

Funko investor suit 'rare' case where 'core operations doctrine' applies, 9th Cir. says

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(February 06, 2026) - A federal appeals court has partially reinstated a proposed class action alleging pop culture toymaker Funko Inc. failed to disclose severe operational problems that forced it to write down at least \$30 million in inventory in 2023.

Construction Laborers Pension Trust of Greater St. Louis v. Funko Inc. et al., No. 24-4909, 2026 WL 292424 (9th Cir. Feb. 4, 2026).

A panel of the 9th U.S. Circuit Court of Appeals on Feb. 4 reversed a lower court's dismissal of certain allegations, saying the suit plausibly alleged that Funko misleadingly framed problems that had already occurred related to warehousing and technology as hypothetical risks.

Distribution center 'chaos'

The lawsuit, filed in the U.S. District Court for the Western District of Washington, alleges that Funko concealed problems with the consolidation of five warehouses in Washington into a new distribution center in Buckeye, Arizona.

The relocation started in April 2022 and coincided with a planned upgrade of the company's enterprise resource planning system to an Oracle Corp. system, the amended complaint says.

Funko, former CEO Andrew M. Perlmutter and former Chief Financial Officer Jennifer Fall Jung, repeatedly pushed back the Oracle launch and concealed "chaos" at the Buckeye distribution center, the suit says.

The center was flooded with "dead inventory," meaning products that had become unsellable, the suit says. And the absence of a functioning ERP system led to a 52-day delay in order fulfillment by August 2022, according to the complaint.

Funko's share price fell 59% on Nov. 4, 2022, after it revealed the problems at the Buckeye center, and dropped again March 2, 2023, after the company disclosed that it had abandoned the Oracle upgrade, the suit says.

Funko stated that it had written down \$32.5 million in capitalized costs related to the ERP system and expected to write down between \$30 million and \$36 million in inventory.

The District Court dismissed the securities fraud suit in May 2024 for failure to plead the elements of scienter, or deceptive intent, and falsity. *Studen v. Funko Inc.*, No. 23-cv-824, 2024 WL 2209686 (W.D. Wash. May 16, 2024).

U.S. District Judge James L. Robart said that although the suit challenges Funko's risk disclosures about inventory management and the ERP system, it fails to show that the individual defendants knew those risks had materialized or were substantially likely to occur.

'Rare circumstances'

Lead plaintiff Construction Laborers Pension Trust of Greater St. Louis appealed, arguing that the suit showed Perlmutter and Jung were "intimately involved" in both projects.

The 9th Circuit panel said the suit was one of the "rare circumstances" in which the core operations doctrine applied. The doctrine states that, in the absence of particularized allegations, scienter can be inferred where "the nature of the relevant fact is of such prominence that it would be absurd to suggest that management was without knowledge of the matter," the panel said.

The suit shows that Funko's senior leadership viewed the Buckeye center and Oracle transition as priorities and would have monitored the projects closely, the panel said.

It is also "strongly likely" that Funko's chief operating officer, who spent significant time at the Buckeye center, would have shared the issues he observed with Perlmutter and Jung, the panel said.

The 9th Circuit reinstated claims based on Funko's risk disclosures about inventory management and ERP system in 2022. The warnings could have misled a reasonable investor to believe that Funko was not experiencing business disruptions at the time, the panel said.

The panel upheld the dismissal of claims based on other statements, saying they were factually accurate or immaterial "puffery."

Andrew S. Love of [Robbins Geller Rudman & Dowd LLP](#) argued the case for the appellants, and Kevin M. McDonough of [Latham & Watkins LLP](#) argued for the appellees.

By Nicole Banas

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Guest Post: Low-Float IPOs and Pump-And-Dump Risk

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Kevin LaCroix

February 9, 2026

Sarah Abrams

Those who pay attention to these kinds of things may have noted that in recent weeks there has been a rash of pump-and-dump scheme securities class action lawsuit filings. In the following guest post, Sarah Abrams, Head of Claims Baleen Specialty, a division of Bowhead Specialty, takes a look at these recent cases and identifies several key features the lawsuits have in common. I would like to thank Sarah for allowing me to publish her article as a guest post on this site. Here is Sarah's article.

Four securities class action filings from late 2025 and early 2026 suggest an emerging pump-and-dump litigation trend focused on thinly traded public companies and social-media-driven stock promotion. Across these cases, plaintiffs increasingly emphasize low-float capital structures as a central factor enabling alleged market manipulation.

The complaints filed against [Charming Medical Limited](#) ("Charming SCA"), [PomDoctor, Ltd.](#) ("PomDoctor SCA"), [China Liberal Education Holdings Ltd.](#) ("CLEU SCA"), and [Picard Medical, Inc.](#) ("Picard SCA") reflect a spectrum of theories, from omission-based claims tied to IPO structure to allegations of affirmative issuer participation in promotional schemes. These cases, taken together, show that plaintiffs' lawyers are reframing low public float, concentrated insider ownership, and social-media amplification as governance and capital-markets risks with potential D&O implications.

The discussion below examines the Charming, PomDoctor, CLEU, and Picard securities actions and considers D&O underwriting considerations for companies with low-float structures operating in a social-media-driven trading environment.

The Charming SCA

On December 19, 2025, a plaintiff shareholder filed the Charming securities class action in the Southern District of New York (SDNY) on behalf of investors who purchased Charming Medical Limited securities between October 21, 2025 (the IPO date), and November 12, 2025, the day trading was halted. The complaint asserts violations of [Sections 10\(b\) and 20\(a\) of the Securities Exchange Act of 1934](#) and [Rule 10b-5](#) against the issuer, its senior officers and directors, its IPO underwriter, its auditor, and its U.S. agent for service of process.

According to the Charming SCA, in the weeks following Charming's IPO, the illicit social-media scheme caused the company's share price to spike, during which time insiders dumped their shares. Plaintiffs allege that Charming's low-float IPO structure, under which executives retained the vast majority of outstanding shares, amplified the effects of the alleged social-media-based stock promotion. The sharp increase in the share price, coupled with alleged insider selling, contributed to extreme volatility, prompting the [SEC and Nasdaq to halt trading](#) in Charming's shares within weeks of the IPO.

Rather than alleging that Charming itself orchestrated the social-media promotion, the Charming SCA advances an omission-based theory focused on the company's IPO disclosures. Plaintiffs contend that Charming failed to warn investors that its capital structure, specifically, a low public float coupled with concentrated insider ownership, created structural vulnerabilities that made the stock an attractive vehicle for a pump-and-dump scheme. Under this theory, the alleged fraud did not arise from misstatements about Charming's business, but from the omission of material risks inherent in the IPO's architecture.

According to the complaint, Charming offered approximately 1.6 million Class A shares to the public, representing roughly nine percent of total outstanding equity, while insiders retained control through super-voting Class B shares and offshore holding entities. Plaintiffs allege that this structure amplified the effects of third-party social-media promotion and enabled insiders or affiliates to sell into an inflated market, contributing to extreme volatility and a trading halt imposed by the SEC and Nasdaq in November 2025.

The PomDoctor SCA

On February 5, 2026, a plaintiff shareholder filed a securities class action in the Southern District of New York against PomDoctor Ltd. on behalf of investors who purchased the company's shares between its October 2025 IPO and a December

2025 trading collapse. The complaint asserts claims under Sections 10(b) and 20(a) of the Exchange Act against the issuer, its senior executives, its IPO underwriter, its auditor, and its U.S. agent for service of process.

PomDoctor's IPO allegedly featured an exceptionally thin public float. According to the complaint, the offering consisted of approximately 833,000 publicly traded shares, representing roughly four percent of total outstanding equity following the IPO, while insiders retained effective control through super-voting Class B shares and offshore holding entities. Plaintiffs allege that this structure rendered the stock highly susceptible to manipulation, as relatively modest trading activity could produce outsized price movements.

According to the complaint, impersonators posing as financial advisors used Facebook and Instagram advertisements to funnel retail investors into private messaging groups on platforms such as WhatsApp, where participants were instructed to purchase and hold PomDoctor shares at specific price points. Plaintiffs allege that these campaigns generated a rapid post-IPO price increase untethered to company-specific fundamentals. In December 2025, PomDoctor's stock reportedly collapsed by approximately ninety percent in a single trading session. Plaintiffs contend that the sharp decline followed coordinated selling by insiders or affiliates into an artificially inflated market, a dynamic that the company's thin public float allegedly made possible.

The CLEU SCA

On January 30, 2026, a plaintiff shareholder filed a securities class action against China Liberal Education Holdings, Ltd. ('CLEU'), alleging that the company's management actively collaborated with a criminal syndicate to exploit the company's public listing through a coordinated stock manipulation scheme.

According to the complaint, as CLEU's underlying business deteriorated, management allegedly sought to monetize the company's Nasdaq listing by issuing massive quantities of shares through non-bona fide offerings and concealing those issuances from the market. The complaint further alleges that social-media platforms, including WhatsApp groups populated by impersonators posing as financial advisors, were used to induce retail investors to purchase CLEU shares at artificially inflated prices. While the market believed that only a limited number of shares were outstanding, the alleged conspirators purportedly sold hundreds of millions of shares into the inflated market.

The Picard Medical SCA

On February 2, 2026, a plaintiff shareholder filed a securities class action against Picard Medical, Inc. ('Picard'), alleging that the company completed a Nasdaq IPO in September 2025 with approximately 5% of its total shares available to the public. In the weeks following the offering, Picard's stock price rose sharply without corresponding company-specific news, before collapsing abruptly amid allegations of coordinated social-media promotion.

The Picard SCA emphasizes that by the time of its IPO, multiple similarly structured low-float issuers had already experienced extreme volatility and regulatory scrutiny following social-media-driven promotion campaigns. Against that backdrop, plaintiffs allege that Picard's offering documents failed to disclose that its unusually small float and concentrated insider ownership materially heightened the risk of artificial price inflation unrelated to fundamentals.

Discussion

Viewed together, the securities actions filed against Charming, PomDoctor, China Liberal Education Holdings, and Picard Medical suggest that plaintiffs' lawyers are increasingly recasting pump-and-dump risk as a governance and capital-markets issue, rather than merely a disclosure or communications failure. Across these cases, the focus shifts from what companies said to how their capital structures allegedly enabled manipulation.

The Charming SCA reflects the omission-based end of this spectrum, with plaintiffs alleging that the company failed to disclose how its low-float IPO created structural vulnerability to manipulation. The PomDoctor SCA moves further along the continuum, combining a similarly thin float with allegations of coordinated social-media promotion and insider or affiliate selling. While the CLEU SCA represents the most aggressive theory, asserting direct issuer participation in a manipulation scheme, the Picard SCA, like the complaint against Charming, centers on foreseeability tied to IPO design rather than affirmative hype.

Collectively, these cases treat thin public float, concentrated insider ownership, and limited trading liquidity as potentially material risk factors in a market environment where social-media-driven stock manipulation is well documented. Under this framing, potential exposure may extend beyond officers responsible for public disclosures to boards, IPO committees, underwriters, and auditors alleged to have enabled or failed to mitigate foreseeable structural risk.

The complaints also advance a common foreseeability argument. Historically, third-party stock manipulation has been viewed as an external criminal act outside an issuer's disclosure obligations. The Charming, PomDoctor, CLEU, and Picard securities cases could challenge that assumption, asserting that where low-float structures resemble known manipulation targets, generic volatility disclosures may be insufficient and more tailored risk disclosure may be required.

As these cases progress, it will be interesting to see how courts, particularly in the Southern District of New York, square plaintiffs' lawyers' structural-risk theories with scienter requirements, given the apparent absence in several complaints of allegations that the issuer knew of, or had the intent to participate in, the alleged manipulation schemes. As a result, low-float IPOs and similarly structured public companies may warrant heightened underwriting scrutiny, including closer review of float size, lock-up terms, insider selling capacity, shareholder concentration, and relevant enforcement or trading-halt precedents.

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Oracle Hit with Massive AI Infrastructure-Related Securities Suit

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Kevin LaCroix

February 8, 2026



In recent months, the filing of securities class action lawsuits involving artificial intelligence (AI)-related allegations has become an increasingly important part of overall securities suits filing volume. By and large, the AI-related suits have involved relatively smaller corporate defendants. Late last week, however, a plaintiff shareholder filed an AI-related securities suit against the technology behemoth Oracle, alleging that the company made misrepresentations in its disclosures concerning its AI infrastructure-related capital expenditures. For securities litigation trend watchers, the new lawsuit has a number of interesting features, as discussed below.

Background

Oracle is one of the largest technology companies in the world. Among other things, the company provides infrastructure for operating artificial intelligence programs. During 2025, the company announced substantially increased investments in its data center capabilities, including for data centers used by OpenAI, the operator of ChatGPT.

The securities lawsuit complaint alleges that in announcing its infrastructure investments, the company claimed that the company's increased spending would rapidly convert into revenue and profit growth. In late September, securities analysts began raising questions about the extent of the company's AI infrastructure investments. At least one analyst downgraded the company to "Sell" based on a conclusion that the company was overestimating the future growth potential of the Open AI deal.

On December 10, 2025, the company released its second fiscal quarter results, reporting that revenue growth had fallen below estimates, that the company's capital expenditure was well above estimates, and that the company had negative free cash flow of more than \$10 billion. In the earnings call, the company's CFO said that the company projected 2026 fiscal year capital expenditure of \$50 billion, \$15 billion more than the company's September 2025 projection.

These and other statements about the company's anticipated capital expenditures raised analyst concerns about the company's need for increased capital fundraising or debt financing. A subsequent news report disclosed that one of the company's debt financing sources had backed out of a financing commitment due to concerns about the company's spending commitments and rising debt levels. The complaint alleges that the company's share price declined on this news.

The Lawsuit

On February 5, 2026, a plaintiff shareholder filed a securities class action lawsuit in the District of Delaware against the company and certain of its directors and officers. A copy of the complaint can be found [here](#). The complaint purports to be filed on behalf of investors who purchased the company's securities between June 12, 2025, and December 16, 2025.

The complaint alleges that during the class period, the defendants misrepresented or failed to disclose that: "(1) the Company's AI infrastructure strategy would result in massive increases in CapEx without equivalent, near-term growth in revenue; (2) the Company's substantially increased spending created serious risks involving Oracle's debt and credit rating, free cash flow, and ability to fund its projects, among other concerns; and (3) as a result, Defendants' representations about the Company's business, operations, and prospects were materially false and misleading and/or lacked a reasonable basis."

The complaint alleges that the defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The complaint seeks to recover damages on behalf of the plaintiff class.

Discussion

Readers that have been following the development of AI-related securities litigation have undoubtedly noted in recent weeks a growing number of new AI securities suits involving AI infrastructure companies (refer, for example, [here](#) and [here](#)). These lawsuits share a few common features, such as, for example, the huge

dollar figures involved, given the sheer magnitude of the infrastructure investment. This new case against Oracle is consistent with this pattern, except perhaps that the volume of dollars involved is even more massive.

In prior posts about AI-related securities suits, I have noted that the cases generally fall into one of two categories – that is, either the cases involve AI-washing allegations, based on claims that the defendant company *overstated* its AI-related capabilities or prospects; or AI risk-related allegations, based on the claims that the company *understated* its AI-related risks.

Although the case could be made that this new lawsuit against Oracle involves features of both types of cases, I think this lawsuit is primarily an AI-risk disclosure lawsuit more so than an AI washing case, as the allegation is that the company omitted (or understated) the extent of its capital expenditure commitments and accompanying debt obligations.

The lawsuit has only just been filed, and it remains to be seen how it will fare. I will say that the case has an odd feel. It reads more like a mismanagement case than a misrepresentation case, almost as if the complaint is passing judgment on company management's strategic decision making. The plaintiff may yet convince the court that the company committed securities fraud by overstating its ability to generate revenue commensurate with its spending commitments, but that remains to be seen. All of that said, the lawsuit does feel to be more than just a little bit premature – shouldn't we at least wait and see how the company's AI infrastructure investment strategy works out?

In any event, there are at least a couple of noteworthy features to this lawsuit, that may be important in thinking about AI-related securities litigation yet to come. The first is the sheer size of the dollars involved. The company's anticipated capital expenditures are gargantuan. However, Oracle is not alone in making massive AI expenditure commitments; Google, Amazon, Microsoft, and others also have made massive AI-related investment commitments ([by some estimates](#), these big companies collectively will spend over \$600 billion on AI and Cloud investments *in 2026 alone*, an amount when expressed as a percentage of GDP is [greater than the total cost of the Apollo space program](#)). Moreover, a plethora of aspirational AI infrastructure companies are waiting in the wings, hoping to conduct IPOs or other capital fundraising transactions this year.

Maybe all of this fundraising and investment will prove to be successful, but even so there are a lot of ways that this could all go wrong, and if it does, we could see other securities litigation involving lawsuits and relating to massive amounts of infrastructure fundraising and investment.

For those concerned about trying to get a handle on how extensive these AI-related risks are should consider that the risks run not only to tech companies; many non-tech companies (especially, for example, commercial construction companies), and tech adjacent companies (e.g, fiber optic cable companies) are also experiencing industry-distorting forces, that could leave many companies exposed when the current high expenditure tide goes out (as discussed [here](#)). For those inclined to worry, there's a lot to fret about here.

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Securities

Pacira Beats Investor Suit Based on Drug Patent Litigation (1)

Feb. 6, 2026, 12:35 PM PST; Updated: Feb. 6, 2026, 1:26 PM PST

Pacira BioSciences Inc. overcame investor allegations tied to statements about the strength of its patent fight for its top-selling painkiller while the biotech company was suing a competitor.

The pension fund leading the case didn't sufficiently allege Pacira and executives disbelieved optimistic statements about the litigation, a New Jersey federal judge said in an unpublished opinion dismissing the lawsuit with finality Friday.

The Western Pennsylvania Teamsters and Employers Pension Fund's theory contended that a negative claim construction ruling undercut Pacira's patent for its non-opioid painkiller, and thus "continued expressions of confidence or uncertainty regarding the ultimate outcome of the case were necessarily misleading," said Judge Stanley R. Chesler of the US District Court for the District of New Jersey.

That theory "incorrectly presumes that an adverse ruling in the claim construction hearing, issued during the interim of the lawsuit, is equal to the final outcome of the patent case," Chesler said. "Securities laws do not require issuers like Defendants to characterize interim rulings or to concede defeat before a court has issued a ruling on the actual issue in the case."

Pacira's statements amounted to non-actionable forward-looking projections and corporate optimism, he said. In addition, the company repeatedly disclosed the patent litigation for its drug Exparel and potential risks of losing, and the pension fund's "fraud by omission theory is further undermined by its own allegations that the claim construction ruling was publicly available through court filings," he said..

Regardless, the shareholder failed to plausibly allege the level of intent or recklessness to deceive for securities fraud claims, Chesler said.

The "more compelling" reasoning for Pacira and executives' statements on the litigation was "that they remained optimistic about their defenses in the patent litigation and exercised business judgment when choosing how to communicate with their investors regarding a legal process that is uncertain by its very nature," he said.

Stock Drop

Pacira issued rosy projections and half-truth uncertainties about the litigation before a judge voided its '495 patent, the suit said.

Another New Jersey federal judge ruled Pacira's patent was invalid in August 2024 following a bench trial, a win for Jiangsu Hengrui Pharmaceuticals Co. and its subsidiary eVenus Pharmaceuticals Laboratories Inc., which were pursuing a generic version.

Pacira's stock price collapsed by almost 48% that day—then its largest-ever single-day drop, according to data compiled by Bloomberg. The proposed class aimed to cover those who acquired Pacira stock from June 26, 2023, through Aug. 8, 2024.

Pacira last year settled Exparel patent litigation with Jiangsu, eVenus, and Fresenius Kabi USA LLC. Under the settlement, "Pacira has agreed to provide Fresenius with a license to Pacira's patents required to manufacture and sell certain volume-limited amounts of generic" injections in the US "beginning on a confidential date that is sometime in early 2030."

"Pacira is pleased with the court's well-reasoned opinion dismissing this case and remains focused on delivering innovative, non-opioid pain therapies that transform the lives of patients," said Latham & Watkins LLP partner Kevin McDonough, Pacira's counsel, in an email.

Attorneys at the Rosen Law Firm PA, which represents the pension fund, didn't immediately respond to an email seeking comment.

The case is Alvarez v. Pacira BioSciences, Inc. , D.N.J., No. 2:25-cv-00322, unpublished 2/6/26 .

(Updates with a comment from Pacira's counsel in the 12th paragraph.)

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Securities

Qutoutiao Defeats IPO Investor Lawsuit Over Chinese News App Ads

Feb. 6, 2026, 10:35 AM PST

Chinese media aggregator Qutoutiao Inc. beat investor allegations that paperwork for its initial and secondary public offerings misled shareholders about screening and placing illegal advertisements.

None of the alleged misrepresentations or omissions would've misled a reasonable investor, and the shareholder leading the case didn't adequately back up his claim QTT was placing illegal advertisements around the time of the offerings, Judge Victor Marrero said. The US District Court for the Southern District of New York judge dismissed the investor's latest complaint Thursday.

QTT's smartphone app aggregates media and generates most of its revenue by selling advertisements, investor James Pappas' complaint said.

In 2020, China's state-controlled broadcaster reported certain ads placed by third-party agents on its platform were improper, with QTT's share price declining and its app temporarily removed from stores in the nation, he said. QTT later reported a revenue decline for the third quarter of that year, allegedly hindering its share price again.

QTT said it used artificial intelligence to screen its core content, not advertisements, Marrero said. Pappas failed to sufficiently plead the media app was placing illegal advertisements at the time of the offerings while QTT warned of risks associated with illicit ads. Nor did he plausibly allege QTT hid illegal advertisements were significant revenue drivers or related party transactions.

Pappas, who died last year, lacked standing for claims under a provision requiring investors to have bought shares directly in an offering and against defendants who were only involved in the secondary public offering because he only bought shares in September 2018 related to the IPO, Marrero said.

He had standing for other inadequately pleaded claims against QTT, certain executives, and underwriters involved in the IPO and could pursue an allegation on behalf of a proposed class of those who got shares through the SPO against defendants who were involved in both offerings, Marrero said.

Appellate Trip

Judge Sidney Stein, who originally presided over the proposed class action, had dismissed it in 2023.

Pappas failed to allege misstatements or omissions in violation of the 1934 Securities Exchange Act's antifraud provisions, Stein said. Pappas' 1933 Securities Act claims sounded in fraud, subjecting them to a heightened pleading standard.

The US Court of Appeals for the Second Circuit revived the Securities Act claims, finding they were rooted in negligence rather than fraud, without getting into whether Pappas' allegations were adequately pleaded.

Freedman Normand Friedland LLP is lead counsel for the investor. Simpson Thacher & Bartlett LLP represents QTT and executives. O'Melveny & Myers LLP represents the underwriters, including Citigroup Global Markets Inc. and Deutsche Bank Securities Inc. None of these law firms nor QTT immediately responded to emails seeking comment.

The case is *In re Qutoutiao, Inc. Sec. Litig.*, S.D.N.Y., No. 1:20-cv-06707, dismissed 2/5/26

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Securities

This Week in Chancery Court: Trump Media SPAC Appeal, Illumina

Feb. 9, 2026, 2:00 AM PST

A SPAC dispute involving President Donald Trump's social media company goes before the Delaware Supreme Court this week.

Here's a look at what else is happening in Delaware courts:

Tuesday: Wang v. Studio 8 Holdings LLC, Del. Ch., No. 2025-1079, trial 2/10/26.

At issue: Magistrate Danielle Gibbs presides over a half-day trial over a demand for internal records from Studio 8 Holdings LLC, a production company backed by Columbia Pictures and Shanghai-based Fosun International Ltd. Studio 8 manager Lu Wang, appointed to the board by Fosun subsidiary Galaxy Entertainment LLC, claims the production company appears to be nearing insolvency after blowing through a \$200 million investment. Studio 8 was founded in 2014 by former Warner Bros. Pictures executive Jeff Robinov and other Hollywood veterans, and its recent projects include the 2024 horror remake "Nosferatu." Galaxy initially joined Wang in the lawsuit but opted to pursue its claim in arbitration. Studio 8 argues the case is about buyer's remorse. "Fosun's investment in the Hollywood entertainment industry did not produce the returns it hoped for," it says in a brief. "Rather than accept that outcome, Fosun—through Ms. Wang—now attempts to recast a failed investment as misconduct, accusing Studio 8 of mismanagement and even fraud."

Court action: The trial will be held via videoconference.

China's Fosun Sues US Film Studio Over 'Squandered' \$200 Million

Wednesday: ARC Glob. Inv. II LLC v. Digit. World Acquisition Corp., Del., No. 375,2025, oral arguments 2/11/26.

At issue: Delaware's highest court will consider an appeal stemming from a complex financial dispute related to Trump's social media company going public. Trump Media & Technology Group merged with a special purpose acquisition company called Digital World Acquisition Corp. to become publicly traded. The key issue is how many shares the SPAC's original sponsor, ARC Global Investments II LLC, should get in the merged company. ARC claims it's entitled to more shares based on the merger agreement's conversion formula. Digital World Acquisition Corp. argues ARC is trying to get more than it deserves. The case doesn't directly involve the president, but its outcome will affect the ownership structure of the company bearing his name. Both sides disagree on how the Chancery Court interpreted the merger agreement and determined whether certain people count as "sellers" in the deal.

Court action: The Delaware Supreme Court hears oral arguments in the state's capital city, Dover, Del.

Why Trump's Social Media Firm Is Awash in Legal Cases: QuickTake

Wednesday: BRP Grp., Inc. v. Wagner, Del., No. 80, 2025, oral arguments 2/11/26.

At issue: The Delaware Supreme Court's recent *Moelis* decision may be discussed in insurance company BRP Group Inc.'s appeal of a Chancery Court ruling that invalidated certain provisions in its stockholders agreement requiring approval from one of its co-founders before any material transactions, "significant decisions" regarding key employees, or charter amendments. In briefs submitted before the justices ruled on *Moelis* last month, BRP argued the Chancery Court had created new, problematic standards for evaluating corporate governance agreements. BRP stockholder Ruby Wagner said the lower court's reasoning should be applied to invalidate the challenged provisions in BRP's agreement.

Court action: This Delaware Supreme Court arguments will also be heard in Dover, Del.

Stockholder Pacts Get New Guidance 3 Months After Moelis Ruling

Friday: Icahn Partners v. deSouza, Del. Ch., No. 2023-1045, oral arguments 2/13/25.

At issue: Illumina Inc. directors want the Chancery Court to dismiss a shareholder lawsuit that claims the board illegally closed a deal for cancer detection technology company Grail Inc. amid regulatory challenges in Europe and the US. The \$7 billion acquisition was ultimately unwound in 2023. Illumina's board and former CEO, Francis deSouza, say the directors acted in good faith and believed the closing was legal and in the company's best interests, and the shareholders behind the lawsuit can't show the directors knowingly broke the law. Billionaire Carl Ichan initially led the litigation against Illumina's board, but his Ichan Partners exited the lawsuit in September after reaching a settlement, according to court documents.

Court action: Oral arguments will be held in Wilmington, Del.

Icahn Loses Illumina Ruling on Information Director Shared (1)

—With assistance from Bloomberg Law Automation.

3 purchaser classes certified in Juul-Altria antitrust litigation

DJ [dailyjournal.com/articles/389686-3-purchaser-classes-certified-in-juul-altria-antitrust-litigation](https://www.dailyjournal.com/articles/389686-3-purchaser-classes-certified-in-juul-altria-antitrust-litigation)

U.S. District Judge William H. Orrick

Senior U.S. District Judge William H. Orrick granted plaintiffs' request to certify a class in an antitrust case against e-cigarette maker Juul over its partial merger with tobacco giant Altria.

The 2018 deal saw Altria take a 35% stake in Juul and pull its own line of e-cigarettes from the market in return.

Orrick certified three classes in a short order signed Feb. 5: one consisting of people or businesses who purchased Juul's products directly from the company, one consisting of people who purchased the products through a vendor, and another consisting of resellers who bought the products through a third party. *In re: Juul Labs, Inc. Antitrust Litigation*, 3:20-cv-02345 (N.D. Cal., filed April 7, 2020).

The indirect purchaser and reseller classes included sub-classes spanning more than two dozen states under California's Cartwright Act, as well as a few sub-classes for individual states -- while the Supreme Court held that indirect purchasers can't bring an antitrust lawsuit under the Clayton Act, several states passed laws allowing indirect purchasers to sue, effectively repealing that doctrine.

"I recognize that different repealer states have damages provisions that differ from those in the Cartwright Act," Orrick wrote. "I do not find those differences to be true conflicts or differences that would trump California's interest in applying the Cartwright Act for purposes of determining liability."

Orrick heard defendants' motion for summary judgment earlier in the week. Juul, represented by Cleary Gottlieb Steen & Hamilton LLP, and Altria, represented by Wilkinson Stekloff, argued plaintiffs couldn't show a conspiracy to reduce competition or an exchange of assets, only that a merger took place.

Plaintiffs, represented by the Joseph Saveri Law Firm, argued they had enough evidence from merger negotiations to show a deliberate effort by the two sides to reduce competition.

Prior to the hearing, Orrick issued a tentative order saying he was leaning toward letting the case go to trial.

Plaintiffs, who first filed the lawsuit in 2020, allege the merger violated federal antitrust law since Altria agreed to exit the e-cigarette market as part of the deal.

The Federal Trade Commission filed a similar claim shortly after the merger before walking it back.

#389686

Daniel Schrager

Daily Journal Staff Writer

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California Brief

Social Networks Face Big Tobacco Moment Over Addiction Claims

Feb. 9, 2026, 7:05 AM PST

Facebook, Google and other tech giants for more than a decade have rejected allegations that they build products deliberately to get kids addicted to social media.

For the first time, company executives, including Meta Platforms Inc. Chief Executive Officer Mark Zuckerberg, will answer these accusations in front of a jury as part of a trial that's drawing comparisons to Big Tobacco's reckoning with consumer addiction three decades ago.

Facebook and Instagram parent Meta and Google's YouTube are at the center of the trial, with Zuckerberg expected to testify in Los Angeles as early as next week. The trial will serve as a critical test for thousands of similar pending lawsuits that also target TikTok Inc. and Snap Inc. — and which allege that the world's most popular products were designed by the four companies to profit at the expense of young people's safety and mental health.

The companies vehemently deny wrongdoing and say they have rolled out tools and resources to support parents with teens. But if they lose, they will face pressure to change the way minors interact with social media and to reach settlements with other plaintiffs that could total billions — a scenario that could be akin to the deals that tarnished the tobacco and opioid industries.

This case, a personal injury suit brought by the Social Media Victims Law Center in Seattle, centers on a 20-year-old woman from Chico, California, who claims she has been addicted to social media for more than a decade. Her nonstop use of the platforms has caused anxiety, depression and body dysmorphia, she alleges.

The woman recently reached confidential settlements with Snap and TikTok, but they are part of two other so-called bellwether cases set for trials in April and June. Meanwhile, Meta is facing a jury trial in New Mexico that also started this month, focused on its safety record with children.

Previous legal challenges to social media firms have mainly taken aim at content alleged to be harmful or disturbing to users. Most have been unsuccessful because social networks, like other internet businesses, are protected by Section 230 of the Communications Decency Act, a 1996 law that broadly shields online platforms from liability for third-party content posted on their websites.

That protection was designed to keep platforms from unnecessarily censoring posts to ensure freedom of speech, but has been criticized by some US lawmakers as overly broad, outdated and inadequate to deal with the realities of modern internet use.

In the addiction cases, the companies have been able to knock out some allegations by citing Section 230. But the lawyers behind the cases have gained traction in court by arguing that the products themselves — through their design and functionality — have created harms. They contend the primary cause of psychological suffering for young users stems not from content posted by others but from the algorithms programmed by the companies to prioritize engagement. That includes the web design technique known as infinite scrolling, where new content automatically loads at the bottom of the screen as a user scrolls.

The plaintiff in the first case, identified in filings by the initials K.G.M., “is very typical of so many children in the United States, the harms that they’ve sustained and the way their lives have been altered by the deliberate design decisions of the social media companies,” said Matthew Bergman, founder of the Social Media Victims Law Center and one of the lawyers representing the woman.

Teen Mental Health

While the social media companies can’t rely solely on Section 230 to defend themselves, they have argued in court filings that there isn’t enough evidence to support claims that their product design injures users.

At trial, lawyers for Meta plan to lean on several studies, both internal and external, that reject the idea of a correlation between social media services and teen mental health issues, according to members of Meta’s legal team. They’re also expected to highlight the positive ways in which social media can impact teens, primarily by helping them connect with friends, family and community online.

Meta’s team will dispute that K.G.M.’s health issues arose because of Meta’s products. The company’s lawyers will try to convince the jury that any harm she suffered is from user content not controlled by Meta rather than structure of the products themselves.

Read more: ‘Massive Legal Siege’ Against Social Media Companies Looms

Critics and some outside researchers have long held that social media can have a negative impact on mental health, especially among young people. Australia late last year banned social media for kids under 16 years old, and several other European countries are considering similar restrictions. Even Meta’s own research, which was made public by an employee-turned-whistleblower in 2021, found that the company struggled to rein in misinformation, and that its Instagram platform could have negative effects on teens, especially girls.

Meta has since made several changes to how young people can access its services, most notably creating so-called teen accounts that include some content limitations and parental oversight. Meta said in a January blog post that blaming social media companies alone for teen mental health struggles “oversimplifies a serious issue.”

The claims in the lawsuits “don’t reflect reality,” Meta said in the post. “The evidence will show a company deeply and responsibly confronting tough questions, conducting research, listening to parents, academics, and safety experts, and taking action.”

YouTube spokesman José Castañeda said the allegations in the litigation are “simply not true.”

“Providing young people with a safer, healthier experience has always been core to our work,” he said in a statement. “In collaboration with youth, mental health and parenting experts, we built services and policies to provide young people with age-appropriate experiences, and parents with robust controls.”

Zuckerberg, Mohan

The trial, which was supposed to start in late January, was delayed following an unexpected illness for one of the defense’s lead lawyers. A jury of six women and six men was selected last week, and opening arguments and testimony are scheduled to begin Monday, and may run all the way through March.

Instagram head **Adam Mosseri** is expected to testify the first week, ahead of Zuckerberg, and YouTube boss **Neal Mohan** is also expected to take the stand. Jurors will also hear from dueling expert witnesses in child psychology and related research fields.

The outcomes of the first set of trials could encourage settlement talks by showing lawyers the strengths and weaknesses of their arguments and evidence — and ultimately how much the remaining cases are worth, according to Eric Goldman, a professor at Santa Clara University law school.

Read more: How Lawsuits Seek to Make Social Media Safer for Kids: QuickTake

In addition to the cases in Los Angeles, social media companies face consumer protection suits by about three dozen state attorneys general and public nuisance suits by more than 1,000 public school districts across the US that are grouped before a federal judge in Oakland, California. Those cases, which are expected to start going to trial later this year, also expose the tech giants to billions of dollars in damages and potential changes in how the platforms operate.

“The simple fact that a social media company is going to have to stand trial before a jury and account for its design decisions is unprecedented in American jurisprudence,” Bergman said. “This has never happened before.”

--With assistance from **Olivia Carville**.

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Instagram, YouTube addiction trial kicks off in Los Angeles

 [reuters.com/legal/litigation/instagram-youtube-addiction-trial-kicks-off-los-angeles-2026-02-09](https://www.reuters.com/legal/litigation/instagram-youtube-addiction-trial-kicks-off-los-angeles-2026-02-09)

Jody Godoy

February 9, 2026

- California woman seeks unspecified damages
- Case is one of thousands claiming youth harm
- Meta CEO Zuckerberg expected to testify for defense

LOS ANGELES, Feb 9 (Reuters) - A California state court case over whether Instagram and YouTube harmed a woman's mental health through addictive app design kicks off on Monday with opening statements, in a test of whether Big Tech platforms can be held liable for harming kids.

The 20-year-old woman identified as K.G.M. filed the lawsuit against Facebook and Instagram parent company Meta Platforms ([META.O](#))  , [opens new tab](#) and Alphabet's ([GOOGL.O](#))  , [opens new tab](#) Google, which owns YouTube. She says the attention-grabbing design of the platforms got her addicted to them at a young age, according to court filings. She alleges the apps fueled her depression and suicidal thoughts and she is seeking to hold the companies liable. Sign up [here](#).

A verdict against the tech companies could [smooth the way](#) for similar cases in state court, and shake the industry's longstanding U.S. legal defense against claims of user harm. Google, Meta, TikTok and Snap ([SNAP.N](#))  , [opens new tab](#) face thousands of lawsuits in California.

Meta Platforms CEO Mark Zuckerberg is expected to be called as a witness at the trial, which is likely to stretch into March. TikTok and Snap settled with K.G.M. before the trial.

The woman's lawyers aim to show that the companies were negligent in their design of the apps, that they failed to warn the public about the risks, and that the platforms were a substantial factor in her injuries. If they succeed, the jury will consider whether to award her damages for pain and suffering, and could also impose punitive damages.

Instagram app icon is seen on a smartphone in this illustration taken October 27, 2025. REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights](#), [opens new tab](#)

Meta and Google plan to defend themselves from the claims by pointing to other factors in K.G.M.'s life, laying out their work on youth safety, and trying to distance themselves from users who upload harmful content.

Under U.S. law, internet companies are largely shielded from liability for material their users post. If the jury in this case rejects that defense, it could pave the way for other lawsuits claiming the platforms are harmful by design.

In addition to cases like K.G.M.'s in state court, the companies face more than 2,300 similar lawsuits filed by parents, school districts and state attorneys general in federal court. The judge overseeing those is weighing the companies' liability protections ahead of the first trial over the claims in federal court, which could happen as early as June.

Also Monday, [a landmark trial](#) against Meta is kicking off with opening statements in Santa Fe, New Mexico, where the state attorney general has accused the company of exposing children and teens to sexual exploitation on its platforms and profiting from it.

The wave of litigation in the U.S. is part of a [global backlash](#) against social media platforms over children's mental health. Australia and Spain have [prohibited access](#) to social media platforms for users under age 16, and other countries are [considering](#) similar curbs.

Reporting by Jody Godoy in Los Angeles, Courtney Rozen in Washington and Diana Novak Jones in Chicago; Editing by David Gregorio

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Jody Godoy reports on tech policy and antitrust enforcement, including how regulators are responding to the rise of AI. Reach her at jody.godoy@thomsonreuters.com

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California Brief

News Outlets' Perplexity AI Suits Strike at Existential Threat

Feb. 9, 2026, 1:45 AM PST

AI search's existential threat to news, as painted by The New York Times' latest copyright complaint against Perplexity AI Inc., stands out amid the battles raging between the tech and content industries.

New York Times Co.'s December lawsuit doesn't just claim Perplexity AI Inc. free rides by training its AI-search engine with copyrighted material and can replicate its work when prompted. It goes further to say Perplexity, whose answer is due Feb. 27, proudly proclaimed its tool a direct substitute with a "skip the links" tagline—an explicit invitation to avoid patronizing the organization that produced the work it uses.

It's the latest twist in a pivotal legal battle that will shape the future boundaries of industries including artificial intelligence, news, publishing, and entertainment. Along with a 2024 suit brought by News Corp. subsidiaries Dow Jones & Co. and the New York Post, this case spotlights how news outlets' positions compare with dozens of other content owners who are suing AI platforms for using their work without permission.

The prospect of lost web traffic puts the outlets in a particularly vulnerable spot—another blow to an industry struggling ever since the internet ushered in cutthroat competition for advertisers and rendered long-established revenue models obsolete.

"Their whole shtick is that you get to 'skip the click'—ask about this subject, and we'll tell you about it," intellectual property and technology attorney Steve Kramarsky of Dewey, Pegno & Kramarsky said, noting Perplexity dumped the line after Dow Jones sued. "You're obviously stealing the business model from the people you're harvesting from."

Perplexity's answer in the Dow Jones case said "compiling copyrighted content to create a searchable database" has long been deemed fair use under US copyright law. But by providing more fulsome, direct answers, rather than the short snippet of traditional search platforms, Perplexity amplifies the business risk to news organizations. The Times' suit cited a study by content-licensing platform TollBit finding AI search engines send roughly 96% less referral traffic to news sites and blogs.

The situation ultimately poses a threat to the AI companies themselves, attorneys said. If Perplexity and others can freely Hoover up and repackage news for users, that stream of reliable information will eventually run dry as depleted revenue kills off news outlets, IP attorney Avery Williams of McKool Smith said.

"It's self-destructive," Williams said. "Sure, you can have AI slop on top of AI slop, but no one wants that."

Perplexity didn't respond to requests for comment.

Measuring Market Impact

News-on-AI litigation isn't new. The New York Times in 2023 sued OpenAI and Microsoft Corp. over their use of copyrighted material to train large language models. But the cases against Perplexity—both filed by Rothwell, Figg, Ernst & Manbeck PC—cut more directly to the heart of the alleged harm than the training and article-replication claims in the OpenAI litigation, Kramarsky said.

"This is different. This is saying the output summaries are an economic replacement for our product," he said.

Perplexity argues it doesn't copy protectable expression. "It's a bedrock principle of copyright law that neither facts nor ideas can be owned by authors," it said in a court filing, adding it helps users discover content and directs them to the original content. In response to news organizations' claims that "the sky is now falling," Perplexity said the law "has always allowed providers of search technology to index the web to provide search information."

A new technology's potential to disrupt a business model isn't an actionable claim, but it could affect IP-based litigation strategies. Courts have issued mixed and sometimes case-specific rulings regarding whether and when AI training is fair use, a defense to infringement claims.

Courts generally deem the copies' impact on the original works' commercial market the most important of four fair use factors, and Perplexity's alleged portrayal of its outputs as a substitute to news outlets could tip the balance. A group of authors' failure to show market harm from AI training led one otherwise-skeptical federal judge to deem Meta Platforms Inc.'s AI training is fair use.

Another key factor is the transformativeness of the copying, which can scramble the market factor by distinguishing the new works as distinct. While OpenAI argued ChatGPT's outputs generally don't resemble the myriad training inputs, Perplexity likely "shot itself in the foot" with citations making it easy for outlets to trace the source of its information, attorney James Rubinowitz of New York said.

Looking Beyond Copyright

The Times and Dow Jones suits also brought other claims that have yet to be tested in AI-training cases, including trademark infringement and dilution. They argue Perplexity sometimes attributes erroneous information—"hallucinations"—to their publications.

"Using 'The New York Times,' attaching false facts to it: it's bad for our reputation," Kramarsky said. "It's a pretty good claim."

Perplexity's answer suggested merely citing sources doesn't suggest affiliation with The Times' to consumers.

The complaints don't make claims under the Computer Fraud and Abuse Act. That law could offer a viable path to publishers, McKool Smith's Williams said.

The Times' complaint said Perplexity ignored "robots.text" protocols websites use to signal they shouldn't be scraped by third-party data-collectors. Though attorneys say that protocol is a "keep off grass sign" with no legal ramifications, The Times also alleged it was "hard-blocking" Perplexity's content-scrapers and asking the company to stop—to no avail. The AI firm's alleged circumvention of technical barriers could support a CFAA claim, Williams said.

Reddit Inc.'s suit against Perplexity took another approach to target data-scraping, asserting claims under the Digital Millennium Copyright Act.

It's still too early to say which claims will prove most effective in content owners' lawsuits against AI developers, IP attorney Randall K. McCarthy of Hall Estill said.

"Somebody's doing something new, there's a sense that there's something wrong with it," McCarthy said. "And we're still learning how to plead it."

The cases are Dow Jones & Co. v. Perplexity AI Inc., S.D.N.Y., No. 1:24-cv-07984 ; and The New York Times Co. v. Perplexity AI Inc., S.D.N.Y., No. 1:25-cv-10106 .

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California Brief

OpenAI Ducks Order to Disclose Confidential Counsel Messages (1)

Feb. 6, 2026, 3:32 PM PST; Updated: Feb. 6, 2026, 4:11 PM PST

OpenAI Inc. convinced a federal judge to overturn an order requiring the company to disclose confidential messages with its attorneys to authors and newspapers accusing it of violating copyrights by training AI models on their works.

The November order to turn over messages about the artificial intelligence company's deletion of pirated copies of books is unsound because it was "clearly erroneous" or "contrary to law," Judge Sidney H. Stein said in a decision issued Friday in the US District Court for the Southern District of New York.

"Simply put, OpenAI did not disclose material protected by the attorney-client privilege," Stein wrote.

The company didn't change its position on whether legal advice about the book datasets' deletion was privileged, he said, "so waiver is not an appropriate sanction on the theory that OpenAI made a 'moving target' of its privilege assertions."

Stein added that OpenAI didn't put its state of mind at issue by denying allegations that it willfully infringed the class action plaintiffs' copyrights, so it "did not effect an 'at issue' privilege waiver."

The messages' disclosure risked exposing OpenAI to billions in damages if they showed the artificial intelligence giant knowingly violated copyright law.

The decision comes three weeks after a hearing where Stein said the communications may be protected by attorney-client privilege but expressed concern about OpenAI's waffling stance.

The clash stems from a dozen lawsuits brought by parties including the New York Times and Game of Thrones author George R.R. Martin. They accuse OpenAI of violating their copyrights by downloading pirated works, using protected content to train large language models, and producing ChatGPT outputs similar to their works. The cases were consolidated in April 2025 for pretrial activity.

OpenAI acknowledged that it downloaded illegal copies of books from notorious pirate library LibGen in 2018 and deleted the data in 2022 at the instruction of its attorneys. OpenAI initially told the plaintiffs it deleted the pirated dataset “due to non-use” but withdrew those words from a court filing a year later when plaintiffs sought information about the reasons for the deletion. OpenAI then said the reasons are shielded by attorney-client privilege.

Magistrate Judge Ona T. Wang in November 2025 ruled OpenAI waived privilege by disclosing the “non-use” reason. Wang also said OpenAI gave up privilege by making a “moving target” of its privilege assertions and claiming it didn’t know its actions constituted copyright infringement.

If the messages reveal OpenAI willfully infringed, it would trigger enhanced damages of as much as \$150,000 for each of the millions of allegedly infringed works.

OpenAI appealed the decision to Stein in December 2025, arguing Wang’s order ignores controlling precedent and threatens to “eviscerate” attorney-client privilege, one of the legal system’s “oldest and most important evidentiary rules.”

The plaintiffs are represented by Susman Godfrey LLP; Lieff Cabraser Heimann & Bernstein; Cowan, DeBaets, Abrahams & Sheppard LLP; and Boies Schiller Flexner LLP.

OpenAI is represented by Keker, Van Nest & Peters LLP; Williams & Connolly LLP; Latham & Watkins LLP; and Morrison & Foerster LLP.

The case is In Re: OpenAI, Inc. Copyright Infringement Litigation , S.D.N.Y., No. 25-md-03143, opinion and order filed 2/6/26 .

(Updates with information from the opinion starting in the fourth paragraph.)

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Jury awards \$25M in landmark PAM cooking spray liability case

DJ [dailyjournal.com/articles/389687-jury-awards-25m-in-landmark-pam-cooking-spray-liability-case](https://www.dailyjournal.com/articles/389687-jury-awards-25m-in-landmark-pam-cooking-spray-liability-case)

In a landmark decision, a Los Angeles jury awarded \$25 million to a product liability plaintiff after finding that Conagra Brands Inc. failed to warn consumers about the dangers of its household staple, PAM cooking spray.

The unanimous verdict delivered in Los Angeles Superior Court on Wednesday for Roland Esparza, a client of TorHoerman Law, marks the largest consumer diacetyl verdict in history and the first of its kind involving a consumer product rather than an industrial setting, according to the attorneys.

"This unanimous \$25 million verdict delivers long-overdue justice to Roland Esparza, once a highly active individual who now faces a double lung transplant after Conagra deceptively marketed its PAM cooking spray as safe," TorHoerman Law attorneys Jacob Plattenberger and Alan Holcomb, who represented the plaintiff, said in a news release on Friday.

"The jury saw through decades of corporate wrongdoing and awarded the largest consumer verdict ever in a diacetyl lung injury case, more than triple the previous record and the first of its kind against Conagra for a consumer product," they said.

Esparza was also represented by sole practitioner Scott B. Hall of Holt, Missouri.

Conagra was represented by Robert A. Shields and Olivia J. Miner of Wilson Turner Kosmo LLP in San Diego, as well as Mary Young, Gerardo Alcazar, D'Lesli M. Davis, Corey L. Gordon and Emily A. Ambrose of Norton Rose Fullbright in Minneapolis. Gordon declined to comment via phone on Friday, while the other attorneys could not be reached by phone or email by press time.

In an email on Friday, a Conagra spokesman said: "We disagree with and are disappointed with the jury's verdict. PAM Butter Flavor cooking spray is safe and has been diacetyl-free for nearly two decades. We intend to pursue all available legal avenues to contest the verdict."

The plaintiff developed a debilitating lung condition known as bronchiolitis obliterans (BO), a severe respiratory illness linked to the inhalation of diacetyl, a butter-flavoring chemical, the lawsuit alleged. Esparza, whose lawsuit claimed he

followed a health-conscious lifestyle, used the "fat-free" marketed spray two to three times daily for decades, often spraying the product into a frying pan while standing directly over his kitchen stove, the lawsuit said. "His injuries are so catastrophic that he now requires a double lung transplant to survive," according to Thursday's news release. *Esparza v. The Vons Companies, Inc.*, 20STCV37014 (L.A. Super. Ct., filed Sept. 28, 2020).

In a trial brief, Conagra argued that PAM spray did not cause Esparza's lung disease. The company contended he suffered from COPD, not bronchiolitis obliterans, and that aspiration from his own high-risk behaviors, including alcohol and drug use, was the likely cause.

"Notably, Conagra removed added diacetyl from butter flavored cooking spray products in the 2007/2008 timeframe, and it was completely removed by 2009," the trial brief read.

The company also argued that the lawsuit was untimely, asserting that the claims arose before September 2018.

In a phone call on Friday, Plattenberger said his team focused on presenting the jury with scientific evidence of diacetyl's harmful effects through expert testimony.

"They told the jury this is one of the most studied chemicals in recent history, which it really is," he said. "The literature and the data - not just the animal data, but the epidemiological data that we have from this is extensive, and it's all very united and unanimous. It's very clear in the scientific world that this chemical is incredibly toxic by inhalation."

The jury accepted the expert testimony and rejected defense arguments regarding timing, finding that while the harm began earlier, Esparza proved that he did not discover the wrongful conduct until within the legal timeframe.

Jurors found Conagra liable for negligence and strict product liability, specifically regarding design defects and a failure to warn, according to a minute order. The jury found that Conagra provided insufficient evidence of the removal of diacetyl from the product by 2009 and continued to market the spray as safe despite known risks, assigning 100% of the responsibility to Conagra with no comparative negligence on the part of the plaintiff.

#389687

LA jury awards \$8.8M for odor that blanketed city after fire

DJ [dailyjournal.com/articles/389690-la-jury-awards-8-8m-for-odor-that-blanketed-city-after-fire](https://www.dailyjournal.com/articles/389690-la-jury-awards-8-8m-for-odor-that-blanketed-city-after-fire)

Gary A. Praglin of Cotchett Pitre & McCarthy LLP

A Los Angeles County jury on Friday returned a \$8.8 million verdict in favor of 24 Carson-area residents who sued Prologis Inc. and its tenant businesses over a foul-smelling "rotten egg" odor that allegedly blanketed the area after a 2021 warehouse fire.

A \$2.8 million compensatory award was split among the plaintiffs, with individual recoveries ranging from roughly \$43,000 to as much as \$200,000, in some instances.

A \$6 million punitive award was levied only against the individual principals of the tenant defendants, ArtNaturals and Day to Day Imports Inc., not against the business entities themselves. The jury imposed punitive damages on four individuals - Yaakov, Yosef, Yehuda and Akiva Nourollah - awarding \$62,500 per plaintiff against each defendant.

Representing the plaintiffs at trial were Cotchett Pitre & McCarthy LLP partners Gary A. Praglin, Kelly W. Weil and Theresa E. Vitale.

The Prologis defendants were led by Paul Hastings LLP partner Navi S. Dhillon.

The tenant defendants were represented by Kutak Rock LLP partner Rudy R. Perrino, Steven L. Hoch of Clark Hill PLC, Yoka | Smith LLP partner Chad Chen, Gordon Rees Scully Mansukhani LLP partner Christopher T. Johnson, and Kennedys Law LLP partner Martin R. West.

Superior Court Judge David S. Cunningham III presided over the three-month trial, which centered on allegations that a warehouse fire at a Prologis-owned facility sparked in September 2021, and the subsequent handling and storage of large quantities of ethanol-based hand sanitizer by tenant defendants contributed to weeks of foul odors and reported health struggles in nearby neighborhoods. *Alvarez et al. v. Prologis Inc. et al.*, 21STCV38929 (L.A. Super. Ct., filed Oct. 21, 2021).

The jury deliberated for about a week.

Throughout the trial, the plaintiffs argued that "millions of pounds" of improperly stored flammable hand sanitizer at the warehouse fueled the fire which contaminated runoff into the Dominguez Channel, triggering a hydrogen sulfide odor event that lingered in the Carson area.

They also accused the defendants of failing to address known fire hazards.

The defendants countered that the odor was not caused by fire-related chemicals, but instead stemmed from long-standing environmental factors and conditions in the channel - such as an earthquake and decaying vegetation - rather than the warehouse fire.

The defense counsel also maintained that the incident was not foreseeable and argued the trial evidence did not show the fire-related runoff was the substantial factor behind the odor event.

Defense experts testified that hydrogen sulfide could have been generated by disturbed sediments and decaying vegetation, independent of the blaze.

Before the jury deliberated punitive damages on Friday, the plaintiffs' counsel argued it was necessary to punish and deter what they described as conscious disregard of fire hazards and environmental risk.

"We are here because you, the jury, found that the tenant defendants engaged in conduct with malice," Wiel told the jurors.

She urged jurors to consider factors outlined in the judge's instructions, including reprehensibility and harm, pointing to evidence "about how notices of violations were ignored when there was risk of harm to the environment and human life."

Praglin invoked a metaphor from Greek mythology, comparing the defendants' post-fire business restructuring to a hydra - a multi-headed creature that regrows when cut down - arguing punitive damages were needed to prevent repeat misconduct.

The defense attorneys urged jurors to reject punitive damages, arguing the compensatory award already provided substantial punishment and that the odor event was not foreseeable.

Perrino, for the tenant defendant entities, asked jurors to return a punitive award of zero, contending his clients had already been penalized.

Attorneys for individual defendants - Yaakov, Yosef, Yehuda and Akiva Nourollah - echoed Perrino's arguments, stressing financial hardship and the limited duration of the plaintiffs' symptoms.

"These plaintiffs said that when the odor stopped, the harm stopped," Hoch said, adding that "absolutely none of them made claims" of long-term injury.

Hoch also appealed to jurors' sense of proportionality.

"You heard him talk about his children, his life, clearly he's a loving, gentle man," Hoch said of his client, Yaakov Nourollah.

West, representing Akiva Nourollah, said the individual defendants were already facing consequences through other judgments and potential criminal investigation.

"We believe they've been punished enough," West said.

In rebuttal, the plaintiffs' counsel sharply pushed back on the defense's argument that compensatory damages alone were sufficient.

Weil disputed suggestions that plaintiffs suffered only minor harm, pointing to testimony that at least one resident sought urgent care during the odor event.

Praglin argued the defense still failed to grasp the seriousness of the misconduct. "They still don't get it," he said.

He also criticized West's proposal that punitive damages should be limited to just over \$1,600, calling it akin to a "parking ticket."

At the conclusion of the verdict reading, Cunningham thanked the jurors for their time and commended them for their "hard work" on a case he said was "complicated."

#389690

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Lawsuit investor Burford can upend Sysco's \$50M chicken price settlement | Cook County Record

 [legalnewsline.com/cook-county-record/lawsuit-investor-burford-can-upend-sysco-s-50m-chicken-price-settlement/article_1ef2cf8e-7f29-4321-8c57-7d5225d26fdb.html](https://www.legalnewsline.com/cook-county-record/lawsuit-investor-burford-can-upend-sysco-s-50m-chicken-price-settlement/article_1ef2cf8e-7f29-4321-8c57-7d5225d26fdb.html)

Jonathan Bilyk, Jonathan Bilyk

February 6, 2026

Dirksen Federal Courthouse, Chicago
Jonathan Bilyk

CHICAGO - A Chicago federal appeals panel will allow Burford Capital, the world's largest third-party lawsuit investor, to force poultry producer Pilgrim's Pride back into court, after appeals judges agreed a settlement between Pilgrim's and former Burford investee, food distributor Sysco Corp. worth \$50 million — an amount Burford had found too small — had not been properly executed.

One of the appellate judges, however, blasted litigation financier Burford Capital for its conduct in the case, saying Burford was dragging out a settlement to end the litigation solely to boost its profits, in the process "having turned the courtroom into a trading floor."

"... But for this legal maneuvering, this litigation could have been resolved long ago," Seventh Circuit Judge Nancy Maldonado said. "This case is a cautionary tale to any party who seeks to fund its litigation through a third party."

The case had landed before the Seventh Circuit last year, as Burford Capital, through a subsidiary company, Carina Ventures, had kept up its fight to pull the plug on the \$50 million deal between Sysco and Pilgrim's Pride.

The fight between Burford and the companies had itself come as but a flashpoint in the sprawling litigation pending in federal courts in Chicago and Minneapolis over claims meat producers violated federal antitrust laws by allegedly colluding to keep the prices of chicken, beef and pork artificially high.

The beef- and pork-related lawsuits have been consolidated in Minnesota court. But the chicken price lawsuits have remained in Chicago federal court since 2016.

At that time, Pilgrim's Pride and other poultry producers were first pecked by a wave of collective action antitrust lawsuits, accusing the producers of suppressing the supply of chickens to make customers pay more.

Sysco Corp. was among the litany of food buyers, distributors and sellers who lodged lawsuits seeking a share of whatever the meat producers may ultimately pay out.

In 2022, however, those claims by Sysco received significant attention, as in a rare moment of transparency, Sysco and Burford tangled in federal court over an otherwise secret financing arrangement that undergirded Sysco's lawsuits.

In that court fight, Sysco accused Burford of improperly using \$140 million in lawsuit loans to improperly interfere with Sysco's attempts to settle its lawsuits and exit the litigation.

According to public reports, Burford annually invests billions of dollars into lawsuits targeting American companies.

According to court documents, Burford was unhappy with the deals Sysco had negotiated, apparently believing it should receive far more on its investment than what Sysco was willing to accept. Burford, through three subsidiaries, instead demanded Sysco continue suing until it could extract a bigger settlement or judgment at trial.

The court fight between Sysco and Burford ended in a settlement, under which Sysco agreed to sign over its legal claims to a Burford subsidiary company, Carina Ventures.

Pilgrim's Pride and other producers failed to snuff out that settlement, despite their claims that Burford and its affiliates should not be permitted to take control of the lawsuits, because those investors had no motive in the lawsuits other than a desire to maximize their return on investment.

In Chicago federal court, however, Pilgrim's Pride asked U.S. District Judge Thomas Durkin to enforce a \$50 million settlement deal the poultry producer claimed it had reached earlier with Sysco directly.

The settlement was never signed by Sysco executives, as they were at the time fighting with Burford over the rights to settle the claims at all.

Pilgrim's, however, presented the court with emails between Pilgrim's and Sysco, showing Pilgrim's had presented settlement terms that Sysco had accepted.

Despite Burford's objections, [Durkin agreed with Pilgrim's](#) that the email communications were enough to show a mutually acceptable settlement had been reached between the two actual parties in interest in the case.

On appeal, however, a three-judge panel of the U.S. Seventh Circuit Court of Appeals said Durkin was wrong to enforce the settlement.

[The Feb. 5 decision was written by Judge David Hamilton.](#) Judge Frank Easterbrook and Maldonado concurred in the decision.

In the ruling, Hamilton noted that an email exists in which Sysco's general counsel, after discussing the basic terms of the settlement, including payment, told lawyers for Pilgrim's: "We accept."

While that was enough for Durkin, Hamilton and the appeals panel said it was clear the deal was not struck at that time. They rejected Pilgrim's assertion that the deal was "binding" in any way, pointing to later communications in which they continued to negotiate terms.

The judges particularly noted the communications show Pilgrim's threatened to pull out of the settlement unless the deal was qualified under a so-called Judgment Sharing Agreement the poultry company had entered into with other defendants under antitrust law to limit liability.

"Contrary to Pilgrim's argument and the district court's judgment, the parties continued to negotiate terms they said were essential long after the 'We accept' email in September 2022," Hamilton wrote.

"... (Pilgrim's) reliance on later agreements on particular issues shows the holes that existed on September 9, 2022, and those holes undermine its theory that the parties had agreed by then on all material terms."

The appeals panel, however, said it was making the judgment contingent on requiring Burford to immediately refund the \$50 million Pilgrim's already paid.

In a special concurrence to the otherwise unanimous decision, Maldonado noted she did not disagree technically with any of the main ruling.

But she said she was siding "reluctantly," noting the prolonged proceedings in the case were "the result of gamesmanship" in the case. She noted Burford was able to use "confusion" and "procedural oddities" in the case to circumvent more

stringent settlement review standards, "extracting a substantial victory" in the process.

Maldonado concluded her concurrence by suggesting Pilgrim's and Burford should use the proceedings to come "to explore ... whether Pilgrim's is entitled to interest on the \$50 million that Carina accepted for this supposed settlement in August 2024."

From Trump to Epstein, how Brad Karp lost his grip on law firm Paul Weiss

 [reuters.com/world/us/trump-epstein-how-brad-karp-lost-his-grip-law-firm-paul-weiss-2026-02-07](https://www.reuters.com/world/us/trump-epstein-how-brad-karp-lost-his-grip-law-firm-paul-weiss-2026-02-07)

Mike Spector, David Thomas

February 7, 2026

Item 1 of 3 Signage is seen outside of the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP in Washington, D.C., U.S., August 30, 2020. REUTERS/Andrew Kelly/File Photo

[1/3]Signage is seen outside of the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP in Washington, D.C., U.S., August 30, 2020. REUTERS/Andrew Kelly/File Photo [Purchase Licensing Rights, opens new tab](#)

- Karp's 2025 deal with Trump led to backlash
- Epstein emails prompted Karp's resignation
- Paul Weiss transformed under Karp's leadership

Feb 7 (Reuters) - Brad Karp, the chairman of high-powered U.S. law firm Paul Weiss, joined other prominent Democratic fundraisers at election night gatherings in Washington in November 2024 hoping for a Kamala Harris victory over Republican rival [Donald Trump](#).

Karp had reached out to hundreds of corporate lawyers in a fundraising push for Harris soon after [she replaced](#) incumbent Joe Biden as the Democratic presidential candidate in July 2024, and one of his Paul Weiss partners helped prepare the former U.S. vice president for her debate with Trump.

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But Trump [won the election](#). And his return to the presidency last year set in motion a series of events that first shook Paul Weiss and later, with the U.S. Justice Department's [release of records](#) involving the late financier and convicted sex offender Jeffrey Epstein, led Karp to [resign](#) this week as its chairman.

Though he has not been accused of wrongdoing, the disclosures of his contacts with Epstein undid in a matter of days Karp's longstanding grip over the firm that had cemented him as a Wall Street and Washington power broker.

"If you were going to write a Greek tragedy about a law firm leader, this is it," a former senior Paul Weiss attorney told Reuters, speaking on condition of anonymity.

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TRANSFORMING PAUL WEISS

After becoming chairman of Paul Weiss in 2008, Karp transformed it from a respected New York litigation firm to a big-money global powerhouse. And Paul Weiss lawyers and staff [outpaced other major law firms](#) in donations to Democrats during the 2024 election cycle.

Paul Weiss devoted pro bono work to progressive causes and recruited star Wall Street dealmakers alongside litigators who had served in Democratic former President Barack Obama's administration.

Trump's return to the White House quickly created tumult for Karp and his firm. Karp's subsequent decision to cut a deal with Trump to rescind an executive order the president had issued punishing the firm made him the [face of capitulation](#) for some lawyers aligned with the Democratic Party.

At least a dozen partners, including the one who had advised Harris for her presidential debate, [departed the firm](#) afterward.

A bipartisan push in Congress last year, despite Trump's objections, required the Justice Department to release files related to Epstein. A trove of emails made public at the end of January revealed extensive communications between Karp and Epstein, prompting him to resign as chairman.

Karp did not respond to requests for comment. The firm did not respond to a request for comment beyond the statement it released on Wednesday announcing his resignation.

In that statement, Karp said that "recent reporting has created a distraction and has placed a focus on me that is not in the best interests of the firm." The firm previously had said he regretted his Epstein interactions and "never witnessed or participated in misconduct."

Karp, whose rolodex of representations has included large Wall Street banks and the National Football League, remains at Paul Weiss serving clients, the firm said in its statement. Karp was replaced as chairman by Scott Barshay, who he had recruited in 2016 to turbocharge the firm's mergers and acquisitions practice and other corporate work.

FROM LITIGATION TO DEALMAKING

Founded in 1875 by Samuel William Weiss and Julius Frank, the firm built a reputation as a defender of civil liberties. In the 1940s, it became the first major New York firm to name a female partner. It assisted civil rights lawyer Thurgood Marshall in the [U.S. Supreme Court](#)'s landmark 1954 case *Brown v. Board of Education* that declared racial segregation in public schools unconstitutional. Karp joined Paul Weiss as a summer associate in 1983 and spent his entire career at the firm, rising to lead the litigation department before being elected chairman. Under his leadership, Paul Weiss became a primary defender of the financial industry, representing clients such as Citigroup and JPMorgan while maintaining deep ties to the Democratic establishment.

Over time, Karp showed an ability to develop close relationships and build consensus that allowed him to attract star rainmakers, propelling Paul Weiss to a top-tier firm with loyal institutional clients and leading litigation and transactional practices, according to Kent Zimmermann, an adviser to law firms who interviewed Karp for an upcoming book.

In recruiting Barshay, Karp increased the firm's dealmaking firepower.

Karp frequently used Paul Weiss resources to challenge the first Trump administration and partner with civil rights and advocacy groups. The firm helped lead litigation following the 2017 white supremacist demonstration in Charlottesville, Virginia, and participated in lawsuits against the firearms industry.

In 2018, Karp mobilized lawyers to combat Trump's family separation policy at the U.S. border.

Karp also represented Leon Black, the co-founder of Apollo Global Management, a large Wall Street investment firm. Epstein became involved in fee disputes with Black. Karp's communications with Epstein concerning Black and other matters would ultimately contribute to the law firm leader's resignation.

TRUMP PUNISHMENT

Paul Weiss employed lawyers who investigated Trump and sued participants in the January 6, 2021, attack on the U.S. Capitol by the president's supporters in their failed effort to prevent congressional certification of Biden's 2020 election victory. On the day of the riot, Karp said he watched in horror "as the disgraceful results of this attempted coup spilled into the hallowed halls of Congress."

That made the firm a target when Trump returned to the presidency in January 2025. In March, Trump signed an executive order blacklisting Paul Weiss from federal buildings and government contracts, part of a series of such directives aimed at various law firms that the president viewed as adversaries.

"The shifts he was able to achieve in the firm were the precise things that created the vulnerabilities Trump was able to exploit," said Scott Cummings, a legal ethics professor at UCLA School of Law.

Fearing the order would prompt a client exodus and destroy the 150-year-old firm, Karp sought a settlement with Trump.

He arrived at a White House meeting in the Oval Office that began with a prolonged discussion of golf. Sullivan & Cromwell co-chair Robert Giuffra, a Republican and Trump lawyer, was patched into the meeting by phone and later helped Karp negotiate a deal to rescind the executive order in exchange for \$40 million of free legal work for causes the president supported.

Eight other firms subsequently reached similar deals with the administration to avoid Trump executive orders, pledging work worth nearly \$1 billion combined. Four other law firms that Trump targeted with executive orders sued and [won court rulings](#) striking down the directives as unconstitutional.

A GENERATIONAL LEADER

Karp was a generational leader who molded Paul Weiss into a highly profitable and elite competitor in the private equity legal market, according to Kevin Burke, a professor at the University of Southern California Gould School of Law who himself once led a law firm.

"What ultimately makes this episode a cautionary tale is how even highly successful leadership can falter when institutional independence is compromised by proximity to executive power," Burke said. "In a period marked by aggressive executive action and regulatory leverage, Paul Weiss' decision to settle early and visibly engage with the administration created a perception of accommodation rather than resistance - one that stood in tension with the firm's historic identity."

Karp met Epstein through his representation of Black, the firm said. Records released by the Justice Department documented Karp thanking Epstein for a "once in a lifetime" dinner in 2015 with Woody Allen and later seeking Epstein's

assistance in securing a role for his son working on one of the director's film productions.

Other emails showed Karp and Epstein discussing a woman demanding money from Black. Emails also showed them discussing Epstein's [non-prosecution agreement](#) reached in 2008, when the financier pleaded guilty to prostitution charges in Florida, including soliciting an underage girl.

The emails indicated the two remained in contact as recently as early 2019, months before Epstein's arrest on sex trafficking charges and subsequent suicide in a Manhattan jail while awaiting trial.

Reporting by Mike Spector in New York and David Thomas in Chicago; Additional reporting by Mike Scarcella; Editing by David Bario and Will Dunham

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[Mike Spector](#)

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Mike Spector is an Investigative Reporter for Reuters' legal team. He strives to pursue special reports and other enterprising and exclusive stories that expose wrongdoing, highlight threats to consumers and illuminate how ordinary people are affected by the decisions of judges and lawyers across the United States. His stories often involve corporate crises linked to bankruptcy proceedings, mass tort litigation and government investigations. He was the first journalist to expose Johnson and Johnson's plan to offload into bankruptcy lawsuits alleging its iconic Baby Powder and other cosmetic talc products caused cancer. A series he led explaining how companies and nonprofits use the bankruptcy system to evade lawsuits over sexual abuse and deadly products received the Deadline Club's Daniel Pearl Award for Investigative Reporting. He has also investigated pervasive secrecy in American courts that covers up evidence of deadly products and allegations from Black women that chemical hair relaxers sold by large cosmetics companies caused cancer. He previously worked at The Wall Street Journal covering bankruptcy, private equity, mergers and acquisitions and the automotive industry.

[David Thomas](#)

Thomson Reuters

Commentary | **The Global Lawyer**

Lessons from Paul Weiss: Can Law Firms Afford a Star Culture?

The resignation of Brad Karp as chairman of Paul Weiss demonstrates that the star culture associated with some U.S. law firms comes with risks, writes The Global Lawyer.

February 08, 2026 at 10:54 PM By  **Lisa Shuchman**



Credit: K3Star / AdobeStock

In the world of law firms, Brad Karp was his own brand. He was the face of Paul, Weiss, Rifkind, Wharton & Garrison—a man with charisma and charm, credited with transforming his firm into a dominant player among the global legal elite.

He represented powerful CEOs and the titans of international business, such as Citigroup, the National Football League and private equity giant Apollo Global Management. He was also recognized as a backer of progressive causes, raising money for U.S. Democratic Party presidential candidates and working with organizations fighting discrimination.

His high profile and near-celebrity status were key to the firm's growth: He was instrumental in bringing in top talent, including his newly named successor [Scott Barshay](#), in New York, and [Neel](#)

[Sachdev](#) in the U.K.

His very public persona worked well for the firm—until it didn't.

Karp was forced to step down as Paul Weiss chairman after the trove of recently released documents involving the disgraced financier Jeffrey Epstein showed that the relationship between the two men [went deeper than was previously known](#). He had survived controversy that went well beyond the legal community last year when he brokered a deal that made Paul Weiss the first of several big law firms to capitulate to President Donald Trump to avoid threatening executive orders. But this time, even the firm's top partners would not stand behind him.

As Karp himself stated in the firm's official announcement of his resignation, "Recent reporting has created a distraction and has placed a focus on me that is not in the best interests of the firm."

The dethroning of Karp demonstrates that the star culture found at some U.S.-based firms comes with risks. Leaders are held to a higher standard, and when they misstep, their actions reflect on the entire firm.

We've seen it before. In 2018, Latham & Watkins chairman William Voge was forced to resign after he was caught in a sexting scandal. In 2019, the co-chair of Willkie Farr & Gallagher, Gordon Caplan, was charged in the U.S. "Varsity Blues" college admissions scandal and was promptly suspended from the firm.

Superstar litigator David Boies, co-founder and chair of Boies Schiller Flexner and one of the most prominent lawyers in the U.S., was badly tainted and his firm suffered when his longtime client Harvey Weinstein was branded a sexual predator, and another high-profile client, Theranos, was exposed as a fraud. The firm saw a steady stream of exits, including some prominent partners, and many in the industry predicted the firm's demise.

Scandals have tripped up law firms elsewhere. Allens, one of Australia's leading firms, has faced sexual harassment scandals resulting in embarrassment for the firm and at least one partner resigning. Baker McKenzie has dealt with multiple incidents of partner misconduct, ranging from bullying, homophobia, racism and sexual harassment, resulting in the departures of regional managing partners in [South Africa](#), [Brussels](#), the [UAE](#) and the [U.K.](#)

But star culture in law firms is predominantly an American phenomenon. U.S.-headquartered firms in Big Law have promoted and embraced a culture of personality, celebrating individual partners and leaders as much, or more than, the firm. Whether by accident or design, a handful of law firm leaders, in addition to Karp, have attained a star-like status: John Quinn, David Boies, Marty Lipton, and Rodge Cohen are all big names in Big Law, tightly and forever intertwined with their respective firms.

At U.K. and European firms, in contrast, law firm leaders frequently emphasize their egalitarian cultures and the strength of their respective brands. To be sure, when reputable legal industry directories rank individual lawyers and practices highly, the firms happily promote their achievements. But the cult of personality is noticeably absent.

The difference is not surprising. Americans have long celebrated the success of the individual. As a nation, it has long valued the individual over the group. In the legal world, that translates into efforts by top law firms to lure rainmakers from other firms, paying them handsomely with the expectation that they will increase the firm's overall profits, sometimes without considering the costs.

But there are costs. For international firms, this can create chaos. We've especially witnessed this of late amid the merger mania engulfing the legal industry. A culture that rewards rainmakers at the expense of others risks upsetting a firm's overall culture, prompting departures and internal strife. Star partners can also be lured away, such as when legacy Shearman & Sterling's global co-managing partner, George Casey, left the firm with a team ahead of the merger to join Linklaters in New York. A&O Shearman has seen close to 200 partner departures since it announced its merger in 2023.

Of course, law firms lacking in star power can also lose out when competing for mandates, especially on bet-the-company litigation or megadeals. It can also create challenges on the merger front. When news broke that [U.S.-based Perkins Coie and Anglo-Australian firm Ashurst plan to merge](#), partners at several major U.S. firms asked me what I knew about Ashurst, which they said had practically zero name recognition in the U.S. They were not aware that the two firms stood very close in the 2025 Global 200 rankings by both revenue and profits.

And there are highly successful law firm leaders who do not seek out or encourage personal recognition, despite their achievements. Jon Ballis, chairman of Kirkland & Ellis, the world's highest-grossing and most profitable firm, is said to prefer that credit be given to other firm partners. Barbara Becker, chair and managing partner of Gibson, Dunn & Crutcher, tends to shy away from the limelight but is always keen to have other partners recognized for their successes.

Somewhere, there is probably a happy medium. Charismatic leaders and partners are important, as long as they don't become the central focus of the firm. It's a hard balancing act, as history has shown that they can help a firm's reputation and bottom line, but that one day they may make a costly mistake that will require the firm to take immediate and drastic action.

Brad Karp is still a partner at Paul Weiss. Perhaps he'll now be able to focus more on the work he previously did for social justice, humanitarian causes, and in support of the rule of law—actions that got lost after he struck a deal with Trump. He may yet recover from this scar on his legacy.

It's too early to say, but it is possible. After all, Boies, the litigator who not many years ago was written off as someone who had permanently ruined his legacy, seems to have recovered. At 84, he continues to practice as a partner at the firm after having stepped down as chair in 2024. That year, he was honored by The American Lawyer with the prestigious Lifetime Achievement Award. His industry peers attending the event gave him a standing ovation.

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Analysis

DOJ Awards \$1M Antitrust Whistleblower Reward in Alleged M&A Criminal Matter

"Companies should have always been doing effective due diligence to make sure they were not inheriting antitrust problems from the company they acquired," Ryan Danks, a Wilmer Cutler Pickering Hale and Dorr antitrust partner, said after the U.S. Department of Justice delivered its first-ever antitrust whistleblower reward to an individual who reported alleged corporate white-collar crimes committed by a company that was later acquired by online auto auction marketplace EBlock Corp.

February 06, 2026 at 04:43 PM By  **Sulaiman Abdur-Rahman**



Credit: Nuthawut/Adobe Stock

A corporate whistleblower who reported alleged antitrust crimes to the U.S. Department of Justice following a merger and acquisition has secured the DOJ's first-ever antitrust whistleblower reward.

The DOJ's Antitrust Division announced a \$1 million cash reward Jan. 29 to a whistleblower who provided information leading to a deferred prosecution agreement with an online car auction marketplace company that must pay a \$3.28 million criminal fine.

The Justice Department alleges defendant EBlock Corp. acquired the assets and employees of another company that suppressed competition through a bid-rigging conspiracy to manipulate

online auctions of used vehicles in violation of the Sherman Antitrust Act.

“The Company represents that it will make best efforts to implement a compliance and ethics program reasonably designed to prevent and detect antitrust violations throughout the Company’s operations,” the Justice Department and EBlock stated in their [34-page deferred prosecution agreement](#) filed Jan. 22 in the U.S. District Court for the Central District of California.

EBlock, a U.S. subsidiary of Toronto-based E Automotive Inc. or EINC, is represented by Buchanan Ingersoll & Rooney.

EBlock declined a request for an interview.

“This whistleblower helped expose a brazen \$16 million scheme that made it more expensive for hardworking Americans to afford second-hand cars across the country,” Deputy Assistant Attorney General Omeed A. Assefi of the DOJ’s Antitrust Division said in a press release statement.

Ryan Danks, a Wilmer Cutler Pickering Hale and Dorr antitrust partner, said the Justice Department’s [new antitrust whistleblower rewards program](#) may “reach into every corner of the economy, which would heighten the incentive for companies to invest in [a compliance program and internal controls].”

“Companies should have always been doing effective due diligence to make sure they were not inheriting antitrust problems from the company they acquired,” Danks said in an interview. “The whistleblower program creates greater incentive to make sure that due diligence is done properly.”

Danks, a former senior DOJ antitrust enforcer not involved in the EBlock case, said whistleblowers also have a “powerful financial incentive ... to pursue the report they make all the way through the company and to the Department [of Justice] if they have information on illegal conduct.”

“Companies always need to take whistleblowers seriously,” Danks said, “and any company with a serious compliance program should have already been doing so.”

“Active litigation and threats of litigation, those should always be disclosed in due diligence,” Matthew Fox, a partner at Benesch, Friedlander, Coplan & Aronoff in New York, said Friday in a telephone interview with Law.com and the National Law Journal. “Make sure you are not buying some criminal activity or investigation.”

“In an M&A context, you want to be more diligent than you are now on what you are buying,” added Fox, who is not involved in the EBlock case. “Trust but verify.”

A company referred to as “Company A” in court documents participated in an alleged white-collar criminal antitrust conspiracy before EBlock acquired Company A’s assets and employees,

according to the Justice Department.

“EBlock Corp. has been fully cooperating with the DOJ’s investigation into the Target Company’s actions since becoming first aware of it on May 31, 2023,” EBlock’s parent company EINC said in a press release issued Wednesday. “That cooperation led to the entering into of the Deferred Prosecution Agreement.”

U.S. District Judge Sunshine S. Sykes of the Central District of California is assigned to the case, captioned *United States v. EBlock Corp.*

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Robert Kramer, the chief executive of vaccine manufacturer Emergent BioSolutions until his retirement, argued that the trades at the center of James's \$10.1 million insider trading suit were conducted under a 10b5-1 trading plan, which was pre-approved by his company and regulated by federal authorities.

Because the case implicates that federal regulatory scheme, a federal court should preside, Kramer argued through his attorney, Kirby Behre, a member of Miller & Chevalier Chartered.

“If the NYAG prevails on her claim, the Court would necessarily be declaring unlawful conduct that the SEC has long regulated and permitted under federal law,” Kramer said in a [notice of removal](#) that was filed late Wednesday.

He argued that the outcome of the case could threaten the SEC’s regulatory authority over 10b5-1 trading plans, which are so named for the relevant federal rule.

“It also would subject executives nationwide to retroactive liability based on state-by-state interpretations of a federal compliance mechanism, an outcome incompatible with the federal interest in uniform securities regulation,” he said.

Behre called the suit “an unwarranted expansion of the AG’s power” during a Friday interview with [Law.com](#) and the New York Law Journal.

A representative for the New York Attorney General’s Office didn’t immediately respond to a request for comment.

The removal marks the latest development in a lawsuit that has raised eyebrows amongst white-collar practitioners.

Insider trading cases are typically brought by the U.S. Department of Justice and the SEC. But in January, James announced an insider trading case against Kramer under the Martin Act, New York’s powerful securities fraud statute. An insider trading case [is not unprecedented for New York](#), but rare, with a law professor telling the Law Journal that most of the state’s few cases have ended in settlements.

James alleged that Kramer, who led Emergent when it entered into federal contracts to mass produce AstraZeneca’s COVID-19 vaccine, sold stock while sitting on nonpublic information on a contamination risk in a Maryland plant that compromised 15 million vaccine doses. In congressional testimony and in the notice of removal, Kramer argued that his trading plan was approved and put into effect before the manufacturing issues were known, and that he had followed the cooling-off period.

In the notice of removal, Kramer additionally stressed that the vaccines were produced under Operation Warp Speed, the U.S. multi-agency effort to fast-track the development and production of COVID-19 vaccines.

“Federal officials determined how Emergent’s capabilities would be utilized, including which vaccine programs would be developed and prioritized, when development and production would

be accelerated or paused, and how development challenges would be investigated, remediated, and communicated,” according to the filing.

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2/9/26 Akron Beacon J. (Ohio) (No Page)
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February 9, 2026

FirstEnergy president: HB6 isn't affecting electric bills | Opinion
FirstEnergy President Torrence Hinton responds to a recent Beacon Journal editorial.

Torrence L. Hinton, Guest opinion

I came to Akron 18 months ago to serve as president of FirstEnergy Ohio. I knew we had significant work ahead to rebuild confidence after a serious breach of public trust. That skepticism is understandable, and it comes through loud and clear in the Beacon Journal's Jan. 30 editorial, "Why are electric bills so high? Blame corruption."

More: Why are electric bills so high? Blame corruption | Editorial

In fairness, it must be noted that blaming rising energy costs on scandal is not supported by the facts. House Bill 6 was a serious issue and deserved accountability, but it is not a driver of today's electric bills.

Here is the truth: Rising costs are being driven primarily by higher wholesale electricity supply costs. In fact, supply costs – which make up the largest percentage of a customer's bill – rose by 63% in Ohio from 2021-2025.

These costs are set by competition and affected by things like fuel prices, how much electricity people need and how the economy is doing – none of which the utility can control. FirstEnergy Ohio does not own any generation and does not benefit from higher supply costs. This is an important issue to tackle, and regulators, policymakers and utilities around the country are working hard to address supply costs for customers.

More: How Ohio's massive tech tax breaks inflated electric bills | Editorial

Affordability is a real concern. It shows up in kitchen table conversations with families every day. That's why a huge part of our work is helping customers – we help them understand their bill and how to lower electricity use and connect families struggling financially with payment plans and assistance programs.

Within our own operations, FirstEnergy is taking every opportunity to squeeze out costs using technology, data and efficiency improvements. We're also carefully balancing investments in reliability with affordability as part of our strategic plan for Ohio's electric system.

We've committed to investing \$3 billion in Ohio's electric system through 2029 to strengthen reliability, reduce outages and improve restoration times. By carefully prioritizing the right projects, we're making smart, thoughtful investments that deliver the greatest impact and ensure every dollar goes where it matters most.

As we advance this long-term plan, it's important to clarify that our regulatory filings support – not weaken – our commitment to customers. The editorial gets our recent reliability filing wrong. The filing simply updates the standards for how long and how often outages happen so they match what Ohio customers are experiencing today after a three-fold increase in severe weather from 2020 to 2024. Our goals for performance haven't changed. Customers expect fewer outages and quicker repairs, and we do too.

More: FirstEnergy seeks longer turnaround time to resolve power outages

I know that trust in FirstEnergy is earned through performance, not words. I look forward to continuing a fact-based dialogue as we work together to provide reliable and affordable energy for this region that I'm now so proud to call home.

Torrence L. Hinton is the president of FirstEnergy Ohio.

This article originally appeared on Akron Beacon Journal: FirstEnergy president: HB6 isn't affecting electric bills | Opinion

---- Index References ----

Company: FIRSTENERGY OHIO PIRB SPECIAL PURPOSE TRUST 2013

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February 9, 2026

Jury can hear how HB 6 hiked electric bills in FirstEnergy bribery trial

Adam Ferrise; cleveland.com

AKRON, Ohio — Prosecutors can tell a jury in the FirstEnergy bribery trial that customers' electricity rates spiked because of the House Bill 6 scandal that erupted in 2019, a judge ruled.

Summit County Common Pleas Judge Susan Baker Ross made the ruling late Friday as the trial of former FirstEnergy CEO Chuck Jones and top lobbyist Michael Dowling headed into its second week. Brakey Energy President Matt Brakey, who testified Friday, will remain on the stand Monday.

Assistant Ohio Attorney General Matthew Meyer had argued in a prior hearing that the evidence was crucial to prosecutors' case that Jones and Dowling paid a \$4.3 million bribe to former Public Utilities Commission of Ohio Chairman Sam Randazzo.

Randazzo, who was charged in the case but took his own life in April 2024, gave favorable rulings worth millions to FirstEnergy and helped push for the passage of HB 6, which gave a \$1.3 billion ratepayer bailout to two aging nuclear power plants owned by a FirstEnergy subsidiary, prosecutors say.

Meyer had argued that the rate increase helped establish a motive for the bribe and that directly led to FirstEnergy making inflated profits.

Baker Ross' ruling limited prosecutors from directly telling jurors that their rates went up, but allowed the state to present evidence showing electricity bills spiked.

FirstEnergy last month agreed to pay \$275 million in restitution and penalties over its role in HB 6.

The judge also ordered that prosecutors could not point out for the jury the number of defense attorneys both Jones and Dowling are using. Court records list 19 attorneys total for Jones and Dowling, including several who are former federal prosecutors.

Baker Ross left nine other issues to be decided based on what evidence is presented at trial. These issues include whether FirstEnergy had a duty to disclose side deals it cut with trade groups represented by Randazzo before he was appointed to the PUCO and whether those side deals are evidence of a crime.

She mostly prohibited prosecutors asking witnesses if they ever invoked the Fifth Amendment protection against self-incrimination in testimony in any of the many investigations and lawsuits that stemmed from the HB 6 scandal.

---- Index References ----

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISSION

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Criminal Law (1CR79); Fraud (1FR30); Government Litigation (1GO18); Legal (1LE33); Social Issues (1SO05))

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February 6, 2026

'Shock' and 'greed': Takeaways from FirstEnergy bribery trial week one

Adam Ferrise; cleveland.com

AKRON, Ohio — The long-awaited trial of two former FirstEnergy executives accused of using millions of dollars in cash to bend a state regulator to their will kicked off in full force this week.

Former CEO Chuck Jones and senior vice president Michael Dowling have drawn scrutiny and public outcry for years stemming from the House Bill 6 scandal, a 2019 bill that gave a \$1.3 billion ratepayer bailout to two nuclear power plants owned by a subsidiary of the Fortune 500 company.

In a Summit County courtroom, starting this week, Jones and Dowling face charges of bribery, conspiracy and racketeering. Defense attorneys have long said their clients wanted their day in court.

The first week featured opening statements Tuesday and as of Friday, three witnesses testified in the prosecution's case led by the Ohio attorney general's office.

Prosecutors say the case is about greed. From the very start, prosecutors told jurors this case is simple. They say former FirstEnergy CEO Chuck Jones and top lobbyist Michael Dowling were driven by money. Prosecutors argue the men wanted to boost FirstEnergy's stock price and their own pay, and that led them to bribe a powerful state regulator. The state says the goal was to get rulings that helped the company and its struggling nuclear plants.

The \$4.3 million payment is the heart of the case. Nearly everything so far revolves around a \$4.3 million payment tied to Sam Randazzo, the former chairman of Ohio's Public Utilities Commission. Prosecutors say the money was a bribe meant to buy favorable treatment for

FirstEnergy. The defense says the payment was required under an earlier settlement and that Randazzo stole the money for himself.

The defense is blaming Randazzo. Defense lawyers are making Randazzo a central figure in their case. They describe him as a "conman" who stole money from clients, including a trade group he once represented. Their argument is that Jones and Dowling were victims of Randazzo's actions — not criminals.

FirstEnergy was under major financial pressure. Jurors heard that by 2016, FirstEnergy was in serious financial trouble because its aging nuclear plants were draining money. A former state regulator testified the company was close to having its credit rating downgraded to "junk" status. That could have raised costs and eventually hurt customers. Prosecutors used this testimony to explain why FirstEnergy was desperate.

The fight over evidence is intense. The trial has already seen heated arguments between lawyers, including a long courtroom fight over a single email. Prosecutors say the email helps show Dowling knew Randazzo was skimming money. Defense lawyers argue the email could confuse jurors and may not even have been sent or received. The judge has not yet ruled.

A client described feeling betrayed. Matt Brakey, who was part of a trade group of industrial and commercial business, said he trusted Randazzo for years. Brakey testified he was shocked and felt betrayed when he learned Randazzo stole from the trade group. That testimony focused on Randazzo's past — before he became a regulator — and painted a picture of broken trust.

Bottom line: The first week set the stage. Prosecutors are arguing this was a calculated bribery scheme driven by greed and financial stress. The defense says it was legal business gone wrong because of a dishonest attorney-turned regulator.

---- Index References ----

Company: OHIO, STATE OF; FIRSTENERGY CORP; FORTUNE 500, INC

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Fraud (1FR30); Social Issues (1SO05))

Industry: (Electric Utilities (1EL82); Energy & Fuel (1EN13); Nuclear Electric Power (1NU69); Utilities (1UT12))

Region: (Americas (1AM92); North America (1NO39); Ohio (1OH35); U.S. Midwest Region (1MI19); USA (1US73))

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February 7, 2026

Section: News

Witness calls Randazzo's FirstEnergy reaction 'odd'

Patrick Williams

February 7, 2026

FirstEnergy's Jones and Dowling are accused of setting up a bribe with Randazzo a few months before he became PUCO chair in 2019.

Assistant Ohio Attorney General Matthew Meyer is working to convince a jury that a former top utility regulator was a "bought-and-paid-for man" who had illegal behind-the-scenes dealings with ex-FirstEnergy executives Chuck Jones and Michael Dowling.

Asim Haque, a witness for the prosecution in Jones' and Dowling's ongoing criminal trial, testified about a meeting he had with Sam Randazzo in 2016, before Randazzo became chair of the Public Utilities Commission of Ohio.

Haque said Randazzo "expressed his displeasure" about the PUCO making a decision that didn't align with FirstEnergy's aims.

Haque, who himself was PUCO chair at the time, said he thought Randazzo — then a prominent energy attorney — "would have been more supportive of that decision than he was."

The decision that prompted Randazzo's reaction

In 2016, PUCO's five commissioners at the time, including Haque, granted only roughly 9% of the more than \$4 billion that FirstEnergy had previously requested that it add to its Ohio customers' bills, Haque said.

The PUCO decision, which Haque said elicited what he saw as an unexpected response from Randazzo, took the form of customer charges through what was called a "distribution modernization rider."

Later, in 2019, the Ohio Supreme Court struck down the rider. Then-Justice Michael Donnelly wrote that PUCO didn't protect FirstEnergy customers in the event that the charges weren't used to modernize the Akron-based utility's Ohio distribution system.

Haque said Feb. 4 that he found Randazzo's reaction "odd because he was expressing disappointment for a decision that did not benefit FirstEnergy and should have been more beneficial to his client than the previous decision that was made."

The Federal Energy Regulatory Commission reversed that previous decision, by PUCO, to approve a "power purchase agreement," or PPA. Haque said the PPA was more financially favorable to FirstEnergy than the later "DMR" decision.

FirstEnergy was in a precarious financial position at the time, Haque said. Haque said S&P and Moody's representatives told him FirstEnergy was going to get downgraded to junk.

As lawyer, Randazzo represented clients with different views

As a lawyer, Randazzo represented Industrial Energy Users of Ohio, a nonprofit trade group that consisted of large industrial users of electricity. Members of IEU-Ohio, now called the Ohio Energy Leadership Council, and FirstEnergy were often at odds about energy policy, Meyer said Feb. 3.

Jones and Dowling are accused of setting up a bribe with Randazzo a few months before Randazzo became PUCO chair in 2019. Randazzo was previously a defendant in the case but was removed as a defendant in 2024, after he died by suicide.

Haque, recalling the 2016 conversation with Randazzo, said, "He indicated to me that he thought I was at risk."

Meyer asked what that meant, and Haque said he thought Randazzo was referring to his career.

The prosecutor asked Haque what he thought about what Randazzo told him.

"I just found the conversation to be odd," Haque said.

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FirstEnergy's Jones and Dowling are accused of setting up a bribe with Randazzo a few months before he became PUCO chair in 2019.

---- Index References ----

Company: FIRSTENERGY CORP; UNITED STATES, GOVERNMENT OF; THE SUPREME COURT OF OHIO; INDUSTRIAL ENERGY SOLUTIONS

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Criminal Law (1CR79); Fraud (1FR30); Judicial Cases & Rulings (1JU36); Legal (1LE33); Social Issues (1SO05))

Industry: (Electric Utilities (1EL82); Energy & Fuel (1EN13); Utilities (1UT12))

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February 9, 2026

Section: News

Week 1 of FirstEnergy testimony concludes
Arguments underway in Jones, Dowling trial

Patrick Williams

February 9, 2026

"They wanted to sandbag the state at the 11th hour and throw out a critical piece of (evidence)." Matthew Meyer

Assistant Ohio Attorney General

Witness testimony began last week in the criminal trial of Chuck Jones, former CEO of Akron-based FirstEnergy, and Michael Dowling, ex-senior vice president of external affairs at the utility.

The two men are accused of bribing Sam Randazzo, a former chair of the Public Utilities Commission of Ohio.

The case is tied to the House Bill 6 scandal, which involved FirstEnergy funneling \$60 million in bribes through dark money groups to pass and defend subsidies for two nuclear power plants affiliated with FirstEnergy. Ex-House Speaker Larry Householder is serving a 20-year sentence in federal prison for his role in the scandal.

Here are five things that happened during the first week of the Jones-Dowling trial.

1. IEU-Ohio member says he took Randazzo agreement as 'shock'

On Feb. 6, Matt Brakey, a witness for the prosecution, said he took it as a "shock" to see an agreement that revealed to him that Randazzo was taking money from an energy industry trade group.

Brakey is president of Brakey Energy and a member of what was previously IEU-Ohio, now Ohio Energy Leadership Council.

Brakey said he "implicitly" trusted Randazzo when Randazzo represented the trade group as an attorney. The witness said Randazzo "commanded a room" and had, "as the kids would call it, 'aura.'"

Randazzo died by suicide in 2024.

Brakey recalled that he himself served in "figurehead positions" in IEU-Ohio leadership as Randazzo watched over the organization's finances and didn't provide access of those finances to the group's leaders.

Assistant Ohio Attorney General Matthew Meyer asked Brakey whether he tried to look at the books, and Brakey said he didn't because he thought everything seemed straightforward.

Prosecutors and defense attorneys disagree on whether money that Jones and Dowling had FirstEnergy send Randazzo was for a bribe or if it was a legitimate settlement between FirstEnergy and IEU-Ohio members that Randazzo then pocketed for himself.

2. Industry insider says

Randazzo's path to PUCO chair 'felt rather sudden'

Over the years, Brakey said he had "kind of pie-in-the-sky conversations" with Randazzo about Randazzo becoming PUCO chair.

Brakey said he remembered Randazzo expressing interest in working in academia and that he didn't think Randazzo saw a path to the PUCO position. Randazzo upset a lot of people and made enemies, Brakey said.

"It felt rather sudden" when that path appeared to open, Brakey said.

In December 2018, before Ohio Gov. Mike DeWine nominated Randazzo as PUCO chair, Jones and Dowling had a meeting in Columbus with then-Gov.-elect DeWine and then-Lt. Gov.-elect Jon Husted. Later that same night, the defendants met with Randazzo in Columbus.

DeWine and Husted favored Randazzo for the PUCO chair position, Meyer said in opening statements on Feb. 3.

DeWine and Husted, who is now a U.S. senator representing Ohio, are on the defense's witness list.

3. Defense alleges Jones, Dowling were tricked by Randazzo

Defense attorneys said in their opening statements Feb. 3 that Randazzo stole money from FirstEnergy. They said the more than \$4.3 million that the defendants directed the company send Randazzo was supposed to go to IEU-Ohio members.

Carole Rendon, an attorney for Jones, said that to obtain a conviction on any of the criminal counts that prosecutors have levied against her client, the state must show that he intentionally sought to corrupt Randazzo.

"That is the 'why' question that's at the heart of this case," she said.

4. Witness recalls Randazzo

had 'odd' reaction to

FirstEnergy decision

Asim Haque, a witness for the prosecution, testified about a meeting he had with Randazzo in 2016, before Randazzo became PUCO chair.

Haque said Randazzo "expressed his displeasure" about PUCO making a decision that didn't align with FirstEnergy's aims.

Haque, who himself was PUCO chair at the time, said he thought Randazzo — then a prominent energy attorney — "would have been more supportive of that decision than he was."

In a 2016 decision, PUCO's five commissioners at the time, including Haque, granted only roughly 9% of the more than \$4 billion that FirstEnergy had previously requested that it add to its Ohio customers' bills, Haque said.

5. Attorneys at odds

over evidence in trial

Attorneys are arguing over whether the judge in the case, Susan Baker Ross, should bar certain "critical" evidence from being presented.

The evidence relates to internal emails at the PUCO and testimony from a PUCO attorney examiner.

Meyer said the defense waited to argue about the evidence to give their clients an advantage.

"They wanted to sandbag the state at the 11th hour and throw out a critical piece of (evidence)," Meyer said.

**What's next in the
Chuck Jones-Michael Dowling
bribery trial?**

The case is expected to resume 1 p.m. Monday, Feb. 9, when the defense will continue its cross-examination of Brakey.

The case is expected to last a total of eight to 10 weeks.

Patrick Williams covers growth and development for the Akron Beacon Journal. He can be reached by email at pwilliams@gannett.com or on X [@pwilliamsOH](https://twitter.com/pwilliamsOH).

"They wanted to sandbag the state at the 11th hour and throw out a critical piece of (evidence)." Matthew Meyer

Assistant Ohio Attorney General

---- Index References ----

Company: FIRSTENERGY CORP; BRAKEY ENERGY INC

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Industry: (Electric Utilities (1EL82); Energy & Fuel (1EN13); Utilities (1UT12))

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News from Bloomberg Terminal

Feb. 9, 2026, 11:36 AM PST

By Matt Levine

(Bloomberg Opinion) --

The big game

Yesterday was the Super Bowl of American football, which is also the Super Bowl of American advertising, and also increasingly the Super Bowl of American sports gambling, in which traditional sportsbooks take on newer prediction markets. Prediction markets have the momentum. Bloomberg's Peyton Forte and Denitsa Tsekova reported on Saturday:

The bigger concern hanging over the [gambling] industry is the rise of prediction markets like Kalshi, which have come out of nowhere over the last year to offer a new way to bet on sports, bypassing the state-level gambling regulations that have restricted the spread of older gambling apps. ...

Part of the allure of Kalshi is that it is using its novel structure to open up betting on everything from the length of the half time show to the likelihood of Jeff Bezos attending the event, while DraftKings and FanDuel are almost exclusively focused on the scoring and outcome of the game.

"Kalshi's growth is fueled by ad campaigns, earned media, social virality and, above all, superior depth, breadth, and distribution compared to traditional online sportsbooks," analyst Edwin Dorsey wrote in one of several recent posts on Substack about why he is bearish on DraftKings.

And Justina Lee and Ira Boudway wrote last week:

Traders on Kalshi and its chief rival, Polymarket, have swapped more than \$800 million worth of contracts tied to the Super Bowl so far, compared with the \$1.8 billion Americans are expected to wager on the game through regulated sportsbooks, according to the American Gaming Association.

We've talked about this a lot: Prediction markets have increasingly become sports gambling sites, and compared to traditional sportsbooks they have a range of regulatory advantages. Sports gambling is illegal in some US states and heavily regulated in most others, but Kalshi is in theory federally regulated, so it's available everywhere and state regulators can't do much to stop it. And because prediction markets are in theory financial markets, not gambling, they might be available in your brokerage app. "An emerging asset class like event contracts," is how Robinhood described Super Bowl betting last year.

In particular, Kalshi has better access to one important demographic of sports bettors, which is college students. Most states that allow sports betting have age requirements, and usually you have to be at least 21 years old to bet legally at a sportsbook. But Kalshi, which is federally lightly regulated, allows 18-year-olds to open accounts and bet on sports. Young men seem to be the most active and addicted gamblers, so getting them three years early seems like a big advantage for Kalshi.

Prediction markets have two other interesting features compared to regular sportsbooks:

1. They are much less focused on *sports*: They'll let you gamble on all sorts of political and entertainment and financial topics, any sort of "event," not just sports. If you want to construct a complex multi-leg parlay on the Super Bowl, you might prefer a sportsbook. But if you are a casual fan/gambler and you want to bet on the winner of the game and *also* the first song of the halftime performance, you might prefer a prediction market.
2. They are at least technically peer-to-peer: At a sportsbook, you are betting against the house, while at a prediction market you are betting against other bettors. There's a winner for every loser.

One upshot of this is that bets at a sportsbook tend to be pretty easy to *resolve*. The sportsbook will tend to make clear rules about what counts as a win or a touchdown or whatever, and will resolve uncertainties swiftly and consistently and, you know, probably in its favor. But on a prediction market, with an infinite variety of possible events, and with any resolution being good for half the bettors and bad for the other half, sometimes you will get resolution disputes.

For instance, here is a Business Insider story about whether Cardi B performed at the Super Bowl halftime show:

That's the question that both Kalshi and Polymarket had to confront on Sunday night, after rapper Cardi B appeared at the Super Bowl halftime show as part of Bad Bunny's set.

Cardi B had no singing role, though she could clearly be seen dancing and mouthing words alongside singer Karol G and actors Pedro Pascal and Jessica Alba. ...

Polymarket has decided that it did count as a performance, though that decision has been disputed and is set for a final review later this week. ...

With Kalshi, things were less clear. ...

Due to the apparent lack of clarity, Kalshi invoked a rule that gives the platform sole discretion to settle contracts when there's an ambiguity not addressed by the rules.

Kalshi spokeswoman Elisabeth Diana told Business Insider in an email that the platform chose to settle the market at the last traded price, because Cardi B "was at the very least mouthing the words when dancing," but it's unclear "if she was singing," and it's "impossible to tell either way."

Will the US Commodity Futures Trading Commission weigh in? The Wall Street Journal recently profiled Polymarket founder Shayne Coplan, who calls his company a “global truth machine,” and I always think of claims like that when I read stories like this.

Eschatology derivatives

One set of things that you can bet on, in prediction markets, is events. You can bet on who will win the Super Bowl or who will win the election or when Timothée Chalamet will get engaged or, famously, whether Jesus Christ will return before 2027. We have talked about that one before, and I have explained it as largely a bet on interest rates, though I suppose it is also a bet on the Messiah. Conventionally the prices of these event contracts are described as “probabilities”: If a contract that pays \$1 if Jesus Christ returns trades at \$0.04, then that implies a 4% probability of His return, and people sometimes describe the price as “4%” rather than “\$0.04.”

Another set of things that you can bet on, in prediction markets, is *prices of financial assets*. You can bet on whether the price of Bitcoin will exceed \$70,000 this afternoon, or whether the S&P 500 index will close up or down today, or whether US housing prices will go up more than 2% this year. As we have discussed, these sorts of bets tend to be expressed as *binary options*, not continuous linear bets: The bet is not “I am long Bitcoin, and make a 10% return if Bitcoin goes up 10%,” but rather “I get \$1 if Bitcoin goes above \$70,000 and \$0 if it doesn’t.” This seems to me like a weird artifact of prediction market architecture, but it might also be *fun*. You might *like* an all-or-nothing bet more than you’d like, you know, a regular investment.

Another set of things that you can bet on is *other contracts*. For instance: You can bet on whether the price of that Jesus Christ contract will exceed 5% for a majority of the one-hour period just after midnight on Feb. 17, 2026. Here, the *underlying* asset is the will-Jesus-Christ-return contract, and this is a derivative contract – a binary option – that pays out based on the trading price of the underlying contract at a particular arbitrary time (not maturity). Your bet here is not about whether Jesus Christ will return, or even exactly about the *probability* that He will return. It’s just about the *price*. The price of a contract on a different Polymarket market.

Here is a claim that a well-known prediction markets trader might have *manipulated* that contract, by (1) buying the derivative contract and then (2) buying the underlying contract to push its price up to 5%, thus causing the derivative to pay off. This strikes me as unlikely – the measuring period for the derivative contract is a week away, so manipulating it now doesn’t really help – but what do I know.

On the other hand, I ask you, as a grown-up: What possible purpose could the “Jesus Christ return before 2027 Odds >5% February 17, 12-1 AM?” contract have *other* than as a plaything for market manipulation? I mean, we have joked around here about the underlying “Will Christ return” contract, and I suppose there are a few reasons you might trade that: genuine messianic beliefs, interest-rate and market-structure views, as a joke. But the derivative contract is pretty purely “I have gambled on Christ’s return and want a side bet that will resolve more quickly.”

Obviously one way to play it is to buy the derivative and then buy enough of the underlying contract to push the price up above 5% during the relevant measuring period. The other way to play it is to *sell* the underlying contract to people who are buying it to manipulate it. Here is an X post from a trader suggesting that: "People think manipulating this market to YES will be the likely outcome, but that's actually the trap. ... To win the DM [derivative market], a whale MUST manipulate the MM [main market] price up to 5.1¢+ and hold it there for 31 minutes. This forces them to become a 'price insensitive buyer.'" So you sell them as much of the main Jesus contract as you can for a guaranteed ¹ 5-cent return.

One point here is that derivative markets are *often* much smaller than the underlying markets, and that is the normal intuition: "The underlying market is real economic activity, while the derivative market is just some side bets." But that is not always true; it is not true of, for instance, Indian stock options, or Libor. And there is no reason for it to be true in the market for the return of Jesus Christ in 2026. There's no underlying real economic activity there; it's just side bets on side bets. Though right now I see the underlying market at about \$1.5 million of volume and the side-bet market at about \$122,000.

Anyway the main Messiah contract is up 50% year to date (from under 2% to about 4%), presumably mostly on these sorts of shenanigans but, you know, it does *feel* like end times?

Also the reader who sent me this proposed several section headers including "Messiah market manipulation" and "banging the Christ."

Claude ads

The Super Bowl also featured a ton of artificial intelligence ads. Everyone already knows this, but those Claude ads are so good. Absolutely note-perfect acting and writing to nail the uncaniness of AI, the stereotyped AI chatbot mode of interaction, the way that chatbots respond to questions with a pause followed by obsequious flattery.

One thing that the ads made me think about is how *cheap* Super Bowl advertising is, for an AI company. A Super Bowl spot costs something like \$10 million for airtime plus another few million to produce, for a total at the high end of maybe \$20 or \$30 million, or roughly the cost of paying one employee for one month at a leading AI lab. Mark Zuckerberg carries around \$30 million in his wallet in case he runs into an OpenAI engineer at Starbucks. The cost of creating a cutting-edge AI model – in compute and researcher pay – is astronomical in a way that makes the cost of *any* advertising, even Super Bowl advertising, look like nothing.

Modern AI models are used for lots of things, and have huge business applications, but obviously they are also a consumer technology. The Super Bowl really drove that home, with ads for AI products that tended to emphasize personal use. I am not sure that *the* way to succeed in AI is by widespread consumer adoption; frankly it would be weird if that were true. (The way to succeed in AI is, like, create a superintelligent robot and use it to conquer the world, etc.) But clearly some AI companies want widespread consumer adoption; we have talked about OpenAI's focus on chatbot user engagement over "original blue-sky research." It is *possible* that, in practice, the way to AI dominance is wide adoption by consumers, not building the best model.

Obviously building the best model is one way to consumer adoption, but at the levels we are currently at, I am not sure that consumers will be able to discern which models are better than others. And another way to consumer adoption might be ... advertising? Branding? Coke vs. Pepsi? Which is, you know, hard and expensive, but easier and cheaper than building good AI models. What if the winner of the AI wars is not the company with the best model or the most data centers or the smartest researchers, but the one with the best ads?

Crypto winter

Bitcoin has had a really bad couple of weeks, falling from about \$90,000 at the end of January to about \$70,000 today. We talked about this on Thursday, and I pointed out that what makes a crypto crash different from a stock-market crash is the lack of fundamentals. "Broadly speaking," I wrote, "a stock's price in the short term will reflect things like forced sales by its owners, but its price in the long term should reflect market expectations of the present value of its future cash flows." With crypto, you have to look elsewhere for explanations.

Here's a Wall Street Journal article titled "A New Crypto Winter Is Here and Even the Biggest Bulls Aren't Certain Why," though they wouldn't be, would they? (The biggest *bears* are quite certain why.) One theory is boredom:

Market theories for the selloff ranged from investors' pivot toward the prediction markets and other risky bets, to widespread profit-taking after a blistering bull run. ...

There is no shortage of other markets for traders to make audacious bets, said [Anthony] Pompliano, the CEO of ProCap Financial. Prediction markets, gold, silver, artificial intelligence and so-called meme stocks are all vying for their attention of late, drawing eyes away from crypto.

"It used to be that bitcoin was the consensus view where asymmetry existed," Pompliano said. "Now you have AI, prediction markets...many other areas where people can go and they can speculate."

This sort of rhymes with my "Boredom Markets Hypothesis," which says that the prices of speculative assets vary inversely with how many other fun things there are to do. If your theory of Bitcoin is "it is a thing to speculate on" then, you know, that has no scarcity at all.

And here is a Bloomberg News story about the crypto crash in which everyone is similarly confused:

"It felt like we were due to puke down to these levels at some point," said Jack Melnick, who works in digital assets and also trades his own funds. He says that the crypto market is searching for a story, "a bull case thesis," but that it will find one eventually.

"Eventually we'll figure out why we own this stuff," okay.

Elsewhere, someone emailed me to point out that Bitcoin's price seemed to be pinned near \$69,420 at various points over the past few days. (69 and 420 are meme numbers.) "Who could 1) be that immature and 2) have that much capital," my reader asked. I know the answer he was looking for, but the actual answer is "every single Bitcoin whale."

Tether

I used to think that Tether was a silly place to keep your money. You could, I thought, keep your money in a bank or a US dollar money market fund; those are regulated by the US government, hold your money in relatively safe and transparent places, and will let you use it for pretty normal payments. Or there was Tether, which put its money in truly insane places back in the day. Why would you want that? Why was it so popular with crypto traders? And then a crypto trader pointed out to me that, for a lot of people, being unregulated and secretive was a *feature* of Tether. "This account is regulated by the Federal Reserve and the Federal Deposit Insurance Corp." makes some customers feel safer, and makes some other customers feel much *less* safe.

That was a long time ago. Now Tether keeps its money mostly in reasonable safe places, has a certain amount of transparency, is buddies with regulators and does stuff like this:

On Jan. 30, Turkish authorities announced the freezing of more than half a billion dollars in assets owned by Veysel Sahin, who is accused of running illegal betting platforms and laundering criminal proceeds. An unidentified crypto company carried out the freeze at Turkey's request, Istanbul's chief prosecutor said.

That company was Tether Holdings SA, issuer of the \$185 billion stablecoin USDT – part of its recent push to aid governments around the world in crackdowns against crypto's use in a range of alleged crimes, from money laundering to drug trafficking to evading sanctions.

"Law enforcement came to us, they provided some information, we looked at the information and we acted in respect of the laws of the country," Tether Chief Executive Officer Paolo Ardoio said in a recent interview with Bloomberg News. "And that's what we do when we work with the DOJ, when we work with the FBI, you name it."

Presumably some Tether customers, or at least some former Tether customers, wish it was otherwise. Elsewhere in Tether:

Tether has expanded its eccentric venture capital portfolio and launched a hiring spree as it seeks to move beyond its roots as a secretive provider of crypto-financial plumbing and create a global conglomerate built around "freedom".

The world's largest stablecoin issuer has long been run by a small circle of executives, who manage its \$185bn token USDT, which serves as the main bridge between crypto and dollars.

The group, registered in El Salvador but with a base in Switzerland, has begun to deploy its large profits to build a sprawling portfolio that now spans 140 investments from a South American agricultural producer to a stake in Italian football club Juventus.

I guess they have to spend some of it on compliance now.

Audit fees

The big question in artificial intelligence economics is: If you are a company that sells some sort of knowledge-work service, will AI make you *more efficient*, or will it make you *worthless*? The bull case for, say, a consulting firm is that you can use AI to replace a lot of your expensive employees, cutting costs and providing better and faster consulting, increasing your sales and margins. The bear case is that your *clients* can use AI to replace *you*, cutting their costs and getting better and faster consulting, decreasing your sales and margins.

This creates a weird dynamic where knowledge-industry companies are simultaneously saying to their employees “you are all worthless and we will replace you with machines” and saying to their customers “oooh our employees are amazing and could never be replaced by machines.” I mean, not quite, not in so many words, but kind of. Anyway this seems like a weird move:

KPMG, one of the world’s largest auditors of public and private companies, negotiated lower fees from its own accountant by arguing that AI will make it cheaper to do the work, according to people familiar with the matter.

The Big Four firm told its auditor, Grant Thornton UK, it should pass on cost savings from the rollout of AI and threatened to find a new accountant if it did not agree to a significant fee reduction, the people said.

The discussions last year came amid an industry-wide debate about the impact of new technology on audit firms’ business and traditional pricing models. Firms have invested heavily in AI to speed up the planning of audits and automate routine tasks, but it is not yet clear if this will generate savings that are passed on to clients.

“Ehh auditing can basically be done by AI so why should we pay for it” is not a crazy thing for most companies to think, or to say to their auditors, but it is a crazy thing for an *auditing firm* to say to its auditor. KPMG should be paying Grant Thornton *more*. “In these crazy AI times, everyone needs to pay more for trusted human auditing; we’ll go first.”

Things happen

CLO captive equity. VC blended tranches. ‘They want their pound of flesh’: bank bosses push strict return-to-office mandates. Easy-Money Loans Backfire on Rookies in the Home Flipping Market. The Chinese ‘Auntie’ Investors Behind the Gold and Silver Frenzy. China Urges Banks to Curb Exposure to US Treasuries. Goldman Says Hedge Funds Add Record Shorts on US Stocks in Rout. Blue Owl Founders Pledged \$1.9 Billion Stake Before Stock Plunge. Alphabet Looks to Raise About \$15 Billion From US Bond Sale. Banks push for speedy European IPOs to cut market risk. FOMC Insight Engine. KKR Sees Arctos as Linchpin for Building a \$100 Billion Business. US embassy in London denies visas to executives over minor offences. Job Hunters Are So Desperate That They’re Paying to Get Recruited. The New Ways High Schools Are Teaching Teens About Money. Harvard Proposes Capping A’s to Curb Grade Inflation. Musk Shifts Focus to Moon as Mars Mission Remains Years Away. Pivot to AI.com.

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. Heh. Unless, you know, He returns.

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Securities

Manage Newsletters

Kyndryl Sinks as CFO Departs, Accounting Review Disclosed (1)

Feb. 9, 2026, 8:58 AM PST

Summary by Bloomberg AI

AI Generated



- Kyndryl Holdings Inc. announced key leadership exits, including Chief Financial Officer David Wyshner and General Counsel Edward Sebold, and a review of its accounting practices.
- The company received a voluntary documents review from the US Securities and Exchange Commission's division of enforcement and is reviewing its cash management practices and internal control over financial reporting.
- Kyndryl's stock fell after the announcements, which included a lowered full-year forecast and delayed filing of its quarterly report, prompting some analysts to downgrade the company's shares.

Shares of Kyndryl Holdings Inc., an International Business Machines Corp. spinoff, plunged Monday morning after the company announced key leadership exits and a review of its accounting practices.

The stock fell a record 57% before being briefly halted for volatility on news that Kyndryl Chief Financial Officer **David Wyshner** had left the position and that General Counsel **Edward Sebold** departed the post, effective immediately. On the same date, **Vineet Khurana** stepped down as senior vice president and global controller of the company and moved to a different role.

The enterprise technology company also said it received a voluntary documents review from the US Securities and Exchange Commission's division of enforcement. Kyndryl is reviewing its cash management practices, related disclosures including those regarding adjusted free cash flow, the efficacy of its internal control over financial reporting and certain other matters, according to a filing .



Also weighing on shares was the company's earnings report. Kyndryl's third quarter [results](#) missed expectations, and the company lowered its full-year forecast for both adjusted Ebitda and adjusted pretax profit.

Kyndryl said it does not anticipate the accounting review to impact financial statements, but will delay the filing of its quarterly report for the period ending Dec. 31. The company expects to report material weaknesses in the quarter, the full fiscal year ending March 31 and in the first two quarters of fiscal 2026.

"We are proactively addressing this matter and are developing a remediation plan that will be described in our 10-Q once it's filed," the company said in a statement.

Still, the announcements signal "mounting strain on a turnaround already under pressure," Bloomberg Intelligence analyst **Tamlin Bason** wrote in a Monday [note](#). "The company says financial statements won't change, yet governance, controls and credibility are in sharp focus, raising execution and confidence risks, especially as Kyndryl simultaneously trimmed full-year targets."

The news also prompted JPMorgan analysts to downgrade Kyndryl shares to underweight from overweight and lower their price target to \$16 from \$40.

"Today's negative guidance revision and stunning CFO change delays the turnaround, creating new questions across the thesis and forcing bulls to return to the drawing board. As a result, our thesis no longer holds, prompting us to downgrade the stock," the analysts wrote in a note, adding that the delayed 10-Q filing is a surprise.

The company has three buy ratings, two holds and one sell, according to data compiled by Bloomberg. The average price target of \$28 implies a roughly 170% upside from where shares currently trade.

Kyndryl additionally announced that, effective immediately, **Harsh Chugh** has been named interim chief financial officer. Meanwhile, **Mark Ringes** has been named interim general counsel and **Bhavna Doegar** has been named interim corporate controller, effective immediately.

IBM spun off a large portion of its legacy infrastructure services unit in 2021 to create the company. Kyndryl sales continued to make up a significant portion of IBM's revenue until IBM disposed of its stake.

(Adds analyst comment and details in paragraphs seven through 10.)

--With assistance from Lynn Doan.

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Securities

Ron Baron's Big SpaceX Bet Sidesteps SEC's Illiquid Assets Cap

Feb. 6, 2026, 9:15 AM PST

Ron Baron — a longtime Elon Musk investor and a newcomer to the exchange-traded fund universe — is already subverting norms in the \$14 trillion industry.

A peek under the hood of the Baron First Principles ETF (which trades under the ticker RONB) reveals a portfolio that, depending on the day, many thought to be impossible: one of its largest holding is SpaceX, a Musk-founded privately held rocket company, with a weighting that has vacillated between 11% and 22% in the past few weeks.

The stake often exceeds the 15% ceiling on illiquid assets that US regulations put in place for open-ended funds — a category that includes non-public equities.



Ron Baron

Photographer: Michael Nagle/Bloomberg

The reason why Baron Capital is able to do so boils down to a little-known fact about how issuers report their holdings to the Securities and Exchange Commission: fund firms determine the liquidity classifications of their holdings themselves, rather than US regulators doing so. While “illiquid” securities are capped at the 15% threshold, the other three categories — highly, moderately and less liquid — do not have percentage limits, according to Bloomberg Intelligence. Indeed, Baron Capital is classifying its SpaceX holding in RONB as “less liquid,” a spokesperson confirmed.

The RONB episode is blurring the traditionally held boundaries of the ETF wrapper. While the vehicle has expanded to markets such as commodities and cryptocurrencies, the lion's share of the industry's assets are concentrated in ETFs that hold publicly listed stocks and bonds. The introduction of private equity and credit has fanned fears about a liquidity mismatch between the underlying holdings and the ETFs themselves, which trade continuously throughout the day. Additionally, there are outstanding questions about how private securities are being classified — for example, while RONB may regard SpaceX shares as “less liquid” securities, other fund managers may treat them differently.

“If you're going to be a new entrant, maybe making a splash is a good thing — thinking from their perspective, it's a competitive marketplace and how do you stand out? Certainly this makes it stand out, for better or worse,” said Adam Sabban, Associate Director, Equity Strategies at Morningstar. “Having such a large stake in privates is rare, particularly when it's mostly in one company. Most funds are afraid to bet 15% on any stock, let alone a privately held one.”

RONB's Top Holding is SpaceX

The ETF classifies the private stock as `less liquid'

Security	Percent of Fund
SpaceX	18.0%
Tesla	13.0
Cash	7.3
MSCI	5.7
Spotify	3.6

Source: Bloomberg
Note: Data as of 2/6/2026.

Bloomberg

Baron Capital has been investing in SpaceX in its funds since 2017, and informed the SEC of its plan to classify the shares as “less liquid” given its history of transacting in the stock, according to a person familiar with the matter.

RONB is among just a handful of ETFs that hold private assets, though its exposure is by far the largest percentage weighting. The full list includes the \$1.7 billion ERShares Private-Public Crossover ETF (XOVR), which has a nearly 10% allocation to SpaceX through a special- purpose vehicle. Meanwhile, funds such as the \$500 million SPDR SSGA IG Public & Private Credit ETF (PRIV) devote a sliver of their portfolio to private debt.

While Baron Capital is new to ETFs, the bottoms-up stockpicking firm has cultivated a loyal following among its mutual fund investors since its founding in 1982. The asset manager is known for its early bets on Musk’s companies, which helped the Baron Partners Fund clinch the title of being the sole actively managed mutual fund to outperform the Nasdaq 100 over the five, 10 and 15 years through July 2023, according to Bloomberg Intelligence.

Leaning heavily into private companies such as SpaceX — which is combining with xAI into a larger entity in a deal valued at \$1.25 trillion as it reportedly looks to go public later this year — could help RONB become “the next active ETF star,” Bloomberg Intelligence senior ETF analyst **Eric Balchunas** wrote in a recent report. While the fund has fallen on a total return basis since its mid-December launch, investors have bought in nevertheless. Nearly \$100 million has flowed into RONB so far in 2026, bringing its total assets to \$161 million.



The SpaceX Starbase industrial complex and rocket launch facility in Boca Chica, Texas.

Photographer: Mark Felix/Bloomberg

However, those inflows have exposed a key drawback of private company-heavy ETFs: more money can lead to temporary dilution, given that private shares are more difficult to acquire than public stocks. The opposite is true with outflows: when faced with redemptions, its allocation to SpaceX may increase as the fund sells its more liquid holdings. In the case of RONB, while its SpaceX stake currently sits at about 18%, it stood at nearly 22% two weeks ago, data compiled by Bloomberg show.

“Creations and redemptions are being handled through liquid assets, though it does mean private positions can be diluted over time as the fund grows, which is a trade-off investors need to understand,” said Bloomberg Intelligence mutual fund analyst **David Cohn**.

Baron Capital's move to classify SpaceX as “less liquid” in order to bypass the 15% cap has yet to inspire copycats. While it may be that the “definition of illiquid is changing,” according to Ark Investment Management's **Cathie Wood**, her firm opted to go with the interval fund format to invest in private companies in order to exceed that threshold. The ARK Venture Fund counts private companies SpaceX, Figure AI and OpenAI among its top holdings.

Additionally, Ark has found that the executives of the private companies that the firm invests in have been reluctant to have their shares included in highly liquid ETFs, according to Wood.

"We have actually gone to some of our private companies, the one in the interval fund, saying 'Hey, we would love to add you into our ETFs because we think this is such an important story,'" Wood said on Bloomberg Television's ETF IQ. "We found over time that they have been reticent."

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SpaceX Investing Co. Sued In Del. Over Unlaunched Reports

By **Jeff Montgomery**

Law360 (February 6, 2026, 10:02 PM EST) -- A fund that pumped \$10 million into a company formed in 2022 with the sole purpose of investing in SpaceX sued Friday in Delaware's Court of Chancery for breach of contract, citing repeated failures to deliver required financial reports and observing that past demands have been met with documents stamped "Draft."

The suit, filed by Burton Equity LLC, said GenGlobal Opportunity III LLC existed solely to acquire SpaceX stock. Burton bought in, the complaint said, with an "express understanding and agreement" that funds received would secure "valid, marketable" shares of SpaceX.

Burton Equity alleged that repeated books and records demands produced limited results, including financial records stamped "Draft only."

"None of the records shared with plaintiff to date show whether the company currently owns any shares of SpaceX," said the complaint, which seeks delivery of four years of audited financial statements. Records provided, described as meager, "so far suggest" that GenGlobal improperly transferred funds received to a different company, GenGlobal Opportunity I, the complaint said.

Further digging determined that GenGlobal Opportunity III has never been a member of GenGlobal Opportunity I, the suit alleged, although both companies are owned and managed by General Global Capital LLC, with a separate Chancery books and records proceeding currently underway that is focused on the connections among the companies and Global Capital's owner and manager, Aemish M. Shah.

Shah, according to the complaint, contacted Burton Equity in mid-March, allegedly stating that records would be provided within a week, but the documents were never made available.

"Defendant's admitted failure to prepare and provide audited annual financial statements and continued refusal to do so is a knowing material breach of the company's operating agreement," the complaint said.

GenGlobal Opportunity III operates out of San Francisco, according to court documents. A filing by General Global Capital, GenGlobal's parent, said Shah owns 75% or more of General Global Capital, which in turn holds more than 40% of GenGlobal's capital interests, a stake valued at more than \$10 million.

Demands for audited financial statements have gone unanswered, despite assurances in some cases that a reply would follow "as soon as possible," according to the suit.

During a May 29 videoconference, Shah and an attorney were said to have admitted to having no audited financial statements and that none would be prepared "going forward."

The suit's call for a Court of Chancery order to deliver the four years of records included a request for reasonable expenses incurred in pursuit of the documents.

The parties did not respond to requests for comment or could not be reached on Friday.

Burton Equity is represented by Daniel A. O'Brien, Kostas D. Katsiris and Benjamin P. Argyle of

Venable LLP.

Counsel information for the defendants was not immediately available Friday.

The case is Burton Equity LLC v. GenGlobal Opportunity III LLC et al., case number 2026-0170, in the Court of Chancery of the State of Delaware.

--Editing by Melissa Treolo.

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NJ Judge Tosses Pacira Investor Suit Over Patent Loss

By **Jessica Corso**

Law360 (February 6, 2026, 9:19 PM EST) -- A New Jersey federal judge on Friday threw out an investor lawsuit against Pacira BioSciences Inc. after a court invalidated a patent for its key pain management drug, ruling that the pharmaceutical company was not required to disclose litigation setbacks it encountered before the final ruling.

U.S. District Judge Stanley R. Chesler dismissed the proposed class action lawsuit with prejudice, saying the lead plaintiff "incorrectly presumes" that Pacira needed to warn investors about the possible negative outcome of the lawsuit following a claims construction ruling that went against the company.

"Securities laws do not require issuers like defendants to characterize interim rulings or to concede defeat before a court has issued a ruling on the actual issue in the case," Judge Chesler said.

An attorney for the investors declined to comment, but a Pacira representative said the company was pleased with the ruling.

"Pacira is pleased with the court's well-reasoned opinion dismissing this case and remains focused on delivering innovative, non-opioid pain therapies that transform the lives of patients," Pacira counsel Kevin McDonough of Latham & Watkins LLP said in an email to Law360 on Friday.

Pacira was sued in 2025 by investors who claim that the company spoke positively about its chances of winning patent litigation it brought against eVenus Pharmaceutical Laboratories Inc. in 2021 and 2022, even after a judge issued a claim construction ruling that weakened Pacira's ability to defend the patent.

The lawsuits were filed after eVenus sought approval to market a generic version of Exparel, a non-opioid pain medication that accounted for 80% of Pacira's revenues during the class period.

In 2024, U.S. District Judge Madeline Cox Arleo **canceled Exparel's patent** and Pacira's stock price fell by 47% once the news hit the market, according to the lawsuit. Pacira eventually **entered a deal** with eVenus and others, allowing an Exparel generic to enter the market in 2030.

The company told Judge Chesler that statements it made about having a strong legal case were not false or misleading, given that they consistently warned investors about the possible negative outcome of the litigation.

Judge Chesler said Friday that he was "satisfied that defendants' statements are non-actionable forward-looking assessments or expressions of corporate optimism, and that defendants' disclosures adequately apprised investors of the pending litigation and potential risks arising from the same."

The investors are represented by Gonen Haklay and Jacob Goldberg of The Rosen Law Firm PA.

Pacira Biosciences is represented by Kevin McDonough and Jooyoung Yeu of Latham & Watkins LLP.

The case is Alvarez v. Pacira Biosciences Inc. et al., case number 2:25-cv-00322, in the U.S. District Court for the District of New Jersey.



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Chinese News App Beats Investor Suit Over Ad Revenue

By **Katryna Perera**

Law360 (February 6, 2026, 9:10 PM EST) -- Chinese news aggregation app Qutoutiao Inc. and its underwriters have beaten a consolidated investor class action accusing the company of illicit advertising activity following its initial public offering, after a New York federal judge found that the plaintiff does not have standing on all the asserted claims.

U.S. District Judge Victor Marrero issued an **order** on Thursday stating that, while lead plaintiff James Pappas has standing to bring claims against the defendants involved in Qutoutiao's IPO, he does not have standing to bring claims against the defendants who were involved in the company's secondary public offering.

Judge Marrero stated that Pappas plausibly alleges he suffered a monetary loss from his investment in Qutoutiao that can be traced back to the IPO.

However, Pappas did not purchase shares in the SPO, and therefore "his injury could not have been caused by the material misstatements and omissions made only by defendants involved in the SPO," the order states.

But Pappas' statutory standing to bring claims under Section 12(a)(2) of the Securities Act of 1933 — which involved the sale of securities through a prospectus — falls short since he did not purchase his shares in the IPO directly from the defendants, according to the order.

The judge further found that none of the challenged statements in the second amended complaint were false or misleading.

The first iteration of the suit — which claimed that Qutoutiao hid changes to its advertising policies that allegedly spurred fraudulent ads on the app and eventually caused the company's stock to decline — was **dismissed** in 2023 when a New York federal judge ruled that the claims were "wholly conclusory" and insufficiently pled.

U.S. District Judge Sidney H. Stein held that the investors' lawsuit didn't specify the magnitude of Qutoutiao's allegedly illicit advertising activity following the company's IPO in 2018, or that those ads accounted for more than a nominal amount of the company's revenue during the relevant class period.

Following the company's 2018 IPO at \$7 per share, Qutoutiao's stock saw a 128% surge in the share price, making its co-founder Eric Tan a billionaire almost overnight, according to the company's prospectus. But after a series of financial struggles, the stock plummeted, and in March 2023, Qutoutiao agreed to delist from the Nasdaq due to its inability to maintain the minimum \$1 per-share price, according to company press statements.

The suit claims that Qutoutiao misrepresented its ability to meet ad revenue targets with legitimate advertisers. The investors also allege that Qutoutiao replaced its advertising agent, Baidu, with another company, Dianguan, to bypass regulatory oversight and attract illegitimate advertisers to the platform that targeted consumers in low-income areas of China with false advertising.

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

Pappas is represented by Ivy T. Ngo, Velvel (Devin) Freedman and Richard Cipolla of Freedman Normand Friedland LLP, and Brian Schall of the Schall Law Firm.

Qutoutiao and the individual defendants are represented by George S. Wang of Simpson Thacher & Bartlett LLP.

The underwriter defendants are represented by Jonathan Rosenberg and Amber L. Covucci of O'Melveny & Myers LLP.

The case is In Re Qutoutiao Inc. Securities Litigation, case number 1:20-cv-06707, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Dorothy Atkins. Editing by Melissa Treolo.

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Antitrust Classes Certified Over Altria's Juul Investment

By **Matthew Perlman**

Law360 (February 6, 2026, 6:20 PM EST) -- A California federal court has certified several classes of Juul buyers in litigation over tobacco giant Altria's past investment in the e-cigarette company, despite concerns about the damages phase of the case becoming a "Frankenstein's monster."

U.S. District Judge William H. Orrick issued a **four-page order** Thursday certifying classes of direct and indirect purchasers of Juul products, saying a further order will provide the court's rationale for the decision.

The judge had provided the sides with a tentative decision granting certification before hearing **oral arguments** on the bid in October.

The case targets Altria's **2018 investment** in Juul, a \$12.8 billion deal for a 35% stake, which the buyers allege induced Altria to exit the e-cigarette market by shuttering its Nu Mark division. The Federal Trade Commission also challenged the agreement, but **dropped its case** in 2023 after Altria fully unwound its investment in Juul.

The buyers' case names Altria, Juul and two members of Juul's board, alleging the investment led to a reduction in the variety of products on the market and higher prices.

The direct purchaser class certified Thursday covers wholesalers and others that purchased e-cigarette products directly from Juul between Oct. 5, 2018, and the present. The court also certified several indirect purchaser classes, covering purchases of Juul pods, excluding devices, for personal use between Oct. 25, 2018, and March 29, 2024.

This includes a class of buyers from 27 states bringing claims under California's antitrust law, the Cartwright Act, as well as separate classes of buyers from states including Florida, Hawaii and Massachusetts.

The order certified several indirect reseller classes as well, for those who purchased Juul pods indirectly between Dec. 1, 2018, and March 31, 2025. These classes also include a multistate Cartwright Act class and separate classes of buyers from several states.

The judge did exclude buyers from Arkansas, South Carolina, Tennessee and Virginia from the indirect purchaser classes, saying those states do not allow class actions for the antitrust claims at issue.

Attorneys for Altria had raised concerns during the oral argument in October about certifying the indirect purchaser classes, saying differences could surface in how the court handles damages, creating a "Frankenstein's monster of different laws."

But the judge said in Thursday's order that the differences do not "trump California's interest in applying the Cartwright Act for purposes of determining liability," noting Juul was based in the state during the relevant period and negotiated the deal there. Any conflicts over the damages, the court said, could be addressed through jury instructions and other mechanisms post-trial.

Judge Orrick has sent claims from several buyers **to arbitration** based on the terms and conditions displayed on Juul's website. The judge also dismissed the buyers' **request for an injunction** in early

2024.

The buyers argued that even though the investment was unwound, there's still a risk of the companies reaching a similar agreement in the future. But the judge found an injunction would be unnecessary, especially given that Altria has made a **\$2.75 billion investment** in one of Juul's competitors, NJOY.

The judge's 2024 dismissal was without prejudice, leaving the door open for refiling if Juul and Altria enter into a partnership again.

Attorneys for the buyers and for Juul declined to comment Friday. Attorneys for Altria did not immediately respond to a request for comment.

The buyers are represented by Betsy C. Manifold, Kate M. McGuire and Thomas H. Burt of Wolf Haldenstein Adler Freeman & Herz LLP, Fred T. Isquith Sr. of Isquith Law PLLC, Merle C. Meyers and Michele Thompson of Meyers Law Group PC, Robin F. Zwerling and Justin M. Tarshis of Zwerling Schachter & Zwerling LLP, C. Andrew Dirksen of Cera LLP, Elana Katcher of Kaplan Fox Kilsheimer, Joseph Saveri, Itak Moradi, Ronnie S. Spiegel and David Seidel of the Joseph Saveri Law Firm LLP, John D. Radice of Radice Law Firm PC, and Michael M. Buchman of Motley Rice LLC.

Juul Labs is represented by David I. Gelfand, Jeremy J. Calsyn and Nowell D. Bamberger of Cleary Gottlieb Steen & Hamilton LLP.

Altria is represented by James M. Rosenthal, Jeremy S. Barber and Jenna P. Swarbrick of Wilkinson Stekloff LLP.

Nicholas Pritzker and Riaz Valani are represented by Mark C. Hansen, Michael J. Guzman and David L. Schwarz of Kellogg Hansen Todd Figel & Frederick PLLC.

The case is *In re Juul Labs Inc. Antitrust Litigation*, case number 3:20-cv-02345, in the U.S. District Court for the Northern District of California.

--Additional reporting by Bonnie Eslinger, Bryan Koenig and Jared Foretek. Editing by Lakshna Mehta.

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Beasley Allen Disqualified From NJ Talc Multicounty Litigation

By **George Woolston**

Law360 (February 6, 2026, 4:55 PM EST) -- A New Jersey state appeals court disqualified the Beasley Allen Law Firm from representing plaintiffs in multicounty litigation over Johnson & Johnson's talc-based baby powder, ruling Friday that a former Faegre Drinker Biddle & Reath LLP lawyer's collaborative efforts with the firm's attorneys violated ethics rules.

In a published **opinion**, a three-judge panel said that the association of James Conlan, who represented J&J as outside counsel in the talc litigation for two years, with Beasley Allen and firm attorney Andy Birchfield violated the state's rules of professional conduct around non-lawyers association with lawyers and a lawyer's duty to former clients.

The panel held that it is clear that Beasley Allen, Birchfield and Conlan violated Rules 1.9(a) and 5.3 of the Rules of Professional Conduct because they worked together over several months for the same common purpose — to resolve the talc claims — and that the settlement proposal is the same matter that Conlan worked on as outside counsel for J&J.

"Conlan's prolonged access to J&J's privileged information, followed by collaborative efforts with its most prominent adversary, leaves us with clear concern for the preservation of trust intrinsic to the attorney-client relationship," Judge Mark K. Chase wrote for the panel.

The panel reversed a lower court's ruling permitting Beasley Allen attorneys to **represent plaintiffs** in the multicounty litigation, and sent it back for an order disqualifying Beasley Allen.

Counsel for Birchfield and Beasley Allen said in a statement to Law360 on Friday that they will appeal to the New Jersey Supreme Court.

"We respectfully but vehemently disagree with the Appellate Division's opinion. This opinion not only intrudes upon and rejects the trial court's ruling on the facts in favor of Beasley Allen, but then proceeds to rewrite New Jersey's Rules of Professional Conduct. We will appeal to the Supreme Court of New Jersey, where we are confident that the trial court's ruling will be reinstated," said Jeffrey M. Pollock of Pollock Law LLC.

Erik Haas, worldwide vice president of litigation for J&J, said the panel's decision "appropriately emphasizes the seriousness of this violation and, if not redressed, the threat it poses to the integrity of the legal system."

"Today's precedential decision by the Superior Court Appellate Division confirms what was evident from the record: Beasley Allen's knowing and surreptitious collaboration with Johnson & Johnson's former lawyer was an egregious breach of the most fundamental ethical duties that govern our profession. 'Switching sides' against a former client does not present a close call — but rather a bright-line ethical prohibition recognized by every court, every ethics authority, and, frankly, every first-year law student," he said.

J&J has been pushing for Beasley Allen's disqualification from both the talc MCL and multidistrict litigation in New Jersey federal court since December 2023.

During a March 2024 plenary hearing on its disqualification motion, Haas testified that he was "utterly **shocked and appalled**" to learn the plaintiffs' counsel was working with Conlan. He had

testified that he worked closely with Conlan while he served as outside counsel for J&J from 2020 through March 2022, communicating with him directly to discuss the strategy for litigating the talc cases in New Jersey federal and state courts.

Conlan left Faegre Drinker in March 2022 to co-found Legacy Liability Solutions. Beasley Allen is among the leading firms representing plaintiffs in the New Jersey MCL and MDL accusing J&J of producing talc-based baby powder that caused ovarian cancer.

Beasley Allen and Birchfield have argued that J&J is blaming them for the company twice failing to address thousands of talc injury claims through a Chapter 11 filing, and that Conlan has never shared any confidential or privileged information to them.

Beasley Allen **asserted** last month that nothing in the record suggested he disclosed any confidential information. Under the 2011 New Jersey Supreme Court ruling in **O Builders and Associates v. Yuna Corp. of NJ** , a motion to disqualify must be based on evidence in the record, Pollock argued.

"Johnson & Johnson had a choice. If they want to demonstrate that Mr. Conlan had, in fact, shared information, they needed to prove it," he said during oral arguments before the panel.

Atlantic County Superior Court Judge John Porto sided with Beasley Allen in July 2024, holding that, without evidence showing Conlan shared confidential information, he cannot remove them from the case. While both parties did not dispute Conlan was privy to privileged and confidential information, he "is not a so-called side-switching attorney; he does not represent any MCL plaintiff and was never hired as an attorney at Beasley Allen," the judge said.

The appeals court disagreed. The panel held that because Conlan worked with Beasley Allen on the same matter, the focus should not have been on whether confidential information was revealed, but whether he would have violated RPC 1.9 had he been acting as a lawyer for purposes of RPC 5.3(c).

According to the opinion, Conlan acknowledged that had he been acting as an attorney, working with Beasley Allen would have been an ethics violation, and Birchfield testified that he could not have hired him as an attorney to work on the talc litigation.

"Therefore, it is acknowledged that had Conlan been acting as a lawyer, Conlan's conduct of collaborating in mediation and in developing a settlement of the talc claims with Beasley Allen against his former client J&J would have violated RPC 1.9(a)," the opinion said.

The panel further held that while Beasley Allen did not direct Conlan's conduct or seek to work with him, it ratified it by not stopping his actions.

"This was despite, as the trial court found, Beasley Allen having known since 2020 that Conlan represented J&J, its litigation adversary on the same issue, and previously negotiated on a settlement of these same talc claims with Conlan when he was outside counsel for J&J. That violation alone, were it the end of the inquiry, would result in the disqualification of Beasley Allen from the MCL," the opinion said.

J&J is also pursuing disqualification in federal court, asking U.S. Magistrate Judge Rukhsanah L. Singh to boot the firm from the MDL. In July, she **denied** J&J's request to remove the firm from the plaintiffs' steering committee, but directed the committee to select another firm to lead settlement discussions.

Judge Singh has yet to rule on the disqualification motion.

Birchfield and Beasley Allen are represented by Jeffrey M. Pollock of Pollock Law LLC.

J&J and LLT are represented by Peter G. Verniero of Sills Cummis & Gross PC, Stephen D. Brody of O'Melveny & Myers LLP, and Susan M. Sharko of Faegre Drinker Biddle & Reath LLP.

The case is In re: Talc-Based Powder Products Litigation, case number A-000215-24, in the Superior Court of the State of New Jersey, Appellate Division.



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Google, Meta Get A Jury In 1st Social Media Mental Health Trial

By **Craig Clough**

Law360 (February 6, 2026, 10:02 PM EST) -- A jury was seated Friday in the first California bellwether trial over claims that Google's YouTube and Meta's Facebook and Instagram platforms harm young users' mental health, with the trial to begin Monday in Los Angeles and Meta Platforms CEO Mark Zuckerberg expected to be one of the first witnesses.

Jury selection hit several roadblocks this week, as one of Meta's attorneys fell ill, causing the cancellation of two days of jury selection.

The process picked back up Thursday but had to be moved for the day when the courthouse on Spring Street had a water leak, from the regular courtroom of Superior Court Judge Carolyn B. Kuhl to another courthouse several blocks away.

Jury selection resumed Friday back in Judge Kuhl's courtroom, with various potential jurors being questioned during voir dire by attorneys who represent the plaintiff, known in the proceedings by her initials K.G.M., and attorneys from defendants Meta and Google, before a slate of 12 jurors and six alternates were picked for the highly anticipated trial.

TikTok Inc. and Snap Inc. were also named defendants in K.G.M.'s case but **reached settlement deals** recently, although those settlements do not resolve the 1,000 other consolidated personal injury cases in the Judicial Council Coordination Proceedings, or JCCP, pending before Judge Kuhl.

Jury selection began Jan. 27 with a panel of about 350 potential jurors. The first few days were focused on eliminating people for economic or other hardships before voir dire started on Jan. 30. At that point, attorneys from both sides questioned potential jurors on their possible biases for or against the defendant companies and against plaintiffs.

Opinions on the panel ran the gamut, with some expressing a dislike of Meta's Instagram or Google's YouTube, while others were fans of the platforms. Judge Kuhl eliminated some jurors for cause after they expressed a strong viewpoint on the trial or the parties, and each side was also had a set number of peremptory strikes.

One man who did not end up on the panel on Thursday said he deleted his Facebook profile around 2012 after he separated from his wife. Alone and living in a small apartment, he said looking at the apparently happy lives of his friends and former classmates left him depressed.

However, he added he is a "big fan" of YouTube.

On Friday, one woman eliminated by Judge Kuhl said she really didn't like Zuckerberg at all after seeing him in interviews and testifying before Congress.

"I don't trust him," she said

In October, Judge Kuhl **held** that Zuckerberg, Instagram CEO Adam Mosseri and Snap CEO Evan Spiegel must testify at the bellwether trial, although she would decide later about further testimony at any future trials. With the Snapchat maker settling before the trial, Spiegel will no longer be called to testify, according to plaintiffs' counsel.

One man who was eliminated by the judge Friday said he was raised in a strict family, and that it would be hard not to judge the parents of plaintiff K.G.M. for allowing their child to use social media at a young age.

K.G.M. claims that social media use, which she started at age 6, interfered with her sleep, contributed to her anxiety and depression and made her feel more insecure, among other alleged harms.

One man who said he is a retired camera operator from the film industry insisted he didn't have any opinions on social media or the trial.

"I'm an empty vessel," he said, earning him laughs from the courtroom. He ended up on the jury.

A parallel federal proceeding is pending in the Northern District of California, where parents, school districts and dozens of states similarly claim social media companies deliberately make children habitual users to the detriment of their mental health.

The plaintiffs are represented by Mariana A. McConnell of Kiesel Law LLP, W. Mark Lanier, Sarah Lanier and Rachel Lanier of The Lanier Law Firm, Rahul Ravipudi of Panish Shea Ravipudi LLP, Adam S. Davis of Wagstaff & Cartmell LLP and Joseph VanZandt of Beasley Allen Law Firm.

Meta is represented by Phyllis Jones and Michael Imbroscio of Covington & Burling LLP.

YouTube is represented by Luis Li and Lauren Gallo White of Wilson Sonsini Goodrich & Rosati PC.

The bellwether case is P.F. et al. v. Meta Platforms Inc. et al., case number 23SMCV03371, and the JCCP case is Social Media Cases, case number JCCP5255 and lead case number 22STCV21355, all in the Superior Court of the State of California, County of Los Angeles.

--Editing by Dave Trumbore.

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