Bump Up, and More | Business Law Prof Blog

businesslawprofessors.com/2026/01/bump-up-and-more

Ann Lipton January 29, 2026

I previously posted about disputes over bump up exclusions in D&O insurance contracts, which exclude from insurance coverage claims that shareholders of a merger target should have received more consideration for their shares. As I argued, the purpose of the exclusion is to ensure that the cost of the acquisition isn't offloaded on to the insurer.

One of the cases I mentioned in that post, *Harman Int'l Indus. Inc. v. Ill. Nat'l Ins. Co.*, was just affirmed by the Delaware Supreme Court, and the reasoning interests me.

In this case, Harman International was acquired by Samsung Electronics, and shareholders sued under Section 14(a), which prohibits false proxy statements, and Section 20(a), which adds joint and several liability to control persons – the substantive claim was Section 14(a). Shareholders argued that, due to false statements in the proxy, they were induced to vote in favor of a merger at a lowball price.

Eventually, the case settled for $28 million, and when the defendants sought insurance coverage, the insurer claimed the settlement was subject to the bump up exclusion. On appeal, the Delaware Court disagreed.

According to the court, the insurance contract had two clauses, both of which had to apply in order to trigger the exclusion.

First, the loss had to arise out of "a Claim alleging that the price or consideration paid or proposed to be paid for the acquisition or completion of the acquisition of all or substantially all the ownership interest in or assets of an entity is inadequate." And second, the loss had to represent "the amount by which such price or consideration is effectively increased." If such a loss occurred – based on an inadequate consideration claim – then the insurers would not be responsible for the portion of the loss representing a consideration increase.

Disagreeing with the Superior Court, the Delaware Supreme Court agreed that the shareholders' claim in this instance – despite being rooted in federal proxy fraud – represented a claim for inadequate consideration.

> The Operative Complaint alleged that "[t]he false and/or misleading Proxy used to obtain shareholder approval of the Acquisition" deprived the Investor Class of their right to "the full and fair value for [their] Harman shares." The Operative Complaint also asserted that the "actual economic losses" were comprised of "the difference between the price Harman shareholders received and Harman's true value at the time of the Acquisition."

I agree with that much. But where the insurers faltered was they failed to show that the actual settlement – the $28 million – represented the amount by which such consideration was increased.

This was because the class itself didn't just include shareholders who received compensation in the merger; in fact, it was defined to include "all Persons who purchased, sold, or held Harman common stock at any time from … the record date, through and including the date the merger closed." In other words, it included people who sold before the merger closed. Additionally, the plaintiffs never submitted any kind of expert report estimating the true value of their shares, because the case settled "in the early stages of litigation with only minimal discovery completed; instead the settlement represented the litigation costs Harman expected to incur if the case continued."

As a result, the claim was not subject to the exclusion, and was covered by insurance.

So … this strikes me as weird.

Start with the class definition. Leaving aside whether that was an appropriate Section 14(a) class, I actually have no idea how the $28 million was allocated among the former shareholders. That said, in most merger scenarios, you have an announcement, and the stock price goes up to reflect the expected merger consideration, possibly discounted for the uncertainty whether there are barriers to closing. At that point, merger arbs step in, buy at a price slightly discounted from the merger price, and profit when the merger closes. The prior shareholders, as a practical matter, accepted something a little below the merger price in order to remove uncertainty.

Outside of contexts where there is significant uncertainty as to whether the deal will close (think Twitter), those prior shareholders are the true beneficiaries of the merger price – whatever it happens to be. And they're the ones who likely suffer the most if the merger price is inadequate. Which means, there is nothing inconsistent on its face with the idea that the payments represent inadequate consideration just because it's paid out to shareholders who sold before the transaction was consummated.

It is also unclear to me why the defendants' reasons for settling the claim should somehow have more significance than the nature of the claim that necessitated the settlement in the first place when determining what the payment was actually for. Surely very few defendants actually settle because they recognize the justice of the plaintiffs' allegations.

And since in this case the shareholders *solely* alleged proxy fraud – they didn't layer Section 10(b) on top or anything – and that proxy fraud claim was for inadequate consideration (per the Delaware Supreme Court), there is something incongruous about suggesting the settlement was for anything *other than* inadequate consideration. Was it a gratuity? If so, why was it covered by insurance at all?

And this decision creates some worrying incentives. For one thing it encourages plaintiffs – who know that defendants like to settle within insurance coverage – to overdefine the class, and defendants to agree to that – bad for insurers and shareholders alike. It encourages defendants to settle quickly, before plaintiffs have a chance to conduct discovery into the true value of the shares.

In any event, the Delaware Supreme Court made clear what insurers have to do in the future to protect themselves – base the contractual exclusion solely on the nature of the claim, as apparently some insurance contracts do. That said, I have no idea who has the bargaining power when these contracts are formed so it will be interesting to see whether any industry norms grow out of this.

Lagniappe. [This decision by Chancellor McCormick] is making headlines because she refused to dismiss claims against Jefferies LLC for aiding and abetting a fiduciary breach, where it served as financial advisor to an acquirer alleged to have issued false information about the target in a SPAC merger. But I'm interested in the case because of a fun agency problem.

It’s a classic SPAC kind of case. The blank entity was Forum III, and the target was Legacy ELMS. Forum III made a bunch of false statements about Legacy ELMS in the proxy statement, and shareholders sued Forum III’s directors for breach of fiduciary duty. They also sued the founders of Legacy ELMS, Taylor and Luo, for aiding and abetting that breach, due to their involvement in the false statements at issue. The claims against Taylor and Luo were sustained in an earlier round of briefing.

In this new opinion, the plaintiffs brought aiding and abetting claims against additional defendants, including a company called SF Motors, for which Taylor and Luo served as CEO and CFO, respectively.

The claim was that the entire SPAC transaction was actually part of a plan by Taylor and Luo, working for SF Motors, to unload a particular asset, a manufacturing plant in Indiana. The plan they came up with was to found Legacy ELMS, sell the plant to Legacy ELMS, have Legacy ELMS pay for the plant with cash and Legacy ELMS stock (apparently more of the latter than the former), and take Legacy ELMS public in the SPAC merger. SF Motors also loaned Legacy ELMS personnel to assist with the SPAC merger process. Apparently all of these employees, including Taylor and Luo, used their SF Motors email accounts when they worked on the SPAC merger for Legacy ELMS.

As a result of the close relationship between SF Motors and Legacy ELMS, plaintiffs alleged that SF Motors aided and abetted the false statements Forum III had issued about Legacy ELMS in connection with the merger. Specifically, plaintiffs alleged that SF Motors – acting through Taylor and Luo – had aided the false statements. In other words, plaintiffs alleged that SF Motors should be vicariously liable for aiding and abetting based on the actions of its employees, Taylor and Luo.

That claim was rejected by Chancellor McCormick, essentially on a “different hats” theory. Taylor and Luo’s actions in generating false information about the merger had been accomplished in their capacity as Legacy ELMS officers and directors. Legacy ELMS had a right and responsibility to review the proxy before it was filed; SF Motors had no such responsibility. SF Motors may be said to have received confidential information demonstrating the falsity of the proxy – because its employees, using SF Motors email accounts, received that information while they were negotiating for Legacy ELMS – but “this allegation does not demonstrate that withholding the information was within the scope of Taylor’s and Luo’s responsibilities for SF Motors.”

I mean, sure, I guess, viewed narrowly, and maybe the problem here is that plaintiffs just didn't have the facts to back up the claim (the documents are heavily redacted so I can't get the details), but it reads to me like the allegation is that SF Motors – through Taylor and Luo – conspired to defraud Forum III investors, and that scheme involved setting up a new entity, unloading a bad asset to that entity, and then misleading Forum III investors about the value of the asset. If this was an entire scheme hatched by Taylor and Luo in their capacity as managers of SF Motors, then … I mean, that makes aiding and abetting an appropriate accusation.

And two other things. Two episodes of the *Shareholder Primacy* have dropped since I last posted! This week, Mike Levin and I talked about the contest for control of Warner Brothers (here at Apple, here at Spotify, and here at YouTube), and last week, Mike and Matt Moscardi of Free Float Media answered some questions sent to Shareholder Primacy's mailbag (here at Apple, here at Spotify, and here at YouTube).
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Deep Dive

Delaware Split on Sexual Harassment Liability Opens New Debate

Jan. 29, 2026, 2:00 AM PST

Summary by Bloomberg AI

AI Generated

- The Delaware Supreme Court will consider a novel question about when corporate leaders are liable to shareholders for failing to handle internal sexual misconduct complaints.
- Three Chancery Court judges have issued separate opinions on the issue, with Chancellor Kathaleen St. Jude McCormick allowing shareholders to advance claims against eXp World Holdings Inc.'s founder.
- The high court may draw a firm line between interpersonal misconduct and governance-level exploitation or concealment, or consider whether any policy limiting oversight liability could still allow claims where leadership knowingly sacrifices corporate integrity for private benefit.

The Delaware Supreme Court is the next venue for a novel question that's split the state's elite business court—when corporate leaders are liable to shareholders for failing to handle internal sexual misconduct complaints.

Three Chancery Court judges have now issued as many separate opinions on the issue. Chancellor Kathaleen St. Jude McCormick earlier this month allowed shareholders to advance claims that eXp World Holdings Inc.'s founder helped conceal rapes and sexual assaults allegedly committed by its top real estate agents. She framed the core of the dispute by inquiring if sex-based harm is categorically different from other causes of corporate harm.

She rejected the exclusion of certain workplace misconduct as grounds for a fiduciary breach, which was described in a December decision by a Delaware Chancery Court colleague that dismissed a lawsuit against an executive who harassed two employees of Credit Glory Inc., a company that helps consumers dispute credit reports.

The Credit Glory ruling in turn criticized a novel 2023 opinion by a third Chancery Court judge finding sexual harassment was actionable in oversight claims against an ousted HR chief at McDonald's Corp.

Credit Glory's president, as a shareholder, is appealing Will's decision dismissing his claims against its ex-vice president. Opening briefs are due Feb. 13.

The individual judges behind these decisions could each be correct because each case's facts are distinguishable, legal experts say.

The breach McCormick identified in *eXp* "is not the underlying misconduct, but the use of corporate power to suppress, tolerate, and economically benefit from it once it was known," said Carliss Chatman, a Southern Methodist University law professor.

In *Credit Glory* before Vice Chancellor Lori W. Will, Chatman said, interpersonal misconduct typically addressed under employment law was presented as a loyalty breach without allegations of a cover-up, board-level suppression, or self-interested governance decisions. Will is concerned that "absent a limiting principle, fiduciary law would become a general morality or indemnification doctrine for workplace wrongdoing," she said.

The high court may consider drawing a firm line between interpersonal misconduct and governance-level exploitation or concealment, or whether any policy limiting oversight liability could still allow claims where leadership knowingly sacrifices corporate integrity for private benefit.

If the justices return a narrow opinion, *eXp* and *Credit Glory* "may end up being complementary rather than contradictory decisions—marking the outer boundary of when corporate law reenters disputes that otherwise sit in employment or tort law," Chatman said.

Judicial Disagreement

McCormick pushed back on Will's warning of "doctrinal sprawl," citing several procedural hurdles that already discourage stockholders from pursuing derivative lawsuits, including contingency-fee attorneys that weed out weak claims. She also argued that it wasn't *McDonald's* that stretched Delaware corporate law by finding an officer "acted disloyally through his own acts of harassment," but the *Credit Glory* ruling "by excluding workplace misconduct that is of a sexual nature from the category of employee-targeting, entity-harming activities that can give rise to a claim for breach of fiduciary duty."

McCormick's finding no grounds for such exclusion is "a powerful affirmation that sexual misconduct can form the basis for a breach of fiduciary duty," said Rebecca Boon, a Bernstein Litowitz Berger & Grossmann LLP partner representing the pension funds suing eXp founder Glenn Sanford.

The *eXp* lawsuit doesn't depend on the *Credit Glory* appeal because it's not arguing that sexual harassment *per se* violates fiduciary duty, she said. Will rejected that as a valid claim, but Vice Chancellor J. Travis Laster embraced it in *McDonald's*, "so that's where I think the real split resides," Boon said.

Laster ultimately dismissed the *McDonald's* case because the board tried to mitigate its toxic workplace culture.

Yale Law School Professor Jonathan Macey said McCormick is “an activist judge” while Will is “less of an activist.”

“Which doesn’t mean that Chancellor McCormick is wrong,” he said, but neither case really needed the court to address whether sexual harassment constitutes a breach of fiduciary duty.

The claims could’ve focused on recovering damages from an employee who harmed the company by requiring it to pay out, which a New York state court ordered Credit Glory to do, he said. “You wouldn’t have to touch fiduciary duties, and that would’ve sustained the claim” in the *Credit Glory* case, for example, he said.

“It doesn’t matter if it’s sexual harassment or any other sort of wrongdoing,” he said. “If the board’s got its head buried in the sand, is deeply conflicted, and is not addressing it, then you have a lawsuit.”

‘Ick Test’

McCormick appears to have read *McDonald’s* “more broadly” than Will, and that’s more in line with how retail investors approach derivative lawsuits, said Christina Sautter, also an SMU law professor and cofounder of the Center for Retail Investors & Corporate Inclusion.

Will found Credit Glory’s former vice president was accountable only to his victims, not the business, and the claims against him distorted the novel ruling in *McDonald’s*. Laster’s opinion exposed corporate officers for the first time to lack-of-oversight claims previously limited to directors.

Such claims comprise an “ick test” for retail investors, Sautter said. They’re asking, “Do we trust these people? Do we want to invest, or continue to invest, in a company that is behaving in this fashion?”

Laster likewise mused in a 2023 hearing in a separate case that he expected challenges to the idea that short-term gains for stockholders should prevail in consideration of any corporate action that “from a societal standpoint is a net-negative” to become a “recurring event” for boards.

The *eXp* ruling “provides a roadmap for how some of these claims can survive,” Sautter said. “You have a generation of investors who came of age during the #MeToo movement, and they expect corporations to be accountable for workplace culture.”

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Securities

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Silver Lake’s $1.7 Billion Zuora Deal Draws Investor Challenge

Jan. 29, 2026, 8:23 AM PST

Summary by Bloomberg AI

AI Generated

- A Zuora investor sued Silver Lake, targeting its $1.7 billion acquisition of Zuora Inc. in a proposed shareholder class action seeking damages from Silver Lake and Zuora's founder, Tien Tzuo.
- The lawsuit was submitted under seal, but a related public filing describes the action, which is the third round of litigation related to the transaction in Delaware's Chancery Court.
- Silver Lake is already embroiled in a legal battle in Delaware's court over the $13 billion buyout of Endeavor Group Holdings Inc. and has been involved in several high-profile deals, including the agreement to lead the consortium managing TikTok's US operations.

Silver Lake LLC faces litigation targeting its $1.7 billion acquisition of Zuora Inc., part of a buying spree that has made the private equity firm one of the world’s most closely watched dealmakers.

A Zuora investor sued Silver Lake on Wednesday, initiating a formal challenge to a transaction that’s already been the focus of two rounds of preliminary litigation in Delaware’s Chancery Court. Though the lawsuit by Meteora Capital LLC was submitted under seal, a related public filing says it’s a proposed shareholder class action seeking damages from Silver Lake and the software company’s founder, Tien Tzuo.

The global investment giant has made headlines recently for its role in several high-profile, politically charged deals, including this month’s agreement to lead the consortium of tech investors managing TikTok’s US operations. Silver Lake last year teamed up with Saudi Arabia’s main sovereign wealth fund to take Electronic Arts Inc. private for $55 billion.

The firm is no stranger to Delaware’s elite business court, where it’s already embroiled in a sprawling legal battle against billionaire activist investor Carl Icahn and dozens of hedge funds over the $13 billion buyout of Endeavor Group Holdings Inc., parent company of WWE, UFC, and a top Hollywood talent agency.

Founder-led buyouts like the Zuora deal comprise a recurring theme for Delaware's M&A litigation ecosystem. Abuses of corporate control were a main focus of the state's controversial legislative overhaul last year, which imposed rigid new definitions of both control and abuse while curtailing the remedies available to public investors. Parts of the overhaul are currently before the state supreme court, which is expected to rule on them any day.

Silver Lake and an attorney for Meteora didn't immediately respond to requests for comment Thursday.

Meteora is represented by Johnson Van Kwawegen LLP, a law firm founded late last year, when most of the corporate governance department decamped en masse from Bernstein Litowitz Berger & Grossmann LLP, a major shareholder firm that's featured prominently in some of Delaware's most significant court fights.

Before their break from Bernstein Litowitz, several of Meteora's attorneys brought a case last year on behalf of a different investor seeking access to deal-related files. That suit said public disclosures suggested Tzuo worked behind the scenes with Silver Lake to engineer an underpriced sale giving him unique perks, including the post-deal CEO job and the right to stay on as a co-investor.

The transaction's other preliminary appearance in a Delaware courtroom came in late 2024 in connection with a separate shareholder lawsuit that argued Zuora's advance-notice board nomination bylaws reflected an illegitimate attempt to kneecap activist investors. That case ended with a whimper when a judge declined to fast-track it ahead of the Silver Lake deal.

Wednesday's court complaint will likely be unsealed early next week under court rules that provide five days to redact confidential information.

The case is Meteora Cap. LLC v. Tzuo , Del. Ch., No. 2026-0120, complaint filed under seal 1/28/26 .

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Securities

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Dell Sued Over Target-Date Fund Returns in Worker 401(k) Plan

Jan. 29, 2026, 8:48 AM PST

Five former Dell Technologies Inc. employees filed a proposed class action saying their 401(k) plan lost more than $318 million through poorly performing investments, including a suite of actively-managed target-date funds.

Dell mismanaged its employees' 401(k) plan by offering target-date funds and other investments that underperformed better alternatives that were readily available from major vendors, the workers said in a complaint filed Wednesday in the US District Court for the Western District of Texas. The company evaluated these funds using "custom benchmarks" that failed to accurately capture their lagging performance, according to the lawsuit.

Target-date funds, which are designed to gradually shift investment strategies as investors approach retirement, have driven dozens of recent lawsuits, including cases centering on 401(k) plans with target-date funds from BlackRock Inc., Northern Trust, Fidelity, and Wells Fargo & Co.

The employees bring claims under the Employee Retirement Income Security Act on behalf of a proposed class of about 63,000 people

Dell didn't immediately respond to a request for comment on the allegations

The employees are represented by Condon Tobin Sladek Sparks Nerenberg PLLC and Kahn Swick & Foti LLC.

The case is Lowbruck v. Dell Techs., Inc. , W.D. Tex., No. 1:26-cv-00209, complaint 1/28/26 .

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News | Cryptocurrency

Mark Cuban Faces Texas Venue Fight After Voyager Jurisdiction Ruling

A federal judge's jurisdiction ruling sparks a new legal fight over where Voyager investors can sue Mark Cuban and the Dallas Mavericks.

January 28, 2026 at 02:58 PM By Michael A. Mora

Mark Cuban testifies during a hearing before the Senate Judiciary Subcommittee on Antitrust, Competition Policy & Consumer Rights. Photo: Diego M. Radzinschi/ALM

Investors who lost hundreds of millions of dollars in cryptocurrency exchange Voyager Digital's collapse asked a federal judge Tuesday to transfer their remaining claims against Mark Cuban and the Dallas Mavericks to Texas, arguing the defendants themselves previously urged that move and cannot now claim prejudice from it.

The request follows a December ruling by U.S. District Judge Roy Altman that the Florida court lacked personal jurisdiction over Cuban and the NBA team, leaving them as the last remaining defendants after settlements with other celebrity promoters. The plaintiffs said federal law favors transfer over dismissal to avoid duplicative litigation and potential statute-of-limitations disputes.

Lead class counsel Adam Moskowitz of the Moskowitz Law Firm in Miami and David Boies of Boies Schiller Flexner in New York said they are appreciative to Altman and mediator Judge Michael Hanzman for helping reach those promoter settlements and completing most of the discovery for defendants Cuban and the Dallas Mavericks.

“We will seek preliminary approval of our first batch of settlements next month in FTX, which will provide many millions to those victims. Unlike FTX, where the Estate collected billions for those victims, in Voyager, these class claims are the victims' only avenue for possible relief,” Moskowitz said. “We look forward to litigating those claims in Texas, as those defendants demanded.”

Steve Best, a partner in Washington, D.C. at Brown Rudnick, and Christopher E. Knight, Alexandra L. Tifford and Esther E. Galicia, shareholders in Miami at Fowler White Burnett, represent Cuban and the Mavericks. Knight said the plaintiffs objected to their request to transfer the case to the U.S. District Court for the Northern District of Texas three years ago and that Altman indicated that jurisdiction over the defendants in South Florida was problematic.

“Now, three years later, after the opportunity to agree to transfer, they are now begging to go to Dallas, Texas, so they can avoid numerous problems with their case, which will arise if they have to start anew,” Knight said in an email. “They are intentionally avoiding the fact that they opposed transfer three years ago in their motion. They rolled the dice, knew the risk and lost.”

'Amicably Settle'

Voyager, which launched in 2019 and, at its peak, reported more than $5 billion in assets under management, marketed itself as a commission-free cryptocurrency platform offering interest-bearing accounts. The plaintiffs alleged that Voyager’s representations were misleading and its interest-bearing “earn program” amounted to the unregistered sale of securities.

The plaintiffs claimed that Cuban and the Mavericks helped legitimize the collapsed platform through the NBA team’s sponsorships, press appearances and promotional campaigns. The plaintiffs have obtained settlements from former NFL star Rob Gronkowski, NBA player Victor Oladipo and NASCAR driver Landon Cassill, leaving only Cuban and the Mavericks as defendants.

However, Altman held that the facts advanced by the plaintiffs were insufficient to support their remaining claims and ruled that those claims should not be adjudicated in the Southern District of Florida because the court lacked personal jurisdiction over the remaining defendants.

The motion asks Altman to sever the claims against Cuban and the Mavericks and transfer them to the Northern District of Texas, Dallas Division, rather than dismiss them outright. Plaintiffs argued that federal transfer statutes favor preserving claims where jurisdiction is lacking, particularly after years of litigation and extensive discovery.

In their motion, the plaintiffs emphasized that Cuban and the Mavericks previously sought transfer to Dallas. Having proposed that remedy themselves, the plaintiffs argued, the defendants cannot now credibly claim unfair prejudice from it.

In seeking the transfer, the plaintiffs cite federal statutes that authorize courts to move cases to a proper forum when jurisdiction is lacking, arguing that the transfer would best serve the interest of justice and preserve claims already litigated for more than two years.

In addition, the plaintiffs wrote that the request would not affect settlements already reached or reopen jurisdictional disputes resolved by the court, and that the U.S. Court of Appeals for the Eleventh Circuit has held that a court is not barred from ordering a transfer when it concludes the district lacked jurisdiction.

"Good news is we already completed most of the discovery for those claims, and counsel for Mr. Cuban and the Mavericks will remain the same because we were able to amicably settle with them all in the Astral/Shaq class action for those victims," Moskowitz said.

Class Action

Manage Newsletters

Amneal to Pay $88.5M in Settlement For Majority of Opioid Claims

Jan. 28, 2026, 1:40 PM PST

Amneal Pharmaceuticals determined to settle a majority of opioids-related claims for $88.5 million and agreed to provide up to $177.4 million in naxolone nasal spray to help treat opioid overdoses.

Agreement is effective on January 29

Settling parties can receive up to 25% of the nasal spray's value in cash during the last four years of the 10-year payment term, increasing total value of the cash agreement to $132.9 million

To view the source of this information click here

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Dale Quinn

Securities

Fiserv Top Brass Misrepresented Clover's Prospects, Suit Says

Jan. 28, 2026, 1:52 PM PST

Fiserv Inc. executives and directors misled investors about growth prospects for its Clover payment processing platform before a 44% stock drop in October 2025, according to a shareholder derivative complaint.

Fiserv funneled merchants using its Payeezy platform onto Clover, temporarily inflating the new payment platform's revenue and transaction volume until higher costs drove many to leave the platform, investor Nathan Silva said in a complaint filed Tuesday in the US District Court for the Eastern District of Wisconsin.

Current and former executives, including CEO Mike Lyons, violated securities laws and breached their fiduciary duties by making false statements about Clover's growth and failing to disclose customer attrition, the derivative suit said.

The suit also names Frank Bisignano, Fiserv's former CEO tapped by President Donald Trump to lead the Social Security Administration.

A Fiserv spokesperson didn't immediately respond to a request for comment.

Milwaukee-based Fiserv gradually revealed problems with Clover's performance, culminating in an October 2025 announcement that previous forecasts relied on unrealistic assumptions, according to the complaint. Fiserv's share price plummeted following the disclosure.

The lawsuit seeks damages on behalf of Fiserv for losses related to defending securities fraud class actions, overpaying for stock buybacks at inflated prices, and reputational harm. It also aims to claw back compensation from executives and revise Fiserv's corporate governance practices.

The derivative action follows multiple proposed class actions filed against Fiserv over the Clover-related stock drop. A November suit against Lyons, former Chief Financial Officer Robert Hau, and the company alleging similar securities law violations is pending in the same federal court.

Rigrodsky Law PA represents the plaintiff.

The case is Silva v. Bisignano , E.D. Wis., No. 2:26-cv-00134, complaint filed 1/27/26 .

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Bellwether trial set in federal social media addiction litigation

DJ **dailyjournal.com**/articles/389521-bellwether-trial-set-in-federal-social-media-addiction-litigation

A federal trial is scheduled to begin June 15 in the massive multi-district litigation alleging that social media companies tailored certain features to get children and teens addicted.

In an order dated Jan. 27, U.S. District Judge Yvonne Gonzalez Rogers set the trial dates for the first Bellwether cases, if she doesn't decide to grant the defendants' pending motion for summary judgment. *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, 4:22-md-03047 (N.D. Cal., filed Oct. 6, 2022).

Gonzalez Rogers didn't take a stance on the motion in Tuesday's order, but at a Jan. 26 hearing, the judge indicated she was skeptical and that the case could go to trial. While Gonzalez Rogers also pushed back on plaintiffs' arguments, she repeatedly asked defense counsel to explain why the problems they say are grounds for summary judgment aren't just factual disputes for the jury to decide.

Jury selection would start June 12, according to Gonzalez Rogers' order. Both trial and jury selection would take place at the Oakland federal courthouse, beginning at 8 a.m.

The case was brought by several school districts who claim Instagram, TikTok, Snapchat, YouTube and their parent companies included features in their platforms they knew would lead children to become addicted. The school districts allege the companies created age-gates that are easy to bypass and didn't properly warn users and their parents of the platforms' addictive nature, leading to mental health struggles among students and distracting them from their classes.

A similar case filed by a teen-aged girl is currently in trial in Los Angeles County Superior Court.

The six school districts' claims were selected as the Bellwether cases: Breathitt County, Ky., Charleston County, S.C., DeKalb County, Ga., Harford County, Md., Irvington, N.J., and Tucson, Ariz. Gonzalez Rogers hasn't ruled on which one will be tried first.

Over two dozen states sued the companies making similar allegations that are in front of Gonzalez Rogers as well, although Tuesday's order pertains only to the school districts' lawsuits.

Jury selection began Tuesday in Los Angeles for a separate, private class action in state court over similar allegations. TikTok and Snapchat reached settlement in recent weeks while Meta and YouTube are set to stand trial.

In Tuesday's order, Gonzalez Rogers also revealed who will serve on the plaintiffs' steering committee for the next year. The current committee members -- led by Previn Warren of Motley Rice LLC and Lexi Hazam of Lieff Cabraser -- can stay on for at least another year once their terms expire at the end of January, Gonzalez Rogers ruled.

The judge also approved Walkup, Melodia, Kelly & Schoenberger attorney Khaldoun A. Baghdadi's application to join the committee, but rejected the application of Karin B. Swope of Cotchett, Pitre & McCarthy, LLP. Two current committee members -- Anapol Weiss partner Paige Bolt and Sin-Ting Mary Liu of Aylstock, Witkin, Kreis & Overholtz PLC -- asked not to be reappointed.

The defendants are represented by attorneys from Munger, Tolles & Olson LLP, Covington & Burling LLP, Williams & Connolly LLP, Shook, Hardy & Bacon LLP, Kirkland & Ellis LLP and King & Spalding LLP, among several other law firms.

Gonzalez Rogers also denied motions from both parties to extend the deadlines for moving to seal certain documents related to the case.

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News | **Mass Torts**

Social Media Companies Challenge Evidence Raised by Schools Alleging Addictive Harm

The trials are part of the social media addiction multidistrict litigation before U.S. District Judge Yvonne Gonzalez Rogers of the Northern District of California, the first of which is scheduled for June 15.

January 28, 2026 at 10:51 AM By **Amanda Bronstad**

What You Need to Know

- U.S. District Judge Yvonne Gonzalez Rogers heard arguments on Monday on more than half a dozen summary judgment motions the social media defendants filed in cases brought by schools.
- Andre Mura, representing the school districts, said there was evidence demonstrating students are 'zombies, locked into their phones.' 'None of that is content,' he told the judge.
- Jury selection began Tuesday in a related case in Los Angeles Superior Court, where Meta and Google's YouTube face the nation's first trial alleging they addicted a teenage user, causing mental health problems.

Judge Yvonne Gonzalez Rogers, US Distrct Court for the Northern District of California (Photo: Jason Doiy/ALM)

This article first appeared on Law.com.

Social media companies have challenged evidence provided by school districts in the first planned trials in federal court alleging TikTok, YouTube, Snapchat and Instagram caused students to become addicted, leading to educational costs.

The trials are part of the social media addiction multidistrict litigation before U.S. District Judge Yvonne Gonzalez Rogers of the Northern District of California, the first of which is scheduled for June 15. The judge has selected six school districts, including those in Georgia and New Jersey, as possible plaintiffs against four social media defendants: Google's YouTube, ByteDance's TikTok, Snap Inc., which owns Snapchat, and Meta Platforms, which operates Instagram and Facebook.

The social media defendants filed more than half a dozen summary judgment motions, insisting that the schools, and their experts, hadn't provided enough evidence to move the cases toward trials. At a Monday hearing, in Oakland, California, lawyers for the social media sites argued that much of the testimony was protected under the First Amendment and Section 230 of the Communications Decency Act, which prohibits liability against tech companies for the actions of third parties that create content on their sites.

"Overwhelmingly, the record here is of content and protected publishing activity," Jonathan Blavin, of Munger Tolles & Olson in San Francisco, told Gonzalez Rogers, addressing plaintiffs' general causation experts for the multidistrict litigation. Having failed to provide evidence independent from what is protected under Section 230, he said, the judge should toss the bellwether cases on summary judgment.

Gonzalez Rogers pushed back, telling Blavin that common law does not use the word "independent," but "substantial."

"It's pretty common on lots of different areas of law that you have multiple causes," Gonzalez Rogers said. "Juries are frequently called upon to decide those kinds of issues when the eggs are scrambled, so to speak."

An attorney for the schools, Andre Mura, of Gibbs Mura in Oakland, California, countered that Section 230 didn't bar all mention about the content students were watching; it focused on the duty that tech companies had to their users.

"Section 230 is not a rule of evidence," he said. "It does not require plaintiffs to strip away third-party content or other features from the casual chain."

He added that the features on the phones, not the content, were the drivers behind the harm to students. School districts provided evidence demonstrating students are “zombies, locked into their phones.”

“None of that is content,” he told the judge.

Gonzalez Rogers, after the arguments, said she had problems with both their views.

“It’s not clear to me,” she said. “I don’t know that I agree with either one of you, I guess is the point.”

The arguments come as Los Angeles Superior Court Judge Carolyn Kuhl is preparing the first trial in the nation alleging social media addicts its adolescent users. That trial, which begins jury selection on Tuesday, is between a woman identified as K.G.M. who alleges she became addicted as a teenager to social media, leading to mental health issues. The trial involves two of the same social media defendants: Google and Meta.

Snap Inc., which owns Snapchat, settled out of the trial last week. On Tuesday, TikTok announced it had reached a settlement. A representative of TikTok and its lawyer, O’Melveny’s Dan Petrocelli, in Los Angeles, did not respond to requests by Law.com for interviews.

In court on Monday, Petrocelli brought up TikTok’s concern that prospective jurors might talk about the planned ban of his client in the United States. This month, with the involvement of U.S. President Donald Trump, TikTok reached a deal that would allow it to keep operating.

“I don’t really relish the idea of bringing that up at the panel,” he told Kuhl. “I can’t have a juror sitting there on the jury who thinks we were banned.”

Meta attorney Paul Schmidt, of Covington & Burling in Washington D.C., raised concerns that prospective jurors might blurt out references to Australia’s recent ban on social media for users under 16, prompting Kuhl to bring up that France might be next.

“You’re in the news,” she said to the defense team.

‘A Distinction Without a Difference’

Kuhl rejected similar summary judgment arguments in the social media cases before her, all filed in California's state courts, and allowed 10 of the plaintiff’s general causation experts to testify.

But Blavin called on Gonzalez Rogers not to follow Kuhl’s orders. In five prior dismissal orders, Gonzalez Rogers struck some features of the social media sites as barred by Section 230. But she didn’t toss out others, such as poor parental controls and age verification.

Jonathan Blavin Munger, Tolles & Olson partner

"From the outset," Blavin argued on Monday, "the court recognized that this case turns on what conduct is and is not actionable."

Among those features no longer part of the case are infinite scrolling and notifications, he said.

"Plaintiffs have ignored the court's directives at each step of this case," Blavin, who represents Snap, said.

Motley Rice's Previn Warren, for the plaintiff, told the judge that defective age notification features addicted 10-year-olds to social media, while beauty filters keep some students from showing up at school.

"You have a platform that is engaging in non-protected conduct that it knows is addictive, and then you have the foreseeable result materializing at the school district level," Warren, in Washington D.C., said.

The social media companies also challenged the evidence supporting damages the six individual bellwether school districts want as part of proposed "strategic plans" to address the social media problems. Georgia's DeKalb County School District, for instance, is seeking between $2.4 billion and $4.3 billion over 15 years to fund mental health programs in schools.

And they sought to toss claims they failed to warn the schools about the alleged harm caused by their products. Williams & Connolly's Ashley Hardin, on Monday, said social media cites had no legal duty to warn schools about potential harm to students, who are third parties.

"What is the difference between a school district and a school district without students?" Gonzalez Rogers asked her. "It's a distinction you're trying to make. In my view, it's a distinction without a difference."

Google to pay $135 million to settle Android data transfer lawsuit

reuters.com/sustainability/boards-policy-regulation/google-pay-135-million-settle-android-data-transfer-lawsuit-2026-01-28

Jonathan Stempel January 28, 2026

A Google logo is seen at a company research facility in Mountain View, California, U.S., May 13, 2025. REUTERS/Carlos Barria/File Photo Purchase Licensing Rights, opens new tab

- Google accused of needlessly collecting cellular data
- Largest payout in this kind of case, lawyer says
- Google denies wrongdoing in agreeing to settle

Jan 28 (Reuters) - Google will pay $135 million to settle a proposed class action by smartphone users who accused Google of programming its Android operating system to collect their cellular data without permission.

A preliminary settlement with the Alphabet (GOOGL.O) , opens new tab unit was filed late Tuesday night in the San Jose, California federal court, and requires a judge's approval.
Sign up here.

Google denied wrongdoing in agreeing to the settlement, which covers users of Android-powered mobile devices since November 12, 2017.

Users said Google needlessly collected cellular data, which they purchased from mobile carriers, even when they closed Google's apps, disabled location-sharing or locked their screens.

They said the data supported Google's product development and targeted advertising campaigns and amounted to "conversion," when a party wrongfully takes another party's property with the intent to assert control.

As part of the settlement, Google will not transfer data without obtaining consent from Android users when they set up their phones.

The Mountain View, California-based company will also make it easier for users to stop the transfers by toggling, and will disclose the transfers in its Google Play terms of service.

Glen Summers, a lawyer for the plaintiffs, said in a court filing he believed the $135 million payout is the largest ever in a conversion case. Payments are capped at $100 per class member.

A trial had been scheduled for August 5. Google had no immediate comment on Wednesday. The plaintiffs' lawyers may seek up to $39.8 million, or 29.5% of the settlement fund, for legal fees.

Reporting by Jonathan Stempel in New York; Editing by Andrea Ricci

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

California Brief

Music Publishers File Fresh Anthropic AI Suit With Piracy Claim

Jan. 28, 2026, 4:21 PM PST

Music publishers battling Anthropic PBC over using song lyrics to train its AI models brought a new copyright lawsuit against the company that includes a piracy claim they couldn't add to the original case.

Concord Music Group Inc., Capitol CMG Inc., and Universal Music Corp. are among the groups suing Anthropic over its use of BitTorrent that downloaded pirated song lyrics for its artificial intelligence training data, according to a lawsuit filed Wednesday in the US District Court for the Northern District of California. The lawsuit also names Anthropic CEO Dario Amodei and co-founder Benjamin Mann as defendants.

The publishers attempted unsuccessfully to add a piracy claim to their 2024 lawsuit, saying they only discovered Anthropic's use of BitTorrent—a tool used to access pirated content stored on online libraries—in a summary judgment ruling in a separate case.

They threatened at the time to file a new lawsuit with a piracy claim if they couldn't successfully amend their complaint. A federal judge denied their bid in October.

"Anthropic successfully opposed that amendment," the publishers said. "But Anthropic never denied having torrented pirated copies of Publishers' works. Instead, it argued that its torrenting was entirely unrelated to Publishers' claims in Concord I, and that amending the complaint to address torrenting claims would 'fundamentally transform' that case."

Judge William Alsup's ruling last year in a case brought by book authors cleared Anthropic of accusations it flouted copyright law when it used scanned copies of books to train its large language models. But it was left on the hook for troves of pirated books it acquired from shadow libraries before it shifted to using scanned copies of books.

Anthropic eventually settled those claims for $1.5 billion in a preliminary settlement agreement to avoid going to trial and potentially paying roughly $1 trillion in damages.

After Alsup's ruling, music publishers moved to add a piracy claim to their lawsuit, saying shadow libraries accessed by Anthropic such as LibGen and PiLiMi also have books containing copyrighted musical compositions.

"If Anthropic had timely disclosed its BitTorrent activity, Publishers would have earlier amended their Complaint to address this clear infringement," the publishers wrote in a filing in the first suit. "Instead, Anthropic hid that information, which Publishers had to glean from third-party sources.."

Oppenheim & Zebrak LLP, Coblentz, Patch, Duffy & Bass LLP and Cowan, Liebowitz & Latman PC represent the publishers.

The case is Concord Music Group Inc. v. Anthropic PBC , N.D. Cal., No. 3:26-cv-00880, complaint filed 1/28/26 .

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California Brief

Amazon Discovered Child Sex Abuse Content in AI Training Data

Jan. 29, 2026, 3:00 AM PST

Amazon.com Inc. reported hundreds of thousands of pieces of content last year that it believed included child sexual abuse, which it found in data gathered to improve its artificial intelligence models. Though Amazon removed the content before training its models, child safety officials said the company has not provided information about its source, potentially hindering law enforcement from finding perpetrators and protecting victims.

Throughout last year, Amazon detected the material in its AI training data and reported it to the National Center for Missing and Exploited Children, or NCMEC. The organization, which was established by Congress to field tips about child sexual abuse and share them with law enforcement, recently started tracking the number of reports specifically tied to AI products and their development. In 2025, NCMEC saw at least a fifteen-fold increase in these AI-related reports, with "the vast majority" coming from Amazon. The findings haven't been previously reported.

An Amazon spokesperson said the training data was obtained from external sources, and the company doesn't have the details about its origin that could aid investigators. It's common for companies to use data scraped from publicly available sources, such as the open web, to train their AI models. Other large tech companies have also scanned their training data and reported potentially exploitative material to NCMEC. However, the clearinghouse pointed to "glaring differences" between Amazon and its peers. The other companies collectively made just "a handful of reports," and provided more detail on the origin of the material, a top NCMEC official said.

In an emailed statement, the Amazon spokesperson said that the company is committed to preventing child sexual abuse material across all of its businesses. "We take a deliberately cautious approach to scanning foundation model training data, including data from the public web, to identify and remove known [child sexual abuse material] and protect our customers," the spokesperson said.

The spike in Amazon's reports coincides with a fast moving AI race that has left companies large and small scrambling to acquire and ingest huge volumes of data to improve their models. But that race has also complicated the work of child safety officials — who are struggling to keep up with the changing technology — and challenged regulators tasked with safeguarding AI from abuse. AI safety experts warn that quickly amassing large datasets without proper safeguards comes with grave risks.

Amazon has more than 900 data center facilities worldwide.
Photographer: Nathan Howard/Getty Images

Amazon accounted for most of the more than 1 million AI-related reports of child sexual abuse material submitted to NCMEC in 2025, the organization said. It marks a jump from the 67,000 AI-related reports that came from across the tech and media industry a year prior, and just 4,700 in 2023. This category of AI-related reports can include AI-generated photos and videos, or sexually explicit conversations with AI chatbots. It can also include photos of real victims of sexual abuse that were collected, even unintentionally, in an effort to improve AI models.

Training AI on illegal and exploitative content raises newfound concerns. It could risk shaping a model's underlying behaviors, potentially improving its ability to digitally alter and sexualize photos of real children or create entirely new images of sexualized children that never existed. It also raises the threat of continuing the circulation of the images that models were trained on — re-victimizing children who have suffered abuse.

The Amazon spokesperson said that, as of January, the company is "not aware of any instances" of its models generating child sexual abuse material. None of its reports submitted to NCMEC were of AI-generated material, the spokesperson added. Instead, the content was flagged by an automatic detection tool that compared it against a database of known child abuse material involving real victims, a process called "hashing." Approximately 99.97% of the reports resulted from scanning "non-proprietary training data," the spokesperson said.

Amazon believes it over-reported these cases to NCMEC to avoid accidentally missing something. “We intentionally use an over-inclusive threshold for scanning, which yields a high percentage of false positives,” the spokesperson added.

Amazon has more than 900 data center facilities worldwide.
Photographer: Brian Kaiser/Bloomberg

The AI-related reports received last year are just a fraction of the total number submitted to NCMEC. The larger category of reports also includes suspected child sexual abuse material sent in private messages or uploaded to social media feeds and the cloud. In 2024, for example, NCMEC received more than 20 million reports from across industry, with most coming from Meta Platforms Inc. subsidiaries Facebook, Instagram and WhatsApp. Not all reports are ultimately confirmed as containing child sexual abuse material, referred to with the acronym CSAM.

Still, the volume of suspected CSAM that Amazon detected across its AI pipeline in 2025 stunned child safety experts interviewed by Bloomberg News. The hundreds of thousands of reports made to NCMEC marked a drastic surge for the company. In 2024, Amazon and all of its subsidiaries made a total of 64,195 reports.

“This is really an outlier,” said Fallon McNulty, the executive director of NCMEC’s CyberTipline, the entity to which US-based social media platforms, cloud providers and other companies are legally required to report suspected CSAM. “Having such a high volume come in throughout the year begs a lot of questions about where the data is coming from, and what safeguards have been put in place.”

McNulty, speaking in an interview, said she has little visibility into what's driving the surge of sexually exploitative material in Amazon's initial training data sets. Amazon has provided "very little to almost no information" in their reports about where the illicit material originally came from, who had shared it, or if it remains actively available on the internet, she said.

While Amazon is not required to share this level of detail, the lack of information makes it impossible for NCMEC to track down the material's origin and work to get it removed, McNulty said. It also limits relevant law enforcement agencies tasked with searching for sex offenders and children in active danger. "There's nothing then that can be done with those reports," she said. "Our team has been really clear with [Amazon] that those reports are inactionable."

When asked why the company didn't disclose information about the possible origin of the material, or other key details, the Amazon spokesperson replied, "because of how this data is sourced, we don't have the data that comprises an actionable report." The spokesperson did not explain how the third-party data was sourced or why the company did not have sufficient information to create actionable reports. "While our proactive safeguards cannot provide the same detail in NCMEC reports as consumer-facing tools, we stand by our commitment to responsible AI and will continue our work to prevent CSAM," the spokesperson said.

NCMEC, a nonprofit, receives funding both from the US government and private industry. Amazon is among its funders and holds a corporate seat on its board.

"There should be more transparency on how companies are gathering and analyzing the data to train their models — and how they're training them," said David Thiel, the former chief technologist at the Stanford Internet Observatory, who has researched the prevalence of child sexual abuse material in AI training data.

Such data can be licensed, purchased or scraped from the internet, or could be so-called synthetic data, which is text or images created by other AI tools. As AI companies seek to release new models quickly, "the rapid gathering of data is a much higher priority than doing safety analyses," Thiel said. He warned that there are "always some errors" when it comes to sifting out CSAM from training data, and believes the industry needs to be more open about where its data is coming from.

Read More: Grok's Sexualized Images Test the Limits of AI Oversight

Amazon's Bedrock offering, which gives customers access to various AI models so they can build their own AI products, includes automated detection for known CSAM and rejects and reports positive matches. The company's consumer-facing generative AI products also allow users to report content that escapes its controls.

The Seattle-based tech giant scans for CSAM across its other businesses, too, including its consumer photo storage service. Amazon's cloud computing division, Amazon Web Services, also removes CSAM when it's discovered on the web services it hosts. McNulty said AWS submitted far fewer reports than came from Amazon's AI efforts. Amazon declined to break out specific reporting data across its various business units, but noted it would share broad data in March.

Only recently have technology companies really begun to scrutinize their AI models and training data for CSAM, said David Rust-Smith, a data scientist at Thorn, a nonprofit organization that provides tools to companies, including Amazon, to detect the exploitative material.

"There's definitely been a big shift in the last year of people coming to us asking for help cleaning data sets," said Rust-Smith. He noted that "some of the biggest players" have sought to apply Thorn's detection tools to their training data, but declined to speak about any individual company. Amazon did not use Thorn's technology to scan its training data, the spokesperson confirmed.

Rust-Smith said AI-focused companies are approaching Thorn with a newfound urgency. "People are learning what we already knew, which is, if you hoover up a ton of the internet, you're going to get [child sexual abuse material]," he said.

Amazon was not the only company to spot and report potential CSAM from its AI workflows last year. Alphabet Inc.'s Google and OpenAI told Bloomberg News that they scan AI training data for exploitative material — a process that has surfaced potential CSAM, which the companies then reported to NCMEC. Meta and Anthropic PBC said they, too, search training data for CSAM. Meta did not comment on whether it had identified the material, but said it would report to NCMEC if it did. Anthropic said it has not reported such material out of its training data. Meta and Google said that they've taken efforts to ensure that reports related to their AI workflows are distinguishable from those generated by others parts of their business.

McNulty said that, with the exception of Amazon, the AI-related reports it received last year came in "really, really small volumes," and included key details that allowed the clearinghouse to pass on actionable information to law enforcement.

"Simply flagging that you came across something but not providing any type of actionable detail doesn't help the larger child safety space," McNulty said.

--With assistance from Alexandra S. Levine.

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California Brief

PubMatic Inc. Pares Down Web Data Tracking Class Action Lawsuit

Jan. 28, 2026, 12:33 PM PST

PubMatic Inc., an online advertising company, shed one claim in a lawsuit alleging that it illegally monitored users' web movements through its "pixel tracking" technology.

Judge Susan Illston of the US District Court for the Northern District of California on Tuesday granted PubMatic's motion to dismiss an unjust enrichment claim from four named plaintiffs and a Jane Doe on behalf of a proposed class. But the judge rejected the company's efforts to dismiss claims that it violated California and federal communications privacy laws, among others, after finding that the plaintiffs sufficiently stated a claim to advance the case.

PubMatic operates the "PubMatic pixel," which the plaintiffs alleged in their first amended complaint "collects information from users' browsers and devices when they visit the websites of PubMatic's publisher clients' websites," without the users' knowledge or consent. The company then sells the data to dozens of parties, the California residents say. Pixels are invisible images embedded in websites that digital marketers monitor to track user website behaviors.

The plaintiffs also allege that PubMatic's services allow clients to create profiles of users' web identities and use the information for targeted advertising.

They claimed the PubMatic pixel collected the webpages they visited, their IP addresses, and geographic location.

At this stage, the plaintiffs have adequately pled "a 'highly offensive' intrusion of privacy that invades a reasonable internet user's expectation of privacy," sufficient to establish standing, Illston said.

The California residents claim of intrusion upon seclusion should move forward, the judge said. Although the company argues that shopping on a public website isn't an activity one can expect to keep private from the retailer, "PubMatic's alleged conduct is very different from being observed by a retailer while shopping in their store," she said.

The plaintiffs' claims under the California Invasion of Privacy Act and the federal Electronic Communications Privacy Act also must proceed, given that the factual dispute over whether PubMatic intercepts any communications in transit hasn't yet been resolved, Illston said. They also have sufficiently alleged that the company intercepted the contents of their communications while they navigated through various websites, and also that the crime-tort exception—where there is a violation even with consent if a communication is intercepted for the purpose of committing a criminal or tortious act—may apply, the judge said.

Each of the plaintiffs is adequately specific about what types of information the pixel collected, including fullstring URL addresses of each page of the website they visited, such as Zillow, Bon Appetit, and Mindbloom, she said.

While Illston dismissed the plaintiffs' unjust enrichment claim, because they haven't alleged "that they lack an adequate remedy at law," she ruled they could amend the claim and try again.

Bursor & Fisher PA represent the plaintiffs. Mintz, Levin, Cohn, Ferris, Glovsky & Popeo PC represent Pubmatic.

The case is Semien v. PubMatic Inc. , N.D. Cal., No. 3:25-cv-03164, 1/27/26 .

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California Brief

MyFitnessPal Users Advance Lawsuit Over ‘Deceptive’ Web Tracking

Jan. 28, 2026, 1:27 PM PST

MyFitnessPal Inc. failed to convince a federal judge to toss a lawsuit alleging it illegally collected the data of its app users even after they rejected the use of cookies that tracked them while they interacted with the app.

Lead plaintiffs Vishal Shah and Christine Wiley had standing to bring the lawsuit in federal court and adequately pleaded claims of invasion of privacy, intrusion upon seclusion, and unjust enrichment, Judge P. Casey Pitts of the US District Court for the Northern District of California said Tuesday.

The plaintiffs alleged that MyFitnessPal incorporated tracking tools from Meta Platforms Inc., Google LLC, TikTok Inc., and other third parties on its nutrition and fitness app, allowing the social media and advertising companies to collect their personal information even after they had rejected the tracking tools.

MyFitnessPal argued that the plaintiffs failed to allege an injury-in-fact sufficient for standing, but Pitts said their allegation that it shared their sensitive information after promising it wouldn’t was good enough.

The company also argued the invasion-of-privacy and intrusion-upon-seclusion claims failed because the plaintiffs had no reasonable expectation of privacy in the information that was disclosed, but Pitts disagreed.

Even if the information alone wouldn’t give rise to an “unqualified expectation of privacy,” the company created that expectation when it promised users it wouldn’t track their data if they opted out of cookies, he said. The California Consumer Privacy Act, passed in 2020, also contributed to an expectation among California consumers that they had the right to control their data, he said.

MyFitnessPal’s argument that its sharing wasn’t “highly offensive” fared no better, given the plaintiffs’ allegation that the company misled them about its practices and led them to engage in tracked conduct that they otherwise wouldn’t have undertaken, he said.

The unjust-enrichment claims survived because the plaintiffs plausibly alleged that the company was able to profit from data that it had acquired from them based on its misrepresentations, he said.

The California Invasion of Privacy Act wiretapping and pen-register claims both failed because the plaintiffs didn’t allege that they interacted with the app and the company’s websites, he said. The common-law fraud claim failed for a similar reason—failure to allege when the misconduct occurred, Pitts said. He gave the plaintiffs leave to amend these claims.

Gutride Safier LLP represents the plaintiffs. Baker & Hostetler LLP represents MyFitnessPal.

The case is Shah v. MyFitnessPal Inc. , N.D. Cal., No. 5:25-cv-04430, order 1/27/26 .

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California Brief

PragerU Stuck With Video Privacy Suit Over Sharing With Meta

Jan. 28, 2026, 10:57 AM PST

Prager University Foundation failed to convince a federal judge to dismiss a proposed class action alleging it shared the video-viewing histories of consumers with Meta Platforms Inc. in violation of the Video Privacy Protection Act.

Lead plaintiffs Sylvia Chandra and Damany Browne adequately pleaded that PragerU disclosed their personally identifiable information, as defined in the VPPA, and did so knowingly, Judge Mark C. Scarsi of the US District Court for the Central District of California said Tuesday.

Scarsi grounded his ruling in the “ordinary person” standard used by the Ninth Circuit to determine what constitutes personally identifiable information under the act, holding that the information transmitted to Meta could enable an ordinary person to link consumers with videos they watched at the online platform.

He also took issue with the “rather limiting view of the ordinary person’s technological capabilities” that led the Second Circuit to dismiss a similar VPPA lawsuit in 2025 in a ruling cited by PragerU. “As the march of technology moves forward, the scope of information that is accessible and understandable to an ‘ordinary person’ will almost certainly increase,” he said.

The plaintiffs alleged that the online platform incorporated tracking tools from Meta’s Facebook unit and other third parties on its website and mobile apps, allowing the social media and tech companies to collect information, including the titles of videos they watched and their Facebook IDs, arising from their activities there.

PragerU argued in a motion to dismiss that the information transmitted to Facebook wasn’t personally identifiable information under the act because it couldn’t be understood by an ordinary person, as required under Ninth Circuit precedent.

Scarsi disagreed, finding the format in which the information was transmitted was much simpler that in cases relied upon by PragerU.

The judge had “no trouble” concluding that an ordinary person could understand the information to include a video title, and could use the disclosed Facebook IDs to link a title to an individual consumer, he said.

The plaintiffs’ allegations that PragerU purposefully installed the tracking technology on its website were also enough to plead the “knowingly disclosed” element of their VPPA claim, he said.

Hedin LLP and Gucovschi Law Firm PLLC represent Chandra and the proposed class. Gordon Rees Scully Mansukhani LLP represents PragerU.

The case is Chandra v. Prager Univ. Found. , C.D. Cal., No. 2:25-cv-03984, order 1/27/26 .

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News | **Litigation**

Prime Hydration Reaches Settlement in Forever Chemicals Suit

The lawsuit was filed in August 2023, accusing Prime Hydration of containing toxic per- and polyfluoroalkyl (PFAS) substances, which have been shown to cause cancer.

January 28, 2026 at 05:05 PM By **Riley Brennan**

PRIME hydration drink bottles on sale at Walgreens in Baltimore, MD. Photo: Diego M. Radzinschi/ALM

Prime Hydration and a consumer who alleged the company's sports drink is "poisonous" and contains unsafe levels of cancer-causing toxins have settled, according to a federal judge in California's order dismissing the action.

On Wednesday, U.S. District Judge Araceli Martinez-Olguin for the Northern District of California granted the parties' joint stipulation of dismissal filed by Prime Hydration and plaintiff Elizabeth Castillo. The motion indicated that both parties agreed to dismiss the action and bear their own costs, fees, and expenses. The parties indicated they had settled the case during a settlement conference on Jan. 9, though the details of the agreement were unknown.

The lawsuit was filed in August 2023, accusing Prime Hydration of containing toxic per- and polyfluoroalkyl (PFAS) substances, which have been shown to cause cancer. Castillo alleged that the company's grape sports drink was falsely advertised and marketed as "healthy" and filled with antioxidants, electrolytes, and vitamins, while containing toxic chemicals.

In Sept. 2024, Judge Martínez-Olguín allowed Castillo's claim for breach of implied merchantability to move forward based on the independent testing results, concluding that she plausibly alleged that the level of PFAS in the drink is unsafe based on her claim that independent testing of the product revealed that the levels of PFAS identified exceeded the U.S. Environmental Protection Agency's lifetime health advisory for drinking water.

However, the court concluded that Castillo failed to plead factual allegations that Prime knew of the presence of per- and polyfluoralkyl substances, also known as forever chemicals, and dismissed claims for breach of implied warranty of fitness for a particular purpose and for various violations of state law, including alleged violations of the Magnuson-Moss Warranty Act, California's Consumer Legal Remedies Act, California's Unfair Competition Law, and California's False Advertising Law.

In July, the U.S. District Court for the Southern District of New York dismissed a similar suit against the defendant for failure to state a claim, after a separate plaintiff accused the company of misrepresenting the amount of caffeine contained in its PRIME Energy drinks.

Kristen Cardoso of Kopelowitz Ostrow in Fort Lauderdale, Florida, represented Castillo.

Cindy Hamilton of Greenberg Traurig, in East Palo Alto, California, represented Prime.

Neither attorney immediately responded to requests for comment.

Physicians, public health groups back children in climate lawsuit against Trump

DJ **dailyjournal.com**/articles/389518

Cotchett

A coalition of public health organizations and more than 30 physicians filed an amicus brief Monday urging the 9th U.S. Circuit Court of Appeals to reverse a district court ruling against 22 children suing President Donald J. Trump over executive orders promoting fossil fuel production.

The brief in Lighthiser v. Trump supports the young plaintiffs' appeal from U.S. District Judge Dana L. Christensen's October 2025 decision in Montana federal court. The children, represented by Our Children's Trust, challenge three executive orders signed in January and April 2025 that direct federal agencies to accelerate fossil fuel use, particularly coal. *Lighthiser v. Trump,* Ninth U.S. Circuit Court of Appeals, No. 25-6714.

The amici -- including the Public Health Law Center, Physicians for Social Responsibility and the American Lung Association -- argue climate change constitutes "a children's public health emergency" and that the plaintiffs face specific, redressable injuries from increased air pollution and rising temperatures.

"Climate change and exposure to pollution from fossil fuels presents a health emergency for children and youth," the district court found, according to the brief.

Several plaintiffs suffer from asthma and live in counties receiving failing grades for particle pollution. One plaintiff was hospitalized for heatstroke. Another has received therapy for climate anxiety since age 12.

The brief argues children are especially vulnerable because their temperature regulation is still developing and they spend more time outdoors, increasing their exposure to heat, pollution, and disease-carrying insects whose ranges expand as temperatures rise.

Cotchett, Pitre & McCarthy LLP in Burlingame, represents the amici. Firm name partner, Joseph W. Cotchett signed the filing.

The appeal partly concerns whether the executive orders' projected contribution of 205 million metric tons of carbon dioxide annually by 2027, as estimated by plaintiffs' experts, suffices to establish causation for standing. The district court deemed that impact both "scientifically significant" and "a meaningful contribution to atmospheric carbon dioxide levels."

#389518

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California Brief

Tobey Maguire Takes Stand at Tom Goldstein’s Criminal Tax Trial

Jan. 28, 2026, 3:10 PM PST

Spider-Man star Tobey Maguire was one of three witnesses to take the stand Wednesday at lawyer Tom Goldstein’s trial on tax and false statements charges.

Maguire’s highly anticipated testimony was brief. The jurors didn’t seem starstruck—or if they were, they wore good poker faces.

Maguire explained that he knew Goldstein from poker circles and hired him in 2020 to help collect a $7.8 million gambling debt from Texas billionaire Andy Beal.

LISTEN: Holly Barker talks about the trial of Tom Goldstein, the Supreme Court advocate and co-founder of SCOTUSBlog, who was charged with criminal tax evasion.

Maguire said he wired Goldstein’s $500,000 fee for recovering the money to real estate mogul Bob Safai at Goldstein’s direction. Maguire said he wasn’t sure why, but the jury heard from Safai earlier that Goldstein owed him a substantial gambling debt.

When crossed, Maguire said a request like that isn’t uncommon in the poker world, and that it isn’t uncommon for such transactions not to be formally documented. Maguire also said that Goldstein didn’t ask him—or his accountants, to his knowledge—to refrain from sending any 1099s or other tax documents.

Goldstein is charged with one count of tax evasion, eight counts of aiding and assisting in the preparation of false and fraudulent tax returns, four counts of willful failure to pay taxes and three counts of making a false statement on a loan application. Prosecutors allege he willfully mischaracterized gambling-related expenses as business expenses, failed to pay his taxes on time, and concealed income from the IRS, among other things.

The defense has maintained that Goldstein relied on his outside accountants and firm managers to get his taxes right, and that there's no evidence that he ever told anyone to do anything to help him dodge his taxes.

Another Pro

The other two witnesses called Wednesday were professional poker player Vivek Rajkumar and IRS revenue agent Yvette Parrish.

Rajkumar—the third professional card player called by the government thus far—testified to what he could remember of a handful of transactions from years ago, including ones relating to a $200,000 short-term loan he made to Goldstein in March 2020.

The government's aim seemed to be that gambling money and loans were wired to and from Goldstein & Russell PC's bank account, as opposed to Goldstein's personal account. But Rajkumar's testimony may have done more harm than good to its case.

Rajkumar testified on cross-examination that the $200,000 loan was never papered.

That matters because the government has suggested, both in the indictment and through its questioning, that the nearly $1 million in cash that Goldstein brought into the US in October 2018 couldn't possibly be a loan—as opposed to gambling winnings— because there wasn't any documentation memorializing the terms.

Rajkumar said he felt comfortable lending $200,000 to Goldstein without any note because Goldstein had acted honorably in their dealings in the past.

Rajkumar also testified that transfers made on behalf of others are common among high-stakes gamblers, and that the various reasons that bank records alone might not provide a complete picture of someone's gambling-related activities.

Installment Plan

Parrish, who took the stand last to accommodate Maguire and Rajkumar's travel schedules, resumed testimony that she started Jan. 22.

Her testimony revolved around an installment plan that she arranged for Goldstein for past-due taxes for 2016 and 2017.

She said that Goldstein never mentioned any gambling, but on cross acknowledged that he disclosed $13.7 million in "other income" from gambling on his 2016 tax return.

Goldstein's lawyer, Stephany Reaves asked whether Goldstein therefore had every reason to believe she already knew about the gambling.

"I can't say what he believed," Parrish said.

Calling the Journalists

Meanwhile, the government subpoenaed Jeffrey Toobin and Rudy Lee to testify about their newsgathering for a story that ran in New York Times Magazine at the end of December.

Judge Lydia Kay Griggsby earlier denied the government's motion to admit portions of the story, which it says is are directly relevant to the charges.

Griggsby has yet to rule on their motion to quash the subpeonas—which the defense has supported in a statement of interest.

They say their testimony "would have minimal value to the government's case—indeed, it is exculpatory as to several counts—and it comes at the cost of a serious intrusion into the newsgathering process that will chill future journalism."

Goldstein is represented by Munger Tolles & Olson LLP.

The case is United States v. Goldstein, D. Md., No. 8:25-cr-00006, trial held 1/28/26 .

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Actor Tobey Maguire testifies at US lawyer's tax evasion trial

reuters.com/lifestyle/actor-tobey-maguire-testifies-us-lawyers-tax-evasion-trial-2026-01-28

Mike Scarcella January 28, 2026

Actor Tobey Maguire leaves the U.S. federal courthouse after testifying at the trial of lawyer Thomas Goldstein, accused of tax evasion and other crimes, in Greenbelt, Maryland, U.S. January... Purchase Licensing Rights, opens new tab
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WASHINGTON, Jan 28 (Reuters) - Spider-Man star Tobey Maguire testified on Wednesday at the U.S. criminal tax trial of Tom Goldstein, telling jurors in Greenbelt, Maryland that he once hired the prominent American lawyer to help recover more than $7 million in poker winnings.
Maguire said he met Goldstein, a former top U.S. Supreme Court lawyer, through "poker circles." The actor, who starred as Spider-Man in Sam Raimi's 2002 blockbuster film, recounted learning poker in his youth, before later playing in casinos and at private homes.

Federal prosecutors allege that Goldstein concealed his true finances while leading a "high roller" lifestyle as a high-stakes card player. Maguire turned to Goldstein in 2020 and 2021 to recover more than $7 million that the actor said he won playing poker with a Texas businessman.
Maguire, who is not accused of wrongdoing, testified that Goldstein had him route his $500,000 legal fee to a third party rather than pay it directly to Goldstein.

Prosecutors, who called Maguire to testify on the eighth day of trial, allege Goldstein used the payment to pay off one of his own poker debts.

A lawyer for Goldstein said that it was common in the poker world to have three-way transactions to resolve debts. Maguire declined to comment after his testimony.

Goldstein pleaded not guilty last year to charges he failed to report millions of dollars he won in poker games, lied on loan documents and made improper payments through his law firm Goldstein & Russell.

He contends that he relied on his accountants and law office managers for tax and financial matters, and never willfully violated any federal laws.

Goldstein co-founded the SCOTUSblog news website and argued more than 40 cases before the U.S. Supreme Court before retiring in 2023. His trial is expected to last about four weeks.

Professional poker player Vivek Rajkumar also testified on Wednesday and recounted having won $200,000 to $300,000 in matches with Goldstein.

“He was an unpredictable player, I would say — definitely capable of bluffing,” Rajkumar said, describing his opponent. “A smart player, but wasn't afraid to gamble.”

Tom Goldstein Called Government's Bluff And Now Jeffrey Toobin Has To Litigate It

abovethelaw.com/2026/01/tom-goldstein-called-governments-bluff-and-now-jeffrey-toobin-has-to-litigate-it

Joe Patrice January 28, 2026

Tom Goldstein's life was almost a TV show. Now, with his wild trial is in its second week, the drama just unveiled a First Amendment subplot.

As Politico's Josh Gerstein flagged, the government apparently subpoenaed Jeffrey Toobin and fact-checker Rudy Lee seeking testimony about their December *New York Times Magazine* article about the SCOTUSblog founder-turned-defendant. Toobin and Lee, through Ballard Spahr, moved to quash.

The motion makes the straightforward case that dragging journalists onto the stand accomplishes nothing beyond chilling future journalism. Which, to be fair, probably suits this Department of Justice just fine. The DOJ is already raiding reporters' homes, so courtroom testimony is comparatively mild.

But it's still unnecessary and constitutionally dubious.

Why did Goldstein sit down for an on-the-record interview while facing trial? It didn't seem like a wise decision, but anyone who read the original indictment knows wise decisions might not be Goldstein's strong suit. Earlier this month, the government tried to admit Toobin's article into evidence because it contains statements, attributed to Goldstein, relevant to the Justice Department's false statements charges. Which, again, is why it's ill-advised to give news interviews while facing trial.

Goldstein argued, correctly, that the quotes in the article amount to inadmissible hearsay and are, in any event, irrelevant given the government's assertion that it already has all the evidence it needs to prove its case. When the *Times Magazine* piece dropped on December 28, Goldstein's whole *Rounders II: Mike's Relapse* saga was already a matter of public record.

And then — unable to quit while he was ahead — "Defendant thus argued that, because of these potential hearsay issues and the Confrontation Clause, '[i]f the government wishes to present Mr. Toobin's statements as evidence, it must call Mr. Toobin to the stand' so that Defendant could cross-examine him."

The court took Goldstein up on this, stating at the hearing "a fair question about whether the reporter should simply be called, and the government both have the obligation of getting the evidence in that way and also giving Mr. Goldstein the chance to cross-examine that witness." And the government apparently wasn't actually bluffing, firing off the requisite subpoenas.

And now Toobin and Lee have to litigate this.

The motion to quash raises legitimate concerns about press freedom. While the law in the Fourth Circuit doesn't set up a formal First Amendment privilege for the journalists, the Circuit has recognized the need to consider "interests *outside* of the scope of a recognized privilege." Judge Wilkinson observed one such significant interest in an earlier opinion, noting that "reporters facing the prospect of becoming prosecution witnesses if they report a defendant's statement may think twice about conducting exclusive interviews." The Second Circuit likewise noted that making journalists "appear to be an investigative arm of the judicial system" undermines the press's independence.

While the free press concerns rightly take precedence, don't sleep on the sheer irrelevance of these requests. What's in the article that the government doesn't already have? Other than Toobin's link to our podcast, of course.

> Indeed, the government's redacted version of the Article includes, *inter alia*, photographs of Defendant, ECF No. 327-2 at 4, 11, 15, Defendant's descriptions of unnamed other poker players' demeanor, *id.* at 10 ("They're not chatting."), and a parenthetical aside about a celebrity who stopped by one of Defendant's poker games in Beverly Hills, *id.* at 14 ("Al Pacino came by to watch, but he didn't play.") It is not clear how any of that material could be relevant to the government's case or whether the government seeks to question the Journalists on these points.

This case certainly doesn't turn on whether Al Pacino showed up or not.

If anything, the motion notes that the material the government seeks to admit could *undermine* its case:

> As to the mortgage fraud counts… "the essential elements of [that] crime… clearly requir[e] the jury to convict [defendant] only if he acted with the specific intent to influence *the bank's* action on his loan."… Yet the government has sought to admit into evidence Defendant's statement in the Article that he omitted information on the mortgage applications "because he wanted to keep that debt secret from [his wife], as he had kept her in the dark about most of his poker activity."… The Journalists' testimony on that point would therefore amount to evidence that Goldstein potentially *lacked* the specific intent necessary to convict him under 18 U.S.C. § 1014.

Which seems stupid for a prosecution, but this DOJ has been playing on tilt since the beginning of the administration.

(Motion to quash on the next page…)

***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**.*

1 2Next »

Edison expert urges jury to slash or reject Thomas Fire damages claim

DJ dailyjournal.com/articles/389519-edison-expert-urges-jury-to-slash-or-reject-thomas-fire-damages-claim

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A forensic accounting expert retained by Southern California Edison urged jurors Wednesday to sharply reduce - or fully reject - damages claims brought by two cannabis businesses that claim the 2017 Thomas Fire and subsequent debris flows ruined their operation and forced them to close.

Represented by Capello & Noël LLP, CA Labs Inc. and Start Inc. say the losses could exceed $20 million. Edison, represented by Hueston Hennigan LLP, contends any recoverable losses attributable to the utility, if any, would total no more than $400,000.

The expert, Suzanne Heinemann, testified that the plaintiffs' damages models rely on speculative assumptions about production, pricing and business viability that are not supported by market data or the companies' financial records.

The damages-only trial before Los Angeles County Superior Court Judge Elaine Lu centers on whether smoke and debris infiltration following the Thomas Fire caused compensable losses to the plaintiff businesses. Edison does not dispute liability for causing the fire but argues that the claimed economic damages are overstated.

The trial is part of a broader coordinated proceeding over the fallout from the 2017 blaze in Ventura and Santa Barbara counties, which includes lawsuits filed by individual plaintiffs, public entities and insurers. *Thomas Fire and Debris Flow Cases*, JCCP4965 (L.A. Super. Ct., filed April 30, 2018).

During direct examination by Hueston Hennigan partner Andrew K. Walsh, Heinemann walked jurors through revised calculations that substantially lowered projected lost profits for one plaintiff company and eliminated any claimed loss in value for another.

She criticized a plaintiffs' expert model that assumed immediate large-scale cannabis production and millions of dollars in annual revenue beginning in early 2018. That approach, she said, confused hypothetical supply with actual market demand.

"Supply does not equal sales," Heinemann testified, explaining that producing millions of cannabis clones without proven demand would expose a business to significant financial risk. She noted the plaintiffs' projections were "totally disconnected from any analysis of what sales would be in the market."

Heinemann also challenged claims that CA Labs Inc. lost millions of dollars in value because of the fire. She testified the business generated no revenue as a standalone company before the fire and operated at a loss in the years leading up to it.

"The company was not generating sufficient revenue to cover expenses before the fire," Heinemann told jurors, citing financial records showing modest sales and negative net income. Three months before the fire, CA Labs had only a few thousand dollars in cash and minimal equipment, she said.

She rejected a plaintiffs' valuation that placed CA Labs' worth at more than $4 million at the end of 2017, testifying that the analysis failed to link any alleged loss to fire-related damage.

"I've seen no evidence that smoke and ash affecting a greenhouse would have an impact on CA Labs' business," she said, adding that company records showed continued sales after the fire. In her opinion, CA Labs suffered no loss in value attributable to the Thomas Fire.

In the complaint, the plaintiffs allege that Thomas Fire debris flows contaminated a Carpinteria greenhouse used in their cannabis operations, forcing the businesses to shut down.

On cross-examination, Capello & Noël partner A. Barry Cappello pressed Heinemann on her analysis, particularly her conclusion that greenhouse operations could have resumed by the spring of 2018.

Cappello repeatedly asked whether her damages calculations would fail if jurors credited testimony from plaintiffs' principals that the businesses lacked inventory, capital, and personnel to restart operations at the time. Heinemann acknowledged that her opinions were based on contemporaneous documents and testimony she found reliable.

Capello also challenged Heinemann's reliance on historical pricing data that produced lower revenue estimates than those described by plaintiffs' witnesses, suggesting her approach selectively favored figures that reduced damages.

Heinemann responded that she relied on actual sales data rather than projections, saying her goal was to ground her analysis in verifiable records rather than optimistic forecasts.

The defense expert was the last witness to testify in the case, which ended in the late afternoon. Closing arguments are to begin Thursday morning.

#389519

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Teen social media addiction trial set to kick off in LA

courthousenews.com/teen-social-media-addiction-trial-set-to-kick-off-in-la

Hillel Aron January 26, 2026

In this April 11, 2018, file photo, Facebook CEO Mark Zuckerberg testifies before a House Energy and Commerce hearing on Capitol Hill in Washington about the use of Facebook data to target American voters in the 2016 election and data privacy. (AP Photo/Andrew Harnik, File)

LOS ANGELES (CN) — For the first time ever, the world's social media giants will go on trial for their role in what plaintiffs describe as an epidemic of teen addiction to the apps Facebook, Instagram, TikTok and YouTube.

Jury selection in the landmark civil trial is set to begin Tuesday in a Downtown LA courtroom, with opening arguments expected the following week.

At issue: were Meta, Google and ByteDance negligent in designing their platforms to maximize the time spent on them? The jury will consider if that negligence a substantial factor in causing anxiety, depression and social media addiction to a single person — a now-19-year-old unnamed woman, known only in the proceedings as K.G.M.

It is the first bellwether trial in a coordinated judicial proceeding on the issue and could help set a benchmark for how much money, if any, the tech companies owe over thousands of consolidated personal injury lawsuits filed by families who say their children were harmed by social media.

"It is the first case where a jury will hear the evidence that the social media companies intentionally designed their platforms to addict children for the purpose of selling the children's minutes to advertisers," the plaintiffs' attorney, Josh Autry of the firm Morgan & Morgan, said. "And the consequences of that — we now have a generation of children that have been struggling with this social media addiction."

The month-long trial will feature at least one highly anticipated star witness: Mark Zuckerberg, founder and CEO of Meta, which owns both Facebook and Instagram, whom the judge has ordered to testify in person.

“The evidence is quite strong that the decisions in these cases were not made by rogue level employees,” Autry said. “When you look at the highest level executives — they were directing these decisions to choose business growth over safety features. To choose growing the amount of time that’s being consumed by children and teenagers, as opposed to putting reasonable limits on that time.”

Up until recently, social media companies have been shielded from a wide range of litigation by Section 230 of the Communications Decency Act, which protects online platforms from liability based on content generated by third parties.

But when the first of lawsuits in this case was filed, attorneys with the Social Media Victims Law Center based their legal arguments on product liability law. The harm, they argued, wasn’t just the content, but the design of the apps.

LA Superior Court Judge Carolyn Kuhl accepted that argument and rejected the tech firms’ motions to dismiss the lawsuit — though she did dismiss similar lawsuits filed by school districts.

“For us, this is a culmination of a three-and-a-half year struggle to provide parents with their day in court,” Matthew Bergman, the Social Media Victims Law Center’s founding attorney, said. “This trial is going to be hard fought, but simply being allowed to present the evidence before an impartial jury in a court of law is a tremendous victory for families and parents nationwide.”

At a hearing in October, the plaintiffs’ attorneys played some short video clips of K.G.M.’s deposition for the first time, offering a preview of what her testimony might look like.

“I have gotten a lot of content promoting that kind of stuff — just like body-checking, posts [of] what I eat in a day — just a cucumber — making people feel bad if they don’t eat like that," she said in one clip.

Each of the apps, one of her attorneys said, were a substantial factor in her spiral into depression and anxiety, fueled by low self-esteem and body dysmorphia.

In another clip, she claimed to have has received more than 50 sexually explicit photos over Snapchat from people she didn’t know and that she experienced what she called “sexual grooming.” She also said “filters” which alter photos on Instagram and Snapchat contributed to her body dysmorphia and low self-image.

Snap was set to be a defendant in the trial, but on Tuesday, the Santa Monica-based company reached a settlement with K.G.M. They are still a defendant in the other proceedings, at least for now.

Another design feature that the plaintiffs say has played a role in teen social media addiction is the "infinite scroll" feature on Instagram and Facebook, along with the "autoplay" feature on YouTube.

The plaintiffs say those features have helped keep them glued to their phones for eight hours a day or more. They also call attention to "likes" — how getting a "like" causes a dopamine hit, which can prove addictive.

"When you're 12, or 11, or nine, those dopamine hits are much less resistible," said Autry. "They knew that adolescents were more susceptible."

The remaining social media defendants, who did not respond to emails requesting a comment on this story, are expected to argue that there's no evidence that K.G.M.'s depression and anxiety was caused by social media use. They may also argue that the harm to K.G.M. was caused by content she viewed on social media, but not the apps' design features. That might be a difficult distinction for a jury to make.

There is a similar case proceeding in federal court in Northern California, a multi-district litigation brought by 42 states as well as cities, school districts and individuals. That case is expected to hold its first bellwether trial later this year.

LAW.COM

News | **Class Actions**

'Professional Litigants' and 'Nuisance Suits': Huel Hints at Defenses in Toxic Metal Class Actions

Huel faces more than half a dozen class actions after an Oct. 14 report in Consumer Reports found more than two-thirds of the 23 protein powders and ready-to-drink shakes tested, like its Black Edition product, had 10 times the recommended daily amount of lead in a single serving.

January 29, 2026 at 01:05 PM By **Amanda Bronstad**

What You Need to Know

- Huel, which sells its protein products online and at Amazon, Uber Eats, GNC and The Vitamin Shoppe, has already hinted at several defenses in court.
- Huel's lawyer, David Kwasniewski, fired back at the plaintiffs' firms, which include Milberg Coleman Bryson Phillips Grossman, Seeger Weiss and Levi & Korsinsky, which 'don't make anything but litigation.'
- The lawsuits allege Huel failed to warn consumers through its labeling and marketing about heavy metals, such as lead and cadmium, which are linked to cognitive and other health issues.

Credit: 4kclips/Adobe Stock

Huel is hitting back at more than half a dozen class actions alleging it failed to warn consumers about significant levels of toxic metals in its protein powders and shakes.

An Oct. 14 report in Consumer Reports found more than two-thirds of the 23 protein powders and ready-to-drink shakes tested had 10 times the recommended daily amount of lead in a single serving. Huel's Black Edition, the subject of the lawsuits, contained 6.3 micrograms of lead and 9.2 micrograms of cadmium, and was one of two products Consumer Reports recommended avoiding entirely.

"The levels of lead and cadmium in the product far exceed thresholds considered safe by public health experts, and pose significant risks to children, adults, and pregnant individuals," says the first lawsuit, filed on Oct. 15 in U.S. District Court for the Eastern District of New York on behalf of California resident Derrick Riley, who "purchased the product dozens of times." "Yet nowhere in advertising or the product's packaging does defendant inform their customers of such heavy metal content."

Huel, which sells its protein products online and at Amazon, Uber Eats, GNC and The Vitamin Shoppe, has already hinted at several defenses in court. Its lawyer fired back at the plaintiffs' firms, which include Milberg Coleman Bryson Phillips Grossman, Seeger Weiss and Levi & Korsinsky.

"It's a great product, people love it, it's completely plant-based, and, unfortunately, there are people out there who don't make anything but litigation that doesn't do anything but benefit lawyers," Huel attorney David Kwasniewski, of BraunHagey & Bordon in San Francisco, told Law.com. "That's what this case about."

The lawsuits allege Huel failed to warn consumers through its labeling and marketing about heavy metals, such as lead and cadmium, which are linked to cognitive and other health issues. They seek economic damages for nationwide classes of consumers, who allegedly paid a premium price for the protein products. Cases are pending in New York, Florida and California.

Brett Cohen, of Leeds Brown Law, in Carle Place, New York, filed a motion last month before the U.S. Judicial Panel on Multidistrict Litigation to combine all the cases in the Eastern District of New York, where U.S. District Judge Ann Donnelly already is overseeing many of them. Cohen filed his case on Dec. 5, in Florida's Southern District, on behalf of plaintiff Sylvia Settecasi, a resident of Broward County, who bought the Huel Black Protein Powder Meal Replacement Shake Chocolate for $40 from GNC and Target.

Cohen did not respond to a request for comment.

Most plaintiffs' lawyers have supported Cohen's motion. Those include Kelly Tucker, of Grant & Eisenhofer in Wilmington, Delaware; Stephen Weiss, of Seeger Weiss in Ridgefield Park, New Jersey; Raphael Janove, of New York's Janove PLLC; Janine Pollack, of New York's George Feldman McDonald; Christian Levis, of Lowey Dannenberg in White Plains, New York.

None of those lawyers responded to requests for interviews.

On its website, Seeger Weiss is advertising for consumers who purchased Huel Black Edition and three other protein powders: Naked Nutrition Vegan Mass Gainer, Garden of Life Sport Organic Plant-Based Protein, Momentous 100% Plant Protein.

'Plaintiffs Got What They Paid For: Protein Powder'

Kwasniewski, in a Jan. 16 motion Huel filed to dismiss one of the cases, called the plaintiffs "professional litigants." He also raised the potential defense of federal preemption, given the U.S. Food and Drug Administration regulates what food companies must disclose about heavy metals.

"Were plaintiffs' legal theory correct, any business that makes products with real fruit and vegetables would be subject to suit by their lawyer," he wrote. "Their claim is an attempt to make up, and impose, a new labeling regulation that would have plaintiffs and their lawyer dictating ambient lead levels for food instead of Congress and the FDA."

And, Kwasniewski added, the plaintiffs suffered no harm.

"Here, plaintiffs got what they paid for: protein powder," he wrote. "They do not allege the heavy metals made the protein powder incapable of being used for its central purpose or that the alleged presence of heavy metals turned the powder rancid. Rather, they allege that they would not have bought the product or paid less for it had they known about the purported heavy metals."

Huel also opposed any multidistrict litigation coordination, calling the cases "nuisance suits, many of which the wrong party." While Huel Ltd. is British, Huel Inc. distributes the products in the United States but is not involved in the labeling, testing or marketing of them. "Huel anticipates moving to dismiss on this basis," Kwasniewski wrote in the Jan. 20 opposition before the MDL panel.

Kwasniewski told Law.com that Huel's own internal testing of its product found it "doesn't contain any more lead than anything else."

"The claim this product has trace amounts of lead in it is irresponsible," Kwasniewski said. "It was irresponsibly reported in an article, which led to these irresponsible lawsuits. The fact is everything has trace amounts of lead in it, whether it's an apple or breast milk or on and on. Our product complies with all applicable state and federal regulations. It’s perfectly safe. So, the claims, in our view, don’t have any merit and will all be dismissed.”

Tire manufacturers fight accusations that toxic runoff harms fish

courthousenews.com/tire-manufacturers-fight-accusations-that-toxic-runoff-harms-fish

Carly Nairn January 29, 2026

Chinook salmon, also known as "king salmon," is the largest and most valuable of all Pacific salmon species. (Photo by Conrad Gowell via Native Fish Society)

SAN FRANCISCO (CN) — On the last day of a three-day bench trial, tire manufacturers maintained that there is not yet enough data to form opinions about the effects of a runoff tire chemicals on protected and endangered fish populations.

Environmental organizations claim the tire manufacturers — including Bridgestone America, Goodyear Tires and Michelin North America— make or distribute products that contain 6PPD, a chemical that ultimately transforms into 6PPD-quinone when it reacts with ozone. As the tire interacts with the environment and roads, 6PPD-Q leaches onto hard surfaces.

When it rains, the chemical falls into rivers and other waterways, where it can kill fish in a matter of hours, the Institute for Fisheries Resources and the Pacific Coast Federation of Fishermen’s Associations claim.

The groups sued in 2023 to protect the critical habitat of endangered fish species such as coho and Chinook salmon and steelhead trout with specific vulnerable populations in 24 areas of Washington, Oregon and California.

Two of the main contentions of the case include whether 6PPD-Q degrades or is diluted with other possible containments, so it cannot be site specifically measured as a cause of death among fish species exposed to the runoff, and whether there are viable alternatives to 6PPD, a chemical tire manufacturers call “an essential ingredient.”

In court, defense witness Robert Annear, a water consultant, said “Data is insufficient to characterize 6PPD-Q in surface waters were the ESA listed fish are located,” he said. “The rate and transport are critical for understanding how it interacts in the aquatic environment and yet the scientific research is still in-progress.”

Sam Singer, a spokesperson for the tire companies, said in a statement that the additive called 6PPD is critical for tire safety and there currently is no suitable alternative.

“The plaintiffs’ claims of harm are based on data extrapolated from literature that they attempt to apply universally, without accounting for real-world conditions in the distinctively different locations listed in the plaintiff’s complaint,” he said. “Plaintiffs are asking for a nationwide ban on a safety-critical tire ingredient based on theoretical harm. The Endangered Species Act has never been used to reach this far up the supply chain to manufacturers and distributors in this way."

But one of the plaintiffs’ expert witnesses, Derek Booth, a hydrologist, geologist and a former professor at the University of Washington, with expertise in stormwater, testified about the current data available to understand how and why stormwater runoff was toxic to coho salmon due to the presence of 6PPD-Q.

“This is not a difficult conclusion to make,” he said, regarding finding toxic levels of 6PPD-Q in critical habitat within the compilation of studies he reviewed. “It’s not a heavy lift.”

U.S. District Judge James Donato was quick to interrupt attorney questioning and testimony, to make clear the importance of time management and to keep questioning “probative rather than comprehensive.”

“I understand 6PPD-Q is toxic, I understand 6PPD-Q comes from tires, I understand it gets in runoff that gets into waterways,” he admonished attorneys. “You need to get to specific concentrations, at specific times with documented harms, or else I just see this as a waste of time.”

Donato, a Barack Obama appointee, also said he did not “see the utility” in calling witnesses for a foreseeability, or proximate cause defense, noting he has dealt with a lot of Endangered Species Act cases, particularly regarding Section 9 of the ESA, which makes it illegal to “take” or harm, wound or kill endangered species, and they aren’t considered proper defense strategies.

The plaintiffs are asking the court to declare that the tire companies are violating the Endangered Species Act and to prohibit them from continuing to harm the three fish species.

In their complaint, the groups assert 6PPD-Q is particularly destructive to salmon because they swim upstream and inland to their birthplaces to reproduce. Once there, they can be exposed to stormwater containing 6PPD-quinone.

After exposure, fish start displaying symptoms of urban runoff mortality syndrome, causing them to lose equilibrium and die within a few hours. Even if they're transferred to non-polluted water before they die, they don't recover from the syndrome.

Perry Wheeler, a spokesperson for Earthjustice, an environmental law nonprofit representing the plaintiffs, said in a statement to Courthouse News, "As expert testimony and the evidence have made clear this week: 6PPD-Q is devastating to vulnerable salmon populations, yet 6PPD continues to be used by U.S tire manufacturers."

"We hope that it leads to much-needed relief for both aquatic species and the fishing communities that depend on salmon for their livelihoods," he said.

Donato did not specify when he would decide the case but said more than 60 days for consideration is likely.

Categories / Courts, Environment, Trials

California Brief

Clearview AI Privacy Equity Deal Could Collapse on Process Issue

Jan. 28, 2026, 11:13 AM PST

Clearview AI's potentially unique class action settlement to resolve claims that it improperly collected and sold Americans' biometric data without consent faced headwinds Wednesday during Seventh Circuit oral arguments over whether the nationwide class received adequate representation.

Loevy & Loevy, lead class counsel, and Clearview AI explained that the settlement provides the class a roughly 23% stake in the privately owned facial recognition platform. The settlement fund could be funded via several events, including an initial public offering or a liquidation, and a Settlement Master could also sell the stake to a third party or make a cash demand of 17% of Clearview's revenue during a set period.

The lower court said that the stake and cash demand would have value, James L. Thompson of Lynch Thompson LLP told the US Court of Appeals for the Seventh Circuit on Clearview's behalf. "With the overhang of this litigation, Clearview's business was being hindered," he said, but Clearview had a "likelihood of improving its fortunes" once the existential threat of a class action was lifted.

But Judge David F. Hamilton appeared concerned that the settlement wasn't fair, even unprecedented, because the nationwide class lacked sufficient representation while recovering less than others. The eight original class representatives declined to sign the settlement agreement.

Anyone outside Illinois, California, New York, or Virginia would only get one share of the net settlement fund, while residents of those states would get between five and ten shares. Whether or not that balance is strictly fair is beside the objectors' procedural concerns, Michael T. Kirkpatrick of Public Citizen Litigation Group confirmed for the court on their behalf. All of the current class representatives come from the favored states, according to their brief.

"What does an opinion look like that says this is okay? It would certainly be unprecedented," Hamilton asked Tom Hanson of Loevy & Loevy.

“The district court properly evaluated this concern, exercised her discretion, and we have no basis for overturning her determination,” Hanson said. If Hamilton was unpersuaded, Loevy & Loevy would have to find a member of the nationwide class, give them separate representation, and then move forward with the settlement, Hanson said.

Hanson declined to suggest the class representation situation wasn’t extraordinary, but said that the original attorney for the clients left Loevy & Loevy. The firm retained the case, but lacked a client. “All the other lawyers who were involved were still class counsel.” When it came time to sign the settlement, “we were informed by all the lawyers of the named plaintiffs they are not going to sign.”

Clearview’s Financial Position

The value of the equity stake is pegged to the company’s value as of September 2023. Clearview’s value grew from $130 million in 2021 to $225 million in early 2024, according to court documents from the company and Loevy & Loevy. Clearview made $12.7 million in annual revenue in fiscal year 2024, according to Thompson.

The cash demand asks for 17% of Clearview’s revenue between March 2025 and the election of the option. The option expires September 2027, according to the final approval order.

But there’s no guarantee that class members would get anything, Kirkpatrick argued. When asked what would be fair, he suggested at least north of $50 million.

Hamilton said that the objector’s challenge to the financial terms was striking considering the risks, including “the alternative of litigating to bankruptcy.”

“We just don’t know whether Clearview would be forced into bankruptcy by litigation costs,” Kirkpatrick argued. “But even if it was, that wouldn’t necessarily really be a bad thing.” Bankruptcy might mean Clearview stops collecting data, which was one of the goals of the lawsuit.

“Are you volunteering to take the case to a zero payout bankruptcy of Clearview?” Hamilton said.

“I’m not volunteering today to do that. I would certainly consider it,” Kirkpatrick said.

Judges Nancy L. Maldonado and Rebecca Taibleson were on the panel.

The case is In Re Clearview AI Inc Consumer Priv. Litig. , 7th Cir., No. 25-1673, oral arguments 1/28/26 .

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News | Class Actions

7th Circuit Scrutinizes Unconventional Clearview AI Privacy Settlement

The controversial agreement created a settlement fund equal to a 23% stake in Clearview AI while resolving claims that the company broke state privacy laws and unjustly enriched itself by scraping and creating a database made of class members' biometric facial images from the internet without consent.

January 28, 2026 at 05:23 PM By Avalon Zoppo

Credit: Carlos Amarillo/Shutterstock.com

The U.S. Court of Appeals for the Seventh Circuit on Wednesday weighed objections to an unusual litigation settlement in which the defendant, a facial-recognition company, agreed to give the plaintiffs a stake in the business they had sued rather than a specified financial recovery.

During oral arguments, the Seventh Circuit zeroed in on objectors' contention that the trial court should have denied the settlement because it leaves the total class recovery unknown and offers only speculative relief.

The controversial agreement created a settlement fund equal to a 23% stake in Clearview AI while resolving claims that the company broke state privacy laws and unjustly enriched itself by scraping and creating a database made of class members' biometric facial images from the internet without consent. Class members would be granted shares of the fund under three possible triggering future events, including an initial public offering or sale of Clearview.

“How much would you need for it to be a fair and adequate settlement?” Judge David Hamilton asked the objectors' counsel. He questioned whether the settlement terms may have been appropriate given that litigation costs could have bankrupted Clearview and left nothing for the class members.

The objectors’ attorney, Public Citizen Litigation Group’s Michael T. Kirkpatrick, responded that a settlement of more than $50 million would be needed “to even get into the ballpark of what’s adequate.”

Kirkpatrick acknowledged a collection concern exists but said the lower court failed to weigh that risk against the strength of the claims and the settlement’s value.

“Here we have a problem that the district court did not have adequate information on either side of the equation,” Kirkpatrick said.

“There ... wasn't adequate information about the value in the future of a 23% share as of September 2023 or whether there's likely to be a triggering event,” he continued. “On the other side of the equation, we just don't know whether Clearview would be forced into bankruptcy by litigation costs.”

'Still Having Trouble...'

Hamilton also pressed the objectors’ counsel on their concern that the deal provides no injunctive relief to halt Clearview’s conduct. The judge suggested such relief would be unprecedented.

“Can you point us to cases in which such injunctive relief has been issued by any court on [an] unjust enrichment theory?” Hamilton asked.

Kirkpatrick said it would be unprecedented to issue injunctive relief on an unjust enrichment theory in the class action and biometric data privacy context—but only because such cases are new.

Clearview has said the agreement contains a fallback option if no sale, merger or IPO occurs: A settlement master can demand funds equal to 17% of the company’s revenues by Sept. 30, 2027, according to the deal.

James Thompson of Lynch Thomspon, arguing for Clearview, estimated the 17% valuation based on the company’s annual revenue for fiscal year 2024 at $12.7 million. Thompson told the court that Clearview started putting the money for the cash demand option in a "segregated account" the day the settlement was approved.

“One of the reasons the court gave for thinking the settlement, both the 23% stake and the cash demand, would have value is because [the lower court] recognized that with the overhang of this litigation, Clearview's business was being hindered," Thompson said.

"Clearview had a likelihood of improving its fortune once the overhang of the class action, an existential threat via class action, was lifted," he added. "Clearview would have a chance at succeeding and its revenue numbers so far reflect that.”

The Seventh Circuit also questioned whether the settlement is problematic because none of the named plaintiffs were part of a national class that will receive a smaller share of the funds compared to another class.

The settlement provides a 23% stake to five separate classes: A national class and state classes of residents in Illinois, California, New York and Virginia. Those states have privacy statutes like the Illinois Biometric Information Privacy Act, which has been at the heart of major settlements with social media giants like Facebook and TikTok.

In the deal here, class members in the specified states would receive a larger share than the national class, which encompasses residents in all the other states.

“I'm still having trouble seeing how structurally, procedurally, it can be deemed fair to approve a settlement where the folks getting the short end of the stick are not represented with respect to that allocation issue,” Hamilton said.

Thomas M. Hanson, representing the class representatives, contended that a lack of representation among a particular class is not “a fatal defect” under Seventh Circuit case law.

“The way that you determine whether it's a fatal defect is ... you have the district court judge take into account all of those arguments and determine, based on her discretion, whether the settlement is nonetheless fair and reasonable,” said Hanson, of Loevy & Loevy. “The cases that the appellant has cited ... have all massive problems with fairness, with respect to the unrepresented subclass. And in this case, those problems don't exist at all.”

Judges Nancy Maldonado and Rebecca Taibleson also sat on the panel.

The Seventh Circuit heard arguments in *Robert Weissman v. Clearview AI, Inc.*, No. 25-1673.

News from Bloomberg Terminal

Jan. 29, 2026, 10:56 AM PST

By Matt Levine

(Bloomberg Opinion) --

First Brands

Modern trade finance comes in two basic flavors, accounts receivable financing and accounts payable financing. Accounts receivable financing — "factoring" — is the traditional form:

1. Company sells product to customers.
2. Customers buy on credit; they get the products, the company sends them invoices, and they have, say, 60 days to pay.
3. The company would like the money sooner.
4. A lender lends the company, say, 98% of the money, collateralized by the invoices.
5. When the customers pay the invoices, the money goes to the lender.

That is, the company is borrowing money against its accounts receivable, and paying it back within 60 days. Sometimes this form of financing leads to fraud. The two main forms of fraud are:

- Double-pledging: The company borrows more than once against the same invoice, from multiple different lenders; and
- Just making up invoices: An "invoice" is at most a PDF document, and often just an entry on a spreadsheet, so you can kind of type whatever you want and see if someone will lend you money against it.

These frauds are not necessarily a great idea: You are getting *loans*, generally *short-term* loans, that you have to pay back when you get money from customers. If you are faking invoices, you're not getting any customer money in 60 days, which means that in 60 days you will have to roll over the loans using even more fake invoices, etc., until you land in prison.

Accounts payable financing — "reverse factoring" or "supply chain finance" — is another kind of trade finance:

1. Company *buys* products from suppliers.
2. Company buys on credit; it gets the products, the suppliers send it invoices, and it has, say, 60 days to pay.
3. The suppliers would like to get the money sooner.
4. A lender provides a financing program *for the company*, under which the lender pays the company's suppliers, say, 98% of the money immediately.
5. When the company pays the invoices, the money goes to the lender.

That is, the company is sort of borrowing money against its accounts payable. Its suppliers get paid immediately (which they like), the company has a few months to pay (which it likes), and a lender stands in between to make it work and collect a spread. It is less intuitive than standard factoring — the accounts payable are a liability, for the company, not an asset, and it seems strange to borrow against a liability — but it all basically works.

How could *this* lead to fraud? Well, it seems hard for the suppliers to do fraud: In this sort of program, the lender's customer is the *buyer*, the company, not the suppliers, so it's hard for the suppliers to make up invoices and get them paid. The person hitting the button that says "Pay This Invoice" is at the company, and that person is not going to pay a fake invoice.

Of course, the company itself could make up a fake invoice, but that doesn't necessarily help. You make a fake invoice, you send it to your lender, you say "pay this invoice" — but then the lender *pays your supplier*. It's not an invoice *owed to you*; it's an invoice *that you owe*. It's not an asset; it's a liability. The money just goes to your supplier, who is like … "huh weird random windfall"? "Huh I got paid for a fake invoice, better send that back"?

The way to do fraud, I guess, is to *collude* with your supplier. You call up your supplier and say "hey, for reasons, I need $10,000. I'm going to submit a fake invoice for $12,000 to our reverse factoring lender, which will send you $11,500. Then you send me $10,000 and we're both ahead." I guess? And then you owe the reverse factoring lender $12,000 in 60 days? Seems like a lot of friction.

Also: Is it even fraud? If you borrow against fake accounts *receivable*, your lender is deceived about something essential: You are pledging assets that don't exist. But accounts *payable* financing is essentially unsecured lending — you are not *pledging* any invoices; you are borrowing against your own credit to *pay* your invoices — so should the lenders even care if the invoices are fake? Accounts receivable financing is "someone owes me $10,000, so lend me the money until they pay"; if the debt is fake that's a problem. Accounts payable financing is "I owe someone $10,000, so lend me the money until I want to pay it." Does it matter if the debt is real?

We have talked a few times about First Brands Group, a car-parts company that went bankrupt in September 2025. First Brand's lenders have sued Patrick James, the company's founder, accusing him of doing all sorts of malfeasance, much of it relating to double-pledging of invoices and inventories. Today James and his brother Edward were indicted by federal prosecutors for alleged bank and wire fraud. Here is the indictment, which alleges various schemes, many of which overlap with the lenders' claims: "First Brands employees routinely submitted fake invoices, fraudulently inflated invoices, and double-pledged invoices for the purpose of selling and pledging them to factoring counterparties," "the defendants defrauded First Brands' senior lenders by concealing the nature and scale of the off-balance-sheet financing," "the James Entities pledged inventory that PATRICK JAMES and EDWARD JAMES, the defendants, purported to be unencumbered but in fact was already subject to liens," etc.

This one was new to me, though:

First Brands also used third-party financing to pay its suppliers through accounts-payable factoring (also called supply-chain financing). Under these arrangements, financial institutions advanced funds against invoices First Brands owed to its suppliers. In some instances, the financer paid suppliers directly at a discount and First Brands repaid the financer on a later, fixed due date. In other instances, the financer paid First Brands, which then paid the supplier, with repayment due later to the financer. …

First Brands also defrauded its accounts payable factoring partners. … At First Brands' direction, certain financers sent funds to a third-party bill-processing intermediary based on fabricated invoices manufactured by First Brands. Contrary to the understanding of the financers, those funds were not used by the bill processor to pay First Brands' suppliers. Instead, those funds were routed to First Brands itself. At First Brands, these self-payments were referred to as "round trips" or, euphemistically, as "corporate initiatives." Their purpose was to inject additional cash into First Brands at moments when the company was unable to meet its payment obligations with legitimate cash on hand.

I am a little bit of a connoisseur of criminal euphemisms around here, and I have to say, "corporate initiatives" is really really good. Not legal advice, I mean, just that it's funny.

AI cat bonds

One theory, the standard theory, is that an asset that performs poorly in bad times should have to pay a high return to compensate for that bad timing. "The required risk premium for any asset … reflects its covariation with bad times," as Antti Ilmanen puts it. Coval et al. write: "Securities that fail to deliver their promised payments in the 'worst' economic states will have low values, because these are precisely the states where a dollar is most valuable. " A bond that has a 5% probability of defaulting, but whose defaults will only come if the stock market crashes, should pay a higher interest rate than a bond with a 5% probability of defaulting that is uncorrelated to the broad market. Performing badly at bad times is much worse than performing badly at random times, and should have a higher risk premium.

Another theory, of considerable folk importance, is that an asset that performs badly in *really* bad times *doesn't* need to compensate investors for that bad timing, because if the times are bad enough the investors will have bigger things to worry about. A bond that pays back principal and interest in every imaginable scenario *except* global nuclear war, but defaults in case of global nuclear war, should not really pay much of a premium over an entirely risk-free bond. The global nuclear war will be a *bad time*, sure, and the *market* will probably be down, but *that bond's default* won't appreciably add to anyone's problems. The worst states are precisely the states where a dollar is *least* valuable.

We have talked about the cost of buying insurance against an artificial intelligence apocalypse, and it raises similar issues. On the one hand, an AI apocalypse would be very bad and cause a lot of damage, and would be correlated with a collapse in the extremely-AI-heavy equity and debt markets, so in some sense it should be expensive to insure against it. On the other hand, if the robots kill or enslave humanity, the insurance payout is really the least of the insurance company's chief executive officer's worries. At that point, she's in a tank being turned into a slurry to feed the AI; she's not, like, stressing about her capital ratios. In states of the world where the insurance pays out, the insurance paying out will be a source of rueful amusement for her, not a problem. AI extinction is the state where a dollar is least valuable. "It may be difficult to know what role money will play in a post-[artificial general intelligence] world," threatens OpenAI. So, whatever, she'll sell you the insurance for cheap. As I put it, "I'd happily sell OpenAI insurance against the complete extinction of humanity for a million bucks. I'm not sure what insurance regulators would say about this."

The solution to that last problem — insurance regulation — is catastrophe bonds. Instead of buying AI extinction insurance from insurance companies, which might not be able to sell it to you with a straight face, you buy it from the bond market, which would. You issue bonds that pay an interest rate of X basis points over Treasuries, but that don't pay back their principal if AI enslaves or destroys humanity. What is X? On the traditional theory, it is high. On the folk theory, it is zero.

I am mostly kidding, and no one is really trying to buy or sell AI extinction insurance. But people do think a lot about, like, sub-extinction-level AI insurance, insurance against smaller and more realistic bad effects of AI. Here are Daniel Reti and Gabriel Weil on AI cat bonds:

The market currently cannot provide liability insurance for extreme AI catastrophes. This is for two reasons. First, the process of underwriting, which involves assessing risk and setting insurance prices, requires a stable historical record of damages, which does not exist for a fast-moving, novel technology like AI. Second, the potential scale of harm caused in an AI catastrophe could exceed the capital of any single carrier and strain even the reinsurance sector. ...

Catastrophe bonds can fill the gap left by conventional insurance. As an alternative market-driven solution to liability insurance, we propose AI catastrophe bonds: a method of insurance tailored to cover a specific set of large-scale AI disasters, inspired by how the market insures against natural disasters. As well as offering coverage, our proposal would be structured to encourage higher safety standards, reducing the likelihood of all AI disasters. …

In technical terms, an AI developer would issue a cat bond through a type of legal entity called a special purpose vehicle (SPV). When investors purchase the bond, their funds are held as collateral inside the SPV (typically in safe, liquid assets). In normal times, the developer pays investors a "coupon," which is economically analogous to an insurance premium. If a defined AI "catastrophe" trigger occurs (more on that below), some or all of the collateral is released to fund payouts, and investors absorb the loss.

Investors could buy AI cat bonds as part of a hedged strategy. It is worth noting one important difference between AI risks and the types of risks traditionally covered with cat bonds: correlation with market performance. Natural disasters are largely uncorrelated with the financial markets, making the cat bonds covering them more appealing to investors. On the other hand, an AI-related event severe enough to trigger a payout would probably prompt a sharp repricing of AI equities.

This effect means any losses would likely occur at a particularly bad time for investors, which might reduce appetite for AI cat bonds specifically. Yet it also opens the door to hedged strategies, such as earning interest from AI cat bonds while betting against tech stocks. In this sense, AI cat bonds would make the tail risk of AI tradeable for the first time.
Well, not the tail of the tail risk, but you know what they mean.

Retail SpaceX

It is approximately true that:

1. Institutional investors value SpaceX at about $800 billion;
2. SpaceX would like to go public at a $1.5 trillion valuation in a few months; and
3. Retail investors seem to want to buy SpaceX shares at roughly a 100% premium to what institutions pay.

That last point is not particularly rigorous. To a first approximation, retail investors *can't* buy SpaceX shares; SpaceX is not a public company, only "accredited investors" can buy its shares, and even they don't get offered SpaceX shares that much. But there are various ways to buy exposure to SpaceX shares — forwards, tokens, special-purpose vehicles, funds that own SpaceX, etc. — and we have discussed several of them that charge high fees and/or trade at huge premiums. Certainly *some* individual investors are buying some form of SpaceX exposure at twice the institutional price.

Probably the right way to explain this premium is as a matter of scarcity: Institutional investors get regular opportunities to buy billions of dollars' worth of SpaceX stock, while individuals mostly don't, so the few individuals who do pay up for the privilege. If individuals could buy as much stock as they wanted, alongside institutions, in SpaceX's occasional secondary share sales, probably the premium would go down.

Still it is at least *possible* that some of the explanation is about differing desires. Perhaps SpaceX's institutional investors think "ah yes this is a great company whose future cash flows are worth about $800 billion," while a giant mass of individual investors think "ooh Elon Musk is dreamy and I'd pay $1.6 trillion for that." Tesla Inc., Musk's public company, has a lot of enthusiastic retail shareholders, a history of selling stock directly to retail, a $1.6 trillion valuation and, uh, some meme-adjacent vibes. It's *possible* that, if individuals could buy as much stock as they wanted in SpaceX's occasional secondary shares, the clearing price of those sales would go up.

Crudely speaking, the traditional way to do an initial public offering is:

- You sell stock to institutional investors at the price that clears the market for selling stock to institutional investors. (This is called the "IPO price.")
- The next day, the stock opens for trading, and some of those institutional investors turn around and sell stock to individual investors at the price that clears the market for selling stock to individual investors. This price is often *higher* than the IPO price, and the difference is called the "IPO pop."

Again, this difference is *mostly* a matter of scarcity, but there are probably some cases where it's a matter of differentiated investor interest. Some companies are more appealing to retail than to institutions. If those companies sell their stock to institutions at $420 per share, the institutions are going to turn around and sell it to retail at $840. So the companies might as well sell to retail themselves.

Anyway:

Robinhood Markets Inc., the upstart broker credited with getting young people hooked on trading, is vying for a key role in SpaceX's blockbuster initial public offering, according to people familiar with the matter.

Robinhood is jockeying with several Wall Street banks to secure a big slug of coveted SpaceX stock to sell directly to its retail investors, said the people, who asked to not be identified because the details aren't public. The company would likely offer the shares through its IPO Access platform, which lets users buy stock at the IPO price, before they trade on the open market.

Elon Musk's rocket and satellite company is considering earmarking a significant portion of the shares for retail investors, the people said.

It would be weird not to.

Incidentally. I write sometimes that the meme stock numbers are 69 and 420. Recently, when I write that, I get emails saying "no it's 6 7." As a father of young children, I am keenly aware that "6 7" is the most important meme number for young children. [1] (Though also: 41.) Is it the most important meme number for adults trading stocks on their phones? I am not sure yet. Yesterday we discussed reports that SpaceX might try to do its IPO on June 8 or 9, because Jupiter and Venus will be aligned with each other on those days. Or, I submit to you, because June 9 is 6/9. If you're trying to maximize retail interest, doing the IPO on 6/9 couldn't hurt. June 7 is 6/7, though. We could see a real regime shift in meme finance if SpaceX goes public on 6/7. I guess we won't because this year it's a Sunday, oh well. Still, if you are investing based on meme numerology, you might have to start putting 6 7 in your models.

Finance clubs

I was a classics major in college, focused on reading Greek and Latin poetry. Somewhat later, I became an investment banker. That was a thing that people used to do. You treated college as a sort of luxury consumption good, you read some poetry, you had some fun, you lazed about on the quad, you graduated, you were like "ugh job I guess," and you got a job. Some kinds of jobs (doctor) were only available to people who spent long years studying the relevant subject matter. Most kinds of jobs, though, were open to bright hard-working young people with good general educations and a willingness to learn on the job. Investment banking, in my day, was a job like that. "How hard could it be to learn how to build Excel models," people reasonably asked. In fact, people who treated college as a luxury consumption good were in certain ways *more* appealing to investment banks. I once heard that the Harvard major whose students were most likely to be rich 20 years after graduation was art history. I have no idea if this is true and can find no evidence for it, but doesn't it sound like it *should* be true?

This all shaped my view that finance is an essentially humanistic profession, that the study of the financial markets is the study of human behavior, that the essential quality of a derivative structure or tax strategy is its *aesthetic beauty*, that finance is a proper subject for art criticism. I think that view is … right … and that many of the people who do best in the financial industry have broad curiosity and a certain sense of whimsy, not just really good Excel skills. But perhaps this is a bias resulting from my personal history. Perhaps, in fact, the best way to populate the financial industry is to take the 16-year-olds who show the most aptitude for Excel and put them through a rigorous single-minded eight-year training program that makes them really, really, really, really, really good at Excel. Perhaps more specialization is always good.

At the Financial Times, Sujeet Indap, who is about my age, writes about college finance clubs, and the increasingly strict and early process for finance recruitment:

The finance rat race used to be less frenzied. More than 25 years ago, when I was a college student, I recall music majors stumbling upon the career centre during their senior year and landing at McKinsey. When I decided to go into investment banking, I did not need to do much until late into my third year of college. My dad took me to buy a cheap suit for a handful of summer internship interviews, none of which proved successful. But I had no trouble securing an offer when most students got their entry-level job: senior year with graduation just a few months away.

The timing has now shifted far earlier. Wall Street banks typically fill summer internship slots during students' second year of college, more than a year before they take place. Those interns will account for nearly all the full-time trainees starting two years later.

The system forces nervous students to get their ducks in a row essentially from the moment they set foot on campus.

With this in mind, virtually all big public and private universities now offer professionally focused finance clubs that help students prepare for careers on Wall Street. First years often seek places in these clubs within weeks of moving into their dormitory rooms.

The funnelling begins with the club selection, a process largely supervised by the students themselves. George, the Wharton student who did not want to use his full name in case it put him at a disadvantage with potential employers, says those throwing their weight around on campus are increasingly not athletes or star scholars but second and third-year students who have secured prestige internships.
Honestly I want to watch a *Pitch Perfect*-style movie about college finance clubs? I sometimes think that this all tends to *lower* the prestige of financial employers. I wrote in 2018:

If you run a major investment bank, you want that bank to be the first choice of smart people everywhere, to beat out Google for engineers and NASA for physicists and law school for poets. It is nice to be around a group of smart people with diverse interests, but it is also validating. If you can pick from the best of everyone, that means that you are the best of everything. You are an institution, a part of elite culture, a training ground for powerful people. If you're just hiring investment bankers, you're just an investment bank. It's just a job.

If the only people who work in finance are people who have pursued that goal single-mindedly since they were 16, the pool will be less diverse, and maybe less fun.

Things happen

Wall Street's Stamp of Legitimacy Fuels Suspected Pump-and-Dump Schemes. TikTok Star Khaby Lame Signs $975 Million Deal to Monetize Global Fan Base. Zuckerberg, Musk Vie for AI Supremacy With $155 Billion Splurge. Meta Overshadows Microsoft by Showing AI Payoff in Ad Business. Blackstone lines up 'one of largest IPO pipelines in history.' Barry Diller Told Warner Discovery He Is Interested in Buying CNN. Brent Crude Hits $70 a Barrel as Trump Ramps Up Iran Threats. AMC Agrees on Amendment With Creditors to Clear Refinancing Path. How the Son of Iran's Supreme Leader Built a Global Property Empire. Lululemon Blames Customers Again After See-Through Tights Fiasco. First Brands Lenders Weigh Scrapping Firm After a Cleveland Trip.

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To contact the editor responsible for this story:
Michael Newman at mnewman43@bloomberg.net

. One of my kids plays in an elementary school recreational basketball league with a team called the 67ers, which I think is pretty good?

First Brands Founder Charged With Fraud That Wiped Out Billions

bloomberglaw.com/bloombergterminalnews/bloomberg-terminal-news/T9N05QT9NJLS

Chris Dolmetsch, David Voreacos January 29, 2026

A flow chart from the federal indictment of Patrick James and Edward James. The US alleges that it "depicts a December 2024 financing from one of the Off-Sheet Lenders, with funds being circuitously transferred from the lender to one of the James Entities, to a First Brands customer collections account, and then transferred and split across five different First Brands operating entities at arbitrary pre-determined percentages, where the funds were disguised as customer receipts."
Source: Court Documents

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Summary by Bloomberg AI

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- First Brands Group founder Patrick James and his brother Edward were indicted in New York for allegedly defrauding the company's lenders and financing partners through schemes such as faking and inflating invoices and falsifying financial statements.
- The brothers were arrested in Ohio and are expected to appear in federal court, facing charges including continuing financial crimes enterprise, wire fraud, and conspiracy to commit money laundering.
- The alleged schemes have resulted in "billions in losses" for First Brands lenders, with the company filing Chapter 11 with more than $9 billion in liabilities, and have led to job losses, with at least 4,000 employees in North America already losing their jobs.

By Chris Dolmetsch and David Voreacos

(Bloomberg) --
founder and his brother Edward, a former executive at the company, were indicted in New York following the collapse of the bankrupt auto-parts maker last year.

The duo engaged in a series of schemes to defraud the company’s lenders and financing partners, according to the federal indictment. The brothers faked and inflated invoices for accounts receivable, double- and triple-pledged loan collateral, falsified financial statements and hid liabilities from lenders, the US alleged.

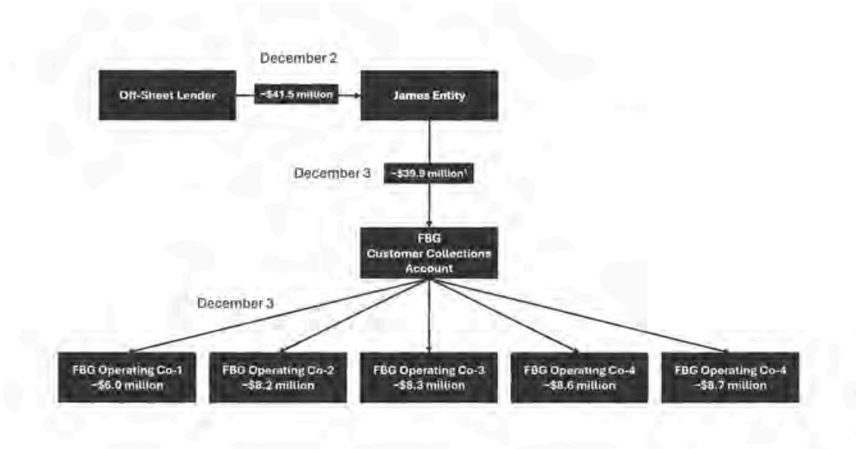
Patrick, 61, and Edward, 60, were arrested in Ohio this morning and are expected to appear in federal court later on Thursday, authorities said.

“Patrick James, together with his brother, Edward James, perpetrated a staggering fraud at First Brands Group,” Jay Clayton, the US Attorney in the Southern District of New York, said in a statement. “The James brothers obtained billions for First Brands - and millions for themselves - by presenting their lenders with the impression of a successful, growing international business.”

In reality, Clayton said, First Brands was a “business run through fraud, fake documents, and false financials.”

Clayton also revealed that a former company executive, Peter Brumbergs, pleaded guilty to his role in the scheme and is cooperating with prosecutors.

First Brands lenders now face "billions in losses" as a result of the alleged schemes, according to the indictment. The company filed Chapter 11 with just $12 million in its corporate accounts and more than $9 billion in liabilities, court papers say.



A flow chart from the federal indictment of Patrick James and Edward James. The US alleges that it "depicts a December 2024 financing from one of the Off-Sheet Lenders, with funds being circuitously transferred from the lender to one of the James Entities, to a First Brands customer collections account, and then transferred and split across five different First Brands operating entities at arbitrary pre-determined percentages, where the funds were disguised as customer receipts."
Source: Court Documents

The brothers were each charged with nine counts, including continuing financial crimes enterprise, wire fraud, bank fraud, conspiracy to commit wire fraud and conspiracy to commit money laundering.

The top charge, operating a continuing financial crimes enterprise, carries a maximum punishment of life in prison.

"Patrick James is presumed innocent and denies these charges," his spokesman said in an emailed statement. "He built First Brands from nothing into a global industry leader and has always been devoted to the success of the company. Mr. James looks forward to presenting his case in court."

For More Coverage of First Brands' Collapse:

First Brands Lenders Weigh Scrapping Firm After a Cleveland Trip

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First Brands Creditors Allege Kickbacks on Deals Returning 300%

First Brands Lenders Allege 'Widespread Fraud' in Court Filing

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Why First Brands' Collapse Rattled Wall Street: QuickTake

The indictment depicts a series of complex financial maneuvers, including the use of false invoices and deceiving financers to send money to a bill-processing intermediary. While financers believed the money would pay First Brands' suppliers, it actually went to the company itself, the US alleges.

"Their purpose was to inject additional cash into First Brands at moments when the company was unable to meet its payment obligations with legitimate cash on hand," the indictment alleged. "Rather than paying suppliers, 'round trip' funds went toward paying interest on debt, rent, leases, or other operating costs."

Prosecutors describe repeated deceptions to senior lenders about the company's off-balance sheet debt. First Brands expressly disavowed such financing even as "the James entities incurred billions of dollars in inventory-backed obligations using First Brands' inventory," according to the indictment.

"Predatory" Practices

Patrick James' lawyers have previously denied similar allegations of wrongdoing asserted by First Brands' bankruptcy advisers and lenders and attributed the company's financial troubles to macroeconomic factors like tariffs.

James has also blamed lenders for First Brands' bankruptcy, saying in court papers that the firms that provided his company with off-balance sheet financing engaged in "predatory" practices and charged onerous fees. Lenders have denied James' claims and blamed First Brands' Chapter 11 case on alleged fraud involving the former chief executive officer.

James resigned as chief executive officer in October, shortly after First Brands filed Chapter 11.

Edward James also exited as executive vice president soon after the company sought court protection, according to bankruptcy papers. He has been sued by the company and creditors for allegedly conspiring to defraud creditors out of billions of dollars of property.

"Mr. Edward James has conducted himself with integrity and dignity over decades of hard work. Today, the government issued a long list of accusations, but has not produced a shred of evidence against him," his lawyer Seth DuCharme said in an emailed statement. "The arrest in Ohio this morning was needless theater. We look forward to appearing in New York on his behalf and we have complete confidence in Mr. James."

Job Losses

The restructuring advisors who are now running the company told a bankruptcy judge in Houston on Thursday that the fraud was more pervasive and damaging than they initially realized when the company filed its Chapter 11 case in September.

At least 4,000 employees in North America have already lost their jobs because the company has been unable to keep some operations, like its brakes division, operating, bankruptcy lawyer Sunny Singh said today.

Another 13,000 jobs are at risk as the company operates on a week-by-week basis using a $48 million lifeline from automakers who have agreed to pay for parts in advance, according to court documents.

The case is US v James, 26-cr-29, US District Court, Southern District of New York.
(Updates throughout with details from indictment, arrest of Patrick and Edward James, comment from US Attorney in the SDNY, Edward James lawyers and First Brands' bankruptcy hearing on Thursday.)
--With assistance from and .

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News | **Legal Malpractice**

Husch Blackwell, Morrison & Foerster, Nelson Mullins Misled VC Firm on Securities Law, Lawsuit Alleges

The defendants include Husch Blackwell's former chair Catherine Hanaway, now Missouri's attorney general.

January 28, 2026 at 06:06 PM By **Thomas Spigolon**

What You Need to Know

- A St. Louis-based venture capital entity is accusing three Big Law firms of legal malpractice.
- The lawsuit states the firms did not recognize federal rules did not allow the entity to raise funds from investors

Catherine Hanaway. Courtesy photo

A St. Louis-based venture capital firm is accusing three Big Law firms of giving "defective legal advice" for not recognizing and advising that it could not use federal securities exemptions to raise funds from investors because a founder's criminal past classified him as a "bad actor."

In the lawsuit filed Monday in St. Louis County Circuit Court in Missouri, Sentinel Group Holdings LLC alleges that Husch Blackwell, Morrison & Foerster and Nelson Mullins Riley & Scarborough and their lawyers are guilty of legal malpractice.

Chesterfield, Missouri- based Sentinel alleges the firms and their lawyers helped organize the venture capital firm and other companies and should have recognized and advised Sentinel that a federal bad actor rule disqualified its founder, Burton Morriss, from participating in raising funds, the suit stated.

The defendants include Husch Blackwell, Morrison & Foerster and Nelson Mullins; former Husch chairperson and partner Catherine Hanaway, who is now Missouri attorney general; Nelson Mullins partner Joseph Daniels; and former Morrison attorney Heath Linsky, now with Troutman Pepper Locke.

“Relying upon the defendants’ defective legal advice, Sentinel represented to investors and potential investors that its securities offerings were eligible for the safe harbor exemption” available in federal securities laws, the complaint stated. "Based on this representation, Sentinel raised millions of dollars from investors in multiple U.S. jurisdictions across several offerings."

Sentinel added that the attorneys missteps forced it to obtain senior secured financing to mitigate recission liability, and that it is obligated to repay millions on this loan.

In a statement, Husch Blackwell said the claims in the lawsuit “are unsubstantiated by the underlying facts, and we will defend them aggressively.” Other firms and attorneys named as defendants did not immediately respond to requests for comment.

The lawsuit stated the SEC’s “Bad Actor Disqualification” is a carve out of the Rule 506(b) safe harbor registration exemption that makes “the safe harbor unavailable when certain ‘covered persons’ affiliated with the issuer have had ‘disqualifying events,’” the suit stated.

It stated that, in September 2013, Hanaway represented Morriss in connection with federal criminal tax charges and two separate enforcement proceedings the Securities and Exchange Commission brought against Morriss.

She continued to represent Morriss after she joined Husch in September 2013, including on the criminal charges for which he was sentenced to 36 months in prison for tax evasion.

Meanwhile, according to the lawsuit, the SEC in July 2013 approved new regulations regarding the “Disqualification of Felons and Other ‘Bad Actors’ from Rule 506 Offerings.”

The SEC then took action in October 2013 that made Morriss subject to the Bad Actor Disqualification, meaning the Rule 506(b) exemption would not be available to any entity for which

Morriss was involved as a “promoter.”

Yet, despite Hanaway being informed about the SEC action, Morriss hired Hanaway and Husch Blackwell in 2020 to help establish the company that became Sentinel—and Linsky was hired to help create Sentinel itself, the suit stated.

“Each time a new firm was hired by Morriss and Sentinel, including Morrison [& Foerster] and Nelson Mullins, Morriss directed counsel to Hanaway to obtain full and complete information on the prior SEC proceedings so that Morriss did not violate any restrictions imposed on him as a result of the 2013 civil and criminal cases,” the suit stated.

“Morriss made clear to Hanaway that Morriss wanted Hanaway and Husch to provide full and complete information to Sentinel’s counsel regarding the 2013 civil and criminal cases,” the suit stated.

“Yet, in defining what Morriss could and could not do with Sentinel, Husch, Hanaway, Morrison and Linsky advised plaintiffs that Morriss could play a substantial role and even act as a promoter of Sentinel,” it stated. “This advice ran directly contrary to the express terms of Rule 506.”

The suit stated that Morrison & Foerster’s involvement included the firm’s understanding “that Morriss intended to be the driving force behind Sentinel.” It also advised that the SEC order that should have barred Morriss’s involvement “need not be disclosed to investors, and throughout its two-year engagement, it failed to correct course, counseling Morriss and Sentinel into transactions that exposed them to liability and loss."

Nelson Mullins’ involvement included work on Sentinel’s corporate matters and securities offerings in 2022 and 2023. Documents prepared by Nelson Mullins “disclosed Morriss’s criminal record and the SEC federal action,” the suit stated.

“Based on this disclosure, Nelson Mullins knew, or should have known, that the Bad Actor Disqualification precluded Sentinel from availing itself of the Rule 506(b) safe harbor,” the suit stated.

Sentinel, through its attorney, Simon Law Firm of St. Louis, is seeking unspecified damages, “pre-judgment and post-judgment interest,” attorney fees and a jury trial.

LAW.COM

News | **Banking and Finance Laws**

NY Bankruptcy Judge Won't Free Citibank From Class Claims in Debt Discharge Lawsuit

Bankruptcy Judge David Jones observed that the plaintiff's effort to obtain class-wide relief over Citibank's treatment of bankruptcy discharge orders. He said he would welcome an application to seek interlocutory appeal.

January 28, 2026 at 04:44 PM   By **Alyssa Aquino**

People walk past a Citibank branch in Brooklyn, New York. Photo: Ryland West

A New York bankruptcy judge refused to dismiss Boies Schiller Flexner's more than decade-old effort to hold Citibank liable on a class basis for allegedly refusing to notify credit reporting agencies of bankruptcy court orders discharging certain consumer debts.

Citibank, represented by Sidley Austin, argued that the court lacked the power to grant a Boies Schiller-represented woman, Kimberly Bruce, her sought-after relief, a declaration that Citibank violated Section 524(a) of the Bankruptcy Code, the federal law covering bankruptcy court discharge orders.

But U.S. Bankruptcy Judge David Jones for the Southern District of New York disagreed and kept the claim alive, saying he could potentially declare a violation of Section 524(a) under the Declaratory Judgment Act, even if Section 524(a) lacks a private cause of action.

Allowing review "avoids insulating Citibank's alleged conduct from meaningful judicial review by consigning each individual debtor to the need to mount a separate legal challenge that would surely be beyond the modest means of the typical Chapter 7 debtor," Jones said in a decision released on Monday.

The judge additionally held the door open for Boies Schiller to seek certification of a proposed nationwide class of consumers, over Citibank's alternative argument to strike the class claims.

Whether Citibank violated the bankruptcy code "is well-suited to be resolved on a class-wide basis," he said.

A representative for Citibank declined to comment on Wednesday.

The decision comes as the latest development in long-pending litigation over how Citibank has treated bankruptcy court discharge orders, including the discharge order that Bruce obtained in 2013.

Bruce moved to reopen her bankruptcy case to pursue contempt proceedings against Citibank in 2014, arguing that the bank—which had issued her a credit card in 2007—was violating the bankruptcy discharge order by refusing to inform credit reporting agencies of the discharge.

She also separately filed suit on behalf of an alleged nationwide consumer class claiming that Citibank maintained a policy of refusing to instruct credit reporting agencies of bankruptcy discharges. She alleged this purported policy was meant to coerce consumers into repaying discharged debt to remove the derogatory mark from their credit history.

The initial case sought contempt relief based on the bankruptcy discharge orders, but Boies Schiller amended the complaint to seek declaratory relief based on an alleged violation of the Bankruptcy Code after the U.S. Court of Appeals for the Second Circuit rejected the proposed, class-wide contempt relief. The circuit ruled that contempt was a case-specific inquiry that was grounded in individual courts' authority to enforce their own orders.

Although Boies Schiller added the new declaratory relief, the firm attempted to salvage the contempt cause of action by narrowing their proposed class to just the Southern District of New York. But Jones rejected the proposed fix.

"Even re-pled as limited to a district-wide class, Plaintiff's theory would require a single judge to interpret and enforce discharge injunctions entered by multiple other judges," he said.

The judge observed, however, that the issues presented in the case were novel and complex.

“The Court would welcome an application (to the extent necessary) to permit an interlocutory appeal of this ruling,” he said.

George F. Carpinello, a partner at Boies Schiller, said he anticipates Citibank will take up Jones' invitation and move for an interlocutory appeal. If so, Boies Schiller will oppose the request, Carpinello said in a phone interview with ALM and the New York Law Journal.

“The case is 11-years old and there’s been so much delay in this case. It’s already been up to the Second Circuit twice,” Carpinello said on Wednesday. “We’re going to ask the judge to proceed and get to a final decision.”

Joining Carpinello’s team are Boies Schiller partners, Adam Shaw and Jenna Smith. Charles Juntikka, a bankruptcy attorney, is co-counsel to the case.

The case against Citibank is one of two similar cases being pursued by Boies Schiller over bankruptcy discharge orders. The other case was filed against Credit One Bank and is proceeding before Judge John Mastando, III.

Exclusive: Musk's SpaceX in merger talks with xAI ahead of planned IPO, source says

reuters.com/world/musks-spacex-merger-talks-with-xai-ahead-planned-ipo-source-says-2026-01-29

Echo Wang, Joey Roulette January 29, 2026

Item 1 of 3 SpaceX's Starship lifts off during its fifth flight test, in Boca Chica, Texas, U.S., October 13, 2024. REUTERS/Kaylee Greenlee Beal/File Photo

[1/3]SpaceX's Starship lifts off during its fifth flight test, in Boca Chica, Texas, U.S., October 13, 2024. REUTERS/Kaylee Greenlee Beal/File Photo Purchase Licensing Rights, opens new tab

- xAI shares would be exchanged for SpaceX shares under the deal
- Deal would support Musk's plan to put data centers in space
- Reuters could not determine terms, timing of the deal

NEW YORK, Jan 29 (Reuters) - Elon Musk's SpaceX and xAI are in discussions to merge ahead of a blockbuster public offering planned for later this year. The combination would bring Musk’s rockets, Starlink satellites, the X social media platform and Grok AI chatbot under one roof, according to a person briefed on the matter and two recent company filings seen by Reuters.

The plan, which Reuters is reporting exclusively, would give fresh momentum to SpaceX’s effort to launch data centers into orbit as Musk battles for supremacy in the rapidly escalating AI race against tech giants like Google, Meta and OpenAI.

Musk, the world's richest man, is the CEO of both the private space company SpaceX and the artificial intelligence company xAI, which controls his social media platform X. He also runs electric automaker Tesla (TSLA.O) , opens new tab, tunnel company The Boring Co. and neurotechnology company Neuralink.
Musk, SpaceX, and xAI did not respond to requests for comment.

Under the proposed merger, shares of xAI would be exchanged for shares in SpaceX. Two entities have been set up in Nevada to facilitate the transaction, the person said.

Reuters could not determine the value of the deal, its primary rationale, or its potential timing.

Corporate filings in Nevada show that those entities were set up on January 21. One of them, a limited liability company, lists SpaceX and Bret Johnsen, the company's chief financial officer, as managing members, while the other lists Johnsen as the company's only officer, the filings show.

The filings don't contain additional information about the purpose of the companies or their role in any deal.

Johnsen did not respond to a Reuters request for comment.

The person, who requested anonymity because the discussions are confidential, said that some xAI executives could be given the option to receive cash instead of SpaceX stock as part of the deal. A final agreement, however, hasn't been signed, and the timing and structure of the transaction remain fluid, the person cautioned.

SpaceX is already the world's most valuable privately held company, last valued at $800 billion in a recent insider share sale. xAI was valued at $230 billion in November, according to the Wall Street Journal. Reuters and other media have reported that SpaceX plans to go public some time this year, with a valuation expected above $1 trillion.

DATA CENTERS IN SPACE

Through xAI, Musk is building out a massive supercomputer for AI training in Memphis, Tennessee, called Colossus. Last year, SpaceX agreed to invest $2 billion in xAI as part of the startup’s $5 billion equity fundraising, the Wall Street Journal reported at the time.
Speaking in Davos, Switzerland, last week, the billionaire entrepreneur said "the lowest cost place to put AI will be in space. And that will be true within two years, maybe three at the latest."

Space-based AI processing, powered by solar energy, is aimed at cutting the cost of generating the computing power that runs and trains AI models such as xAI’s Grok. Jeff Bezos' Blue Origin announced a new high-capacity backbone network of thousands of satellites, while Google is researching space-based data centers with its Project Suncatcher.
Building data centers in space remains a risky proposition, especially with AI investment evolving so rapidly and often unpredictably. Analysts and some industry executives have questioned whether the envisioned cuts in energy consumption are worth the added costs of tailoring those systems for space.

Folding xAI into SpaceX could boost the company's footing for major defense contracts at the Pentagon, which has sought to ramp up AI adoption in its military networks, said Caleb Henry of space research and advisory firm Quilty Analytics.

U.S. Defense Secretary Pete Hegseth earlier this month visited SpaceX's Starbase development site in Texas, where he said xAI's language model and its chat platform Grok will be integrated into military networks as part of the Pentagon's "AI acceleration strategy," aimed at speeding up the military's decision-making and planning.

xAI has a contract worth as much as $200 million to provide Grok products to the Pentagon.

Starlink and its national security variant Starshield already rely heavily on artificial intelligence, such as for automated satellite maneuvers in orbit. Starshield, under a contract with a U.S. intelligence agency, is building a network of hundreds of classified satellites equipped with different sensors that are expected to use AI to help track moving targets on Earth.

LATEST MERGER BETWEEN MUSK COMPANIES

The deal would not be Musk's first effort to combine businesses he controls. In 2025, he folded social media platform X into xAI in a share swap that gave the artificial-intelligence startup access to the platform's data and distribution. Before that in 2016, he used Tesla stock to buy his solar-energy company SolarCity. Earlier this month, xAI raised $20 billion in an upsized Series E funding round, exceeding its $15 billion target at a valuation of $230 billion. Tesla, Musk's electric car company, on Wednesday said it agreed to invest about $2 billion in xAI. Founded in 2002, SpaceX disrupted the global space industry with its reusable Falcon rockets, which proved vital to the swift launch of Starlink, a satellite broadband network now consisting of thousands of satellites in space.

SpaceX has lined up banks for an IPO that could come as early as this year.

Reporting by Echo Wang and Joey Roulette; Additional reporting by Milanna Vinn, Sabrina Valle and David Jeans; Editing by Joe Brock, Dawn Kopecki and Michael Learmonth

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Echo Wang

Thomson Reuters

Echo Wang is a correspondent at Reuters covering U.S. equity capital markets, and the intersection of Chinese business in the U.S, breaking news from U.S. crackdown on TikTok and Grindr, to restrictions Chinese companies face in listing in New York. She was the Reuters' Reporter of the Year in 2020.

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[Joey Roulette]

Thomson Reuters

Joey Roulette is a space reporter for Reuters covering the business and politics of the global space industry, often focusing on space power competition and how commercial interests intersect with international relations. He was part of a team that won the 2024 Pulitzer Prize in national reporting for Reuters' coverage of Elon Musk's business empire. On the space beat for roughly a decade, Joey previously worked for the New York Times, the Verge, and various publications in Florida.

George Pearkes @peark.es

omg

*SPACEX IN MERGER TALKS WITH XAI AHEAD OF PLANNED IPO: REUTERS
*SHARES OF XAI WOULD BE EXCHANGED FOR SHARES IN SPACEX: REUTERS
*TWO ENTITIES SET UP IN NEVADA TO FACILITATE TRANSACTION: RTRS

Exclusive: Musk's SpaceX in merger talks with xAI ahead of planned IPO, source says

Elon Musk's SpaceX and xAI are in discussions to merge ahead of a blockbuster public offering planned for later this year. The combination would bring Musk's rockets, ...

www.reuters.com

10:49 AM · Jan 29, 2026 Some people can reply "in merger talks"

who the fuck is talking? elon to elon?

1 10

BonFire @bonfire25.bsky.social · 26m

Banks backing the IPO

1 2

Sagittarius A* @sagastar.bsky.social · 24m

yeah but i don't count financiers as a part of those talks really when its "spacex talking to xai" because those are both private musk enterprises.

my left hand is going to talk to my right hand later i guess idk

2 1

BonFire @bonfire25.bsky.social · 18m

As of January 2026, SpaceX has lined up four major Wall Street banks to lead what is expected to be a massive initial public offering (IPO), potentially targeting a valuation of over $1trillion. The banks involved in senior roles are Bank of America, Goldman Sachs, JPMorgan Chase, & Morgan Stanley.

1

Connor Lynch @connorlynch.bsky.social · 31m

is he just screwing all of his SpaceX employees with stock by diluting their shares to give himself a bigger piece

1 8

Connor Lynch @connorlynch.bsky.social · 31m

at a glance it seems like that's what's happening

1 6

hoptimus @hoptimusprime.bsky.social · 29m

that or trying to make his csam machine harder to prosecute and destroy

FT PROFESSIONAL

Tesla Inc

Tesla scraps models in pivot to AI as annual revenue falls for first time

Elon Musk's electric-car maker invests $2bn in the billionaire's xAI

Tesla lost its position as the world's biggest EV maker last year © David Paul Morris/Bloomberg

Kana Inagaki in London and **Stephen Morris** in San Francisco

Published YESTERDAY | Updated 06:31

Tesla plans to scrap two models and invest $2bn in Elon Musk's xAI, as the electric vehicle pioneer accelerates a charge into robotics and artificial intelligence following its first drop in annual revenue.

In the clearest sign yet of where Musk is steering Tesla, the company said it would end production of the premium S and X models next quarter and convert its California factory into a manufacturing hub for its Optimus robots.

The announcements came as Tesla's fourth-quarter results laid bare the damage to the carmaker from a year dominated by the Trump administration's ending of EV tax incentives, Musk's polarising politics and the continued rise of low-cost Chinese rival BYD.

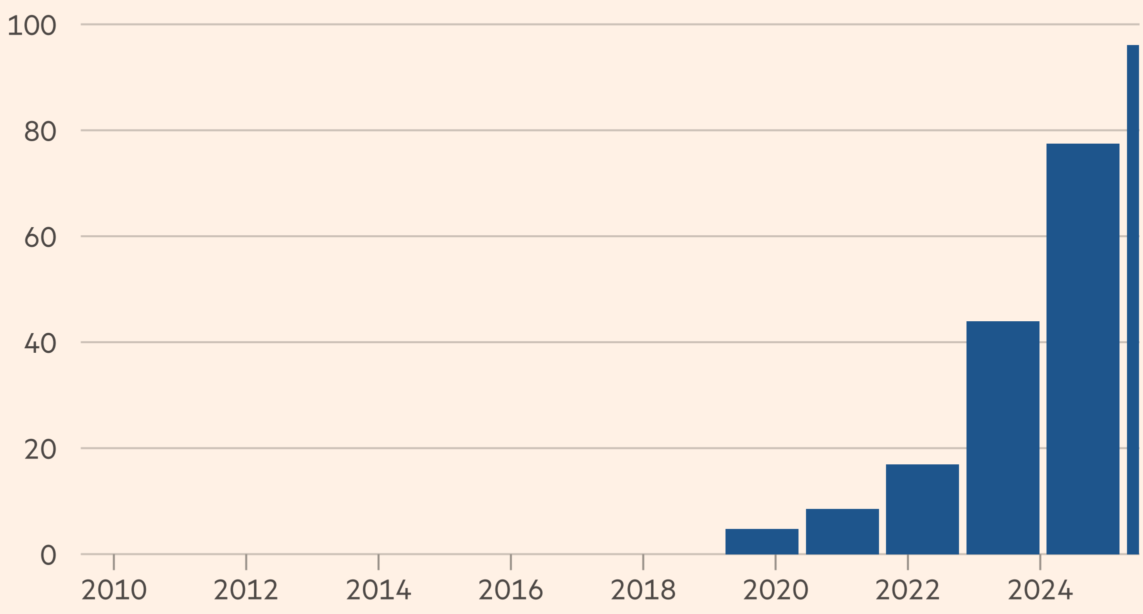
Fourth-quarter revenues fell 3 per cent to $24.9bn, Tesla said after US markets closed on Wednesday. That pushed revenues for the year down 3 per cent to $94.8bn, in a blow to a carmaker that over the past decade became a symbol for the arrival of the EV era.

Announcing the decision to ditch the premium S and X models, Musk said: "That is slightly sad, but . . . it's part of our overall shift to an autonomous future."

The world's richest man has gambled Tesla's future on self-driving Cybercabs and AI-enabled humanoid robots. The group has begun calling itself a "physical AI company".

Tesla reports first drop in annual revenue

Annual revenue ($bn)



FINANCIAL TIMES

Source: LSEG, company filings

Chief financial officer Vaibhav Taneja said Tesla would spend more than $20bn this year to build factory capacity and to invest in AI infrastructure.

The spending plan came as Tesla reported that adjusted net income fell 16 per cent to $1.8bn in the fourth quarter, beating Wall Street expectations. Net income, which includes stock-based compensation expenses and losses on digital assets Tesla owns, slumped 61 per cent to $840mn.

Shares in Tesla, which has a market value of $1.4tn, rose 1.4 per cent in early trading on Thursday.

Musk has previously hailed a future for Tesla built on self-driving taxis and humanoid robots, saying in late 2024 that the group's valuation could soar to as high as $5tn on the back of it. More recently, he has said the company's valuation would reach $25tn as Tesla transforms into a robotics company.

The billionaire's latest record-breaking $1tn pay package requires Musk to lift Tesla's valuation to $8.5tn and sell millions of robots and autonomous-driving subscriptions.

On Wednesday, Tesla for the first time disclosed the number of its full self-driving subscriptions, which rose 38 per cent during the quarter to 1.1mn.

The company also said it planned to roll out its Cybercabs in seven more US cities by the summer following an initial launch in San Francisco and Austin, Texas. Musk has also claimed that the group would obtain regulatory approval for its "full self-driving" software in Europe and China next month.

Despite its name, full self-driving still requires humans to sit in the driver's seat and pay full attention while Musk's claims about its capabilities have drawn the scrutiny of US traffic safety regulators.

Tesla has pressed ahead with a $2bn investment in Musk's xAI as part of its January funding round, despite lukewarm shareholder support for the move.

SpaceX, the billionaire's rocket company, has already invested $2bn in xAI as he seeks more financial support for the capital-intensive business.

The move to link Tesla more closely to Musk's AI group came after a nonbinding shareholder resolution in November pushed for such an investment.

While the measure received more votes in favour than against, the combined number of abstentions and "no" votes showed a majority of shareholders were not behind the move.

Tesla's general counsel said at the time that a high number of abstentions meant the company would have to examine the results before deciding what to do next.

The carmaker's fourth-quarter results underlined its struggle in Europe, where the sales drop-off has been even more stark with new registrations falling 21 per cent. Tesla's business in the region has come under pressure from an influx of new EV offerings from both Chinese and western rivals.

Income from selling regulatory credits to rivals that build more polluting vehicles fell 22 per cent year on year in the quarter to $542mn. Last year, the US government eliminated fines for non-compliance with car emissions standards, effectively neutering the trading schemes.

Tesla also said its long-delayed Roadster sports car would be launched in April.

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FT PROFESSIONAL

Opinion **Tesla Inc**

Tesla lurches into the Musk robotics era

Future of the company lies in equipping and running a global fleet of driverless taxis and in selling humanoid robots

RICHARD WATERS

Elon Musk is set to burn through mountains of cash in pursuit of a big dream © Reuters

Richard Waters

Published 7 HOURS AGO

Elon Musk has been straining for some time against the idea that Tesla should be seen as a carmaker. Rather, as the first all-purpose robotics company, its future lies in equipping and running a global fleet of driverless taxis and in selling humanoid robots.

The full financial implications of that attempted pivot are starting to come into focus. This week, Tesla signalled a lurch back into what is expected to be negative free cashflow territory as it gears up for the long-awaited dawn of the robots. A decade after its heavy spending on electric vehicle development led to bankruptcy worries, Musk is once again getting ready to burn through mountains of cash in pursuit of a big dream.

Tesla's latest earnings report, released on Wednesday, underlined how untethered it has become from the financial strictures it once observed as an automobile company. Musk once talked confidently about growing vehicle sales by 50 per cent a year and boasted of his company's ability to maintain profit margins well in excess of much of the auto industry.

As competition has mounted and the US ended its electric vehicle subsidies, those targets have gone by the board. Tesla's vehicle deliveries in 2025 were nearly 10 per cent lower than the record hit two years before, while automotive revenue was 15 per cent lower. In the same period, the company's operating margin halved, to 4.6 per cent. Musk's response: To urge Tesla investors to look past its car business and focus instead on its grand future in robotics.

Nor, it seems, is it worth worrying too much about the profitability of future car sales. Asked this week about the gross margin the company expects on the new driverless taxis it plans to soon put into production, Tesla's finance chief implied that was the wrong question. It is shifting to a different business model, he suggested, as it starts to charge an annual subscription for its Full Driving Software and looks to pick up a slice of Robotaxi fares.

The clearest sign that Musk is impatient to break free of his company's carmaker roots, meanwhile, is an opening of the investment floodgates. Capital spending will jump from $8.5bn to more than $20bn this year, nearly double what analysts had been expecting. While Tesla has $36bn of cash on hand, net of debt, it has signalled it might raise more funds for the investment programme through "debt or other means".

Tesla's pivot beyond cars comes with a rising cash cost

Source: Company reports

Behind this massive increase lies not only the investment needed for driverless taxis, but preparations to build Optimus robots. There is also a big outlay for the computing power to train the AI models required for Optimus. And this doesn't even take into account the solar plants and chipmaking fabs that Musk believes Tesla will eventually need to build to meet its future targets.

This is only one part of what is quickly turning into a significant recapitalisation of the wider Muskverse. If raising and deploying humongous amounts of cash has become the hallmark of true tech ambition, then Musk is not about to be left behind.

Earlier this month, xAI completed a $20bn round of funding. And the FT reported this week that SpaceX is looking to raise $50bn as early as June in what would be by far the biggest IPO ever staged.

It is tempting to see these various parts of the Muskverse fitting together more tightly as tech's best-known visionary gathers his resources for an assault on the next giant space — robotics and AI markets. Tesla said this week, for instance, that it is investing $2bn in xAI, a move that Musk claimed would enable it to use that company's Grok AI model to help manage Tesla's fleet of Robotaxis. SpaceX, meanwhile, plans to use some of its IPO cash to put data centres into orbit, potentially giving xAI a leg-up in its race against OpenAI and Google.

Artificial intelligence looks like the common thread tying all of this together. But Tesla may have less to gain from this supposed industrial synergy than Musk suggests. The AI models needed for its robotics ambitions, and the supercomputer it is building to develop them, have little in common with xAI's large language models.

Instead, Tesla will have to master the full stack of technologies needed to be a robotics powerhouse on its own. As Musk warned this week, that has put it squarely up against a group of Chinese EV and robotics companies that have shown themselves to be world leaders in manufacturing and are also starting to record impressive results in AI.

Timing is now all. Years after its CEO first said the company was on the brink of autonomous driving, Tesla claimed to have carried out its first fully driverless taxi rides in Austin this month. It needs to move fast to show it can turn this into a real business. Only then will it become clear whether robotics is more than an Elon Musk fever-dream.

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Former Delaware judge calls on corporate lawyers to defend rule of law

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Former Delaware Chancery Court Chief Justice Leo E. Strine, Jr.

CORONADO ISLAND -- In an address to the 53rd Annual Securities Regulation Institute on Tuesday, former Delaware Chancery Court Chief Justice Leo E. Strine, Jr. delivered a fiery call for corporate lawyers to prioritize integrity and the rule of law over expediency, drawing a standing ovation from a normally staid audience.

Strine framed his lecture, titled "Practicing Law in a Lawless Time," around the challenges facing the legal profession in the current complex regulatory and political environment.

"What distinguishes this moment from prior crises," Strine said, "is the extent to which those charged with enforcing the law may selectively apply or abdicate it. That places an extraordinary responsibility on corporate lawyers -- more than ever -- to counsel clients with unwavering fidelity to the law itself."

Though he did not name President Donald Trump, Strine appeared to be referencing Trump's efforts last year to punish law firms for representing clients he opposed, including those who sued him or his administration. While some firms sought accommodation, others pushed back -- most prominently Perkins Coie.

"It was a powerful speech," Liza L.S. Mark, a partner and chief representative and Shanghai office managing partner at Haynes and Boone, said later. "The charge of what he asked all of us to think about - making sure that you comply with the law and making sure that your client complies with the law - is something that we should all stive for."

Strine, now of counsel at Wachtell, Lipton, Rosen & Katz, concluded his remarks by urging lawyers to embrace their special role as custodians of the law and exemplars of professional integrity. "In moments like these," he said, "our profession has the opportunity -- and the obligation -- to be at its best, to guide clients toward lawful, high-integrity conduct, and to reaffirm the principle that we are a nation under law."

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California Brief

Billionaires Led by Brin Fund California Influence Campaign (2)

Jan. 29, 2026, 6:03 AM PST

A group of some of the world's richest people, including **Sergey Brin** and Eric Schmidt, are bankrolling a new pro-business political organization as the tech industry looks to play a greater role in shaping California politics.

The initiative, dubbed Building a Better California, will deploy funds to back candidates and other initiatives across the state, a person familiar said.

A top priority will be opposing the ballot measure that would institute a one-time 5% tax on billionaires in the state, the person said, asking not to be named because the details aren't public.

Abby Lunardini, a spokesperson for Building a Better California, said they have yet to take a stance on the wealth tax and have not announced plans to back candidates.

"We support forward-looking policies aimed at making the state more livable and affordable, while protecting innovation and entrepreneurship, which help support a strong economy and good-paying jobs," Lunardini said in a statement.

The group, a 501(c)(4), has already raised $35 million, led by a $20 million donation from Brin, according to a filing. In a Signal chat with fellow billionaires, Brin had previously floated the idea of raising hundreds of millions of dollars for an influence operation in California, according to a person who saw the message.

It has already spent $11 million in backing ballot initiatives to increase middle-class homeownership and change an environmental review law that often slows down large infrastructure projects in the state.

Also contributing to the Building a Better California initiative are DoorDash Inc. co-founder **Tony Xu**, crypto billionaire **Chris Larsen**, venture capitalist **Mike Moritz** and others like John Doerr, **Max Levchin** and **Patrick Collison**. Stewart Resnick, co-owner of agricultural giant the Wonderful Company, gave $2 million, the biggest donation outside tech circles.

"It's great to see business leaders stepping up to focus on California basics," Larsen said.

Leading the Building a Better California campaign is Ned Wigglesworth, a veteran ballot initiative consultant, two people familiar said. Wigglesworth didn't immediately return messages seeking comment.

The group illustrates the tech industry's efforts to expand its influence in a state where progressives and labor unions hold much of the political sway in Sacramento.

That push has accelerated in recent months after the proposed wealth tax. Many tech-industry opponents of the measure have criticized its mechanism to tax unrealized gains, which would directly affect many startup founders and venture capitalists.

Building a Better California doesn't plan to oppose all taxes. The group is expected to back an extension to a temporary levy on incomes over $250,000 that funds schools and health care and is set to expire at the end of 2030, the person familiar said.

Other influential investors, like **Peter Thiel** and Ron Conway, have donated to oppose the wealth tax initiative, while several billionaires have already made efforts to leave the state.

Brin himself appears to have left California for Nevada. His donation to Building a Better California is listed under a Reno address, according to the filing. An entity linked to the billionaire recently purchased a $42 million mansion on the Nevada side of Lake Tahoe.

Brin is the world's third-richest person with a $267 billion fortune, according to the Bloomberg Billionaires Index. While he typically funnels his wealth into philanthropy, he's been more visible in politics recently, including attending the inauguration and other events with President Donald Trump.

(Adds additional comments from spokesperson in fifth paragraph, details on Brin's net worth in final paragraph.)

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Felipe Marques

Son of Executive Overseeing U.S. Government's Crypto Stash Accused of Stealing $40 Million

gizmodo.com/son-of-executive-overseeing-u-s-governments-crypto-stash-accused-of-stealing-40-million-2000714226

Jody Serrano January 28, 2026

Over the weekend, ZachXBT, who is an advisor to crypto investment firm Paradigm and has been called "one of the best digital detectives" by The New York Times, claimed that the perpetrator of a suspected $40 million theft from the U.S. government's crypto holdings is the son of an executive at a firm tasked with the management of those funds. Now, the U.S. Marshals Service says it's investigating the situation.

Command Services & Support (CMDSS) was awarded a government contract for the management and disposal of a specific class of crypto assets in October 2024. Dean Daghita is the chief executive of CMDSS, and according to ZachXBT, his son, John Daghita (also known as Lick), is connected to a theft of crypto funds in government custody that were associated with the 2016 hack of crypto exchange Bitfinex. According to a report in The Block, most—but not all—of these funds allegedly stolen from the government were returned within 24 hours.

> In case you are curious how John Daghita (Lick) was able to steal $40M+ from US government seizure addresses.
>
> John's dad owns CMDSS, which currently has an active IT government contract in Virginia.
>
> CMMDS was awarded a contract to assist the USMS in managing/disposing of… https://t.co/lzR2a1aidA pic.twitter.com/PV0IkSuhVy
>
> — ZachXBT (@zachxbt) January 25, 2026

The connection between John Daghita and the stolen funds is said by crypto insiders to have been made after the accused was seen bragging about large-value crypto wallets in a Telegram group chat. During a dispute with another member of the group chat, where each user was attempting to prove they controlled more crypto than the other, John allegedly revealed access to a wallet connected to the previous theft of funds from government custody.

After ZachXBT made multiple reports regarding these connections on X, roughly $1,900 worth of ether associated with the stolen government funds was sent to the blockchain investigator's publicly known Ethereum address. ZachXBT has stated that any stolen funds received will be forwarded to U.S. government seizure addresses.

This is not the first controversy that the U.S. Marshals Service (USMS), which oversees seized crypto associated with federal cases, has faced challenges when it comes to its handling of digital assets. Previously, separate reports in CoinDesk and The Rage indicated the agency (and the government as a whole) is unable to provide a proper and transparent accounting of its crypto holdings.

CMDSS's LinkedIn and X accounts have been deactivated, and the company did not respond to a request for comment from Gizmodo made via the CMDSS website. The USMS told Gizmodo, "At this time, we will not be making any statement as the matter is under investigation." CMDSS did not respond to a request for comment.

On X, President's Council of Advisors for Digital Assets Executive Director Patrick Witt indicated he is looking into the matter.

https://x.com/patrickjwitt/status/2015919455650435104

In the past, the U.S. government has seized crypto assets associated with criminal cases and then sold them off for a profit. For example, legendary tech investor Tim Draper once purchased nearly 30,000 bitcoin that were seized from a darknet market Silk Road. This bitcoin stash was worth around $18 million at the time and is now worth roughly $2.5 billion.

Following an executive order from President Trump last year, these sorts of sales have stopped. Now, seized bitcoin is added to a strategy bitcoin reserve, and other crypto assets are added to a separate stockpile. The Trump administration is also looking at ways to expand the strategic bitcoin reserve with additional purchases to add on top of coins seized by law enforcement. Multiple states have also established their own, separate bitcoin reserves.

Arkham Intelligence currently values U.S. government bitcoin holdings at just under $30 billion.

After all these years, thefts of bitcoin and other crypto assets are still a rather common issue. Last year, an Office Space-esque exploit at a longstanding decentralized finance (DeFi) application sent a chill through the entire industry, as it put into question whether these platforms, where transactions are irreversible and "code is law," can ever be fully trusted. Additionally, 2025 was a record year for physical crypto thefts, as more criminals are taking their activities offline and going with $5 wrench attacks, potentially based on personal information they've obtained from a crypto hardware wallet manufacturer or French tax authority.

2025 was also a record year for illicit crypto activity more generally, with a report from blockchain analytics firm estimating these transfers at $154 billion. However, much of this activity was denominated in stablecoins, which are centrally issued and more easily frozen and controlled. For example, stablecoin issuer Tether recently froze $182 million of its USDT token amid reports of heavy use of the dollar-pegged digital currency by the Maduro regime in Venezuela.

Of course, in many ways, solving the price volatility and lack of transaction reversals in Bitcoin through centralized stablecoins nullifies a significant aspect of its originally intended purpose.

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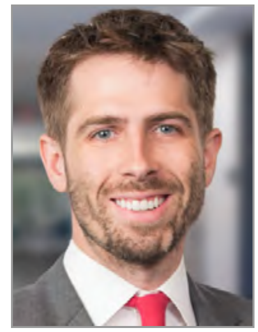
NY Securities Class Action Ruling Holds Rare Timing Insights

By **Jesse Jensen and David Saldamando** (January 28, 2026, 6:16 PM EST)



Jesse Jensen

In Leone v. ASP Isotopes Inc., U.S. District Judge Colleen McMahon of the Southern District of New York **issued** a rare securities class action ruling simultaneously on a motion to dismiss and class certification.

This class action was brought under Section 10(b) of the Securities Exchange Act, and the decision denied in part a motion to dismiss brought under Rule 12(b)(6) of the Federal Rules of Civil Procedure, and also — in the same ruling — certified those claims to proceed as a class action under Rule 23.[1]

This article discusses the unique posture of this ruling in securities class action litigation and explores certain procedural and substantive implications of this approach.

David Saldamando

Court's Discretion on the Timing of Class Certification

Concurrent briefing and simultaneous ruling on both a Rule 12(b)(6) motion to dismiss and a Rule 23 motion for class certification is highly unusual in the securities class action context, for reasons largely specific to this area of law.

Neither Rule 12(b)(6) nor Rule 23 requires resolution in any particular order, nor do they prohibit courts from addressing both concurrently. Rather, Rule 12(b) specifies only that motions to dismiss must be brought before a responsive pleading, i.e., the answer, without any mention of temporal relation to class certification motions.

Rule 23 likewise does not prescribe a specific timeline or sequence with respect to dispositive motions. Before 2003, the rule required that class certification be decided as soon as possible — arguably suggesting Rule 23 class certification issues could, or even should, be resolved before addressing the claims under Rule 12(b)(6).

However, an amendment in 2003 revised the rule to now require only that the court address class certification "at an early practicable time." On its face, this language does not impose any sequencing requirement in relation to motions to dismiss. To the contrary, the amendment was intended to provide courts with greater flexibility to determine when to address class certification.[2]

The principal reason that securities class actions rarely litigate and resolve motions to dismiss and class certification concurrently relates to the Private Securities Litigation Reform Act.

Enacted in 1995 — over 30 years ago — the PSLRA provides that "[i]n any private action arising under" the statute, "all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party."[3]

While at least one court has acknowledged some ambiguity as to whether the PSLRA's reference to "other proceedings" extends beyond discovery-related proceedings — and thus does not per se prohibit the filing or consideration of other motions, such as motions for class certification[4] — the practical effect is essentially the same.

Since the U.S. Supreme Court embraced the fraud-on-the-market rebuttable presumption and largely settled the framework for class certification in securities class actions nearly 40 years ago in Basic Inc. v. Levinson,[5] defendants have aggressively raised evidentiary challenges in an attempt to rebut this presumption, often involving both fact and expert discovery.

In turn, as the Supreme Court recently noted in Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System,[6] courts have "an obligation before certifying a class to 'determin[e] that Rule 23 is satisfied, even when that requires inquiry into the merits,'" and courts must be "open to all probative evidence" as to price impact, which may disrupt the Basic presumption.[7]

Thus, in staying discovery, the PSLRA effectively prohibits class certification until after any motion to dismiss has been decided, regardless of how "other proceedings" is construed.

Courts that have had occasion to examine the issue have reached the same conclusion.

For example, in Rensel v. Centra Tech Inc.,[8] the U.S. Court of Appeals for the Eleventh Circuit ruled that, while courts possess broad discretion in scheduling class certification and managing their dockets — and further suggested that there are circumstances "in which the propriety of [class] certification was readily discernible from the pleadings" — in general the requirement under Rule 23 that a court make a certification determination as soon as practicable "not only supports the expectation that plaintiffs will have some opportunity for discovery before moving for class certification; it also places the onus of ensuring a timely certification decision on the district court, rather than on plaintiffs."[9]

The Rensel court emphasized that "Plaintiffs were not required to move for PSLRA stay relief in order to expedite the filing of a class certification motion" and "it was not unreasonable for the Plaintiffs to simply wait for the PSLRA stay to expire before conducting class discovery and moving for certification."[10]

The court ultimately found that "the operation of the PSLRA stay in this case effectively prevented the Plaintiffs from moving for class certification any earlier than they did."[11]

This approach accords with the advisory committee notes to the Rule 23 amendment in 2003, which explained that the amendment "captures the many valid reasons that may justify deferring the initial certification decision," including time to conduct discovery in aid of the certification decision.[12]

Leone v. ASP Isotopes Inc.

In Leone, the plaintiff asserts securities claims related to alleged misstatements by ASP Isotopes Inc. and its executives, a development stage advanced materials company, about its ability to enrich uranium using its laser-based Quantum Enrichment technology.

After appointing the lead plaintiff, Judge McMahon entered a schedule setting the deadline for filing the amended complaint, followed by overlapping briefing schedules for both the defendants' anticipated motion to dismiss and, concurrently, the plaintiff's motion for class certification.

The parties timely complied, and, on Dec. 4, 2025, the Leone court issued an extensive 87-page opinion ruling on, first, the motion to dismiss and, second, the motion for class certification.

First, the court granted in part and denied in part the defendants' motion to dismiss. The court rejected several of the alleged misstatements, ruling that those statements were either not false or inactionable opinions.

The court otherwise sustained the complaint, ruling that the plaintiff had adequately alleged actionable misrepresentations by the defendants in claiming that the company had successfully enriched uranium or possessed operational, regulator-ready technology, when neither was true.

Further, the court rejected the defendants' arguments based on supposed earlier disclosures that purportedly warned investors that the company (1) had never tested or used Quantum Enrichment technology to enrich uranium; and (2) had not received the necessary regulatory approvals.

The court noted that these arguments "[i]n essence ... assert a truth-on-the-market defense ... [that] a misrepresentation is immaterial if the information is already known to the market because the misrepresentation cannot then defraud the market."[13]

In rejecting the defendants' arguments and holding that earlier disclosures did not immunize later statements in which the defendants suggested material technological progress or resolution of regulatory hurdles, the court emphasized the demanding standard to assert these sorts of truth-on-the-market defenses, noting that the U.S. Court of Appeals for the Second Circuit had cautioned that the defense is "intensely fact-specific and is rarely an appropriate basis for dismissing a Section 10(b) complaint for failure to plead materiality."[14]

Second, after ruling on the motion to dismiss, the court next addressed the motion for class certification under Rule 23, ruling that the requirements were satisfied.

Among other things, the court credited the expert evidence submitted by the plaintiff and rejected the defendants' attempts to rebut the fraud-on-the-market presumption articulated by the Supreme Court in Basic, noting that the defendants "have submitted no expert report, no event study, and no other evidence to challenge price impact."[15]

The court also rejected the defendants' price impact argument, based on Goldman, that there was a supposed mismatch between the alleged misstatements and corrective disclosure, ruling this argument was "merely a repackaged truth-on-the-market defense that the Court has already rejected" in its Rule 12(b)(6) ruling, as discussed above.[16]

Practical Impact From the Leone Approach

As noted above, courts have generally found that the PSLRA discovery stay effectively precludes resolution of class certification until after the motion to dismiss has been denied.

It is not immediately clear to what extent the impact of the PSLRA discovery stay was considered in Leone; in any event, the parties and the court proceeded to address both Rule 12(b)(6) and Rule 23 issues concurrently.

This posture required the parties to undertake the expense and burden in developing an evidentiary record around class certification at the same time as they briefed existential issues of law around the validity of the plaintiff's claims — resolution of which had the potential to end the case completely.

As noted above, this is no light burden: Defendants increasingly raise fact- and expert-intensive attacks on class certification, and indeed it appears that the parties in Leone conducted certain discovery in connection with the class certification motion, including fact deposition testimony related to the proposed class representatives.

At the same time, the approach in Leone potentially limited far-ranging discovery in pursuit of more novel attacks on class certification. Indeed, as the court noted, the defendants "submitted no expert report, no event study, and no other evidence to challenge price impact," and further ruled parts of their opposition merely repackaged from their Rule 12(b)(6) arguments and rejected for much the same reasons.[17]

The Leone approach did, however, potentially raise an opportunity for earlier appellate consideration. Courts generally do not permit interlocutory appeal, including as to a ruling denying a motion to dismiss.

However, Rule 23(f) expressly provides for possible interlocutory appeal of class certification. Thus, the unique posture in ruling on class certification concurrently with the motion to dismiss conceivably opens the door to appeal earlier than would typically occur in securities class action litigation.

It does not appear that the Leone defendants pursued such appeal, the deadline for which expired 14 days after the order. Even if they did, however, Rule 23(f) limits appeal to class certification, and further makes clear that appeal does not necessarily stay the case.

Conclusion

In requiring overlapping briefing on both the motion to dismiss and motion for class certification at the outset of the case, the district court in Leone utilized its discretion in scheduling and resolved both issues early.

In doing so, the district court altered the ordinary course of securities class action litigation, including by front-loading certain fact- and expert-specific issues and the prospect of interlocutory appeal.

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[1] Leone v. ASP Isotopes Inc. , Case 1:24-cv-09253-CM, 2025 WL 3484821 (S.D.N.Y. Dec. 4, 2025).

[2] See generally 3 Newberg and Rubenstein on Class Actions § 7:9 (6th ed.).

[3] 15 U.S.C. § 78u-4(b)(3)(B).

[4] In re: Diamond Multimedia Sys., Inc. Sec. Litig. , 1997 WL 773733, at *1, 3-4 (N.D. Cal. Oct. 14, 1997) (noting certification was not stayed by the PSLRA and appropriate where defendants were willing to stipulate to certification); but see Vignola v. FAT Brands Inc. , 2019 WL 13038337, at *2 (C.D. Cal. Dec. 3, 2019).

[5] Basic Inc. v. Levinson, 485 U.S. 224 (1988).

[6] Goldman Sachs Grp. Inc. v. Arkansas Tchr. Ret. Sys. , 594 U.S. 113 (2021).

[7] Id. at 122.

[8] Rensel v. Centra Tech Inc. , 2 F.4th 1359, 1361 (11th Cir. 2021).

[9] Id. at 1367.

[10] Id. at 1367-68.

[11] Id. at 1365 n.2. See also, e.g., In re: Wayfair, Inc. Sec. Litig. , 471 F. Supp. 3d 332, 337-38 (D. Mass. 2020) ("In light of the rigorous analysis I would be required to undertake in order to determine whether class certification is appropriate in this Private Securities Litigation Reform Act litigation, I am of the view that addressing the case at the threshold through a motion to dismiss is the best course.").

[12] Federal Rule of Civil Procedure 23, Committee Notes on Rules—2003 Amendment.

[13] Leone, 2025 WL 3484821, at *7.

[14] Id.

[15] Id. at *33.

[16] Id. at *39-41.

[17] Id. at *33.

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Judge Vacates $1.3M Deal After 7 Years Pass With No Payment

By **Sydney Price**

Law360 (January 28, 2026, 8:43 PM EST) -- A California federal judge has vacated an order from seven years ago preliminarily approving a $1.3 million settlement of claims brought by Wins Finance Holdings Inc. shareholders, saying Wins' failure to secure approval from the Chinese government to release the funds makes it unlikely the investors will get paid under the deal.

The court said Tuesday that even though the investors have not shown Wins breached the settlement agreement, Wins' efforts have "proven unsuccessful to date," and that the settlement does not appear likely to be effectuated.

According to the order, Wins requested at a hearing on Monday that the court give it additional time to pursue financing for the settlement, which would end claims Wins inflated its stock price by lying about being headquartered in New York.

"Wins believes that there is only a remote possibility that the requisite Chinese governmental approvals will be issued in the near future, and Wins states that it has been pursuing financing outside of China that could be used to fund the settlement," the order states.

U.S. District Judge Christina A. Snyder gave the investors two weeks to explain why the action should not be dismissed for lack of prosecution as to the defendants.

The settlement was initially approved in February 2019 for a group of investors who bought or otherwise acquired Wins stock between Feb. 23, 2016, and June 7, 2017.

The investors allege Wins' lied to the U.S. Securities and Exchange Commission about being based in the United States. The result was a jump of five times its usual trading volume in June 2016, according to filings in the case. But Wins' stock nosedived $45.50 per share, or 32%, after December 2016 news reports questioned whether the company was based in New York, the investors said.

Wins was dropped from the Russell 2000 Index — a major U.S. small-cap index used by mutual funds — in April 2017, the suit states. In August 2017, Nasdaq delisted the company because it did not have enough investors owning 100 or more shares, according to filings in the case.

Wins registered its headquarters in the name of a former company director running another entity, according to the April 2017 complaint. A senior employee of that company admitted Wins' only presence in the office was an empty desk used "sporadically" by Wins' former president.

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

The investors are represented by Laurence M. Rosen and Yu Shi of The Rosen Law Firm PA.

Wins Finance Holdings Inc. is represented by Daniel Murphy, Jay K. Musoff and John Piskora of Loeb & Loeb LLP.

The case is Michel Desta et al. v. Wins Finance Holdings Inc. et al., case number 2:17-cv-02983, in the U.S. District Court for the Central District of California.

--Editing by Emily Kokoll.

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Crypto Investors Want Mark Cuban Suit Sent To Texas

By **Sydney Price**

Law360 (January 28, 2026, 7:26 PM EST) -- Crypto investors suing billionaire Mark Cuban and his former NBA team the Dallas Mavericks over their alleged promotion of the collapsed exchange Voyager have asked a Florida federal judge to transfer their claims to Texas, a month after the judge dismissed the claims on personal jurisdiction grounds.

In a motion for reconsideration Tuesday, the investors requested that in lieu of dismissal, the case be moved to the U.S. District Court for the Northern District of Texas. Cuban and the Mavericks, **the only defendants remaining** in the suit, were dismissed from the case last month after the court sided with their lack of jurisdiction arguments.

The plaintiffs' motion said the defendants requested to transfer the case to the Texas court **in 2023**.

"Transfer best satisfies the interests of justice," the motion said. "Having urged transfer as the proper alternative to dismissal, defendants cannot credibly claim unfair prejudice from that same remedy."

The Voyager investors launched their suit in 2022, claiming Cuban and others tricked them into buying unregistered securities and furthered Voyager's "false and misleading promises" of large profits.

Other suits since filed by Voyager investors against the NBA, the law firm McCarter & English, public relations company Ketchum Inc. and other athletes have been consolidated into **a separate lawsuit.** Former football player Matthew Barkley agreed to a settlement in October 2024, according to the suit's docket.

In the dismissal order last month, U.S. District Judge Roy K. Altman said the suit does not show that Cuban carried out a business venture in Florida and the mere existence of Cuban's Florida residences does not allow the court to establish jurisdiction over him.

"The [second amended complaint] points out that Cuban owns 'two condominiums on Miami Beach and travel[s] to Florida either for personal reasons or for Mavericks away games in Miami and Orlando multiple times per year,'" the suit said. "But it doesn't connect this lawsuit to those Florida trips."

The complaint also does not show that the Texas-based basketball team participated in promoting Voyager in Florida and the "fact that the team played games in Florida is irrelevant," the judge said.

In June 2024, investors reached a $2.4 million settlement with the suit's other defendants: football star Rob Gronkowski, NBA player Victor Oladipo and NASCAR driver Landon Cassill.

The deal said Gronkowski will pay the biggest share of $1.9 million, Oladipo will pay $500,000 and Cassill will shell out $25,000. All three men agreed to the settlements without admitting to or denying any of the investors' accusations.

Judge Altman said at the time that a formal notice of the deal will be deferred until the investors' claims against the remaining defendants Cuban and the Mavericks are resolved. The settlement is still pending final approval, according to the suit's docket.

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

The investors are represented by Adam M. Moskowitz, Joseph M. Kaye and Barbara C. Lewis of The Moskowitz Law Firm PLLC, David Boies and Steven Zack of Boies Schiller Flexner LLP and Jose M. Ferrer and Desiree Fernandez of Mark Ferrer Hayden PLLC.

Cuban and the Mavericks are represented by Christopher E. Knight, Esther E. Galicia and Alexandra L. Tifford of Fowler White Burnett PA, Stephen A. Best, Rachel O. Wolkinson, Daniel L. Sachs and Jonathan D. White of Brown Rudnick LLP, Thomas M. Melsheimer and Scott C. Thomas of Winston & Strawn LLP and Paul C. Huck Jr. of The Huck Law Firm PA.

The case is Karnas et al. v. Cuban et al., case number 1:22-cv-22538, in the U.S. District Court for the Southern District of Florida.

--Editing by Stephen Berg.

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Generics Makers Want Hospital Drug Data In Price-Fixing MDL

By **Mark Payne**

Law360 (January 28, 2026, 2:53 PM EST) -- A group of 150 hospitals suing generic-drug makers for alleged price fixing in multidistrict litigation should hand over data on their drug purchases, the drugmakers have told a Pennsylvania federal court, arguing they don't sell directly to the hospitals and therefore have no records themselves.

Actavis Holdco US Inc., Amneal Pharmaceuticals, Inc. and at least a dozen other drugmakers asked the federal court on Tuesday to **compel the hospitals** to produce transactional and sales data to prove the hospitals have suffered damages from the alleged generics price-fixing scheme.

"The hospitals have not explained their refusal to produce their purchase data and have not articulated any particularized burden," the drugmakers argued. "They have instead attempted in several different ways to shift the burden of this discovery from themselves to defendants, without any justification for doing so."

Further, the drugmakers claimed they had met with the hospitals five times and exchanged correspondence to obtain the data. The drugmakers asked the hospitals to produce the documents in July, according to court documents.

The hospitals rejected the request in September. According to court documents, the hospitals argued the drugmakers are seeking documents they already have or that are already available elsewhere.

"Plaintiffs further object to this request on the grounds that it is overbroad, unduly burdensome, not proportional to the needs of this case, and/or calls for the production of documents, information, or data not reasonably calculated to lead to the discovery of admissible evidence," the hospitals said in their response to the requests in September.

The drugmakers countered Tuesday that they don't have access to this information and that they're entitled to this information because the hospitals have made it "the center of this case."

"Defendants are entitled to discovery to defend and understand the Hospitals' claims," the generics makers said.

The motion to compel is the latest development in the **sprawling multidistrict litigation** accusing dozens of drugmakers of conspiring to artificially raise the prices of generic drugs. Complaints have been filed in numerous states from major insurers such as Humana Inc., multiple attorneys general and, more recently, corporations AT&T and Southwest Airlines.

Major deals have also already been struck in the litigation, including earlier this month. On Jan. 23, a Pennsylvania federal judge granted final approval for a **$200 million deal** to resolve claims against Sun Pharmaceutical and Taro Pharmaceuticals.

Representatives for the hospitals and drugmakers didn't immediately respond to requests for comment Wednesday.

The hospitals are represented by Cindy Reichline, Keith L. Butler, Shira Liu and Taylor Keating of Butler Reichline Skruzmane LLP.

The drugmakers are represented by Chul Pak of Wilson Sonsini Goodrich & Rosati PC, Sheron Korpus of Kasowitz Benson Torres LLP, Devora W. Allon of Kirkland & Ellis LLP, and Alison Tanchyk of Morgan Lewis & Bockius LLP.

The case is Providence St. Joseph Health et al. v. Actavis Holdco US Inc. et al., case number 5:23-cv-03636, in the U.S. District Court for the Eastern District of Pennsylvania.

The MDL is In re: Generic Pharmaceuticals Pricing Antitrust Litigation, MDL number 2724, in the U.S. District Court for the Eastern District of Pennsylvania.

--Additional reporting by Bryan Koenig and Cara Salvatore. Editing by Lakshna Mehta.

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Google To Pay Android Users $135M To End Data Use Suit

By **Allison Grande**

Law360 (January 28, 2026, 11:03 PM EST) -- Google agreed to pay $135 million and obtain consent from new Android users for use of their cellular data to resolve a proposed class action accusing it of conducting "passive" data transfers without consumers' knowledge or consent over the Android operating system, according to a proposed deal filed in California federal court.

In a motion lodged Tuesday, plaintiffs Joseph Taylor, Mick Cleary and Jennifer Nelson pushed for preliminary approval of the parties' proposed settlement, which would create a $135 million non-reversionary fund paid by Google to compensate a class of the more than 100 million Americans who used smartphones with Android operating systems with cellular data plans provided by mobile carriers between Nov. 12, 2017, and the entry of the final judgment in the case.

Settlement class members would receive a pro rata share, capped at $100 per person, of what's left of the settlement fund after deducting attorney fees, costs, incentive awards and administrative costs, according to the plaintiffs.

The proposed settlement class excludes California-based Android users, who are covered by a parallel proposed class action brought in state court on behalf of roughly 14 million Android users in the Golden State. In that dispute, a Santa Clara County Superior Court jury **last July** awarded the plaintiffs more than $314.6 million after finding that Google unlawfully caused Android devices to secretly send certain information over cellular networks for Google's own purposes.

The latest deal stems from similar accusations that Google's Android operating system misappropriates cellular data paid for by mobile device users to transfer without the user's permission a variety of information to Google, a practice the plaintiffs contend occurs even when devices are idle, stationary, untouched and have all applications closed.

In moving for preliminary approval, the plaintiffs say the proposed deal is "fair, reasonable and adequate in light of the significant risks of continued litigation and uncertainty as to whether continued litigation would lead to any relief at all," adding that they believe the "very significant" monetary recovery of $135 million to be "the largest class action settlement ever of a conversion claim in federal court."

The plaintiffs also tout the proposed deal's "significant injunctive relief," which would require Google to clearly disclose that it consumes cellular data and obtain express consent for its contested practices in the setup flow for new Android users.

Specifically, Google will be required to add new language to the Google Play terms of service that describes how data transfers occur "in the background, when you are not directly interacting with your device;" that explains that these transfers "may use your cellular data," particularly when "the device is not connected to Wi-Fi;" and that informs users that some of these transfers "cannot be turned off."

The injunctive relief terms "will also require Google to obtain Android users' affirmative consent before using their cellular data by adding a new section to the 'setup flow,' with an 'accept' button that is displayed to all Android users who set up a new device," according to the plaintiffs.

Additionally, the proposed deal directs Google to take steps to deactivate the "allow background data usage" toggle, which the plaintiffs claim fails to turn off data transfers despite purporting to allow users to do so, in order to ensure that this feature "is no longer misleading."

"The injunctive relief is perhaps even more important than monetary consideration in this case, because it ensures that Android users are informed of Google's practices so they can make informed decisions whether to continue using Android mobile devices," the plaintiffs assert. "That is a resounding victory for transparency and has meaningful value to members of the settlement class."

The plaintiffs add that while it's "hard to place a monetary value on the transparency provided to Android users," its economist "has calculated that the injunctive relief provided by the settlement agreement will avoid the prospective conversion of approximately $300 million worth of cellular data per year using the industry average price." Given the minimum two-year term of the proposed injunctive relief, the estimated economic value of these mandates is likely to be at least $600 million, according to the plaintiffs

Magistrate Judge Virginia K. DeMarchi is expected to consider the preliminary approval motion at a Feb. 17 hearing.

Google spokesperson José Castañeda told Law360 that the company was "pleased to resolve this case, which mischaracterized standard industry practices that keep Android safe."

"We're providing additional disclosures to give people more information about how our services work," Castañeda added.

Counsel for the plaintiffs couldn't be reached for comment Wednesday.

The parties' dispute dates back to November 2020, when several Android users filed a complaint asserting claims for conversion and quantum meruit against Google. The lawsuit centers on Google's alleged practice of secretly consuming mobile device users' cellular data allowance for its own purposes, including to facilitate data transfers that enhanced its targeted advertising capabilities, without permission and without paying for those transmissions.

Judge DeMarchi granted Google's motion to dismiss the dispute in October 2022, taking specific issue with the consumers' attempt to show that Google has been "free-riding" off cellular data that they own. While the plaintiffs had likened cellular data to the consumption of electricity or water, the magistrate judge found that the claims put forth in the operative complaint "indicate that a user does not actually possess cellular data until the user sends or receives a transmission of information."

"Thus, as in the original complaint, the [first amended complaint] suggests that there is nothing that customers possess that is separate and apart from their use of a particular or unlimited quantum of access to the network, which is measured in these bytes of data — i.e., a right of access that is entirely defined by their respective contracts with their cellular carriers," Judge DeMarchi found.

And ultimately, the benefits of contractual rights are not personal property capable of shouldering such a conversion claim, the judge ruled.

Following an appeal, the Ninth Circuit in February 2024 revived the plaintiffs' conversion claim, sending the dispute back to the district court for discovery.

The plaintiffs moved to stay the dispute in August 2025 pending Google's appeal of the jury verdict in the parallel state court case. While that request was denied last November, shortly after, the parties agreed to the proposed settlement, which they had been working on for more than a year, leaving a fully briefed motion for class certification unresolved.

The plaintiffs are represented by Elizabeth M. Pipkin and Ann M. Ravel of McManis Faulkner, Glen E. Summers, Karma M. Giulianelli, Lindley J. Brenza and Jonathan Jacob Marsh of Bartlit Beck LLP, and Marc A. Wallenstein, George A. Zelcs, Ryan Z. Cortazar, Chad E. Bell, Pamela I. Yaacoub, Carol L. O'Keefe and Michael E. Flenov of Korein Tillery LLC.

Google is represented by Whitty Somvichian, Max A. Bernstein and Caroline A. Lebel of Cooley LLP.

The case is Taylor et al. v. Google LLC, case number 5:20-cv-07956, in the U.S. District Court for the Northern District of California.

--Additional reporting by Hailey Konnath. Editing by Kristen Becker.

Update: This article has been updated to add comment from Google.

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Mid-America Inks $53M Deal In RealPage Landlord MDL

By **Lauren Berg**

Law360 (January 28, 2026, 11:31 PM EST) -- Mid-America Apartment Communities Inc. revealed in a U.S. Securities and Exchange Commission filing Wednesday that it will pay $53 million to settle out of multidistrict antitrust litigation alleging some of the largest landlords in the country used RealPage Inc.'s software to fix rent prices for residential properties.

In the 8-K filing, Mid-America said it will pay two installments of $26.5 million for a total of $53 million to resolve rent price-fixing claims brought by a certified class of multifamily renters who paid rent to landlords, property owners or property managers that used RealPage's revenue management software.

Mid-America also agreed to certain commitments regarding its business practices, including "provisions relating to the disclosure and use of nonpublic data and the company's use of revenue management software, all of which the company believes are consistent with its existing practices and will not require material changes to current operations," the filing states.

Under the agreement, the plaintiffs must file a motion for preliminary approval of the settlement by March 31.

Mid-America emphasized in the filing that the settlement agreement does not constitute any admission of wrongdoing or liability.

"The claims asserted in the class action litigation were directed at numerous participants across the industry, including approximately 50 of the largest owners and operators of multifamily housing, and are premised on alleged conduct widespread in the industry," Mid-America said, adding that it "believes resolving this matter now will allow it to avoid the significant costs and distraction of protracted litigation."

Representatives for Mid-America and counsel for the class did not immediately respond to requests for comment late Wednesday.

Mid-America's settlement comes after the Tennessee federal judge overseeing the MDL in November **preliminarily approved** 26 class settlements totaling some $141 million, despite the attorneys general of Washington, D.C., New Jersey, Maryland, and Kentucky **putting up a fight**.

The attorneys general argued, in part, that the preliminary approval memorandum didn't provide enough details.

"Plaintiffs' preliminary approval memorandum does not estimate the amount each class member may receive and provides no substantive analysis of the relief obtained for class members," they argued. "It does not address — at all — how settlement funds will be distributed, how attorneys' fees or litigation expenses will be handled, or whether the settlements are adequate relative to the harms allegedly suffered by class members."

"The memorandum never compares the total settlement amounts to estimated aggregate damages, rent overcharges, or any percentage recovery figure (e.g., 'X% of potential damages')," they added.

However, several landlords pushed back against the states' arguments. One of those arguments was that the attorneys general don't have standing under the Sixth Circuit's 2019 decision in Chapman v. Tristar Products Inc.

In that ruling, the appellate court rejected Arizona's arguments alleging that it could object to a nationwide class action settlement. The state had argued that it had standing because of the Class Action Fairness Act and the parens patriae doctrine, which allows states to sue parties on behalf of their citizens.

"In insisting that parens patriae and CAFA give them a 'unique interest' to object to the settlements' adequacy, the four AGs recycle the same arguments that Chapman already rejected," the landlords alleged.

"Chapman requires this court to reject the four AGs' adequacy objections because 'the only objections [they] make are indistinguishable from the objections which individual [class members] might raise,' and the right to object belonged to only the 'class members,'" they further alleged.

The class is represented by Patrick Coughlin, Carmen Medici, Patrick McGahan, Amanda Lawrence, Michael Srodoski, G. Dustin Foster and Fatima Brizuela of Scott + Scott Attorneys at Law LLP, Tricia Herzfeld of Herzfeld Suetholz Gastel Leniski & Wall PLLC, Thomas J. Undlin, Stacey Slaughter, Geoffrey Kozen and J. Austin Hurt of Robins Kaplan LLP, Swathi Bojedla, Mandy Boltax, Gary I. Smith Jr. and Katie R. Beran of Hausfeld LLP, Eric L. Cramer, Michaela Wallin and Daniel Walker of Berger Montague, Brendan P. Glackin, Dean M. Harvey, Mark P. Chalos, Hannah Lazarz and Kenneth S. Byrd of Lieff Cabraser Heimann & Bernstein LLP, Steve W. Berman and Breanna Van Engelen of Hagens Berman Sobol Shapiro LLP, Christian Levis, Vincent Briganti, Peter Demato and Radhika Gupta of Lowey Dannenberg PC, Christopher M. Burke of Burke LLP, Joseph R. Saveri, Cadio Zirpoli and Kevin Rayhill of Joseph Saveri Law Firm LLP, Jennifer Winter Sprengel and Daniel O. Herrera of Cafferty Clobes Meriwether & Sprengel LLP and Benjamin J. Widlanski of Kozyak Tropin & Throckmorton LLP.

Mid-America Apartment Communities is represented by Britt M. Miller, Daniel T. Fenske, Matthew D. Provance and Rachel J. Lamorte of Mayer Brown LLP, and Scott D. Carey and Ryan P. Loofbourrow of Baker Donelson Bearman Caldwell & Berkowitz PC.

The case is In re: Realpage Inc. Rental Software Antitrust Litigation (No. II), case number 3:23-md-03071, in the U.S. District Court for the Middle District of Tennessee.

--Additional reporting by Isaac Monterose and Bryan Koenig. Editing by Emily Kokoll.

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Data Co.'s Brass, Top Customer Face SEC 'Round-Trip' Claims

By **Emilie Ruscoe**

Law360 (January 28, 2026, 8:22 PM EST) -- Executives of a now-bankrupt data intelligence company face U.S. Securities and Exchange Commission claims that they conspired with one of the company's biggest customers on a so-called round-trip accounting scheme to overstate the company's revenue and become a more attractive target for a special purpose acquisition company.

In a complaint filed Tuesday in Manhattan federal court, the SEC claimed that Anil Mathews, the former CEO of data intelligence company Near Intelligence Inc., and Rahul Agarwal, its former chief financial officer, conspired with the company's largest customer, MobileFuse LLC, and its current CEO Kenneth M. Harlan to cook both companies' books to make Near Intelligence look more profitable.

Between May 2021 and September 2023, the round-trip accounting scheme enabled Near Intelligence to overstate its revenue from MobileFuse by $37 million and its overall revenue by roughly 27%, the SEC said.

The SEC claims come months after **federal prosecutors charged** Mathews, Agarwal and Harlan over the same alleged misconduct. That case is ongoing and none of the defendants have responded to the allegations yet.

According to the SEC, the parties hatched the scheme before Near Intelligence became a publicly traded company in March 2023 in an effort to attract a blank check company.

To create the paper trail that supported the inflated numbers, the complaint says, Near Intelligence and MobileFuse invoiced each other for "grossly inflated" amounts, with Near Intelligence recognizing the full amount of cash it received as revenue.

Other aspects of the scheme included fabricating documents and lying to Near Intelligence's auditors to conceal the revenue inflation.

The scheme was made possible by the "substantial assistance of" MobileFuse and its CEO, the SEC said, which noted that Near Intelligence had been poised to acquire MobileFuse before the scheme was discovered in October 2023.

Written communications between the parties detailed their work to "juice" Near Intelligence's revenue through "the turn around payment system" they had devised, the SEC said. Meanwhile, Mathews and Agarwal misrepresented details of the company's revenue and growth in statements to investors and analysts and in the company's public filings.

The SEC also said Mathews misappropriated over $300,000 to rent a single-family home in Laguna Beach, California, describing those costs on doctored invoices as "professional services."

Near Intelligence eventually filed for bankruptcy in December 2023 after announcing that Mathews and Agarwal had been fired for cause in connection with the scheme. At the same time, the company told investors that the company's earlier financial statements should not be relied on because they may have been inflated, the SEC said. MobileFuse is still in business.

On Wednesday, a spokesperson for MobileFuse told Law360: "We are obviously disappointed that the SEC has chosen to move forward with this civil complaint, particularly given the significant steps the company has taken to implement best-in-class compliance and governance procedures. These allegations relate to old matters and we remain confident this will be resolved appropriately."

Counsel for Harlan declined to comment, and representatives for the other parties did not immediately respond to requests for comment.

The SEC is represented by its own Kathryn C. Wanner.

Counsel information for Anil Mathews in the SEC matter was not immediately available on Wednesday.

Rahul Agarwal is represented by Malak Bhatt of NM Law Chambers.

Kenneth Harlan is represented by Daniel Noble, Nick Lewin and Patricio Martinez Llompart of KKL LLP.

MobileFuse LLC is represented by Daniel J. Horwitz of Tannenbaum Helpern Syracuse & Hirschtritt LLP.

The case is Securities and Exchange Commission v. Mathews et al., case number 1:26-cv-00693, in the U.S. District Court for the Southern District of New York, and the criminal case is USA v. Mathews et al., case number 1:24-cr-00630, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Pete Brush. Editing by Vaqas Asghar.

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Robins Kaplan Takes Aim At Benicar MDL Fees Suit In NJ

By **Jake Maher**

Law360 (January 28, 2026, 4:01 PM EST) -- Robins Kaplan LLP told a New Jersey federal court Wednesday that a suit over fees the firm collected in multidistrict litigation over blood pressure medication should be thrown out, saying it "parrot[s]" claims from earlier suits that were already dismissed.

The mass tort firm was hit with a **proposed class action** in December, led by plaintiff Michelle Adams, alleging that it effectively double-dipped by both charging clients contingency fees and drawing common benefit awards during litigation over the medication Benicar.

The proposed class of plaintiffs is made up of former clients of the firm from the Benicar litigation. They also claim that Robins Kaplan did not get the required court approval for contingency fees over $3 million. The Benicar case ended in 2017 with a **$300 million settlement** resolving over 2,000 claims.

Robins Kaplan told the court in a letter Wednesday, however, that the current suit is a rehash of multiple previous cases that were thrown out, and asked the court for permission to move to dismiss.

The firm cited the 2021 case Martino v. Mazie Slater Katz & Freeman LLC, where the plaintiff was represented by the same counsel as in the current case, Bruce Nagel of Nagel Rice LLP.

That case featured the same arguments raised in the current lawsuit and was dismissed with prejudice, a move that was later upheld by the U.S. Third Circuit Court of Appeals, Robins Kaplan wrote.

Plaintiffs' counsel in that case wrote to the New Jersey Supreme Court Civil Practice Committee "in an explicit attempt to reverse the outcome in Martino," Robins Kaplan wrote, and the committee turned down the request.

The same plaintiff counsel team then filed another suit on behalf of 21 former clients against Mazie Slater making similar claims about the firm's fees from the Benicar case.

That case was **dismissed** in 2024, although the Third Circuit **reinstated** the case in 2025 on jurisdictional grounds, finding that it had been improperly removed to federal court.

Adams' and the other plaintiffs' claims have already been settled, Robins Kaplan wrote in this week's letter, and the suit should be dismissed.

"In sum, this court (in Martino), the Third Circuit (in Martino), the New Jersey Supreme Court Civil Practice Committee, and this court again (in Johnson) have already rejected Adams' legal theories," Robins Kaplan wrote. "Adams' complaint, therefore, should similarly be dismissed with prejudice, and we request leave to file such a motion."

Nagel told Law360 Pulse in an email Wednesday that he expects the suit to survive any motion to dismiss.

"If the motion is filed I fully expect the court to deny the motion as this case has real significance for the mass tort bar and there is no precedential opinion on the issue," Nagel wrote.

Robins Kaplan was sued at about the same time the Louisiana-based firm Pendley Baudin & Coffin was sued over similar claims. Robins Kaplan's case was originally filed in New Jersey state court in Camden County but later removed to federal court.

Counsel for Robins Kaplan did not respond to a request for comment Wednesday.

The plaintiffs are represented by Bruce Nagel of Nagel Rice LLP.

Robins Kaplan is represented by Shalom D. Stone of Stone Conroy LLC.

The case is Adams v. Robins Kaplan LLP, case number 1:26-cv-00100, in the U.S. District Court for the District of New Jersey.

--Editing by Alyssa Miller.

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SEC Says Musk Can't Fight 'Uncontested' Facts In Twitter Case

By **Katryna Perera**

Law360 (January 28, 2026, 9:42 PM EST) -- The U.S. Securities and Exchange Commission on Wednesday further urged a D.C. federal judge to grant it an early win in the agency's enforcement action against Elon Musk over his Twitter stock purchases, saying Musk's recent opposition brief "only confirms that the court should grant" summary judgment.

In its **brief**, the SEC said the facts needed for the court to find Musk liable are "uncontested." According to the regulator, it is undisputed that Musk missed the window to file a public beneficial ownership report showing he had amassed a stake of more than 5% in the social media platform then known as Twitter.

Earlier this month, Musk told the court that the SEC's summary judgment bid was "**grossly premature**" and should be denied because the regulator asked for a finding of liability "while playing hide-the-ball with nearly three years of investigative materials."

According to Musk, the SEC has failed to produce discovery in the suit and is pursuing "unconstitutional selective enforcement" against him while seeking "hundreds of millions of dollars in monetary relief." Musk has also argued that there are genuine issues of material fact regarding his "state of mind," the burden of proof for which falls to the SEC to establish liability.

However, the SEC pushed back Wednesday, saying Musk is incorrect in his argument that it must prove state of mind.

"Musk does not identify a single court that has ever required the SEC to prove a defendant's state of mind to establish liability under [relevant statute] Section 13(d)," the brief said. "Instead, every court to have considered the issue has held that proof of state of mind is not required. This court should not deviate from that well-settled precedent."

Musk is also wrong that the SEC is pursuing a selective enforcement defense, the brief says, since the tech billionaire has failed to show that the SEC has not charged other, similarly situated parties or that Musk is being singled out for unconstitutional reasons.

Musk also "re-raises" constitutional arguments from his first dismissal motion, according to the SEC, which are meritless.

Finally, the SEC pushed back against Musk's calls for discovery, saying the Tesla co-founder "does not seek discovery into any facts necessary to prove the elements" of the SEC's claims against him.

"Musk does not claim that he lacks access to facts about whether Twitter common stock was subject to Section 13(d), the date he acquired more than 5% beneficial ownership, or when Musk first disclosed his beneficial ownership of Twitter common stock," the brief said.

The SEC says it's accusing Musk of "a straightforward, strict liability violation of important public reporting requirements under the federal securities laws," citing a 1988 finding in the U.S. District Court for the District of Columbia, that the filing requirements are "a vital public function to alert the marketplace to every large, rapid aggregation or accumulation of securities."

Musk has pushed back against those assertions, telling the court that the filing requirements require a showing of at least negligence on the part of the person required to file.

The SEC declined to comment Wednesday. Counsel for Musk did not immediately respond to requests for comment.

The SEC is represented by its own Melissa J. Armstrong and Zachary A. Avallone.

Musk is represented by Alex Spiro, Sarah Heaton Concannon and Rachel Frank of Quinn Emanuel Urquhart & Sullivan LLP.

The case is U.S. Securities and Exchange Commission v. Musk, case number 1:25-cv-00105, in the U.S. District Court for the District of Columbia.

--Additional reporting by Emilie Ruscoe. Editing by Drashti Mehta.
