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Ex-Law Partner, Real Estate Mogul Testify in Goldstein Trial (1)

Jan. 20, 2026, 2:32 PM PST; Updated: Jan. 20, 2026, 3:42 PM PST

Summary by Bloomberg AI

AI Generated



- Kevin Russell testified that Tom Goldstein "wasn't particularly diligent about running the business" and forgot to renew the firm's lease.
- Bob Safai described Goldstein's poker playing as "aggressive" and "erratic at times" and said he had a difficult time collecting a \$6 million debt from Goldstein.
- Prosecutors allege that Goldstein avoided reporting income by having fees sent directly to Safai to satisfy his gambling debt, which Safai testified included payments from third parties on Goldstein's behalf.

Kevin Russell of Goldstein & Russell and real estate mogul and high-stakes gambler Bob Safai testified for the government Tuesday in the trial of former US Supreme Court advocate Tom Goldstein.

Jurors learned from Russell that Goldstein "wasn't particularly diligent about running the business," and heard from Safai that Goldstein was struggling to pay significant poker debts in 2017 and 2018.

Russell said, for example, that the reason G&R relocated from Friendship Heights to Bethesda, Md., was because Goldstein forgot to renew the firm's lease.

If jurors believe that, it doesn't particularly help the government's case. It arguably supports Goldstein's claim that he counted on his accounting firm to correctly handle his taxes and simply made mistakes.

Russell also acknowledged Goldstein's intellect and legal acumen, but on cross-examination, said he would say the same nice things about lots of other appellate practitioners in the Washington, DC, legal community.

Goldstein wasn't a tax specialist and hadn't worked on any appeals involving the tax rules around reporting gambling winnings, he testified.

The government also asked Russell whether he was aware of G&R or Goldstein "borrowing" funds from Robbins Geller Rudman & Dowd LLP and Napoli Shkolnik PLLC, two law firms G&R had worked with on appeals.

He said he wasn't.

Neither firm immediately responded to Bloomberg Law's request for comment on the questioning.

Money Trouble

Safai—who said he'd played poker with "titans of industry" and famous actors including Ben Affleck, Kevin Hart, and Tobey Maguire—described Goldstein's poker playing as "aggressive" and "erratic at times."

But they were a good match, he said. Safai said his own playing style was "exactly the same."

Goldstein won a few games, but Safai said he "won more."

The real estate magnate told jurors that after he won \$6 million from Goldstein in a two-day poker match over Labor Day 2017, he had a difficult time collecting the debt.

It was bad enough that he eventually asked Goldstein to sign a promissory note calling for a \$30,000 monthly payment to cover principal and interest, he said. It was the first time he'd had to do something like that to secure a debt.

When Goldstein had only paid down \$3 million, Safai sold the note to Eddie Ting, a mutual friend of theirs.

The uncollected gambling debt was bad luck, Safai said, like "a black cat" he needed to get off his back, so that he'd stop losing.

"I'm very superstitious," he said.

Safai also testified that some of the payments he received from Goldstein had been made by third parties on Goldstein's behalf, including a \$500,000 payment from Maguire.

Prosecutors allege the money represented income to Goldstein's firm for legal services and claim he avoided reporting it by having the fee sent directly to Safai to satisfy his gambling debt.

Molly Runkle, one of G&R's former office managers, testified how she would go about gathering documents for Goldstein's outside accountants, among other things. It appeared intended to show how little she knew about Goldstein's gambling, such that she wouldn't have had the information necessary to tell the accountants about it.

She said she "had a sense" that Goldstein played poker but didn't know for how much.

She denied ever having seen a Form 1099 for the \$26 million Alec Gores said he paid Goldstein after the lawyer beat him in a heads-up poker match in 2016.

She said she'd remember if he'd told her he'd won or lost millions playing poker.

The defense will continue cross-examining her on Wednesday morning.

Goldstein is represented by Munger, Tolles & Olson LLP.

The case is United States v. Goldstein, D. Md., No. 8:25-cr-00006, trial 1/20/26 .

(Adds paragraphs 21-23 to expand on Runkle's testimony. A previous version of this story corrected the spelling of the law firm in the first paragraph.)

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'Very Smart Man': Ex-Firm Partner Testifies at Tom Goldstein's Criminal Trial

Appellate attorney Kevin Russell testified about his former Goldstein & Russell colleague Tom Goldstein during the SCOTUSblog publisher's white-collar criminal jury trial in Maryland federal court, describing Goldstein as a "very skilled" lawyer who played poker for money.

January 20, 2026 at 06:29 PM By  **Sulaiman Abdur-Rahman**



Thomas Goldstein during Legal Times's 2007 Supreme Court Event. July 11, 2007. Photo: Diego M. Radzinski/ALM

A former partner at Tom Goldstein's now-defunct Goldstein & Russell law firm described the SCOTUSblog publisher as a "very smart man" who would play poker for money.

"He was very confident," appellate attorney Kevin Russell of Russell & Woofter said Tuesday of Goldstein, testifying as a fact witness in Goldstein's criminal jury trial. "He was very skilled [in the practice of law]."

Munger, Tolles & Olson criminal defense attorneys represent Goldstein, who has pleaded not guilty to tax crimes and mortgage fraud.

Federal prosecutors called Russell to the witness stand Tuesday to highlight how Russell had little or no knowledge of Goldstein & Russell's outstanding debt obligations.

Russell once accepted a delayed Goldstein & Russell paycheck during a cash-flow shortage, according to his live testimony. Russell also testified about how he wanted Goldstein to hire a "more experienced person" to work as the firm's office manager.

"He did not hire a more experienced person," Russell said of Goldstein.

"Tom was the sole owner of the firm," Russell testified. "He brought in most of the clients."

Russell talked about the history of Goldstein & Russell and how Goldstein "[grew] tired of the practice of law" and retired from the litigation boutique in 2023 to pursue "some other things."

Bob Safai, founder of the California-based Madison Partners commercial real estate advisory firm, testified Tuesday about his history of beating Goldstein at poker for a \$6 million cash prize that Goldstein never fully paid back.

"Spider-Man" actor Tobey Maguire paid a portion of Goldstein's outstanding debt to Safai, according to Safai's testimony.

Plaintiffs firm Napoli Shkolnik also paid a portion of Goldstein's outstanding debt to Safai, according to statements made in open court.

The government alleges Goldstein diverted legal fees owed to Goldstein & Russell to repay millions of dollars in personal gambling debts.

Russell in his testimony talked about how Goldstein & Russell worked with Napoli Shkolnik and Robbins Geller Rudman & Dowd on various appellate matters.

Lynda Resnick and her husband Stewart Resnick, owners of The Wonderful Co. and POM Wonderful LLC, provided Goldstein with a line of credit that Russell knew nothing about.

"I was not aware that he had [a line of credit from the Resnicks]," Russell said when prosecutors asked him about Goldstein's revolving credit agreement with the Resnicks.

Goldstein & Russell previously represented POM Wonderful in the U.S. Court of Appeals for the District of Columbia Circuit challenging a Federal Trade Commission consumer protection action alleging false or misleading advertising.

The D.C. Circuit affirmed a trial court judgment in favor of the FTC, and the U.S. Supreme Court in 2016 denied POM Wonderful's petition for a writ of certiorari.

Goldstein, a heavyweight appellate attorney who has argued more than 40 cases before the nation's highest court, could serve several years in federal prison if convicted on any of the white-collar criminal offenses charging Goldstein with tax evasion, filing fraudulent tax returns, willfully failing to pay taxes and mortgage fraud.

United States v. Goldstein is being prosecuted by U.S. Department of Justice attorneys Sean Beaty, Emerson Gordon-Marvin and Hayter Whitman plus Assistant U.S. Attorney Adeyemi Adenrele of the District of Maryland.

Munger Tolles criminal defense attorneys Jonathan Kravis, Stephany Reaves, Sarah Weiner and Adeel Mohammadi represent Goldstein.

U.S. District Judge Lydia Kay Griggsby of the District of Maryland presides over the trial, which is set to resume Wednesday.

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Recent Trends in Securities Class Action Litigation: 2025 Full-Year Review

 [nera.com/insights/publications/2026/recent-trends-in-securities-class-action-litigation--2025-full-y.html](https://www.nera.com/insights/publications/2026/recent-trends-in-securities-class-action-litigation--2025-full-y.html)

NERA has released “Recent Trends in Securities Class Action Litigation: 2025 Full-Year Review,” the latest edition of its annual report. The report continues our analysis of filing, dismissal, and settlement trends and presents new analyses related to current topics.

Director Edward Flores, Associate Director Svetlana Starykh, and Director Ivelina Velikova, the report’s authors, utilize NERA’s proprietary database of federal securities class actions, which spans more than three decades.

Highlights from the 2025 report include:

- There were 207 new federal securities class action suits filed in 2025, 25 less than in 2024.
- Of the 207 cases filed, 43% of filings had an allegation related to missed earnings guidance, a five-year high, while only 13% had an allegation related to regulatory issues, a five-year low.
- Filings against companies in the healthcare and technology sectors together accounted for 57% of new filings, and 71% of all cases were filed in the Second, Third, and Ninth Circuits.
- In 2025, there were 17 filings with AI-related claims, accounting for 8% of all new filings, while there were 14 cases with crypto-related claims, 75% more than in 2024.
- SPAC- and COVID-19-related claims have declined substantially, with only five and three suits filed in each category, respectively.
- Resolutions increased by 11% to 234 from 210 in 2024, consisting of 155 dismissals and 79 settlements, marking the second straight year that resolutions have increased. The rise in dismissals was largely driven by an increase in dismissals involving standard cases, which saw a record 139 dismissals in 2025, up 32% from 105 in 2024.
- Aggregate settlement value was \$2.9 billion, a 25% decline from the inflation-adjusted 2024 total of \$3.9 billion and a 33% decline from the inflation-adjusted 2021 total of \$4.4 billion.
- Over the past decade, annual median Investor Losses have ranged from a low of \$358 million to a high of \$1.8 billion.
- The median settlement value increased by 21% to \$17 million, a 10-year high.

- Aggregate plaintiffs' attorneys' fees and expenses totaled \$797 million, a 25% decline from the \$1.063 billion in 2024.

NERA has reported on trends in securities class actions for more than three decades and is an industry leader in advising clients in the economics of securities, finance, and commerce.

On 3 February, NERA experts, renowned class action plaintiff and defense lawyers, and insurance professionals will discuss highlights from this report, including trends in filings, dismissals, and settlements. Register [here](#).

Securities

Perspectives

The Rise (and Eventual Fall?) of Derivative Section 10(b) Claims

Jan. 21, 2026, 1:30 AM PST

Professional Perspectives give authors space to provide context about an area of law or take an in-depth look at a topic that could benefit their practice.

The Bottom Line

Section 10(b) derivative litigation claims, a relatively new occurrence, may sometimes be of questionable merit.

These claims present legal and practical problems, including that they are conceptually flawed.

Corporate defendants should develop strategies for these claims as they continue to arise.

Stockholder derivative litigation has reflected a notable shift in recent years: the increasing inclusion of claims under Section 10(b) of the Securities Exchange Act, which prohibits material misstatements or omissions in connection with the purchase or sale of a security. But these claims have received little attention from the bar and commentators.

As derivative Section 10(b) claims continue to proliferate, defense attorneys should develop strategies to manage them. And as the case law continues to evolve in this realm, litigants must remain attuned to these important issues and be ready to respond.

Section 10(b) Claim Evolution

In a typical stockholder derivative lawsuit, a plaintiff asserts breach-of-fiduciary-duty claims under state law, which governs the relationship between a corporation and its stockholders. Many corporations have forum selection provisions requiring these cases to be filed in state court—often in Delaware.

But many stockholder plaintiffs view federal courts as a more favorable forum, particularly over jurisdictions that they believe may be less friendly to their claims. So they tack on federal securities claims, which can only be heard in federal court, to create federal jurisdiction and, if necessary, circumvent forum provisions that would otherwise require a state court forum.

Stockholders for years did this by including a derivative claim under Section 14(a) of the Exchange Act, which prohibits misleading statements in proxy statements. But that path may be closing.

Sitting en banc, the US Court of Appeals for the Ninth Circuit explained in *Lee v. Fisher* that these sorts of Section 14(a) claims are really direct, not derivative, claims. If other circuits (or the US Supreme Court) agree with the Ninth Circuit, plaintiffs would no longer be able to use Section 14(a) to establish federal court jurisdiction and circumvent forum selection provisions.

Given these developments, more plaintiffs have turned to Section 10(b). In the typical direct Section 10(b) action, stockholders claim a company made false statements that artificially inflated its stock price; the stockholders relied on those false statements and purchased stock at an inflated price; and when the truth was later revealed and the stock price fell, the stockholders suffered losses.

Because many public companies periodically buy back their own stock, derivative plaintiffs have begun asserting that the companies themselves were also harmed when they repurchased stock at the allegedly inflated price.

Particularly after *Lee*, defense counsel should expect to see more of these Section 10(b) derivative claims in light of the roadmap developed to date. The claims provide a new jurisdictional hook—and they can also drive significant damages claims.

In many cases, derivative plaintiffs will be able to piggyback on direct securities fraud actions already underway by simply copying the allegations already pleaded by direct plaintiffs. But these claims suffer from theoretical and practical problems that have so far been underdeveloped.

The Reliance Paradox

Perhaps derivative Section 10(b) claims' most notable problem is that they are often self-contradictory. In *In re Verisign, Inc., Derivative Litigation*, one of the earlier cases to confront these claims, the plaintiffs alleged the company made false statements about backdated stock options granted to executives, inflating the company's stock price, and that the company was harmed when the company repurchased stock at the inflated price.

The plaintiffs brought derivative Section 10(b) claims on behalf of the company. But it is well-settled that stockholders suing under Section 10(b) must show they relied on the alleged misrepresentation in buying stock. In *Verisign*, the court explained that the company couldn't have relied on the allegedly false statements when buying stock because the statement was made by the company through its directors.

If the directors knew the statements were false, they couldn't have been defrauded by relying on those same statements. The same individuals who were responsible for those statements (that is, directors) were also responsible for authorizing repurchases.

In both cases, the directors act on behalf of the company, and their knowledge is imputed to the company. In other words, the theory is that the company somehow relied on its own misstatements and therefore defrauded itself.

The District of Delaware reached the same conclusion in two recent cases. In *Elfers ex rel. AbbVie, Inc. v. Gonzalez*, the court dismissed a derivative Section 10(b) claim, explaining that “[a] story of deception needs two characters: the liar and the dupe” and that the directors can’t play both roles because they “could not have both lied about the wrongdoing and yet been tricked by those lies.”

Similarly, in *Franklin ex rel. Sealed Air Corp. v. Doheny*, the court recommended dismissal of a derivative Section 10(b) claim on the grounds that the theory that “directors spread misleading information and then the same directors relied on and were deceived by that false information when they approved stock buy backs—is factually impossible.”

But some courts have disagreed with the reasoning in *Verisign*, *Elfers*, and *Franklin*. In *In re Countrywide Financial Corp. Derivative Litigation*, the plaintiffs alleged that directors caused the company to make misleading statements about credit risk, and that the directors caused the company to buy back stock, including from themselves, at an inflated price. The court decided that the directors’ knowledge shouldn’t be imputed to the company in those circumstances.

Derivative plaintiffs also have successfully pleaded reliance in the context of stock option grants, where directors allegedly caused the company to issue themselves underpriced grants premised on false statements.

These cases were at least limited by having involved prominent allegations of self-dealing. In that specific context, the courts reasoned that it may make some sense not to impute knowledge to the company, because the allegations are that the directors acted for their own benefit and at company’s expense.

More recently, however, a few courts have permitted derivative claims that look exactly like typical, direct securities fraud claims. In each, following a corporate trauma, the plaintiffs alleged the company made false statements.

The plaintiffs didn’t allege that the directors had any personal stake in repurchases, or that they somehow benefited from the alleged fraud. The plaintiffs argued that because the company had engaged in stock repurchases while the stock price was inflated, the company was the victim of securities fraud. This expansion of the case law is particularly troublesome, as the decisions suggest that essentially any direct Section 10(b) claim can be converted into a derivative claim if the company repurchased stock.

We are likely to see more of these types of claims. But courts shouldn’t put companies in the same position as any other stockholder without grappling with knowing that the company, as the maker of the allegedly false statement, can’t be said to rely on those alleged misstatements as any other stockholder would.

At the motion to dismiss stage, and particularly when faced with claims such as those in *Shaev* and *Abbott*, companies should continue to press *Verisign’s* reasoning that plaintiffs can’t establish reliance where the makers of a false statement also authorize the repurchase.

Defendants can also distinguish cases departing from *Verisign* as limited to transactions where directors stood to personally benefit (for example, where directors allegedly induced the company to issue underpriced stock option grants to themselves). But even in those circumstances, asserting reliance by the company is inherently contradictory, and the claims are better thought of as breach-of-fiduciary-duty claims under state law.

Indeed, Delaware has a well-developed body of law to address allegations of director self-dealing that doesn't present the same contradictions as a derivative Section 10(b) claim. Both the contradictory nature of these claims and the fact that they are better suited as state law claims counsel in favor of dismissal. Companies must clearly present the incoherence of these claims to courts so that they receive careful judicial scrutiny before they proliferate.

From *Lee's Playbook*

Section 10(b) claims also may not be the end run around forum selection provisions that plaintiffs hope. Many companies have forum selection clauses requiring that all derivative claims be brought in the Delaware Court of Chancery.

Because claims brought under the Exchange Act can only be heard in federal court to enforce the forum selection clause, courts must dismiss the Exchange Act claims. The Ninth Circuit did exactly that in *Lee*, dismissing Section 14(a) claims to enforce a forum selection clause.

Although *Lee* didn't involve Section 10(b) claims, at least one court has since dismissed a derivative Section 10(b) claim on forum non conveniens grounds. In *Sobel v. Thompson*, a stockholder brought a derivative Section 10(b) claim against SolarWinds Corp. executives, alleging that the individual defendants "failed to disclose known deficiencies in the Company's cybersecurity systems in various public filings prior to [a] cyberattack."

The executives moved to dismiss the claim pursuant to a forum selection clause requiring that any derivative action be brought in the Delaware Court of Chancery. Even though enforcement of the provision would leave the derivative plaintiff with no forum for their Section 10(b) claims, the Western District of Texas reasoned that the plaintiff could bring similar derivative state-law claims under Delaware law. The Chancery Court's available remedies, the *Sobel* court explained, were thus not "so clearly inadequate or unsatisfactory" to be "no remedy at all."

On the other hand, the Northern District of California recently denied a motion to dismiss a derivative Section 10(b) claim where the relevant forum selection clause in the company's bylaws contained an express exception for Exchange Act claims. In *In re Block Inc. Shareholder Derivative Litigation*, the district court found that the derivative action fell within the scope of the Exchange Act exception, and accordingly never addressed the defendants' *Sobel*-style arguments that the forum selection provision could be enforced, and the Exchange Act claims dismissed, because the plaintiff had adequate remedies in the Delaware Court of Chancery.

The court's reasoning in *Sobel* offers several lessons for defendants. Enforcing forum selection clauses is beneficial for litigants because it preserves a stockholder plaintiff's ability to seek relief while concentrating claims related to alleged breaches of fiduciary duties in a Delaware state forum recognized for its "expertise in the field of state corporation law." Additionally, as noted by the court in *Sobel*, Delaware law claims have "available remedies that are commensurate to those available under [plaintiffs'] federal derivative claims."

Enforcing forum selection clauses merely maintains the status quo: Stockholders have long brought similar actions as state law claims in the context of breaches of fiduciary duties. Bringing such claims under state law remains a viable path to relief, avoids the logical contradictions presented by derivative Section 10(b) claims discussed above, and coincides with longstanding judicial and corporate views on the benefits of litigating breach-of-fiduciary-duty claims in Delaware.

Key Takeaways

Defense attorneys can use a couple of strategies to handle Section 10(b) claims. They can argue that derivative Section 10(b) claims are fundamentally flawed because plaintiffs can't establish reliance, following the framework of *Verisign*, *Elfers*, and *Franklin*. Defendants should remind courts that these are legal claims better suited to be brought as Delaware breach-of-fiduciary-duty claims and that the reliance paradox results from plaintiffs forcing their claims into a mismatched framework.

Companies also can adopt and leverage forum selection clauses. Where such clauses limit the forum for derivative suits to Delaware Chancery Court, the Exchange Act's exclusive jurisdiction provision may require the dismissal of Section 10(b) claims.

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Securities

'Rape Culture' Cover-Up Case Advances Against eXp Founder, Board

Jan. 20, 2026, 11:34 AM PST

The founder of eXp World Holdings Inc. lost his bid to shake off claims that he helped cover up alleged rapes and sexual assaults committed for years by two of its top real estate agents at company events.

A Delaware Chancery Court judge let the shareholder lawsuit move forward, saying its allegations—if true—show CEO Glenn Sanford deliberately concealing the company's pervasive "rape culture" because its pyramid-style pay structure placed the perpetrators in his revenue downline. The suit was filed by a pair of pension funds in 2024.

It's "reasonably conceivable that Sanford actively covered up acts of rape and sexual assault, refused to report that information to the board, and retaliated against the person who did," the court's chief judge, Chancellor Kathaleen St. J. McCormick, wrote. Her decision paves the way for the costly and cumbersome pretrial discovery stage, which typically involves witness depositions and voluminous document exchanges.

McCormick also said lack-of-oversight claims could advance against other eXp board members who allegedly turned a blind eye to the scandal even after a whistleblower came forward. "As alleged, the board changed no eXp policy, enacted none of the whistleblower's suggestions for reform, ignored outside counsel's advice, and took no meaningful steps to address the systemic problem of rape at eXp," the judge said. "It is reasonable to infer that the board effectively did nothing."

The setback for Sanford and the board represents the latest in the widening legal fallout sparked by the accusations made in civil lawsuits against David Golden and Michael Bjorkman, two top real estate "influencers" who allegedly drugged women at booze-fueled recruiting events, assaulted them in hotel rooms, and blackmailed them into joining eXp. The company—known for a work-hard, play-hard culture that revolves around "alpha agents" and superstar influencers—has been hit with a string of civil suits asserting related sex-trafficking claims.

McCormick's ruling reflected an unusually direct break with a colleague who dismissed similar claims last month in a case involving Credit Glory Inc. The elite business tribunal's seven specialist judges generally bend over backward to avoid letting their disagreements spill into public view, often stressing fine distinctions between the different scenarios before them.

'Doctrinal Sprawl'

But the 90-page opinion frankly acknowledged McCormick's open split from the Credit Glory ruling by Vice Chancellor Lori W. Will, who had sought to set an outer liability limit three years after a landmark decision by a different Delaware judge in a case involving McDonald's Corp. Will's decision in December warned of "doctrinal sprawl" that risked turning corporate law into a "general morality code" with no limiting principle.

In fact, "there is no shortage of limiting principles" keeping the floodgates closed, McCormick said, citing several procedural hurdles unique to the corporate litigation context. There's also "the collective action problem in Delaware's private enforcement system," which relies on entrepreneurial plaintiffs' lawyers operating on a contingency-fee model that discourages lawsuits over any but the most damaging corporate traumas, the judge said.

She pushed back on Will's contention that the McDonald's decision had broken radical new ground. That ruling "applied established principles," while "Credit Glory argues for changing Delaware law to exclude a single type of workplace misconduct from the activities that can give rise to fiduciary breach," McCormick said. "No Delaware case has ever done this. No identified Delaware policy supports it."

The chief judge also cautioned against overreacting to any uncertainty spawned by the split. "Resolving those differences is a function of the appellate process," she said.

The ruling, issued Tuesday, was posted briefly on the court's website Jan. 16 before being removed temporarily to provide an opportunity to seek redactions.

Attorneys for Golden and Bjorkman did not immediately respond to emailed requests for comment on the ruling or the underlying allegations.

The pension funds leading the lawsuit are represented by Bernstein Litowitz Berger & Grossmann LLP, the Los Angeles city attorney's office, and Labaton Keller Sucharow LLP. Sanford is represented by Richards, Layton & Finger PA. Other board members are represented variously by Morris James LLP, Abrams & Bayliss LLP, Chipman Brown Cicero & Cole LLP, Young Conaway Stargatt & Taylor LLP, and K&L Gates LLP.

The case is L.A. City Emp. Ret. Sys. v. Sanford , Del. Ch., No. 2024-0998, 1/16/26 .

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Chancery Rules Workplace Sexual Misconduct Oversight May Form Basis for Shareholders' Breach of Fiduciary Duty Claims

The opinion addresses an element of *Caremark* litigation that's been closely watched in recent years: whether workplace misconduct of a sexual nature can be the type of company-harming corporate activity that supports a breach of fiduciary duty claim.

January 21, 2026 at 02:08 PM By  **Ellen Bardash**



Kathaleen St. Jude McCormick, chancellor, Delaware Court of Chancery. Courtesy photo

Shareholders seeking to hold cloud-based real estate company eXp World Holdings Inc. liable for its handling of workplace sexual assault allegations can proceed with the majority of their claims, Chancellor Kathaleen St. J. McCormick has concluded.

The [opinion](#) addresses an element of *Caremark* litigation that's been closely watched in recent years: whether workplace misconduct of a sexual nature can be the type of company-harming corporate activity that supports a breach of fiduciary duty claim.

McCormick granted dismissal of a claim that a "control group" within eXp breached its oversight obligations, but declined to dismiss all other claims against CEO Glenn Sanford and other directors.

"Reaching the conclusion as to Sanford requires revisiting whether workplace sexual misconduct can give rise to a corporate trauma sufficient to support a claim for breach of fiduciary duty. It can and does here, for a host of reasons grounded in well-settled principles of Delaware corporate law," McCormick wrote. "In contrast, extending oversight duties to the control group invites the court to make new law. This decision declines that invitation."

One plaintiff, the employee retirement system for the city of Los Angeles, was represented by Bernstein Litowitz Berger & Grossmann and the office of the Los Angeles city attorney. Labaton Keller Sucharow represented the other plaintiff, the Building Trades Pension Fund of Western Pennsylvania.

Richards, Layton & Finger, Morris James, Abrams & Bayliss and Chipman Brown Cicero & Cole represent eXp board members Sanford, Randall Miles, Jason Gesing and Eugene Frederick, respectively. K&L Gates and Young Conaway Stargatt & Taylor represent eXp and its chief legal counsel, James Bramble. Attorneys representing the defendants did not immediately respond for comment.

The case is based on the eXp board's response to allegations that two of its agents, Michael Bjorkman and David Goldman, drugged and raped other agents at eXp-sponsored events for years, with more than a dozen other eXp agents alleged to have participated. The defendants in the Chancery case are alleged to have harmed the company by failing to respond to or actively covering up reported instances of sexual assault and harassment, not to have participated in the alleged assault.

The opinion states after accusations against Bjorkman were posted on social media, the company terminated Bjorkman but continued paying him, and that eXp's board did not respond to allegations made by an agent in a memo to executives or when a whistleblower raised the issue at board meetings.

Three anti-trafficking lawsuits were filed against eXp in 2023 and 2024 in California and Nevada federal courts.

Bernstein Litowitz partner Rebecca Boon, who argued the motion for the plaintiff, said the decision is thought to be the first time the Court of Chancery has allowed corporate oversight claims related to sexual misconduct to move forward and that it resolved tension between two other Chancery decisions that also involved allegations of corporate liability for sexual harassment:

Vice Chancellor J. Travis Laster's 2023 resolution of [claims against McDonald's](#), and Vice Chancellor Lori W. Will's [opinion](#) in *Brola v. Lundgren*, which was released in December.

"Now we have Chancellor McCormick going through this robust discussion of Delaware legal principles to explain why sexual misconduct can absolutely support a claim for breach of fiduciary duty," Boon said. "The implications are that we may see more derivative lawsuits attempting to address this type of sexual misconduct, which in my opinion would be a wonderful thing to see."

The opinion was originally published Jan. 16, then removed from the docket the same day after counsel for eXp asked for it to be filed under seal. McCormick sent a [letter to counsel](#) on Tuesday, when the opinion was republished, explaining that the removal was a "one-off" intended to give counsel time to explain its position. The defense ultimately didn't file a motion asking for confidential treatment, which McCormick wrote was the correct move given the information already brought up in open court during dismissal arguments.

"Here, the parties disputed whether the complaint contained sufficiently particularized allegations under Court of Chancery Rule 23.1, and the particularized details were important to the public's understanding of the court's application of that standard," the letter stated. "For that reason, the defendants would have faced an uphill battle seeking to shield those details from the public record."

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Securities

Blue Owl Leaders Concealed Share Redemption Pressure, Suit Says

Jan. 20, 2026, 11:11 AM PST

Blue Owl Capital Inc.'s board and top executives misrepresented that the direct credit company faced "no meaningful pressure" from redemptions of shares in a non-publicly-traded fund, an investor alleges.

The leaders also caused Blue Owl to initiate repurchases of its own publicly-traded stock at inflated prices, Edwin Muniz says on behalf of the company. Muniz filed his derivative suit Monday in the US District Court for the Southern District of New York.

The suit comes as investors have increasingly pulled cash from private credit vehicles in recent months. It's not just Blue Owl that's grappling with the problem, Bloomberg News has reported.

Private credit loans to businesses are funded by investors, unlike bank loans, which are funded by customer deposits, Muniz says. One of Blue Owl's so-called business development companies, OBDC II, makes quarterly tender offers to allow investors to sell back their shares, which aren't publicly traded, according to the complaint.

The damage to Blue Owl includes the costs of defending against a proposed securities class action; overcompensating the directors, the two co-CEOs, and the chief financial officer; and overpaying by nearly \$119,000 for Blue Owl stock repurchases, Muniz says.

The shareholder brings claims for breach of fiduciary duties, gross mismanagement, waste of corporate assets, unjust enrichment, and securities fraud. On behalf of the company, he seeks damages and corporate governance reforms.

Blue Owl didn't immediately respond to an emailed request for comment on behalf of itself and the individual defendants.

Gainey McKenna & Egleston represents Muniz.

The case is *Muniz v. Ostrover*, S.D.N.Y., No. 1:26-cv-00477, complaint 1/19/26.

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Class Action

Manage Newsletters

Jump Trading Escapes Investor Suit Over Crypto Collapse for Now

Jan. 21, 2026, 10:00 AM PST

Summary by Bloomberg AI

AI Generated



- A California court ruled it lacks jurisdiction over Jump Trading LLC and its cryptocurrency arm in a suit brought by investors who couldn't liquidate their TerraUSD stablecoin holdings as they lost value in 2022.
- The court said the plaintiffs failed to show the companies "purposefully directed their activities to California or purposefully availed themselves of the privileges of California" to allow the court to exercise specific personal jurisdiction.
- The judge gave the investors until Feb. 23 to file an amended complaint, and rejected their request for jurisdiction discovery, saying their assertion that it could yield facts to support jurisdiction "rests on nothing more than a hunch".

Jump Trading LLC and its cryptocurrency arm convinced a California court that it lacks jurisdiction over the companies in a suit brought by investors who were unable to liquidate their TerraUSD stablecoin holdings as they rapidly lost value in 2022.

The plaintiffs failed to show the companies "either purposefully directed their activities to California or purposefully availed themselves of the privileges of California" to allow the court to exercise specific personal jurisdiction, Magistrate Judge Peter H. Kang of the US District Court for the Northern District of California said in a Tuesday order. Kang gave the investors until Feb. 23 to file an amended complaint.

TerraUSD, or UST, was an algorithmic stablecoin that aimed to maintain a one-to-one peg to the dollar. UST lost its peg in May 2022, triggering a collapse costing investors billions of US dollars.

When UST began to lose value, thousands of those investors attempted to liquidate mass quantities of UST through third-party digital wallet apps. Nonparty Prime Trust facilitated users' transfers, deposits, and withdrawals. Jump allegedly entered into agreements with the developer of UST, Prime Trust, and other entities to provide liquidity services for transactions.

Jump refused to respond to Prime Trust's requests to fill the mass sell orders in May 2022, causing no UST sell transactions to process, according to the plaintiffs' complaint.

The plaintiffs seek to represent all individuals who placed sell orders on or after May 9, 2022, that weren't processed at the time.

Lack of Direction

The complaint "largely relies on undifferentiated allegations" that lump together Jump Trading, Jump Crypto Holdings LLC, and unidentified John Does, which "makes it impossible to attribute particular jurisdictional facts to each Defendant separately," Kang said. The allegations specific to Jump Crypto and Jump Trading—both of which are incorporated in Delaware and headquartered in Illinois—are insufficient for the court to exercise personal jurisdiction over them in California, the judge said.

Even assuming the court could identify allegations specific to the individual defendants, the plaintiffs still haven't demonstrated they're subject to general jurisdiction in California. The investors failed to show that the companies' "affiliations with California are so 'continuous and systematic' as to render each of them 'essentially at home' in California," Kang said.

Although the investors point to several California-based employees and the fact that the companies' corporate counsel is a member of the California bar, that doesn't show Jump's "purposeful availment of California or purposeful direction towards California." And even so, "none of these facts relate in any way to the causes of action asserted in the Complaint." The only asserted connection between the defendants and California is alleged harm suffered by one California resident, Kang said.

The judge also rejected the investors' request for jurisdiction discovery, given their assertion that it could yield facts to support jurisdiction "rests on nothing more than a hunch."

Erickson Kramer Osborne LLP represents the plaintiffs. Kobre & Kim LLP represents Jump.

The case is Ward v. Jump Trading LLC , N.D. Cal., No. 3:25-cv-03989, 1/20/26 .

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Securities

Moelis Founder's Veto Rights Restored by Delaware Top Court (2)

Jan. 20, 2026, 7:25 AM PST; Updated: Jan. 20, 2026, 12:03 PM PST

Ken Moelis got his veto rights over board decisions at his investment bank restored Tuesday by Delaware's highest court in a ruling that largely avoided remarking on corporate law amendments drafted to explicitly allow similar provisions.

The provisions challenged in the pact between Moelis & Co. and its billionaire founder "are not void, but voidable," and the challenge came too long after the stockholder agreement was signed in 2014, Justice Gary F. Traynor wrote in an opinion for the court's full five-member panel.

The Delaware Supreme Court does "not agree that, because the challenged provisions purportedly constitute an 'ongoing statutory violation,' the plaintiff was excused from challenging them in a timely manner," Traynor said.

When the high court heard oral argument en banc in May, the justices questioned why a pension fund had waited until 2023 to file its challenge. The fund argued it shouldn't have had to wait for economic harm to bring a lawsuit, while Moelis said the Chancery Court overlooked that the fund had waited too long after the pact's signing.

"At one level, it's that simple. You snooze, you lose," Joseph Grundfest, a Stanford Law School professor, said in an email. "It's a textbook example of a lawyer-driven claim that wasn't generated by investors who felt disadvantaged by a transaction—it was driven by lawyers who thought they could cash in on a technicality."

In supplemental briefs requested by the court after the oral arguments, the pension fund said provisions giving the billionaire final approval over the leadership, litigation strategy, budget, business plans, and charter, along with dividend payments or stock issuances, at his namesake firm amounted to a board invasion and were void from the start.

Moelis maintained the provisions were at most "voidable" because Delaware had always permitted implementing them through other lawful means.

The justices found the pension fund failed to show that Delaware law “would stand in the way of the adoption of the challenged provisions by charter amendment or other method.” They concluded the challenged provisions “are voidable, not void” and subject to a statute of limitations.

Legislative Change

The appeal asked the high court to assess a ruling that’s since been pre-empted by a new law amid scrutiny of the state’s judiciary and its reputation for stability. Under the statutory changes that took effect Aug. 1, 2024, companies may use private contracts to grant stockholders the types of control that previously required a charter provision or a special class of stock.

Vice Chancellor J. Travis Laster, who wrote the decision against Moelis in February 2024, and the Chancery Court’s chief judge had objected publicly to the statutory overhaul. The move prompted rare rebukes in legislative testimony from the bar, including former Chancery Court Chief Judge William Chandler, who said “judges need to stay in their own lane.”

The Delaware Supreme Court’s opinion acknowledged the legislative changes as an effort “to mitigate—if not annul—the effects of” the Chancery Court’s decisions. But as the amendments included a carve-out for pending cases such as the challenge to the Moelis pact, their enactment “does not moot this appeal,” Traynor said.

Delaware’s enactment of S.B. 313 made the *Moelis* appeal “somewhat anticlimatic,” said Brian Quinn, a Boston College Law School professor who joined a group of law professors who supported the pension fund. As a result, the opinion “says nothing” with its focus on the lawsuit’s timing and avoidance of engaging further with Laster’s ruling or the legislation.

Another member of that group, Case Western Reserve University School of Law professor Anat Alon-Beck, said the reversal of *Moelis* made additional corporate law amendments passed last year “pointless.”

“Corporate lawyers put a lot of pressure on the court and were concerned about Shareholder Agreements,” Alon-Beck said in an email. “Clearly, they have nothing to worry about,” and the Delaware Supreme Court “made it clear with this ruling.”

Retired Widener University professor Lawrence Hamermesh, who had joined Grundfest in supporting Moelis in the appeal, said it was appropriate for the justices to avoid commenting on the legislative response to Laster’s opinion. The reversal preserves the role of equity “by limiting the scope of void transactions to ones that genuinely offend public policy, as opposed to transactions that are substantively permissible and merely choose the wrong statutory door to walk through,” he said in an email.

The high court also vacated \$6 million in legal fees the Chancery Court awarded to the attorneys representing the pension fund that challenged the pact.

Moelis & Co. is represented by Wachtell, Lipton, Rosen & Katz and Morris, Nichols, Arsht & Tunnell LLP. The challenge was brought by the West Palm Beach Firefighters’ Pension Fund, which is represented by Saxena White PA.

The case is Moelis & Co. v. W. Palm Beach Firefighters' Pension Fund , Del., No. 340,2024, 1/20/26 .

(Adds new fifth paragraph and new paragraphs 12 through 15 with reporting.)

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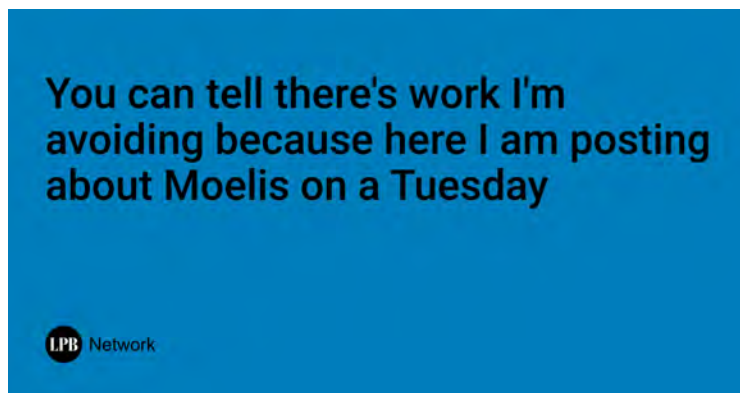
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You can tell there's work I'm avoiding because here I am posting about Moelis on a Tuesday

LPB businesslawprofessors.com/2026/01/you-can-tell-theres-work-im-avoiding-because-here-i-am-posting-about-moelis-on-a-tuesday

Ann Lipton

January 21, 2026



So, the Delaware Supreme Court came out with its long-awaited decision in [Moelis & Co. v. West Palm Beach Firefighters' Pension Fund](#) and as far as I can tell, it holds that a contract is a charter if you wait long enough.

So, the issue here is, Moelis went public with this overweening shareholder agreement in place in 2014 granting Ken Moelis various governance rights. A shareholder bought stock shortly after the IPO, but waited nine years to sue claiming that the agreement was categorically illegal under Delaware law ([which, you may have heard, has since been amended](#)). I genuinely, honestly, get the idea that this long after the IPO there might be reliance interests in this governance arrangement, but the Delaware Supreme Court's manner of expressing such an idea is ... weird.

Doctrinally, the legal issue is whether a contract that usurps board authority is (was) "void" or "voidable." What is the difference? A *voidable* contract is one that a party has the option of rejecting, but also the option of accepting. A *void* contract simply cannot be enforced, at all – it is legally impermissible. So, for example, a *voidable* contract might be one that corporate directors reach in violation of their fiduciary duties – shareholders can choose to challenge it, but they can also accept it. Voidable actions are those that "could have been accomplished lawfully by the defendants had they done them in the proper manner," Op. at 20, in other words. A *void* action is one that the corporation literally cannot take no matter what procedure is used.

This matters because challenges to a *voidable* action must be brought reasonably promptly; if you don't, it's sort of the equivalent of ratification. Challenges to *void* contracts can be brought at any time. In other words, if your only objection is a procedural defect, if enough time passes, you've waived the objection.

In this case, the challenge to the Moelis contract was brought very very late. So, according to the Delaware Supreme Court, if this was something that was, essentially, *procedurally lacking* – if this was something the Moelis corp. could have accomplished by other means – then the plaintiff waited too long to lodge that objection.

The Court – using incredibly weak, wiggle-room-y language – concluded this contract was *voidable*. Why? Because Moelis argued that the governance powers contained in the contract could just as easily have been granted via charter provision or preferred shares. I say the Court's language was weak because it did not come right out and say it *agreed* with Moelis that the same results could be achieved via charter provision; instead, it said:

the plaintiff failed to identify any mandatory provision of the DGCL or other Delaware law that would stand in the way of the adoption of the challenged provisions by charter amendment or other method. Consequently, we conclude that the plaintiff has not carried its burden of establishing that the challenged provisions are void.

See what they did there? They made this about the *exact arguments plaintiff advanced*, rather than declaring for all time that Moelis was correct.

Why?

Because a contract is not the same thing as a charter provision or preferred shares. For one thing, the process for amendment is different; contracts require the agreement of the parties to amend but there are no other formalities; even course of performance might suffice (though to be fair the *Moelis* contract said it could only be amended in writing). Charters/shares require a vote. You could restrict the vote to just particular parties, even permit amendment by written consent of those parties, but these are not the same thing – if for no other reason than charter amendments must be proposed by boards in the first instance, *procedurally*. Shares are chattel property; contracts are not. Contracts are personal to the parties; rights granted in shares are not. Sure, you can say that the shares are not transferrable or have different rights if they're transferred, but they are still rights that attach to the shares themselves, as financial instruments. *See, e.g., In re AMC*

Ent. Holdings, Inc. S'holder Litig., 299 A.3d 501 (Del. Ch. 2023). And personal contracts are subject to ordinary choice-of-law rules; charter provisions, including preferred share provisions, [are subject to the internal affairs doctrine](#).

So yes, Ken Moelis could have been granted the same *substantive* rights in a different instrument, but there would be different technicalities associated with that instrument. In other words, being granted rights in a charter is *not the same result* as being granted rights in a contract.

You can see this in the way the Court handled the related issue of when the actual "wrong" occurred. The Delaware Supreme Court's theory was that the "wrong," if any, occurred when the Moelis board granted Ken Moelis these rights in a contract, and so it was that specific act that should have been challenged. And now, in 2023, it was too late to file suit. It recognized that Ken Moelis may have exercised his authority in the years since 2014 and therefore usurped the board, but these were not new wrongs extending the period to sue; they were the "ongoing effects" of the original wrong, i.e., the original contract. Op. at 29.¹ The Court compared this case to situations in which entities entered into contracts without following procedural niceties, and where – despite the entities' continued (damaging) performance under the contract – the "wrong" occurred only at the original signing.

But in those cases, you could imagine going back in time, following proper procedure, and then today – when the case was brought – there would be no change in the plaintiff's current conditions. The plaintiff was objecting to procedural failures back at original formation, and there was an alternate world in which the procedures were followed and the plaintiff would be in the exact same position today.

But if things had been done properly in *Moelis*, if we went back in time, and fixed the problem, then, today, Ken Moelis would hold preferred shares, with rights that attached to the shares, governed by the internal affairs doctrine, modifiable in accordance with statutory law. Or, there would have been a charter provision, with similar implications. Now, however, Ken Moelis holds contract rights, and that will continue to be the case going forward.

So if the Court's theory is that these exact same results could have been achieved via charter provisions, and that's why they're voidable, and that's why the plaintiffs can't sue 9 years after the fact, do we ... pretend the contract is part of the charter now? Is it modifiable the way a charter would be? Is it subject to the internal

affairs doctrine the way a charter would be? Or do we say he holds chattel property in the form of preferred shares? Are the terms of the contract transmogrified into a charter provision by the sheer passage of time?

If the Court is saying the same thing could have been achieved using procedurally different means, it's implying that the substantive rights conveyed are all that matters, and the distinction between instrument – contract vs charter – is immaterial.

And yes, this is incredibly technical. I absolutely agree, as a *practical matter*, the *practical effects* could have been achieved in multiple ways. I [argued that very point, recently](#). Nonetheless, the edifice of corporate law – the distinction between corporate law and contract law, between the corporate form and other forms – are these statutory minima. These formalities. Which means, I think, this case is yet [another step in obliterating any distinction between the two](#).

1. Though, separately, the Court allowed for the possibility of an “as-applied” challenge to particular exercises of Ken Moelis’s authority. [↩](#)

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Securities

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Nationwide Unit Sues Smart Thermostat Firm Over Shareholder Case

Jan. 21, 2026, 9:43 AM PST

Summary by Bloomberg AI

AI Generated



- A Nationwide Mutual Insurance Co. unit is suing a smart thermostat technology company, arguing a directors and officers liability insurance policy bars coverage for shareholder litigation.
- A provision in California's insurance code and a policy exclusion over executive pay preclude coverage for the underlying suit against EcoFactor Inc., Scottsdale Insurance Co. said.
- The insurer is seeking a declaratory ruling on its coverage obligations in the case Scottsdale Ins. Co. v. EcoFactor Inc.

A Nationwide Mutual Insurance Co. unit is suing a smart thermostat technology company, arguing a directors and officers liability insurance policy bars coverage for shareholder litigation.

A provision in California's insurance code limiting payments for a policyholder's willful conduct and a policy exclusion over executive pay preclude coverage for the underlying suit against EcoFactor Inc., Scottsdale Insurance Co. said in a complaint filed Tuesday in the US District Court for the Northern District of California.

The underlying litigation in the Delaware Chancery Court alleged that EcoFactor and several of its directors entered into a scheme to dilute certain stockholders' ownership interests and withheld key information concerning the company's operations and intellectual property assets. The thermostat tech firm in October 2025 lost its bid to restore a \$20 million verdict in a patent fight with Alphabet Inc.'s Google LLC.

The underlying shareholder claims are uninsurable under the policy, and California insurance code Section 533 precludes coverage for the suit, Scottsdale said in its complaint.

Section 533 of the state's insurance code acts as a statutory exclusion, generally barring indemnification for losses caused by a policyholder's willful acts. The US Court of Appeals for the Ninth Circuit ruled last year that the provision barred coverage in a separate dispute over D&O coverage for litigation against a Beverly Hills talent agency.

A “return of remuneration” exclusion dealing with unapproved executive pay also bars coverage for the stockholder suit, Scottsdale’s complaint said.

The insurer is seeking a declaratory ruling on its coverage obligations.

Contact information for EcoFactor wasn’t immediately available.

Cozen O’Connor represents Scottsdale.

The case is Scottsdale Ins. Co. v. EcoFactor Inc. , N.D. Cal., No. 5:26-cv-00618, complaint 1/20/26 .

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Securities

Manage Newsletters

Petco Investor Drops Post-Pandemic Slowdown, Stock Dips Lawsuit

Jan. 21, 2026, 7:14 AM PST

A Petco Health & Wellness Co. investor dropped proposed class claims that the pet retailer misrepresented the sustainability of its Covid-19 pandemic growth on a premium goods strategy.

The court-appointed lead plaintiff told the US District Court for the Southern District of California he was voluntarily dismissing the lawsuit Tuesday. The suit had said Petco kept pushing that its pivot toward more healthful, expensive products was a viable strategy as pandemic tailwinds wound down. But retaining the focus on premium pet goods backfired, the suit said, spurring stock drops after disappointing updates on its growth and profitability metrics.

Lead plaintiff Richard Dumont had to file an amended complaint or name the complaint filed by another investor that initiated this action as the one he'd proceed with by Tuesday, according to an agreed-upon schedule

A consolidated shareholder derivative action echoing these allegations against Petco corporate leadership is pending in the same court

Petco rosily touted growth off continuing trends of people staying home more and increased pet adoption, with younger owners looking for more health-conscious and expensive products, the suits said

The Rosen Law Firm PA, lead counsel for Dumont, declined to comment. Latham & Watkins LLP represented Petco. Neither the law firm nor Petco immediately responded to emails seeking comment.

The case is Spurbeck v. Petco Health and Wellness Co., Inc. , S.D. Cal., No. 3:25-cv-01667, notice 1/20/26 .

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Securities

Spirit Aero Investors' \$29.2 Million Accord Gets Court Nod (1)

Jan. 20, 2026, 11:00 AM PST; Updated: Jan. 20, 2026, 12:32 PM PST

Spirit AeroSystems Holdings Inc.'s \$29.2 million settlement garnered a federal judge's final blessing to resolve investor allegations that the company, acquired by Boeing Co. in December, concealed problems affecting parts for the 737 Max airplane.

Judge Paul A. Engelmayer of the US District Court for the Southern District of New York granted final approval of the deal for a settlement class of those who acquired Spirit stock from April 8, 2020, through Sept. 7, 2023. The investors' counsel will get a quarter of the settlement sum, or almost \$7.17 million, in attorneys fees and more than \$146,000 in litigation expenses, Engelmayer said Jan. 16.

Investors alleged Spirit, which denied the claims through the settlement, failed to disclose quality-control issues with parts assembly that led its then-customer Boeing to halt deliveries of the 737 Max plane

The company's stock price plummeted almost 21% on April 14, 2023, the day after news outlets reported the delivery pause and identified Spirit as the supplier

Airbus SE acquired a handful of Spirit's assets when Boeing bought the struggling aerospace supplier, with the deal closing after the court preliminarily approved this settlement

Glancy Prongay & Murray LLP and Holzer & Holzer LLC are lead counsel for the investors. Cravath, Swaine & Moore LLP represented Spirit. Neither side's attorneys immediately responded to emails seeking comment. Boeing declined to comment.

The case is *Li v. Spirit AeroSystems Holdings, Inc.*, S.D.N.Y., No. 1:23-cv-03722, 1/16/26 .

(Updates in the sixth paragraph to include that Boeing declined to comment.)

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Commentary | **Class Actions**

Arguing Class Actions: The Supreme Court's Monsanto Problem—Preemption as Back-Door Tort Reform

Arguing Class Actions is a monthly column for the National Law Journal.

January 21, 2026 at 12:00 PM By **Adam J. Levitt**



Adam J. Levitt founding partner of DiCello Levitt. Courtesy photo

The Supreme Court's decision last week to grant certiorari in *Monsanto Co. v. Durnell* isn't just wrong. It's something worse: intellectually dishonest.

This isn't a case that cleanly presents an unsettled question of federal law, nor is it a case involving a mature, entrenched circuit split. And it certainly isn't a case in which the court's intervention is needed to restore coherence to a fractured doctrine. Instead, it's a case in which the court has gone out of its way to rescue a recidivist corporate defendant from the consequences of jury verdicts that it has spent years trying—and failing—to undo. The cert grant reflects a pattern that has become increasingly familiar: federal preemption elevated from a doctrine of statutory restraint into a blunt instrument for extinguishing state-law accountability, even where Congress

expressly rejected that result, even where the factual record is deeply unfavorable to the defendant, and even where the court itself has repeatedly declined to intervene before.

Here's what happened. Monsanto has faced a series of lawsuits relating to consumers' use of Roundup, a weed killer with the nasty habit of causing cancer. Or, at least, that's what multiple juries have found, including recently in Missouri, where a jury ruled that Monsanto was liable for failing to warn that it causes non-Hodgkin's lymphoma (and that it did, as a matter of fact, cause the plaintiff's cancer).

But this case isn't about whether those juries' decisions were wrong or lacked basis. It's about preemption—the federal doctrine that prevents states from engaging in lawmaking that fundamentally conflicts with federal laws. Preemption is sometimes express—as in where the federal government has a statute (as it does in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)), prohibiting states from promulgating regulations “in addition to or different from those required” under FIFRA, or it can be “implied,” as when it would somehow be impossible for states to simultaneously follow both state and federal law.

Preemption can be simple to describe but hard to litigate, and, for that reason, the Supreme Court is usually loath to take on a preemption case unless there is actual confusion or conflict in the lower courts. Here, the court's nominal justification for taking *this* case is a purportedly “acknowledged” circuit split over whether FIFRA preempts state-law failure-to-warn claims involving Monsanto's Roundup herbicide. But that split doesn't meaningfully exist. For nearly two decades, courts have applied the Supreme Court's explanation in *Bates v. Dow AgroSciences* that FIFRA preempts only those labeling requirements “in addition to or different from” federal requirements. Federal law requires companies to issue warnings if they know that their products cause cancer. State tort law can require the same things. FIFRA doesn't preempt state-law claims that parallel federal misbranding standards, nor does it transform EPA registration into tort immunity. The Ninth and Eleventh Circuits have followed that rule, as well as numerous state appellate courts. And so did the Supreme Court itself when it denied certiorari—twice—in *Monsanto v. Pilliod* and *Monsanto v. Johnson*. In short, those cases have upheld the longstanding doctrine that a company is responsible for its label: one-time approval of a label by the EPA does not create immunity until such time as EPA mandates a new label.

Those denials were neither silent nor accidental. In *Hardeman*, the solicitor general expressly urged the court to stay out of the dispute, explaining that no true conflict had emerged and that Monsanto's preemption arguments were wrong on the merits. At that time, the government correctly recognized that FIFRA's preemption clause is narrow, that registration is not a defense, and that Congress deliberately preserved a role for state law remedies. The law was stable, the doctrine was settled, and the court declined review.

What has changed since then is not the statute, not the regulatory framework, and not the science. What has changed is that Monsanto has continued to lose—before juries, in state courts, and in federal courts applying settled law. What has also changed is that a single court of appeals—the U.S. Court of Appeals for the Third Circuit—in *Schaffner v. Monsanto*—issued a decision resting on a materially different record, narrower claims, and express reservations about questions that were squarely presented and resolved in *Durnell*. Indeed, even *Schaffner* acknowledged that it wasn't deciding how FIFRA applies when a manufacturer continues selling a product after learning new information that renders its labeling inadequate—precisely the theory litigated, proved, and upheld in Missouri.

Yet, the court has seized on *Schaffner* as though it were a doctrinal earthquake, rather than what it is: a limited outlier, already in tension with Supreme Court precedent, FIFRA's text, and the statutory structure that Congress enacted. This is not how certiorari is ordinarily exercised. The court doesn't usually intervene to resolve shallow, underdeveloped disagreements—particularly where factual distinctions do the real work. Unless, of course, the objective isn't clarification, but correction.

What makes this cert grant especially troubling is that the court isn't acting as a neutral arbiter asked to resolve genuine confusion in the lower courts. Rather, it's acting as an active participant in a long-running corporate litigation campaign—one that has failed before juries, failed in state courts, failed in multiple appellate circuits, and now seeks relief from the only forum left. When the court repeatedly declines review while a defendant loses trial after trial, then suddenly intervenes once verdicts mount and damages grow, it sends a clear signal: Lose often enough, and the rules will be rewritten. That's not neutral adjudication, it's strategic intervention.

The posture of the case is made worse by the federal government's role. In 2022, in *Hardeman*, the United States told the Supreme Court—unambiguously—that Monsanto's preemption arguments were incorrect. The solicitor general explained that FIFRA's preemption clause is narrow, that EPA registration isn't a defense, and that state law failure-to-warn claims consistent with federal misbranding standards aren't preempted. Three years later, without any intervening statutory amendment, regulatory overhaul, or material change in the science, the government now urges the opposite result. Same statute. Same product. Same warnings. Same defendant. New administration.

Shamefully (or shamelessly), the government's current brief doesn't even attempt to reconcile this reversal with its prior position. It simply attributes the shift to a "change in administration," as though federal preemption doctrine were a policy preference, rather than a legal rule. That should alarm anyone who cares about the rule of law. Preemption turns on congressional intent and statutory text, not electoral cycles. When federal supremacy becomes a game of political ping-

pong, the court should respond with skepticism—and not reward the latest volley with a certiorari grant as it just did here.

Lost in the abstraction of preemption doctrine is what the Missouri jury actually found. Monsanto didn't merely fail to include a cancer warning on a label frozen in amber by EPA fiat. To the contrary, the evidence showed that Monsanto knew for decades that glyphosate and formulated Roundup posed serious carcinogenic and genotoxic risks; suppressed adverse studies and declined to conduct additional testing recommended by its own scientists; ghost-wrote supposedly independent scientific articles later relied upon by regulators; marketed Roundup to consumers as being safe to use without protective equipment, while providing stronger warnings to professional applicators; and repeatedly amended Roundup labels for business reasons, yet never sought approval to add warnings that would reduce exposure and risk.

Under FIFRA, registration is not a defense. Congress said so explicitly. Registration is, at most, prima facie evidence of compliance—and manufacturers retain an ongoing duty to ensure that their products aren't misbranded in light of new information. The Missouri court, applying that framework, allowed the jury to conclude that Monsanto could have—and should have—sought label changes or provided warnings through advertising and marketing. Nothing in FIFRA forbade that conduct. Indeed, the EPA itself has acknowledged that a truthful, contextual cancer warning could be approved if requested. This isn't impossibility preemption; it's accountability.

The intellectual dishonesty of Monsanto's position—and of the cert grant indulging it—lies in a category error. Treating FIFRA registration as de facto immunity isn't an aggressive reading of *Bates*; it's actually a misreading that collapses the "parallel requirements" doctrine into nullity. If federal misbranding standards are treated as a ceiling rather than as a floor, then state remedies disappear precisely when they matter most—after a manufacturer learns that its product is dangerous and chooses silence over warning. That's not preemption as Congress enacted it. It's tort reform by judicial reinterpretation.

The amici supporting Monsanto are candid about what they want. The business-group amici openly seek a rule under which EPA approval of a label functions as nationwide tort immunity. That position, however, finds no support in FIFRA's text. Indeed, if that's what Congress intended, it could have written and enacted such a statute. But it didn't do that. Instead, it preserved state authority, rejected registration as a defense, and preempted only divergent labeling requirements—and not state remedies for misbranding.

The agricultural amici are even more striking and run so contrary to those amici's interests that it can only be viewed as a legal form of Stockholm Syndrome. Organizations purporting to speak for American farmers—one of the most consistent and reliable Republican voting blocs—urge the

court to immunize Monsanto on the theory that liability threatens access to glyphosate. But that argument is completely backwards. If the court gives Monsanto what it wants, farmers won't be protected; they'll be harmed. They'll be denied information about risks, stripped of legal recourse when harmed, and locked into dependence on products whose manufacturers face no incentive to warn, test, or reformulate.

Make no mistake: The doctrine that Monsanto asks the court to adopt isn't limited to Roundup. Should the court side with Monsanto, depending on the scope of the court's ultimate opinion, it could function as a template for insulating federally regulated products from aggregate liability altogether—one industry at a time. If EPA approval becomes immunity, agricultural failure to warn actions will vanish not because the claims lack merit, but because Congress delegated regulatory authority. That's not statutory interpretation; rather it's back-door tort reform by judicial decree.

The consequences will be immediate and sweeping. Thousands of claims will disappear. Injured plaintiffs will be told that even where a company knowingly markets a dangerous product without adequate warnings, state law is powerless to respond. Juries will be sidelined and deterrence will erode. Preemption, once a doctrine of constitutional structure, will become a corporate escape hatch.

The court didn't need to take this case. The law was stable, the alleged circuit split was immature, the government's position was opportunistic, and the equities overwhelmingly favored restraint. If the court ultimately rules as Monsanto demands, it will do so with eyes wide open—knowing that it's weakening farmers' and farm workers' rights, reducing consumer protection, undermining state sovereignty, and foreclosing access to justice for some of the most grievously injured plaintiffs in the civil justice system.

That's not judicial modesty. It's judicial activism in service of corporate power.

Adam J. Levitt is a founding partner of DiCello Levitt, where he heads the firm's class action and public client practice groups. He can be reached at alevitt@dicellolevitt.com.

Thank you to DiCello Levitt partner Dan Schwartz for contributing to this column.

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California Brief

Snap Reaches Settlement Over Social Media Addiction Claims (1)

Jan. 20, 2026, 10:37 AM PST; Updated: Jan. 20, 2026, 12:09 PM PST

Snap Inc. has reached an agreement to settle a key plaintiff's claims that the platform's design led her to become addicted and caused her mental health problems.

The announcement of a "basic settlement agreement" by Mark Lanier of the Lanier Law Firm, representing the plaintiff, and Faye Paul Teller of Munger Tolles & Olson LLP, representing Snap, came during a final status conference Tuesday in California Superior Court, Los Angeles County before Judge Carolyn B. Kuhl.

Are Social Media Apps Lik...



WATCH: Are Social Media Apps, Like TikTok, Big Tobacco 2.0? Lawsuits Over Social Media's Impact on Teens

The attorneys didn't provide information in open court about the dollar value or other terms of the settlement but said paperwork should be filed with the court by the end of the week.

Jury selection for the trial featuring the 19-year-old California woman, identified by the initials K.G.M., is scheduled to begin in Los Angeles Jan. 27, and opening arguments are expected to begin the following week. No settlement agreement was announced for K.G.M.'s claims against Meta Platforms Inc., ByteDance Ltd.'s TikTok, and Alphabet Inc.'s YouTube.

Meta CEO Mark Zuckerberg will likely be among the first witnesses to testify.

K.G.M.'s will be the first of thousands of cases filed by young users against social media giants to reach a trial, alleging platform features such as algorithms, infinite scroll, and personalized notifications led to their excessive screen time and depression, anxiety, eating disorders, self-harm, and even deaths by suicide. Her trial is expected to last through late March.

The social media companies' attorneys argue plaintiffs' attorneys haven't shown enough evidence that the design of the platforms harmed users.

As the first so-called bellwether trial, K.G.M.'s case presents an opportunity for attorneys to test the strength of their arguments; the outcomes of these early trials can lead to settlement talks. Another group of lawsuits is pending in Northern California federal court.

If the tech companies lose, they could face billions of dollars in damages and be required to change how young people use their platforms.

The case is Social Media Cases JCCP, Cal. Super. Ct., No. 5255, status conference held 1/20/26 .

(Updates throughout.)

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Snap settles social media addiction litigation ahead of trial

DJ [dailyjournal.com/articles/389412-snap-settles-social-media-addiction-litigation-ahead-of-trial](https://www.dailyjournal.com/articles/389412-snap-settles-social-media-addiction-litigation-ahead-of-trial)

Snap Inc., parent of Snapchat, reached a settlement on Tuesday in a social media addiction lawsuit just ahead of a landmark trial that could shape a wave of similar cases against major technology companies, including Meta, TikTok and YouTube.

"The parties are pleased to have been able to resolve this matter in an amicable manner," read a joint statement by Snap and Matthew P. Bergman of the Social Media Victims Law Center in Seattle, which brought the case.

Jonathan H. Blavin represents Snap in the litigation and Houston-based attorney Mark Lanier is set to lead the plaintiffs' case. The other defendants are Meta Platforms, operator of Facebook and Instagram, ByteDance Ltd., operator of TikTok, and YouTube. Trial is set to begin next week before Los Angeles County Superior Court Judge Carolyn B. Kuhl. *Social Media Cases*, JCCP5255 (Los Angeles County Sup. Ct., filed Oct. 24, 2022)

There is a companion federal action pending in the Northern District of California. *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, 22-MD-03047 (N.D. Cal., filed Oct. 6, 2022).

The lawsuits, brought by teenagers, school districts and state attorneys general, allege that features such as infinite scroll, autoplay and algorithmic recommendations were deliberately designed to foster compulsive use among young people, leading to mental health harms like depression, eating disorders and self-harm.

The agreement came days before trial in a California case brought by a teen identified as K.G.M. The bellwether cases are being closely watched because plaintiffs are advancing a novel theory that social media platforms are inherently defective products subject to personal injury liability, a claim the companies dispute by denying a scientific link to addiction and asserting constitutional speech protections.

Other plaintiffs' firms involved in the litigation are Beasley Allen Crow Methvin Portis & Miles PC Panish Shea Ravipudi LLP and Kiesel Law LLP.

#389412

Critical Mass With Law.com's Amanda Bronstad: Jurors Will Be Anonymous in First Social Media Addiction Trial, Renee Good's Lawyers Have Strong But Challenging Case Against ICE

January 21, 2026 at 11:09 AM By  Amanda Bronstad



Credit: Jose Calsina/Adobe Stock

Welcome to **Law.com Class Actions: Critical Mass**, a weekly briefing for class action and mass tort attorneys.

This week: A **Los Angeles Superior Court** judge said jurors in the first social media addiction trial will remain anonymous to the public and parties. **Romanucci & Blandin**, which got a \$27 million civil settlement for **George Floyd's** family, is pursuing an investigation into **Renee Good's** death by an ICE agent. Find out who represents **LGAA** in lawsuits over a 2025 data breach.

I'm **Amanda Bronstad**. Feel free to reach out to me with your input. My email is amanda.bronstad@alm.com. Follow me on [LinkedIn](#) or X: [@abronstadlaw](#).

Hundreds Of Jurors Likely Called For Social Media Trial



Mark Lanier of The Lanier Law Firm. Courtesy photo

Jury selection begins next week in the nation's first trial alleging social media sites such as **Instagram** and **TikTok** caused a teenaged user to become addicted—but the names of the jurors will be known only to the lawyers in the trial, a judge ruled.

Hundreds of prospective jurors are expected to show up next week for the trial, in hopes of seating 12 of them by Jan. 30. **Los Angeles Superior Court Judge Carolyn Kuhl** ruled that the jurors [must remain anonymous](#) to the public and the parties in the case—plaintiff K.G.M. and defendants **Meta Platforms**, which owns Instagram and **Facebook**, **ByteDance's TikTok**, and **Google's YouTube**—in order to restrict the potential research conducted about them. Only lawyers in the trial, scheduled to last until March 20, will know their names.

The owner of **Snapchat** was a fourth defendant but, at a hearing on Tuesday, plaintiff's attorney [W. Mark Lanier](#) (**The Lanier Law Firm**) told Kuhl that **Snap Inc.** had settled out of the trial. He said the terms of the settlement would be disclosed to the judge by the end of this week.

With one fewer defendant, Kuhl trimmed the trial from 46 hours to 42 hours.

Also, on Tuesday, Kuhl rejected requests from [Joseph VanZandt](#) (**Beasley Allen**) for attorneys general from 10 states, including Tennessee and Washington D.C., to attend the trial virtually. An attorney for Meta, which is the primary defendant in all those cases, [Ashley Simonsen](#) (**Covington**), pushed back on the idea, and Kuhl said, “They’re, of course, welcome to come in person.”



Demonstrators at a memorial for Renee Nicole Good during a protest in Minneapolis, Minnesota, US, on Saturday, Jan. 10, 2026. Thousands marched Saturday in Minneapolis to the site where a federal agent shot and killed Renée Nicole Good during a confrontation, heightening political divisions around the Trump administration’s immigrant crackdown. Photo: Victor J. Blue/Bloomberg

‘The Worst of the Worst?’

Romanucci & Blandin launched a civil investigation into the death of **Renee Good**, whose family members retained the Chicago firm after she was shot and killed by an **ICE** agent on Jan. 7 in Minneapolis. On Jan. 15, the firm, which obtained a \$27 million civil settlement for **George Floyd’s** family, sent a letter to ICE, the **Justice Department** and other federal agencies requesting a “litigation hold” on potential evidence, including Good’s vehicle, videos and electronic communications.

The Good family has a strong, but challenging case, [lawyers who specialize in police misconduct cases told me](#). They cited the video, which shows Good telling the ICE agent, “I’m not mad at you,” then backing her car up, turning the wheel right and moving forward, prompting the agent near the

front left of her vehicle to fire three shots into her car window. But they also noted the lengthy administrative process involved in suing ICE under the **Federal Tort Claims Act**, and difficult case law surrounding a lawsuit against the individual agent.

[Anthony Romanucci](#) (**Romanucci & Blandin**) anticipated overcoming many of the hurdles in the case, which he said stands out from the other death lawsuits the firm has handled. He told me:

“We have never handled a case where our American government has made the decision to invade an American city and flood it with 3,000+ ICE officers and take over control of not only the streets but enforcement in the city and not be true to its mission of getting the worst of the worst. There was no understanding at that time that they were enforcing the law when they encountered Renee in her car. I don’t know what they were doing. There’s no indication they were looking for the worst of the worst. This is very unusual.”



Jackson Lewis offices in Baltimore, MD. Photo: Diego M. Radzinski/ALM

Who Got the Work?

Jackson Lewis partners [Jonathan Harris](#) and [M. Christopher Moon](#) appeared for the **LGAA**, part of the **Leavitt Group**, in at least two class actions filed over a Feb. 20 data breach last year, according

to **Law.com Radar**. FGAA, based in Cedar City, Utah, is an agency association for insurance brokerages that provides automation, training, payroll, accounting and website services.

Here's what else is happening:

Roundup Review: The **U.S. Supreme Court** on Friday [accepted](#) **Monsanto's** petition to review its key defense in thousands of **Roundup** lawsuits. Monsanto, owned by **Bayer**, has insisted that federal law preempts claims that it failed to warn about the risk that exposure to Roundup's key ingredient, glyphosate, could cause non-Hodkin lymphoma. Last month, **U.S. Solicitor General D. John Sauer** filed a brief urging the Supreme Court to review Monsanto's petition.

Talc Trial: Plaintiffs' attorney [Leigh O'Dell](#) (**Beasley Allen**) and **Johnson & Johnson** attorneys [Shaila Diwan](#) (**Kirkland & Ellis**) and [Mike Brown](#) (**Nelson Mullins**) gave [opening statements on Tuesday](#) in a [talcum powder trial](#) in the **Philadelphia Court of Common Pleas**. Gayle Emerson, who died in 2019, alleged that Johnson & Johnson's baby powder caused her ovarian cancer. Johnson & Johnson's lawyers told jurors about Emerson's family health history, her weight and her own health problems, which included a cystectomy and a hysterectomy.

Train Truce: A published report by the **Journal News**, a daily newspaper in New York's Lower Hudson Valley, said lawyers representing the victims of **Metro-North Railroad's** deadly 2015 crash with an SUV [settled for \\$182 million](#). The settlement, previously sealed by a judge, resolved claims tied to five passengers who were killed and dozens injured in Valhalla, New York. [Ben Rubinowitz](#) (**Gair Gair**) spearheaded trials, in which juries agreed that the train engineer, who should have slowed down, was liable.

Thanks for reading Critical Mass! I'll be back next week.

Page
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'Talc Blinders': Johnson & Johnson's Baby Powder Trial Kicks-Off in Phila.

The 15-day trial centers on Gayle Emerson, a Pennsylvania woman who claimed that her use of Johnson & Johnson's baby powder caused her ovarian cancer, and, ultimately, her death.

January 20, 2026 at 05:10 PM By  **Tristin Hoffman**



Johnson & Johnson's baby powder. Photo: Mike Mozart/Flickr

The lawyers representing a Pennsylvania woman who was diagnosed with ovarian cancer in 2015 and died in 2019 argued before a Philadelphia Court of Common Pleas jury on Tuesday that it was her prolonged use of Johnson & Johnson's baby powder that caused her cancer and death.

"Gayle Emerson trusted Johnson's baby powder. When she learned of the link between the genital application of Johnson's baby powder and ovarian cancer, she filed a lawsuit before her death," Leigh O'Dell, of Beasley Allen in Montgomery, Alabama, said in her opening statement. "She wanted to hold Johnson & Johnson accountable for what they had done."

O'Dell argued that Johnson & Johnson failed to warn its consumers about the presence of talc in its baby powder product and the risk of ovarian cancer that consumers took on by using its

products.

Emerson, O'Dell told the jury, used Johnson & Johnson's baby powder every day between 1969 and 2017. She underwent surgeries after her initial diagnosis, though her cancer returned in 2019.

Emerson's daughter, Wendy, was present at the opening arguments. Emerson's son, Aaron, will provide testimony during the course of the trial, O'Dell said.

Shaila Diwan of Kirkland & Ellis, representing Johnson & Johnson, said in her opening argument that Johnson & Johnson was not the cause of Emerson's ovarian cancer and death, pointing instead to her use of a douche product for nearly the same amount of time as baby powder, as well as her family's health history and her weight.

"Plaintiff's have blinders on," she said. "Talc blinders."

Emerson had a history of health problems, Mike Brown of Nelson Mullins, who is Diwan's co-counsel, told jurors in his opening statement. That included an ovarian cystectomy in 1975 and a hysterectomy in 1985, among other complications.

"Her medical history cannot be ignored when examining the case and whether or not Johnson's baby powder could have possibly caused her ovarian cancer," he said.

Judge Sean Kennedy will preside over the 15-day-long trial.

This is [Philadelphia's second talc ovarian trial](#) against Johnson & Johnson. The previous trial, held in 2021, ended with a defense verdict.

A December 2025 [California verdict in a similar case](#), however, awarded the plaintiff's \$40 million.

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Experts can testify about suspected J&J talc products' cancer link, special master recommends

 [reuters.com/business/healthcare-pharmaceuticals/us-judge-allows-experts-testify-that-talc-products-cause-cancer-jj-cases-2026-01-21](https://www.reuters.com/business/healthcare-pharmaceuticals/us-judge-allows-experts-testify-that-talc-products-cause-cancer-jj-cases-2026-01-21)

Diana Jones

January 21, 2026

People gather next to a logo of Johnson & Johnson at the company's booth at the 8th China International Import Expo (CIIE) in Shanghai, China, November 6, 2025. REUTERS/Maxim Shemetov [Purchase Licensing Rights, opens new tab](#)

- Special master finds in plaintiffs' favor on causation
- Judge to review recommendations
- J&J disputes claims; stopped selling talc-based powder in US in 2020

Jan 20 (Reuters) - In a victory for thousands of women suing Johnson & Johnson [\(JNJ.N\)](#)  [, opens new tab](#) over claims that the company's baby powder and other talc products caused their ovarian cancer, a court-appointed special master recommended on Tuesday that they be allowed to present testimony at trial from experts who support that link.

The recommendation from retired U.S. District Judge Freda Wolfson, in long-running litigation that includes more than 67,500 lawsuits in the federal court in New Jersey, allows the cases to move towards the first trial in federal court potentially later this year.

Product liability lawsuits, such as the J&J cases, rely on experts to establish that the product is capable of causing the alleged harm. Decisions on expert testimony can sometimes be a major turning point in these cases.

U.S. District Judge Michael Shipp in Trenton, New Jersey, who is overseeing the litigation, brought in Wolfson to help evaluate what expert testimony should be allowed at trial, based on whether it met the scientific standards set out in federal law. The ruling is a recommendation to Shipp, who can weigh objections from both sides before deciding whether to adopt them.

A key determination by Wolfson in her 658-page decision was that the plaintiffs' experts should be allowed to testify there is a causal link between using J&J talc products and cancer, which the company disputes.

"I find, by a preponderance of the evidence, that the Plaintiffs' experts have applied reliable methodologies to arrive at their opinions that the pre- and post-2020 epidemiologic studies, taken as a whole, demonstrate a positive, statistically significant association between genital talc powder use and ovarian cancer," Wolfson wrote.

Wolfson, however, will also allow testimony from experts J&J put forward to counter the plaintiffs' claims that talc can cause ovarian cancer.

Wolfson emphasized that her role was not to evaluate the experts' conclusions, but to decide if their methods were reliable enough to present to a jury for its consideration.

She agreed with J&J that expert testimony linking heavy metals and fragrance chemicals in the company's products to cancer should be excluded, as should a theory that talc can migrate to the ovaries if it is inhaled.

She declined to rule on some requests to exclude testimony, pending hearings later this month and in early February.

In a statement, J&J Worldwide Vice President of Litigation Erik Haas said Wolfson's ruling was erroneous and the company would be appealing to Shipp. Haas said the rules governing judges' evaluation of experts gave them a "gatekeeping duty" to ensure the plaintiffs' expert opinions were reliable.

"The Special Master breached that duty, failing to conduct the requisite rigorous review of the studies cited by the plaintiffs' experts," he said.

Chris Tisi, a lawyer for the plaintiffs, said Wolfson's report showed the plaintiffs' case was "based on sound evidence that Johnson's Baby Powder can cause ovarian cancer. We are grateful that, after all of J&J's delays, these women and their families will finally have their day in court."

Shares of J&J fell 0.4% in after-hours trading.

J&J has been fighting claims over its talc products in both federal and state court for years, and has said its products are safe and do not cause cancer.

The company stopped selling talc-based baby powder in the U.S. in 2020 and switched to a cornstarch product.

JUDGE WANTED SCIENTIFIC EVIDENCE REEVALUATED

It is the second time Wolfson has reviewed the scientific evidence in the case, as she oversaw the so-called multidistrict litigation from its creation in 2016 to her retirement in 2023, when the case was reassigned to Shipp.

Wolfson had sided with the plaintiffs in 2020, saying that their experts would be allowed to testify that the products' link to cancer could be caused by the talc's contamination with asbestos. J&J has said its products do not contain asbestos.

In 2024, Shipp said he wanted the scientific evidence reevaluated because of two factors: recent changes to federal rules governing expert testimony, which strengthen the courts' role in vetting experts' methodology and conclusions before allowing them to testify - and the emergence of new scientific evidence.

J&J had sought to resolve the litigation through bankruptcy, a tactic that was rejected three times by federal courts, [most recently](#) in April 2025. The bankruptcies had put most of the talc product cases on hold for years. The company also sued scientists whose research and testimony was used to support plaintiffs' cases as part of its strategy to fight the claims, accusing them of falsifying their results by including people who were likely exposed to asbestos through other means. One of those lawsuits is still pending, while the other has been dismissed.

Before the bankruptcy attempts, J&J had a mixed record in state courts.

Some cases had already gone to trial, with verdicts as high as [\\$4.69 billion awarded to 22 women](#) who said baby powder caused their ovarian cancer. J&J has had the verdict in that case and some others reduced on appeal and won some trials outright.

Separately, J&J has also faced cases alleging its talc products caused a rare and deadly cancer called mesothelioma. The company has settled some of those claims but has not struck a nationwide settlement, so many lawsuits over mesothelioma have proceeded to trial in state courts in recent months.

In the past year, J&J has been hit with [several substantial verdicts](#) in mesothelioma cases, including one for [more than \\$1.5 billion](#) in Baltimore in December.

Reporting by Diana Novak Jones; Additional reporting by Jonathan Stempel;
Editing by Alexia Garamfalvi, Thomas Derpinghaus and Kate Mayberry

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Class Action

Manage Newsletters

Apple Beats California Privacy Law Claims in Data Tracking Suit

Jan. 20, 2026, 5:44 PM PST

Summary by Bloomberg AI

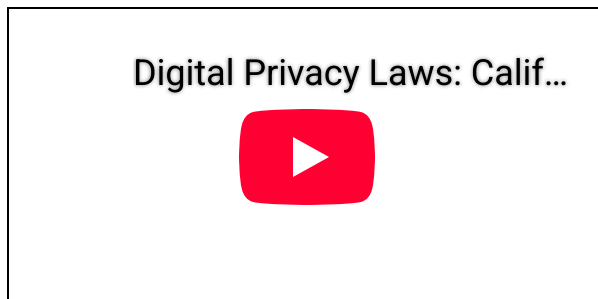
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- Apple Inc. defeated claims that it violated California privacy law by allegedly collecting user data from its in-house apps despite users opting out of collection.
- Judge Edward J. Davila granted Apple's motion to dismiss parts of a privacy class action, but gave the plaintiffs one final opportunity to amend and refile their complaint.
- The plaintiffs allege that Apple misled users into believing that disabling data collection settings would prevent Apple's proprietary apps from collecting data on their personal information and app activity.

Apple Inc. defeated claims that it violated California privacy law when it allegedly collected user data from its in-house apps, such as the App Store or Apple Music, despite users believing they opted out of collection.

Judge Edward J. Davila on Tuesday granted Apple's motion to dismiss parts of a privacy class action that alleged violations of California's Invasion of Privacy Act, the California Constitution, the state's unfair competition law, breach of implied contract, and the Pennsylvania Wiretapping and Electronic Surveillance Control Act.



WATCH: A look at digital privacy laws in California and beyond (published in 2020)

Davila, who sits on the US District Court for the Northern District of California, said he would give the plaintiffs one final opportunity to amend and refile their complaint "out of an abundance of caution."

"It is doubtful whether Plaintiffs can sufficiently plead their dismissed claims given the deficiencies addressed in this Order," he said.

The plaintiffs in 2024 already advanced other claims in their suit that allege violations of Illinois, New Jersey, and New York consumer protection law, breach of express contract, and unjust enrichment.

The plaintiffs seek to represent a class of users who disabled data collection in the "Share Device Analytics" setting on their iPhone or iPad.

The lawsuit alleges Apple misled users into believing that disabling data collection settings would prevent Apple's proprietary, in-house apps from collecting data on their personal information and app activity. Apple continued the collection, the suit alleged.

Lynch Carpenter LLP and Bursor & Fisher PA represent the plaintiffs. Covington & Burling LLP represent Apple.

The case is In Re : Apple Data Priv. Litig. , N.D. Cal., No. 5:22-cv-07069, 1/20/26 .

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Class Action

Manage Newsletters

Comcast's \$117.5 Million Data Breach Settlement Gets Court Nod

Jan. 21, 2026, 10:53 AM PST

Summary by Bloomberg AI

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- Comcast Cable Communications' agreement to pay \$117.5 million to settle a class action was preliminarily approved by a federal court.
- Residents of the US who were individually notified of the data breach will be able to enroll for three years of credit monitoring and identity theft insurance, and have the option for reimbursement or a cash payment.
- The data breach occurred after Comcast failed to install a Citrix patch, allowing unauthorized parties to acquire passwords, contact information, and partial Social Security numbers for over 30 million customers.

Comcast Cable Communications' agreement to pay \$117.5 million to settle a class action filed after the telecommunications giant suffered a data breach was preliminarily approved by a federal court.

Residents of the US who were individually notified of the data breach will be able to enroll for three years of credit monitoring and identity theft insurance. They will also have the option between reimbursement for out-of-pocket losses and lost time up to \$10,000 per person, or a cash payment initially estimated to equal \$50, according to the US District Court for the Eastern District of Pennsylvania.

Judge John Milton Young found the settlement sufficiently fair for preliminary approval, according to an order entered into the docket Tuesday, but signed Jan. 16.

Comcast failed to install a Citrix patch for more than a week, during which unauthorized parties in 2023 broke into its systems and acquired some combination of, among other things, of passwords, contact information, and partial Social Security numbers for over 30 million customers, according to the plaintiffs' motion seeking preliminary approval.

The plaintiffs alleged that Comcast could have mitigated the breach by installing the patch sooner, and that additional testing and monitoring might have avoided the incident altogether.

"The immediate benefits that the Settlement provides stand in contrast to the risks, uncertainties, and delays of continued litigation," the plaintiffs said. While they were confident they could have overcome those challenges, the multi-million-dollar settlement balances the strength of their case against those risks.

Class counsel will request attorneys' fees up to one third of the settlement fund.

Lynch Carpenter LLP, Stueve Siegel Hanson LLP, Francis Mailman Soumilas PC, and Levin Sedran & Berman LLP are class counsel.

Holland & Knight LLP represented Comcast.

The case is Hasson v. Comcast Cable Commc'ns , E.D. Pa., No. 2:23-cv-05039, 1/20/26 .

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Class Action

Manage Newsletters

Target Can't Shake Acne Products Benzene Contamination Lawsuit

Jan. 21, 2026, 10:53 AM PST

Summary by Bloomberg AI

AI Generated



- A federal judge allowed most of the consumers' consolidated claims against Target Corp. to proceed, rejecting Target's argument that federal drug labeling regulations preempted their claims.
- The consumers alleged that Target's Up&Up acne treatment products contain high levels of the carcinogen benzene, and that they wouldn't have purchased them if they'd known about the chemical's presence.
- The judge allowed consumer protection, false advertising, and implied warranty claims to survive, but dismissed negligent misrepresentation and negligent omission claims.

Target Corp. failed to convince a federal judge to toss a proposed class action alleging its Up&Up acne treatment products contain high levels of the carcinogen benzene.

The US District Court for the District of Minnesota allowed most of the consumers' consolidated claims to proceed Tuesday and rejected Target's argument that federal drug labeling regulations preempted their claims. Judge Eric C. Tostrud allowed consumer protection, false advertising, and implied warranty claims to survive, but dismissed negligent misrepresentation and negligent omission claims.

The consumers alleged Up&Up acne products containing benzoyl peroxide contain benzene, a carcinogen that has been linked to blood cancer, and that the plaintiffs wouldn't have purchased them if they'd known about the chemical's presence. Dozens of lawsuits were filed against acne product makers over benzene presence in recent years after a report from independent laboratory Valisure LLC found high levels of the carcinogen in multiple acne products. The lab sent the Food and Drug Administration a citizen petition requesting a product recall in March 2024, and the petition was part of the consumers' complaint.

The consumers plausibly alleged that any amount of benzene in the products they bought would constitute a defect and that their products contained benzene because Valisure showed all tested Up&Up products contained the carcinogen.

"By virtue of their 'same' manufacturing, Target's BPO products are sufficiently comparable to infer—at least at this motion-to-dismiss stage—that this result would have held across the Up&Up BPO acne treatment product line," Tostrud said.

The judge rejected Target's argument that the Federal Food, Drug, and Cosmetic Act preempted the consumers' claims because it prohibits additional label requirements beyond what the FDA requires.

But under the regulations the products aren't misbranded just because their labeling complies with the FDA monograph, Tostrud said. The regulations include a general prohibition against false or misleading labeling, and material omissions about the consequences of using a product count as misleading, he said.

And the consumers "plausibly allege that benzene is present in Up&Up acne treatment products and that benzene causes adverse health consequences," Tostrud said.

Tostrud rejected the consumers theory that the benzene in the products came from Target's violations of good manufacturing processes. They didn't allege facts related to the manufacturing processes, and only pleaded legal conclusions, he said.

He also dismissed negligent misrepresentation claims because the plaintiffs' home states bar such claims when they are based only on economic injuries.

The consumers are represented by Cuneo Gilbert Flannery & LaDuca LLP, Levi & Korsinsky LLP, Bursor & Fisher PA, and Wisner Baum LLP.

Target is represented by Greenberg Traurig PA.

The case is In re Target Corp. BPO Sales & Mktg. Litig. , D. Minn., No. 0:24-cv-01323, 1/20/26 .

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Edison criticized for cross-claims in Eaton Fire litigation cases

DJ [dailyjournal.com/articles/389417-edison-criticized-for-cross-claims-in-eaton-fire-litigation-cases](https://www.dailyjournal.com/articles/389417-edison-criticized-for-cross-claims-in-eaton-fire-litigation-cases)

Edison International and its Southern California subsidiary drew criticism from Eaton Fire victims' attorneys on Tuesday over a newly filed cross-complaint that seeks to shift some responsibility for losses onto public agencies, emergency responders and water providers.

Two attorneys representing individual plaintiffs in the coordinated cases called the cross-claims a familiar blame-spreading delay tactic, while Edison's outside counsel called the filing a standard step in utility wildfire litigation aimed at ensuring all potentially responsible parties are at the table.

Although Edison, in court, has denied that its equipment started the Jan. 7 Eaton Canyon fire, the utility has also rolled out a voluntary, out-of-court wildfire recovery compensation program for victims who prefer not to wait for litigation to play out.

"Our hearts and minds are certainly with those impacted by this fire," Hueston Hennigan LLP partner Douglas J. Dixon said in a phone interview on Tuesday. "But recognizing that we are in litigation, we feel that all parties who bear responsibility for the extent of harm should participate in the litigation and should be held accountable for their actions - and equally important, their inactions - that led to the harm caused by the Eaton fire."

Dixon called Edison's cross-complaint, which was filed just before a Jan. 16 deadline set by Los Angeles County Superior Court Judge Laura A. Seigle, "a very typical legal mechanism" in complex litigation and said it was not strategically filed at the last minute.

However, Singleton Schreiber LLP managing partner Gerald B. Singleton, co-lead liaison for individual plaintiffs in the coordinated proceeding, framed the cross-complaint as a tactical move to complicate the case and pressure victims.

"The main concern we have is that it appears to be an attempt to delay the case," Singleton said in a phone interview Tuesday, citing the judge's deadline and saying Edison filed "at the absolute eleventh hour."

"It's not like the facts that they're talking about haven't been known for close to a full year," Singleton continued. "There's certainly nothing illegal about doing that, but it certainly leads us to believe that what they're doing is trying to get a delay in the trial."

The Eaton Fire cases remain in discovery, with a jury trial currently scheduled for a year from now, Jan. 25, 2027.

Edison's cross-complaint targets a mix of county and municipal entities, emergency response agencies, an evacuation-alert vendor and several local water providers, as the utility seeks to apportion fault and obtain equitable indemnity and contribution for alleged post-ignition failures that it contends worsened the losses. *Gursey v. Southern California Edison et al.*, 25STCV00731 (L.A. Super. Ct., filed Jan. 13, 2025).

Wisner Baum LLP partner Ari S. Friedman, an attorney representing some of the individual Eaton Fire victims, echoed Singleton's view and called the cross-claims "suspicious."

"Edison will undoubtedly use these filings as a pretext to argue they cannot be ready for the January 2027 trial date and will most likely seek to delay the trial for that reason," Friedman wrote in an email.

"Edison's cross-complaints are tellingly not about the ignition of the fire; instead, it is more about how various public entities or private companies may have contributed to the wildfire's spread and the damage it caused," Friedman continued.

"The validity of these claims is suspicious; for example, public entities enjoy certain immunities that would insulate them from liability. Since these are largely post-ignition allegations, these seem more like Edison trying to reduce its overall liability by claiming others bear some fault."

Dixon, for Edison, addressed the utility's timing and assured the filing was driven by diligence - not delay - saying the company filed on the deadline because it spent the preceding weeks investigating, reviewing after-action materials including media reports, and submitting public records requests to ensure proper fact collection.

"The reason we waited until Friday is not so much that we were just waiting. We were instead doing our due diligence ... to make sure we got our facts straight, that we understood everyone in what role they may have played in the harm caused," Dixon said.

"It's a very complex case and this Friday deadline was the deadline in which to bring in cross defendants in order to prepare for that first trial."

The cross-complaint names Los Angeles County, the county fire and sheriff's departments, Office of Emergency Management, Genasys Inc., Pasadena Sierra Madre, Pasadena Water and Power and several local water entities.

Dixon said the filing is meant to bring in "all parties who bear responsibility" for the alleged harm and allow fault to be allocated based on evidence and expert analysis, potentially "almost on a geographic area by geographic area basis," he said.

One example Dixon pointed to, also alleged in the cross-complaint, involves West Altadena, where Edison claims residents "did not receive a single" evacuation warning until about 3:25 a.m., hours after the fire entered the area, he said.

"Homes were on fire before the residents ever got their first alert. ... And tragically, 18 of the 19 deaths from the Eaton Fire took place in West Altadena," Dixon said.

"So when it comes to the claims brought by the family members and those impacted by those deaths, the public entities and cross-defendants whom we have brought in are going to have much more of a share in the liability and exposure with respect to people in Western Altadena than there would be, if any, in Eastern Altadena. The folks in Eastern Altadena got the evacuation notices. They got out. West Altadena did not."

#389417

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SCE files cross-complaint seeking to shift Eaton Fire liability

DJ [dailyjournal.com/articles/389399-sce-files-cross-complaint-seeking-to-shift-eaton-fire-liability](https://www.dailyjournal.com/articles/389399-sce-files-cross-complaint-seeking-to-shift-eaton-fire-liability)

Southern California Edison and its parent company, Edison International, filed a wide-ranging cross-complaint on Jan. 16 that seeks to shift responsibility for damages from the deadly Eaton Fire to public agencies, emergency responders and water providers, deepening already complex wildfire litigation in Los Angeles County.

"The Edison Defendants are informed and believe that a significant portion of the damage from the Eaton Fire was caused by the negligent acts and omissions of Cross-Defendants," read the cross-complaint signed by Douglas J. Dixon of Hueston Hennigan LLP in Newport Beach.

"Most of the injuries and fatalities caused by the Eaton Fire, as well as much of the property that was damaged, could have been avoided or significantly reduced had Cross-Defendants and others acted reasonably and with due care," the cross-complaint continued. "Upon information and belief, Cross-Defendants' and others' grossly negligent acts and omissions and failures to act in accordance with mandatory duties exacerbated the damages caused by this disaster, including the damages experienced by the Eaton Plaintiffs."

Jeff Monford, a spokesperson for Southern California Edison, addressed the filing in a phone call on Friday.

"These legal actions are a standard legal process that allows the court to fully examine all potential contributing factors and responsible parties," he said. "We remain committed to the communities affected by the January fires and to supporting their recovery."

The cross-complaint alleges that a cascade of failures by government entities and utilities substantially worsened the disaster. The Eaton Fire ignited Jan. 7, 2025, in the Eaton Canyon area near Altadena and ultimately burned more than 14,000 acres, destroyed over 9,000 structures and was associated with 19 deaths.

Edison alleges that emergency officials failed to issue timely evacuation alerts to residents west of Lake Avenue in Altadena, despite reports that the fire was advancing into those neighborhoods for hours. According to the filing, nearly all

fatalities occurred in that area, while neighborhoods east of Lake Avenue -- which received earlier warnings -- reported no deaths.

The cross-complaint also faults multiple public and private water agencies, alleging their systems lacked the capacity to support firefighting during a major wildfire. Edison claims firefighters encountered dry hydrants and severe water pressure loss as the fire entered residential areas, hampering suppression efforts and allowing flames to spread rapidly.

The utility further alleges that overgrown vegetation on publicly owned land and inadequate deployment of firefighting resources compounded the damage. Edison is seeking equitable indemnity and contribution, asking the court to allocate fault among all entities whose actions or omissions allegedly contributed to the losses. *Gursev v. Southern California Edison et al.*, 25STCV00731 (L.A. Super. Ct., filed Jan. 13, 2025).

#389399

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Toyota affiliates in \$436 million settlement over alleged forklift engine emissions cheating

 [reuters.com/sustainability/boards-policy-regulation/toyota-affiliates-436-million-settlement-over-alleged-forklift-engine-emissions-2026-01-21](https://www.reuters.com/sustainability/boards-policy-regulation/toyota-affiliates-436-million-settlement-over-alleged-forklift-engine-emissions-2026-01-21)

Jonathan Stempel

January 21, 2026

A Toyota forklift operator moves cans of cold drinks at a warehouse in Sarmada, Idlib, Syria March 17, 2025. REUTERS/Khalil Ashawi/File Photo [Purchase Licensing Rights](#)  , [opens new tab](#)

- Settlement includes \$299.5 million cash, service plan
- Lawsuit followed internal Toyota probe, EPA inquiry
- Toyota Industries lawyers not available for comment

Jan 21 (Reuters) - Three Toyota [\(7203.T\)](#)  , [opens new tab](#) affiliates reached a settlement worth an estimated \$436 million of a proposed U.S. class action accusing them of emissions cheating in nine engines for forklift trucks.

A preliminary settlement with Toyota Industries [\(6201.T\)](#)  , [opens new tab](#) , the world's [largest maker of forklift trucks](#) , and two subsidiaries was filed on Tuesday night in San Francisco federal court, and requires a judge's approval.

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Toyota, the parent automaker, was dismissed as a defendant after claiming it had nothing to do with the emissions testing and forklift sales.

The settlement provides \$299.5 million of cash to owners and lessees of 272,422 forklifts from the 2007 to 2021 model years, with an expected payout of \$1,400 to \$2,800 per vehicle depending on the number of claims.

It also provides inspections and maintenance valued at \$83.7 million to \$189.3 million, with a midpoint of \$136.5 million, depending on how many forklifts are still operating. This service plan is valued at \$800 per forklift, the plaintiffs' lawyers said.

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The average forklift covered by the settlement cost about \$25,500, court papers show.

Lawyers for Toyota Industries did not immediately respond to requests for comment on Wednesday.

The lawsuit [began](#) in September 2024, eight months after an [internal Toyota probe](#)  [opens new tab](#) found that software changes or substituted engines enabled forklifts to perform better in emissions testing than on the road. Owners and lessees said the misconduct first surfaced in 2020, following an inquiry from the U.S. Environmental Protection Agency about the accuracy of Toyota's emissions testing.

More than 20 named plaintiffs said they would not have bought Toyota's forklifts or would have paid less, had they known their vehicles did not meet emissions standards and emitted more pollution than they expected.

The plaintiffs' lawyers may seek \$74.9 million in legal fees, or 17% of the \$436 million settlement value, court papers show.

Reporting by Jonathan Stempel in New York; Additional reporting by Mike Scarcella in Washington, D.C.; Editing by Chizu Nomiyama

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Uber seeks sanctions over alleged MDL discovery misuse

DJ [dailyjournal.com/articles/389418-uber-seeks-sanctions-over-alleged-mdl-discovery-misuse](https://www.dailyjournal.com/articles/389418-uber-seeks-sanctions-over-alleged-mdl-discovery-misuse)

U.S. Magistrate Judge Lisa J. Cisneros

Uber's attorneys sought removal Tuesday of an attorney from the plaintiffs' steering committee in a massive multi-district lawsuit over allegations that the company's drivers sexually assault passengers.

The company alleges Bret D. Stanley, senior counsel at Johnson Law Group in Houston, used confidential information disclosed in discovery for a different case, violating a protective order.

U.S. Magistrate Judge Lisa J. Cisneros in San Francisco was skeptical of the argument at first, saying that Uber struggled to show how Stanley's actions caused the company harm, but she changed her view after questioning Stanley.

"Consider yourself on thin ice at this point," Cisneros told Stanley, although she stopped short of committing any specific sanctions. *In re: Uber Technologies, Inc., Passenger Sexual Assault Litigation*, 3:23-md-03084 (N.D. Cal., filed Oct. 4, 2023).

Uber, represented at the hearing by Veronica H. Gromada of Shook, Hardy & Bacon LLP, said that Stanley used speed data from the 1.8 million-document discovery repository in the MDL, covered by a protective order, as evidence of a driver's unsafe driving habits in a separate personal injury lawsuit against Uber.

Shook, Hardy & Bacon partner Michael B. Shortnacy also spoke at the hearing.

Stanley, referred to on his website as an "Uber lawsuit lawyer," didn't dispute Uber's claims, but said that his actions didn't meet the criteria for use of the confidential information under the protective order.

Stanley, who serves as lead attorney for several plaintiffs, argued that he learned in discovery that Uber tracks drivers' speed, which was relevant to another case. He asked Uber to produce GPS data about the driver's speed in discovery for the personal injury case, and when Uber said it didn't have any information to produce, Stanley said he moved to compel the company to produce the information on knowledge obtained through the MDL.

He added that he isn't required to simply forget the information he learned during discovery, and that the second case, *Smith v. Uber Technologies, Inc.* in Bexar County, Texas, required him to apply that information. Acting on information learned in discovery without disclosing anything confidential doesn't fall under the protected order, he said, and the order can't be used to hide evidence relevant to other cases.

"The facts in the *Smith* case make it clear that this evidence should be there," Stanley said.

Uber argued Stanley didn't just use information from the MDL to inform the *Smith* case but admitted to actively searching the discovery repository for the relevant data.

"He uses it as if it's his own personal library," Gromada said.

Cisneros appeared to side with Stanley at first, saying that his actions may have violated the protective order, but that Uber failed to prove his actions harmed the company.

"On Uber's side of things, I'm really trying to understand the injury here," Cisneros said.

Gromada said that Stanley's use of discovery documents has caused additional motions and discovery disputes in several cases in Texas and New Jersey. In addition to extra costs, that "detracted from litigating those cases on the merits," Gromada said.

Stanley pointed out that he asked the court to remove relevant information to his other case from the protective order, but Uber called the motion "frivolous," so he withdrew it.

Cisneros then pressed Stanley on his characterization of what constituted use under the protective order.

"I understand the point that you're not required to have amnesia," Cisneros said, but added that Stanley's definition of use was still too narrow.

"I'm struggling to accept or embrace that argument," Cisneros said.

Cisneros said she'd review the arguments and consider the appropriate sanction for Stanley.

Uber has been in court in San Francisco since late 2023 in a multidistrict case over dozens of sexual assault allegations made by passengers against its drivers.

#389418

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California Brief

Plaintiff's Lawyer in Uber Sexual Assaults Case 'On Thin Ice'

Jan. 20, 2026, 1:47 PM PST

A plaintiffs' attorney in the sweeping litigation over Uber Technologies Inc.'s liability in passenger sexual assaults may face court sanctions for allegedly misusing Uber documents for a separate car accident lawsuit.

Magistrate Judge Lisa Cisneros at a hearing Tuesday said attorney Bret Stanley of Johnson Law Group is "on thin ice," but declined to rule from the bench on Uber's motion for sanctions.

The rideshare company faces thousands of lawsuits consolidated in California federal court that allege Uber failed to prevent drivers from sexually assaulting passengers.

Uber's sanctions motion accused Stanley of improperly using protected company documents from the multidistrict litigation sexual assaults case in an entirely different lawsuit he's litigating in Texas involving a car accident with an Uber Eats driver. Cisneros, who sits on the US District Court for the Northern District of California, had previously found that Stanley had violated the assaults case protective order by disclosing other confidential Uber documents.

"At this point there's indication that twice you violated the protective order," Cisneros said at the Tuesday hearing. "So you need to be extremely careful about how you're handling this information."

Stanley, who is on the plaintiffs' steering committee for the Uber multidistrict litigation, didn't immediately return a request for comment. At the hearing, which was held by video conference, Stanley didn't dispute that he had searched the repository of Uber documents and data in the sexual assaults case and found data that was relevant to his separate car accident case in Texas.

That case, known as *Smith v. Uber*, involved a car accident with an Uber Eats delivery person who was using a car even though he had only been approved to deliver food by bicycle. Stanley at the hearing said he knew that Uber had data on the speed of the Uber Eats delivery person, which should have warned Uber about the delivery person's unauthorized use of a car.

The speed data was in the multidistrict litigation repository, but the company had failed to produce it in the *Smith* case, Stanley said.

"The problem that Uber has here is that there is knowledge of responsive documents that aren't being produced and I'm being told that nothing exists," Stanley said.

Still, Cisneros was skeptical. "You're not explaining to me how your your conduct is consistent with the protective order," she said.

Stanley replied that he hadn't ever produced the Uber document at issue.

The judge still expressed some doubts of Uber's sanctions motion, saying that "it's not entirely clear" that Uber has faced material harm from Stanley searching for those documents in the repository.

Kirkland & Ellis LLP and Shook Hardy & Bacon LLP represent Uber.

The case is In re: Uber Technologies, Inc., Passenger Sexual Assault Litigation, N.D. Cal., No. 3:23-md-03084, 1/20/26 .

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Securities

Brian Kahn, Willkie Sued in Fraud Case by Rebranded B. Riley (1)

Jan. 20, 2026, 9:59 AM PST

BRC Group Holdings Inc., the firm rebranded from B. Riley, filed a fraud lawsuit against Franchise Group Inc. founder **Brian Kahn** and the law firm that advised it, Willkie Farr & Gallagher, over FRG's deal to take the company private in 2023.

Kahn perpetrated a "sophisticated fraud" to secure more than \$735 million in financing for the \$2.8 billion transaction, the lawsuit claims. The deal helped Kahn pay off "massive personal debts" as he was under criminal and civil investigation for an unrelated hedge fund fraud, according to the complaint. Kahn pleaded guilty last month to his role in a \$300 million fraud at that fund, Prophecy Asset Management.

Willkie Farr's misconduct in the FRG transaction was "particularly egregious" because the firm helped Kahn hide the investigations in 2023 from B. Riley, which played a major role in financing the transaction, according to the complaint filed Monday in New York state court. When Kahn's role in the Prophecy collapse became public in late 2023, Franchise Group began a slow collapse that led to bankruptcy a year later amid financial woes that included losses at some of the company's key holdings.



Brian Kahn

Source: SEC Filings

With the bankruptcy, B. Riley lost its entire investment and the collateral securing a \$200 million loan to Kahn, according to the complaint, which seeks \$735 million in damages. It accuses Kahn of fraud, fraudulent inducement, civil conspiracy to defraud and breach of contract. It claims Willkie Farr engaged in aiding and abetting fraud, civil conspiracy and breach of fiduciary duty.

Read More: Brian Kahn's Secrets Led to Broken Promises and FRG's Collapse

A spokeswoman for Willkie Farr said the firm had acted “appropriately and with integrity at all times, consistent with our values and all ethical obligations.”

“We look forward to defeating these meritless claims and remain committed to upholding the highest standards of ethics and professionalism,” the spokeswoman said in a statement.

A lawyer for Kahn didn’t immediately respond to messages seeking comment. Kahn’s wife Lauren is also named as a defendant.

The lawsuit comes as BRC shares have soared this year, making up some of the ground lost after a series of financial and regulatory stumbles cut the shares to penny-stock status.

BRC’s lawsuit arises from a complex series of events that have been the subject of several court cases.

In pleading guilty last month, Kahn admitted he conspired to commit securities fraud at Prophecy, which collapsed in 2020. Kahn’s crimes occurred as he secretly acted as Prophecy’s top trader while also building FRG into a publicly traded company.

FRG, which managed retailers of furniture, vitamins and pet supplies, went private in 2023 but Kahn’s role at Prophecy only became public after another executive at Prophecy pleaded guilty in November 2023. FRG’s collapse crippled B. Riley’s finances and sparked an investigation by the US Securities and Exchange Commission.

Prophecy Payouts

The SEC claims Kahn’s trades lost \$400 million by early 2020 when Prophecy collapsed. When he entered his guilty plea last month, Kahn admitted that he had paid more than \$90 million to Prophecy investors. In 2022, he agreed to pay other investors \$290 million within three years, according to a Delaware lawsuit by a settlement trust created to collect Kahn’s money.

The BRC lawsuit claims that before FRG went private, Kahn and Willkie Farr failed to disclose that Franchise Group had received criminal and civil subpoenas related to the Prophecy investigation. It also claimed that the Prophecy trust was required to consent to Kahn’s settlement in 2022, and that Kahn defaulted on \$30 million that he owed to that trust.

Disclosure of those facts to B. Riley would have been “fatal” to the bid to take FRG private, “which is exactly why Kahn, FRG and Willkie withheld them,” according to the BRC complaint. “Kahn and FRG, with Willkie’s knowledge and oversight, made representations exactly to the contrary of these facts.”

Willkie Farr had helped FRG navigate its bankruptcy until a judge removed the firm in February 2025. The judge said Willkie’s past work for Kahn precluded the firm from drafting any part of the payout plan related to potential lawsuits against Kahn, or against Willkie itself for working on the buyout. Willkie had represented Kahn when he loaded FRG with debt to buy out shareholders in the take-private transaction.

(Updates with details of lawsuit starting in ninth paragraph.)

Willkie Farr Hit With \$735 Million Fraud Lawsuit

A abovethelaw.com/2026/01/willkie-farr-hit-with-735-million-fraud-lawsuit

Joe Patrice

January 20, 2026



It's been an eventful year for Willkie Farr & Gallagher. The firm bent the knee to Donald Trump, [pledging \\$100 million in pro bono payola](#) to avoid having to stand up to the administration's attack on Biglaw. That decision didn't sit well with the firm's own attorneys, triggering [a mass exodus of West Coast partners](#) who fled to Cooley rather than work for a firm they saw as compromising the rule of law.

BRC Group Holdings (the company formerly known as B. Riley Financial) [filed a \\$735 million lawsuit against Willkie this week](#), alleging the firm aided and abetted a fraud in connection with a 2023 take-private deal involving Franchise Group, the company that runs Pet Supplies Plus. According to the lawsuit, fraud was like catnip for Franchise Group founder Brian Kahn, who the plaintiffs allege ran a "sophisticated fraud" to secure funds that helped him pay off debts incurred defending against a *different* hedge fund fraud where [he ultimately pleaded guilty](#). Kahn's wife is also named in the new suit.

BRC and its co-plaintiffs seek disgorgement of Willkie's fees.

Willkie's relationship with Kahn has been star-crossed for a while. Last February, [a Delaware bankruptcy judge removed Willkie](#) from serving as bankruptcy counsel for Franchise Group after amidst [concerns about the firm's conflicts of interest](#). As the judge noted at the time, Willkie failed to create any ethical walls until after the conclusion of the take-private deal, meaning all the knowledge gained by the firm from that transaction was properly "imputed to the firm as a whole."

Now BRC, who led the equity financing for the take-private deal wants its money back and sees Willkie as partly responsible for duping them in the first place.

But, hey, we're finally not talking about the firm signing away its integrity to the Trump administration so look on the bright side!



[Joe Patrice](#) is a senior editor at Above the Law and co-host of [Thinking Like A Lawyer](#). Feel free to [email](#) any tips, questions, or comments. Follow him on [Twitter](#) or [Bluesky](#) if you're interested in law, politics, and a healthy dose of college sports news. Joe also serves as a [Managing Director at RPN Executive Search](#).

Willkie Accused of Aiding and Abetting \$735 Million Fraud

Willkie Farr & Gallagher allegedly represented "diametrically opposed" parties in a take-private deal on a retail holding company and cost one of those parties \$735 million, according to a lawsuit filed in Manhattan Supreme Court on Tuesday.

January 20, 2026 at 04:00 PM By  **Ryan Harroff**

What You Need to Know

- Willkie allegedly helped former Franchise Group Inc. CEO Brian Kahn hide investigations that the DOJ was conducting into his prior fraud while working on a take-private deal that BRC and Kahn were both a part of.
- BRC said it lost \$735 million in the fallout of the take-private deal because of fraud and conspiracy against it by Willkie and Kahn.
- Kahn has admitted to conspiring to commit fraud against another company, Prophecy Asset Management.



Credit: Diego M. Radzinski/ALM

A Willkie Farr & Gallagher client accused the firm in a law suit filed in New York state court Tuesday of breaching its fiduciary duty and conspiring to commit a \$735 million fraud scheme related to a take-private deal for Franchise Group Inc., a retail holding company whose former CEO

Brian Kahn was also a Willkie client who admitted to his role in a related federal securities fraud conspiracy last month.

BRC Group Holdings accused Kahn and Willkie of repeatedly omitting crucial information from filings on the Franchise Group take-private deal before it closed mid-2023 and said that those purportedly hidden details were “fatal” to the success of the business following the deal. BRC said in its Manhattan Supreme Court [complaint](#) that Kahn and Willkie worked together to mislead it in order to make the take-private deal happen, causing BRC to lose \$735 million and making Franchise Group go bankrupt in 2024.

Kahn’s wife Lauren Kahn is also named as a defendant, as she was a guarantor on a \$200 million loan related to the financing with BRC where she and her husband—also a guarantor—allegedly made similar false statements to those in the deal documents for the Franchise Group take-private transaction. The Kahns could not immediately be reached for comment.

According to the complaint, filed by attorneys at New York litigation boutique Wollmuth Maher & Deutsch, Willkie and the Kahns hid important facts from BRC, including that Brian Kahn had committed a “massive fraud” against another now-defunct company, Prophecy Asset Management, that the U.S. Department of Justice was investigating him for that fraud and that Kahn had substantial debts related to a settlement agreement with Prophecy’s investors which precluded him from transferring 2.5 million shares in Franchise Group that were necessary for BRC’s plans after the take-private deal.

In an email to Law.com, a representative for Willkie pushed back on the allegations in the complaint.

“The facts will make clear that our firm acted appropriately and with integrity at all times, consistent with our values and all ethical obligations,” the representative said. “We look forward to defeating these meritless claims and remain committed to upholding the highest standards of ethics and professionalism.”

During the lead up to the take-private deal, the complaint states Willkie was representing both Brian Kahn and BRC.

According to the suit, that was a conflict of interest since Kahn was allegedly just using the take-private deal as a way to get money he owed to the Prophecy investor trust for their settlement agreement, while BRC was looking to profit from the success of Franchise Group. Those interests were “diametrically opposed,” the suit says, but Willkie allegedly kept representing both Kahn and BRC so it could double-dip on fees while helping Kahn make false statements to BRC in deal documents.

“Each document contained representations, warranties, or covenants that Willkie knew to be false or that created obligations Willkie knew Kahn could not fulfill,” the suit says. “By drafting and negotiating these agreements on Kahn’s behalf while owing fiduciary duties to BRC, Willkie placed its own financial interest in maintaining lucrative client relationships above its ethical obligations.”

Once Kahn’s fraud against Prophecy and the related investigations came to light, the suit says the business began to suffer “mainly due to Kahn’s inability to negotiate and close strategic transactions resulting from his taint as an alleged criminal coconspirator in securities fraud.” Kahn would later plead guilty to conspiring to commit securities fraud against Prophecy in New Jersey federal court in December 2025.

The complaint lays out claims against Willkie for aiding and abetting fraud, civil conspiracy to defraud and breach of fiduciary duty, along with other claims against Kahn including fraudulent inducement and breach of contract, with the latter claim also being brought against Lauren Kahn.

BRC is seeking at least \$735 million in damages, as well as punitive damages and costs and attorney's fees.

In an email to Law.com, a representative for BRC said that the company will protect the interests of its shareholders and investors, including special purpose vehicles related to the Franchise Group deal, against Willkie and the Kahns for their alleged fraud scheme.

“As detailed in the complaint, material facts were concealed from BRC Group Holdings,” the representative said. “We are pursuing all possible legal remedies to ensure the losses are recovered. As this is an active legal matter, we do not intend to comment further at this time.”

BRC is itself embroiled in a [securities fraud suit](#) regarding Kahn in California federal court, with a proposed class of investors alleging BRC misled them about the \$200 million loan it made to Kahn as part of the Franchise Group deal, exposing them to substantial risk without proper disclosure. In December, a California federal judge declined to fully dismiss that case and ordered BRC to answer its investors’ first amended complaint by Feb. 17. A representative for BRC declined to comment on the California case.

In the Manhattan Supreme Court case, BRC is represented by Paul R. DeFilippo, R. Scott Thompson, Lyndon M. Tretter, Benjamin A. Gianforti and Nicholas A. Servider of Wollmuth Maher & Deutsch. Counsel information for Willkie and the Kahns was not immediately available.

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News from Bloomberg Terminal

Jan. 21, 2026, 11:30 AM PST

By Matt Levine

(Bloomberg Opinion) --

Moonshots

The point of executive pay is to create incentives. Public companies should structure their chief executive officers' pay packages to encourage the CEOs to act the way the companies want. What do the companies want? I dunno, it depends. Plausibly, for most companies, the answer is something along the lines of "steadily increasing profits." Those companies should give their CEOs pay packages that encourage them to steadily increase the profits. What does this look like? Maybe a nice base salary so the CEO doesn't have to worry about paying rent, a big bonus if profits go up, a chunk of stock options so that the CEO shares in any gains she creates for shareholders. Normal stuff.

One important notion in executive pay theory is that the shareholders of a public company tend to be *less* risk-averse than the CEO, so they have to structure the CEO's pay to encourage her to take risks. The idea is that the shareholders can diversify away the idiosyncratic risk of the company (they can own lots of stocks), while the CEO mostly can't (her paycheck, human capital and reputation are tied to the one company, plus she probably has a lot of stock she can't sell). If the company goes bankrupt, or the stock falls a lot, that's okay for the shareholders – they're diversified – but existentially bad for the CEO. If the company has the opportunity to do a project with an 80% chance of doubling its stock price and a 20% chance of leading to bankruptcy, arguably – arguably – the shareholders will want that and the CEO won't.

And so the board of directors, in fulfilling its fiduciary duties to the shareholders, should try to structure the CEO's compensation in a way that encourages her to do that project. Mostly that means stock options. The stock options are worth zero if the stock goes to zero, and zero if the stock stays flat, and a lot of money if the stock goes up. So the CEO has incentives to take risks, incentives that might overcome her natural risk aversion.

You could go further with this idea. You could think: "Look, modern public markets are highly concentrated, and a lot of the returns in any investor's portfolio will come from a few huge winners. The huge winners are all that matter. For a sensible diversified shareholder, it doesn't matter that much if any stock in your portfolio goes down 100%, or down 10%, or up 10%, or up 50%. All you should care about is finding the stocks that will go up 1,000%, and buying as many of them as possible. If you put 90% of your money into stocks that go down 50%, and 10% of your money into stocks that go up 1,000%, you're better off than if all of your stocks went up 20%. Getting big winners is all that matters." I don't think that this line of reasoning is exactly right, but it has a certain appeal.

If you think like that, you will want the CEOs of your portfolio companies to think like that.¹ If the company has an opportunity to do a project with a 90% chance of abject failure and a 10% chance of huge success, the CEO should do it. Arguably – arguably – startup founder-CEOs operate like that; arguably they take big risks on world-changing projects with low probabilities of success. But public-company CEOs, with steady jobs and established brands and thousands of people reporting to them, usually don't. If you came to the CEO of a successful public company and said "this project has a 90% chance of destroying the company, but," she is going to stop you right there. Absolutely not!

But, you know, incentives. If you give the CEO a pay package that pays her \$0 if the stock goes to zero, and \$0 if the stock is flat, and \$0 if the stock is up 20%, and \$0 if the stock is up 100%,² and one bajillion dollars if the stock is up 1,000%, she will get the message. If someone comes to her and says "this project has a 90% chance of destroying the company, but," she will shrug because *she's indifferent to that*, and if you continue "but it has a 10% chance of increasing our value 2,000%" she will say "ah yes that's just the kind of project I need," and do it.

And this is what you want! In this hypothetical! You want a CEO who takes huge swings, or rather, you want like 20 CEOs who take huge swings, 18 of which won't work out and two of which will. That is the theory of portfolio management that we have constructed here, and the theory of executive compensation that follows from it.

This theory of executive compensation leads to what are often called "moonshot" pay packages, and I suppose it was kind of invented by Elon Musk. It has spread beyond him, and there are now several public-company CEOs who get paid like this, with huge options grants contingent on hitting very aggressive growth targets.

And if you get what you want – if you get a bunch of CEOs with huge moonshot pay packages – then you can't complain when it works out as advertised. In particular, it is a *probabilistic* theory. You should expect *most* of the companies *not* to work out. If *every* CEO got paid the full amount of her moonshot pay target, then your targets were too easy. What you want is, you know, 70% or 80% failure. If you get 98% failure, the targets were too hard and you did not incentivize the plausible risk-taking you wanted.³ If you get 8% failure, the targets were too easy and you're just giving away money.

Anyway here's a Wall Street Journal article saying that the moonshot pay packages are perfectly calibrated:

Promising CEOs the moon hasn't been a great way to get out-of-this-world results.

Dozens of companies—including KKR, Rivian Automotive, Roblox and Robinhood Markets—hammered out \$100-million-plus "moonshot" pay packages with their chiefs in the years after Tesla awarded billions of dollars in stock options to Elon Musk in 2018. The potential for huge payoffs was meant to spur outsize returns.

So far, few of the CEOs have managed to deliver, a new analysis has found.

Shareholder returns trailed the S&P 500 at three-quarters of the 20 companies crafting such pay packages for their chief executive officers in 2020 and 2021, at the peak of the trend. Half of the CEOs forfeited much or all of their stock awards. Four, including the private-equity firm KKR's co-CEOs, have met all their targets for awards recently valued at a combined \$2.6 billion. Where the meter is still running, CEOs have earned only about a quarter of the total, on average.

Yeah but the first Elon Musk package did work out. The returns are supposed to trail the S&P at most of the companies! Most of the CEOs are supposed to forfeit the awards! Otherwise they wouldn't be moonshots.

I'm exaggerating a little. In fact what often happens is that the CEO doesn't hit the super-aggressive targets to get the award, and the board says "meh but she's doing such a good job anyway," tears up the compensation package and gives her a big normal bonus anyway:

Roblox canceled a 2021 award for David Baszucki, originally valued at just over \$230 million, three years into a seven-year term, before any was earned. Roblox said the arrangement "was no longer satisfying the Company's compensation objectives" of aligning Baszucki's long-term interests with shareholders' while discouraging risk-taking for short-term results. The company switched to making annual equity grants.

Yeah, the boards don't really believe in the moonshot stuff either.

Bleebzorz!

I wrote yesterday about, honestly, some stupid stuff. The gist of the story is that a guy named Steve Yegge did an open-source artificial intelligence thing called Gas Town, and then someone launched a meme token referencing Gas Town on a crypto platform called Bags, and that token (\$GAS) traded a lot at valuations as high as \$40 million – for nothing! – and generated some royalties (i.e. trading fees) on Bags, which apparently Yegge collected. Memecoin venture capital, I called it: You have Yegge doing a business, and then you have some anonymous financier on Bags providing him financing, and making money, with, uh, whatever this is.

I got some emails! One point I made was that using meme tokens – things with *no* economic rights – to finance projects is an innovation of crypto. "It is genuinely novel," I wrote. "People did not raise money like that, before." That was a little loose, and naturally readers proposed possible antecedents. Is "Green Bay Packers stock" also a form of meme-token financing that long predates crypto? Sure, maybe, sort of.⁴ Maybe you can think of other examples.

Another reader pointed out that, on Monday, Pump.fun – another memecoin platform – launched its own actual venture program, called the Pump Fund. Sure!

That reader also argued:

Becoming involved with crypto like this, launching a token associated with your real identity, has to be a top 10 way to ruin one's life, in a way that starting a normal company is not.

While a coin may not give “rights” to its holders, e.g. dividends, tokens’ creators have more obligations than the founders of a normal company. If you found a company and it doesn’t work out, people are at least polite about it and probably say “Better luck next time.” If you launch a token and walk away from it, crypto people will publicly harass and shame you for years.

On the one hand, I believe this. On the other hand, tell it to Eric Adams.

Another email I got was from a guy who collects, and launched a platform for trading, Chuck E. Cheese tokens. This has nothing really to do with crypto but is kind of funny. Someone else has a crypto token backed by physical US pennies in “a vault you can visit.”

And then I got like a dozen emails about something else. In describing this mechanism of financing through memecoins, I made a joke about “The Bleebox Network,” so of course someone launched that on Bags. The royalties (i.e. trading fees), apparently, are directed to my X account. I don’t know what that means, exactly; I assume that it means that I can collect the royalties and no one else can.⁵ I have not collected the royalties, I do not know how to collect the royalties, and I would not collect the royalties even if I could. (As of noon today they were about \$9,500.) But for the record I suppose I should say:

1. I have no involvement in this and do not endorse it. I suppose I *should* have anticipated that something like this would happen, but I honestly didn’t.
2. While I do not give investing advice, this is obviously dumb and I personally would not, and will not, buy any \$BLEEBZORX. In fact, I will go so far as to say that, if you do buy it, you will definitely lose 100% of the money that you put into \$BLEEBZORX, and also your self-respect and the respect of your loved ones. “Ooh I bought Bleebox tokens,” listen to yourself.
3. I am not going to collect the royalties that are supposedly accruing in my name.
4. That said, I do understand that memecoins run on attention and that, by writing about this, I might increase its price and volume and thus the royalties. (“Allow me to get richer just by telling you about it,” Yegge wrote.) I also recognize that many of the people who emailed me to tell me about it probably own \$BLEEBZORX coins and were hoping that I would write about it so the price would go up.⁶ I am writing about it for journalistic and amusement purposes, not to pump it, but I recognize that in doing so I might be pumping it.
5. I am trying not to! I really truly do not want you to go around trading \$BLEEBZORX for speculation or to generate royalties for me, for a variety of reasons, including (1) I will not collect the royalties so you’re not doing me any favors, (2) the thing above about people ruining their lives by being associated with memecoins and (3) I like to think that this column is a classy establishment and I would be very embarrassed if my readers were going around falling for dumb memecoin pumps.
6. Because memecoins thrive on attention, I am not going to write about this *again*. I will pay no more attention to \$BLEEBZORX, so you should not buy it to bet on my continued attention.

Slow roll

Most of the time, when a company signs an agreement to acquire another company, it's because it wants to acquire the other company. The agreement means what it says: Company A signs a merger agreement to buy Company B because Company A wants to own Company B. Company B has something – employees, customers, products, etc. – that Company A wants, so Company A agrees to buy it.

It is possible to imagine degenerate cases, mergers-and-acquisitions cases where Company A signs an agreement to buy Company B *without* actually wanting to do it. For instance: Company A might fear Company B as a competitor. It might not care very much about acquiring Company B's employees or products or know-how, but it might want to stop Company B from using them. Traditionally one way to do that *is* by buying Company B – it is not unheard-of for a company to buy a competitor to shut it down – but you could get creative. For instance:

1. You might go to a smaller competitor and say “hey, we love what you’re doing, we’d like to buy you at a big premium.” They are like “cool great we’d love that.” You sign a confidentiality agreement and maybe a letter of intent and you start on due diligence. You get copies of all their customer contracts, you interview their employees and customers, you tour their factories, you look at their financial accounts, and you generally get a sense of how their business ticks. Your due diligence is lengthy and onerous, distracting them from doing their jobs. Then you steal all the good ideas for yourself, call all their customers and offer better deals, and never actually sign a merger agreement. You use the pretense of a merger to get inside their business, so you can compete better yourself.
2. You might see a promising smaller competitor with a great product and team, but not enough money to compete with you. The worry here is that someone *else* will give them the money. For instance, one of your *big* competitors might acquire the small competitor and scale up its product to compete with you. To prevent that, *you* can pretend to buy the small company: You show up, you offer a great price, you sign a letter of intent, you get a few months of exclusivity, your big competitors can't buy the small company, and you don't have to either. You've just frozen them out of competing with you while negotiations drag on.

Both of these sound a little far-fetched, but we have talked about alleged examples. In 2024, Propel Fuels Inc. accused Phillips 66 Co. of doing the first thing, pretending to want to buy Propel to steal its ideas and customers in due diligence. (Propel won its lawsuit.) And last year Pfizer Inc. accused Novo Nordisk A/S of doing the second thing, pretending to want to buy a small weight-loss biotech called Metsera Inc. to prevent Pfizer from actually buying it. (Novo dropped its bid after antitrust regulators raised questions.)

Here's another alleged case, from a lawsuit filed earlier this month. Planet Networks Inc. is a fiber internet company in New Jersey. “In recent years, it has strived to expand its business beyond its New Jersey roots, ... especially [to] rural areas in New York that have little to no existing fiber infrastructure, such as the Hudson Valley.” It needed some financing to do that. It got an offer for \$100 million of equity financing from one investment firm. But then it got another offer for \$50 million of debt financing from another investment firm, Post Road Group.

Post Road's deal was better, but it "had a wrinkle": Post Road "had publicly committed hundreds of millions of dollars to ... Archtop [Fiber LLC], a newly-formed fiber Internet startup that staked virtually its entire business on being the first fiber provider in the Hudson Valley." Planet was skeptical, but Post Road assured it that it was no problem. So Planet signed a term sheet with Post Road, in which Post Road gave it a \$12 million bridge loan and also agreed to exclusively negotiate the full \$50 million investment. And then, Planet says:

Once PRG had locked Planet into exclusivity—thereby tying Planet's hands so that it could not negotiate with other lenders and was thus entirely dependent on PRG for funding—PRG completely changed its tune. In a shocking about-face, PRG immediately began improperly demanding that Planet cease its expansion efforts in New York for Archtop's benefit. For instance, PRG even went so far as to wrongly demand that Planet hand its New York asset, Fiberlinc, over to Archtop to aid Archtop in establishing a New York presence. PRG made clear that Planet could not obtain the promised funding from PRG unless it capitulated to these wrongful demands.

Moreover, PRG proceeded to slow roll Planet and bombard it with an endless stream of burdensome and often irrelevant requests under the guise of conducting diligence. As Planet and Mr. Boyle later discovered, the purpose of these requests was not to conduct "diligence." And PRG was not implementing strict information walls between Fund II (Planet) and Fund I (Archtop). Shockingly, not only was [the same PRG managing director] leading PRG's investments in both Planet and Archtop—a clear breach of PRG's obligation to implement information walls between the two investments—he was also taking Planet's confidential information and directly feeding it in real time to Archtop so that Archtop could exploit it for its own benefit. Over time, it has become clear to Planet that PRG's "investment" in Planet was no investment at all. Instead, it was a scheme ... to sabotage Planet's expansion into New York and steal its trade secrets, including proprietary, non-public, and competitively sensitive information relating to its permitting maps, technologies, business opportunities, and vendor relationships that [Planet] has spent decades developing (the "Trade Secrets").

A little of both, allegedly: a pretend investment to stop someone else from investing in Planet, and to get enough information to compete against it better. The lesson is, I guess, watch out for fake takeovers.

AI securitizations

I frequently joke around here that the one thing standing between humanity and super-intelligent robots that will usher in a paradise of abundance, and/or enslave and murder everyone, is, like, copyright law, or insurance pricing. That is: We have some legal and financial technologies that are adapted to our existing world, and those technologies are *not* well suited to the development of artificial superintelligence, and so even if the AI utopia/dystopia is possible as a matter of human ingenuity and computer technology, it is prevented by our legal and financial technologies.

This is kind of a joke, but also kind of an ode to the unsung importance of legal and financial technologies. "Why shouldn't the greatest peaks of human achievement be the results of tax structuring," I once wrote: Humanity's achievements are limited only by our imaginations and also our regulatory regimes.

Anyway, at the Financial Times, Huw van Steenis writes that Europe can't develop artificial superintelligence because it has the wrong treatment of securitizations for insurance capital regulation:

Europe's ambitions to build out artificial intelligence, data centre and energy infrastructure are colliding with an awkward – and familiar – financing reality: the continent lacks the depth of long-dated investment capital needed to fund them. ...

A key part of the problem is that insurers – the natural buyers of senior securitised tranches – have been straitjacketed by Solvency II capital rules which came into effect in 2016. European life insurers currently hold just 0.4 per cent of their portfolios in securitisations, compared with 17 per cent for their US peers. While well intentioned, the unintended consequence of Solvency II is Europe's largest pool of patient capital is severely curtailed.

Yes.

AI insurance

That said! You could write a science fiction novel with the opposite premise. Something like: We have various legal and financial technologies that are adapted to our current world, but those technologies are themselves increasingly being *run by AI*, and if the machines become superintelligent and evil, they will naturally collude to use the financial and legal systems to advance their dreams of a robot takeover. For instance, what if insurance pricing is *not* the one thing standing between humanity and super-intelligent killer robots? What if insurance pricing is controlled by AI, which will use it to *usher in* the killer robots? Bloomberg's Edward Ludlow reports:

Insurance provider Lemonade Inc. is rolling out automotive policies for users of Tesla Inc.'s driver-assistance system, seeking to capitalize on interest in the technology.

The new plans will cut per-mile rates by about 50% when customers have Tesla's Full Self-Driving system engaged, Lemonade said Wednesday in a statement. The decade-old insurance firm, which uses artificial intelligence to price policies and process claims, will begin offering the option to Tesla drivers in Arizona this month before expanding to Oregon in February.

Lemonade says the lower rates reflect "what the data shows to be significantly reduced risk" when the system Tesla markets as FSD is engaged, echoing claims made by Tesla Chief Executive Officer Elon Musk. Comprehensive safety data for driver-assistance technology is limited, and FSD is under investigation by the US National Highway Traffic Safety Administration over numerous incidents in which vehicles violated traffic laws.

I'm kidding, probably. But it is a little convenient that the AI insurance likes the AI cars so much.

Things happen

TACO reflexivity. Trump's Push to Fire Fed's Cook Runs Into Skepticism in Supreme Court Hearing. Race to Unmask Insider Bets in Prediction Markets Is Heating Up. Nvidia CEO Says AI Will Create Jobs For Electricians and Plumbers. Colleges Are Letting AI Bots Help Make Decisions on Who to Admit. Chevron's Dilemma in Venezuela: Support Trump's Vision Without Losing Money. Halliburton and Its Rivals Can't Wait to Get Back Into Venezuela. Quants in Worst Drawdown Since October as Crowded Bets Buckle. Why Elon Musk Is Racing to Take SpaceX Public. Trump coin price plunges 94% in a year as memecoin frenzy fades. Vape Firm That Boasted of \$1 Billion in Revenue Sold for £76,500. "Trump earlier this month called for a one-year, 10% cap on credit card rates to go into effect on Jan. 20, a deadline that came and went without noticeable changes from the industry."

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1. Or, at least, you will want the CEOs of *some* of the companies – the companies that plausibly *could* go up 1,000% – to think like that. Maybe if you own a ball bearings company you are like "okay fine that one should just work on steadily increasing profits."
2. Or, like, \$1 million in all of the downside-to-modest-upside cases. Or even some linear increasing function. Just not very much relative to her potential net worth, or relative to the moonshot payout.
3. Numbers here are pretty fake and tied to my schematic notion that you want a 10% chance of 10x returns, but really you have to do your own calibration.
4. I believe there are governance rights.
5. Or, like, Elon Musk can? Anyone with access to my X account can?
6. Not all of them; some of them were like "lol look how dumb this is." But a lot of them were pretty transparent about wanting me to draw attention to it, and I can take a guess at why.

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Securities

Insight

Accounting Board Needs to Define Stablecoins, Clarify AI in 2026

Jan. 21, 2026, 1:30 AM PST

The Financial Accounting Standards Board had a busy year in 2025, issuing 12 accounting standards updates, the most since 2019, covering topics from government grants to simplifying applications for expected credit losses, while finalizing its review process for lease accounting.

These updates focused on improving and modernizing previously issued guidance. This year, FASB will likely be looking to provide guidance that addresses the intersection of accounting and decentralized finance by continuing two priorities already on their technical agenda—and starting one that isn't there yet.

FASB responded to an evolving DeFi landscape by issuing cryptocurrency guidance in 2023. Now it needs to complete the projects it added to its technical agenda by addressing the balance sheet classification of stablecoins and the scope of the digital asset guidance to determine if it includes wrapped tokens and receipt tokens. It also should address accounting challenges presented by artificial intelligence proliferation and the circular deals between AI firms and chipmakers.

These three technical accounting areas, if left unsettled, represent heightened risks to investors at a time when cryptocurrencies and AI-aligned companies are volatile and difficult to understand for those outside DeFi companies or industry. They are areas where common nomenclature doesn't match the fundamentals.

For instance, we call Bitcoin cryptocurrency, but FASB rightfully determined it isn't currency. What investors hear isn't always what they see in the financial statements. FASB should close that gap in 2026.

That gap was exacerbated in 2025 when the US enacted the GENIUS Act, which established federal guidelines and reporting frameworks for payment stablecoins—essentially blockchain-based assets meant to mirror the value of fiat currency or some other commodity.

Stablecoins shouldn't be confused with wrapped tokens—another project on FASB's technical agenda—which allow a user to create a token that mirrors an asset on one blockchain so that it can be used in transactions on another blockchain.

Both derivative assets derive their value from another asset, either a fiat currency like the US dollar in the case of stablecoins or a wallet-holding bitcoin that wants to transact on the Ethereum blockchain in the case of wrapped tokens. And both asset classes currently fall outside of FASB's authoritative guidance.

FASB must determine if wrapped tokens fall within its 2023 cryptocurrency guidance. I predict they will rule as such. For stablecoins, FASB must find where on the balance sheet they belong. For certified public accountants and investors, that classification is less clear.

In a way that seems to limit the Securities and Exchange Commission or Commodity Futures Trading Commission from regulating the digital assets, the GENIUS Act explicitly states that stablecoins aren't commodities and they aren't securities. So what are they? Stablecoins under existing US generally accepted accounting principles could reasonably meet the definition of an intangible asset carried at fair value, a financial instrument separate from intangible assets, or other intangible assets subject to impairment.

To further complicate their accounting, under IRS guidance, they are treated as property. Users treat them as digital cash. Enrolled agents treat them as property. CPAs treat them as either intangibles or financial instruments. But no standard setters or regulators treat them as cash or cash equivalents, possibly due to recent frauds in their creation and holding.

If FASB reads the guidance in the GENIUS Act loosely and considers stablecoins as cash equivalents alongside US Treasury bills, we would have clear guidance on stablecoins, but that guidance would be detrimental to investors. Treasury bills and dollar bills are liquid—stablecoins may not be. FASB must grapple with the political realities and the economic risks of these policies.

The other emerging challenge not (yet) on FASB's technical agenda is updating disclosure guidance to address the growing circular nature of revenue-producing transactions between AI companies and chipmakers, where the chipmakers invest in the AI companies who then purchase chips back from the AI companies.

While existing FASB guidance for revenue recognition should be enough to ensure accurate accounting for such arrangements, disclosure requirements around these transactions and the leasing of data centers likely need enhancements.

Deeper explanations of arm's-length transactions between these entities need to be added to disclosure notes alongside the risks to the bottom line of such transactions not continuing. Right now, investors are left to sift through the detailed and complex transactions themselves.

For years, FASB delayed formal guidance for cryptocurrencies despite calls from the crypto industry and CPAs to clarify the guidance. For 2026, they're already showing flexibility and are quickly responding to DeFi risks by addressing the accounting for the complex instruments that digital asset companies create and monetize.

From stablecoins to AI, FASB will have to weigh standards that match politics against ones that match economic reality and risks. Investors should hope they choose the latter for 2026 and beyond.

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Securities

UK Drops Audit Reform After Eight Years as It Chases More Growth

Jan. 20, 2026, 11:56 AM PST

The UK government said Tuesday it had abandoned long-standing plans to improve audit quality after a string of scandals, because the reforms would have been too expensive for companies to implement.

Scrapping a broad package of long-promised audit reforms would “avoid significant new costs for large firms,” the Department for Business and Trade said in an announcement of measures to boost business growth. Instead, the government will emphasize moves to simplify corporate reporting requirements.

“We have reached the difficult decision not to consult” over audit reform, Blair McDougall, minister for small business and economic transformation, said in written comments Monday.

Successive UK governments have pledged to reform the audit market since 2018, when construction giant Carillion plc collapsed without warning from its auditor, KPMG. Proposals included setting up a new watchdog to replace the Financial Reporting Council; forcing big firms to separate their audit and consulting arms to improve independence; and expanding the list of public interest entities, or companies of national importance subject to tighter regulation.

The current Labour government emphasized the importance of passing these reforms in the King’s Speech of July 2024 setting out its legislative agenda. Previous governments had blamed a series of events—from Brexit to the Covid-19 pandemic—for never passing the necessary legislation.

In addition to the increased costs for companies that risked hindering economic growth, the government lacks time to pass audit measures amid other legislative priorities, McDougall said in his explanation. There is less need for audit reform now because the FRC has already strengthened regulation, increased staffing levels, and hiked fines for bad audits since Carillion’s collapse, he added.

“We intend to focus instead on the simplification and modernisation of corporate reporting,” McDougall said. The government will consult later this year on plans to cut reporting requirements, for example removing requirements for directors to issue reports explaining things like company strategy.

Narrower Change

Rather than setting up a new, more powerful regulator, McDougall said the government plans to put FRC on statutory footing, giving it the legal power to enforce government policy.

In particular, companies and accounting firms would face a legal obligation to fund the council, which currently runs on voluntary donations.

Such a move would put the FRC on par with other UK financial regulators, Richard Moriarty, CEO of the watchdog, said by email. "The Government's confirmation that it intends to put the FRC on a full statutory footing is welcome news," Moriarty said.

This more targeted reform would still require legislation, however.

Even with statutory footing, the FRC would continue to lack some authorities, including the power to enforce a 2024 voluntary agreement with the biggest auditors to separate their audit and consulting arms.

It also can't fine anyone but qualified accountants. In January, two former finance directors of Carillion were fined by markets watchdog the Financial Conduct Authority, rather than the FRC.

"The issue of director accountability remains far from resolved, and there is an urgent need to clarify the scope of the FRC's role and powers," Gail Boag, CEO of the Institute of Chartered Accountants of Scotland, said in an emailed statement.

'Deeply Disappointing'

The decision to drop reforms is "predictable but depressing," Sheffield University accounting professor Adam Leaver said in an interview Monday. "Labour have decided that the answer to audit failure is to regulate the sector less—you couldn't make it up," he said.

Leaver listed a long catalog of audit failures that included a lack of red flags before the 2016 collapse of retailer BHS, in addition to Carillion. He also pointed to the need to expand the definition of PIEs, which currently excludes giant private or state-owned companies like the UK Post Office.

The FRC launched an investigation last April into Post Office auditor Ernst & Young and its failure to flag problems with an accounting IT system that led to more than 900 sub-postmasters being falsely prosecuted from 1999 to 2015. The state mail service has paid out more than £1 billion (\$1.3 billion) in compensation for the erroneous allegations of theft.

UK accounting bodies generally responded to the binned audit reforms with howls of protest.

"We cannot hide our disappointment," Alan Vallance, CEO of the Institute of Chartered Accountants in England and Wales, said by email.

Similarly, Anne Kiem, CEO of the Chartered Institute of Internal Auditors, called the decision "deeply disappointing."

Maggie McGhee, executive director for strategy and governance at the Association of Chartered Certified Accountants, said reforms were a priority because “businesses do not grow where corporate governance is below par.”

Big audit firms had also backed the changes.

Allee Bonnard, managing partner for audit and assurance at Deloitte UK, welcomed the plan to simplify corporate reporting but said the firm had supported audit reform as well. “We’ve been consistent in our support for change over the past eight years,” she said.

The other Big Four firms—KPMG, Ernst & Young, and PwC—have voiced consistent support for audit reform. They all declined to comment on the plans being canceled.

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Analysis | **Corporate Governance**

JPMorgan Chase Says AI Can Replace Proxy Advisers, but Others Have Their Doubts

The bank's CEO, Jamie Dimon, speaks contemptuously of the proxy advisory firms—which provide voting guidance to institutional investors—but others see their value and question whether AI is up to the task.

January 20, 2026 at 02:30 PM By **Michael Gennaro**



JPMorgan Chase CEO Jamie Dimon shares President Donald Trump's disdain for proxy advisory firms.
Photo: Richard Drew/AP

Don't write off proxy advisory firms yet.

JPMorgan Chase rocked the world of corporate governance earlier this month when it announced it would no longer turn to proxy advisory firms for guidance on how to vote shares held by its millions of investment-advisory clients, who collectively hold \$7 trillion. Instead, it said it would rely on a new artificial intelligence platform, starting with this spring's annual meetings.

The New York City-based bank's snubbing of proxy advisory firms comes at a time that the two firms dominating that business—Institutional Shareholder Services and Glass Lewis—are under

assault from President Donald Trump, who calls them too influential and too left-leaning.

The move by the nation's largest bank raised the specter that other corporate titans would take similar action, swiftly shriveling the ISS and Glass Lewis' influence on a range of high-stakes governance matters—from executive compensation packages to board diversity requirements to activist investor campaigns seeking to install new directors.

But governance experts say JPMorgan Chase's view that proxy advisers are expendable is a reflection of CEO Jamie Dimon's long-held animus toward the firms, and that many corporate executives and boards view the firms more favorably, reducing the likelihood that JPMorgan's move will trigger a stampede across corporate America.

"I think that Mr. Dimon has long expressed frustration with the advisers, and I'm not surprised that in this environment, he's decided to cut ties," said Charles Elson, a retired University of Delaware business professor who founded the school's Weinberg Center for Corporate Governance. "I think if there was a time to do it, this was his time to do it."

Elson said the move appeared "rather personal" to Dimon, who has waged a years-long campaign against proxy advisers. [At BlackRock's retirement summit last March](#), Dimon called the firms "incompetent" and declared they "should be gone and dead, done with."

Speaking [at the Reagan National Economic Forum in June](#), Dimon turned up the rhetoric, calling proxy advisory firms "a cancer" that use their platform to promote "green stuff and comp stuff and social stuff," rather than focusing on corporate performance.

Dimon's timing aligns with mounting political pressure on the firms, Elson noted. Trump escalated scrutiny in December with an executive order directing federal regulators to investigate proxy advisers, citing concerns that their influence reflects political agendas rather than fiduciary duty.

Republican attorneys general in Texas, Florida and Mississippi have launched investigations into ISS and Glass Lewis over their environmental, social and governance policies.

Elson doesn't expect a wave of followers, noting that proxy advisory firms provide valuable cost savings for institutional investors managing voting across thousands of companies.

"They save you money in determining how to vote," Elson said, adding that proxy advisers remain "really important" for most investment funds.

"Replacing that infrastructure—even with AI—may require hiring additional staff to oversee the system, potentially increasing expenses rather than reducing them."

After Dimon's repeated attacks on proxy advisers in the first half of 2025, Marcie Frost, CEO of CalPERS, raced to their defense. Following a CalPERS board meeting, she said, "While we ultimately make our own decisions, proxy advisory firms provide valuable research, grounded in governance best practices. Their work enhances transparency, promotes accountability and empowers shareholders to exercise their rights effectively."

While Dimon criticizes proxy advisers as being too activist, some progressive organizations call them too status quo.

For example, in an interview with Law.com, Andrew Behar, CEO of As You Sow, a nonprofit advocating for corporate social responsibility, noted that proxy advisers' recommendations back management the vast majority of the time.

"JPMorgan going to AI for their proxy voting, I don't think it's going to have much of an impact, to be honest, I think they're going to be voting the way they voted before," Behar said. "They're using AI to gather the information they need to make their decision, but their decisions are pretty much management-centric."

Jonathan Gardner, managing partner and head of litigation at Labaton Keller Sucharow, said that he was surprised that JPMorgan Chase had decided to rely on AI, given the nascent state of AI technology in fiduciary contexts.

"I've got questions about whether the tech is ready and capable of replacing human analysis," Gardner said.

As a fiduciary under the Investment Advisers Act, JPMorgan Chase is legally obligated to vote shares in clients' best interests. If the AI system makes poor voting recommendations that harm portfolio performance, the bank could face lawsuits alleging breach of fiduciary duty—claims it previously could defend in part by pointing to independent third-party research.

Elson agreed. "If you simply ... turn it over to AI and it doesn't work out, it doesn't vote in an intelligent, rational manner, then you're going to be responsible for it."

Gardner said JPMorgan Chase's plan to use AI also raises transparency questions. For example, he said, who will train the AI models, what data will inform recommendations, and will the system will adopt conservative or progressive approaches to governance issues?

"There's a lot of risk involved," Gardner said.

Securities

Race to Unmask Insider Bets in Prediction Markets Is Heating Up

Jan. 21, 2026, 2:18 AM PST

At a time when people are using prediction markets to bet on whether the US will take control of Greenland, the race to identify potential insider trading on the platforms is intensifying.

Unusual Whales, a financial data provider best known for its annual report on congressional stock trading, has launched a tool that scours the prediction platform Polymarket for unusual activity and suspected insider bets.

"We thought prediction markets were almost a required expansion for us because the next big insider trade might not be in Congress, it might not be in the stock market, it may be in prediction markets," Matt Saincome, who joined the company last year as CEO, said in an interview.

Well-timed and hugely profitable bets placed just before this month's ouster of Venezuela's Nicolás Maduro have sparked an uproar over potential insider trading on prediction platforms, inspired new legislation and kicked off a contest to identify traders with confidential information.

Some fans of prediction markets have argued that they are valuable precisely because they offer an incentive for people with privileged information to put their money on the line and improve the market signals available to the public. Others see betting on politics and sports by insiders as inherently unfair.

Unusual Whales is not the only company trying to spot traders with confidential info. Insider Finder, a rival tool, also hunts for large anomalous transactions on Polymarket. Its creator, Tre Upshaw, said earlier this month that a \$2 million funding round for the business is in the final stages.

Read more: [The Man Betting on Insider Trading as Prediction Markets Boom](#)

San Francisco-based Unusual Whales caused a stir in 2021 with a report on congressional trading that put the spotlight on how lawmakers might use privileged information. Its data forms the basis for the Unusual Whales Subversive Democratic Trading exchange-traded fund, which has outperformed the S&P 500 by roughly 10% since inception.

For Saincome, there's a connection between Unusual Whales' work analyzing lawmakers' stock trades and its attempts to sniff out insiders on prediction markets. The tool his company developed, Unusual Predictions, seeks to identify traders with privileged information using metrics such as profitability, trading history and the timing of their wagers. Clients can then put that intelligence to work on prediction or stock markets.

"We've been tracking potential insider trades and suspicious politician trades for years and years," said Saincome.

Unusual Prediction tracks trades on Polymarket, which offers a window into prediction market trading by logging transactions on a public ledger using blockchain technology. Most prediction markets do not offer trading records on specific accounts. A spokesperson for Polymarket said the company "generally welcomes" projects that want to build on its platform.

Read more: Bets on Maduro, Jesus Reveal Promise and Risks of Prediction Markets

The agency that oversees these exchanges in the US, the Commodity Futures Trading Commission, has maintained a light touch and said little about how it views insider trading. Few expect a crackdown given the Trump administration's hands off approach to financial regulation.

Polymarket's main exchange operates internationally and is technically closed to US residents. It does not conduct identity checks.

Representative Ritchie Torres, a New York Democrat, has attracted co-sponsors for legislation barring federal officials from trading contracts tied to policy outcomes if they hold — or could reasonably obtain — material non-public information through their official duties.

Read More: How Prediction Markets Turned the World Into a Casino

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4th Circ. Caps Under Armour's Insurance Coverage At \$100M

By **Mark Payne**

Law360 (January 20, 2026, 3:38 PM EST) -- Under Armour's public financial forecasts and its accounting practices are a single claim under its insurers' excess policy language because they are "logically or causally related," the Fourth Circuit found Tuesday, overturning a trial court's ruling and capping the sportswear company's coverage at \$100 million.

U.S. Circuit Judge A. Marvin Quattlebaum Jr. wrote in the **opinion** that, under the "plain meaning of the parties' insurance policy," the sportswear company wasn't entitled to additional coverage under two separate policies.

"Under the policy's language, Under Armour's public financial forecasts and its accounting practices are a single claim because, as the policy defines that term, they are 'logically or causally related,'" Quattlebaum wrote for the panel. "Thus, they form a single insurance claim."

The lower court, in favoring Under Armour, had found that the financial forecasts and accounting practices constituted two claims and therefore two separate policy limits under the company's 10 excess insurance providers. Those excess insurers capped limits at \$10 million each, or \$100 million total, with two claims possibly maxing out at \$200 million.

In the underlying lawsuit dating back to February 2017, Under Armour shareholder Brian Breech filed a securities action against the company, alleging that the company "made false and/or misleading statements as well as failed to disclose material adverse facts about [Under Armour]'s business, operations and prospects."

Later that year, the U.S. Securities and Exchange Commission started an investigation into whether the company violated federal securities laws. In 2019, the U.S. Department of Justice opened a civil and criminal investigation into whether Under Armour moved sales revenue to different financial quarters to make it appear more financially healthy.

Endurance American Insurance Co. and other excess carriers, including AIG unit National Union Fire Insurance Co., covered the shareholder litigation and investigations during the 2016-2017 policy period. However, they denied coverage under the 2017-2018 policy for the government investigations and subsequent issues arising from that action.

When Endurance, later joined by the excess carriers, sued in September 2022, it sought to show that it was responsible only for the 2016-2017 policy. The insurers argued that the single or related claims provision in their policies meant that it would cover only one claim because Under Armour's actions stemmed from the same misconduct.

U.S. District Judge Richard D. Bennett held that Under Armour was covered under both policies because of an endorsement under the 2017-2018 policy. In the original provision, all claims coming from the same act shall be found to be one claim. But the endorsement said that all claims arising from the same incident that are "logically or causally related" constitute a single claim.

The Fourth Circuit panel disagreed with Bennett's logic, finding that the dispute over the endorsement's definition didn't matter.

"Even assuming without deciding that Under Armour is right, that only the endorsement language

applies, the issues involved in the government investigations are logically and causally related to those involved in the earlier claims," Judge Quattlebaum wrote.

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

Under Armour is represented by Michael T. Sharkey, Jonathan G. Hardin and Molly A. Olds of Perkins Coie LLP.

The insurers are represented by attorneys from Wiley Rein LLP, DLA Piper, Werner Ahari Mangel LLP, Azrael Franz Schwab Lipowitz & Solter LLC, Kaufman Borgeest & Ryan LLP, Walker Murphy & Nelson LLP, Ropers Majeski PC, Kennedys CMK, Bailey Cavalieri LLC and Peabody & Arnold LLP.

The case is Navigators Insurance Co. et al. v. Under Armour Inc., case number 25-1068, in the U.S. Court of Appeals for the Fourth Circuit.

--Additional reporting by Hope Patti. Editing by Emma Brauer.

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CorMedix Investors Seek First OK Of Governance Reform Deal

By **Katryna Perera**

Law360 (January 20, 2026, 4:57 PM EST) -- Investors in CorMedix Inc. have told a New Jersey federal judge that company directors have agreed to implement several corporate governance reforms to resolve a consolidated shareholder derivative lawsuit accusing the executives of making misleading statements about delays in the regulatory approval of the company's lead drug candidate.

On Monday, investors filed a **motion** for preliminary approval, saying that under the terms of the deal, CorMedix would implement and maintain the reforms for at least 3.5 years.

According to the motion, the defendants have agreed to create and adopt a charter for a new management-level disclosure committee; enhance the duties and responsibilities of the company's board-level nominating and governance committee; institute enhanced annual training for company officers on risk assessment and legal and regulatory compliance, as well as other matters; and create a chief manufacturing officer role for managing CorMedix's pharmaceutical development and testing procedures and policies.

The plaintiffs still think that "the derivative claims are meritorious," the motion said, adding: "But the settlement's guarantee of the valuable, long-term reforms better serves the company's interests than continued litigation in pursuit of the highly speculative chance that any meaningful recovery might be secured at trial(s) years from now, particularly when discounted by the substantial costs, delay, and distraction such litigation would entail, and the risk that further litigation would yield no recovery at all."

According to the investors, during settlement negotiations, the parties couldn't reach an agreement on the amount of attorney fees that the plaintiffs' counsel would seek, but the motion said that their counsel would file a fee and expenses motion for final settlement approval.

The motion added that the plaintiffs' counsel would seek a \$5,000 service award for each lead plaintiff.

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

The litigation began in 2021, when CorMedix stockholder Melissa Voter **filed suit**, claiming that the company's share price plunged from \$15 to \$9.02 after the truth about manufacturing problems with CorMedix's antibacterial product candidate began to emerge during an earnings call.

CorMedix, based in Berkeley Heights, New Jersey, submitted a new drug application to the U.S. Food and Drug Administration for DefenCath in July 2020, the complaint said. The submission was accompanied by a press release in which then-CorMedix CEO Khoso Baluch touted the development as a "significant accomplishment," the complaint said.

In a press release the following month, the company said that DefenCath's manufacturing was "well-supported" thanks to research and development investments, and it attributed a second-quarter loss in fiscal year 2020 to its \$3.4 million purchase of raw materials for the product's production.

That same day, CorMedix filed a Form 10-Q with the U.S. Securities and Exchange Commission that indicated that the company had "not been informed of any delays by the FDA in the review of the NDA." The filing included certifications that the company had complied with the Securities and

Exchange Act, the complaint said.

The company kept shareholders abreast of the regulatory approval progress of DefenCath in subsequent press releases, quoting positive updates by Baluch and others, the complaint said. The company's Form 10-Q for the third quarter of 2020 included the same certifications of compliance with securities law, according to the complaint.

But the nature of the public statements changed in March 2021, when the company announced the FDA could not approve DefenCath "in its present form," the complaint said. CorMedix said the agency didn't specify the issues, and it pledged to work with its manufacturing facility to find a resolution once the problems were fully revealed, according to the complaint. The company's stock tumbled 39.87% on the news, the complaint said.

The manufacturing issues came to light by the end of that month, when the company issued a press release indicating that the FDA had requested the company conduct a "manual extraction study to demonstrate that the labeled volume can be consistently withdrawn from vials," the complaint said.

During a March 30, 2021, earnings call, investors were told that the FDA had identified six deficiencies in the manufacturing process and that the company had developed the protocol for the manual extraction study, the complaint said. That same day, the company filed an annual report with the SEC that assured investors its contract manufacturing organization had enough capacity to produce the needed volumes of DefenCath. It added that there were "potential alternative sources" and third-party manufacturers, the complaint said.

The stock price fell again in April 2021, this time by 15.37%, when the company announced it had met with the FDA to discuss its proposed solutions to the manufacturing issues and would have to take additional steps to meet the agency's requirements, the complaint said.

Voter claimed that the truth "fully emerged" in May 2021, when the company informed investors in a press release and during an earnings call that an "additional process qualification" was needed to address the manufacturing deficiencies, and the plan was to resubmit the new drug application in the fourth quarter of 2021.

After a frustrated analyst pressed for more details, investors were told that the FDA raised concerns with the "unexpected" results generated by the filling operation, a "complicated process" that relied on sterility and accuracy, according to the complaint. The stock share price fell again, by 19.97%, the complaint said.

Baluch retired as CEO and resigned from the board on Oct. 4, 2021, according to an announcement on the CorMedix website.

The investors are represented by Barry J. Gainey, Thomas J. McKenna and Gregory M. Egleston of Gainey McKenna & Egleston, Brett D. Stecker of Shuman Glenn & Stecker, and James M. Ficaro of The Weiser Law Firm PC.

The defendants are represented by Andrew J. Lichtman of Willkie Farr & Gallagher LLP.

The case is In Re: CorMedix Inc. Derivative Litigation, case number 2:21-cv-18493, in the U.S. District Court for the District of New Jersey.

--Editing by Nick Siwek.



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Firms Clash Over Starbucks Derivative Suit Leadership

By **Ben Adlin**

Law360 (January 20, 2026, 10:01 PM EST) -- Plaintiffs in recent shareholder lawsuits against Starbucks Corp. leaders are challenging a Seattle federal judge's appointment of two New York law firms to co-lead similar litigation consolidated last year, arguing that the chosen firms are already "spread too thin" across hundreds of complex cases.

The plaintiffs behind the effort, Ashley Ross and Rosa Marquez, have filed separate derivative actions accusing current and former Starbucks executives and directors of **misleading investors** about the coffee giant's so-called Triple Shot Reinvention strategy. Two similar suits were filed in 2024 and consolidated last year before U.S. District Judge John H. Chun.

In their motion Friday, Ross and Marquez argue Judge Chun should vacate his January 2025 order appointing The Brown Law Firm PC and Rigrodsky Law PA as co-lead counsel in the consolidated case and consider other candidates, claiming the firms "rushed to file their shareholder derivative actions and then quickly sought to appoint themselves as lead counsel."

The alleged scramble was part of the firms' "patterns of racing to the courthouse by rapidly filing complaints and using questionable plaintiffs to quickly secure leadership before any contest is filed," Ross and Marquez claim, accusing them of "improper lawyer-driven tactics."

The Brown and Rigrodsky firms are also "spread too thin" to adequately manage the case, according to Friday's filing, which claims that just 10 attorneys between the two firms are "overseeing 217 complex shareholder litigations filed in 2025 alone."

"There is simply no way that Rigrodsky and Brown could effectively litigate even a small fraction of their cases simultaneously," Ross and Marquez say. "Other firms that are better positioned to lead this litigation stand ready and willing to do so and should have the opportunity to present their bonafides."

Ross and Marquez said their own counsel at The Rosen Law Firm PA, Glancy Prongay & Murray LLP and Corr Cronin LLP have strong track records in derivative litigation and would be well suited to lead the case.

Shareholders in the four derivative actions claim that current and former Starbucks executives and board members lied to investors by touting the company's Triple Shot brand strategy despite declining sales and revenue. That led to inflated stock prices that plummeted when Starbucks reported lower-than-expected quarterly results in April 2024, they say.

Judge Chun consolidated two suits, from plaintiffs **Katherine King** and **Portia McCollum**, in January 2025. He appointed Timothy Brown of The Brown Law Firm and Timothy J. MacFall of Rigrodsky Law as co-lead counsel for the plaintiffs.

MacFall, however, appears to have departed Rigrodsky Law, according to Ross and Marquez's new filing, "leaving it unclear who from Rigrodsky is overseeing the consolidated action and raising the question why Rigrodsky has not notified the court."

Rigrodsky Law did not respond to questions about who at the firm was leading the suit.

Further, Ross and Marquez say, neither co-lead firm has taken action in the consolidated proceeding despite the expiration last November of a court-ordered stay related to an **ongoing securities class action** against Starbucks over its Triple Shot brand plan.

In comments to Law360 on Tuesday, Brown said he felt that the effort to remove him as co-lead counsel was the result of a "personal vendetta" against him after a falling out with Phillip Kim of The Rosen Law Firm, calling the effort "an extreme example of lawyer-driven litigation."

He rejected allegations in Friday's motion that the firms are "spread too thin" as a "merely speculative argument" that didn't deserve to be given any weight.

Kim told Law360 in an email Tuesday that Brown's comments about him and his firm "are false, defamatory and libelous" adding that "the motion papers speak for themselves and are based on facts and evidence."

Glancy Prongay & Murray declined to comment Tuesday. Counsel for the Starbucks defendants did not immediately respond to requests for comment.

Ashley Ross is represented by Phillip Kim of The Rosen Law Firm PA.

Rosa Marquez is represented by Benjamin I. Sachs-Michaels, Robert V. Prongay and Pavithra Rajesh of Glancy Prongay & Murray LLP.

Ross and Marquez are represented by local counsel Colin George of Corr Cronin LLP.

Plaintiffs in the consolidated case are represented by Duncan C. Turner of Badgley Mullins Turner PLLC, Timothy Brown of The Brown Law Firm PC, Rigrodsky Law PA and Joshua Grabar of Grabar Law Office.

The Starbucks defendants are represented by Kari L. Vander Stoep and Tyler K. Lichter of K&L Gates LLP, and Andrew B. Clubok, Susan E. Engel, Michele D. Johnson and Whitney Weber of Latham & Watkins LLP.

The case is In Re Starbucks Corp. Stockholder Derivative Litigation, case number 2:24-cv-01720, in the U.S. District Court for the Western District of Washington.

--Additional reporting by Sydney Price and Emilie Ruscoe. Editing by Kristen Becker.



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GoodRx Users Denied Nod For \$32M Deal In Data Sharing Row

By **Allison Grande**

Law360 (January 20, 2026, 10:54 PM EST) -- A California federal judge refused to sign off on a \$32 million deal to resolve a proposed class action accusing GoodRx of illegally sharing users' sensitive health data with fellow defendant Criteo and other advertisers, faulting the parties for failing to provide a detailed analysis of the strength of each claim.

In a ruling issued Friday, U.S. District Judge Araceli Martinez-Olguin denied a motion for preliminary approval of a \$32 million nationwide class settlement with GoodRx Holdings Inc. and Criteo Corp, which are two of the four defendants that the plaintiffs are pursuing for allegedly violating the California Confidentiality of Medical Information Act, the California Invasion of Privacy Act and other privacy statutes through GoodRx's use of tracking technologies to send health data to tech companies.

The proposed deal, which would cover only GoodRx and Criteo and not fellow defendants Meta Platforms and Google, would compensate those who file valid claims from a settlement class of approximately 54.8 million individuals. But Judge Martinez-Olguin, who in June similarly rejected a different proposed \$25 million deal that would have resolved the plaintiffs' claims with only GoodRx, concluded that the latest settlement bid failed to correct the deficiencies that led the judge to find the prior deal to be inadequate.

"The court identified problems [with the prior \$25 million deal] including the settlement class definition, the breadth of the release to be conferred by class members, and the size of the settlement fund," Judge Martinez-Olguin ruled Friday. "While the parties have sweetened the pot in this most recent proposed settlement by adding another settling defendant, they have largely failed to address the court's previously-identified concerns."

In sending the parties back to the drawing board, Judge Martinez-Olguin found that they had fallen short in meeting their obligation under the Northern District of California's Procedural Guidance for Class Action Settlements to provide "a claim-by-claim assessment of the putative class's recovery along with 'a justification of the discount applied to the claims.'"

The proposed class in its preliminary approval motion sought to tackle this issue by "identifying the various risks they face should this case proceed through litigation." These potential pitfalls included that the class size could be reduced by 51% if GoodRx and Criteo were able to force certain putative class members to individual arbitration or could shrink by 62% if the defendants succeeded on their statute of limitations defense.

The size of the class members' potential recovery could also be reduced by more than 90% if the defendants were able to convince the court that the California Confidentiality of Medical Information Act and the California Invasion of Privacy Act apply only to Golden State residents rather than nationwide, according to the plaintiffs.

While Judge Martinez-Olguin found that these legal issues "provide some potential basis for discounting class recovery," the parties' submission continues to fall short of the type of claim-by-claim enumeration of potential class recovery that's required by the district's procedural guidance for settlements.

"Plaintiffs' submission in the instant motion lacks such a claim-by-claim analysis of the merits and

instead identifies potential stumbling blocks in maintaining the size and breadth of a 54.8-million-person class," the judge said. "Plaintiffs' failure to provide a claim-by-claim analysis leaves the court unable to assess the fairness and adequacy of the settlement."

While this shortcoming provided "sufficient grounds" on its own to reject the settlement proposal, Judge Martinez-Olguin additionally dinged the plaintiffs for failing "to identify any confirmatory discovery they have conducted to evaluate the strength of their claims in this case" and to adequately explain how the agreement's broad release of liability for all claims that arise out of the defendants' use of pixels, software development kits and other tracking technologies corresponded with the value of the proposed deal.

"The differences between the claims released and the claims in the operative complaint remain insufficiently justified at this stage," the judge held.

Not only have the plaintiffs failed to explain how their proposed release "equates to the factual allegations underlying the 16 causes of action brought here," but their "estimation that some 3-10% of class members will file claims, and that, assuming a 6% claims rate, each person would recover \$9.73, [also] does not support such a broad release for a putative settlement class of 54.8 million people," Judge Martinez-Olguin said.

Counsel for the parties couldn't be reached for comment Tuesday.

The parties' dispute dates back to February 2023, when a "Jane Doe" plaintiff filed a lawsuit alleging that her privacy rights were violated after GoodRx shared her symptoms and medication history to third-party ad partners Google, Meta and Criteo. In April of that year, the Doe action was **combined with** four others.

The user lawsuits came in the wake of the Federal Trade Commission's 2023 announcement that GoodRx **would pay** \$1.5 million and be barred from sharing users' sensitive health data with third-party advertisers in the future. The agency alleged the company "repeatedly" violated its promise to not share personal health information with advertisers and failed to inform consumers, the commission or the public about these unauthorized data disclosures.

Shortly after rejecting GoodRx's first attempt to settle the dispute, Judge Martinez-Olguin in July 2025 **largely denied** Google, Meta and Criteo's motion to dismiss the proposed class action, rejecting the tech companies' argument that the complaint doesn't offer enough specific allegations about the "inner workings" of their webpage tracking technologies.

The plaintiffs announced their latest proposed deal with GoodRx and Criteo in November, informing the court that the agreement would not only provide class members with "immediate monetary relief" but would also result in a monetary recovery that was approximately 21 times what the FTC obtained from GoodRx for the same alleged unauthorized disclosure of prescription information and other health data through online trackers.

The plaintiffs are represented by Christian Levis, Amanda Fiorilla and Rachel Kesten of Lowey Dannenberg PC, L. Timothy Fisher, Neal J. Deckant and Jenna L. Gavenman of Bursor & Fisher PA, Robert C. Schubert, Willem F. Jonckheer and Amber L. Schubert of Schubert Jonckheer & Kolbe LLP, Mark L. Javitch of Javitch Law Office, Jonathan Shub, Benjamin F. Johns and Samantha E. Holbrook of Shub Johns & Holbrook LLP, Israel David of Israel David LLC, Rebecca M. Hoberg of Moya Law Firm and Thomas A. Zimmerman Jr. of Zimmerman Law Offices PC.

GoodRx Holdings is represented by Martin L. Roth, Alyssa C. Kalisky, Michael J. Shipley and Olivia Adendorff of Kirkland & Ellis LLP. Criteo Corp. is represented by Tenaya Rodewald, Thomas Dillickrath and Sarah Blitz of Sheppard Mullin Richter & Hampton LLP.

The case is Doe v. GoodRx Holdings Inc. et al., case number 3:23-cv-00501, in the U.S. District Court for the Northern District of California.

--Editing by Bruce Goldman.



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Judge Mostly Rejects Discovery Requests In OpenAI MDL

By **Elliot Weld**

Law360 (January 20, 2026, 8:10 PM EST) -- A Manhattan federal magistrate judge largely rejected a series of requests from a group of authors and news publishers to expand discovery in a copyright infringement case against OpenAI, but directed the parties to confer on some topics to discuss production of certain materials.

In a Friday order, U.S. Magistrate Judge Ona T. Wang told the parties to meet to determine what documents over which OpenAI financial backer Microsoft has asserted privilege should be produced or have their redactions narrowed.

Judge Wang denied a request from the authors and publishers to compel the production of documents regarding "shadow libraries" and documents OpenAI claimed were related to business and policy or were technical in nature. The judge told the parties to confer on a document-by-document basis for now.

The publishers and authors told Judge Wang on Jan. 5 that they needed documents about OpenAI's use of shadow libraries, such as Library Genesis, when it trained ChatGPT to show its knowledge and alleged willful infringement. The publishers and authors also said OpenAI had wrongly asserted privilege over documents concerning company policies.

Judge Wang also denied a motion from OpenAI seeking to obtain profit and loss statements from The New York Times.

And the judge denied as premature a request from the so-called news plaintiffs, composed of the Times and a group of regional newspapers, to compel Microsoft to turn over 8.1 million chat logs on the AI application Copilot that feature their names and website domains. She directed the parties to continue meeting and conferring on the matter.

In a separate Jan. 5 letter, the news plaintiffs said OpenAI had engaged in sanctionable conduct by producing millions of ChatGPT output log conversations that appeared to be substituted in for conversations that were deleted. The parties have been litigating for months over whether OpenAI should have to produce ChatGPT output logs, which it has said would violate its users' privacy.

Judge Wang partly granted the news plaintiffs' motion to compel production of output log data and told OpenAI to amend its redactions related to personally identifiable information and re-produce the sample by Jan. 22.

The judge ordered that a deposition of OpenAI President Greg Brockman would be capped at 11 hours and gave Brockman the option of giving the testimony over either one or two days.

A motion from media publisher Ziff Davis to compel OpenAI to produce code and training data printouts and other data was denied by Judge Wang, who directed the parties to continue negotiating the issue and update the court by Jan. 29.

The case is a consolidation of several cases filed in separate federal jurisdictions alleging that copyrighted material was used to train ChatGPT and that the large language model can and does spit out verbatim portions of copyrighted books and news articles.

"We've been very clear from the outset that we intend to fight to protect user privacy," an OpenAI spokesperson said in a statement. "It's extremely disappointing that the Times is persisting with their efforts to invade the privacy of people who have nothing to do with this case, including by contesting commonsense redactions of information that could personally identify users."

A representative for Microsoft did not immediately respond to requests for comment. Counsel for the other parties also did not immediately respond to requests for comment.

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

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

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

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

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

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

--Editing by Nick Siwek.



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Plaintiffs Atty Who Disclosed Uber MDL Docs On 'Thin Ice'

By **Dorothy Atkins**

Law360 (January 20, 2026, 8:05 PM EST) -- A California federal magistrate judge warned plaintiffs attorney Bret Stanley of Johnson Law Group during a hearing Tuesday that he's on "thin ice" after Uber argued he should be sanctioned for allegedly repeatedly using discovery in multidistrict litigation over sexual assault liability to litigate other cases against Uber.

U.S. Magistrate Judge Lisa J. Cisneros' warning came during a hearing held via Zoom on Uber Technologies Inc.'s **motion for sanctions** against Stanley in the sprawling MDL, which was filed in 2023. The plaintiffs in the MDL alleged that the ride-hailing app failed to adopt safety measures, like cameras and enhanced background checks, despite knowing since 2014 that drivers pose a risk of sexually assaulting passengers.

Uber filed its latest motion against Stanley in December, roughly four months after winning its previous request to enforce the court's December 2023 protective order against Stanley.

In the enforcement order, Judge Cisneros agreed with Uber that Stanley had improperly used the MDL's discovery to create a spreadsheet, which Uber claimed he later shared with his co-counsel in two unrelated cases against Uber over car accidents. The spreadsheet included the names of Uber's internal policy related resources, and it identified the repository where each resource was maintained, according to court documents.

In his defense, Stanley had argued that the names of Uber's internal policies, which he learned in the course of MDL litigation, aren't confidential, and he noted that courts have consistently held that attorneys can use general knowledge and experience in subsequent litigation, provided that confidential materials themselves are not disclosed. In particular, Stanley cited the Ninth Circuit's 1993 ruling [In re: Dual-Deck Video Cassette Recorder Antitrust Litigation](#) .

Judge Cisneros' prior ruling rejected Stanley's arguments, and she ordered him to take steps to ensure the destruction of all the unauthorized documents.

But during the hearing Tuesday, Uber's counsel, Veronica Hayes Gromada of Shook Hardy & Bacon LLP, argued that Stanley has again violated the protective order by searching the MDL's discovery repository using a specific Uber Eats delivery driver's universally unique identifier. That driver was involved in a vehicle accident, and Stanley represents a plaintiff suing Uber over the accident in a separate, non-MDL case, according to Gromada.

Gromada argued that Stanley's repeated violations warrant sanctions, and the court should remove him as a member of the plaintiffs steering committee so that he no longer has access to the MDL discovery. Gromada also asked the court to award Uber reasonable attorney fees.

In response to the allegations, Stanley acknowledged that he had searched the MDL's discovery repository for the Uber Eats driver's UUI information. However, he argued that he didn't "use" or produce the results of his search in the other litigation, so he wasn't in violation of the protective order.

Instead, Stanley said, he merely argued before the other court that the discovery existed after Uber's counsel in the car accident case repeatedly failed to produce the information. He also noted that, in that case, he accused Uber's counsel of withholding relevant information, and as further support, he

again pointed to the Ninth Circuit's holding in the In re: Dual-Deck case.

Stanley added that he doesn't believe he can "run roughshod over the protective order" or use the MDL discovery in other cases.

But Gromada and her co-counsel, Michael B. Shortnacy of Shook Hardy, argued that Stanley misinterpreted and misunderstood the MDL discovery documents at issue, and as a result, he has created "chaos" in the other case, improperly accusing Uber of failing to produce relevant documents. Meanwhile, he has continued to use the MDL discovery as a "self-help" attempt to improperly beef up his other cases, the attorneys argued.

"Mr. Stanley continues to root around the MDL database, and he uses it as if it's his own personal library," Gromada said. "That is clearly in violation of the protective order."

Gromada added that Stanley's alleged misconduct has led to "additional unnecessary vexatious motion practice" in the other cases, as well as in the MDL, and he ultimately shouldn't be allowed to cross-check Uber's discovery in other unrelated litigation with the MDL discovery.

But Judge Cisneros repeatedly doubted whether Stanley's conduct rises to the level of vexatious litigation, and she asked for citations to support Uber's claim. The judge also doubted how Uber would be harmed or face a cognizable injury if Uber had to produce the discovery demanded by Stanley to the plaintiff in the other litigation.

"I think, at the end of the day, it's not entirely clear to me that there's material harm [from] Mr. Stanley asking for certain information and having some sense that it existed based on what [he] learned from the MDL," the judge said.

Even so, Judge Cisneros told Stanley that she "really struggled" with his response to her question about what he thinks it means to "use" MDL discovery according to the language of the protective order, and she expressed concerns that he searched for the Uber Eats driver's UUI data in the MDL discovery.

"At this point there's indication that twice you violated the protective order, so you need to be extremely careful about how you're handling this information," the judge told Stanley. "Consider yourself on thin ice at this point, and I'm going to take some more time to consider what the appropriate sanctions here would be."

At the end of the hearing, the judge took the arguments under consideration.

Stanley represented himself during the hearing.

Uber was represented during the hearing by Christopher D. Cox of Kirkland & Ellis LLP and Veronica Hayes Gromada and Michael B. Shortnacy of Shook Hardy & Bacon 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 Bonnie Eslinger, Lauren Berg and Y. Peter Kang. Editing by Dave Trumbore.



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Pump.Fun Faces Sanctions Bid Over Meme Coin 'Harassment'

By **Aislinn Keely**

Law360 (January 20, 2026, 8:47 PM EST) -- The meme coin launchpad known as Pump.Fun is facing a sanctions demand for allegedly enabling an "escalating campaign of harassment and intimidation" that used mocking meme coins and threatening posts against lawyers and plaintiffs who are suing the platform.

The motion, filed Saturday, accuses Pump.Fun and its executives of allowing a swath of tokens on its platform that depicted acts of violence against plaintiffs' counsel Max Burwick of Burwick Law PLLC, contained personal information about those close to him and targeted others involved in bringing the suit. The harassing tokens stemmed from online hate campaigns perpetrated by "affiliates" of Pump.Fun that had formal and informal promoter relationships with the platform, according to the accompanying memorandum.

"The record demonstrates a pattern: Defendants and those within their ecosystem have treated this litigation as an opportunity to apply pressure outside the courtroom, through intimidation, persistence, and escalation, rather than defend themselves within it," the filing says.

The plaintiffs asserted that influencers allegedly affiliated with Pump.Fun propagated harassing and sometimes violent sentiments amid key points of their proposed class action against Pump.Fun, which accuses the platform of operating as an illegal digital casino, among other claims. The Pump.Fun platform enables users to create, buy and sell meme-themed tokens tied to cultural moments, and some used the platform to generate tokens around viral posts attacking plaintiffs and their counsel, according to the memorandum.

One such campaign was "Rape Max Burwick," first introduced by an allegedly approved participant of Pump.Fun's affiliate program who goes by the handle @onchainrapist. Members of the Pump.Fun community created meme tokens around this sentiment and others, including tokens using photoshopped images of sexual violence against Burwick, the filing says.

Other instances of online harassment included imagery depicting Burwick in an "ISIS-style execution," tokens targeting Burwick's mother and sister and threats to kidnap women interning at Burwick Law if it did not drop the case, according to the memorandum.

Named plaintiffs Kendall Carnahan and Diego Aguilar were also harassed through the creation of offensive meme tokens that contained their personal information, according to the memorandum.

"Once rhetoric escalates to execution imagery and explicit threats of kidnapping, the concern is no longer reputational; it is physical safety," the filing says. "The record reflects that the conduct here crossed that threshold."

Some of the harassment extended beyond digital spaces, according to the filing, which says individuals posted photos of locations near Burwick's workplace and neighborhood "to show counsel that they could find him, and to broadcast that proof to others." That included the delivery of threatening letters to the New York City Bar Association, the filing says.

According to the memorandum, Pump.Fun executives including co-founder Alon Cohen, who is a defendant in the case, and general counsel Alex Golubitsky had some involvement with vetting and formalizing the platform's relationship with some of the affiliates that engaged in harassment.

Counsel for Pump.Fun and the individual defendants did not immediately respond to a request for comment on Tuesday.

Though the platform took down certain offensive tokens following a cease-and-desist letter from the plaintiffs in February 2025, it has since allowed other harassing tokens to exist on its platform, according to their filing. They argued this shows that Pump.Fun is aware of the threatening content and is able to step in, but hasn't.

"Defendants had notice and demonstrated capacity to remove or restrict content, yet continued intimidation efforts," the memorandum alleges. "On this record, defendants should not be permitted to characterize themselves as passive intermediaries while benefiting from and failing to halt an intimidation apparatus."

Efforts to address those concerns with Pump.Fun's Brown Rudnick LLP counsel have not been fruitful, the plaintiffs said.

A Jan. 8 letter filed on the docket by Brown Rudnick asserted that Pump.Fun removed @onchainrapist from its affiliate program and took steps to address concerns related to the account's harassment. However, Brown Rudnick argued other instances of harassment raised by the plaintiffs did not seem to be from legitimate Pump.Fun affiliates. The defendants also contested allegations that Pump.Fun executives exercise control over their affiliates.

The plaintiffs are asking the court to step in and mandate the removal of all tokens referencing them, counsel or counsel's family members and the appointment of an outside monitor to ensure the platform isn't used to harass parties to the litigation in the future. They also want Pump.Fun to discern "the full scope of the campaign" that led to the online vitriol and the identification of the perpetrators and their relationship to the platform. They're also seeking attorneys fees.

"Absent court intervention, the conditions that enabled the campaign remain unchanged," the plaintiffs said. "Tokens embedding the relevant language remain live and tradable, associated communities continue to operate, and incentive structures rewarding attention and engagement remain active."

The suit, **filed** in January 2025, accuses Baton Corp. Ltd., which does business as Pump.Fun, of failing to register the tokens on its platform with the U.S. Securities and Exchange Commission. The plaintiffs filed an **amended complaint** in July, bringing new allegations that the platform led plaintiffs into "an exploitative gambling mechanism disguised as innovation or, in certain instances, legitimate securities."

Pump.Fun and the executives have moved to dismiss the case.

Burwick said in a statement to Law360 that he continues to look forward to litigating the merits of the case in court.

"The filings detailing threats and intimidation directed at our clients, my mother and disabled sister, firm staff, and counsel speak for themselves," he said.

The plaintiffs are represented by Max Burwick of Burwick Law PLLC and Chet B. Waldman of Wolf Popper LLP.

Baton Corp. Ltd., Alon Cohen, Dylan Kerler and Noah Tweedale are represented by Stephen D. Palley of Brown Rudnick LLP. Cohen, Kerler and Tweedale are additionally represented by Samson Enzer of Cahill Gordon & Reindel LLP.

The case is Aguilar v. Baton Corp. Ltd. d/b/a Pump.Fun et al., case number 1:25-cv-00880, in the U.S. District Court for the Southern District of New York.

--Editing by Marygrace Anderson.



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Trump Media Investor Says Insider Trading Trial Was Flawed

By **Stewart Bishop**

Law360, New York (January 20, 2026, 10:09 PM EST) -- A Florida trader sentenced to over two years in prison for insider trading on confidential plans to take President Donald Trump's media company behind Truth Social public urged the Second Circuit on Tuesday to reverse his conviction, saying the lower court wrongly excluded evidence at trial that backed his claims of acting in good faith.

Bruce Garelick, the former chief investment officer of private investment firm Rocket One Capital, in 2024 was convicted at trial of securities fraud and conspiracy for illegal trading that netted him \$49,702 in profits. U.S. District Judge Lewis Liman later sentenced Garelick to 28 months in prison.

Prosecutors said Garelick illegally profited from his stake in special purpose acquisition company Digital World Acquisition Corp. — nicknamed the "Trump SPAC" — while working at Rocket One and sitting on DWAC's board, to which he had been appointed at Rocket One's behest.

SPACs are shell companies designed to raise capital through an initial public offering and then acquire or merge with another company.

DWAC and Trump Media & Technology Group on Oct. 20, 2021, announced their plans to merge, after which DWAC securities went from trading for less than \$1 to a high of \$79.22 the next day.

Garelick was further accused of tipping off his boss at Rocket One, Michael Shvartsman, and others about the pending deal — an accusation that Garelick denied at trial. That allegedly let Shvartsman, along with his brother Gerald Shvartsman, earn over \$23 million.

During relatively brief oral arguments before a three-judge Second Circuit panel, an attorney for Garelick, John Cline, said Judge Liman wrongly excluded a key piece of evidence at trial on hearsay grounds, namely, an email Garelick sent to Rocket One's compliance officer. In it, he disclosed his prior trading in DWAC shares and said he had restricted himself from further trading after recently coming into possession of material nonpublic information about the pending tie-up.

According to the government, Garelick in September 2021 bought thousands of DWAC shares in six tranches.

While he did not allow the email to be shown to the jury, Judge Liman let Garelick speak about it in part when he took the stand in his own defense.

Cline said that the email was paramount to Garelick's good faith defense and that keeping it from the jury wasn't a harmless error, since it deprived him of rebutting prosecutors' claims that Garelick lied when he testified.

"He's disclosing to the internal cop that he is engaged in trading while sitting on the board of DWAC as late as Sept. 23, 2021," Cline told the panel. "It is inviting scrutiny, and that's what's significant about it. That's what shows his good faith."

Cline further argued that if Garelick had filed the requisite forms with the U.S. Securities and Exchange Commission in connection with his trades — he did not, which prosecutors said showed his efforts to conceal his activity — those forms would have been admitted as evidence at trial.

"Surely those would come into evidence not for their truth but to show good faith, to show lack of belief that he was engaging in insider trading," Cline said. "And I think the same principle should apply here."

Assistant U.S. Attorney Matthew Shahabian told the panel that the evidence that Garelick engaged in insider trading, through both his own trades and his tips to others, was overwhelming.

Shahabian said that Garelick's email to the Rocket One compliance officer was properly excluded, noting that wasn't a disclosure to DWAC, to which he owed a duty as a director. Moreover, it was sent a day before the merger was announced, and after almost all the insider trading had been completed, Shahabian added.

"It was a self-serving justification that the defendant made to the company that he helped commit insider trading," Shahabian said.

The panel reserved decision.

Trump has no significant ties to the case and is not accused of any wrongdoing.

The government is represented by Matthew Shahabian, Daniel Nessim and Stephanie Simon of the U.S. Attorney's Office for the Southern District of New York.

Garelick is represented by John Cline of the Law Office of John D. Cline.

The case is U.S. v. Shvartsman et al., case number 24-3066, in the U.S. Court of Appeals for the Second Circuit.

--Editing by Nick Siwek.



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Willkie Accused Of Aiding \$735M Fraud In Buyout Deal

By **Katryna Perera**

Law360 (January 20, 2026, 9:09 PM EST) -- Willkie Farr & Gallagher LLP on Tuesday was accused of aiding a \$735 million fraud carried out by an investment manager to secure financing for a 2023 take-private transaction involving Franchise Group Inc., which was then used to pay off the manager's personal debts.

BRC Group Holdings Inc., formerly known as B. Riley Financial Inc., and several of its subsidiaries filed a **complaint** in New York state court against Willkie and investment manager Brian Kahn, who recently pled guilty to securities fraud. Kahn's wife, Lauren Kahn, is also named as a defendant in the suit.

According to the complaint, in May 2023, Franchise Group, a company led by Kahn, was merged with two other Kahn-controlled companies in a take-private transaction. As part of this deal, BRC committed to investing up to \$560 million in the equity of FRG's new holding company, known as Topco, once the merger closed.

In deciding to fund the merger, the complaint states that BRC relied on several representations made by FRG and Kahn, including that FRG had disclosed to its auditors and its board's audit committee any fraud involving FRG's management, and that there had been no governmental investigations or subpoenas of FRG since 2019.

Kahn also represented to BRC that he was not in default on any obligations and that he had "full power and authority" to exchange FRG shares for equity in Topco, according to the complaint.

However, BRC claims in its suit that all of these representations were false, "and Willkie knew it."

In reality, according to the complaint, Kahn, at the time of the merger, was the subject of multiple criminal and civil investigations for his role as a sub-advisor in a \$350 million fraud perpetrated by Prophecy Asset Management, and that FRG had received subpoenas from the SEC and DOJ relating to the Prophecy scheme.

BRC also accuses the defendants of failing to disclose that a limited partnership formed for the benefit of the Prophecy Settlement Trust held 2.5 million shares of Kahn's FRG stock that were restricted from sale or transfer and that, by February 2023, Kahn had defaulted on more than \$30 million of debt due to the Prophecy Settlement Trust.

"Willkie was aware of all these material misrepresentations and yet allowed them to be made to BRC, a longstanding and current Willkie client," the complaint states.

BRC says Willkie's misconduct was "particularly egregious" because while representing BRC as litigation counsel, the firm also knowingly prepared misleading transaction documents for Kahn, failed to disclose material conflicts of interest, and assisted Kahn in obtaining consent from the Prophecy Settlement Trust, among other things.

Although not named as defendants, the complaint identifies Willkie partners Tariq Mundiya and Russell Leaf. According to BRC, Mundiya was a "trusted legal advisor" to Kahn and was listed, alongside Leaf, as a leader of the take-private deal.

"As Mundiya, Leaf, and Willkie knew, Kahn needed the take-private to dramatically increase the value of his equity stake in FRG so that he could pay off hundreds of millions of dollars in personal liabilities

he owed to BRC affiliates and the Prophecy Settlement Trust," the complaint says. "Willkie actively assisted and conspired with Kahn and FRG in defrauding plaintiffs to help Kahn achieve his goal and generate substantial fees for the firm."

In a statement to Law360 on Tuesday, a Willkie spokesperson said: "The facts will make clear that our firm acted appropriately and with integrity at all times, consistent with our values and all ethical obligations. We look forward to defeating these meritless claims and remain committed to upholding the highest standards of ethics and professionalism."

According to BRC, the truth came to light about three months after the take-private deal closed, when one of Kahn's co-conspirators in the Prophecy fraud pled guilty to securities fraud and conspiracy, and the SEC brought parallel civil securities fraud claims against the individual.

At that point, Kahn's role in the fraud became public, according to the complaint. Kahn was forced to resign from Topco's board, and FRG's business plan unraveled due to "Kahn's inability to negotiate and close strategic transactions resulting from his taint as an alleged criminal co-conspirator in securities fraud," the complaint notes.

BRC says that ultimately, FRG collapsed and filed for bankruptcy, causing BRC's equity interests in Topco to become "worthless."

"All told, Kahn and FRG's frauds, perpetrated with Willkie's assistance, caused plaintiffs approximately \$735 million in cash losses, plus additional foreseeable consequential damages," the complaint contends.

Kahn **pled guilty** in December 2025 to one count of securities fraud in connection with his role in the Prophecy fraud.

Counsel for BRC did not immediately respond to requests for comment, and Brian and Lauren Kahn could not immediately be reached.

BRC is battling a related **class action** in California federal court from investors who claim the company made material misrepresentations about its buyout of FRG and failed to disclose risks related to its dealings with Kahn.

BRC is represented by Paul R. DeFilippo, R. Scott Thompson, Lyndon M. Tretter, Benjamin A. Gianforti and Nicholas A. Servider of Wollmuth Maher & Deutsch LLP.

Counsel information for the defendants was not immediately available.

The case is BRC Group Holdings Inc. et al. v. Willkie Farr & Gallagher LLP et al., case number unavailable, in the Supreme Court of the State of New York, County of New York.

--Editing by Kristen Becker.