at approximately 4 p.m. Eastern time, Napster held an online meeting for its shareholders; an estimated 700 of roughly 1,500 including employees, former employees and individual investors tuned in. That's when its CEO John Acunto told everyone he believed that the never-identified big investor — who the company had insisted put in $3.36 billion at a $12 billion valuation in January, which would have made it one of the year's biggest fundraises—was not going to come through. …

The company had been stringing its employees and investors along for nearly a year with ever-changing promises of an impending cash infusion and chances to sell their shares in a tender offer that would change everything. In fact, it was the fourth time since 2022 they've been told they could soon cash out via a tender offer, and the fourth time the potential deal fell through. ...

While Napster is now alleging it is a victim, Forbes raised concerns about both the investor and the firm months ago. It all started in January when the company, then called Infinite Reality, reached out to Forbes announcing its $3 billion financing round. It emailed again on February 11, this time pitching Acunto, who then had a 12% stake in the Boca Raton Florida-based company, as a "prime candidate" for Forbes' billionaires list. Facing an audience at a live event in Los Angeles in February, he exhorted: "Do you really think that we would talk about $3 billion dollar investments and be one of the largest companies in our space if we really weren't doing what we're doing?"

I mean? To get on the billionaires list? Maybe?

Head of Macro

I suppose the way US politics worked in the good old days was that you ran for school board, then city council, then mayor, then you worked your way up to governor. But modern US Republican Party politics works mainly by trolling, and there's no need to start by trolling the city council. You can start by trolling a hedge fund, then move on to trolling the Fed , and eventually troll your way to being governor? Yesterday James Fishback, who became famous for claiming he was the "head of macro" at Greenlight Capital and also telling his dad about Greenlight's trades , announced that he's running for Governor of Florida. Okay! Here is a profile of him in the Bulwark.

AI

One helpful way to think about a lot of modern artificial intelligence models is that they provide:

1. A vast compilation and distillation of typical human behavior, particularly *online* behavior , plus

2. A dial that you can turn to make the behavior more or less extreme.

One well-known risk for very rich and successful people is that people will be too impressed by them. When you are a scrappy young nobody building a startup in your garage, people will tend to be dismissive of your bad ideas, so you will have strong incentives to come up with better ideas. When you are a famous billionaire who is paying the mortgages of everyone you interact with, nobody will be dismissive of your bad ideas, so you will have strong incentives to come up with worse ideas.

Last week xAI turned the dial on its Grok chatbot all the way to the "praise Elon Musk at all times" side, which led to many funny Grok prompts that are not printable here. (Here are the Independent and the New York Post with some of Grok's tamer replies, "claiming he's in better shape than Lebron James, has mental skills on par with Isaac Newton's — and is even the world's greatest lover." Here is Ryan Broderick with the less printable ones.)

I feel like the point here is that, as the richest person in the world who also runs like five companies and is a political kingmaker, Elon Musk absolutely could, in his personal and professional life, turn the "praise me all the time" dial up to 11 and everyone around him would pretty much comply. And then you would read some anonymously sourced articles in which people close to him said "yeah he's surrounded by sycophants and it's warping his perspective," but then you'd read other articles in which other people close to him said "no he's as sharp as ever and welcomes dissent," and you wouldn't be sure what to think. But with Grok you can watch him turn the dial!

Things happen

The Fed's Tool for Calming Short-Term Funding Markets Is Being Tested. Nvidia Says It's Not Enron in Private Memo Refuting Accounting Questions. Tether, the gold whale. Insurers' SRT Risks to Face Fresh Scrutiny Under EU Proposals. Rowan Says People ' Lost Their Minds ' Over Private Credit Fears. $10 Billion and Counting: Trump Administration Snaps Up Stakes in Private Firms. Justice Department to Settle Lawsuit Over Apartment Rental Pricing. Chile Questions Swaps Trade That Stoked Pension Fund Returns. Domino's Pizza parts ways with chief who bet on fried chicken. Teens Are Saying Tearful Goodbyes to Their AI Companions. AI slop recipes . How to talk to your family about the crypto crash at Thanksgiving.

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1. ETFs are stocks for some purposes (e.g. retail investors often treat them that way) but not for others (they are not generally included in indexes).

2. I mean, in the instrumental sense. If you like crypto, want it to succeed, own a lot of it and want it to go up, you should be cheerleading for contagion. That doesn't necessarily mean that that's good for the world though.

3. Or people always point to companies that do giveaways connected to sports, and hedge those giveaways in the gambling markets. ("Mattress Mack" is the famous example.) But this is dumb. The giveaways are sports gambling! They're gambling, and then hedging their gambling with offsetting gambling.

Thomas & Zhang: Crypto Kleptocracy

businesslawprofessors.com/2025/11/thomas-zhang-crypto-kleptocracy

Joan Heminway November 24, 2025

Friends-of-the-BLPB Will Thomas and Jeff Zhang have posted a draft essay to SSRN that I have put on my reading list for this week. Entitled *Crypto Kleptocracy*, the piece outlines the public corruption capacity of cryptocurrencies, concluding that they enable "corruption to reproduce itself, translating political power into personal wealth without the familiar, formalistic markers of explicit exchange or quid pro quo." The SSRN abstract follows.

> Many Americans are worrying about whether they will soon be living in a post-democracy autocracy. But in the meantime, they may already be living in a crypto-fueled kleptocracy. Less than one year into his second presidential term, Donald Trump has reportedly taken his wealth to new heights by embracing, both as a businessman and a politician, the crypto industry. Trump's family businesses are involved in minting Trump-themed meme coins, creating America-themed stablecoins, and mining for crypto assets—so successfully that most of Trump's wealth is likely now from crypto, not real estate. All the while, the Trump Administration is rolling back crypto regulations, abandoning ongoing crypto prosecutions, and pardoning crypto criminals.

> But this Essay is not about Trump. Crypto creates new channels for public corruption that operate on autopilot, generating wealth without transactions, contracts, or promises for the law to easily pin down, prevent, or punish. Future politicians looking to convert public trust into private fortune need only follow this new playbook: adoption is cheap, monitoring is hard, and payouts can be tremendous. President Trump's second term makes vivid the potential for abuse, but the dangers won't end there. If the United States fails to adapt, we risk entrenching a twenty-first century kleptocracy where the boundary between political power and personal enrichment is no longer blurred—it is erased.

I appreciate Will and Jeff sharing the link to this draft with me and look forward to giving it a good read. I expect that some of the observations they make may dovetail with my current work on blockchain business and fraud.
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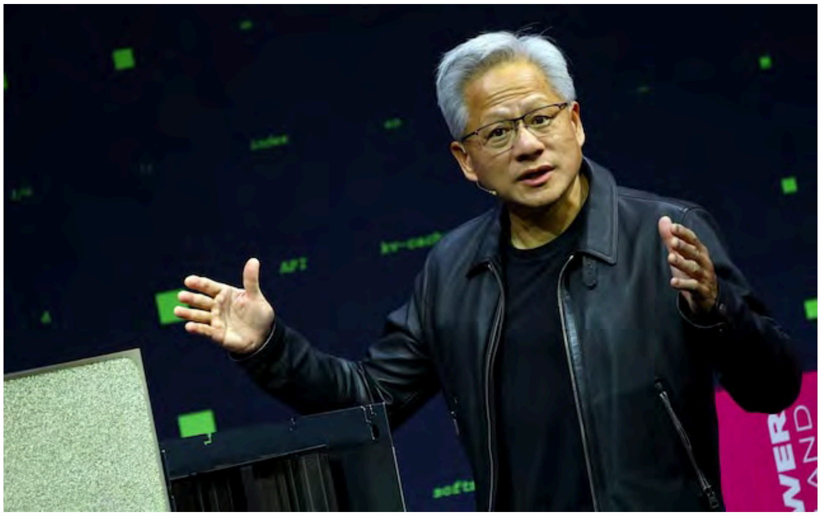
Nvidia rejects AI bubble fears

telegraph.co.uk/business/2025/11/25/we-are-not-enron-nvidia-rejects-ai-bubble-fears

Matthew Field November 25, 2025



Jensen Huang, the chief executive of Nvidia, dismissed suggestions of a bubble Credit: Lisi Niesner/Reuters

Nvidia has insisted it is not facing an Enron-style financial scandal, as the chipmaker hit back at short-sellers betting against an AI bubble.

The world's most valuable company has sought to ease market concerns by writing to analysts to contest claims by Michael Burry, the trader who predicted the 2008 housing crisis.

In particular, Nvidia said it is not artificially inflating revenues, rejecting claims by Mr Burry that the AI sector is being propped up by a string of circular deals, rather than genuine demand from businesses using the technology.

The note to analysts emerged as Nvidia's shares suffered a fresh sell-off on Tuesday, plunging 6pc after it emerged rival Google was in talks to offer its own chips to Facebook owner Meta.

This also led to shares in Alphabet, Google's parent company, climbing by 4pc as investors anticipate the business gaining ground on Nvidia in the race to dominate AI.

Nvidia became the first company to be valued at $5tn in October, although its share price has fallen in recent weeks owing to concerns that AI stocks have become overvalued. It was worth around $4.2tn on Tuesday.

In its note to analysts, first reported by Barron's, Nvidia pushed back on claims it has been fuelling an AI bubble and insisted its business "does not resemble historical accounting frauds".

Nvidia said that "unlike Enron" – the US energy giant which collapsed into bankruptcy in 2001 – it has not been attempting to conceal any debt and is not distorting its sales.

It also rejected comparisons to WorldCom and Lucent, one-time US telecoms giants that were both accused of fraud at the height of the dotcom bubble.

Nvidia's rebuttal comes after Mr Burry, who inspired the book and Hollywood film The Big Short, has raised concerns over the tech giant's accounting techniques, including its reporting of share compensation schemes.

He has claimed that a web of circular deals among the world's biggest AI companies, led by Nvidia, amounts to "suspicious revenue recognition" and that true demand for a wave of AI tools is "ridiculously small".

"Almost all customers are funded by their dealers," he said in a post on social media last week.

The investor has also claimed the way Nvidia's graphics chips are accounted for is incorrect, claiming they have a much shorter use life than has been suggested.

Last month, he revealed bets against Nvidia and Palantir of more than $1bn (£760m), allowing him to make a significant profit if the stock fell.

However, in its note to analysts, Nvidia said: "Nvidia's underlying business model is economically sound, our reporting is complete and transparent, and we care about our reputation for integrity."

In a call after its results last week, when Nvidia reported revenues of $57bn, Jensen Huang, the Nvidia chief executive, dismissed fears of a stock market bubble.

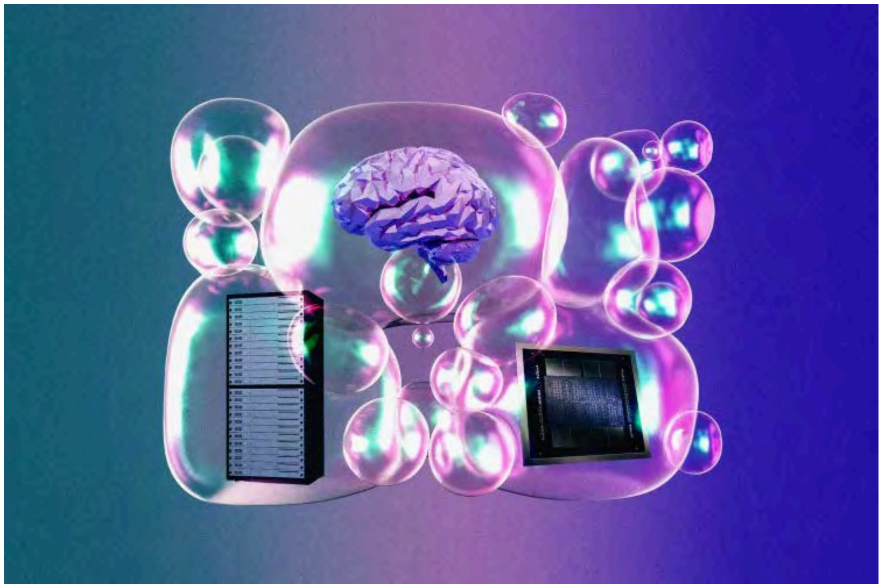
Mr Huang said: "There's been a lot of talk about an AI bubble. From our vantage point, we see something very different."

After details of Nvidia's note to analysts were released, Mr Burry said: "Nvidia emailed a memo to Wall Street sell-side analysts to push back on my arguments. I stand by my analysis."

My ‘I’m Not Enron’ t-shirt has people asking a lot of questions…

theverge.com/business/828047/nvidia-enron-conspiracy-accounting

Elizabeth Lopatto November 24, 2025



Elizabeth Lopatto is a reporter who writes about tech, money, and human behavior. She joined The Verge in 2014 as science editor. Previously, she was a reporter at Bloomberg.
Christ. Fine. So over the weekend, a strange Substack post from what appears to be a CEO of a pet relocation company went very viral. This post — which to be clear, is bullshit — alleges that Nvidia is engaged in what “may become the largest accounting fraud in technology history.” That’s a load-bearing “may,” in the sense that there’s no credible reason to believe Nvidia is engaged in fraud at all.

If and when the AI bubble pops, everything that inflated it will have been obvious the entire time

Apparently this spooked Nvidia, which — as first reported by *Barron’s* — has sent a note to analysts clarifying that it is not, in fact, Enron. That note, which *The Verge* has seen, addresses the specific allegations in that Substack, as well as claims by famed short-seller Michael Burry that Nvidia’s accounting of stock-based compensation didn’t make sense. (According to Nvidia, Burry seems to have incorrectly added taxes on restricted stock units to get his numbers.)

Now, naturally, this caught my attention because I’ve recently used Enron as an analogy for what Nvidia is up to with the neocloud companies it funds:

> "There is no neocloud that exists without [Nvidia CEO] Jensen [Huang]," says Saari. That makes neoclouds, in effect, extensions of Nvidia, he says. And none of them make money, so to expand, they must take on debt.
>
> If we look at these as being, metaphorically, Nvidia's special purpose vehicles, then it doesn't really matter if the companies are any good or will survive in the long term. Their job is to boost Nvidia's sales. Even OpenAI, also an Nvidia investment, kind of falls into this category — because the massive data center buildout that OpenAI wants the government to backstop sure involves an awful lot of Nvidia chips.
>
> If you are old enough, or possessed of a certain kind of disposition, you may be thinking, *Wait a minute, aren't you describing Enron?* And uh, in some sense, yes! Enron's whole thing was special purpose vehicles with extremely speculative valuations that were used to take on debt, Luria notes. But Enron lied about what it was doing, and that's fraud and illegal. (It also got up to other illegal stuff besides.) Nvidia's relationship with CoreWeave is all happening in plain sight. So are all the relationships with the other neocloud companies. It kind of seems like the tech company version of the GameStop open pump-and-dump.
>
> "It's not good behavior, and it's not healthy behavior," Luria says. "But it's legal. Any investor can see this. Many are just choosing not to."

Since Nvidia has clarified, I'd like to add a clarification of my own: *The problem is that Nvidia's behavior is perfectly legal.* In its note, Nvidia says it does not use special purpose entities to hide debt and inflate revenue. This is true! Every single neocloud Nvidia has invested in is its own company. Any debts those companies may have are on their own balance sheets. It's not Nvidia's debt. That's one of the reasons why neoclouds are so convenient for Nvidia — as the company itself informs analysts, Nvidia doesn't control those companies, and doesn't provide the financing for them, either. They're just very useful sin-eaters. In the case of CoreWeave, Nvidia is propping it up by investing in the company, including to make sure its IPO actually happened, and serving as a customer.

CoreWeave's CEO has even bragged about the close relationship, saying, "I'm not bashful about reaching out" to Huang.

Personally, I think accusing Nvidia of accounting fraud is effectively taking one's eye off the ball. It doesn't have to commit fraud to have a very cozy arrangement with a whole network of companies that juice its earnings and may be inflating an

AI bubble — all while its own executive sell shares to lock in their status as millionaires and billionaires. Nvidia has created seven new billionaires, in fact!

If and when the AI bubble pops, everything that inflated it will have been obvious the entire time. (That’s very in keeping with the times, isn’t it?) After all, I reported my CoreWeave story from the company’s public filings, following its “Risk Factors” section closely. Should the AI bubble burst, anything that accelerated Nvidia’s growth is likely to accelerate its losses; it will have to mark down its investments in the companies it propped up, for instance. Should those companies go under, that will mean a glut of Nvidia chips on the market as debt holders try to recoup their money, meaning Nvidia will effectively be competing with its own used product at fire-sale prices. It’s all very stupid, but as far as I can tell, not actually illegal.

7 Comments

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- Elizabeth Lopatto

Securities

Binance Is Sued by Hamas Victims Under Anti-Terrorism Law (1)

Nov. 25, 2025, 5:53 AM PST

Binance Holdings Ltd. faces a lawsuit claiming the cryptocurrency platform “knowingly facilitated” crypto transactions by Hamas before the group attacked Israel on Oct. 7, 2023, killing 1,200 people and taking 250 hostages.

More than 300 victims and family members of the Oct. 7 attack sued Binance, co-founder **Changpeng Zhao**, and top executive Guangying Chen under the Justice Against Sponsors of Terrorism Act provision of the Anti-Terrorism Act. They claim Binance enabled more than $1 billion in transactions by Hamas, Hezbollah, and other entities designated as foreign terrorist organizations by the US.

Changpeng Zhao
Photographer: Samsul Said/Bloomberg

"The lawsuit details how Binance knowingly facilitated hundreds of millions of dollars that helped those responsible for the atrocities of Oct. 7 attack," **Lee Wolosky**, an attorney for the victims, said in a statement. "When a company chooses profit over even the most basic counter-terrorism obligations, it must be held accountable — and it will be."

The lawsuit, made public Monday in North Dakota federal court, details more alleged transactions with Hamas than those disclosed by the US in 2023, when Binance pleaded guilty to violating anti-money laundering laws and agreed to pay $4.3 billion in penalties. Zhao also pleaded guilty, stepped down as chief executive and served four months in prison. President Donald Trump pardoned him last month. Chen was not charged.

While Binance couldn't comment on pending litigation, a spokesperson said that "we comply fully with internationally recognized sanctions laws, consistent with other financial institutions."

Zhao didn't respond to requests for comment.

Hamas's October 2023 assault on Israel set off a brutal two-year war in Gaza that has killed some 69,000 Palestinians, according to the Hamas-run Gaza health ministry. Other Iran-backed groups joined in the attack on Israel, including Lebanon's Hezbollah and Yemen's Houthis, creating a multi-front war. A shaky ceasefire has been in effect in Gaza since early October.

Venezuelan Gold Smuggling

Binance and Zhao now face four lawsuits in the US claiming it aided and abetted Hamas. But the 284-page complaint in North Dakota offers far more detail than the others about specific digital wallets allegedly linked to Hamas and Hezbollah, as well as Palestinian Islamic Jihad and Iran's Islamic Revolutionary Guard Corps.

The company "intentionally structured itself as a refuge for illicit activity, and knew full well that specific accounts controlled by terroristic organizations were among its customers," according to the complaint. Assets in those accounts "could foreseeably be used to commit terrorist attacks," it claims. Some of the activity took place after Binance pleaded guilty, according to the lawsuit.

It alleges, for instance, that criminal organizations in Venezuela illicitly mined gold and smuggled it to Iran, where it was used to finance terror activities by Hamas and Hezbollah. It cites a 26-year-old Venezuelan woman who the victims claimed "serves as a front for Hezbollah's gold smuggling network" and received $177 million in crypto, withdrawing $43 million in cash.

When Binance pleaded guilty in 2023, it acknowledged in a blog post its "responsibility for historical, criminal compliance violations," while also saying it has been "systematically working to restructure our organization and personnel, upgrade our systems, and establish a new industry standard in compliance."

At the time, the Justice Department and the Treasury Department's Financial Crimes Enforcement Network, or FinCEN, said many employees were aware of the consequences of allowing millions of illegal transactions.

New York Case

They said Binance was aware that the al-Qassam Brigades, the military wing of Hamas, used Bitcoin transactions to raise money for the Iran-backed Islamist group. Binance also failed to file suspicious activity reports with the US about Hamas fundraising, according to FinCEN.

Hamas is considered a terrorist organization by the US, European Union and other governments.

Under US law, Binance had a duty to prevent designated terrorist groups from accessing the US financial system by implementing an anti-money laundering program, performing due diligence on customers and filing suspicious activity reports. By intentionally evading those regulatory requirements, Binance created a system that allowed Hamas and other groups to move crypto freely, according to the North Dakota lawsuit.

The question of where victims can sue Binance, which is not based in the US, is the subject of legal dispute. Two cases are pending in New York and one in Alabama. The new complaint cites at least two transactions executed by IP addresses in Kindred, North Dakota.

In one New York case, US District Judge John Koeltl ruled on Feb. 25 that plaintiffs "alleged plausibly" that Binance "knowingly and substantially assisted" the Oct. 7 attacks, and they were "generally aware that they were playing a role in Hamas's and PIJ's overall terrorist activities." He ordered fact-finding on the question of jurisdiction.

Binance disputed Koeltl's ruling, saying he misapplied the law on aiding and abetting, and those who sued failed to show the company's connection to the attacks.

"Binance is an exchange that offers its services to over 100 million users worldwide, its services have no 'definable nexus' to any terrorist attack, and plaintiffs have not come close to identifying anything that could change that," its lawyers said in an April 11 court filing.

In the Alabama case, a judge denied Binance's request to transfer the lawsuit to New York.

Under the Anti-Terrorism Act, a defendant can face treble damages liability for aiding and abetting "an act of international terrorism" if it provided "substantial assistance" to such acts. Those who sued in North Dakota include survivors of the attacks as well as family members and the estates of those who died.

They include the families of Hersh Goldberg-Polin, an Israeli-American hostage murdered by Hamas in Gaza; Itay Chen, an Israeli-American IDF soldier whose body was returned to Israel this month; Eyal Waldman, an Israeli philanthropist whose U.S.-born daughter, Danielle, was killed at the Nova music festival during the Oct. 7 attacks; and Yechiel Leiter, the Israeli ambassador to the U.S. whose son was a soldier killed by Hamas.

The case is Balva v. Binance Holdings, 25-cv-266, US District Court, District of North Dakota (Fargo).

(Adds Binance statement starting in fifth paragraph)

--With assistance from **Ethan Bronner** and **Muyao Shen**.

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Philip Lagerkranser, Anthony Aarons

Hamas attack victims sue Binance for allegedly allowing payments to militant group

reuters.com/legal/government/hamas-attack-victims-sue-binance-allegedly-allowing-payments-militant-group-2025-11-24

Jonathan Stempel November 24, 2025

A logo on the Binance exhibition space at the Viva Technology conference dedicated to innovation and startups at Porte de Versailles exhibition center in Paris, France June 15, 2022. REUTERS/Benoit Tessier Purchase Licensing Rights, opens new tab

- Binance accused of laundering money for Hamas, other groups
- Changpeng Zhao pardoned by Donald Trump in October
- Binance says it complies with sanctions laws
- Binance, lawyer for Zhao decline to discuss lawsuit

Nov 24 (Reuters) - Victims of Hamas' October 2023 attack on Israel sued Binance and its founder Changpeng Zhao, accusing them of facilitating millions of dollars in payments to the group and other U.S.-designated terrorist groups.

According to a complaint made public on Monday, the world's largest cryptocurrency exchange laundered money for Hamas even after pleading guilty in November 2023 and paying a $4.32 billion criminal penalty for violating federal anti-money-laundering and sanctions laws.
The plaintiffs include 306 American victims of Hamas' attack, including relatives of people killed, injured or taken hostage, and subsequent attacks by various groups.

They accused Binance of knowingly enabling Hamas, Hezbollah, Palestinian Islamic Jihad and Iran's Revolutionary Guard to move more than $1 billion through its platform, including more than $50 million after the October 7 attack.

Zhao pleaded guilty to anti-money-laundering violations in connection with Binance's plea and served a four-month prison sentence. U.S. President Donald Trump pardoned him on October 23.
"Binance intentionally structured itself as a refuge for illicit activity," the complaint said. "To this day, there is no indication that Binance has meaningfully altered its core business model."

In a statement, Binance declined to discuss the lawsuit but said "we comply fully with internationally recognized sanctions laws." A lawyer representing Zhao in related litigation declined to comment.

The lawsuit seeks compensatory and triple damages, among other remedies.

BIG TRANSACTIONS LINKED TO BRAZILIAN LIVESTOCK OPERATOR

According to the complaint, large sums of cryptocurrency went through accounts of people with no obvious financial means to explain them.

They allegedly included a Venezuelan woman who appeared to operate a Brazilian livestock-related company, Fazenda Amazonia, or Amazonia Farm in English.

Her account, opened in 2022 when she was 26, allegedly received more than $177 million in deposits, and more than $130 million in withdrawals were made, the complaint said.

"When a company chooses profit over even the most basic counterterrorism obligations, it must be held accountable - and it will be," Lee Wolosky, a lawyer for the plaintiffs, said in a statement.

The complaint was filed in North Dakota federal court. It said at least two suspicious transactions went through online addresses in Kindred, North Dakota, which has about 1,000 people.

Binance and Zhao are separately defending against a lawsuit by other attack victims in Manhattan federal court. The lawsuit claims they provided a "clandestine" funding mechanism for Hamas and Palestinian Islamic Jihad to raise money and transact illegal business for several years.

A judge rejected the defendants' motion to dismiss that case in February.

Reporting by Jonathan Stempel in New York; Editing by Matthew Lewis

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

California Brief

Anthropic Says Its New AI Model Is Better at Coding, Office Work

Nov. 24, 2025, 11:00 AM PST

Anthropic PBC is rolling out a new version of its most powerful artificial intelligence model that is designed to be better at automating coding and office tasks, part of an effort to compete with OpenAI and Alphabet Inc.'s Google for business customers.

The new model, Claude Opus 4.5, is more capable than previous versions at software engineering work, like fixing bugs, without needing a user's help, Anthropic said. Opus 4.5, released Monday, is also intended to be better at carrying out complicated multistep tasks on a user's computer and the internet.

Founded in 2021 by former employees of OpenAI, San Francisco-based Anthropic now has more than 300,000 business customers who use its models to streamline workplace tasks — particularly in the field of computer programming, where the startup has emerged as a market leader. But Anthropic faces intense competition from OpenAI and Google, the latter of which impressed the AI community and investors last week with the release of Gemini 3. Google's new model is designed to be better at coding, among other jobs.

Anthropic's new model has hit a new coding milestone of sorts, according to Scott White, head of product for Claude AI models. Opus 4.5 is the first to score higher than any of the company's human candidates on a challenging take-home engineering assignment that prospective employees are asked to complete, he said. White declined to explain the specific assignment but said it's meant to take a qualified candidate many hours while using Anthropic's Claude model.

"It's now crossing an inflection point from how we have to think about the evaluation for software engineering," White told Bloomberg News.

The new model is also aimed at better carrying out tasks such as financial analyses, as well as making presentations and spreadsheets, White said. Additionally, Opus 4.5 is intended to be used for more back-and-forth refinement of work tasks, White said, rather than just to generate a rough draft of a document that a user then goes off and improves on their own.

Anthropic is also making Opus 4.5 available within Microsoft Corp.'s Excel spreadsheet software to its business customers and individuals who pay for its high-end Max subscription plan. A chat function in Excel lets users instruct the Claude chatbot to do things like edit spreadsheets. The feature was previously available to some users as part of an invite-only beta test.

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Nick Turner

Tesla sued for allegedly infringing robotics patents

reuters.com/legal/litigation/tesla-sued-allegedly-infringing-robotics-patents-2025-11-24

Jonathan Stempel November 24, 2025

The logo of Tesla is seen on a wall during Tesla Inc.'s official launch in Bogota, Colombia, November 20, 2025. REUTERS/Luisa Gonzalez Purchase Licensing Rights , opens new tab

Nov 24 (Reuters) - Tesla (TSLA.O) , opens new tab was sued on Monday by a Virginia company that accused Elon Musk's electric vehicle maker of knowingly infringing five patents related to robotics systems for self-driving vehicles.

In a complaint filed in Alexandria, Virginia, federal court, Perrone Robotics said its founder Paul Perrone developed a general purpose robotics operating system whose applications could be configured to individual robots and automated devices, addressing the once significant problem of needing specific hardware and software for each vehicle.

Perrone said all Tesla vehicles, such as the Model Y, using any version of the carmaker's self-driving software Autopilot in the last six years infringe the five patents, including one patent that the Charlottesville-based company offered to sell Tesla in 2017.

The lawsuit seeks unspecified damages and a halt to further infringements.

Tesla did not immediately respond to requests for comment.

Musk, the world's richest person, has long tried to convince investors that Tesla can become a leader in so-called autonomous driving for private vehicles, as well as robotaxis it plans to produce.

The case is Perrone Robotics Inc v Tesla Inc, U.S. District Court, Eastern District of Virginia, No. 25-02156.

For Perrone Robotics: Shawn Blackburn of Susman Godfrey; and Tara Zurawski of Bunsow De Mory

For Tesla: Not yet available

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Catching Up With Delaware's Chancery Court

By **Jarek Rutz**

Law360 (November 24, 2025, 12:27 PM EST) -- The Delaware Chancery Court last week delivered a packed mix of fraud allegations, merger fallout, corporate-governance reforms and jurisdictional fights, while a new academic report ignited debate over attorney fee awards in Delaware's influential corporate forum.

From a revived insurance-sale fraud suit to the escalating battle over Citgo's ownership, here's what you might have missed.

Fraud and Post-Sale Turmoil

Vice Chancellor Morgan T. Zurn **kept most claims alive** in a fraud and contract suit tied to the $33.2 million sale of Southern Trust Insurance Co., finding the buyers had adequately alleged a multiyear scheme to falsify financials and siphon company funds before the deal closed. The court held that neither Georgia oversight nor anti-reliance language barred claims against seller William H. Anderson II, Lester "Les" Cole and others, and that Delaware retained jurisdiction under the purchase agreement's forum clause. Fraudulent inducement, contract, fiduciary-duty and unjust-enrichment claims survived, while only three counts were dismissed.

According to the complaint, the buyers later injected roughly $57 million to stabilize the insurer once the alleged misconduct surfaced.

Senior Magistrate Selena E. Molina **tossed a suit** seeking up to $32.7 million in insurance-related payouts tied to a bitcoin mining investment program, ruling that Investview Inc. and affiliate iGenius LLC "have an adequate remedy at law" in Superior Court. The venture had sought declaratory and equitable relief against UIU Holdings LLC, Total Protection Plus and individuals, but the court found the claims ultimately sought monetary recovery and identified no ongoing harm or escrow funds the Chancery Court could order released.

Citgo Auction Fight

Rusoro Mining Ltd. told the Chancery Court that fellow creditor Gold Reserve Ltd. is **attempting to derail** the federal court-run auction of Citgo Petroleum Corp. parent PDV Holding Inc. by blocking Rusoro from joining a rival bid backed by Elliott Investment Management LP. Gold Reserve has accused Rusoro of misusing confidential bidding-consortium information to secure improved terms with Elliott and is seeking expedited proceedings and injunctive relief.

Rusoro countered that Gold Reserve is improperly interfering with the federal sale process after a special master recommended Elliott's bid and as the federal court moves toward selecting a winning offer by Nov. 30. Recent attempts to remove the presiding judge and special master over alleged bias were rejected, adding pressure as the multibillion-dollar sale nears its conclusion.

Deal Breakdown

A French wireless-tech company says a Japanese semiconductor giant **sabotaged a planned 2023 cash tender offer**, costing it more than $250 million. Sequans Communications SA alleges Renesas Electronics Corp. withheld key information about a needed Japanese tax ruling, misrepresented its status and pushed for deadline extensions while secretly shifting its acquisition priorities. The complaint claims Renesas breached contractual "reasonable best efforts" and disclosure obligations, violated the implied covenant of good faith and abruptly severed commercial ties despite assurances it would maintain the partnership.

Governance, Fees and Policy Pressure

Meta Platforms Inc. **agreed to pay $190 million** and implement sweeping governance reforms to settle an $8 billion derivative suit tied to the Cambridge Analytica scandal. The settlement, reached midtrial in July, requires Meta to revamp whistleblower reporting, adopt a standalone directors code of conduct, overhaul conflicts and insider-trading policies and remove Mark Zuckerberg's sole authority over director conflict decisions. Meta denied wrongdoing but said the changes reinforce its governance commitments.

Separately, a new academic report challenged Delaware's **approach to attorney fee awards**, arguing the state lacks consistent benchmarks and may overcompensate plaintiffs' lawyers in major stockholder and derivative cases. The findings, comparing Chancery litigation from 2017 to 2022 with federal securities class actions, sparked fresh debate as lawmakers consider reforms in 2026 amid concerns that high awards could erode Delaware's corporate-law dominance.

Receivership and Corporate Existence Questions

Vice Chancellor Nathan A. Cook **declined for now to appoint a receiver** for the voided predecessor of online gaming chat venture TeamSpeak Inc., instead ordering targeted discovery into whether investor John Zdrodowski has standing to pursue derivative claims. Zdrodowski alleges former directors and investors helped "steal" an opportunity to acquire TeamSpeak GmbH, while disputes over his stockholder status and unpaid franchise taxes complicated the issue.

Vice Chancellor Cook questioned whether directors can avoid liability simply by allowing a company to lapse and criticized defense counsel's attempts to operate as "shadow counsel" without formal representation, taking the matter under advisement.

Quotable

"It is frustrating that certain members of academia choose to repeatedly opine on contingency fees without understanding basic concepts underlying the contingency firms' business models. Many of their assumptions would quickly deteriorate if they spent five minutes speaking to someone who actually does this for a living," said Mark D. Richardson of Labaton Keller Sucharow LLP on **a recent report** critical of Chancery Court's fee awards in derivative litigation.

--Editing by Alex Hubbard.

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Chancery Delays Settlement Ruling In Peloton Risk Suit

By **Jeff Montgomery**

Law360 (November 24, 2025, 5:27 PM EST) -- Saying she wants to "get it right," Delaware's chancellor indicated on Monday she would rule before year's end on the Court of Chancery's part in a proposed multicourt settlement of derivative claims accusing Peloton's top officials of cashing in on inside information about an impending treadmill recall.

The decision put off, for now, resolution of claims that current and former Peloton directors and officers are liable for alleged misrepresentations of fluctuating demand for the company's equipment, purportedly allowing product problems to remain under the radar while insiders "artificially" reaped nearly $465 million by selling stock at "inflated prices," shareholders have said in court papers.

Chancellor Kathaleen St. J. McCormick said during a teleconference hearing: "I want to make sure I'm doing what I'm supposed to do for the company and unrepresented persons," after hearing a summary of the case and settlement plans to date, which included earlier dismissal of cases in Delaware federal court and all but one case in New York federal court.

The first case surfaced in 2021 in the U.S. District Court for the Eastern District of New York, with litigation following in a now-dismissed case in the District of Delaware and three Chancery suits filed and then consolidated in 2023. U.S. Magistrate Judge Peggy Kuo dismissed the New York case on July 1.

Common to the suits were claims that company executives failed to fully disclose reasons behind demand fluctuations during the COVID-19 pandemic. Alleged in the already-dismissed federal action were breaches of fiduciary duty, false and misleading statements, failure to maintain adequate internal controls, and failure to remedy a dangerous product.

One Delaware version of the claims alleged that insiders sold $494.7 million in Peloton stock while knowing the company's "primary revenue drivers had significant design defects and were fundamentally unsafe, especially to susceptible children and animals, resulting in serious and catastrophic personal injuries."

Among the assertions was that former Peloton CEO John Foley repeatedly claimed the at-home fitness company was "seeing strong demand for its products and was not seeing any slowdown from the COVID vaccine," when that would later be proven false.

In July, U.S. Magistrate Judge Peggy Kuo granted final approval to a deal ending consolidated, independently settled shareholder derivative claims in New York's Eastern District and the Delaware courts.

"Can a federal court release claims in a derivative action enforcement and require dismissal of a case?" Chancellor McCormick asked Whitney Weber of Latham & Watkins LLP, counsel to Peloton. "I'm just trying to put my head around the scope of what I need today. As you know, regardless of dismissal or something under [Rule 23.1], the court has an obligation" to review and rule on suits filed by stockholders on behalf of a company.

"I believe that the settlement in the New York federal case covered these cases in the Chancery Court as well, because we gave notice in connection with that [New York] case, which was settled," said Weber.

Terms of the New York derivative settlement include requirements for risk review exposures by company executives, the establishment of an executive product safety committee, and the creation of an anonymous ethics hotline and online reporting site.

The derivative settlement comes after the final approval in July 2024 of a $14 million settlement in a related investor class action, which was also before Judge Kuo.

Weber said she had not looked into whether the federal court could release and require dismissal of claims, but noted the request was for dismissal, "as opposed to approval."

Although the motion relies on the fact of the federal court's approval of the settlement as sufficient, "we could of course come back to you," Weber said.

Chancellor McCormick said the issues beg "the question as to what the court has authority to do in this action and what my job is today."

She added later: "Because so much of the settlement has been implemented, I don't want to let this sit for so long it's no longer relevant."

Christopher N. Kelly of Potter Anderson & Corroon LLP, counsel to Peloton and its directors, told the chancellor that he understood a number of similar dismissals had occurred in the Court of Chancery.

The parties did not immediately respond to requests for comment.

The stockholders are represented by Seth D. Rigrodsky, Gina M. Serra and Herbert W. Mondros of Rigrodsky Law PA.

Peloton and the company's directors and officers are represented by Kevin R. Shannon and Christopher N. Kelly of Potter Anderson & Corroon LLP and Whitney B. Weber of Latham & Watkins LLP.

The case is In re Peloton Interactive Stockholder Derivative Litigation, case number 2022-1051, in the Court of Chancery for the State of Delaware.

The case in the U.S. District Court for the Eastern District of New York is In re Peloton Interactive Inc. Derivative Litigation, case number 1:21-cv-02862.

The already dismissed case in the U.S. District Court for the District of Delaware is Blackburn v. Peloton Interactive Inc. et al., case number 1:22-cv-01618.

--Editing by Philip Shea.

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Del. Supreme Court Backs FloSports In Records Fight

By **Jarek Rutz**

Law360 (November 25, 2025, 10:32 AM EST) -- A fight among siblings over access to corporate records ended with the Delaware Supreme Court affirming that three stockholders of sports streaming platform FloSports Inc. failed to follow the procedural steps required under the Delaware General Corporation Law.

In an opinion issued Monday, the high court held that the stockholders' attempts to amend their litigation and revise their requests, filed within days of serving a new demand, violated the statute's mandatory waiting period and failed to prove that a revised demand was properly verified.

"Because the stockholders did not meet Section 220's form and manner requirements, we affirm the Court of Chancery's decision denying inspection," the justices wrote.

They emphasized that the siblings' procedural missteps, rather than the substance of their stated purpose to value and potentially sell their shares, controlled the outcome. The high court said the appellants' argument that their amended filing complied with the law "finds no support in the text or purpose of Section 220."

The dispute traces back to a July 2023 books-and-records suit filed in the Delaware Chancery Court by three siblings of FloSports founder and former CEO Martin Floreani. The stockholders claimed they were being denied financial information and sought records to value their shares and potentially sell them. Chancellor Kathaleen St. J. McCormick ultimately dismissed the case in October 2024 after finding that revised, amended demands failed to comply with Section 220's "form and manner" requirements, a decision now affirmed on appeal.

Under Section 220's timing and verification rules, stockholders are required to make a written demand under oath, wait five business days for a response and then file suit only if the corporation refuses or fails to reply. The Supreme Court agreed with Chancellor McCormick that the FloSports siblings' attempts to fold a September 2023 demand into existing litigation on the same day it was served ran afoul of that framework.

According to the opinion, the siblings — Martin, Christina and Charlene Floreani — served three demands over 10 months seeking financial statements, valuation materials and other records to assess their investments in the privately held, Austin-based company. Each demand was rejected by the company for different form-and-manner failures, including missing powers of attorney, questions about whether the requests were made under oath and the timing of their filings.

The Supreme Court held that the third demand failed because the siblings filed a motion to amend their complaint on the same day they served the demand, forcing FloSports into litigation before the required five-day period expired. The high court said that filing constituted an impermissible "application" to the court, depriving FloSports of the "litigation-free window" the statute guarantees.

The justices also affirmed that the second demand failed because the siblings could not show that the version they verified under oath two weeks earlier was the same version ultimately sent to the company. The high court noted there were meaningful changes between drafts and that the siblings invoked privilege rather than produce evidence showing no substantive revisions occurred. As a result, the court concluded they "failed to carry their burden of showing that the final version of the second demand was verified under oath."

Because none of the demands strictly complied with Section 220's procedural requirements, the

Supreme Court did not reach arguments concerning whether the siblings had a proper purpose for seeking documents.

Appellants Martin Floreani, Christina Floreani and Charlene Floreani are represented by Scott James Leonhardt of Esbrook PC.

FloSports Inc. is represented by John L. Reed, Peter H. Kyle, Daniel P. Klusman and Benjamin D. Schuman of DLA Piper.

The case is Martin Floreani, Christina Floreani and Charlene Floreani v. FloSports Inc., case number 491,2024, in the Delaware Supreme Court. The case under appeal is case number 2023-0684 in the Delaware Chancery Court.

--Editing by Alyssa Miller.

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Apple Fights Bid To Recertify 200 Million IPhone Buyer Class

By **Bonnie Eslinger**

Law360 (November 24, 2025, 6:24 PM EST) -- Apple has urged the Ninth Circuit to deny a petition from customers seeking to restore certification of a consumer class plaintiffs say reaches "upwards of 200 million" with a collective $20 billion in damages, in litigation claiming that the tech giant violated antitrust laws with its App Store policies.

In its Friday filing, Apple tells the appellate court that U.S. District Judge Yvonne Gonzalez Rogers of the Northern District of California gave the plaintiffs "every chance" to establish that antitrust injury could be demonstrated through common evidence that applies across the class.

"But plaintiffs were consistently unable to do so, and after the court excluded the unreliable expert testimony on which their latest efforts rested, there was no more glue to bind together plaintiffs' class," Apple told the Ninth Circuit.

In an October decision, Judge Gonzalez Rogers granted Apple's motion for decertification, noting that when she certified the class more than a year earlier, she warned the consumers that she would consider decertifying the class if their expert failed to reasonably determine whether and to what extent consumers were harmed. She also said she had been assured that the consumers' experts could match Apple ID accounts with actual consumers, and that that would allow them to prove consumer harm.

Yet in their petition for the Ninth Circuit's review of the decision, the plaintiffs sidestep the judge's Daubert analysis and instead focus on three other reasons for review, Apple tells the appellate court, adding, "None is convincing."

First, the consumers argued that the district court misapplied the predominance analysis established under the Ninth Circuit's 2022 decision in Olean Wholesale Grocery Cooperative Inc. v. Bumble Bee Foods LLC.

The judge "did precisely what Olean requires: it rigorously analyzed whether plaintiffs' expert testimony was sufficiently reliable to prove antitrust injury on a classwide basis and, when it became clear that it was not, decertified the class," Apple states.

Second the plaintiffs wrongly contend that Judge Gonzalez Rogers erred in finding that the plaintiffs had to be able to ascertain individual class members at the class-certification stage.

"The court affirmatively disclaimed any ascertainability rule and instead focused, as this court's precedent instructs, on the ... predominance requirement" of Rule 23 of the Federal Rules of Civil Procedure, Apple tells the Ninth Circuit.

Finally, the plaintiffs exaggerate in contending that Judge Gonzalez Rogers' order is a "death knell" for their claims, saying they could still proceed to trial with their individual claims. Instead, the plaintiffs "argue only that there is less incentive now than before the class was decertified," Apple says.

But appellate review should not be granted just because the amount of potential damages decreases, Apple argues.

"No doubt plaintiffs would prefer to pursue a class 'of nearly 200 million members' seeking 'over $20 billion' in supposed overcharges," Apple states.

The death-knell doctrine won't help here, Apple said, because it applies to situations in which the decertification order is "questionable," citing the Ninth Circuit's 2005 decision in Chamberlan v. Ford Motor Co., and there's a strong likelihood of "overturning the class certification decision," a determination made in In re Delta Air Lines by the Sixth Circuit in 2002.

The plaintiffs previously told the judge they could identify unharmed class members before the case went to trial but the expert they presented did not have a methodology to do that.

"Given his lack of relevant credentials, his unscientific approach and the staggering flaws in his work," the court correctly excluded his testimony and decertified the class, Apple says.

The expert, economics professor Daniel McFadden, used Apple ID data containing app and in-app purchase transactions and then tried, often without success, to match those accounts to individuals, Apple said.

"But different transactions by one person can be associated with different records; for example, if the person's identifying information or payment method changes," Apple told the Ninth Circuit. "This happens regularly."

In addition, Mc Fadden was unable to determine the class member accounts that were not due compensation under the plaintiffs' theory of damages, the company said.

In a footnote, Apple said the plaintiffs argued that the company "refused" to produce data connecting the records to specific transactions, but knew all along that there were limits to the information they'd be given.

"Plaintiffs accepted that limitation given the serious privacy risk of linking named individuals to their 'sensitive' app and in-app purchase histories," Apple told the Ninth Circuit.

The iPhone and iPad users' **petition** to the Ninth Circuit, filed Nov. 10, challenged their October **decertification**, arguing that identifying individual class members is a matter for doling out damages after trial.

All that matters for class certification, the consumers said, is that they can calculate on a classwide basis the overcharge on every App Store transaction. Apple, according to the petition, told the court it could provide enough information to link each transaction to an individual purchaser.

The consumers pointed to the Ninth Circuit's 2017 holding in Briseno v. ConAgra Foods that class certification requires no separate determination that identifying class members is "administratively feasible."

In the litigation, which traces back to 2011, the consumers have previously fought Apple on appeal. In 2019, they went all the way to the U.S. Supreme Court, which held that iPhone users have **standing** to sue under federal antitrust law that permits damages claims only for customers who purchase directly from the alleged lawbreaker.

Similar to **other cases,** the consumers are targeting Apple policies that make the App Store the only place to get iPhone and iPad apps and force them to go through Apple's in-app payments and its commissions of up to 30%.

The class had covered individuals who purchased one or more iOS applications or application licenses from Apple or who paid via in-app purchases since 2008 and have spent more than $10 in that time period.

The new Ninth Circuit petition puts their number at "upwards of 200 million consumers with collectively $20 billion in damages."

And thanks to the decertification, the consumers said, they now "must sue individually to recover against Apple, a $4 trillion corporation, because of perceived uncertainty in identifying before trial consumers who account for just 0.5% of all App Store spending."

The consumers said they were able to show that class members responsible for 99.5% of all App Store spending have measurable damages.

Representatives for Apple and the consumers did not immediately respond Monday to requests for comment.

The consumer class is represented by Betsy C. Manifold, Rachele R. Byrd, Mark C. Rifkin, Matthew M. Guiney and Thomas H. Burt of Wolf Haldenstein Adler Freeman & Herz LLP, and by David C. Frederick, Aaron M. Panner, Alex Treiger, Caroline Schechinger, Kyle M. Wood and Kelley C. Schiffman of Kellogg Hansen Todd Figel & Frederick PLLC.

Apple is represented by Cynthia E. Richman, Theodore J. Boutrous Jr., Daniel G. Swanson, Blaine H. Evanson, Bradley J. Hamburger, Caeli A. Higney, Julian W. Kleinbrodt, Matt Aidan Getz, Eli M. Lazarus and Harry R.S. Phillips of Gibson Dunn & Crutcher LLP.

The case is Pepper et al. v. Apple Inc., case number 25-7122, in the U.S. Court of Appeals for the Ninth Circuit.

--Additional reporting by Hailey Konnath, Bryan Koenig, Matthew Perlman, Dorothy Atkins and Lauren Berg. Editing by Karin Roberts.

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Schwab's Antitrust Deal Gets Final OK Over Objections

By **Sydney Price**

Law360 (November 24, 2025, 5:19 PM EST) -- The Charles Schwab Corp. and a group of investors Monday received a Texas federal judge's final approval of a settlement of a lawsuit challenging the financial services company's merger with TD Ameritrade on antitrust grounds, following dozens of objections by the Iowa attorney general and others.

U.S. District Judge Amos L. Mazzant III noted in an **order** that none of the around 70 objectors, many of whom took issue with the settlement's lack of monetary benefit to the class and proposed attorney payouts, appeared at a fairness hearing in August.

Lead counsel's request for roughly $8.3 million in fees and about $686,000 in expense reimbursement was **granted** and will be paid directly by Schwab.

Schwab "is responsible for paying plaintiffs' counsel attorney's fees, not the members of the settlement class," according to the decision. "Thus, if the court were to reduce the award of fees for plaintiffs' counsel, it would not confer a greater benefit upon the settlement class, but rather would only benefit defendant."

The suit alleged Schwab's 2020 merger with TD Ameritrade created a monopoly in the relevant market for retail order flow. Judge Mazzant in February 2025 **granted initial approval** to the deal, which also requires Schwab to implement an antitrust compliance program.

Judge Mazzant said Monday the investors had submitted evidence demonstrating the compliance program will "provide a substantial monetary benefit to the settlement class."

In July, the state of Iowa **urged the court** not to grant final approval of the deal "until it reflects fair and adequate relief to the class," arguing the class members are not the primary beneficiaries.

The state said the antitrust monitoring program created by the settlement "may have some effect, but whether that effect is good for the class is unclear."

Schwab in November 2018 announced its plan to buy TD Ameritrade in a $26 billion all-stock deal. By June 2020, the U.S. Department of Justice cleared the merger, six months after the companies disclosed that the DOJ had launched an in-depth review of the deal.

The litigation was filed in June 2022, with plaintiffs Jonathan Corrente, Charles Shaw and Leo Williams alleging Schwab's merger with TD Ameritrade violated the Clayton Act.

They sought to represent individuals and entities that purchased or sold equities or equity options through Schwab or TD Ameritrade from Oct. 26, 2020, through the present. In addition to treble damages and attorney fees, the group of investors told the court they sought to break up the merger or force the two companies to operate separate businesses within the same entity. They also asked for an injunction requiring Schwab to allow them to opt out of payment for the order flow in their trades with the company.

In 2023, the court rejected Schwab's bid to toss the proposed class action, ruling the retail investors showed an antitrust injury through their allegations — that they now pay higher transaction costs for their trades following the merger.

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

The plaintiffs are represented by Yavar Bathaee, Andrew Wolinsky, Brian J. Dunne and Edward M. Grauman of Bathaee Dunne LLP, S. Calvin Capshaw III and Elizabeth L. DeRieux of Capshaw DeRieux LLP, Christopher M. Burke of Burke LLP, and Chad E. Bell of Korein Tillery PC.

Charles Schwab is represented by Veronica S. Moyé of King & Spalding LLP, Daniel G. Swanson and Jason J. Mendro of Gibson Dunn & Crutcher LLP and Melissa R. Smith of Gillam & Smith LLP.

The case is Corrente et al. v. The Charles Schwab Corp., case number 4:22-cv-00470, in the U.S. District Court for the Eastern District of Texas.

--Editing by Covey Son.

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OpenAI Attys Must Share Internal Comms In Copyright MDL

By **Hailey Konnath**

Law360 (November 24, 2025, 10:38 PM EST) -- A New York federal magistrate judge on Monday ordered OpenAI's in-house attorneys to share their internal communications regarding deleted training datasets with authors suing over the alleged use of copyrighted works to train ChatGPT, rejecting OpenAI's argument that the communications are privileged.

U.S. Magistrate Judge Ona T. Wang said OpenAI's argument that the "reasons" for deleting the datasets are all privileged "strains credulity."

"Attorney-client privilege does not protect facts, even when they are shared with an attorney in otherwise privileged communications," the judge said.

Beyond that, OpenAI's state of mind is critical for determining whether the alleged infringement was willful, and OpenAI has maintained that it did not willfully infringe, Judge Wang said.

"A jury is entitled to know the basis for OpenAI's purported good faith," she said, adding that "[w]hat matters is that OpenAI has put its state of mind at issue, and OpenAI may not selectively use attorney-client privilege to restrict class plaintiffs' inquiry into evidence concerning OpenAI's purported good faith in this way."

Specifically, Judge Wang ordered OpenAI to produce all written communications with in-house counsel in 2022 regarding the reasons the datasets were deleted, as well as all internal references to Library Genesis that OpenAI has redacted or withheld on the basis of attorney-client privilege.

LibGen is an online library that OpenAI and other AI companies have been accused of using to train their large language models, or LLMs. It's been described as a so-called "shadow library" of pirated works.

Judge Wang on Monday also gave the plaintiffs in the case the ability to depose in-house lawyers on those communications and their personal knowledge.

"Given OpenAI's ongoing improper privilege assertions, class plaintiffs are entitled to depositions of up to two hours for each OpenAI attorney who participated in such communications in 2022, which will not count against the total deposition hours cap previously set by the court," Judge Wang said.

OpenAI has until Dec. 8 to turn over the communications and until Dec. 19 to make those lawyers available for depositions, according to the order.

Judge Wang is overseeing discovery in sprawling multidistrict litigation accusing OpenAI, and its financial backer Microsoft, of infringing copyrighted works by training its LLMs with copyright-protected works without permission. OpenAI is also accused of violating the Digital Millennium Copyright Act.

The cases involve numerous plaintiffs and include a putative class action that was brought in the Golden State. The litigation also includes lawsuits in New York brought by The New York Times Co. and other news organizations, as well as litigation brought by the Authors Guild along with award-winning writers including George Saunders, Scott Turow, Jonathan Franzen and Jia Tolentino.

In April, the Judicial Panel on Multidistrict Litigation **centralized the pretrial work for the cases** in the Southern District of New York.

A proposed class of authors in the litigation **have argued** Microsoft had been attempting to avoid turning over the documents for months with misleading statements. According to a September letter, Microsoft's counsel previously said there was no "LibGen dataset" to be turned over to the authors. A different representation was given during a subsequent deposition of Microsoft, the authors said at the time.

"This material doesn't just go to the heart of plaintiffs' claims against Microsoft; it is, alone, a smoking gun of copyright infringement," the authors said. "The court should not allow Microsoft to continue to bury it."

In Monday's order, Judge Wang said it is undisputed that an OpenAI employee downloaded pirated copies of books from LibGen in 2018. The authors contend OpenAI used those downloaded LibGen books to create two datasets, "Books1" and "Books2." During the discovery process, they said they learned OpenAI deleted those datasets in 2022.

When the authors asked OpenAI for materials related to the reasons for deleting the datasets, it refused, pointing to attorney-client privilege, Judge Wang said.

She noted that "OpenAI's position on whether the reasons for the deletion are privileged has shifted several times." And the judge already determined that a number of disputed documents containing Slack messages between OpenAI employees regarding the datasets' deletion were not subject to attorney-client privilege after reviewing the messages in camera, or privately, in an order last month.

Judge Wang said a number of other Slack messages regarding the datasets are also not privileged and must be produced, though some messages are clearly lawyers giving legal advice and can be withheld.

She also held that OpenAI has waived privilege over "non-use" as a reason for the datasets' deletion. For one, OpenAI didn't object when she ruled in October that many communications were not privileged, according to the order.

"Thus, if the 'reasons' are not privileged, then there is no waiver of privilege because there is no privilege to waive, and OpenAI cannot refuse to testify about any of the reasons on the basis of attorney-client privilege," Judge Wang said. "Even if a 'reason' like 'non-use' could be privileged, OpenAI has waived privilege by making a moving target of its privilege assertions."

The company openly stated that the datasets were deleted "due to their non-use," and that was left on the docket for 15 months, she said. It then asserted that all of the reasons for deleting the datasets were privileged, and then later, that not all aspects of the reasons were privileged, the judge said.

"OpenAI's later assertions that all 'reasons' are privileged compels a finding of waiver by disclosure," Judge Wang said. "If all 'reasons' are privileged, then 'non-use,' as a reason for the deletion, is privileged, but was disclosed multiple times."

OpenAI has also waived privilege over all communications "by putting its good faith and state of mind at issue," the judge said.

"As courts in this district have recognized, there is a fundamental conflict where a party asserts a good faith defense based on advice of counsel but then blocks inquiry into their state of mind by asserting attorney-client privilege," Judge Wang said.

OpenAI continues to make factual assertions that its conduct wasn't willful, and that means it has put its good faith and state of mind at issue in the case, the judge said.

"It is not a stretch for class plaintiffs to posit that communications regarding the reasons for deleting Books1 and Books2 could be probative of OpenAI's willfulness," Judge Wang said. "Indeed, the court's in-camera review … confirm that such communications are likely probative of willfulness."

In a separate order on Monday, Judge Wang denied OpenAI's request for a protective order to limit future testimony to a list of just 52 topics and exclude hundreds of other topics.

An OpenAI spokesperson said in a statement Monday, "We disagree with the ruling and intend to appeal."

Counsel for the authors did not immediately respond to a request for comment late on Monday.

The authors are represented by Anna Freymann, Wesley Dozier, Danna Elmasry, Kenneth Byrd, Rachel Geman and Reilly Stoler of Lieff Cabraser Heimann & Bernstein LLP, Scott Sholder of Cowan DeBaets Abrahams & Sheppard LLP, and Justin Nelson, Amber Magee, Charlotte Lepic, Jordan Connors and Rohit Nath of Susman Godfrey LLP.

The New York Times is represented in-house by Karen A. Chesley and Ian Crosby, by Genevieve Vose Wallace, Katherine M. Peaslee, Davida Brook, Elisha Barron, Zachary B. Savage, Tamar Lusztig, Eudokia Spanos, Scarlett Collings, Emily K. Cronin and Alexander Frawley of Susman Godfrey LLP, and by Steven Lieberman, Jennifer B. Maisel and Kristen J. Logan of Rothwell Figg Ernst & Manbeck PC.

The Alden newspapers are represented by Steven Lieberman, Jennifer B. Maisel, Robert Parker, Jenny L. Colgate, Mark Rawls, Kristen J. Logan and Bryan B. Thompson of Rothwell Figg Ernst & Manbeck PC.

The Center for Investigative Reporting is represented by Jon Loevy, Michael Kanovitz, Stephen Stich Match, Matthew Topic, Thomas Kayes and Steven Art of Loevy + Loevy.

OpenAI is represented by Andrew F. Dawson, Robert A. Van Nest, R. James Slaughter, Paven Malhotra, Michelle S. Ybarra, Nicholas S. Goldberg, Thomas E. Gorman, Katie Lynn Joyce, Sarah Salomon, Christopher S. Sun, Andrew S. Bruns and Edward A. Bayley of Keker Van Nest & Peters LLP, Andrew M. Gass, Joseph R. Wetzel, Sarang V. Damle, Elana Nightingale Dawson, Michael David, Allison L. Stillman, Rachel R. Blitzer, Herman Yue and Luke A. Budiardjo of Latham & Watkins LLP, and Joseph C. Gratz, Rose S. Lee, Andrew L. Perito, Carolyn Homer, Eric K. Nikolaides and Emily C. Wood of Morrison Foerster LLP.

Microsoft is represented by Annette Hurst, Christopher Cariello, Marc Shapiro, Sheryl Garko and Laura Najemy of Orrick Herrington & Sutcliffe LLP and Jeffrey Jacobson, Jared Briant, Kristin Stoll-DeBell, Carrie Beyer and Elizabeth Scheibel of Faegre Drinker Biddle & Reath LLP.

The case is In re: OpenAI Inc. Copyright Infringement Litigation, case number 1:25-md-03143, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Elliot Weld and Adam Lidgett. Editing by Philip Shea.

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Author Claims Snowflake Used Pirated Books To Train AI

By **Ivan Moreno**

Law360 (November 24, 2025, 4:25 PM EST) -- Montana-based AI developer Snowflake Inc. has been hit with a proposed class action from an author who accuses the company of using his published books to train a series of large language models.

Darius H. James said in a federal complaint filed Friday in Montana that Snowflake allegedly used a dataset that included pirated material to train its family of "Arctic" LLMs.

"The training dataset used by Snowflake to train its LLMs used public domain, licensed, and, crucially, unlicensed copyrighted materials," said James, whose published works include "Negrophobia" and "That's Blaxploitation!: Roots of the Baadassss 'Tude."

A spokesperson for Snowflake said Monday the company does not comment on ongoing litigation.

James seeks to represent a class of similarly situated individuals. He said in his complaint that Snowflake is best known for providing cloud-based data warehousing and analytics services. James said the company "has aggressively expanded" into building AI chatbots "to maintain competitiveness and increase revenue."

"In 2023 Snowflake began assembling and curating a large-scale pretraining corpora to assist in developing its Arctic family of LLMs," James said.

The dataset James alleged Snowflake used is called RedPajama, which plaintiffs in other copyright lawsuits against AI developers have also cited as a source for LLM training. Last month, a pair of authors who **sued** Salesforce said RedPajama was one of the datasets the company allegedly used to train its AI models.

"Third-party technical summaries and Snowflake-focused commentary describe Arctic as being trained over the course of three months using key public datasets including RedPajama," James said.

James said Snowflake unveiled a new line of AI products at its company summit in 2023 and included products that had allegedly used RedPajama.

"Defendant directly infringed on plaintiff's and class members' copyrighted works on a massive scale," James said, defining the class period as starting in at least Nov. 25, 2002. "Snowflake downloaded and copied these books and the infringed works as contained in the RedPajama dataset without authorization from, or after providing compensation to, their authors. Snowflake then continued copying and storing the datasets and used them to develop and train its Arctic LLMs and other related models."

Counsel for Snowflake was not immediately available.

James is represented by John Heenan of Heenan & Cook PLLC, Myles McGuire, David L. Gerbie and Jordan R. Frysinger of McGuire Law PC.

The case is James v. Snowflake Inc., case number 2:25-cv-00108, in U.S. District Court for the District of Montana.

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Texas Attys On 'A Mission' In Suing Camp Over Flood Deaths

By **Lynn LaRowe**

Law360 (November 24, 2025, 4:29 PM EST) -- For the plaintiffs attorneys representing families of girls killed in the July 4 flooding in Texas' Hill Country, the cases represent a "mission" to hold Camp Mystic accountable after a tragedy that hit close to home.

Paul Yetter of Yetter Coleman LLP said he and fellow firm partner Justin P. Tschoepe each have friends who lost daughters when the camp flooded, "and there was just no question we were going to help them."

The Yetter Coleman attorneys are among the lawyers from six firms pursuing at least four wrongful death lawsuits in Travis County on behalf of parents of 20 of the 25 campers and two counselors who died at the camp.

The attorneys blasted Camp Mystic for failing to prepare for a flood emergency and then waiting too long to evacuate campers and counselors. Lawyers defending the camp have said leadership believed the girls would be safe in the cabins and that evacuation warnings did not come until it was too late.

Kyle Findley, who is leading a team from Arnold & Itkin in the representation of six campers, said the camp should be held accountable for failing to prepare for a flood emergency, particularly given its location "on a moving body of water."

Mark Lanier of the Lanier Law Firm, whose firm represents the parents of six girls, said the plaintiffs' lawyers on the four cases are communicating and coordinating with one another just as the parents are "united in their grief."

Lanier noted that warnings of the potential for dangerous flooding in the area, commonly known as "flash flood alley," had begun the day before but that camp leadership waited until the wee hours when floodwaters were overtaking cabins to attempt to evacuate.

"The grief of these families can't be rectified by a lawsuit, but at least if they can sort through this and assess responsibility, they'll feel like they've made the world a better place in the future for other campers," Lanier said.

Sean Breen of Howry Breen & Herman LLP, who is representing the parents of an 8-year-old flood victim along with fellow partner Randy Howry and attorneys from Tefteller Law PLLC and the Armstrong Firm PLLC, said the camp had experienced less-severe flooding in the past, which put it on notice that the potential for a catastrophe existed.

Camp Executive Director Dick Eastland, who died attempting to evacuate campers, had served on the Guadalupe-Blanco River Authority board, making him even more aware of the possible flood danger, Breen noted.

While Jeff Ray, president of Ray Pena McChristian PC, who is **representing the camp**, has claimed families and alumni support reopening the Cypress Lake portion of the camp, Howry said the camp's reopening plan is "completely disrespectful to the families" who lost children in the flood.

"They've announced that they're going to put up a memorial and reopen the camp with no consultation with the parents and while there is still one little girl missing," Howry said. "It's profits over safety. It's profits over people's feelings."

The plaintiffs' attorneys said the families believe holding the camp accountable is an important piece of making Texas summer camps safe for children. Flood victims and families, including the Camp Mystic parents, successfully lobbied the Texas Legislature after the deadly flood to fund emergency flood warning systems that will hopefully save lives in the future.

Here, Law360 Pulse profiles the firms involved in each of the four pending lawsuits.

Howry Breen, Tefteller Law and the Armstrong Firm

These firms have joined together to represent the parents of camper Eloise "Lulu" Peck.

> It's profits over safety. It's profits over people's feelings.

Randy Howry

Howry Breen & Herman

Howry said that Lulu's father sought out the counsel of his friend Jarom Tefteller, an East Texas lawyer who routinely works cases with Ron Armstrong II, a law school classmate of Tefteller's.

They brought on Howry and Breen, who are based in Austin, and the three firms are representing the Pecks together.

Howry and Breen have handled "hundreds of jury trials between the two of us, and are no strangers to big cases."

In 2024, Howry secured a $15 million judgment for the family of elite cyclist Anna Moriah Wilson in a lawsuit against Wilson's killer, Kaitlin Armstrong. The firm also secured a $53.9 million verdict against Oncor Electric Delivery in connection with a 2015 accident that left the firm's client a quadriplegic.

Howry and Breen said they have won millions for clients in personal injury, breach of fiduciary duty, product liability and premises liability cases.

"For quite some time now, Randy and I have been devoted to helping victims and their families, and we really have two primary focuses," Breen said. "One is justice and fair compensation for the victim and the second is to keep what happened to our client from happening to anybody else. That's what victims and their families want."

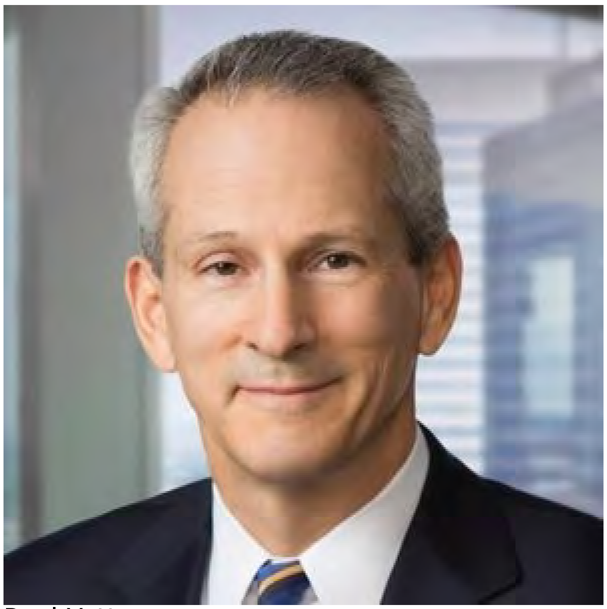
The Armstrong Firm handles cases including personal injury and wrongful death, and operates from locations in Brownsville and San Antonio.

Tefteller Law is based in Gilmer, Texas, and Jarom Tefteller is head of the firm's tort practice, his firm bio shows.

Yetter Coleman

Yetter and a team from his boutique litigation firm are representing two Camp Mystic teen counselors and five campers who died in the flood. The team includes Yetter, Tschoepe, senior counsel J. Reid Simpson and associate Shannon N. Smith.

> They want the facts to come out, the truth to come out. They want accountability from those responsible, and they want to prevent this from ever happening again.



Paul Yetter

Yetter Coleman

The firm has had a hand in major litigation involving energy companies, including securing a take-nothing defense verdict for Apache Corp. that was upheld by the Texas Court of Appeals in January, according to the firm's website.

The firm recently achieved an appellate reversal for IBM of a $1.6 billion judgment in a dispute with Houston software company BMC. The firm has also obtained key dismissals on behalf of a private equity client, Welsh Carson, after it was hit with a suit by the FTC and related consumer litigation. The government argued in a 2023 enforcement action that the company's acquisition of anesthesia services had created a monopoly.

Yetter said his 28-year-old firm has more than 50 lawyers, all litigators, who handle almost any type of civil matter.

Yetter said the firm also has a long-standing history of acting to protect children in the Lone Star State. The primary focus of Yetter Coleman's pro bono work has been its long-running representation of a class of foster children with an eye on systemic reform.

"Protecting children has always been a part of what we do," Yetter said.

Yetter said Tschoepe is an experienced, high-stakes commercial litigator, that Simpson is "one of the most experienced injury and death litigators in Central Texas" and that Smith is a "rising star young litigator."

Lanier Law

Lanier Law is representing the families of six girls who died at Camp Mystic.

> The grief of these families can't be rectified by a lawsuit, but at least if they can sort through this and assess responsibility, they'll feel like they've made the world a better place in the future for other campers.

Mark Lanier

Lanier Law Firm

Lanier said that the grandfather of one of the flood victims is a criminal lawyer in Dallas who reached out to him and that others came to him following that referral.

Lanier said he is lead counsel for the state of Texas in an antitrust action against Google and added that in January he tried one of the first social media addiction cases in California. The firm announced Thursday that it is also serving as outside legal counsel, along with McKool Smith, for the state of Texas in a lawsuit against pharmaceutical giants Bristol-Myers Squibb Co. and several Sanofi entities for allegedly failing to disclose the efficacy and safety profile of the drug Plavix, which is used as a blood thinner.

Lanier said he is also representing a family with claims related to the recent crash of a UPS plane in Louisville, Kentucky, that killed 14 people. He was also involved in litigation against Johnson & Johnson over the alleged presence of asbestos in the company's talcum powder, leading to a roughly $4 billion verdict in St. Louis.

Lanier's practice has included pharmaceutical litigation, including opioid multidistrict litigation.

"I've done this for 41 years," Lanier said. "But this case is a mission. Some cases you take for economic reasons, some cases you take because it's a legitimate case, but occasionally there are cases, like this, that are mission-worthy."

Lanier said that the work his firm undertakes on the Camp Mystic litigation is a team effort and that there will probably be 15 of the firm's attorneys who will be involved at some point.

Arnold & Itkin

Attorney Kyle Findley, founding partner Kurt Arnold and of counsel Kala Sellers are among the team from Arnold & Itkin representing the families of six campers who were killed in the flood.

> All they did was hope for the best. And when you are entrusted with the lives of people's children, that's just unacceptable.

J. Kyle Findley

Arnold & Itkin

Findley said families approached the firm through referrals from mutual acquaintances.

Findley said his firm routinely "represents people who have experienced the worst day of their lives."

In 2019, the firm helped secure an $8 billion judgment against Johnson & Johnson over the drug Risperdal, which led a young man to grow female breasts, according to the firm's website.

The firm also represented clients in litigation against the makers of herbicide Roundup, winning a judgment of $2.25 billion in one case and $2.07 billion in another.

The firm has also achieved successful results in cases involving plant explosions, train accidents, construction site accidents, pipeline explosions, unsafe working environments and workplace accidents, Findley said.

--Additional reporting by Emma Cueto. Editing by Kelly Duncan.

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Texas Camp's Attys Focus On 'Facts' In Flooding Death Suits

By **Lynn LaRowe**

Law360 (November 24, 2025, 3:57 PM EST) -- After facing off against each other in other matters and trying a case together, two veteran Lone Star State litigators have teamed up to defend Camp Mystic against wrongful death lawsuits from parents of girls killed in July 4 flooding in Texas' Hill Country.

With respective track records handling high-profile cases like those involving the 2010 Deepwater Horizon oil spill and the 2021 Astroworld music festival crowd crush, Mikal Watts of the Watts Law Firm LLP is representing the camp pro bono and Jeff Ray, president of Ray Pena McChristian PC, was hired by the camp's insurance company.

In separate interviews, Watts and Ray said they believe the camp and its owners — including Dick Eastland, who died trying to evacuate campers — are not responsible for the deaths of 25 campers and two teen counselors. They stressed that authorities did not alert the camp to evacuate the area earlier.

Watts said he "hired engineers, hydrologists, technical experts, and I quickly realized that these girls and the hundred people downriver from them died, not because of any fault by this camp or business owners, but because of the absence of an early warning flood detection system."

Ray echoed that point, noting that the flood that ended the lives of more than 130 people caught in the flood along the Guadalupe River was an unprecedented, "tsumani-like" event.

"It's a tragedy of a magnitude we've never seen along that river before," Ray said. "The flooding that occurred in such a short amount of time, with the sudden surges of water, exceeds every flood that's been recorded."

While a flash flood warning, common in the part of Texas known as "flash flood alley," had been issued at 1:14 a.m., it was not until after more than "100 souls were lost" that a call to evacuate along the river was issued by authorities, Ray said.

Ray said the plan to reopen the Cypress Lake portion of the camp is supported by many "parents, grandparents and alumni who want Camp Mystic to continue to provide a camp experience and ministry to young women." That plan does not include the cabins along the river, Ray said.

This summer the Texas Legislature allocated funding for warning equipment after grieving families advocated for action before lawmakers.

Watts and Ray said they hope the new warning systems mean nothing like the loss of life seen on July 4 will occur again on a Texas river. The lawyers said that while they are saddened by the tragic circumstances that brought them together as co-counsel for the camp and its owners, they are happy to be working together again.

"He's a phenomenal lawyer," Ray said of Watts. "I'm thankful for his contribution and insight on this case."

Watts said Ray is "one of the best lawyers in the state of Texas, and I'm honored to work together with him to defend Camp Mystic."

To date, **at least four lawsuits** have been filed on behalf of the families of the two counselors and 18 of the 25 campers who died in the flood.

Here Law360 Pulse profiles the two lawyers leading the defense.

Mikal Watts

Watts Law Firm

Watts has been a plaintiffs lawyer for his entire career and his involvement in the Camp Mystic litigation is his first time on the defense side of a case.

Watts, who owns a ranch property in Kerr County, where some of the worst flooding occurred, said that when he first learned of the tragedy, he considered that he might be among lawyers representing plaintiffs.

But after speaking to a cadre of experts, he came to believe the camp was not at fault for failing to evacuate girls in several cabins that were overcome by floodwaters, Watts said.

"Facts are stubborn things," Watts said. "The facts told me the right thing to do is to defend an iconic business in the state which has been serving the girls of Texas for nearly 100 years with an unblemished record."

Watts said the Eastland family are "the most decent, God-fearing, loving, girl-protecting family I've ever met."

Watts, who has practiced law for more than three decades, is best known for the mass tort and catastrophic injury cases he's handled.

Watts said he has represented over 22,000 people in mass disaster litigation.

Watts represented over 16,000 victims of the 2017 to 2018 wildfires in northern California started by Pacific Gas and Electric utility equipment. A global settlement via a bankruptcy plan of reorganization resulted in $13.5 billion paid to survivors.

He is lead attorney in a lawsuit against Hawaiian Electric over the 2023 Maui wildfire. Watts is involved in litigation stemming from the Eaton fire in January in California and is representing victims of a wildfire last year in the Texas Panhandle in a suit against Xcel Energy Services.

Watts has been involved in litigation over pharmaceuticals including Zantac, Topamax and Valsartan, as well as actions over water contamination at Camp Lejeune, tainted baby formula and defective tires. He also served as lead settlement counsel for Texas' political subdivisions in multidistrict litigation related to the opioid crisis.

Jeff Ray

Ray Pena McChristian

Ray is a trial lawyer who has primarily handled defense cases in a legal career spanning nearly four decades.

Referring to the July 4 flooding, Ray said that he believes a jury "will see how significantly horrific this was."

"At the same time, as a trial lawyer, you're always evaluating opportunities to reach a resolution ahead of a trial," Ray said. "You never know in litigation."

Ray was lead counsel for Bluebonnet Electric Co-op when the company was sued over wildfires that occurred in the Bastrop County, Texas, area in 2011. He represented the musical artist Drake following a crowd surge at the 2021 festival at Astroworld that caused crush deaths.

Ray defended a national transportation company in a multiple fatality accident case in New Mexico. Ray's client, a commercial truck driver, was accused of causing a crash that resulted in a chain reaction of accidents and deaths. A jury returned a verdict for Ray's client in 2016.

Ray has successfully defended clients from claims stemming from pipeline explosions, catastrophic accidents and workplace safety concerns, his firm bio shows.

Following the 2019 mass shooting at a Walmart in El Paso, Ray and his firm provided pro bono legal services and counseling to victims and families.

--Editing by Robert Rudinger.
