

Power utility inks \$100 million settlement to end investor suit over wildfires

2026 SECDBRF 0009 • By Nicole Banas

WESTLAW Securities Enforcement & Litigation Daily Briefing • January 05, 2026

(January 05, 2026) - PG&E Corp. has agreed to settle a proposed class action alleging it misled investors about its ability to maintain safe power lines before two deadly wildfires in California in 2017 and 2018.

In re PG&E Corp. Securities Litigation, No. 18-cv-3509, *notice of settlement filed* (N.D. Cal. Jan. 2, 2026).

The \$100 million settlement, which is subject to approval by the U.S. District Court for the Northern District of California, would resolve securities claims in the consolidated shareholder lawsuit and an ongoing bankruptcy proceeding.

The Jan. 2 notice of settlement came less than two weeks after eight current and former officers of PG&E and subsidiary Pacific Gas & Electric Co. moved to dismiss the fourth amended complaint in the investor suit.

Suit: Fire safety lapses

The proposed class action alleges that PG&E and numerous insiders made misleading statements from October 2015 to November 2018 about the utility's wildfire safety policies and regulatory compliance.

PG&E's noncompliant electrical equipment and inadequate vegetation management caused two of California's most destructive wildfires in 2017 and 2018, according to the suit.

The company's Chapter 11 bankruptcy filing in 2019 stated that it had \$51.7 billion in liabilities, including more than \$30 billion related to the fires, the suit says.

The investors also allege that PG&E officers and directors are liable for misstatements and omissions in the documents for public note offerings from 2016 to 2018.

Two dozen underwriters of the offerings, including Morgan Stanley & Co. LLC and Citigroup Global Markets Inc., are also defendants.

Bankruptcy stay lifted

PG&E's bankruptcy filing in 2019 triggered an automatic stay of claims against the company, but the 9th U.S. Circuit Court of Appeals vacated the stay in 2024. [*In re PG&E Corp. Sec. Litig.*, 100 F.4th 1076 \(9th Cir. 2024\)](#).

The District Court granted the defendants' motions to dismiss the suit in September 2025, ruling that the investors had failed to state a claim for securities fraud or for misleading statements in the offering materials. [*In re PG&E Corp. Sec. Litig.*, No. 18-cv-3509, 2025 WL 2781745 \(N.D. Cal. Sept. 30, 2025\)](#).

Lead plaintiff Public Employees' Retirement Association of New Mexico filed a fourth amended complaint in November that added allegations from documents produced in the bankruptcy proceeding.

PERA and other prospective class members had also filed direct claims in the bankruptcy case for rescission or damages related to their purchases of PG&E stock.

PG&E participated in discovery for the securities claims in the bankruptcy case before resuming settlement negotiations with PERA in September.

The officer defendants filed a motion to dismiss the amended investor suit Dec. 22, arguing that it was just as "fatally flawed" as the previous complaint.

Proposed settlement

Eleven days later, PERA filed a notice of settlement and a stipulation detailing the terms of the proposed agreement.

The \$100 million settlement would release all claims asserted by putative class members against PG&E, Pacific Gas, the officer and director defendants, and the underwriter defendants in both the investor suit and the bankruptcy proceeding.

The proposed agreement does not include an admission of wrongdoing or liability. The defendants wanted to "avoid the further expense, inconvenience and burden" of the securities claims, the stipulation says.

PERA also considered the expense and risks of continued litigation in deciding to settle the claims, according to the stipulation.

Thomas A. Dubbs of [Labaton Keller Sucharow LLP](#) represents PERA.

James E. Brandt of [Latham & Watkins LLP](#) and Richard W. Slack of [Weil, Gotshal & Manges LLP](#) represent PG&E and Pacific Gas.

Attorneys at [McDermott Will & Schulte LLP](#), [Simpson Thacher & Bartlett LLP](#) and [Davis Polk & Wardwell LLP](#) represent the officer, director and underwriter defendants.

By Nicole Banas

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Article: PG&E execs escape wildfire suit, but investors get another try [2025 SECDBRF 3609](#)

Date: October 2, 2025

A federal judge has dismissed a proposed class action alleging former executives of PG&E Corp. misled investors about the utility giant's safety practices before two deadly wildfires in California in 2017 and 2018.

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Securities

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Coupang Executives Hit With Investor Suit Over Record Data Leak

Jan. 6, 2026, 8:36 AM PST

Summary by Bloomberg AI

AI Generated



- Top executives and board members of Coupang Inc. are being sued by an investor over the online retailer's November data breach that impacted more than 33 million customer accounts.
- The officers allegedly breached their fiduciary duties by allowing Coupang to operate with inadequate cybersecurity safeguards, resulting in its failure to protect customer data.
- The suit asserts claims for unjust enrichment, abuse of control, gross mismanagement, and violations of the Securities Exchange Act, among others, and seeks damages for Coupang and an order directing the company and its officers to reform its corporate governance structure and internal procedures.

Top executives and board members of Coupang Inc. is being sued by an investor over the online retailer's November data breach that impacted more than 33 million customer accounts.

The officers allegedly breached their fiduciary duties by allowing Coupang to operate with inadequate cybersecurity safeguards, resulting in its failure to protect customer data and increased exposure to legal and regulatory scrutiny, a shareholder derivative complaint filed Monday in the US District Court for the Northern District of California said.

The company and several executives are also facing a proposed investor class action, which was filed last month.

Coupang became aware on Nov. 18 that its Korean subsidiary, Coupang Corp., suffered a data breach that impacted 33.7 million customer accounts. A former employee used a stolen security key on a personal laptop to exploit a cybersecurity vulnerability and access the data, according to the complaint. The employee allegedly retained information from roughly 3,000 accounts, including customer names, phone numbers, and delivery addresses.

But Coupang didn't disclose the breach in a filing to the US Securities and Exchange Commission until Dec. 16, the complaint says, allegedly violating SEC guidelines requiring companies to report cybersecurity incidents within four business days.

Statements made in Coupang's security filings leading up to the disclosure were also materially false and misleading, the investor alleges, because they failed to adequately describe the risks resulting from a data breach and the shortfalls of Coupang's security practices. Filings dating back to August also failed to disclose that the former employee was able to access customer data for roughly six months due to Coupang's cybersecurity procedures, the investor says.

Coupang's stock price was also allegedly artificially inflated due to the misrepresentations. The company repurchased more than \$80 million worth of its own stock between August and September, causing Coupang to overpay by more than \$16 million, the shareholder alleges.

The suit asserts claims for unjust enrichment, abuse of control, gross mismanagement, and violations of the Securities Exchange Act, among others. It seeks damages for Coupang and an order directing the company and its officers to reform its corporate governance structure and internal procedures.

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

Brown Law Firm PC represents the shareholder.

The case is *Warga v. Kim*, N.D. Cal., No. 5:26-cv-00087, complaint filed 1/5/26.

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CVS Might Have to Fight Aetna Investor's Appealed Disclosure Row

Jan. 6, 2026, 10:22 AM PST

Summary by Bloomberg AI

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- The US Court of Appeals for the First Circuit heard oral arguments in a proposed class action tied to disclosures about CVS Health Corp.'s long-term care unit made during its 2018 acquisition of Aetna Inc.
- Judges questioned what would make disclosures satisfactory and how this case differed from a previously dismissed suit involving a different category of investors, with claims under a different securities law.
- The pension fund seeking to represent a class of Aetna shareholders alleged that CVS didn't quantify customer losses in disclosures about its acquired Omnicare Inc. unit, which the fund said experienced a 25-to-33% decline.

CVS Health Corp. met a tough judicial panel in a former Aetna Inc. investor's bid to revive a proposed class action tied to disclosures about its long-term care unit made during its 2018 acquisition.

The US Court of Appeals for the First Circuit dug into both sides during oral arguments Tuesday about what would make disclosures satisfactory and how this case differed from a previously dismissed suit involving a different category of investors.

Unlike in the prior lawsuit that the First Circuit affirmed in 2022, these claims under a different securities law have an alleged timeframe of deep customers losses in CVS's unit before the Aetna deal solidified, judges said. There didn't appear to be a clear quantification of customer losses in disclosures about CVS's acquired Omnicare Inc. unit while the Aetna shareholder leading the case alleged the sector experienced a 25-to-33% decline, Judge William J. Kayatta Jr. said. He was on that 2022 opinion involving CVS shareholders.

But CVS was disclosing retention issues with the unit that might lead to negative financial effects ahead of the Aetna deal's registration statement becoming effective in 2018, said Amanda M. MacDonald, a partner at Williams & Connolly LLP who represents CVS. Plus the securities law provision that Los Angeles Fire and Police Pensions' raised in oral arguments, Item 303 of Regulation S-K, requires sufficient disclosure of trends or uncertainties that are reasonably likely to have a material impact on companies' performance—the Omnicare unit was CVS's smallest business unit and a fraction of its revenue, she said.

Still, the panel pressed the pension fund's attorney, saying CVS's disclosures suggested at least a neutral or bad trend in the Omnicare department. CVS was doing things to try to shore up the unit and perhaps thought it could still "save the day," Judge Seth R. Aframe said.

For pleading Item 303, managements' intent is irrelevant, whereas that's a required pleading standard for securities fraud suits, said John Rizio-Hamilton, a partner at Bernstein Litowitz Berger & Grossmann LLP who represents the pension fund.

Critical for Item 303, companies must disclose the extent and impact of a trend, and CVS didn't quantify it was experiencing a loss of up to a third of that business.

The lower court incorrectly tossed the suit without properly weighing the case's theory under the act governing new issuances, the 1933 Securities Act, and Regulation S-K's Item 303, the pension fund seeking to represent a class of Aetna shareholders said on appeal. Rather, Los Angeles Fire and Police Pensions said Judge Mary S. McElroy wrongly relied on the prior rejection of a similar suit with claims under the 1934 Securities Exchange Act, which has a higher pleading standard for securities fraud.

Rollover Disclosures

Additionally, CVS didn't disclose a prescription rollover practice issue or that the company was ceasing the practice, which should've been told to the Aetna shareholders under Item 303 since stopping the practice would impact the company and the conduct exposed it to liability, Rizio-Hamilton said. That's far from a hypothetical, he said—Omnicare filed for Chapter 11 bankruptcy in September 2025 after the pharmacy-provider was ordered to pay \$949 million over claims it improperly dispensed prescription drugs to long-term care patients.

At the time, MacDonald contended, CVS wasn't alleged to be aware of the rollover issue while disclosing it faced a civil investigation demand. The complaint associated with it hadn't been unsealed and wasn't shared with the company prior—and when the complaint was unsealed, CVS told shareholders.

And the pension fund played up the Item 303 claim on appeal, making it unfair to accuse the US District Court for the District of Rhode Island of not properly analyzing it in dismissal, MacDonald said. The allegations draw from the same disclosures and timeframe as the previously dismissed suit, and the investor's pleading standard concept is a "red herring" given the prior dismissal didn't turn on heightened pleading standards.

Judge Sandra L. Lynch was absent from the panel but will be on the opinion. She also joined the First Circuit's opinion that affirmed the securities fraud dismissal in 2022.

McElroy held that CVS's disclosures made before and while buying out Aetna were sufficient when dismissing the suit last year.

CVS acquired Omnicare, which became its long-term care unit, in 2015. The company subsequently wrote down the unit's goodwill by billions following issues with its business.

Bernstein Litowitz didn't immediately respond to an email offering the ability to comment on the arguments, sent before they began. CVS and Williams & Connolly declined to comment. Paul, Weiss, Rifkind, Wharton & Garrison LLP; Cervenka Green & Ducharme LLP; and Whelan Corrente & Flanders LLP also represent CVS, certain of its current and former officers and directors, and former Aetna officers and directors.

The case is In Re: CVS Health Corp. Sec. Act Litig. , 1st Cir., No. 25-01230, oral arguments 1/6/26 .

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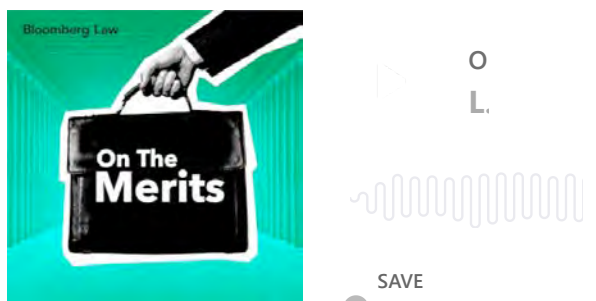
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Podcast

Law Firm Crackup Comes Amid Anti-Plaintiff Mood in Delaware

Jan. 6, 2026, 9:02AM PST

There's never a good time for a law firm to see one of its most prominent partners leave and take several attorneys with him. But this is especially bad timing for Bernstein Litowitz Berger & Grossmann.



Listen here and subscribe to **On The Merits** on **Apple Podcasts** , **Spotify** , **Megaphone** , or **Audible** .

The firm specializes in representing shareholders suing companies in Delaware, the incorporation capital of the world. But ever since Elon Musk reincorporated Tesla outside the state in response to a lawsuit over his pay package—a lawsuit Bernstein Litowitz led—the state has changed its laws to make it harder for shareholder plaintiffs to succeed.

In this episode of our podcast, *On The Merits*, Bloomberg Law reporters Jennifer Kay and Tatyana Monnay talk about the unusual bitterness Bernstein Litowitz expressed to its departing colleague after he exited the firm. They also talk about why, after the seismic corporate law changes of 2025, it may no longer be as lucrative as it once was to represent shareholders in Delaware.

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



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Walgreens Investors Advance Part of VillageMD Partnership Suit

Jan. 6, 2026, 9:57 AM PST

Summary by Bloomberg AI

AI Generated



- A federal court ruled that Walgreens Boots Alliance Inc. investors can proceed with their securities fraud lawsuit against the company on the basis of three statements about its health clinic venture with VillageMD.
- Two statements boasting about future clinic openings and a statement that labor issues were having "no impact" on the venture are plausibly false and misleading, according to Judge Mary M. Rowland.
- The investors' proposed class action alleged that Walgreens and top executives concealed that growth in its US health-care segment was slower than expected due to oversaturation of markets with VillageMD clinics, leading to understaffing and fewer patients than expected.

Walgreens Boots Alliance Inc. investors can proceed with their securities fraud lawsuit against the drugstore chain on the basis of three statements about its health clinic venture with VillageMD, a federal court ruled.

Deerfield, Ill.-based Walgreens invested billions of dollars in VillageMD, with plans to open hundreds of doctors' offices in its drug stores as part of a push into primary care.

Two Walgreens statements boasting about future clinic openings when such openings were allegedly already on hold are plausibly false and misleading as pleaded, Judge Mary M. Rowland said Monday for the US District Court for the Northern District of Illinois. "To say that Walgreens was 'doubling down' on opening clinics when the opposite was allegedly true is a straightforward false statement of fact," Rowland said.

And a statement that labor issues were having "no impact" on the venture is actionable, given confidential witness accounts that staffing shortages were hobbling the VillageMD locations within Walgreens stores, she said.

The investors' proposed class action alleged that Walgreens and top executives concealed that growth in its US health-care segment was slower than expected because it oversaturated markets with VillageMD clinics, leading to understaffing and fewer patients than expected.

Walgreens was acquired by a private equity firm in August 2025 after grappling with VillageMD losses and US government allegations over opioid prescriptions.

Rowland trimmed the suit's allegations of 80 misrepresentations considerably. The investors failed to allege facts showing most statements were actionably false or misleading, she said. And one category of executives' statements—about VillageMD accepting Medicare—was adequately alleged to be false, but without any showing of fraudulent intent, she said. "The Court is at a loss to discern what Defendants could gain by misleading the market in this way."

The investors will have a chance to re-plead their claims.

Levi & Korsinsky LLP is lead counsel for the investors. Gibson, Dunn & Crutcher LLP and Honigman LLP represent Walgreens.

The case is *In re Walgreens Boots All. Sec. Litig.*, 2026 BL 1188, N.D. Ill., No. 24-cv-5907, 1/5/26 .

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Ardelyx Pharma Wins Dismissal of Securities Action in Mass. Federal Court

U.S District Judge Leo T. Sorokin dismissed both securities fraud and insider trading claims against the pharmaceutical firm, which was represented by Latham & Watkins.

January 06, 2026 at 02:09 PM By  **Ellen Bardash**



Judge Leo Sorokin of the U.S. District Court for the District of Massachusetts. Photo: Diego M. Radzinski/ALM

Latham & Watkins prevailed on a motion to dismiss a securities case against pharmaceutical company Ardelyx on Dec. 24, with U.S District Judge Leo T. Sorokin dismissing the case from Massachusetts federal court with prejudice.

Sorokin stated in his [opinion](#) that the plaintiffs hadn't shown evidence that any of the statements from Ardelyx related to the kidney disease drug XPHOZAH that they challenged were false at the time they were made and that they had not established a strong inference of scienter as required under the PSLRA.

"We are pleased with the court's well-reasoned order dismissing plaintiffs' allegations in this case with prejudice," said Latham partner Daniel Gherardi, who argued Ardelyx's motion to dismiss at a Dec. 4 hearing. "Ardelyx always has been and continues to be steadfast in its commitment to deliver first-in-class medicines to patients with unmet medical needs and is looking forward to having this case behind it."

XPHOZAH, a drug that controls phosphorus levels in patients undergoing dialysis, is one of the two products made by Ardelyx, a Delaware corporation headquartered in Massachusetts.

When XPHOZAH received FDA approval in October 2023, Sorokin wrote, it was part of a category of drugs separately reimbursed by Medicare Part D, giving a competitive advantage over drugs that were reimbursed through a preset Medicare Part B bundle paid to dialysis centers.

With that categorization set to expire on Jan. 1, 2025, absent congressional intervention, Ardelyx said it would apply for the Transactional Drug Add-On Payment Adjustment program if it were added to the bundle of drugs covered under Part B, which would give XPHOZAH a two-year grace period.

The shareholder plaintiffs claimed Ardelyx framed applying for TDAPA as "the cornerstone" of its strategy for XPHOZAH, but had actually been lying to investors and decided well before announcing the change in July 2024 that the company would not be applying to TDAPA.

Ardelyx investors claimed the company's stock was artificially inflated between Feb. 22 and July 1, 2024, and that during that period, two Ardelyx executives engaged in insider trading. The Dec. 24 decision dismissed both the securities fraud and insider trading claims.

Lead plaintiffs counsel at the Rosen Law Firm did not immediately respond for comment.

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Securities

Deep Dive

Modest 401(k) Class Deals Show Desire to Dodge Costly Litigation

Jan. 6, 2026, 2:00 AM PST

More than 100 employers signed class settlements over their retirement plans during the past four years, with most deals under \$2 million—a signal companies are seeking quick and cheap exits from costly litigation.

Lawsuits challenging how employers manage their defined contribution retirement plans drove more than \$745 million in settlements from 2022 to 2025, a Bloomberg Law analysis found. Just a handful of major companies agreed to pay north of \$60 million to resolve 401(k) disputes, but more than half the settlements announced during this period were below \$2 million and the median amount for every year was \$3 million or less. About 80% are worth \$5 million or less.

Hundreds of employers have found themselves in the crosshairs of class litigation under the Employee Retirement Income Security Act, with a variety of plan attributes challenged. Attorneys say the breadth and scope of this litigation may act as an incentive to settle quickly and cheaply.

“Some employers feel like even if they’re doing all the right things, they can still get sued for violating a fiduciary duty related to 401(k) fees or forfeitures or their investment lineup,” said Heather Mehta, a partner with UB Greensfelder LLP in St. Louis, Mo. “Perhaps if you’re an employer who thinks they’ve done everything properly, you may just want to settle as quickly as you can and move on with your life.”

Wide Spectrum

Bloomberg Law analyzed about 140 class settlements announced in lawsuits over 401(k)-style retirement plans since 2022. The average deal struck during this period was about \$5.3 million, with the median deal worth about \$1.9 million. More than three dozen agreements were for less than \$1 million—an amount that might be found in the retirement account of a single high earner.

Retirement Plan Litigation

Most 401(k) class settlements are for less than \$3 million



Source: Bloomberg Law

Bloomberg Law

The largest settlements during this period resolved allegations against massive employers.

In November, Wells Fargo & Co. agreed to pay \$84 million in a case over dividends earned by the employer stock in its 401(k) plan. UnitedHealth Group Inc. signed a \$69 million deal over the Wells Fargo funds in its 401(k) plan in 2024, and in 2023 General Electric Co. agreed to pay \$61 million to settle claims that it wrongly offered subpar affiliated mutual funds.

On the other end of the spectrum are a larger number of more modest deals, including agreements negotiated by North Carolina retailer Shoe Show Inc., Nashville-based hospital system Ardent Health, Boston College trustees, and container shipping company Maersk Inc.—each valued at less than \$500,000.

Downward Trend

Class actions involving large 401(k) plans began in earnest in 2006 and exploded in number in 2020. These cases traditionally focused on administrative expenses and the fees charged by specific investment options.

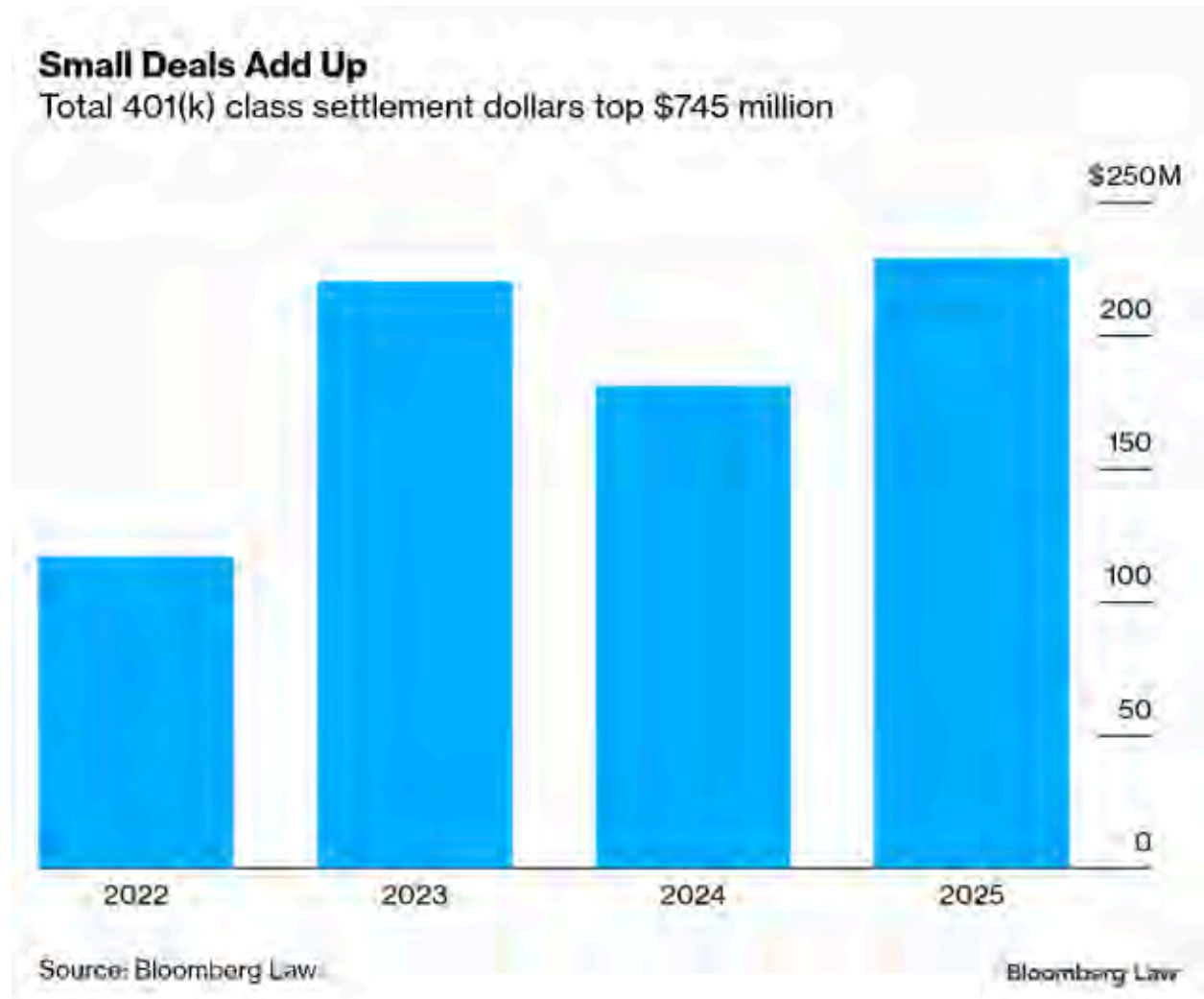
Some early cases led to multimillion dollar settlements with major companies, including Lockheed Martin Corp. for \$62 million and Boeing Inc. for \$57 million. Settlement amounts shrank over time as more companies found themselves embroiled in litigation.

Many large employers worked to improve their 401(k) fee levels in the years since the litigation push began, said Carl Engstrom, a partner with Engstrom Lee LLC in Minneapolis. Over time, cases began focusing on other things, like fiduciary “blind spots” that haven’t received as much scrutiny or smaller plans that “perhaps weren’t as attuned to the litigation,” he said.

There also have been new plaintiff-side law firms wading into ERISA litigation, with some more focused on settling and less willing to take cases to trial, Engstrom said.

"The new counsel that has moved into this space seems to have taken a slash-and-burn philosophy where they're taking cheap settlements quickly," said Christopher Rillo, a Baker Botts LLP partner in San Francisco and co-chair of the firm's ERISA litigation practice.

"Insurance carriers and plan sponsors have adopted an attitude where they don't want to get involved in protracted litigation, especially if a motion to dismiss has been denied," he said. "They settle these cases fairly quickly and fairly cheaply, and settlements under a million dollars—which once were unusual—are now routine."



'Whac-A-Mole'

Workers continue to sue over retirement plan fees, but more recent cases also challenge investment performance, stable value funds, and how companies handle the 401(k) contributions forfeited by departing employees—a litigation landscape Rillo likened to a "Whac-A-Mole" game.

The biggest legal theory to emerge over the past four years centers on 401(k) forfeitures, with more than 80 lawsuits challenging how employers handle this money. Most early decisions have favored the defendant employers, and only a handful of cases have settled: Intuit Inc. settled one of the first forfeiture lawsuits for nearly \$2 million in May, and similar deals have been negotiated by Lehigh Valley Health Network Inc., John Muir Health, and Capital One Financial Corp.

Nothing suggests litigation targeting 401(k)-style retirement plans will stop anytime soon, said UB Greensfelder's Mehta.

"I think plaintiffs' attorneys are willing to explore theories to see if they stick," Mehta said. Defendants have had a "pretty high success rate" in getting forfeiture suits dismissed, but that hasn't stopped new suits from coming, she said.

SCOTUS Green Light

Employers hoping the US Supreme Court might rein in this litigation have so far been disappointed.

The justices issued three major ERISA decisions over the past six years, confronting plans sponsored by Intel Corp., Northwestern University, and Cornell University. Each time, the court resisted the opportunity to meaningfully tamp down on the ability to bring viable ERISA claims, Engstrom said.

The Supreme Court seems inclined to decide these cases on the "narrowest basis possible," which can lead to a lack of clarity that drives litigation, Mehta said.

"I think both sides have hoped the Supreme Court would give them some guidance on these issues and say whether they saw this litigation as frivolous or full of merit, but so far they're just not stepping on that landmine," she said.

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Securities

Insight

Texas Corporate Reforms Silence Retail Shareholders—By Design

Jan. 6, 2026, 1:30 AM PST

A recent Bloomberg Law commentary argued that amendments to the Texas Business Organizations Code represent a victory for shareholder democracy, but the opposite is true.

By erecting barriers to shareholder litigation and proposals and codifying near-absolute deference to board decisions, Texas has enshrined into law what critics have long identified as corporate America's central fiction: that shareholders exercise meaningful control over corporations.

In theory, shareholders can vote, bring proposals, and sue. Voting matters, but without proposals, shareholders can't press for governance changes or raise concerns with management and fellow shareholders.

Without litigation, they have no recourse for misconduct. Texas is restricting proposals and litigation for retail shareholders under the guise of democracy.

Shareholder democracy rhetoric originated in the 1920s as a Wall Street marketing tool designed to attract retail investors while helping management resist government regulation. As co-authors and I document in a forthcoming article, this rhetoric is pernicious. A century later, we are still being sold the same fiction that is now wrapped in the language of reform.

Consider Texas' new 3% ownership threshold required to bring derivative claims against directors, framed as a minor filter against frivolous litigation. In practice, it is a fortress wall and the antithesis of so-called shareholder democracy.

According to the Federal Reserve's most recent Survey of Consumer Finances, only 21% of US families directly own stock—the form of ownership that confers standing to bring claims. The median value of directly held stock is just \$15,000. Meeting a 3% threshold in even a mid-sized public company would require tens of millions of dollars in concentrated holdings.

This is an impossibility for most direct retail shareholders. When advocates claim small shareholders can work together to reach the threshold, they ignore the coordination costs that make such collective action largely theoretical.

The recent commentary cites Tesla Inc.'s 75% shareholder approval of ownership thresholds as validation. But Tesla enjoys a cultlike retail following, and none of those very shareholders who voted for the threshold can meet it themselves.

When the disenfranchised ratify their own disenfranchisement, that's not democracy. It's legitimization secured by controlling the narrative. Shareholders followed management's lead, accepted the "frivolous litigation" frame, and approved rules eliminating their own remedies.

Elites don't just erect structural barriers, they get the excluded to ratify their own exclusion—a dynamic I call corporate disenfranchisement.

Texas' shareholder proposal restrictions are even more draconian. Under Texas SB 1057, shareholders must hold the lesser of \$1 million in market value or 3% of the corporation's voting shares, maintain that position for six months, and solicit support from holders representing 67% of voting power before submitting a proposal. According to Georgeson's analysis, approximately 9% of shareholder proposals would have been excluded from Texas-based companies under these criteria. These are barriers designed to silence minority shareholders and not just filters against frivolous proposals.

Dismissing the independent shareholders who file proposals, and deriding them as "corporate gadflies" and "activists" with misaligned interests, ignores history. These persistent shareholders have driven corporate governance best practices such as annual director elections and majority voting, environmental disclosures, and executive compensation transparency—changes that eventually became mainstream.

Individual shareholders filing repeated proposals may irritate management, but they have often identified governance failures before institutional investors and regulators caught on. Dismissing them rewrites a more complex history.

These state-level restrictions are now finding federal reinforcement relenting to years of corporate lobbying pressure. In November 2025, the SEC announced it would no longer provide substantive responses to most no-action requests under Rule 14a-8. Under that rule governing shareholder proposals, companies can ask the SEC for an assurance that the agency won't seek enforcement when they choose not to include a shareholder proposal in their proxy materials.

Commissioner Caroline Crenshaw called this new policy "an act of hostility toward shareholders." But the SEC will still consider exclusion requests based on state law. Chair Paul Atkins has specifically pointed to Texas' restrictions as valid grounds. This means companies that opt in to SB 1057 could use it to block proposals at the federal level. What Texas enacted, the SEC now appears prepared to enforce.

How fiduciary duties actually work have also been mischaracterized. The business judgment rule already protects directors from judicial second-guessing of ordinary decisions—that's not controversial.

Texas has gone further. Now shareholders of Texas companies that elect to be governed by this provision can only rebut the business judgment presumption by proving fraud, intentional misconduct, an ultra vires act, or knowing violation of law. By excluding gross negligence, Texas has effectively eliminated the duty of care.

While some may celebrate foreclosing individual shareholders from exercising their voices, we should note who is celebrating. The recent commentary is on behalf of the Alliance for Corporate Excellence, an advocacy group formed specifically to lobby for amendments to the Texas Business Code. The alliance partnered with Texans for Lawsuit Reform (a tort reform group) and the Texas Stock Exchange (which has a direct financial interest in Texas becoming a more attractive incorporation jurisdiction).

The amendments this trio has advocated for aren't shareholder democracy; they're corporate autocracy dressed in democratic language. Texas hasn't built up thriving accountability. Accountability is being systematically dismantled while we are told to applaud.

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

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Write for Us: Author Guidelines

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Delaware Supreme Court Justice Valihura to step down in July

 [reuters.com/legal/government/delaware-supreme-court-justice-valihura-step-down-july-2026-01-05](https://www.reuters.com/legal/government/delaware-supreme-court-justice-valihura-step-down-july-2026-01-05)

Mike Scarcella

January 5, 2026

The judge's bench is seen in a courtroom at the Delaware Supreme Court in Dover, Delaware, U.S., June 10, 2021. REUTERS/Andrew Kelly [Purchase Licensing Rights](#)  , [opens new tab](#)

WASHINGTON, Jan 5 (Reuters) - Delaware Supreme Court Justice Karen Valihura, a Republican who has been a strong voice for corporate board defendants in shareholder litigation, said on Monday she will step down in July at the end of her term and will not seek reappointment.

Valihura, who has served on the five-justice bench since 2014, told Democratic Governor Matt Meyer [in a letter](#)  , [opens new tab](#) that she hoped to continue her legal career "in another phase and to continue to serve the public." The Delaware Supreme Court is one of the country's most influential business courts, setting rules for corporate governance and shareholder disputes. Most U.S. public companies are incorporated in the state.

The court, which also hears other civil and criminal disputes, is designed to maintain a partisan balance, with neither political party permitted to hold more than three seats. Justices serve 12-year terms.

"I have always liked the idea of working as hard as I can for the duration of the twelve years and then moving on to do something else and not moving that finish line," Valihura, a former corporate lawyer who was the second woman to serve on the court, said in a statement.

Delaware's reputation as corporate America's capital took a hit [amid criticism](#) from Tesla chief executive Elon Musk and others who recommended companies move out of the state, arguing that its evolving legal standards favored investor-driven lawsuits.

Valihura in 2023 wrote the [opinion for the court](#) that found Musk did not push the electric vehicle maker to overpay for rooftop solar company SolarCity in 2016. In a February [ruling](#), Valihura, writing for a unanimous court, said a more corporate-friendly "business judgment" standard should apply to a dispute involving TripAdvisor's move to Nevada. The ruling was seen as beneficial to companies weighing a move from the state.

Valihura worked for 25 years at Wall Street law firm Skadden Arps prior to her appointment to the court.

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Billions in balance for US companies fighting class action appeals in 2026

 [reuters.com/legal/government/billions-balance-us-companies-fighting-class-action-appeals-2026-2026-01-06](https://www.reuters.com/legal/government/billions-balance-us-companies-fighting-class-action-appeals-2026-2026-01-06)

Mike Scarcella

January 6, 2026

View of an Apple logo at an Apple store in Paris, France, April 23, 2025.

REUTERS/Abdul Saboor/File Photo [Purchase Licensing Rights, opens new tab](#)

WASHINGTON, Jan 6 (Reuters) - U.S. appeals courts in 2026 will weigh high-stakes class actions against Apple and other tech companies, entertainment giant Live Nation and the National Football League. Here are some key pending cases that could see major developments in the new year.

- Entertainment giant Live Nation ([LYV.N](#)), [opens new tab](#) has asked the San Francisco-based 9th U.S. Circuit Court of Appeals to review [an order that allowed](#) millions of Americans to band together to sue the company for allegedly overcharging for events at major concert venues. U.S. District Judge George Wu in Los Angeles [ruled, opens new tab](#) in December the plaintiffs met the criteria to expand their lawsuit into a class action seeking 15 years of alleged damages tied to the purchase of more than 400 million tickets.

- Apple ([AAPL.O](#)), [opens new tab](#) customers have asked the 9th Circuit to [reinstate their class action](#) accusing the iPhone maker of inflating prices by monopolizing the market for apps. The appeals court last month said it would hear an immediate appeal after a trial judge stripped the case of class action status earlier this year. U.S. District Judge Yvonne Gonzalez Rogers in Oakland, California, in October [decertified](#) a class of nearly 200 million consumers who claim Apple's App Store rules led to \$20 billion in overcharges.

- The 9th Circuit this year is also [expected to weigh](#) the fairness of a landmark multibillion-dollar settlement that pays former, current and future college athletes for the commercial use of their name, image and likeness. The appeals will delay distribution of \$2.8 billion in past damages to class members. The National Collegiate Athletic Association, the primary defendant in the litigation, told the court last month that the deal "has received nearly universal endorsement from the approximately 400,000 class members."

- In March, the 9th Circuit will hear arguments from consumers and businesses seeking to revive their class actions against the National Football League over the cost of its "Sunday Ticket" broadcast package. U.S. District Judge Philip Gutierrez in August [threw out a \\$4.7 billion jury verdict](#) against the NFL and its member

teams. The NFL had argued the verdict was unjustified and the result of a "runaway" jury. "Sunday Ticket" is the only broadcast option for NFL fans who want to watch their teams play out-of-market games.

- The Philadelphia-based 3rd Circuit could rule in the coming months on whether to reinstate a proposed class action accusing major casino-hotel operators in Atlantic City including Caesars Entertainment and MGM Resorts of overcharging for room rentals. A judge in 2024 [ruled for the hotels](#). In August, a 9th Circuit panel ruled for [hotels in Las Vegas](#) in a similar lawsuit, teeing up a possible appeal to the U.S. Supreme Court. Both cases allege hotels used computer software algorithms to illegally coordinate on room pricing.

- The St. Louis-based 8th Circuit appeals court will hear arguments this month over landmark class action settlements after home sellers accused the National Association of Realtors and major brokers of inflating commissions nationwide. HomeServices, a real estate brokerage owned by Warren Buffett's Berkshire Hathaway, [agreed to pay](#) \$250 million, and the realtor association agreed to pay [\\$418 million](#) and implement a series of rule changes. Objectors are challenging the fairness of the deals.

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Mass tort litigation to watch in 2026

 [reuters.com/legal/litigation/mass-tort-litigation-watch-2026-2026-01-05](https://www.reuters.com/legal/litigation/mass-tort-litigation-watch-2026-2026-01-05)

Diana Jones

January 5, 2026

A man works at a computer on a standing desk in an office in the financial district of Canary Wharf in London, Britain, February 8, 2023. REUTERS/Kevin Coombs [Purchase Licensing Rights, opens new tab](#)

- Litigation over Tylenol could be revived, cases have new significance amid merger
- The Supreme Court could weigh in on Bayer's challenge to Roundup fight
- J&J talc lawsuits are slated for more trials after lengthy hiatus

Jan 5 (Reuters) - The year ahead promises major developments in some of the most closely watched mass tort cases. Courts are likely to issue key rulings in long-running fights over products like Johnson & Johnson's talc-based products and Bayer's Roundup weedkiller, while a high-profile appeal could revive hundreds of lawsuits alleging Kenvue's Tylenol is linked to autism. Meanwhile, the litigation over blockbuster weight loss drugs is heating up – and the viability of lawsuits against makers of so-called "ultra-processed foods" will be tested. Here are some of the top product liability cases to watch in 2026.

TYLENOL

A U.S. appeals court in New York is [weighing whether to revive](#) hundreds of lawsuits brought against Kenvue and other companies over claims that the popular painkiller Tylenol or generic versions of it are to blame for their children's autism or attention deficit hyperactivity disorder diagnoses. Kenvue has long maintained that Tylenol is safe and does not cause autism.

Get a quick look at the days breaking legal news and analysis from The Afternoon Docket newsletter. Sign up [here](#).

U.S. District Judge Denise Cote dismissed the lawsuits in 2024, after [criticizing the methodology](#) that was used by the expert witnesses the plaintiffs relied on to make their claims. But in November, the 2nd U.S. Circuit Court of Appeals questioned whether Cote had improperly excluded evidence in making her decision.

President Donald Trump's [warnings about Tylenol](#) and Kenvue's [planned \\$40 billion merger](#) with Kimberly-Clark have put the litigation under intense scrutiny, raising questions about whether the lawsuits could complicate the deal. In

September, Trump and Health Secretary Robert F. Kennedy Jr claimed the painkiller might be linked to autism, and Trump urged pregnant women not to take it, injecting political controversy into the legal battle.

There is [no firm evidence](#) of a link between Tylenol or its active ingredient acetaminophen and autism. Medical groups, including the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists, have said acetaminophen is the recommended first-line medication for pain and fever during pregnancy, but should be taken at the lowest possible dose.

ROUNDUP

This year could be pivotal in the long-running litigation over claims that Bayer's Roundup causes cancer. The U.S. Supreme Court may decide whether to weigh in on an issue that could prevent thousands of lawsuits from moving forward.

The company is facing claims from approximately 65,000 plaintiffs and potentially billions of dollars in damages over the widely-used weedkiller in both federal and state courts. It has asked the high court to rule that the federal law governing pesticides preempts state law claims over the product, a decision that could dramatically reduce the number of cases pending.

The chance of the court taking up the issue jumped in December when the Trump administration urged the Supreme Court [to take up Bayer's appeal](#), saying the company's reading of the law was correct.

The German pharmaceutical and biotechnology company, which acquired Roundup as part of its \$63 billion purchase of Monsanto in 2018, has said that decades of studies have shown Roundup and its active ingredient, glyphosate, are safe for human use.

TALC

Lawsuits alleging Johnson & Johnson's baby powder caused ovarian cancer are expected to ramp back up in the new year, after a lengthy hiatus prompted by the company's [three unsuccessful attempts](#) to resolve the litigation through bankruptcy.

The ovarian cancer cases make up the bulk of the remaining claims from more than 67,000 plaintiffs who say they developed cancer after [using its baby powder](#) and other talc products, according to court filings.

More of [these trials](#) are expected to kick off in state court this year. Trials have not yet begun in the federal cases, which have been centralized in New Jersey. A

special master is expected to issue a ruling in the coming weeks [re-evaluating the experts](#) and scientific evidence behind the plaintiffs' claims.

The company has said its products are safe, do not contain asbestos and do not cause cancer. J&J stopped selling talc-based baby powder in the U.S. in 2020, switching to a cornstarch product.

WEIGHT LOSS DRUGS

Novo Nordisk and Eli Lilly, makers of blockbuster weight loss drugs, are facing two separate waves of lawsuits over the alleged side effects of the wildly popular products. So far there are about 3,000 lawsuits, but that number is likely to grow, as a KFF poll from November found that about one in five adults has taken one of the drugs, known as GLP-1s.

One group of lawsuits alleges the drugs, including Novo Nordisk's Ozempic, Wegovy and Saxenda and Eli Lilly's Trulicity, can trigger a condition that can lead to blindness. A larger group of lawsuits claims the drugs cause paralysis of the gastrointestinal tract, a condition known as gastroparesis.

The companies have refuted the claims, arguing in court filings that the risk of gastroparesis is well-publicized and that the companies are unable to change the drugs' design without the approval of the U.S. Food and Drug Administration.

ULTRA-PROCESSED FOODS

Lawsuits against major food and beverage companies over so-called "ultra-processed foods" are currently just pending in two courts, but plaintiffs' attorneys say the cases could lead to a sweeping legal battle reminiscent of the litigation over opioids or tobacco.

The claims, which accuse companies of knowingly manufacturing addictive and harmful products and then marketing them to children, were first brought by a Philadelphia man in a 2024 lawsuit alleging that ultra-processed foods were to blame for his type 2 diabetes and non-alcoholic fatty liver disease diagnoses when he was a child. Although a judge [dismissed his case](#) in August, he has asked to file a new complaint.

[A lawsuit](#) filed by the city of San Francisco in December will test whether these claims have a better chance of succeeding when brought on behalf of government entities because their cases can make claims about population-wide effects.

The companies have pushed back against the allegations, with one industry group arguing that demonizing processed foods misleads consumers and exacerbates health disparities.

Reporting by Diana Novak Jones

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[Diana Novak Jones](#)

Thomson Reuters

Diana reports on product liability, litigation, mass torts and the plaintiffs' bar. She previously worked at Law360 and the Chicago Sun-Times.

Judge approves volunteer coaches' \$303 million settlement with NCAA

 [courthousenews.com/judge-approves-volunteer-coaches-303-million-settlement-with-ncaa](https://www.courthousenews.com/judge-approves-volunteer-coaches-303-million-settlement-with-ncaa)

Alan Riquelmy

January 6, 2026

The San Jose State University Spartans line up for the playing of the national anthem and player introductions for their NCAA Mountain West women's volleyball game against the Colorado State University Rams in Fort Collins, Colo., on Oct. 3, 2024. (Santiago Mejia/San Francisco Chronicle via AP, file)

SACRAMENTO, Calif. (CN) — Volunteer coaches in 44 different college sports scored preliminary approval of their \$303 million settlement with the NCAA on Monday, less than a year after volunteer baseball coaches paved the way with a \$50 million payday.

The NCAA agreed to compensate around 7,700 current and former college sports coaches for unpaid wages in a set of three payouts over two years based on a formula. Some details remain unclear, but no class member will receive less than \$5,000. No more than 30% of the fund — about \$90.1 million — is tentatively slated for attorneys' fees.

Monday's preliminary approval of the settlement isn't the last step. A final settlement hearing is scheduled for April before U.S. District Judge William Shubb, a George H.W. Bush appointee.

"It appears a lot of work has gone into this," Shubb said Monday.

The judge asked a handful of questions to attorney Dennis Stewart, representing the class of coaches who served in the role from March 17, 2019, to June 30, 2023. Shubb noted that the settlement calls for a \$25,000 payment for each of the five class representatives. Typically, \$5,000 per representative is adequate, and fewer than five representatives expected, the judge said.

Stewart said the representatives greatly assisted and helped their legal team understand the case.

"They took a reputational risk in this case," Stewart said, adding that some continue to coach.

Asked by Shubb for any comment about the preliminary settlement, NCAA attorney Carolyn Luedtke declined to speak.

"We think it's an excellent settlement," Stewart told Courthouse News after the hearing, adding he hoped Shubb would approve the final settlement in a few months.

A hearing on that final settlement is set for April 21. The next three months provides time for class members to receive notification of the settlement. Each member can choose to remain in the class, opt out or provide comment.

The class filed its legal action in March 2023, arguing that the NCAA violated its bylaws by prohibiting compensation to volunteer coaches. They called the move an illegal agreement that restrained trade under the Sherman Act.

Last year, a separate class action brought by volunteer NCAA baseball coaches settled for [almost \\$50 million, covering about 1,000 baseball coaches](#) who served between Nov. 29, 2018, and July 1, 2023. Each coach was expected to receive around \$36,000 per year they volunteered. Some coaches who spent multiple years at larger schools could get six-figure sums.

According to attorneys for the class in Monday's action, the NCAA vigorously defended the case. It tried to transfer the case, or alternatively dismiss it, shortly after filing. A judge months later denied both motions.

Class attorneys said they then began to quantify what they called the "wage fix," their attempt at determining classwide damages. They tried to get compensation data from the NCAA, which claimed it had no specific information about volunteer or coach pay.

The plaintiffs asked in November 2024 for class certification, which it gained in July 2025. Serious settlement discussions started afterward, as the progress of the baseball coach class action gave insight into the strength of the litigation and the possible damages.

The parties then reached a tentative settlement on Oct. 10 after a full day of negotiations, attorneys said.

Categories / [Courts](#), [Employment](#), [Sports](#)

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Tens of millions raised as Uber, trial lawyers gird for 2026 ballot initiatives

DJ [dailyjournal.com/articles/389253-tens-of-millions-raised-as-uber-trial-lawyers-gird-for-2026-ballot-initiatives](https://www.dailyjournal.com/articles/389253-tens-of-millions-raised-as-uber-trial-lawyers-gird-for-2026-ballot-initiatives)

Douglas S. Saeltzer

Plaintiffs' attorneys and rideshare companies are barreling toward a titanic ballot initiative battle.

As the new year arrived, campaign committees affiliated with Uber Technologies Inc. and the Consumer Attorneys of California had already banked more than \$50 million between them, with far more likely on the way. On Friday, Secretary of State Shirley Weber's office published title and summary documents for three initiatives backed by plaintiffs' attorneys, clearing them for signature gathering.

"In my 36 years in California politics, I have never seen the trial bar mobilize this fast or with this degree of resolve," said Consumer Watchdog President Jamie Court, who described himself as an "ally" of the plaintiffs' attorneys but is not directly involved in CAOC's efforts. "This will be an epic battle that defines the future of Uber and the future of the civil justice system."

In October, attorneys working for Uber submitted paperwork for the *Protecting Automobile Accident Victims from Attorney Self-Dealing Act*. The proposed California ballot initiative, backed by Uber, would overhaul personal injury litigation involving auto accidents. The measure would limit contingency fees, so injured victims retain most of any settlement or court award, and limit recoverable medical damages by tying them to standardized reimbursement rates.

The proposed language submitted by attorneys with Nielsen Merksamer LLP in Sacramento said the initiative would help protect consumers from lawyers who "put their own profits ahead of the people they are supposed to represent," including "so-called 'billboard attorneys' and other personal injury lawyers [who] spend millions of dollars targeting low-income automobile accident victims, promoting huge payouts that rarely happen." Uber subsequently deposited \$12 million into a campaign account.

"Uber is committed to ensuring California voters have the facts," the company said in a statement emailed by spokesman Zahid Arab. "*The Protecting Automobile Accident Victims from Attorney Self-Dealing Act* protects all drivers and consumers

from a rigged system. A recent report from the U.S. Chamber of Commerce shows that lawsuit abuse contributes to a hidden "tort cost" of \$5,400 per household per year in higher insurance and everyday costs."

Speaking to The Daily Journal in November, just before becoming CAOC's new president, Douglas S. Saeltzer called himself a "wartime president." The shareholder with Walkup, Melodia, Kelly & Schoenberger in San Francisco added that the initiative would "slam the door" on accident victims seeking to recover damages and warned Uber would spend millions to pass it.

But plaintiffs' attorney Nicholas C. Rowley said that in the weeks since, the profession has mobilized and unified.

"Sometimes what appears to be a curse can end up being a blessing," he said when reached Monday.

Available campaign finance records show that an initiative committee organized by CAOC members raised about \$38 million by the end of 2025. Rowley said the real figure is more than \$57.5 million, and that additional money will appear in coming weeks as Weber's office publishes more fundraising reports.

Campaign finance records show the Consumer Attorneys of California Initiative Defense Political Action Committee has taken in \$35.5 million. Last month, it transferred \$30 million of that money into another committee, the Alliance Against Corporate Abuse, which has also raised nearly \$3 million from other donors. Firms and individuals that have given at least \$1 million include Rowley, Walkup, Singleton & Schreiber LLP, and Sweet James LLP.

"We're going to raise at least \$100 million more, maybe \$150 million more if we keep going at this pace," Rowley said. "Uber can spend a billion dollars, and it's not going to matter."

Rowley and Court both pointed to the title and summary documents written by Attorney General Rob Bonta's office for each initiative. In each case, they said, the language turned out well for plaintiffs' attorneys and poorly for Uber.

"Their title and summary couldn't be any worse for them," Rowley said, adding, "That's the way that more than half of Californians vote."

The title of Uber's initiative, published last month, warns that it "limits automobile accident victims' recovery of medical expenses." The summary adds that it would "increase victims' burden of proof" and reduce the number of lawsuits filed by

accident victims.

By contrast, the first of the three initiatives filed by plaintiffs' attorneys would "prohibit new state laws that interfere with the right to contract with an attorney." The second would "expand rideshare companies' liability for passenger injuries." The third would "impose duties" on rideshare companies related to sexual misconduct by drivers. Rowley said he has seen internal polling on the initiatives that looks "really good."

Court pointed to a similar battle 38 years ago. That year, insurers backed two initiatives that would have limited lawsuits, capped damages, and restricted attorney fees in personal injury cases. Instead, voters passed Proposition 103, which rolled back auto insurance rates and imposed new requirements for state approval of insurance increases.

"Judging by the ballot labels and the polling, it could be a replay of 1988," Court said. "Consumers will have gained new protections to protect themselves against Uber's lax oversight over its drivers' sexual offenses and a constitutional right to contract with an attorney, and Uber will have learned a lesson about using its wealth to pick on the little guys."

#389253

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Judge Rejects Uber's Attempt to Delay Next Week's Bellwether Trial

U.S. District Judge Charles Breyer, of the Northern District of California, rejected Uber's request to postpone the Jan. 13 bellwether trial in the sexual assault multidistrict litigation.

January 06, 2026 at 09:41 AM By  **Amanda Bronstad**

What You Need to Know

- Uber had sought postponement of the trial, citing a 'misleading' ad campaign by the Consumer Attorneys of California.
- The Consumer Attorneys of California said the ads, called 'Every 8 Minutes,' were designed to counter Uber's ballot initiative in California.
- The trial, the second against Uber in the nation, is set to begin Jan. 13 in U.S. District Court for the District of Arizona.



U.S. District Judge Charles Breyer, of the Northern District of California.

A federal judge on Monday struck down Uber Technologies Inc.'s attempt to delay next week's bellwether trial brought by a woman who claimed to be raped by one of its drivers.

In a one-sentence ruling, U.S. District Judge Charles Breyer, of the Northern District of California, denied Uber's request for the postponement based on an advertising campaign, sponsored by the Consumer Attorneys of California, that it claims could taint the jury pool. The trial is set to begin Jan. 13 in the U.S. District Court for the District of Arizona.

"This swift ruling makes clear that Uber fundamentally miscalculated by asking the court to censor protected political speech and interfere in an ongoing ballot campaign," Deepak Gupta of Gupta Wessler in Washington D.C., who represents the Consumer Attorneys of California, said in a statement. "The First Amendment does not bend to corporate pressure, and the court rightly refused to let Uber use the legal system to silence its critics."

Neither an Uber spokesperson or co-lead plaintiffs' counsel—Sarah London, of San Francisco's Girard Sharp; Roopal Luhana, of New York-based Chaffin Luhana; and Rachel Abrams of Peiffer Wolf Carr Kane Conway & Wise in San Francisco—responded to requests for comment.

In a [motion last month](#), Uber claimed the advertising campaign, which stated that a complaint of sexual assault or sexual misconduct was reported to the rideshare firm every eight minutes, was "misleading." Should Breyer not postpone the trial, Uber suggested expanding the voir dire proceedings with a juror questionnaire asking about the ads and an injunction halting the ad campaign in California, Arizona and North Carolina, where the first bellwether trials are scheduled. Uber also wanted to subpoena the Consumer Attorneys of California about the ads.

London and Abrams, in a separate court ruling, called Uber's request "meritless" and "outlandish."

The Consumer Attorneys of California responded that the ads, called ["Every 8 Minutes,"](#) were launched soon after [Uber's ballot initiative](#) in California proposing to cap the contingency fees of plaintiffs' lawyers. Uber's motion, the group insisted, was an "prior restraint on political speech."

The trial is the [first bellwether](#) in the multidistrict litigation against Uber over sexual assault. Plaintiff Jaylynn Dean alleges she was raped by her Uber driver in Tempe, Arizona, in 2023.

The first sexual assault trial in the nation against Uber ended on Sept. 30 with a [defense verdict](#). A San Francisco Superior Court jury found Uber was negligent in failing to provide safe rides to women but not liable for plaintiff Jessica C.'s sexual assault by one of its drivers.

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California Brief

Uber Fails to Delay Sexual Assault Trial or Block Ad Campaign

Jan. 5, 2026, 5:11 PM PST

Uber Technologies Inc. was unable to convince a federal court to delay the second-ever jury trial, scheduled to begin next week, involving Uber's legal liability in a case where an Arizona woman alleges she was raped by her Uber driver.

Judge Charles Breyer didn't provide an explanation in his Monday order denying Uber's request for a postponement. In the same order, the judge also denied the company's request to block ads highlighting Uber's alleged sexual assault problems and subpoena the Consumer Attorneys of California, a plaintiff-side attorney association funding the ad campaign.

The order means Uber must face the claims of Jaylynn Dean, a woman who alleges Uber failed to implement proper safety measures to prevent a her driver from raping her after she called an Uber to give her a ride from a bar late at night.

It's the first federal bellwether trial out of almost 3,000 similar sexual assault lawsuits filed around the country and consolidated before Breyer, who sits on the San Francisco-based US District Court for the Northern District of California. The Jan. 13 trial will take place in Arizona, where Dean first filed the lawsuit.

The trial comes after Uber escaped liability in the first state court bellwether trial in San Francisco Superior Court last September.

Uber moved to postpone the federal bellwether last December, arguing that the jury pool will be prejudiced by the Consumer Attorneys of California's ad campaign called "Every 8 Minutes," which claims Uber receives complaints about driver misconduct at that interval. The campaign is part of a broader political effort in California to oppose an Uber-sponsored ballot initiative that would hinder plaintiff-side personal injury attorneys.

The company sought an order blocking the ad campaign and a subpoena to help determine the relationship between the California attorney group and the lawyers in the Uber sexual assault cases.

Deepak Gupta of Gupta Wessler LLP, which represents the Consumer Attorneys of California, applauded the ruling. "The First Amendment does not bend to corporate pressure, and the court rightly refused to let Uber use the legal system to silence its critics," he said.

Uber didn't immediately return a request for comment.

The case is In re: Uber Technologies Inc. Passenger Sexual Assault Litigation , N.D. Cal., No. 3:23-md-03084, 1/5/26 .

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Uber loses bid to postpone bellwether trials in passenger assault MDL

DJ [dailyjournal.com/articles/389250-uber-loses-bid-to-postpone-bellwether-trials-in-passenger-assault-mdl](https://www.dailyjournal.com/articles/389250-uber-loses-bid-to-postpone-bellwether-trials-in-passenger-assault-mdl)

Senior U.S. District Judge Charles R. Breyer denied Uber's request Monday to postpone the first bellwether trials in the multidistrict litigation surrounding allegations its drivers sexually assaulted passengers, after the company argued a misleading advertisement could influence the jury.

In an order signed Jan. 5, Breyer sided with the Consumer Attorneys of California, represented by Gupta Wessler LLP, denying Uber's motion to delay the trial, subpoena campaign information and block the ad, titled "Every 8 Minutes."

"This swift ruling makes clear that Uber fundamentally miscalculated by asking the court to censor protected political speech and interfere in an ongoing ballot campaign," Deepak Gupta, founding principal at Gupta Wessler, said in a statement. "The First Amendment does not bend to corporate pressure, and the court rightly refused to let Uber use the legal system to silence its critics."

The ad centers on the frequency of sexual assault claims against the company's drivers, but Uber, which has been in multidistrict litigation over dozens of allegations since October 2023, said in a Dec. 2 motion that the ad is misleading.

"The campaign's video advertisement initially stated that '[a] sexual crime was reported to Uber almost every 8 minutes.' ... The statistic, which the ad attributes to the Times article, is false and does not correspond to 'sexual crimes.' The numbers, which are based on unaudited and unvetted data, correspond to all categories of unverified and unaudited reports concerning sexual misconduct of any kind reported to Uber," the motion, filed by Laura Vartain Horn of Kirkland & Ellis LLP, states. *In re: Uber Technologies, Inc., Passenger Sexual Assault Litigation*, 3:23-md-03084 (N.D. Cal., filed Oct. 4, 2023).

The CAOC responded that the motion was an attack on its protected political speech.

"Even if Uber's motion had any basis in fact, granting such extraordinary relief in the midst of an ongoing political campaign would constitute an unprecedented infringement of an advocacy organization's First Amendment rights of free speech and association," the organization's response, filed by Deepak Gupta, states.

Uber is pushing a November statewide ballot initiative that aims to protect accident victims from overzealous "billboard lawyers." Critics say the measure would limit the amount of medical damages the victim of a car accident could claim in a personal injury lawsuit.

A group of political action committees opposing the measure, including the CAOC, put forward two ballot initiatives of their own that would increase rideshare companies' liability for accidents and sexual assaults that occur in their vehicles. As part of the campaign, the political action committees released a series of ads detailing the frequency of sexual assault allegations against the company's drivers.

With the first round of bellwether cases approaching, Uber, represented by Kirkland & Ellis LLP, O'Melveny & Myers LLP and Shook, Hardy & Bacon LLP, moved to delay the trial until the ad is taken down and subpoena information related to the campaign.

"The advertising campaign Plaintiffs' counsel interposed on these proceedings threatens Uber's ability to empanel an impartial jury," the motion states. "CAOC's advertising is inflammatory and at least misleading. It risks tainting the jury pool."

Uber also asked Breyer to include a question in the jury questionnaire asking potential jurors if they'd seen the ad. The company said in late December that the ad had since been corrected.

#389250

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Defense challenges causation as Prologis moves to end Carson odor lawsuit

DJ [dailyjournal.com/articles/389255](https://www.dailyjournal.com/articles/389255)

After months of testimony from residents blaming a lingering odor on a Prologis warehouse fire, jurors on Monday began hearing defense evidence as the defendant real estate company presses a potentially case-ending motion that has yet to be decided.

The Los Angeles County Superior Court jury trial, which began last November, centers on claims by two dozen Carson-area residents living in and around the city that the 2021 fire released gallons of harmful chemicals into the Dominguez Channel, causing nausea and other symptoms across surrounding communities.

However, Prologis and its tenant companies deny responsibility, arguing the odor event instead stemmed from long-standing environmental conditions in the channel rather than runoff from the warehouse.

On New Year's Eve, Paul Hastings LLP partner Navi S. Dhillon for Prologis filed a motion for nonsuit, asking Superior Court Judge David S. Cunningham III to dismiss the case on grounds the plaintiffs failed to prove causation, duty or legally recoverable damages at this stage of the case.

"The Court has given Plaintiffs every opportunity (and more) to gather evidence during discovery and present their case at trial. ... The evidence just is not there," the motion stated.

According to the motion, the plaintiff residents - led at trial by Cotchett Pitre & McCarthy LLP partner Kelly W. Weil - failed to present "substantial evidence that the 'perfect storm' odor event they allege ... was foreseeable to an out-of-possession landlord (here, Prologis)," or that the company had the ability to prevent or correct the tenants' storage practices before the fire.

"It was entirely unforeseeable to any party that a hydrogen sulfide odor event in the Channel would result from a hand sanitizer fire miles away. And that negates the conscious disregard element, which is specific to a plaintiff's claimed injury," the motion continued.

Cunningham has not yet heard or ruled on the motion and defense witnesses continue to testify. During a lunch break Monday, both lead attorneys in the case said they could not comment on the matter at this time. *Alvarez et al. v. Prologis Inc. et al.*, 21STCV38929 (L.A. Super. Ct., filed Oct. 21, 2021).

Before the break, jurors heard testimony from two Prologis witnesses: an employee of tenant company Virgin Scent, which does business as Artnaturals, and a groundwater expert who challenged the plaintiffs' causation theory and identified potential sources while not assigning ultimate fault.

In his testimony, hydrogeologist David Livermore told jurors that hydrogen sulfide gas - the compound responsible for the odor - can be generated from a range of natural and industrial sources in and around the Dominguez Channel, independent of the warehouse fire.

"I've reached an opinion that there are many sources of sulfur and hydrogen sulfide gas generation in and near the area of the Dominguez Channel odor event," Livermore testified.

Livermore explained that hydrogen sulfide forms when sulfur-containing materials break down in low-oxygen environments with the help of sulfate-reducing bacteria - conditions commonly found in sediments, wetlands and stagnant waterways.

Drawing on historical maps, aerial photographs and a site visit, Livermore told jurors that the disputed channel area was once a swampy wetland that accumulated organic material for centuries before being drained and channelized, creating conditions capable of producing recurring odor events.

Livermore also testified that reports of black-colored water observed during the 2021 incident were consistent with iron sulfide deposits that form when hydrogen sulfide reacts with naturally occurring iron in the environment.

Under cross-examination, the Virgin Scent employee described the scale of the company's hand sanitizer operations during the COVID-19 pandemic, testifying that the business sold "a big number" of bottles in 2020 and 2021 and stored large quantities of product both inside the warehouse and outside in the yard. The witness acknowledged that pallets of sanitizer stacked outdoors were visible and that the product was flammable, but did not attribute the odor event to warehouse storage practices.

Plaintiffs argue that testimony about the volume, flammability and outdoor storage of the ethanol-based hand sanitizer supports their theory that the warehouse fire and resulting firefighting runoff set off the conditions that produced hydrogen sulfide gas into the Dominguez Channel. They contend the scale of the storage made the odor event foreseeable, rather than the result of ordinary environmental conditions in the channel.

Absent a ruling that ends the case early, closing arguments are expected toward the end of the month.

#389255

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California Brief

Hawaiian Electric to Pay \$48 Million in Maui Fire Investor Suit

Jan. 6, 2026, 6:48 AM PST

Hawaiian Electric Industries Inc. and investors agreed to a \$47.75 million settlement to resolve allegations the utility misrepresented its wildfire risk management ahead of the deadly 2023 Lahaina fire.

The investors sought preliminary approval of the deal and certification of a settlement class comprised of those who acquired its securities from Feb. 28, 2019, through Sept. 4, 2023, according to a filing in the US District Court for the Northern District of California Monday. The agreement—in which the utility denied wrongdoing—would end allegations against HEI and subsidiary Hawaiian Electric Co. Inc. tied to a stock decline in the aftermath of Maui wildfires that killed more than 100 people and destroyed the historic town of Lahaina.

The shareholders' counsel will seek attorneys' fees up to a third of the settlement sum and \$500,000 in litigation expenses

Judge Jacqueline Scott Corley dismissed a version of the complaint in 2024, but let the investors re-plead—they reached a settlement before she ruled on another dismissal

Hawaii's Public Utilities Commission last week approved Hawaiian Electric's three-year wildfire safety strategy, which includes efforts such as fortifying infrastructure and expanding community partnerships

Pomerantz LLP is lead counsel for the investors. Skadden, Arps, Slate, Meagher & Flom LLP represents HEI. A&O Shearman represents the subsidiary. None of these firms nor Hawaiian Electric immediately responded to emails seeking comment.

The case is Bhargal v. Hawaiian Elec. Indus., Inc. , N.D. Cal., No. 3:23-cv-04332, 1/5/26 .

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California Brief

OpenAI Must Turn Over 20 Million ChatGPT Logs, Judge Affirms

Jan. 5, 2026, 3:40 PM PST

OpenAI Inc. will have to turn over 20 million anonymized ChatGPT logs in a consolidated AI copyright case after it failed to convince a federal judge to throw out a magistrate judge's order the company said insufficiently weighed privacy concerns.

Magistrate Judge Ona T. Wang sufficiently considered privacy concerns against the material's relevance to the ongoing litigation in her discovery ruling in favor of news organization plaintiffs in five lawsuits, District Judge Sidney H. Stein said in an order Monday. She rejected OpenAI's arguments it should be allowed to run a search of the 20 million-log sample and produce conversations implicating the plaintiffs' works, saying no case law requires the court to order the least burdensome discovery possible.

The ruling continues a long, winding road in discovery in the consolidated pretrial proceedings for 16 copyright lawsuits against OpenAI. The multidistrict litigation in the US District Court for the Southern District of New York represents a large clump of the dozens of lawsuits filed against AI companies by content producers of all stripes invoking critical, novel questions about how copyright law applies to AI.

The news plaintiffs, which include New York Times Co. and Chicago Tribune Co. LLC, initially requested a 120 million-log sample in July. OpenAI opposed the motion and offered 20 million—0.5% of its preserved logs—to which the publications agreed. But in October OpenAI informed them it wouldn't produce the entirety of the de-identified sample and offered the search results instead. Wang sided with the news outlets in November, and denied reconsideration in December.

Stein said OpenAI primarily relied on a securities case that was easily distinguishable from the AI-copyright dispute. There the US Court of Appeals for the Second Circuit blocked discovery of US Securities Exchange Commission call recordings from a defendant in another lawsuit. But that case involved concerns that the original wiretaps were illegal, and the subjects of the calls had stronger privacy interests, as they were recorded surreptitiously, he said. ChatGPT's legal ownership of the logs, however, is uncontested, and users voluntarily submitted their communications, Stein said.

Susman Godfrey LLP, Rothwell, Figg, Ernst & Manbeck, Loevy & Loevy represent the news plaintiffs. Kecker, 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. 1:25-md-03143, order issued 1/5/26 .

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California Brief

Deep Dive

AI, E-Commerce Test Limits of the Reasonable Consumer Standard

Jan. 6, 2026, 2:15 AM PST

The rise of e-commerce and data-driven digital advertising is chipping away at the reasonable consumer standard, a foundational legal concept historically used to determine whether business practices are deceptive, consumer law professionals warn.

Courts determine whether a marketing practice was deceptive by assessing whether hypothetical reasonable consumers would have been misled by a particular statement.

But the growth of digital advertising over the last 30 years has fragmented audiences as consumers' online experiences become increasingly personalized.

As businesses move toward targeting narrower market segments and embrace AI advertising tools that allow them to quickly iterate advertising statements, consumers may have a tougher time showing they were misled, researchers say.

The reasonable consumer standard has been outdated for a long time, "but now you can divide the world up, divide consumers up in such a way that you would be deceiving all these little groups in slightly different ways," said Lauren Willis, a law professor at Loyola Law School.

When advertising on television and radio was the focus, there was a shared information environment and consumers were exposed to similar messages, said Ceren Canal Aruoba, a managing director at consulting firm Berkeley Research Group.

But now "we live in a world of very micro-targeted marketing" where "we all get different types of information" through our individualized social media feeds, she said. "This raises the threshold in many ways in terms of 'reasonable' compared to whom and in what context."

As market segments get smaller and more specific, courts will need to rely on more empirical data like consumer surveys to determine deceptive conduct, Canal Aruoba said. Still, "it will take them a while to understand how this segmentation works," she said.

And with consumers relying increasingly on AI-generated summaries and outsourcing more of their decision making, “we might eventually down the road stop engaging with advertising ourselves directly,” she said. “The biggest question there is the fundamental question of ‘is the reasonable consumer still the decision maker?’”

AI Shopping Agents

The advent of AI agents that purport to help consumers shop could overcome certain forms of manipulative advertising, said Mark Bartholomew, a law professor at the University at Buffalo School of Law.

“These things could really help us avoid a lot of the pitfalls that are involved with being a human being with all our cognitive limitations, help us avoid being tricked by things like ‘trending now’ or sale prices ending in 99 cents,” Bartholomew said.

Consumers are warming to the idea of AI-assisted shopping tools, according to data from Statista Consumer Insights. In a 2025 survey of thousands of American adults, Statista found that nearly a quarter of consumers aged 18-39 said they like using AI to shop.

McKinsey & Co. estimates agentic commerce could generate up to \$1 trillion in revenue by 2030.

Online payment processors like Stripe and Paypal are partnering with tech giants such as OpenAI and Google LLC to develop AI-driven shopping experiences. And e-commerce juggernauts like Amazon.com Inc. and Alibaba Group are building their own AI agents to help consumers shop.

“This is kind of the frontier of consumer markets,” said Rory Van Loo, a professor of law at Boston University School of Law. “The frontier battle is going to be between these AI agents and the sellers who are going to try to undermine them.”

Much of the framework of consumer law was established in an “era of far simpler commerce,” but AI shopping agents change consumers’ relationship to the market, Van Loo said. Consumers might be more trusting because they see these agents as helpers.

“We may need a new legal regime that recognizes that extra vulnerability that consumers are going to have,” he said.

Potential New Frameworks

A legal battle over AI tools on e-commerce platforms is already brewing.

Last year, Amazon sued Perplexity AI Inc. to stop Perplexity’s AI browser agent, Comet, from shopping on consumers’ behalf. The e-commerce giant accused Perplexity’s bot of impersonating human users to get around technological barriers and accessing user accounts without Amazon’s permission in violation of the Computer Fraud and Abuse Act.

The lawsuit could help define the extent to which agentic AI legally can help people perform complex real-world tasks.

Van Loo said consumers should take note of “Amazon’s aggressive resistance to AI tools that are simply trying to help consumers understand an incredibly complicated marketplace.”

The complexity of e-commerce marketplaces and the emergence of agentic AI shopping tools mean “consumer law needs to start acting more like securities law and labor law, both of which recognize that people need help from third parties,” Van Loo said. “The law should make sure those third parties are truly helping and ensure that those third parties have the ability to help the people they’re trying to help.”

AI shopping agents ultimately could shift the reasonable consumer standard because they blur the chain of persuasion, Canal Aruoba said.

Others are less convinced AI shopping agents will cut through manipulative marketing.

“I think requiring consumers to acquire technology to fight technology being used by businesses is not really the way to solve these kinds of problems,” Willis said. “If it’s a tech war, the businesses are going to win.”

A better way to treat digital deception would be to consider the internet as more of a physical place and add “building code elements” akin to stop signs on roads, she said. Creating recognizable visuals like cancellation buttons at digital checkouts could make customers feel more in control, Willis said.

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Guardrails Before Greenlights: How Gen AI Will Actually Shape E-discovery in 2026

Expect 2026 to see generative AI become integral across a host of document-related litigation workflows, including issues analysis, privilege screening, quality control, sensitivity detection, production analysis, chronology building, fact development and deposition prep, while human judgment remains central to responsiveness determinations for outgoing productions.

January 05, 2026 at 04:16 PM By **Bobby Malhotra**



Credit: Konstantin Postumitenko/stock.adobe.com

Generative AI will be everywhere in e-discovery by 2026, but not necessarily where some evangelists predict. Call us contrarian if you must, but we do not believe the headline-ready notion that large language models will substantially supplant traditional responsiveness review for production will materialize this year.

Instead, 2026 will see generative AI become integral across a host of document-related litigation workflows, including issues analysis, privilege screening, quality control, sensitivity detection, production analysis, chronology building, fact development and deposition prep, while human judgment remains central to responsiveness determinations for outgoing productions. At the

same time, we expect courts finally will begin to articulate the contours of defensible AI use in production workflows, offering early guardrails without endorsing wholesale automation of responsiveness calls.

The Legal Posture: No “Da Silva Moore” Moment—Yet

The two predictions are interrelated. Simply put, many sophisticated clients in high-stakes litigation are—and will remain—wary about using generative AI as a primary decision-maker in a responsiveness review workflow until courts have had their say. As of the close of 2025, the judiciary has not delivered the kind of watershed opinion for generative AI that Judge Andrew Peck’s decisions in *Da Silva Moore v. Publicis Groupe*, 287 F.R.D. 182 (S.D.N.Y. 2012) (“computer-assisted review is an available tool and should be seriously considered for use in large-data-volume cases where it may save the producing party (or both parties) significant amounts of legal fees in document review”), and *Rio Tinto PLC v. Vale S.A.*, 306 F.R.D. 125 (S.D.N.Y. 2015), provided for technology-assisted review over a decade ago.

There currently is no authority declaring the use of generative AI for responsiveness determinations to be reasonable. The few opinions that have touched the edges of the issue—addressing counsel’s (and experts) duty to verify AI outputs, the adequacy of “AI agent” search approaches or cautionary tales about hallucinated citations—are instructive but not e-discovery-specific and, critically, not broadly transferrable to corporate defendants’ production workflows.

This unsettled landscape matters. Without clear standards for defensibility, most corporate litigants and their outside counsel will remain cautious about deploying generative AI on the front lines of outgoing productions. Courts have yet to weigh in on core questions, including whether generative AI may be relied upon to make final responsiveness determinations, how error rates should be measured and reported, what validation protocols are sufficient, and where and how human oversight must be documented. Until authoritative guidance and clear standards emerge, the risk-reward calculus will favor caution in 2026.

What Will Change in 2026: The First Frameworks Emerge

Even if 2026 will not normalize AI-reliance on responsiveness review, it is likely to mark the beginning of a jurisprudence foundation. Expect a first wave of opinions addressing defensibility for e-discovery generative-AI review—for example, in areas such as validation and sampling protocols; transparency expectations for meet-and-confers; disclosure obligations when Gen AI materially drives production or culling decisions; disclosure and discoverability of prompts; and parameters for auditing model outputs. Courts are likely to treat generative AI by analogy to prior TAR jurisprudence, emphasizing reasonableness, proportionality, cooperation and iterative

validation while acknowledging risks unique to generative systems, including hallucination, model drift and explainability gaps.

Those touchstone opinions will not immediately greenlight AI as a replacement for human review for outgoing production decisions, but they will begin to define the practices that may eventually support that step. Think of 2026 as the year the scaffolding goes up: not yet a finished structure, but enough to begin building repeatable, defensible workflows. However, since we don't yet have our Da Silva Moore for generative AI, there is a distinct risk profile and a corresponding need for heightened, intentional focus on documented defensibility controls if litigants contemplate leveraging generative AI for outgoing production decisions.

Because this remains largely uncharted territory, defensibility will hinge on disciplined implementation. Litigation teams should calibrate generative AI to tasks that tolerate probabilistic outputs, build human-in-the-loop checkpoints, and document their process and results. They should also approach AI use strategically and constructively during meet-and-confers, where the facts and circumstances warrant such discussions and transparency.

The Production Line Will Wait, But Not Forever

The practical upshot for 2026 is straightforward. Do not expect a broad, industry-wide shift to generative AI as the primary engine for responsiveness and privilege determinations in document productions. That step will likely require clearer standards, shared benchmarks, and a handful of influential opinions blessing specific methods. We are not there yet, but we are knocking on the door.

What you should expect is nearly universal adoption of generative AI for efficiency-driven tasks that accelerate understanding without assuming the burden of certifying outputs to courts and parties. Teams that embrace these tools thoughtfully—focusing on evidence storytelling, sharpening and shortening preparation, and extracting insights from adversary productions—will gain meaningful strategic advantages while staying on solid defensibility footing.

Where Gen AI Will Shine in 2026

In the meantime, generative AI will transform the handling of litigation data in ways that are powerful, measurable and arguably lower-risk. Its strengths are especially well-suited to high-volume, interpretive, and narrative tasks that stop short of making final production calls. By the end of 2026, expect routine use across workflows such as document summarization at scale, chronology building and timeline creation that integrate custodial collections, deposition preparation with witness-specific briefing books surfacing key documents, themes, and likely lines of questioning while rapidly comparing inconsistent statements across datasets; analysis of

incoming and third-party productions (where the defensive posture reduces risk and the goal is understanding and locating key documents rather than certifying the reasonableness of the process); and issues-spotting and theme alignment that help trial teams connect documents to legal theories, jury narratives, and expert frameworks without supplanting human conclusions.

These uses offer material efficiency gains while avoiding the heightened defensibility burden that accompanies outgoing productions. Properly deployed, they reduce cycle time and cost, improve consistency, and surface insights earlier—advantages that compound across matters and portfolios. And for e-discovery and litigation teams that are properly trained and equipped, they are available and accessible right now.

Bottom Line

In 2026, generative AI will not replace human judgment for responsiveness reviews in outgoing productions; it will augment it everywhere else. The year will be a turning point, not because courts will declare generative AI per se reasonable for responsiveness, but because they will begin to articulate the rules of the road.

Until a true “Da Silva Moore moment” arrives for generative AI in e-discovery, the winning strategy is prudent adoption: Use it broadly for insight and speed, back it with rigorous validation and human oversight and keep the high-stakes calls in workflows you can defend. Those who strike that balance will move faster, see clearer and avoid avoidable risk—precisely the edge that matters in modern litigation.

Bobby Malhotra, a litigation partner at Winston & Strawn, is chair of the firm’s e-discovery and information governance practice. He serves in a leadership role within Winston’s AI Strategy Group and is a technology and data lawyer with expertise in AI, e-discovery, data privacy and security, digital forensics and information governance.

Jason Moore, of counsel in Winston & Strawn’s e-discovery and information governance practice group, provided assistance on this commentary. He is a senior litigator whose practice focuses on helping clients manage complex e-discovery issues and litigation readiness.

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Securities

Insight

AI Demands Attention From Corporate Boards to Avoid SEC Scrutiny

Jan. 6, 2026, 1:30 AM PST

Artificial intelligence has quickly outgrown its origins as a fun IT experiment. It now sits inside the operations, financial processes, marketing, risk models, and customer-facing systems of most companies. That also puts it squarely within board of directors fiduciary and oversight obligations.

That should set off a quiet alarm for boards that are paying attention that sooner or later, the Securities and Exchange Commission will want to understand how companies are governing and describing their use of AI.

Boards don't need to become experts in machine learning. But they do need to demonstrate informed, structured oversight of a technology that can accelerate both value creation and impairment.

Familiar Pattern

Every few years brings a shiny new source of systemic risk, and public companies have a well-worn habit of falling behind the curve. The sequence is almost predictable: The technology gains traction, and investors push for transparency.

Companies then get ahead of themselves in published statements while plaintiff's lawyers and the SEC begin testing and challenging those statements. As a result, corporate disclosures and governance structures get rebuilt under pressure.

We've seen this cycle play out with Y2K, perks cybersecurity, Covid-19, special purpose acquisition companies, climate, crypto, and environmental, social, and governance. AI presents another turn in that cycle, but boards have the opportunity to break it—if they act before the scrutiny arrives.

Practical Oversight Framework

Effective AI governance doesn't require directors to decode neural networks. It does require three things: literacy, strategy, and structure.

Boards can't oversee something if they don't understand its fundamentals. They don't need technical mastery, but they do need context.

Directors should ask a number of questions including:

What education or briefings will help us understand AI's capabilities, limits, and risk. Should we hear from internal teams, outside experts, or both?

Should AI and emerging technologies experience be a factor or a priority in board refreshment and management succession planning?

AI should also be treated as a strategic imperative. Boards need to understand how AI is embedded in the organization management's plans to expand its use. For example:

They need to know what safeguards govern the organization's use of generative AI, especially around the use of confidential data or the completion of commercially sensitive tasks.

They need to ask how the company is measuring return on AI initiatives and whether external messaging—to customers, employees, and investors—accurately reflect the company's actual capabilities.

They must weigh whether the adoption of AI by the company's competitors puts pressure on the company's business mode.

Establish Clear Governance

AI oversight shouldn't occur in a vacuum or arrive on an agenda in reaction to an incident. Boards should define in advance whether the board or management has primary oversight of AI.

If the board has primary AI oversight, should that oversight responsibility should be delegated to a committee, and to which one.

They must also decide which AI matters must be elevated to the full board. Other issues to consider are management's reporting and the type of information the board needs to monitor AI-related performance, risks, and incidents.

How AI oversight connects to enterprise risk management, internal audit, and the disclosure committee also must be considered.

Influencing Disclosure

The materiality framework of security disclosure laws means AI doesn't need to wait for a specific SEC rule to become a disclosure issue. Depending on the importance of AI to your organization, it will seep into existing frameworks the same way cybersecurity and climate did.

Good governance facilitates compliant disclosure. Companies that understand their AI footprint will be able to speak about it candidly and credibly, and avoid the hype-to-litigation pipeline.

Key pressure points include:

Management discussion and analysis. Does AI materially alter demand drivers or cost structures? Does it change how the company competes?

Risk factors. Does AI create new third-party dependencies or operational vulnerabilities? Are current cyber protections sufficient for AI-enabled threat vectors?

Internal controls. Do AI models influence financial inputs, value assumptions, audit workstreams, or forecasting tools? What testing and validation ensures those outputs are reliable?

The Oversight Imperative

Regulators and investors will be watching how companies “talk AI”—and whether that narrative aligns with reality. AI is moving quickly enough that gaps between aspiration and execution can form in weeks and months, not years. Those gaps will be the subject of enforcement actions and shareholder suits.

Boards that engage early will strengthen credibility with investors, reinforce resilience in their operating models, and be ready when the SEC inevitably sharpens its expectations. Boards that don’t will find themselves trapped in the familiar post-hoc cycle: comment letters, restatements, and uncomfortable and costly litigation.

AI is no longer an abstract topic for future agendas. It’s a live governance test—and boards that approach it with clarity, discipline, and a healthy dose of curiosity will shape how public companies navigate the next wave of technological change.

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

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Write for Us: Author Guidelines

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Securities

Manage Newsletters

Former Calpers PE Head Yup Kim Leaving CIO Role at Texas Pension

Jan. 6, 2026, 5:16 AM PST

Former Calpers private equity head **Yup Kim** is leaving the Texas Municipal Retirement System after serving as its chief investment officer for two years, according to people familiar with the matter.

Tom Masthay, who currently serves as deputy CIO for the \$47.2 billion pension system, will take over for Kim, said the people, who asked not to be identified citing confidential information.

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

Kim's departure comes amid leadership changes at the Texas pension. **Debbie Munoz** took over as the executive director in July, while Governor Greg Abbott replaced four of the pension's six board members in October.

At TMRS, Kim sought to expand its private markets efforts and introduced a co-investment program that would commit \$15 billion over the next five years to such opportunities.

Masthay joined the pension fund in 2015 and served as director of real assets and private equity before taking on the deputy CIO role in 2022, according to his LinkedIn page.

Kim previously spent four years as head of investments for private equity at California's roughly \$600 billion pension fund for public employees. Before that, he served as senior portfolio manager for private equity at the \$85.75 billion Alaska Permanent Fund Corp .

The TMRS fund generated net returns of 8.96% for the five-year period ended Sept. 30, according to its website.

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News from Bloomberg Terminal

Jan. 6, 2026, 11:15 AM PST

By Matt Levine

(Bloomberg Opinion) --

Home equity

A typical middle-class American's two most valuable assets are (1) her human capital and (2) her house. Maybe (3) her stock portfolio. You can do a lot of stuff with your stock portfolio: You can sell some stocks and buy different stocks, you can diversify and hedge and trade actively and YOLO zero-day options on meme stocks. There is a huge industry – “the financial industry” – in which thousands of professionals get paid a lot of money to come up with stuff for people to do with their stock portfolios.

Those professionals sometimes get to thinking. “A typical middle-class American's two most valuable assets are (1) her human capital and (2) her house,” they think. “And yet they can't *trade* those. They can't *hedge* them. They can't *diversify* them. They can't YOLO zero-day options on memified versions of them. Seems wrong. Maybe we could help, for a fee.” If they think about this long enough, they tend to launch one of two companies:

1. “Our company will let people sell shares in themselves,” or
2. “Our company will let people sell shares of their house.”

People are constantly having these thoughts, and always think they are the first. I wrote in June:

“The great late-night dorm-room question of financial capitalism,” I have called the first thought, in part because selling equity in yourself is mostly a way to replace student loans; the second thought comes later (when you buy a house). What is great about these thoughts is that everyone has had them, but only at most, what, 500 people have started companies to address them? We have talked about the first question any number of times, because people keep starting businesses of the form “you can sell stock in yourself.” We have talked about the second question fewer times, but not none. There have been some businesses of the form “you can sell stock in your house”; we talked in 2016 about one called Point, which as far as I can tell still exists.

At the time, I was writing about a new, crypto-y sell-stock-in-your-house company called Horizon. Yesterday, as it happens, I got an email from another one, Beeline, with the standard no-one-has-done-this-before pitch: “Until now, the only way to tap into your home's value was to refi or sell. ... Now you can sell a slice of your home's equity.” Etc. ¹

One version of this is “you should be able to get money for groceries by selling a share of your house,” but another, perhaps more theoretically appealing version is “if your biggest asset is your house,² you should be able to *diversify* that risk: Instead of owning one house in one particular location, you should own small shares of lots of houses in lots of different locations.” Or: “You should be able to *hedge* that risk, by owning one particular house in a particular location and also *shorting* housing prices in that location.” If you live in a town where the factory closes and everyone loses their job, (1) you will lose your job, (2) you will need to move, (3) your house will be worthless because no one wants to move in and so (4) you won’t be able to raise money to buy a new house somewhere with jobs. If you could hedge that risk by (1) selling 90% of the economic ownership of your house and (2) using the money to buy economic ownership of housing in other, possibly more dynamic housing markets, you would be better off. Etc.³

That version does not require anyone to actually sell equity in their own houses. Some sort of housing derivative product would be enough. If you could sell cash-settled futures on average home prices in your town, and buy cash-settled futures on average home prices in a diversified index of other towns, you could accomplish a lot of the hedging you’d want.⁴

And so people propose that from time to time. Most famously, Robert Shiller proposed “Derivatives Markets for Home Prices” in a 2008 paper, and there are actually tradeable futures and options on the Case-Shiller home price indexes, though they don’t trade that much and are certainly not a popular retail hedging product. Economists and financial technology founders love love love the idea that people should trade house-price derivatives to hedge their housing risk, but empirically people don’t seem to be that into it.

But then, a few years ago I might have said “certain sorts of libertarian economists and crypto founders love the idea that people should trade prediction contracts on geopolitical events, but empirically people don’t seem to be that into it,” and boy has that changed! Now prediction markets like Kalshi and Polymarket are huge businesses, and while a *lot* of that is sports gambling, it’s not *all* sports gambling. Sports gambling has attracted a lot of gamblers, but some of them stay to bet on, like, coups in Latin America or the Nobel Peace Prize winner.

But prediction markets are arguably a more general-purpose technology than that. They are sometimes called “event markets,” and their stereotypical use involves binary bets on yes-or-no outcomes: You get \$1 if the Bills beat the Jaguars and \$0 if they don’t; you get \$1 if María Corina Machado wins the Nobel Peace Prize and \$0 if she doesn’t; you get \$1 if Maduro is deposed this month and \$0 if he isn’t. But that mechanism can be roughly translated into any sort of bet on any sort of financial quantity.

For instance: If you own a portfolio of Labubus, you might want to hedge your Labubu price risk. If you could sell cash-settled futures on a diversified index of Labubus, you might do that. Seems hard, though. But as we discussed in November, Kalshi launched a series of event contracts on things like Labubus and sneakers: You can buy or sell a contract like “the average price of this series of Labubus will be above \$120,” or \$110 or \$130 or \$140, and the trading prices of those binary contracts can be combined to get something like a market-implied futures price of the Labubus. Also, of course, if you own some Labubus and want to hedge, you can just sell a bunch of the “above \$120” contracts or whatever, and if the price of Labubus settles below \$120 you get cash. Not a perfect hedge, and, as I wrote at the time, something more linear would make more sense, but it’s something. And, crucially, it’s something you can do *on a gambling site that you’re using anyway*.

And if it works for Labubus:

Parcl, the real-time housing data and onchain real estate platform, and Polymarket, the world’s largest prediction market, today announced a partnership to bring Parcl’s daily housing price indices to a new suite of real estate prediction markets on Polymarket.

The partnership will introduce housing-focused markets that settle against Parcl’s published price indices, giving traders and analysts an objective, data-driven reference point for forecasting where home prices are headed. Polymarket will list and operate the markets; Parcl will provide independent index data and settlement reference values designed for transparent verification.

Housing is the largest asset class in the world, but it’s still hard to express a clean view on price direction without taking on property-level complexity, leverage, or long timelines.⁵ By combining Parcl’s daily indices with Polymarket’s event-market structure, the partnership offers a simpler way to trade housing outcomes, with clear settlement rules and public, auditable resolution data. ...

Initial markets will focus on major U.S. housing markets with a roadmap to expand coverage over time. Market templates will include questions tied to index movement across defined periods, such as whether a city’s home price index finishes up or down over a month, quarter, or year, as well as threshold-style outcomes that settle against published index values.

Will ordinary Americans use prediction markets to hedge and diversify their housing market risk? Again, the empirical evidence from the last few decades of house-price derivatives markets is “absolutely not,” but that was before prediction markets were a thing. Now, who knows, maybe.

Elsewhere, Bloomberg’s Emily Nicolle, Denitsa Tsekova and Lydia Beyoud have a big story on the rise of prediction markets:

And so the pitch goes, across Wall Street and Silicon Valley, day after day: Prediction markets represent nothing less than a rebuilding of capitalism from the inside out. What they possess, their promoters say, is an unprecedented ability to churn out intelligence on everything from corporate power struggles to geopolitical standoffs, like the one that triggered the toppling of Venezuelan President Nicolás Maduro – and a windfall for one gambler who placed a series of well-timed bets.

The raw gambling mania underpinning it all, the founders say, is not some dangerous vice that needs to be kept in check. Rather, it's the secret sauce that Polymarket and Kalshi – the industry's pioneers – are harnessing at massive scale, around the clock, to deliver an information hack for the modern economy. ...

Yet that high-minded vision masks a more awkward reality.

For every contract tied to a war or an election or a storm, there are scores hinging on whether the Atlanta Hawks beat the New Orleans Pelicans on Wednesday night, what South Park characters will say in the next episode, or whether Jesus Christ will return in 2026. (Those who bet against the Lord's return in 2025 cashed in last week.) ...

"It's in their interest to convince us that this is going to be an enormous social good," said Ken French, an influential financial economist at Dartmouth's business school, whose work helped shape modern thinking about efficient markets. But as French sees it, the exchanges encourage zero-sum financial decisions with little benefit for the broader world. "The markets that you're talking about, much of it is creating risk that doesn't have to be borne."

French's take strikes me as basically correct, *now*. But ... maybe? One story that people sometimes tell about Robinhood Markets Inc. is that it attracted young customers by letting them gamble on meme stocks, and as they have grown up now it helps them invest responsibly for retirement. ("Day trading meme-stock options is a gateway drug for sensible retirement investing," as I once put it.) Maybe prediction markets will have a similar arc? You draw people in by creating risk that doesn't have to be borne (will the Hawks beat the Pelicans), and then you end up helping them hedge their houses.

Crystallex etc.

Venezuela has a lot of gold and oil. In the 1990s and early 2000s, various US and Canadian companies operated gold mines and oil reserves in Venezuela. In the 1980s and 1990s, the Venezuelan state-owned oil company, Petróleos de Venezuela S.A. or PDVSA, acquired Citgo Petroleum, a US-based oil refiner. Then relations got worse, and in the late 2000s and early 2010s, Venezuela expropriated gold and oil projects from foreign companies including Gold Reserve Ltd., Crystallex International Corp. and ConocoPhillips.

⁶ The companies complained, and went to arbitration demanding that Venezuela give them back their gold mines and oil wells. They won in arbitration, and in the US court system, but the arbitrators and US courts couldn't make Venezuela give them back their gold mines, and Venezuela didn't.

It would vastly oversimplify things to say "and so the US court system expropriated Citgo from Venezuela and gave it to the gold and oil companies as compensation for having their stuff expropriated." But that's basically what happened, or rather, it's what has been in the process of happening for the last decade or so. The gold mines and oil reserves are in Venezuela, so US courts can't do much to give them back to the companies. But the Citgo refineries are in the US, and if US courts want to give them to the gold miners, Venezuela can't do much to stop them.

The actual process is vastly more complicated,⁷ but essentially a US federal court in Delaware has been overseeing a quasi-bankruptcy-type process in which it is trying to maximize recovery for claimants – the gold companies, the oil companies, other companies whose assets were seized by Venezuela, and also holders of some defaulted PDVSA bonds – by selling Citgo to the highest bidder. (The case is often referred to as “Crystallex,” after the gold company that is the lead claimant.) In November, the court declared that the highest bidder was a company called Amber Energy Inc., which is backed by Elliott Investment Management L.P., the big activist-and-distressed hedge fund. The Amber bid would pay roughly \$8 billion for Citgo (\$5.9 billion to the companies whose assets were seized, and \$2.1 billion to the PDVSA bondholders), and the court concluded that “the fair market value of the [Citgo] Shares does not exceed \$10 billion,”⁸ though of course the market for Citgo, in a world of lawsuits and sanctions and geopolitical tensions, is not super liquid.

Back in November, this was all a bit abstract. Broadly speaking, the US *could* extract Citgo from Venezuela and give it to Amber (because Citgo’s assets are in the US), but a district court in Delaware couldn’t do that on its own. Various parties appealed from the decision, but also, Venezuela was under US sanctions, and any actual transfer of the Citgo shares would require a sanctions waiver from the US Treasury Department. Elliott was playing a long game, and it’s not like it has been running Citgo’s refineries for the last month.

This weekend, though, the situation changed. The Wall Street Journal reports:

For activist hedge fund Elliott Investment Management, Nicolás Maduro’s swift exit comes at an auspicious time.

A U.S. judge in November backed a roughly \$6 billion bid by Elliott for Citgo Petroleum, the refining firm owned by Venezuela’s state-run company Petróleos de Venezuela, known as PdVSA, in a forced sale to satisfy creditors. Citgo, based in Houston, owns a U.S. network of refineries, pipelines and terminals that some analysts have said could be worth between \$11 billion and \$13 billion. ...

Now, Elliott appears poised to reap the rewards of owning Venezuela’s most valuable foreign oil asset. The regime change could lead to an increase in Venezuelan oil production, which would likely provide cheap feedstock to Citgo’s Gulf Coast refineries and increase the company’s value, analysts and refining experts said. ...

Elliott isn’t in the clear yet. The hedge fund still needs approval from the Treasury Department to conclude the deal. Plus, PdVSA and Venezuela have appealed the judicial sale.

The appeal is likely to be decided in the first half of the year, and the sale can then close if the Treasury has approved it, according to people familiar with the situation. Elliott sees an alignment between the sale, which was held to satisfy some of Venezuela’s creditors, and the White House’s articulated goals of getting U.S. companies repaid for Venezuela’s previous asset seizures.

Elliott is still not running the refineries, but its ownership is a lot less hypothetical than it was a week ago.

There is another oddity here, though. Elliott is buying Citgo essentially from Venezuela's judgment creditors, from companies whose gold mines and oil fields were expropriated by Venezuela 15 or 20 years ago.

⁹ Regime change will make it easier for that deal to close, so that Elliott can get Citgo and the gold and oil companies can get paid. But it is also conceivable that regime change will *reverse the expropriations*. Bloomberg's Jacob Lorinc reports that Gold Reserve is Venezuela-curious again:

Gold Reserve Ltd. has spent years fighting with Nicolas Maduro's government over two gold deposits seized by Venezuela. Now, after the US captured the country's leader on Saturday, the tiny mining company sees a path to regain those prized assets.

The company operated two gold and copper deposits – Brisas and Siembra Minera – before they were seized by Venezuela's government in the 2000s and 2010s. The Brisas deposit, which was confiscated under the Hugo Chavez regime, holds about 10 million bullion ounces – worth about \$44.4 billion based on Monday's gold price.

Paul Rivett, the company's vice-chair, says he fielded numerous calls from mining companies over the weekend expressing interest in the deposits. Already, Rivett said he's exploring deals that could help develop them under a new Venezuelan government.

"We will be doing some form of a transaction, whether it involves an investment into us or a partnership," he said in a Monday interview. "Thankfully we've been able to hold on to all the mining professionals and geologists who found this deposit and proved it out years ago, but they're all in their late 60s and 70s. What we need now is operational expertise." ...

The company is one of two North American miners that filed arbitration suits against Venezuela after their assets were seized. The other firm, Rusoro Mining, said Monday that its chances of collecting more than \$2 billion in compensation from the Venezuelan government have improved, following the US removal of Maduro.

What if they get all their gold mines back? Do they still need to seize Citgo for compensation?

Revenge of the banks

A simple distinction between "banks" and "private credit" is:

1. Banks mostly make loans using short-term debt funding. (That is, they take deposits.) If a bank makes a \$100 loan, it probably uses \$10 of its own equity and \$90 of money borrowed from depositors.
2. Private credit funds mostly make loans using long-term equity funding. (That is, they raise funds from investors.) If a private credit fund makes a \$100 loan, it probably uses, say, \$70 of its investors' equity and \$30 borrowed from banks.

There is something a little bit puzzling about this story. Banks like to complain about capital regulation: Post-2008 regulation has pushed banks to use more of their own equity to make loans, and to borrow less money. This has, arguably, created the conditions for private credit to thrive: It is harder for banks to compete to make loans, because of the more onerous capital requirements, and so private credit can take market share from them.

But private credit has much higher capital ratios than banks. Some private credit funds are unlevered (that is: 100% equity capital), others borrow perhaps half of their money (50% equity capital), but I doubt any private credit fund runs at the leverage levels that are normal, even now, for banks (something like 8% or so). If the competitive problem for banks is too much capital, how does private credit compete with even more capital?

The answer is some combination of “actually private credit can charge more for loans to earn its higher cost of capital” and “private credit is a simpler structure so it has a lower cost of equity than banks do,” though that is perhaps not fully satisfying. Still, at the margin, this does seem to be a real issue. And so if capital regulations were rolled back, and banks could make loans with less capital, they would be able to take market share back from private credit. Last week Bloomberg’s Hannah Levitt reported:

Bankers who’ve been grinding their teeth as alternative asset managers invaded their turf over the past decade are now brimming with optimism about the years ahead – saying the regulatory and market environment is swinging back their way. ...

“It’s revenge of the banks,” said Mike Mayo, a Wells Fargo analyst who tracks the industry’s other major lenders. “For the last 15 years, banks have been competing against nonbanks, analogous to playing basketball with one hand behind their back. All of the sudden banks can now play against their competitors with two hands. That’s a euphoric feeling.” ...

To the glee of bank leaders, the second Trump administration’s appointees at the Federal Reserve and other regulators are dialing back post-crisis restrictions, including proposed capital rules and stress tests that were long derided by the industry as misguided and costly – but which many outsiders argued were needed after taxpayer-funded bailouts in 2008.

Less disputed is that such tough oversight cleared the way for buy-side firms to make inroads into some of the most profitable types of lending. ...

But in recent quarters, big banks have started flexing their lending muscles anew after beating back a slew of rules. They defeated an aggressive Biden-era proposal for stiffer capital requirements known as Basel III Endgame. They got reprieves on other oversight that pushed them to hold more capital, including Fed stress tests and a special cap on balance sheet leverage. ...

As regulation eased, the top banks boosted their loan portfolios at the fastest pace since the financial crisis.

One thing you sometimes hear is that private credit is risky because it is less regulated than banking, and I suppose a solution is to make banking less regulated too.

Pod shop game

My general impression is that the typical path to running a multistrategy hedge fund goes something like this:

1. Grow up trading stocks (or convertible bonds), first in pretend stock-market games as a kid and later for real in your personal account.
2. Get a job as a stock trader and do well.
3. Launch a hedge fund to trade stocks, and continue to do well.
4. Hire some portfolio managers to trade some of your fund.
5. Hire more portfolio managers to trade increasingly diverse instruments.
6. Eventually you spend all your time on the meta-job of managing and allocating capital to portfolio managers, not trading stocks yourself.

That is, you start as an investor and end up as an allocator of capital to investors. There are good reasons for this path. For one thing, the investing job prepares you pretty well for the meta-job. Also, though, the investing job is pretty legible to a young person starting a career. You play the stock market game in high school, and you do well, and you think "ah, I have a knack for this." You start trading stocks in college, and your stocks go up, and you think "hmm this could be a career," and it all proceeds logically from there.

Whereas there is not really a direct way into the meta-job. For one thing, nobody is going to hire you right out of college to manage and allocate capital to portfolio managers. Also, you can't really do that in college in your personal account. Also you do not play the pod shop game in your high school economics class.

But now you can! A reader sent me the Pod Shop Game:

OBJECTIVE: You have five years to build the world's greatest hedge fund.

Hire psychopaths. Leverage other people's money. Ignore the SEC. Become Too Big To Fail.

It looks complicated and I have not personally played it, but I hope that eventually Ken Griffin will hire people from the leaderboard.

Things happen

First Brands Creditors Allege Kickbacks on Deals Returning 300%. Trump's Hint to Oil Executives Weeks Before Maduro Ouster: 'Get Ready.' Saudi Arabia Opens Capital Market to All Foreign Investors. Michael Platt's Client-Free Trading Decade Racks Up 7,858% Gain. Copper Surges to Fresh Record as Inventories 'Locked in the US.' Telegram hit by \$500mn Russian bond freeze. Nvidia Unveils Faster AI Chips Sooner Than Expected. Jain's Multistrategy Hedge Fund Gained 3.7% in First Full Year. Light Street Gains 37% in Big Year for Stock-Picking Hedge Funds. Defaults on art-backed loans soar in struggling market. "There's something self-effacing about saying, 'Let's do that M&A meeting at Tommy's.' "

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1. Also there's crypto: "On June 25, 2025, Beeline Title closed, what it believes to be one of the first-ever fractional sale of home real estate transactions funded through the sale of a cryptocurrency with a related party partner who will fund these transactions for us through the sale of a cryptocurrency token which is backed by real property."
2. Your biggest asset is probably your human capital, and the sell-stock-in-yourself theory is mostly about diversifying that. (Particularly if you have a lottery-ticket-like form of human capital, like being a minor-league baseball player or early-stage startup founder.)
3. Economists will sometimes tell you that the simpler hedge is to rent your house and buy stocks, but nobody likes this answer.
4. Obviously if your house burned down, cash-settled average-price futures would not help you, but that's what homeowners' insurance is for.
5. Surely you **want** long timelines, if you're hedging your house?
6. See this Gold Reserve investor presentation from July (the history is on slide 5), as well as this November Delaware district court opinion in the Crystallex litigation (particularly page 6 on the Crystallex history, and page 25 with the list of claimants, of which the biggest is ConocoPhillips).
7. I first wrote about it in 2017, and last checked in on it in 2019.
8. See pages 74 and 151 (the Amber bid) and 89-110 (the valuation) of the opinion. The components of the Amber bid are more complicated than I suggest here, and you could argue that the actual value is as low as \$5 billion.
9. Also to some extent from holders of PDVSA's defaulted bonds.

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Securities

First Brands Creditors Allege Kickbacks on Deals Returning 300%

Jan. 5, 2026, 4:17 PM PST

A major financier to First Brands Group is accused of orchestrating a kickback scheme with the founder's brother that loaded the now bankrupt auto-parts supplier with expensive debt.

Onset Financial Inc. was "pillaging" the company through usurious financing arrangements approved by Edward James, the brother of founder **Patrick James**, a group of creditors said in a court filing Monday. Onset, which advanced the firm no more than \$2.5 billion, already has obtained about \$2.9 billion and is also seeking an additional \$1.9 billion through claims in the bankruptcy case, the filing said. The loans, typically maturing in less than a year and structured with upfront payments, generated average internal rates of return exceeding 300%, according to the filing.

As part of the arrangements, Onset agreed to pay Edward James hundreds of millions of dollars through additional fees and by granting him the right to personally invest in the financings, the creditors' committee alleged. Moreover, hundreds of millions of dollars "appears to have been diverted to Patrick James personally," according to the filing. The committee made the accusations in a brief challenging Onset's bid to delay depositions of two of its executives.

"The allegations against Onset by the First Brands Creditors' Committee are unsupported and baseless and strategically made as part of a spurious scorched-earth litigation tactic," a representative for Onset said in an emailed statement.

A spokesperson for Patrick James said accusations against him are baseless and that the creditor committee's filing "continues to conveniently skip over the fact that hundreds of millions of dollars were reinvested into First Brands by Mr. James and related entities over the years."

Lawyers for Edward James, who resigned from the company on Sept. 25, didn't respond to requests for comment, nor did representatives for First Brands.

Monday's filing includes internal First Brands messages which the creditors' committee says offer evidence that employees knew "the company was being fleeced." In a September 2022 message sent days after Edward James agreed to an inventory loan with an alleged 179% internal rate of return, a First Brands employee wrote "dude..whoever sold that onset deal to us is [Onset] employee of the century," according to the committee.

Onset's conduct "appears to be a fundamental cause of these bankruptcy cases," the creditors' committee wrote in the filing.

Read More: First Brands Founder Regains Control of Personal Accounts

Since filing for bankruptcy in September First Brands has been struggling to untangle a web of so-called factoring deals that restructuring consultants now overseeing the company said raised money using fake and inflated invoices. Under the transactions, First Brands got billions of dollars by selling the right to collect money it was owed by customers who had purchased the auto parts that it made.

Onset has said the firm "was the single most significant provider of liquidity" to First Brands before it filed for Chapter 11 and that it was prepared to "aggressively" defend its rights during the bankruptcy case. Onset has previously described its dealings with First Brands as "sale-leaseback transactions" involving equipment and inventory.

Onset on Dec. 31 announced that Silver Point Capital acquired a controlling interest in claims it and its funding partners have against First Brands and its affiliates.

A Silver Point spokesperson declined to comment Monday on the committee's filing.

The creditor group is investigating the alleged fraud in order to decide whether it can file lawsuits against various executives and investors who contributed to First Brands' collapse. Such probes are routine in bankruptcy, but rarely involve such widespread allegations of misconduct.

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Securities

Financial Software Firm FactSet to Tackle Accounting Weakness

Jan. 5, 2026, 11:40 AM PST

Financial software company FactSet Research Systems Inc. is still working to remedy its internal accounting safeguards after identifying an IT-related weakness, according to a regulatory filing.

FactSet told investors in a quarterly report filed Monday with the Securities and Exchange Commission that certain financial reporting procedures weren't effective as of Nov. 30 due to a "material weakness" remaining in certain IT processes. This designation means there's a reasonable possibility that a significant mistake in financial statements wouldn't be sufficiently prevented or detected.

The company, which provides data tools for investment professionals, flagged deficiencies related to the design and operation of its IT general controls in its fiscal 2024 annual report. The internal procedures support FactSet's revenues, accounts receivable, and deferred revenues processes, the filing said.

IT general controls can cover policies and procedures that govern how a business's information technology systems operate, including components like data backup and security management.

FactSet's leaders made "significant progress" in fiscal 2025 toward enhancing its IT processes, according to the company's annual report filed in October. The company took steps including hiring additional IT compliance personnel and re-designing certain internal procedures.

The company reiterated in Monday's filing its goal to complete steps such as additional training and testing "as early as practicable in fiscal 2026."

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

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Tesla and Musk Swap EV Crown For Ever More Promises

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Liam Denning

January 6, 2026

By

(Bloomberg Opinion) --



Lots of cars but few buyers.

Photographer: Toru Hanai/Bloomberg via Getty Images

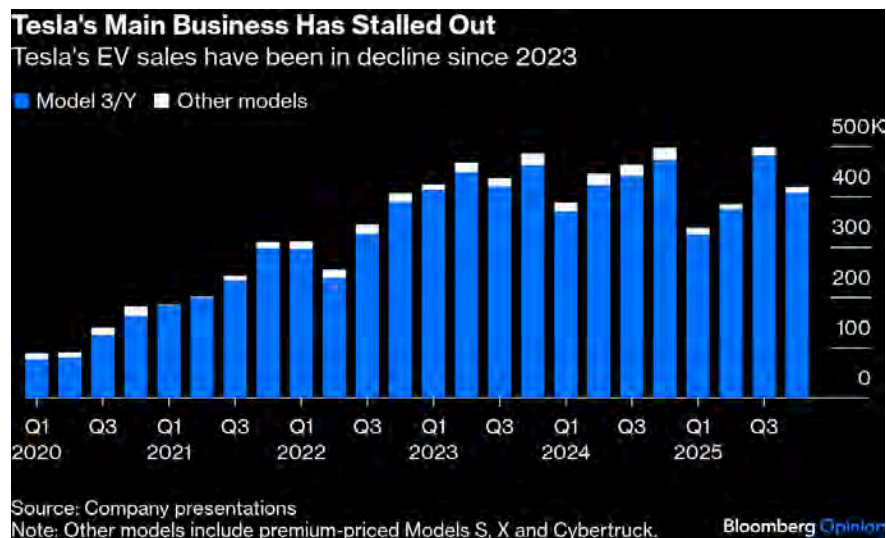
Two questions hang over Tesla Inc. as 2026 kicks off: Will the company deliver on its seemingly impossible to fulfill pledges and will Chief Executive Officer continue to successfully negate the concept of pledges?

Apart from its share price, Tesla doesn't enter the year on a roll. Its latest electric-vehicle sales numbers confirmed that the third-quarter's spike was an anomaly fueled by consumers rushing to buy EVs before the US removed generous tax credits, and that Tesla [relinquished its long-term position](#) as the world's biggest battery EV seller to China's BYD Co.

Damning details abound, led by Tesla producing more vehicles than it sold in the October through December period for the fifth time in the past eight quarters. Expect weak automotive profit margins and cash flow when earnings for the fourth quarter drop later this month. Sales of premium EVs came in below 12,000 units. Think about that: Tesla is consistently selling far fewer premium EVs

than it did in late 2023, when it boosted the lineup from two to three models with the launch of [the Cybertruck](#). Capacity utilization across Tesla's EV lines in 2025 was just 70% — so much for the old claims about being "supply constrained."

As a counter, Tesla reported record deployments of batteries. That is positive but some perspective is needed. Through the first three quarters of 2025, gross profit in Tesla's energy business increased by \$836 million from the same period in 2024. Meanwhile, automotive gross profit fell by almost \$2.2 billion. Meanwhile, Tesla attempted to get ahead of poor EV sales by, unusually, [posting its own calculation of the consensus forecast](#) to its website, which happened to be substantially lower than the one compiled by Bloomberg. It still missed.



The more pertinent point about that more favorable, company-curated consensus is that many Wall Street analysts cited it anyway in their post-sales reports. The Street has been conditioned to take what Tesla dishes out. The obvious inconsistency of an EV maker with two years of declining sales under its belt and a stock trading at more than 200 times forward earnings is glossed over by projections that Musk can make good on promises related to all things robotic.

How are those going? [With robotaxis](#), few seemed to notice over the holidays that Tesla lost an important case in California. An administrative court ordered a temporary suspension of Tesla's EV sales and production in the state after the Department of Motor Vehicles alleged [marketing of its Autopilot driver assistance feature was misleading](#). Both suspensions were delayed, the latter indefinitely, at the DMV's request, so this may seem inconsequential. But the case reinforces something that has been obvious for some time: Tesla has been over-pitching the autonomous capabilities of its vehicles for years.

Apart from the weight the ruling may carry in any other cases — Tesla is appealing [another landmark case along similar lines](#) that it partially lost in Florida in August — it should strike a dissonant note for investors. In July, Musk said on an earnings call that Tesla would “probably have autonomous ride-hailing in about half the population of the US by the end of the year.” Like so many such probabilities floated before, it didn’t happen. As 2025 drew to a close, it was effectively downgraded to simply pulling the safety monitors from front passenger seats in the company’s relative handful of rides in Austin, Texas, by year end.

While testing of such vehicles has begun, there has been no formal announcement of all monitors being withdrawn. Needless to say, there’s someone behind the wheel in Tesla’s San Francisco Bay Area ride-hailing service. Meanwhile, competition keeps mounting, the latest in the form of Nvidia Corp.’s new [Alpamayo platform for vehicles to “reason” their way](#) through road situations, with the first Nvidia-powered car due on US roads this quarter, according to the company.

And yet, by April, Tesla will apparently start ramping up production of its [two-seat Cybercab](#), which is meant to be optimized for truly autonomous robotaxi service. Around the same time, Musk says Tesla should be unveiling version three of its [Optimus humanoid robot](#), having hailed its “exquisite design.” The latter, along with a target to produce more than one million robots per year by the end of the decade and talk of an eventual 10 million-per-year production line in Texas is pretty much all anyone has to go on at this point.

Indeed, that is the most interesting point about the disconnect between Tesla’s faltering EV sales and its near-record stock price. It isn’t just that the lines have gone in opposite directions, but rather there’s a question of disclosure.

Last summer, Tesla hailed a “seminal point” in its “transition from leading the electric vehicle and renewable energy industries to also becoming a leader in artificial intelligence, robotics and related services.” This reinforced a narrative that was well-established in the share price, which is that Tesla isn’t an EV company but instead all about autonomy, AI and droids. And yet, if so, why is so much of the company’s reporting centered on EVs?

Every quarter, Tesla discloses sales and then financial and operating data related to making and selling vehicles. But the take-up rate of subscriptions or sales of its supposedly game-changing Full Self Driving (Supervised) system? The number of robotaxis in operation and their rides, revenue, costs and safety figures? Detailed

investment requirements and operating data or milestones for Optimus? These are, Musk says and many Wall Street analysts attest, the true foundations of . Yet there is no detailed table of numbers for these like the one we get every quarter showing EV deliveries, leasing penetration, inventory days and even the amount of new chargers installed. Rather, there is a hodgepodge of mostly qualitative statements, occasional figures, charts and, of course, targets and aspirations.

Why, when it comes to hard, consistent data, not lead with the future rather than the (supposed) past? In June, we will reach the one-year anniversary of Tesla launching its "robotaxi" service in Austin. If progress between now and then maintains the stately pace of the past six months or so, an answer to that question should be obvious to all.

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Tesla UK car sales slump 29% in December as Chinese brands gain ground

 [reuters.com/business/autos-transportation/tesla-uk-car-sales-slump-29-december-competition-heats-up-data-shows-2026-01-06](https://www.reuters.com/business/autos-transportation/tesla-uk-car-sales-slump-29-december-competition-heats-up-data-shows-2026-01-06)

Reuters

January 6, 2026

The Tesla logo is seen at the Everything Electric, the Home Energy & Electric Vehicle Show, in London, Britain, April 16, 2025. REUTERS/Maja Smiejkowska [Purchase Licensing Rights](#)  , [opens new tab](#)

- BYD UK registrations surge nearly 5-fold last month -New AutoMotive
- Overall UK new car sales hit 2 million mark in 2025 -SMMT
- Chinese brands MG, BYD among UK's top 10 best-selling car brands in December -SMMT

[\(TSLA.O\)](#)  , [opens new tab](#) UK car registrations dropped by more than 29%

year-on-year in December, industry data showed on Tuesday, underscoring the intense competition from Chinese rivals faced by the U.S. electric vehicle maker in its largest European market.

The Elon Musk-led company's UK registrations - a proxy for sales - fell to 6,323 units last month, according to New AutoMotive data. For 2025, Tesla's UK sales fell 8.9% year-on-year.

The drop echoed trends seen in other [European markets](#), where Tesla sales have suffered due to competition, an ageing lineup and Musk's political stance in Europe.

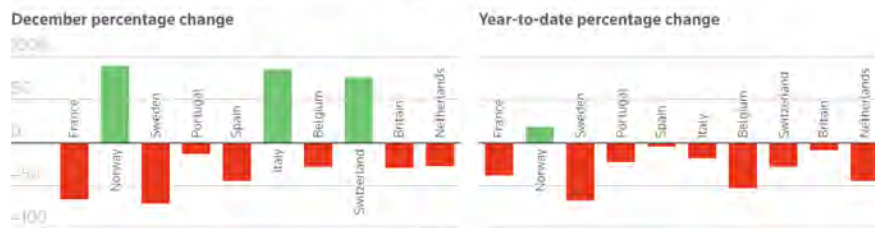
In contrast, UK car registrations for Chinese rival BYD [\(002594.SZ\)](#)  , [opens new tab](#) jumped nearly five-fold to 5,194 units in December.

Still, Tesla retained its position as the best-selling electric car brand in Britain even as BYD races to close the gap, New AutoMotive data showed.

Tesla [ceded its crown](#) as the world's top EV maker to BYD after the U.S. firm reported last week annual sales that fell for a second year.

Separately, Tesla registrations in the Netherlands fell 27% to 4,300 vehicles in December, data from car industry RAI Vereniging showed on Monday.

Tesla's car sales falling in most European markets



Source: Reuters calculations based on ACEA and national data. | By Alessandro Parodi

The multiple bar charts show changes in Tesla's battery electric vehicle sales in some European markets in December and in 2025.

Overall, Britain's car registrations grew in 2025, according to separate data from New AutoMotive and Society of Motor Manufacturers and Traders (SMMT) on Tuesday.

New car registrations in Britain rose 3.5% in 2025 to 2 million, the first time they reached that level since the pandemic, SMMT's data showed.

"Rising EV uptake is an undoubted positive, but the pace is still too slow and the cost to industry too high," Mike Hawes, SMMT Chief Executive said.

Two Chinese brands ranked among Britain's top 10 best-selling car brands in December, with SAIC's [\(600104.SS\)](#) [opens new tab](#) MG at No.2 and BYD at No.6, according to SMMT.

"While the transition to EVs isn't quite happening at the pace some predicted... the influx of new models and brands from China is creating fierce competition that will continue to force prices down," said Steve Walker, head of digital content at industry website Auto Express.

Reporting by Yadarisa Shabong and Rishab Shaju in Bengaluru; additional reporting by Alessandro Parodi and Nick Carey; Editing by Leroy Leo and Mrigank Dhaniwala



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Owlet Investors Seek Final OK For \$3.5M Deal, Atty Fees

By **Sydney Price**

Law360 (January 5, 2026, 8:48 PM EST) -- Investors suing digital baby monitoring device manufacturer Owlet Inc. have asked a California federal court to grant final approval to a \$3.5 million deal settling claims the company misled investors about approvals required from the U.S. Food and Drug Administration to sell its "smart socks."

The settlement, which was **submitted** last February and preliminarily approved in September, is the result of "hard-fought, arm's-length negotiations," which included a November 2024 mediation session, Friday's motion states. A settlement hearing is scheduled for Feb.6, according to the motion.

Lead counsel for the investors requested approximately \$1.17 million, or about a third of the settlement fund, in fees, and \$116,541 for litigation expenses.

The requested fee amount is equal to approximately 65% of the counsel's lodestar, the attorneys say.

"The lodestar cross-check and resulting negative multiplier further underscore the reasonableness of the fee request and justify its approval," their motion states.

The suit, which was most recently amended in December 2023, alleges Owlet's share price fell 23% on Oct. 4, 2021, after the company revealed to investors that the FDA had corresponded with Owlet since 2016 regarding the qualification of its "smart sock" — which monitors an infant's heart rate and oxygen levels — as a medical device. The FDA requested that Owlet cease commercial distribution of the product.

Because Owlet had known the FDA's position on its product for years, the company was sufficiently on notice that the FDA expected Owlet to obtain agency approval prior to the sale and distribution of the socks, the suit alleges.

U.S. District Judge Fernando Aenlle-Rocha **refused to dismiss** the suit in an August 2024 order. He said at the time that the complaint sufficiently pled that Owlet was adequately notified that the FDA expected it to distribute its socks in a certain way, and that the defendants misrepresented they never received written communication from the FDA alleging noncompliance.

Additionally, the investors have shown the Owlet defendants acted with scienter, Judge Aenlle-Rocha said. The complaint claims Owlet could not secure the level of funding necessary to obtain FDA clearance without selling the socks to the public at large, which shows that Owlet may have attempted improperly to market the sock to avoid costs associated with obtaining clearance and maintain profitability, Judge Aenlle-Rocha said.

After the defendants filed a motion for reconsideration later that month, the court partially granted the request, dismissing without leave to amend claims based upon statements made prior to the merger between Owlet and blank-check company Sandbridge Acquisition Corp.

The Sandbridge defendants had previously been allowed to escape the suit's claims. The complaint does not allege the Sandbridge defendants knew about the FDA's 2016 letter to Owlet, Judge Aenlle-Rocha said.

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

The investors are represented by Jennifer L. Joost of Kessler Topaz Meltzer & Check LLP, Debra J. Wyman, Ashley M. Price and Ellen G. Stewart of Robbins Geller Rudman & Dowd LLP and Brian Schall of The Schall Law Firm.

The defendants are represented by Colleen C. Smith, Meryn C.N. Grant and Michele D. Johnson of Latham & Watkins LLP and Anne Johnson Palmer, Peter Welsh and Mark S. Gaioni of Ropes & Gray LLP.

The case is Michael J. Butala v. Owlet Inc. et al., case number 2:21-cv-09016, in the U.S. District Court for the Central District of California.

--Editing by Jay Jackson Jr.

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PG&E Inks \$100M Deal To Settle Investors' Wildfire Suit

By **Emilie Ruscoe**

Law360 (January 5, 2026, 8:24 PM EST) -- California utility Pacific Gas & Electric Co., its brass and its underwriters have reached a \$100 million deal ending investor claims over allegedly misleading statements about the company's safety practices ahead of deadly wildfires in the past decade.

In Friday filings in California federal court, PG&E investors told U.S. District Judge Edward J. Davila they'd soon seek preliminary approval of the settlement agreement the parties inked on Dec. 31.

Under the terms of the settlement agreement, the defendants deny wrongdoing and liability, and the agreement states that its terms aren't "an admission or concession that the consideration to be given hereunder represents the amount that could be or would have been recovered after trial."

The parties reached the agreement days after U.S. Bankruptcy Judge Dennis Montali denied PG&E's October bid to stay the securities class action claims and just over a week after PG&E's officers and its directors and underwriters filed a pair of bids to dismiss the latest version of the investor claims, from November. A previous version of the investors' suit was **dismissed** in October, but Judge Davila allowed them a fifth try.

The settlement, which is subject to court approval, would end claims that PG&E "destroyed billions of dollars of economic value in the company's securities" by failing to disclose by concealing the deficiencies of its wildfire safety practices in the leadup to unusually deadly and destructive wildfires in 2017 and 2018.

The proposed class includes those who purchased PG&E shares between April 29, 2015, and Nov. 15, 2018, the filing states.

According to the investors, the wildfires "were started or exacerbated by noncompliant PG&E electrical equipment and vegetation management: an astounding fact to those who believed PG&E's public statements that it complied with California and federal safety regulation."

PG&E filed for Chapter 11 reorganization in 2019 and emerged in July 2020.

In February 2020, the California Public Utilities Commission **slapped** PG&E with over \$2 billion in penalties, the largest it had ever assessed, for the bankrupt utility's role in igniting the wildfires.

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

The proposed class and lead plaintiff Public Employees Retirement Association of New Mexico are represented by Thomas G. Hoffman, Jr., Thomas A. Dubbs and Michael P. Canty of Labaton Keller Sucharow LLP, and James M. Wagstaffe of Adamski Moroski Madden Cumberland & Green LLP.

The Securities Act plaintiffs are represented by Willow E. Radcliffe, Kenneth J. Black, Hadiya K. Deshmukh, Hailey S. Zanutto, Darren J. Robbins and Alexandra S. Bernay of Robbins Geller Rudman & Dowd LLP, and Thomas C. Michaud of VanOverbeke Michaud & Timmony PC

PG&E is represented by Michael J. Reiss and James E. Brandt of Latham & Watkins LLP.

The PG&E officers are represented by Steven S. Scholes, Paul M.G. Helms, Jason D. Strabo and

Caitlyn M. Campbell of McDermott Will & Schulte LLP.

The PG&E directors are represented by Stephen P. Blake, Jonathan K. Youngwood and Nicholas S. Goldin of Simpson Thacher & Bartlett LLP.

The PG&E underwriters are represented by Neal A. Potischman, Charles S. Duggan, Dana M. Seshens and Craig T. Cagney of Davis Polk & Wardwell LLP.

--Additional reporting by Bonnie Eslinger. Editing by Amy Rowe.

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BofA, BNY Face Bulk-Up Claims Over Epstein Ties

By **Jon Hill**

Law360 (January 5, 2026, 10:14 PM EST) -- A survivor of sex offender Jeffrey Epstein has moved to bolster her proposed class actions accusing Bank of America and BNY of enabling the disgraced financier's sex trafficking enterprise, filing freshly expanded complaints amid a push from the banks for dismissal.

The new complaints were entered last week in New York federal court by plaintiff Jane Doe, a pseudonym for an Epstein survivor from Russia, now living in Florida, who sued Bank of America and The Bank of New York Mellon Corp. **separately last year.**

Doe is seeking damages on behalf of women who were sexually abused or trafficked by Epstein and his associates. Both banks moved for **dismissal in November**, arguing Doe's "threadbare" allegations had failed to plausibly establish any complicity on their part.

The latest pleadings appear to have been significantly beefed up in response, adding dozens more pages of allegations about how the two banks purportedly "knew or should have known about" Epstein's crimes, yet still moved money for him and his alleged collaborators while failing to report their suspicious activity.

In Bank of America's case, for example, Doe previously accused the North Carolina-based bank of hosting accounts in her name that Epstein and his associates allegedly used for trafficking-related payments and other "alarming and erratic" transactions.

Her amended complaint goes into much more detail, alleging Bank of America looked past red flags like her young age, foreign national status and lack of legal employment to make her a "preferred customer" and let Epstein wire tens of thousands of dollars to her.

"Despite the fact that the victim spoke little English and had no apparent means of earning money, the Bank continued to make tens of thousands of dollars in transfers into and out of this account without any known or apparent lawful or business reason or justification," Doe said in the new complaint, which was made public on Friday with light redactions.

In a Monday statement to Law360, a Bank of America spokesperson reaffirmed the bank's position that the case should be thrown out.

"Once again, this amended complaint is filled with rhetoric and misrepresentations," the spokesperson said. "We have asked the court to dismiss it and look forward to presenting the facts in court."

A BNY representative and counsel for Doe did not immediately respond to requests for comment Monday.

Doe alleges that Epstein first met her in 2011 while she was living in Russia. Until his arrest and death in prison in 2019, he sexually abused her numerous times and forced her to engage in sex work, according to her complaints.

She sued Bank of America and BNY under federal and New York state laws this past fall, alleging that they provided critical financial services and support to Epstein's sex-trafficking operation. Without their assistance, it "could not have happened at the scope, scale, and duration it did," Doe has said.

In their dismissal bids last year, Bank of America and BNY criticized the litigation as premised on "threadbare," "generic" and "razor-thin" allegations that rehash claims brought against other financial institutions and lack specificity about conduct on their part.

Bank of America said Doe's allegations showed only that it "provided routine services to customers who at the time had no known connection to Epstein's sex trafficking," while BNY said Doe had not plausibly shown that it was even aware of, much less involved in, Epstein's crimes, nor that it "provided any services to Epstein" himself.

The judge overseeing the cases, U.S. District Judge Jed Rakoff, did not rule on the banks' dismissal motions before Doe filed her amended complaints last week.

Doe's attorneys at Boies Schiller Flexner LLP in recent years have led similar lawsuits accusing Deutsche Bank and JPMorgan Chase & Co. of enabling Epstein's crimes.

Deutsche Bank agreed to pay \$75 million to resolve proposed class claims on behalf of women and girls who were sexually abused or trafficked by Epstein or his associates from Aug. 19, 2013, to Aug. 10, 2019. The deal won final approval in **October 2023**.

That same month, JPMorgan agreed to pay \$290 million to resolve claims on behalf of Epstein's survivors. The deal was granted final approval **in November 2023**.

Doe is represented by David Boies and Sigrid S. McCawley of Boies Schiller Flexner LLP and Bradley J. Edwards and Brittany N. Henderson of Edwards Henderson.

Bank of America is represented by Charlotte H. Taylor, Bethany K. Biesenthal, Paula Quist, Shea F. Spreyer and Carol T. Li of Jones Day.

BNY is represented by Felicia H. Ellsworth, Boyd M. Johnson III, Christopher Bouchoux and Andres C. Salinas of WilmerHale.

The cases are Jane Doe v. Bank of America NA, case number 1:25-cv-08520, and Jane Doe v. The Bank of New York Mellon Corp., case number 1:25-cv-08525, both in the U.S. District Court for the Southern District of New York.

--Additional reporting by Lauren Berg and Katherine Smith. Editing by Linda Voorhis.



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Hawaiian Electric Reaches \$47.8M Investor Deal Over Wildfires

By **Katryna Perera**

Law360 (January 5, 2026, 10:11 PM EST) -- Hawaiian Electric Industries Inc. shareholders reached a nearly \$48 million settlement with the company and some of its leaders in a suit blaming it for the downturn in its stock price following a deadly 2023 fire on Maui, and asked a California federal judge on Monday to grant the deal preliminary approval.

The shareholders said in their **motion** for preliminary approval that the \$47.8 million cash recovery represents 2.8% of the estimated maximum recoverable damages, which is "well above the 1.2% median settlement recovery last reported for all securities actions in 2024."

The settlement would provide relief for a proposed class of individuals and entities who purchased or acquired Hawaiian Electric securities between Feb. 28, 2019, and Sept. 4, 2023.

The motion argued that the court should grant the first green light to the deal because it was reached after more than two years of hard-fought litigation and due to the risks and expenses of continued litigation.

"Defendants already prevailed once on a motion to dismiss, and while plaintiffs bolstered their allegations significantly in their second amended complaint they face ongoing risks associated with defendants' pending renewed motion to dismiss ... likely forthcoming summary judgment motions ... and likely appeals, which would extend the litigation for years and might lead to a smaller recovery or no recovery at all," the motion said.

The case had been stayed since last November, when the parties informed U.S. District Judge Jaqueline Scott Corley of a pending settlement.

The judge previously **dismissed the suit** without prejudice in October 2024, finding that the investors did not plausibly allege that the challenged statements were false or misleading when made, and that 11 of the statements were attributed to subsidiaries that are not named defendants.

Judge Corley also found that statements about utility pole maintenance, advice received from wildfire collaborators and the prioritization of safety were not plausibly alleged to be false or misleading, and that the investors failed to establish a strong inference of scienter.

The investors filed their second amended complaint in November 2024.

According to Monday's motion, lead counsel from Pomerantz LLP also plan to request an award of attorney fees worth a third of the settlement fund, or about \$15.9 million, and \$500,000 in litigation expenses.

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

Bhapinderpal Bhargal **filed the proposed class action** in August 2023 as a shareholder of Hawaiian Electric, which says it provides power to 95% of Hawaii's residents. A wildfire earlier that month devastated the historic town of Lahaina and killed more than 100 residents.

Bhargal's complaint echoes claims made in a lawsuit filed against the utility **by some homeowners** and says videos taken by residents appear to show downed power lines owned by

Hawaiian Electric sparking some of the fires. The complaint also points to media reports claiming the company knew for years about the threats of wildfires but spent little money to mitigate those risks through safety improvements.

The company's stock price declined significantly after the fire broke out Aug. 8, 2023, according to the suit. Bhangal blames that on the news stories about Hawaiian Electric's safety protocols and accuses the company of failing to warn investors about its wildfire risks.

The investors are represented by Jeremy A. Lieberman and Austin Van of Pomerantz LLP.

Plaintiff Emaad Kuhdear is also represented by Shannon L. Hopkins, Gregory M. Potrepka and Andrew E. Lencyk of Levi & Korsinsky LLP.

The defendants are represented by Mark R.S. Foster and Peter B. Morrison of Skadden Arps Slate Meagher & Flom LLP and Daniel H.R. Laguardia and Adam S. Hakki of Allen Overy Shearman Sterling.

The case is Bhangal v. Hawaiian Electric Industries Inc. et al., case number 3:23-cv-04332, in the U.S. District Court for the Northern District of California.

--Additional reporting by Craig Clough. Editing by Kristen Becker.

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Uber Sex Assault MDL Judge Won't Delay Bellwether Trial

By **Bonnie Eslinger**

Law360 (January 5, 2026, 9:35 PM EST) -- A California federal judge on Monday denied Uber's request to postpone the first of some 20 bellwether trials in multidistrict litigation over passenger sexual assaults despite the company's assertion that the jury pool will be tainted by what it said was a plaintiffs' counsel advocacy group commercial saying Uber refused to make safety improvements.

The trial is scheduled to start on Jan. 13. In a brief, **two-sentence order**, U.S. District Judge Charles R. Breyer said he considered Uber's motion, the company's request for more information on the Consumer Attorneys of California's ad campaign, the related opposition papers and declarations, the record and the applicable law, and "hereby DENIES the motion."

The plaintiffs in the sprawling MDL generally contend that Uber failed to adopt such safety measures as cameras and enhanced background checks despite knowing since 2014 that drivers for its ride-hailing app have sexually assaulted passengers.

Uber filed its delay request in early December, saying the advertising campaign includes misleading statements about the company and the litigation. Uber told the court that its prejudice concerns were not speculative, saying the ad campaign misrepresents a New York Times article that had negatively influenced potential jurors in parallel proceedings, known as Judicial Council Coordinated Proceedings, in California state court in September.

"These statements exacerbate the prejudice Uber already faced in parallel JCCP bellwether proceedings," Uber said in its **Dec. 2 request** to Judge Breyer.

The New York Times article was published on Aug. 7, 2025, just before the start of the California state court bellwether trial. And the advertising campaign misrepresents the article, Uber said.

"The timing of these ads makes clear that plaintiffs' counsel intends on litigating this case in the public sphere rather than at trial — working severe prejudice on Uber in the process," Uber states in its motion.

In addition to the trial delay, Uber asked for a court order blocking publication of the ad campaign and an expanded jury voir dire process when the first bellwether trial kicks off.

Uber also sought permission to subpoena the Consumer Attorneys of California, or CAOC — which is not a party in the litigation — to get more information on the "Every 8 Minutes" campaign and its scope, including the extent to which plaintiffs' counsel in the MDL is "communicating with or directing the advertising campaign at issue." Uber also said it wanted details on the source for the assertions made in the campaign, which was launched in October.

Uber told the court that CAOC is affiliated with the plaintiffs in the MDL since "multiple" lawyers for the plaintiffs are members of the nonprofit's board and a lead lawyer for the plaintiffs, Sarah London of Girard Sharp LLP, is an officer on the board.

Further, the New York Times article includes information that was sealed in the state court JCCP, thus provided to the newspaper in violation of a protective order, Uber told Judge Breyer.

"Plaintiffs' counsel, therefore, are knowingly profiting off of protective order violations in this mass

tort and are exacerbating the known risk of tainting" the panel of potential jurors, Uber said.

In addition, the ad campaign made false statements, Uber said.

When it was launched, the campaign's video erroneously stated that a "sexual crime was reported to Uber almost every 8 minutes," attributing the statistic to the Times article. Those numbers, the company said, were based on "unvetted" data that related to "unverified" reports related to a full range of sexual misconduct "of any kind" reported to Uber.

"The vast majority of the reports involve non-criminal behavior, such as flirting, staring or leering, or making comments about a person's appearance," Uber told the court. "Thus, many of the reports, even if true, do not involve sexual crimes."

Uber said it had to send CAOC a cease-and-desist letter to get the organization to edit out the false and misleading "sexual crimes" language from the video advertisement.

The plaintiff for the first bellwether trial in the MDL is Jaylynn Dean, who alleges she was raped by her Uber driver in Tempe, Arizona, in 2023. In its opposition to Uber's motion, the plaintiffs said Uber was making a "meritless" eleventh-hour attempt to delay Dean's day in court.

The court has already finalized and distributed a juror questionnaire, the plaintiffs noted. Further, they say, the judge has broad discretion in how to conduct voir dire and can have jurors examined privately if a concern arises.

The plaintiffs also called the request to put the advertising campaign on hold a "gag order censoring its political adversary, CAOC," in violation of the First Amendment.

In July, Judge Breyer **scrapped** some of the bellwether cases' fraud and product liability claims, finding that the plaintiffs had not done enough to show that ads for Uber's "designated driver" marketing campaign were misleading because they didn't mention that intoxicated people, particularly women, have a higher risk of being sexually assaulted by Uber drivers than sober people.

In the state court bellwether trial, **the jury found** that Uber was negligent with respect to safety measures it took to protect a passenger who says she was sexually assaulted by her driver, but ruled it isn't liable for damages because its negligence wasn't a substantial factor in causing her harm.

The verdict wrapped a three-week trial **that started** on Sept. 9.

During jury selection for the JCCP bellwether trial, a prospective juror told the court that they had read the Times article and said it "made a strong impression" that would lead to favoring the victim, Uber said in its motion to postpone the federal MDL bellwether for Dean.

Representatives for Uber and the plaintiffs did not immediately respond Monday to requests for comment on Judge Breyer's decision.

Deepak Gupta of Gupta Wessler LLP, counsel for Consumer Attorneys of California, said the judge made the right decision.

"This swift ruling makes clear that Uber fundamentally miscalculated by asking the court to censor protected political speech and interfere in an ongoing ballot campaign. The First Amendment does not bend to corporate pressure, and the court rightly refused to let Uber use the legal system to silence its critics," Gupta said in a statement.

The bellwether plaintiffs are represented by Sarah R. London of Girard Sharp LLP, Rachel B. Abrams of Peiffer Wolf Carr Kane Conway & Wise LLP, and Roopal P. Luhana of Chaffin Luhana LLP.

Uber is represented by Laura Vartain, Jessica Davidson and Allison M. Brown of Kirkland & Ellis LLP, Christopher V. Cotton, Michael B. Shortnacy, Alycia A. Degen and Patrick Oot of Shook Hardy & Bacon LLP, and Sabrina H. Strong and Jonathan P. Schneller of O'Melveny & Myers LLP.

Consumer Attorneys of California is represented by Deepak Gupta, Gregory A. Beck, Varshini

Parthasarathy and Sonali Mehta of Gupta Wessler LLP.

The case is In re: Uber Technologies Inc. Passenger Sexual Assault Litigation, case number 3:23-md-03084, in the U.S. District Court for the Northern District of California.

--Additional reporting by Lauren Berg and Y. Peter Kang. Editing by Michael Watanabe.

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Quinn Emanuel Contempt In \$600M Row Probed By Fed. Circ.

By **Ryan Davis**

Law360 (January 5, 2026, 8:33 PM EST) -- A contempt finding against Quinn Emanuel Urquhart & Sullivan LLP that contributed to a more than \$600 million patent judgment against the firm's former client NortonLifeLock was scrutinized by a Federal Circuit panel on Monday, with one judge saying the order appeared to be invalid.

A Virginia federal judge found there was a conflict in the firm representing both Norton, which a jury told to pay **\$185 million** for infringing Columbia University anti-malware patents, and a former Norton employee who allegedly expressed regret about the company's actions to a Columbia professor at a conference.

U.S. District Judge M. Hannah Lauck found the firm **in contempt** when it invoked privilege and refused to turn over communications between it and the ex-employee, Marc Dacier. She later cited that finding when awarding Columbia enhanced damages that brought the judgment against Norton to **\$600 million**.

However, at arguments on Monday, U.S. Circuit Judge Timothy Dyk said the contempt ruling "rests on an incorrect premise" that because there was a conflict in the firm representing Dacier and Norton, there was no attorney-client privilege between Dacier and Quinn Emanuel.

He said he did not believe such a conflict would eliminate privilege and suggested that requiring the production of privileged material could make the order invalid.

"How can the judge order the disclosure of privileged information without a waiver from the client?" Judge Dyk asked.

Columbia attorney Jeffrey Wall of Sullivan & Cromwell LLP suggested Quinn Emanuel, which was replaced by Latham & Watkins LLP as Norton's law firm before trial, could have offered to disclose the information to the judge privately in chambers rather than on the public docket. But it didn't do that, and only refused to comply without consulting Dacier, he said.

Judge Dyk responded that "Quinn has not, in this case, covered itself in glory with its behavior, OK? But that's a different question than whether the order is valid or invalid."

"How is it that we could sustain this order when on its face it seems to be invalid?" he asked later.

Wall maintained that Judge Lauck "didn't say, 'I'm finding that the privilege is out the window'" but that she needed to see communications between Quinn Emanuel and Dacier to see if it actually represented him.

Representing Quinn Emanuel, Paul Clement of Clement & Murphy PLLC told the Federal Circuit: "I think the only way to understand [Judge Lauck's] order is that she has held that the attorney-client privilege is already gone," which he said put the firm "in an impossible position" of being ordered to produce privileged information.

U.S. Circuit Judge Jimmie Reyna told Clement: "I was surprised that there wasn't an attempt to get a waiver" of privilege from Dacier, which he said is a "pretty common practice."

Clement responded that in hindsight, Quinn Emanuel could have done things differently, but "this is a pretty extraordinary order," and the firm "did everything it could to fight this," including filing an unsuccessful motion for reconsideration.

The Federal Circuit also heard arguments on Monday in Norton's appeal of the infringement verdict. The company's attorney, Douglas Lumish of Weil Gotshal & Manges LLP, urged the court to overturn the verdict by holding that Columbia's patents are invalid for covering only the abstract idea of comparing data to identify malware.

He argued the patents describe a combination of two black box models for comparing data or "an abstraction combined with an abstraction" — and that the written description of the inventions "goes out of its way to tell you that everything in the claims is conventional."

Judge Dyk pressed Columbia attorney Dustin Guzior of Sullivan & Cromwell on that point, asking: "What is it that's in the claims here that's not conventional?"

The judge said dividing a task that had been performed by one computer among multiple computers is conventional and wouldn't be eligible for patenting, and Guzior responded that "there is a lot more to these patent claims than just dividing the task among multiple computers."

Guzior contended that Columbia's inventions use specific technology to identify malware in a way that had never been done before, and "it's not conventional just because computers are involved."

Judge Reyna responded: "I don't think so either; otherwise, all code and all computer patents would be out the window." Yet he noted Federal Circuit precedent requires that software-related inventions improve the functioning of a computer to be patent eligible.

Guzior said that's what the patents-at-issue do, because "when you download that software onto a computer, you change the way the system works."

Norton changed its name to Gen Digital Inc. in 2022 but was consistently referred to as Norton throughout Monday's arguments.

The patents-in-suit are U.S. Patent Nos. 8,601,322 and 8,074,115.

U.S. Circuit Judges Timothy Dyk, Sharon Prost and Jimmie Reyna sat on the panel for the Federal Circuit.

Columbia University is represented by Dustin F. Guzior, Jeffrey B. Wall, Garrard R. Beeney, Oliver Engebretson-Schooley, Alexander N. Gross, Morgan L. Ratner and Stephen J. Elliott of Sullivan & Cromwell LLP.

Gen Digital is represented by Douglas E. Lumish of Weil Gotshal & Manges LLP and Melissa Arbus Sherry, Michael A. Morin, Gabriel K. Bell, Margaret A. Upshaw, Ashley N. Finger, Brent T. Murphy, David K. Callahan and Nicholas Luongo of Latham & Watkins LLP.

Quinn Emanuel is represented by Paul Clement, C. Harker Rhodes IV and Joseph DeMott of Clement & Murphy PLLC.

The case is Trustees of Columbia University in the City of New York v. Gen Digital Inc., case numbers 24-1243 and 2024-1244, in the U.S. Court of Appeals for the Federal Circuit.

--Editing by Adam LoBelia.