

Class Actions

Antitrust Lawyers Accuse Tennessee Firm of Spreading Misinformation on \$5.5B Class Settlement With Visa, Mastercard

Robbins Geller Rudman & Dowd, Robins Kaplan, and Berger Montague said that over the course of six years, they have received numerous complaints from class members over the information that the Tennessee-based Betz & Baril has been providing on potential recoveries, legal fees and its role in the settlement.

February 10, 2026 at 05:53 PM By **Alyssa Aquino**



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Attorneys who negotiated a \$5.5 billion deal providing damages to merchants allegedly harmed by Visa and Mastercard's swipe fees are looking to remove Betz & Baril from the deal, alleging the firm—a third-party claims filer—has for years been spreading misinformation on the agreement.

Robbins Geller Rudman & Dowd, Robins Kaplan, and Berger Montague said that over the course of six years, they have received numerous complaints from class members over the information that the Tennessee-based Betz & Baril has been providing on potential recoveries, legal fees and its role in the settlement.

The attorneys further took Betz & Baril to task for the alleged misinformation spread by ClickFunds and other referral partners, which Robbins Geller claimed received minimal training or oversight from Betz & Baril.

“This is the seventh incident involving Betz & Baril that Class Counsel is aware of. The fact that this entity has been warned regarding some of these identical issues for more than six years indicates that sanctions are proper here,” the attorneys said in [a motion](#) filed in the Brooklyn federal court on Monday.

Representatives for Betz & Baril, ClickFunds and the class didn’t immediately respond to Tuesday's requests for comment.

The settlement arises from more than two-decade-old litigation brought by merchants who claim an antitrust conspiracy between Visa, Mastercard and their affiliate banks concerning interchange fees, the fees charged to merchants to process transactions.

The court is currently weighing a proposed settlement lowering swipe fees for five years and capping standard consumer rates. Major retailers and trade groups, such as the National Retail Federation and the Merchants Payments Coalition, have criticized the proposed fee reduction as insufficient.

But the sanctions motion concerns the related \$5.5 billion deal providing cash damages to the merchant class.

The attorneys alleged that, since the deal was struck in 2019, they have received various complaints from class members over information provided by Betz & Baril and its referral partners, including Betz & Baril’s legal fees.

According to the filing, the sanctions motion comes after the attorneys were informed in November that a class member had received false information on a payment amount, “a figure that at this time is not available to anyone.”

The attorneys later requested discovery, which revealed “significant sanctionable conduct.”

The discovery showed that Betz & Baril was aware that ClickFunds was giving class members incorrect information and that Betz & Baril was continuing to associate with them regardless, according to the motion.

The attorneys also claimed the discovery showed that Betz & Baril was incorrectly informing class members that they couldn’t be reimbursed for transactions conducted through Square.

“This likely cost class members significant recoveries,” according to the motion.

“The class member who was the original source of complaints had more than \$2.3 million in Square sales volume. There is no way to know how many clients of Betz & Baril may have had Square transactions that were not included in the total transaction amounts submitted to the administrator,” according to the motion.

They pressed the court to block Betz & Baril and ClickFunds from receiving any settlement benefits from class members who filed claims through them.

If the court grants the sanctions, the motion continued, Betz & Baril and ClickFunds must also disclose the reprimand to class member clients.

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News from Bloomberg Terminal

Feb. 11, 2026, 8:18 AM PST

Justin Bachman

(Industry Dive)

Dive Brief:

- Several large merchants, including Walmart, are asking a federal judge to schedule oral arguments before he rules on a proposed settlement to resolve decades of litigation with Visa and Mastercard over card interchange costs.
- The National Retail Federation and the Retail Industry Leaders Association wrote to U.S. District Judge Brian Cogan on Tuesday, requesting oral arguments on the merits of the pact, which was announced in November. Walmart made a similar request on Friday, followed by Circle K and the National Association of Convenience Stores on Monday.
- Separately, the class counsel in the litigation filed a motion Monday seeking sanctions against a Tennessee law firm, Betz & Baril, and ClickFunds LLC, a referral firm with which it worked. Both firms "repeatedly made misleading statements to class members," the motion said. A principal of the firm named in the motion, Jason Baril, did not respond to a message Tuesday at his office seeking comment.

Dive Insight:

Merchants sued Visa and Mastercard in 2005, arguing that they had overpaid interchange fees for years because of the networks' antitrust violations.

The proposed settlement would cut posted credit interchange rates by 0.1% for five years and impose a 1.25% rate for standard consumer cards for eight years. It would also give merchants the right to decline some higher-cost Visa and Mastercard-branded credit cards - a departure from the networks' "honor all cards" rule - and the ability to add surcharges on some cards.

The court record on the proposed settlement contains more than 200 pages of briefings and dozens of exhibits from the plaintiffs and card networks, Walmart noted in its letter. Objectors to the settlement have filed 37 distinct objections, "raising a host of discrete arguments," wrote Jesse Panuccio, an attorney for Walmart.

"Oral argument would help the Court cut through that extensive paper record to the core of the issues presented," Panuccio wrote.

Additionally, "the parties' disregard for Walmart's concerns during this round of negotiations highlights the need for Walmart to have a fair chance to present its case," he added.

A court hearing would allow the retail trade associations "to more fully participate in a process to which they have been inappropriately shut out," Debra Greenberger, an attorney for the NRF and RILA, wrote Tuesday in a letter to Cogan.

"If the Court is considering preliminarily approving a settlement that binds the largest class of merchants in history, we respectfully submit that the Court should hear the perspective of the broad range of merchants represented by the Merchant Trade Groups, rather than rely on the five small businesses that are the Named Plaintiffs," Greenberger said.

The merchants also noted that U.S. District Judge Margo Brodie, who was previously assigned the case, heard oral arguments before her June 2024 ruling that rejected a prior settlement.

In the sanctions issue, class attorneys are asking Cogan to prevent Knoxville injury law firm Betz & Baril and ClickFunds from receiving any funds related to clients they signed up to collect claims from a settlement. They also want the court to order the firms to alert class member clients that they've been sanctioned, and to pay legal fees and costs.

According to the motion, Betz & Baril failed "to properly train and monitor agents" that dealt with merchants - including telling some how much they were subject to receive from the interchange settlement.

"The proposed sanctions are tailored to least affect innocent class members, but harsh enough to, it is hoped, finally have all false and misleading conduct cease," wrote Alexandra Bernay of San Diego law firm Robbins Geller Rudman & Dowd, the class counsel that's overseeing claims and filed the sanctions motion.

Betz & Baril has until Feb. 23 to respond to the motion.

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Door manufacturer hid acquisition bids before stock repurchases, shareholder says

2026 SECDBRF 0606 • By Andrew Allard

WESTLAW Securities Enforcement & Litigation Daily Briefing • February 11, 2026

(February 11, 2026) - Masonite International Corp. and two executives concealed multiple offers to acquire the company at a significant premium over its stock market price before repurchasing millions of dollars of shares, an investor says in a New York federal court lawsuit.

Central Illinois Carpenters Health & Welfare Trust Fund v. Masonite International Corp. et al., No. 26-cv-1052, *complaint filed* (S.D.N.Y. Feb. 6, 2026).

Masonite repurchased about \$25 million of its own shares from investors while secretly negotiating a sale of its outstanding stock to building materials company Owens Corning, according to the suit, filed Feb. 6 in the U.S. District Court for the Southern District of New York.

Masonite, CEO Howard C. Heckes and Chief Financial Officer Russell T. Tiejema also concealed negotiations to acquire building materials company PGT Innovations Inc., the suit says.

'Playing both sides'

Masonite is a Florida-based designer and manufacturer of interior and exterior doors.

The Central Illinois Carpenters Health & Welfare Trust Fund alleges Masonite kept investors in the dark between June 2023 and February 2024 while it was "playing both sides" in negotiations to sell the company to Owens Corning or acquire PGT Innovations.

Heckes met in June 2023 with Owens Corning CEO Brian Chambers, who proposed buying all outstanding Masonite shares for \$120 apiece, the suit says.

Masonite's board rejected the offer the following month but told management it would consider a higher proposal, the suit says. Owens Corning then made a second offer at \$128 per share, the complaint says.

The company shared some strategic and financial information with Owens Corning as negotiations progressed but continued hiding the deal from investors, according to the complaint.

Tiejema then told investors in an August 2023 earnings announcement that Masonite had repurchased \$14 million of its shares at an average price of \$90.58, the suit says.

Masonite also approached PGT Innovations in October 2023 to discuss a potential acquisition offer, according to the complaint.

Although negotiations with Owens Corning and PGT Innovations remained nonpublic, Masonite repurchased \$17.4 million of its shares in the third and fourth quarters of 2023, the suit says.

The company finally reached an acquisition agreement with Owens Corning in February 2024 and announced the deal Feb. 9, 2024, in a press statement, the complaint says.

Masonite's stock price "skyrocketed" to \$130.51 following the announcement, a 35.1% increase, according to the complaint.

The fund, represented by Mario Alba Jr. of [Robbins Geller Rudman & Dowd LLP](#), claims the defendants violated the anti-fraud and control person provisions in Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, [15 U.S.C.A. §§ 78j\(b\) and 78t\(a\)](#), and Rule 10b-5 thereunder, [17 C.F.R. § 240.10b-5](#).

It seeks unspecified damages, interest, costs and class certification.

By Andrew Allard

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Attorney profiles

Samuel H. Rudman, Mario Alba Jr. and Jonathan A. Ohlmann; Robbins Geller Rudman & Dowd
LLP for Plaintiff

Companies

Masonite International Corp.

Securities

UniQure Investor Sues Over Delayed Huntington's Drug Application

Feb. 10, 2026, 4:52 PM PST

uniQure NV led investors to believe it would garner accelerated regulatory approval for its treatment of a neurodegenerative disease before casting doubt on its application timeline, a proposed class action said.

uniQure's touting of topline results for its study in September caused the stock price to pop, but it soon crashed on news the Food and Drug Administration didn't find the clinical data sufficient to be the backbone of its biologics license application, said the complaint filed Tuesday.

The gene therapy company followed the share price jump with a public offering, reaping \$345 million in proceeds while misrepresenting its application timeline, the investor told the US District Court for the Southern District of New York.

uniQure told investors the FDA had agreed a study of AMT-130 to slow progression of fatal Huntington's disease would not need a placebo for comparison, and that rather results could be compared to an external data set, the suit said. That analysis could be the basis of its FDA application, the company told investors, Christopher Scocco said.

The company and executives repeatedly assured investors the FDA supported this procedure, Scocco said.

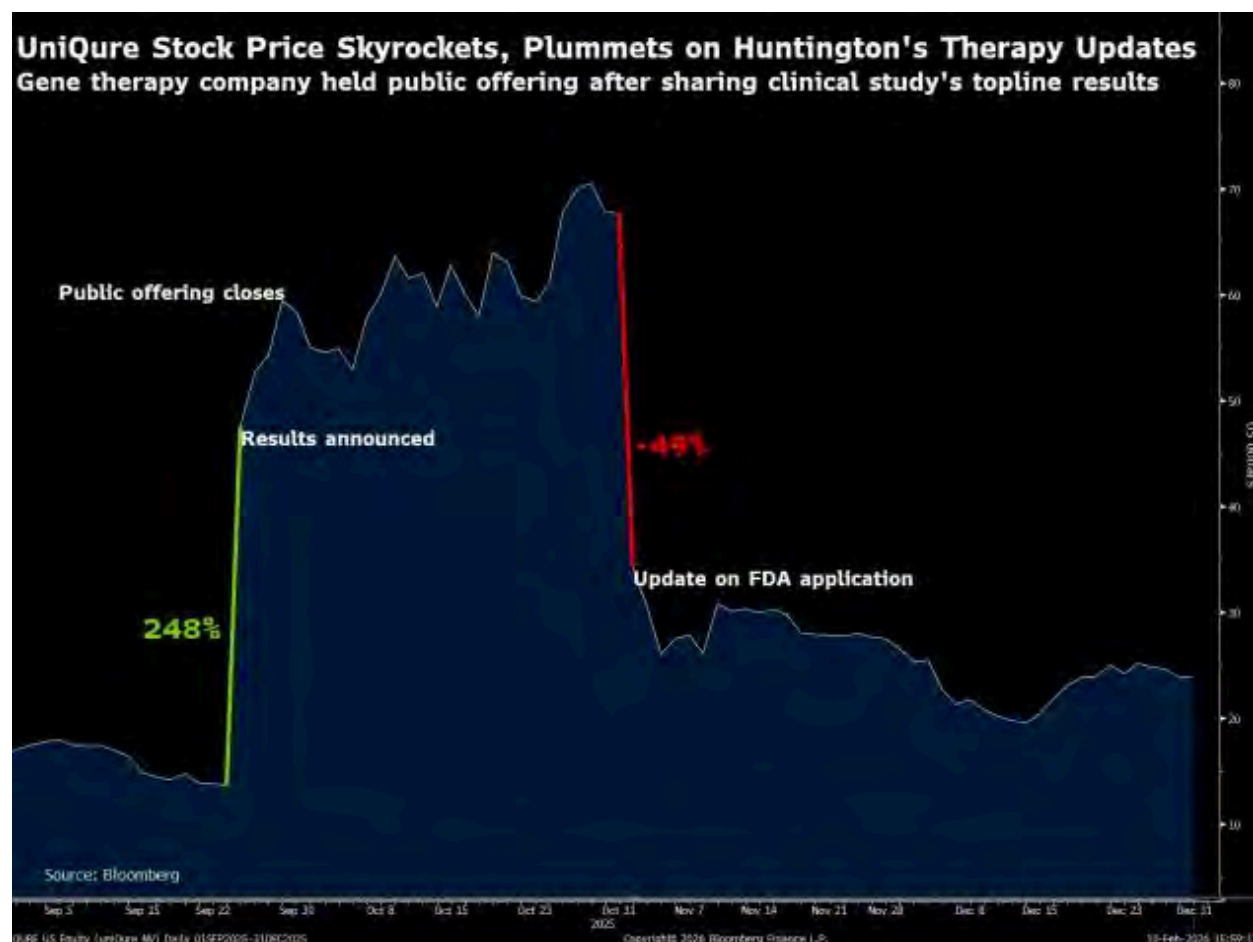
uniQure touted topline results of the study on Sept. 24. Based on this and a related call the same day, "investors were led to believe that there was a high likelihood that AMT-130 would receive accelerated approval from the FDA after the Company's planned BLA submission in the first quarter of 2026," he said.

Its share price jumped almost 248% that day, and uniQure held a public share offering that closed on Sept. 29.

But on Nov. 3, uniQure said the FDA no longer agreed data from the study compared to the external data set "may be adequate to provide the primary evidence in support of a BLA submission," potentially disrupting its application timeline.

Its share price fell more than 49% that day, then its biggest one-day drop on record, according to data compiled by Bloomberg.

The proposed class aims to cover those who acquired uniQure shares from Sept. 24, 2025, through Oct. 31, 2025.



uniQure said in January it was scheduled to discuss with the FDA its data package for the application to support accelerated approval of AMT-130.

Kessler Topaz Meltzer & Check LLP represent Scocco, who seeks damages for alleged 1934 Securities Exchange Act violations.

A uniQure spokesperson didn't immediately respond to an email seeking comment.

The case is Scocco v. uniQure N.V., S.D.N.Y., No. 1:26-cv-01124, complaint filed 2/10/26.

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Digital Asset Treasury Companies Present New Shareholder Litigation Risks

Dan Roeser discusses digital asset treasury companies and concludes that this area of shareholder litigation including claims against DATs is "one to watch in 2026."

February 11, 2026 at 09:05 AM By **Dan Roeser**



Photo illustration Jason Doiy/ALM

Digital asset treasury companies (DATs) are domestic and international publicly traded companies with a business strategy that includes the use of the corporate treasury to accumulate digital assets.

DATs became increasingly popular throughout 2025 as their market capitalizations at times reflected a nearly 2x premium to the market values of their digital assets (*i.e.*, market

capitalization was nearly \$200 for every \$100 of digital assets). In recent months, however, the trend has reversed.

For some DATs, their market capitalizations now reflect a discount to the market values of their digital assets (i.e., market capitalization is less than \$100 for every \$100 of digital assets).

This development may increase DATs' risks of shareholder litigation, such as (1) putative securities class actions by investors challenging disclosures as false or misleading under Section 10(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Rule 10b-5 promulgated thereunder and (2) putative shareholder derivative actions by investors challenging the corporate actions of DATs' directors and officers as breaches of fiduciary duties.

Background

In 2025, as digital asset prices rose, investors' interest in digital assets grew. Many began to explore new instruments through which investors could gain exposure to the digital asset market generally and certain digital assets specifically.

DATs, as well as digital asset exchange traded funds, offered institutional and retail investors familiar, traditional financial instruments through which they could invest in digital assets. Demand for such instruments increased; and publicly traded companies began changing their business strategy to include the accumulation of digital assets.

To execute their business strategy, DATs raised money from investors—usually through private investment in public equity ("PIPE") transactions, but also through registered equity and debt offerings. DATs then used the cash from those transactions to buy digital assets for their corporate treasuries and to finance their existing operations.

The most common financial metric used by investors to evaluate a DAT is market-to-Net Asset Value ("mNAV"). mNAV measures a DAT's enterprise value relative to the net asset value of its digital asset holdings.

More specifically, mNAV is the ratio of a DAT's enterprise value—measured as the DAT's market capitalization plus debt less cash—to the market value of the DAT's digital assets. mNAV quantifies for investors whether and to what extent a DAT's market capitalization exceeds the value of its digital assets.

For a DAT with an mNAV greater than 1.0, its market capitalization reflects a premium to its digital assets. For a DAT with an mNAV less than 1.0, its market capitalization reflects a discount to its digital assets.

Throughout much of 2025, DATs' mNAVs were greater than 1.0. As mNAVs have decreased—and even fallen below 1.0—DATs' shareholder litigation risks have increased.

Shareholder Litigation Risks

In 2025, shareholders filed complaints against Strategy and DeFi Technologies, two early DATs that adopted their business strategies several years ago. These complaints teach lessons about the shareholder litigation risks that more recent DATs may face.

Strategy Shareholder Litigation: Strategy provides enterprise analytics software and services that use artificial intelligence. In 2020, Strategy began moving to a DAT business strategy. Strategy primarily uses proceeds from equity and debt financings, as well as cash from operations, to accumulate bitcoin.

Through the end of 2024, Strategy accounted for its bitcoin using a cost-less-impairment methodology, under which Strategy recognized impairments only in the event of bitcoin price decreases.

On Jan. 1, 2025, Strategy adopted Accounting Standards Update No. 2023-08, which requires publicly traded companies to assess their digital assets at current fair market value.

In April 2025, Strategy disclosed a \$5.91 billion unrealized loss on bitcoin in Q1 2025 as a result of applying a fair value accounting methodology to its bitcoin holdings following bitcoin's decline in value. That led to the filing of a securities class action complaint, *Hamza v. MicroStrategy Inc.* (E.D. Va. filed May 16, 2025), and a shareholder derivative complaint, *Parmar v. Saylor* (E.D. Va. filed June 16, 2025).

The securities class action complaint asserted claims under Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder for securities fraud and Section 20(a) of the Exchange Act for control person liability.

The complaint alleged that Strategy failed to disclose that (1) the anticipated profitability of its bitcoin-focused investment strategy and treasury operations was overstated; (2) the risks associated with bitcoin's volatility were understated; and (3) the magnitude of the losses that the company could recognize on the value of its digital assets following the adoption of Accounting Standards Update No. 2023-08 was understated.

The shareholder derivative complaint asserted claims for breaches of fiduciary duties, unjust enrichment, abuse of control, gross mismanagement, and waste of corporate assets.

The complaint made a series of disclosure-related allegations: (1) the risks to and impact on the company's finances of the adoption of new accounting standards were understated; (2) the risks

from bitcoin's volatility were understated; and (3) the company's profitability when applying its bitcoin-driven investment strategy was substantially overstated.

The complaint also made a series of conduct-related allegations: (1) the defendants caused the company to fail to correct false and misleading statements and omissions of material fact; (2) the defendants caused the company to fail to maintain adequate internal controls; and (3) the defendants engaged in insider sales of the company's common stock totaling more than \$30 million while the price of the stock was artificially inflated.

Both the securities class action complaint and the shareholder derivative complaint ultimately were dismissed voluntarily.

DeFi Technologies Shareholder Litigation. DeFi Technologies is a technology company and DAT. The company's five business segments include DeFi Alpha, an arbitrage trading desk designed to identify and capitalize on low-risk arbitrage opportunities within the cryptocurrency market.

DeFi Technologies allegedly assured investors that DeFi Alpha drives the company's revenues and highlighted arbitrage trades by DeFi Alpha and revenues that those trades generated. The company also allegedly told investors that DeFi Alpha mitigates revenue volatility.

When it reported financial results for Q3 2025, DeFi Technologies disclosed a revenue decline of nearly 20 percent and reduced its revenue forecast for 2025 by more than \$100 million as a result of "a delay in executing DeFi Alpha arbitrage opportunities previously forecasted due to the proliferation of [DAT] companies and the consolidation in digital asset price movement in the latter half of 2025."

DeFi Technologies' financial results and revenue forecast led to the filing of a securities class action complaint, *Linkedto Partners LLC v. DeFi Technologies Inc.* (E.D.N.Y. filed Dec. 1, 2025).

The complaint asserts claims under Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder for securities fraud and Section 20(a) of the Exchange Act for control person liability.

The complaint alleges that DeFi Technologies failed to disclose that the company (1) was facing delays in executing its DeFi Alpha arbitrage strategy; (2) had understated the competition from other DATs and the extent to which competition would affect negatively the company's ability to execute its DeFi arbitrage strategy; and (3) as a result, was unlikely to meet its revenue guidance for 2025. The case is pending.

The complaints filed against Strategy and DeFi Technologies reflect the types of shareholder litigation risks that DATs may face in the future, which include claims related to:

- Revenue guidance;
- Profitability of the business strategy and operations;
- Impact of competition from other DATs on the ability to execute the business strategy;
- Risks associated with the volatility of digital asset holdings;
- Adequacy of internal controls; and
- Insider sales of common stock at artificially inflated prices.

The securities plaintiffs' bar likely will become more active in bringing these sorts of claims against DATs—including putative securities class actions and putative shareholder derivative actions—which makes this area of shareholder litigation one to watch in 2026.

Dan Roeser *is a senior partner at Goodwin and Proctor in the firm's securities litigation and white collar defense group.*

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Securities

Fox Factory Prevails in Covid-19 Bike Demand Investor Suit Again

Feb. 10, 2026, 4:02 PM PST

Fox Factory Holding Corp. ended with finality allegations it misrepresented continued demand for its bicycle and specialty vehicle parts following Covid-19, after a federal judge said the lead investor's attempt to replead was deficient.

Investor Ryan Marselis' repleaded complaint failed like a prior one, given he "returned with mostly cosmetic changes," Judge Thomas W. Thrash Jr. said. Marselis again failed to adequately allege any of Fox Factory's statements were misleading because he lumped them together, the US District Court for the Northern District of Georgia judge said, ordering the case closed Tuesday.

Marselis' "pleadings have improved" but they still don't meet heightened pleading standards for securities fraud claims because he "fails to identify why *each individual statement* made by the Defendants is false," Thrash said.

His second amended complaint included more facts to support his allegations of false and misleading statements about demand for Fox Factory's products, and contained "less boilerplate language," he said. But Marselis still left the court to guess which specific statements were allegedly misleading and to what degree, among other things.

"Instead of generalized explanations applied to statements made chronologically, the generalized statements are now constrained by each topic within the Second Amended Complaint to give the appearance of tailored reasoning," Thrash said. "This is not enough to adequately plead a violation of securities law."

Thrash's prior dismissal order similar chastised Marselis for grouping together alleged misstatements. Rather than alleging how specific Fox Factory statements were misleading or wrongfully omitted information about end-user buying, customer demand, and inventory levels, Marselis left Thrash to "speculate based on three reasons that are repeated almost verbatim for numerous statements spanning across several quarters," he said in last year's order.

During 2020 lockdowns, bike and outdoor vehicle demand skyrocketed, meaning manufacturers and sellers ordered a lot more product from Fox Factory, Marselis' suit said. As consumer demand began waning in 2021, Marselis said Fox Factory and executives misleadingly assured investors that demand remained strong.

Marselis sought to represent a class of investors who acquired Fox Factory stock from May 6, 2021, through Feb. 22, 2024, according to his second amended complaint.

On that day, Fox Factory reported a year-over-year decrease in net sales for the fourth quarter of 2023 and full year. Its stock price dropped almost 27% the next day.

Scott+Scott Attorneys at Law LLP, the Schall Law Firm, and Georgia-based Evangelista Worley LLC represent Marselis. Squire Patton Boggs (US) LLP represents Fox Factory and current and former executives. Scott+Scott, the Schall Law Firm, Squire Patton, and Fox Factory didn't immediately respond to emails seeking comment.

The case is Marselis v. Fox Factory Holding Corp. , N.D. Ga., No. 1:24-cv-00747, dismissed 2/10/26 .

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Class Action

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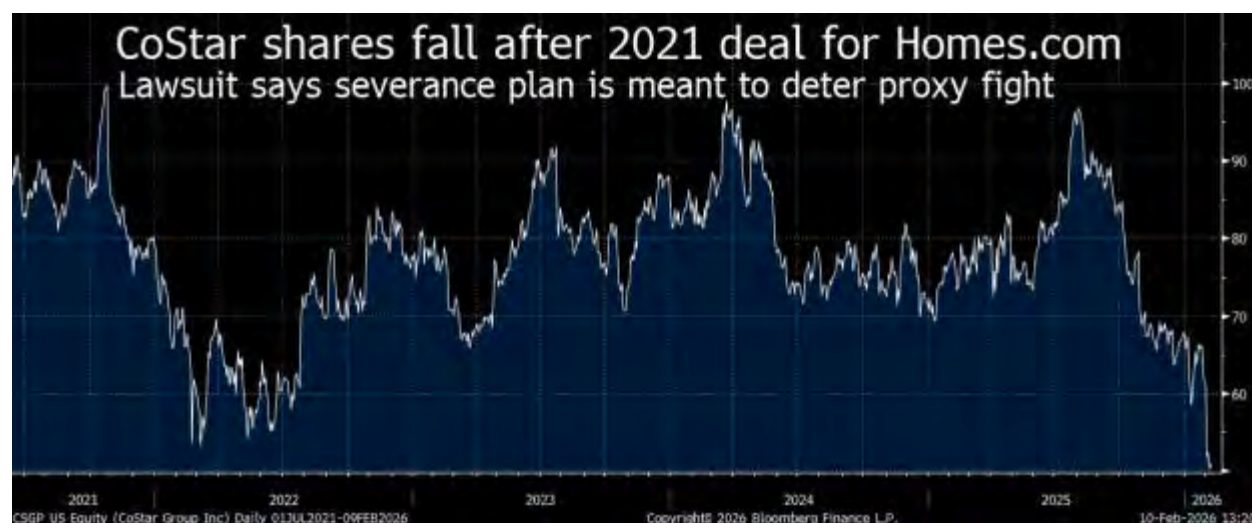
CoStar Investor Sues Over Golden Parachutes as Proxy Fight Looms

Feb. 10, 2026, 11:06 AM PST

CoStar Group Inc.'s leaders gave themselves a potential \$100 million golden parachute in an effort to rig their fight against hedge funds challenging the company's "disastrous" foray into residential real estate, a lawsuit alleged Tuesday.

A retail shareholder is targeting the severance plan in Delaware's Chancery Court, saying it reflects an attempt to manipulate an upcoming proxy battle led by Third Point LLC. That firm and another activist fund, DE Shaw Group, have assailed the data firm's investment in the Homes.com platform, which it acquired in 2021.

CoStar shares have plunged nearly 50% since their peak that year as the company sank billions into its Homes.com pivot, the suit says. Meanwhile, the broader S&P has roughly doubled.



The legal complaint comes two weeks after the Jan. 27 expiration of a standstill agreement between the company and the funds, which ended an earlier round of hostilities last year. CoStar already had in place severance provisions for mergers or takeovers, but the dramatically expanded circumstances triggering the payouts—adopted three weeks before the standstill lapsed—are aimed at scaring investors out of voting for a fresh board slate, according to the filing.

"The company faces no cognizable threat from the potential replacement of a majority of the board," the lawsuit says. "The severance plan is merely an inequitable and unreasonable attempt to disenfranchise CoStar stockholders."

CoStar general counsel Gene Boxer called the lawsuit meritless in a statement Tuesday.

"The board unanimously adopted customary severance provisions for very good reasons, including to maintain management continuity and protect shareholder value," Boxer said. "The provisions certainly do not prevent any stockholder from nominating or voting for any board nominee. We look forward to correcting the record in court."

Bad Blood

Even by the standards of Delaware's elite business tribunal—which is regularly called on to intervene in corporate feuds and police boardroom bad blood—shareholder activism disputes tend to surface exceptional acrimony as the dueling sides wage a two-front battle for legal advantage and investor votes.

Recent cases pitting incumbent directors against insurgent investors include Elliott Investment Management LP's lawsuit targeting the Phillips 66 board, a bid by Alcon Research LLC to block Aurion Biotech Inc.'s public listing, and a fight involving Masimo Corp., its founder, and Politan Capital Management LP, among many others.

The CoStar litigation—a proposed class action filed by a retail investor, rather than a direct confrontation between the board and its foes—falls a rung lower on the hostility ladder. It's part of a wave of cases forcing courts to draw lines between improper board moves to insulate themselves from ouster and legitimate efforts to shield long-term corporate strategy from impatient activists.

Especially since universal proxy rules took effect several years ago, sitting boards making a range of defensive plays—poison pills, advance-notice nomination bylaws, and golden parachutes—have stressed the need for leadership continuity during business turbulence. Although Delaware's courts have managed to hand down some concrete guidance, they've largely been forced to take the idiosyncratic disputes case by case.

'Dead Hand'

Though Tuesday's lawsuit includes wide-ranging attacks on CoStar's severance provisions, it zeroes in two features. The first is a "dead hand" clause that allegedly triggers the payments if a new board tries to modify the plan. The second is a clause that triggers them if a board member resigns for "good cause," allegedly defined in unusually broad terms.

The provisions are "specifically designed to prevent a proxy context," the suit says.

The shareholder leading the lawsuit, Eric Gilbert, is represented by Labaton Keller Sucharow LLP, Friedman Oster & Tejtell PLLC, Abbott Cooper PLLC, and Kaskela Law LLC. The CoStar board members haven't yet made court appearances.

The case is Gilbert v. CoStar Grp. Inc. , Del. Ch., No. 2026-0182, complaint filed 2/10/26 .

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Securities

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Pegasystems to Pay \$7 Million for Investors' Trade Secret Claims

Feb. 11, 2026, 9:08 AM PST

Summary by Bloomberg AI

AI Generated



- Pegasystems Inc. will pay shareholders \$7 million to end litigation in Massachusetts state and federal court over an alleged corporate espionage scheme to steal trade secrets from Appian Corp.
- The proposed settlement would resolve shareholder derivative lawsuits that claimed Pegasystem's board fostered a corporate culture that encouraged and protected illegal activities and unethical conduct in pursuit of profits.
- The settlement includes no acknowledgment of wrongdoing and Pegasystems looks forward to a new trial on Appian's trade secret theft claims to refute the rival's claims.

Pegasystems Inc. will pay shareholders \$7 million to end litigation in Massachusetts state and federal court centering on an alleged corporate espionage scheme launched to steal trade secrets from its rival Appian Corp.

The proposed settlement would resolve shareholder derivative lawsuits that claimed Pegasystem's board, including chief executive Alan Trefler, "fostered a corporate culture that encouraged and protected illegal activities and unethical conduct in pursuit of profits" in violation of their fiduciary duties to shareholders.

Appian later sued Pegasystems in Virginia state court for the scheme, which included recruiting a developer experienced with Appian's platform to "clandestinely misappropriate" its trade secrets. A jury sided with Appian after a seven-week trial, finding Pegasystems responsible for the trade secret theft and awarding \$2 billion in damages. The verdict was overturned on appeal and is back before the state court.

Pegasystems shareholders complained that the verdict tanked the stock by nearly 21%, plus other significant drops in the days and months to follow as analysts cut price targets for the company and the court granted interest and attorneys fees to Appian.

The stock owners also said Pegasystems failed to promptly give notice of the state court litigation, which was filed in May 2020 but only disclosed to investors in February 2022, as the case approached trial.

The state court judge overseeing the consolidated lawsuits ended the cases in September 2025, in a decision that found the board of directors conducted a reasonable investigation into the alleged trade secret theft and was within its rights to decline to take action on the shareholders' claims.

The shareholder plaintiffs hailed the \$7 million settlement and corporate oversight reforms as a "significant and immediate" win for investors who faced an uphill battle to revive the case on appeal because derivative cases are "possibly the most difficult theory in corporation law upon which a plaintiff might hope to win a judgment."

As a result of the litigation, Pegasystems appointed a new independent director to the board in January 2025, created a risk sub-committee, and beefed up its management compliance and risk governing committee. The shareholder lawsuits are before the US. District Court for the District of Massachusetts and the Suffolk County Superior Court.

The settlement filed Feb. 9 follows Pegasystems' 2024 agreement to pay investors \$35 million to settle securities fraud claims stemming from the same conduct after a federal judge in Massachusetts declined to dismiss the case.

Pegasystems' finance and operations chief Ken Stillwell said in a statement Feb. 10 that the settlement includes no acknowledgment of wrongdoing and "removes an operational distraction." He added Pegasystems looks forward to a new trial on Appian's trade secret theft claims so it can refute the rival's claims.

"We are confident in our ability to show that the information Appian now labels as 'trade secrets' was broadly available to thousands of customers, contractors, and partners; that Pega's products were independently developed pursuant to preexisting roadmaps well before any alleged access to Appian's information; and that Pega's software does not incorporate Appian's alleged trade secrets in any respect," Stillwell said.

Representatives for the shareholder plaintiffs weren't immediately available for comment.

The shareholders in the federal suit are represented by Andrews DeValerio, Mitchell J. Matorin of Wellesley Massachusetts, and Griffin Humphries LLC.

The shareholders in the state court suits are represented by Bernstein Litowitz Berger & Grossmann LLP, Equity Litigation Group LLP, Cohen Milstein Sellers & Toll PLLC, and Shuman Glenn & Stecker.

Pegasystems directors Alan Trefler, Peter Gyenes, Richard Jones and Larry Weber are represented by Wilmer Cutler Pickering Hale & Dorr LLP. Directors Christopher Lafond, Dianne Ledingham and Sharon Rowlands are represented by Fried Frank Shriver & Jacobson LLP. Company executives Leon Trefler, Don Schuerman, Kerim Akgonul, Douglas Kim and Benjamin Baril are represented by Mintz Levin Cohn Ferris Glovsky & Popeo PC.

The state cases are Dwyer v. Trefler, Mass. Super. Ct., No. 2484CV01734, settlement filed 2/9/26 , and Birch v. Trefler, Mass. Super. Ct., No. 2484CV03076, settlement filed 2/9/26 . The federal case is Larkin v. Trefler, D. Mass., No. 1:25-cv-10303, settlement filed 2/9/26 .

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Securities

Manage Newsletters

Stitch Fix to Pay \$32 Million to End Investor 'Direct Buy' Suit

Feb. 11, 2026, 8:08 AM PST

Summary by Bloomberg AI

AI Generated



- Stitch Fix Inc. agreed to pay \$32 million to resolve allegations it concealed an online-buying option was cannibalizing its core subscription product.
- Investors asked Judge P. Casey Pitts to preliminarily approve the deal and certify a settlement class of those who got Stitch Fix stock from June 9, 2020, through June 9, 2022.
- Stitch Fix and the executives denied wrongdoing through the deal, which would end more than three years of litigation over whether founder Katrina Lake and former CEO Elizabeth Spaulding knew about internal data showing the "direct buy" option's impact.

Stitch Fix Inc. agreed to cough up \$32 million to resolve allegations the online clothing company and top executives concealed an online-buying option was cannibalizing its core subscription product.

Investors asked Judge P. Casey Pitts Tuesday to preliminarily approve the deal and certify a settlement class of those who got Stitch Fix stock from June 9, 2020, through June 9, 2022. If finally approved in the US District Court for the Northern District of California, the deal would end more than three years of litigation over whether founder and executive chairperson Katrina Lake and former CEO Elizabeth Spaulding knew about internal data showing its "direct buy" option wasn't helping Stitch Fix attract new customers when touting the online-shopping option's benefit.

The investors' counsel plans to seek up to 25% of the sum in attorneys' fees and \$300,000 for litigation expenses, the settlement papers show. Stitch Fix and the executives denied wrongdoing through the deal.

The investors sufficiently alleged the level of intent or recklessness for securities fraud claims, given Lake and Spaulding's plausible knowledge of test results showing customers onboarded through "direct buy" were less likely to return and spent less than those through its curated box subscriptions, Pitts said while letting certain claims proceed last year.

Pitts sustained four of the investors' claimed misstatements, allegations that management omitted reference to internal test results suggesting "direct buy" was cannibalizing the "fix" subscription customers. Executives in these 2020 and 2021 comments had said the two options were "additive" and "complementary," that data supported their business plan, and "direct buy" had the potential to broaden Stitch Fix's appeal.

Bernstein Litowitz Berger & Grossmann LLP is lead counsel for the investors leading the case, related union retirement and benefits funds. Cooley LLP represents Stitch Fix and the executives. Neither of these law firms' spokespeople immediately responded to emails seeking comment. Nor did Stitch Fix.

The case is Retail Wholesale Dep't Store Union Loc. 338 Ret. Fund v. Stitch Fix, Inc. , N.D. Cal., No. 5:22-cv-04893, 2/10/26 .

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Securities

BlackRock Investor Sues Board Over Coal Antitrust Claims (1)

Feb. 10, 2026, 8:26 AM PST; Updated: Feb. 10, 2026, 2:35 PM PST

BlackRock Inc. board members had the financial giant collude with other asset managers in an environmentally-focused pressure campaign on coal companies to reduce production, a shareholder lawsuit said.

The shareholder derivative complaint accuses billionaire CEO Larry Fink and others of leveraging BlackRock's holdings of publicly-traded US coal producers to bully companies into lowering production in line with its net-zero emissions goals while profiting off of increasing returns in its natural gas and renewable energy companies. In doing so, the board exposed BlackRock to consequences of litigation and pressure from both the political right and left over its publicly-touted environmental promises, the stockholder told the US District Court for the Eastern District of Texas on Monday.

"For at least the past four years, BlackRock employed a systematic and coordinated mechanism to suppress coal output across the industry through its substantial ownership stakes combined with aggressive stockholder activism," stockholder Joseph Crognale said.

BlackRock's anticompetitive pressure campaign caused lowered output, thermal coal prices to rise, and increased electricity-generation costs for about 150 power plants—ultimately passing on higher utility bills to US consumers while returns in its natural gas and renewable energy companies increased, Crognale said. "The scheme thus extracted wealth from ordinary Americans to enrich BlackRock, its executives, and the coal-company management that complied with BlackRock's output restrictions."

Crognale's complaint pulls from antitrust allegations in a lawsuit led by Texas Attorney General Ken Paxton and other Republican-led states against BlackRock, Vanguard Group Inc., and State Street Corp. The states accused the three major asset managers of using environmental, social, and governance-related initiatives to suppress coal production, allowing them to reap "cartel-level profits."

A Texas federal judge in August mostly denied the financial managers' request to shed that suit. Judge Jeremy D. Kernodle said the states pulled together enough circumstantial evidence suggesting BlackRock and the others "agreed to collectively pressure coal companies to reduce the output of coal in the relevant markets and disclose future output information." Kernodle's assigned to Crognale's case, according to the court docket.

In response to an email seeking comment, BlackRock referred to a past statement about the antitrust allegations. "The suggestion that BlackRock invested money in companies with the goal of harming those companies is baseless and defies common sense," a spokesperson said.

Crognale seeks damages, restitution, and corporate governance reforms for BlackRock. He alleged breaches of fiduciary duties, unjust enrichment, and violations of a 1934 Securities Exchange Act provision due to an allegedly misleading 2025 proxy solicitation by the board.

Sbaiti & Company PLLC, Levi & Korsinsky LLP, and Robbins LLP represent Crognale.

The case is Crognale v. Fink , E.D. Tex., No. 6:26-cv-00085, complaint filed 2/9/26 .

(Updates with BlackRock's comment in the seventh paragraph.)

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Rejection of Texas law blacklisting 'woke' BlackRock could challenge anti-ESG laws in other states

 [reuters.com/legal/government/rejection-texas-law-blacklisting-woke-blackrock-could-challenge-anti-esg-laws-2026-02-10](https://www.reuters.com/legal/government/rejection-texas-law-blacklisting-woke-blackrock-could-challenge-anti-esg-laws-2026-02-10)

Simon Jessop, Ross Kerber

February 10, 2026

A specialist trader works at the post where BlackRock is traded on the floor of the New York Stock Exchange (NYSE) in New York City, U.S., July 21, 2022.

REUTERS/Brendan McDermid [Purchase Licensing Rights, opens new tab](#)

- Texas judge rules anti-ESG law unconstitutional, violating free speech
- Ruling may inspire challenges to similar laws in other states
- Anti-ESG laws seen as politically motivated, chilling effect on investors

LONDON/BOSTON, Feb 10 (Reuters) - A Texas judge's move to strike down a state law blacklisting "woke" financial firms, including BlackRock ([BLK.N](#))  [, opens new tab](#) and HSBC, that used environmental, social or governance factors in investment decisions will likely drive a broader push to repeal so-called "anti-ESG" laws in other states, analysts said.

Texas lawmakers passed the Energy Discrimination Elimination Act in 2021, requiring state agencies and local authorities to break ties with and divest the shares of companies that refused to invest in some oil and gas companies, targeting the likes of BNP Paribas ([BNPP.PA](#))  [, opens new tab](#) and Danske Bank ([DANSKE.CO](#))  [, opens new tab](#) on its list. About 14 other states followed suit. Sign up [here](#).

A federal judge in Texas [said the law was unconstitutional](#) last week, ruling that it violated First Amendment free-speech protections because it punished businesses for speaking about fossil fuels and associating with organizations that oppose fossil fuels. Texas said it would appeal the verdict.

It was "a home-court loss for Texas," said K&L Gates attorney Lance Dial. "You would think if there's any place they could make this stick, it's Texas."

ROADMAP FOR CHALLENGES

Bryan McGannon, managing director at the U.S. Sustainable Investment Forum, said the ruling provides a "roadmap" for challenges to similar laws passed in Oklahoma, Kentucky, West Virginia, Tennessee and Utah, as well as other policies

that target [environmental, social or corporate governance activities](#)  , [opens new tab](#), or ESG.

"The ruling's challenge to the faulty premise that climate or ESG considerations must be motivated by social or political purposes and ignores 'ordinary business purpose' clears the way to contest many anti-ESG laws," he added.

Anti-ESG action has taken a variety of forms, including laws targeting diversity efforts and the use of lawsuits, including one from Texas and other states accusing investors of breaching antitrust laws when assessing corporate climate efforts.

Data from climate-policy advisory firm Pleiades Strategy, which tracks anti-ESG laws, shows there are currently 26 at various stages of development in U.S. states including in Alaska, Georgia, Michigan, Minnesota and Nebraska.

However, since it began tracking the bills in 2022, 391 [had been killed off](#) before making it into law.

WILDFIRES, FLOODS

Insurer Munich Re said in January that the cost of damages caused by natural disasters such as floods and wildfires, which scientists say are increasing in frequency and intensity because of climate change, totaled \$224 billion in 2025.

Overall losses from wildfires in Los Angeles, the most expensive wildfire disaster to-date, were around \$53 billion, of which only \$40 billion was insured, it added.

And some of the world's biggest companies have cited issues linked to the world's transition to a low-carbon economy, for example patchy incentives and consumer demand for greener products, as a driver of results.

[Stellantis last week](#) became the latest in a string of automakers to write down the [value of their EV investments](#), taking a \$27-billion hit that sent its shares [\(STLAM.MI\)](#)  , [opens new tab](#) down 30%.

Given the need to assess such climate-related financial risks, laws like the one in Texas were merely designed to "politically punish" investors, said Ben Cushing, campaign director for sustainable finance at the Sierra Club.

Despite the laws' "chilling effect," Cushing said the Texas ruling should instead give investors confidence that managing climate-related risks was consistent with their fiduciary duty.

Frances Sawyer, founder of Pleiades Strategy, agreed: "It is yet another court ruling protecting the freedom to invest. This should be a strong signal that the overreach of anti-ESG laws has more bark than bite."

Reporting by Simon Jessop in London and by Ross Kerber in Boston. Editing by Dawn Kopecki and Nick Zieminski

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[Simon Jessop](#)

Thomson Reuters

Simon leads a team tracking how the financial system and companies more broadly are responding to the challenges posed by climate change, nature loss and other environmental, social and governance (ESG) issues including diversity and inclusion.

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[Ross Kerber](#)

Thomson Reuters

Ross Kerber is U.S. Sustainable Business Correspondent for Reuters News, a beat he created to cover investors' growing concern for environmental, social and governance (ESG) issues, and the response from executives and policymakers. Ross joined Reuters in 2009 after a decade at The Boston Globe and has written on topics including proxy voting by the largest asset managers, the corporate response to social movements like Black Lives Matter, and the backlash to ESG efforts by conservatives. He writes the weekly Reuters Sustainable Finance Newsletter.

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Securities

Robinhood Takes Its Fight to Defeat IPO Suit to Supreme Court

Feb. 10, 2026, 12:05 PM PST

Robinhood Markets Inc. shouldn't have to continue defending itself in an investor suit over its initial public offering, the trading platform company told the US Supreme Court.

The US Court of Appeals for the Ninth Circuit widened a circuit split on the standards for suing over disclosures in IPO registration and prospectus documents, Robinhood and its underwriters said in their petition asking the justices to resolve the schism.

The request comes as IPO activity has heated up and is expected to continue strong in 2026.

The Ninth Circuit panel's 2-1 majority said in August that changes in Robinhood's financial metrics merely needed to be "material" to prompt updated disclosures in registration and prospectus documents filed before the IPO. The ruling reinstated a proposed class action alleging nondisclosure of trading trends following the meme stock craze of early 2021.

The appeals court rejected a First Circuit standard requiring intra-quarter disclosures from companies headed toward IPOs only when there's been an "extreme departure" from historical results.

Robinhood and the underwriters argued in their petition, filed with the high court Feb. 5 but not immediately released, that the high court should clarify whether the "extreme departure" test applies.

Further, the companies said, most courts of appeals have treated the requirement to show an omission's materiality as distinct from the requirement to show the omission rendered a prior statement misleading. The alleged omissions didn't make "any statement in Robinhood's offering documents misleading," particularly in light of Robinhood's warnings—including one about a likely future decline in key metrics, the petitioners said.

The full Ninth Circuit declined to rehear the case.

Sullivan & Cromwell LLP and Cravath, Swaine & Moore LLP represent Robinhood. Orrick, Herrington & Sutcliffe LLP represents the underwriters.

The case is Robinhood Markets, Inc. v. Sodha , U.S., No. 25-944, petition for certiorari 2/5/26 .

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Securities

American Airlines 401(k) ESG Trial Spurs \$4.6 Million Lawyer Fee

Feb. 10, 2026, 10:25 AM PST

The lawyers who were awarded no damages after winning a trial over American Airlines Inc.'s 401(k) plan ties to socially conscious investing are entitled to nearly \$4.6 million in attorneys' fees.

Judge Reed O'Connor ordered the airline to pay about half of the lawyers' requested fees of nearly \$8 million. The plaintiff pilot prevailed on only one of his legal theories and didn't win damages, O'Connor said, and he isn't entitled to fees for pressing theories the court rejected.

O'Connor's order, issued Tuesday in the US District Court for the Northern District of Texas, also made clarifications to his 2025 injunction governing the airline's practices with respect to its 401(k) plan. Largely granting American's request for limits, O'Connor said the rules he issued don't extend to the thousands of investments in the plan's brokerage window, and he clarified that certain requirements don't apply to routine commercial transactions.

The lawsuit marked the first substantial legal test for employer sponsored-retirement plans that incorporate objectives related to environmental, social, and corporate governance goals. Last January, O'Connor ruled after a four-day, non-jury trial that American breached the Employee Retirement Income Security Act's fiduciary duty of loyalty—but not the statute's duty of prudence—by allowing its \$26 billion retirement plan to be influenced by corporate goals unrelated to workers' best financial interests.

The ruling, which stemmed from allegations that American's 401(k) plan wrongly hired BlackRock Inc. to manage billions of dollars in assets despite the company's ESG-oriented proxy voting and shareholder activism, was a major victory for opponents of the controversial investing strategy.

Despite this decision, O'Connor declined to award monetary damages after finding the airline's breach didn't cause losses to the plan. He instead issued an injunction limiting American's ability to work with BlackRock and certain other asset managers and blocked the airline from allowing any "proxy voting, shareholder proposals, or other stewardship activities on behalf of the Plan" that are motivated by ESG objectives or other non-financial concerns.

In his latest order, O'Connor also rejected plaintiff Bryan Spence's request for a \$15,000 service award and more than \$37,000 in litigation costs.

O'Melveny & Myers LLP and Kelly Hart & Hallman LLP represent American. Hacker Stephens LLP and Sharp Law LLP represent the pilots.

The case is Spence v. Am. Airlines, Inc. , N.D. Tex., No. 4:23-cv-00552, 2/10/26 .

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Securities

International Bancshares 401(k) Suit Kept Alive in Fifth Circuit

Feb. 10, 2026, 9:48 AM PST

International Bancshares Corp. Tuesday failed to convince the Fifth Circuit to require arbitration in a dispute with a former worker challenging the conservative investment strategy in the Texas-based bank's 401(k) plan.

The US Court of Appeals for the Fifth Circuit joined several other circuits in using the effective vindication doctrine to reject companies' efforts to force Employee Retirement Income Security Act class actions into arbitration. The doctrine, which counsels against enforcing benefit plan terms that prevent participants from exercising their rights under the statute, has been relied upon by the Second, Third, Sixth, Seventh, Tenth, and Eleventh circuits in the course of rejecting arbitration bids in ERISA cases.

The arbitration provisions in International Bancshares' 401(k) plan violate this doctrine because they prohibit representative claims that seek relief on behalf of the entire plan, the Fifth Circuit said. It sent the dispute back to district court and instructed the judge to consider whether these impermissible provisions nevertheless could be severed from the remainder of the plan's arbitration requirement.

Paul Parrott's lawsuit accuses International Bancshares of responding to a market downturn by moving retirement plan assets away from stocks and toward cash and other fixed income investments that are inappropriate vehicles for long-term retirement investors.

About 86% of the plan's assets were held in cash and short-term bonds as of 2023 after the bank sold the bulk of the plan's stock portfolio during the "temporary market decline" of the preceding year, according to the lawsuit.

A federal judge kept the dispute in court despite the bank's request for arbitration, reasoning that Parrott wasn't bound by his retirement plan's arbitration requirement because it was added to the plan after he'd cashed out his account.

On appeal, the Fifth Circuit reversed part of the district court's analysis with respect to consent. The district court correctly concluded that Parrott didn't consent to arbitrate his individual claims and thus can't be made to do so, the Fifth Circuit said, but the relevant inquiry with respect to the plan-wide claims is whether the plan itself consented—and in this case it did, the court said.

The decision was written by Judge Jerry E. Smith and joined by Judges Jennifer Walker Elrod and Cory T. Wilson.

Dykema Gossett PLLC represented International Bancshares. Stris & Maher LLP, Engstrom Lee LLC, and Jones Granger represented the employees.

The case is Parrott v. Int'l Bancshares Corp. , 5th Cir., No. 25-50367, 2/10/26 .

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Securities

The Lawyer Gearing Up for a Fight on Private Equity in 401(k)s

Feb. 11, 2026, 3:00 AM PST

The American retirement system is on the verge of one of its biggest changes in decades, with Wall Street's private equity and credit firms close to getting a piece of the \$14 trillion socked away in workplace retirement savings plans. They've created new types of investment funds for 401(k)s and clinched deals with household-name money managers to include them.

They may still need to get past one man: Jerome "Jerry" Schlichter.

"Buyer beware," Schlichter says, referring to employers who are considering adding private equity and other alternative funds to their company plans. "You better be prepared for defending that choice."

Over the past two decades, Schlichter, 77, and Schlichter Bogard, the firm he founded, have won precedent-setting cases over the types of retirement investments that plans offer workers and the fees they charge for them. He's racked up more than \$750 million in settlements since first suing in 2006 and created a whole field of litigation. Copying his tactics, other plaintiffs' lawyers filed hundreds more lawsuits of their own in the past five years. Federal judges, in approving fees paid to his firm, have credited his litigation with saving workers substantial money each year on their investments.



Schlichter in his St. Louis office.

Photographer: Theo Welling for Bloomberg Markets

Schlichter has sued major companies, financial firms and top universities. After more than a decade defending itself in court, ABB, a global power and automation technology company, paid \$55 million in 2019 to settle claims that it had excessive fees in its 401(k) plan. At the end of last year, Pentegra Retirement Services, a retirement plan outsourcing company, agreed to pay \$48.5 million to resolve a lawsuit alleging it charged excessive recordkeeping and administrative fees and included funds with steep fees. (Both companies have disputed the allegations; ABB says it's proud of its benefit plans.) Yale University is defending its retirement plan in federal court against a lawsuit Schlichter first brought a decade ago over the fees and performance of funds compared with their benchmarks. In 2023 a jury found largely in Yale's favor. The case is ongoing in federal appeals court. Yale declined to comment.

Now the financial industry and its allies in the Trump administration are trying to make it harder for Schlichter and others to sue. The industry has lobbied Washington heavily over the issue, and Republican lawmakers in Congress have labeled the plaintiffs' lawyers "pension predators" who are abusing the retirement system. The Trump administration's top appellate lawyer filed a brief at the US Supreme Court opposing Schlichter's position in a recent case, and the Department of Labor withdrew its brief supporting his side in the Yale case. That's a change: In the past, when administrations have weighed in on Schlichter's court cases, they've been on his side. His side has won all three of his cases decided by the Supreme Court.

Daniel Aronowitz, the top Labor Department official overseeing the employee benefit plan policy, has vowed “to end the era of regulation by litigation.” (He was previously president of Encore Fiduciary, which sells insurance to protect retirement plans and their trustees against lawsuits.) The Trump administration is preparing to give private assets in 401(k) plans a “safe harbor” against the type of lawsuit Schlichter helped create. It would be harder to sue a plan that can show it has processes in place to scrutinize new investments. An initial proposal is expected soon.

“If this is such a wonderful investment, why do you need a litigation shield separating you from everybody else that doesn’t have that?” Schlichter asks. “If they are so special and they’re so good, they wouldn’t need a litigation shield. The merits would determine fees are reasonable, end of story.”

Eugene Scalia, who served as labor secretary in the first Trump administration and is now a top partner at Gibson Dunn in Washington, says a formal rule is needed to reassure plan sponsors that lawyers or future administrations won’t second-guess them. “Private funds are already widely held by government pension plans and other defined benefit plans,” he says.

Financial companies that invest in private markets, as well as some of the biggest retirement fund managers, say the investments deserve a spot in 401(k)s. “We believe that private credit strategies deliver great value to investors,” says Jiří Król, deputy chief executive officer and global head of government affairs for the Alternative Investment Management Association, a global trade group for companies that invest in private markets. “A lot of pension systems have basically gone down the route of effectively and obsessively focusing on cost and cost only, as opposed to the overall value to the investor,” he says.

One study, by money manager BlackRock Inc., says private assets would increase returns potentially, on average, by 0.50% per year, generating about 15% more money in total over a 40-year period. The assets, which don’t trade on public exchanges the way stocks do, may have higher returns in exchange for less liquidity. Because retirement investors have long time horizons, money managers argue, these investment are suited for their goals. But private asset portfolios also tend to carry much higher fees than stock and bond index funds.

Schlichter is watching closely how the corporate executives and nonprofits tasked with running 401(k) and similar plans determine whether to include private equity and credit. As fiduciaries they must act in the savers’ best interests and can be held liable in lawsuits if they don’t. Schlichter has followed credit raters’ reports about defaults in companies owned by private equity; the rise of secondary private equity stakes, which could wind up in retail investor portfolios; and the compensation packages of CEOs of alternative companies. He’s keeping an eye on the potential “cash drag”: Plans may need to hold more in cash, which generates lower investment returns, when they invest in illiquid and private assets, because they’ll need money on hand to easily dispense to savers withdrawing or moving funds on a moment’s notice.

“There is huge exposure to risk that people are being—will be—subjected to, if private equity becomes a significant part of 401(k) plans,” Schlichter says, adding that being a fiduciary is going to be tough as a result. “Their job is going to be a whole lot more difficult to carry out that duty if private credit or private equity is in the plan, because it’s opaque, it’s quite a bit more expensive, and it’s illiquid.”





Schlichter.

Photographer: Theo Welling for Bloomberg Markets

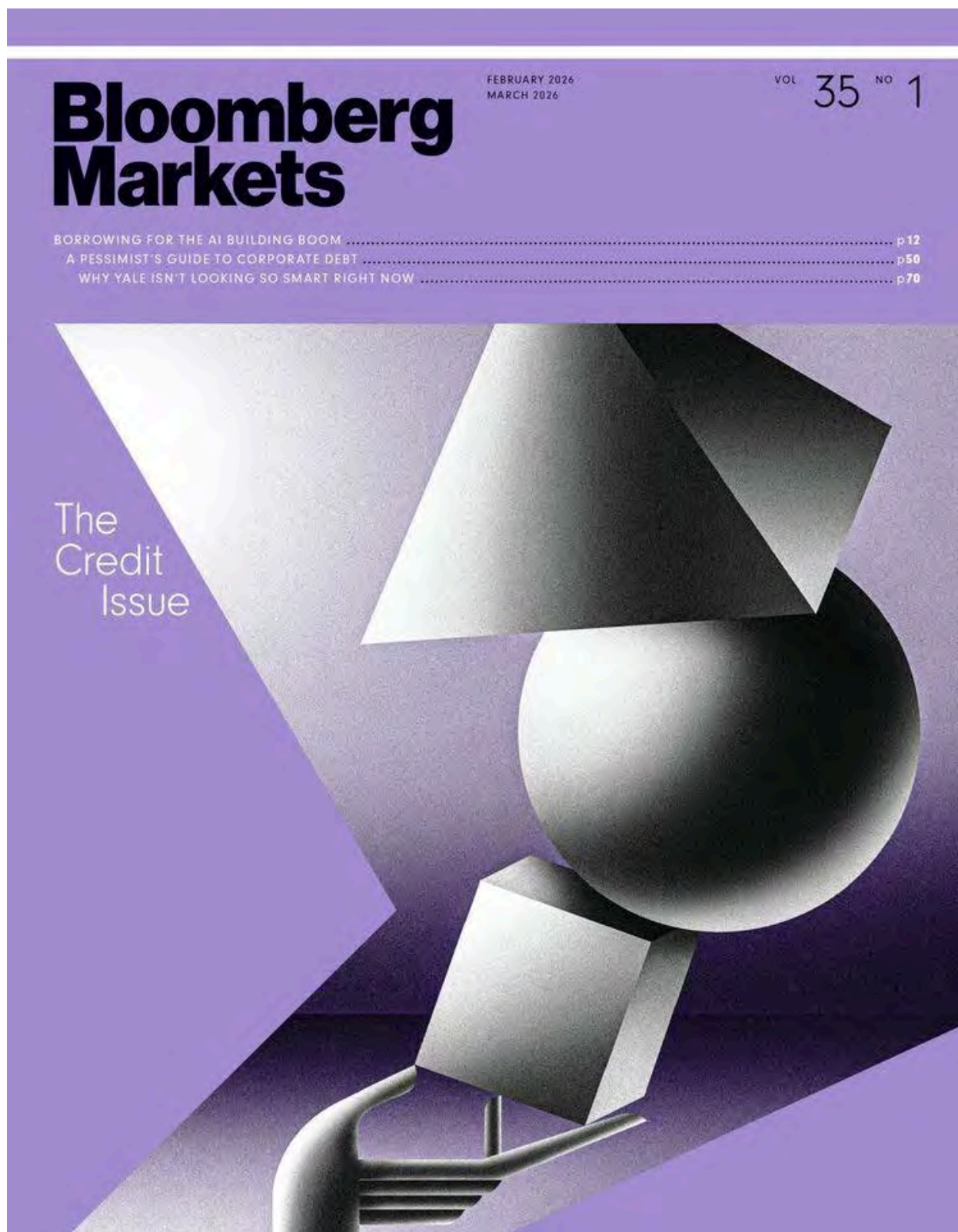
One of five children—his father was an Air Force veteran and aircraft mechanic, and his mother was a homemaker—Schlichter grew up in the small town of Mascoutah, Illinois, and was the first in his family to go to college. He paid for it by working variously as a janitor, at a steel mill and by digging lines for the phone company. He turned down a scholarship to the University of Illinois law school to head to the University of California at Los Angeles just as student movements against the Vietnam War were intensifying. “I became a quintessential student protester,” Schlichter says.

While joining Teamster union truckers on a picket line for higher pay, he was pulled out by Los Angeles cops, handcuffed and arrested, he says, for allegedly resisting a police officer. He disputed the arrest and went to trial: “We’re not pleading guilty to anything. We’re not going to cut our hair,” he says, describing his thinking at the time. He was convicted in 25 minutes. Fortunately for his legal career, it was a misdemeanor. (Schlichter says it was later expunged.)

He worked a summer helping to represent a group of students at Washington University in St. Louis who were facing federal charges stemming from an antiwar demonstration during which a federal building on campus serving as an ROTC center was burned down. He later returned to St. Louis because the city, a nexus for railroads and Mississippi River shipping, was also a hub for trial lawyers who brought high-stakes injury claims for railroad and barge workers.

In the early 2000s, Schlichter says, he started getting more and more questions from workers and union officials, including one at Boeing Co., about whether they’d have enough money to last through retirement. Traditional pensions were declining, and 401(k)s were rising, putting more of an onus on individuals to manage their savings. But employers still had a big impact: They selected administrators and fund options, and the costs and fees borne by workers could eat into their nest eggs.

Schlichter and colleagues spent almost two years immersing themselves in the inner workings of the entire retirement plan industry. The first book he says he read was the primer *401(k)s for Dummies*. Then the firm went looking for cases. They investigated retirement plans at some of the nation’s largest employers. He says he mortgaged his house to pay for the up-front costs. No other law firm had embarked on that type of bet-the-farm litigation against pension funds before him, Schlichter says.



Featured in the February-March issue of Bloomberg Markets.

Illustration: Derek Abella for Bloomberg Markets

Boeing and ABB were among the firm's earliest cases. Boeing, which said it did nothing wrong, agreed in 2015 to pay \$57 million to settle allegations of excessive fees and inappropriate investment choices in the plan. The ABB suit was the nation's first retirement plan excessive-fee case that went to full trial. It took Schlichter more than 12 years and roughly 27,000 of his firm's attorney hours. Legal fees for the defendants, which also included other fiduciaries, were more than \$42 million through the trial portion of the case.

Demonstrating the financial stakes of such cases, the federal judge who signed off on the fees at the end of the case in 2019 noted that just one piece of the defense's research cost \$3.2 million, more than the \$2.3 million Schlichter sought for reimbursement of expenses. Schlichter's firm was ultimately awarded about \$18 million for its legal work, or roughly a third of the settlement tally, which is typical in contingency-fee cases.

The litigation has evolved over time, as fees have come down, and even ardent opponents of Schlichter's type of litigation say fiduciary practices have improved. A current spate of cases increasingly focuses on forfeiture of 401(k) assets that aren't vested when an employee leaves their job. Schlichter's success has led other trial law firms to file many more suits over the past few years. According to plan insurer Encore Fiduciary, there were almost 450 fee or forfeiture lawsuits filed from 2020 through September of last year. The vast majority of them targeted plans with more than \$500 million in assets. That's still a tiny percentage of the roughly 800,000 401(k) plans in the US.

But lawyers who represent employers say the lawsuits have become an increasing burden. "We're just seeing a steady stream of dozens of copycat sort of lawsuits," says Rick Nowak, co-leader of the Employee Retirement Income Security Act litigation practice at law firm Mayer Brown. That's a shift from earlier years of the litigation, in which "old guard" lawyers brought more sophisticated lawsuits, he says. "Even if you disagreed with the merits, you could certainly understand why Jerry Schlichter was bringing the claims he was bringing." The point of a safe harbor isn't to get rid of all retirement plan litigation, Nowak says, but "separating the wheat from the chaff."

All the litigation has made companies cautious about being innovative in their plan mix, says Lynn Dudley, senior vice president for global retirement and compensation policy at the American Benefits Council, which represents retirement plan sponsors. "The less you do, the less likely you are to be sued," she says. The group has asked the Labor Department to clarify the standard of review applied to fiduciary decisions and recommendations. Such a change would go beyond a more narrow litigation shield for only private credit and alternative assets. It would force plaintiffs to focus on whether decisions were arbitrary or capricious.

BlackRock CEO Larry Fink told analysts in January that plans are still going to need to be vigilant. "Each and every firm is going to have to validate and authenticate the risk that is being implied when they add private markets," he said.

Schlichter says the new tone in Washington won't cause him to back away from legitimate cases. Although the shift in the Labor Department's interpretation and policy is likely to be adverse to his clients, the law is still ultimately determined by judges. "I'm not going anywhere," says Schlichter. His grandmother, he notes, lived to almost 112.

Brush covers asset management in New York, and Beyoud reports on financial regulators in Washington, both for Bloomberg News.

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Critical Mass With Law.com's Amanda Bronstad: Pivotal LA Trial Opens Over Social Media Addiction, Uber Loses \$8.5M Verdict in Bellwether Sex Assault Trial

February 11, 2026 at 10:48 AM By  Amanda Bronstad



Credit: Jose Calsina/Adobe Stock

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

This week: A first-ever trial began this week that pits **Meta** and **YouTube** against a woman who claimed she was addicted to social media as a child. **Uber** lost an \$8.5 million verdict in the first sexual assault trial in the multidistrict litigation in federal court. Find out who was appointed to sue **SharkNinja** over its recalled pressure cookers.

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



Mark Lanier of The Lanier Law Firm. Courtesy photo

Meta, YouTube Built Social Media to ‘Addict the Brains of Children’

A first-ever trial attempting to hold social media companies liable for a child’s mental health problems opened on Monday, with [W. Mark Lanier](#) (**The Lanier Law Firm**) telling a **Los Angeles Superior Court** jury that **Instagram** and **YouTube** were as addictive as a “digital casino.”

[Here’s my report](#) on opening statements, which lasted all day before a packed courtroom. Lanier represents plaintiff Kaley, sometimes referred to as K.G.M., who alleged she became addicted to YouTube and Instagram before developing depression and body dysmorphia. Lanier said of the defendants, **Meta Platforms**, which operates Instagram, and YouTube, owned by **Google**, “These companies built machines designed to addict the brains of children, and they did it on purpose.”

But [Paul Schmidt](#) (**Covington**), for Meta, focused his opening on Kaley, who has been in therapy since age 3, when her parents divorced following domestic violence. And he told jurors to consider one primary question: “Was Instagram a substantial factor in Kaley’s mental health struggles?”

On Tuesday, [Luis Li](#) (**Wilson Sonsini**), representing YouTube, [told jurors](#) that the plaintiff used YouTube for an average of 29 minutes per day over the past five years.

The trial is part of a consolidated proceeding in California state courts before **Los Angeles Superior Court Carolyn Kuhl**. Two other defendants, **TikTok**, owned by **ByteDance**, and **Snap Inc.**, which operates **Snapchat**, settled prior to trial.

The case is separate from the **New Mexico Attorney General Raúl Torrez's** case against Meta, which [also opened on Monday](#) in the **First Judicial District** in Santa Fe. It is also separate from the addition multidistrict litigation against the same four social media defendants in the **Northern District of California**, where **U.S. District Judge Yvonne Gonzales Rogers** on Monday rejected a summary judgment motion to toss negligence and public nuisance claims in one of the first bellwether cases, which involves a school district in rural Kentucky. About that ruling, co-lead plaintiffs' counsel [Lexi Hazam](#) (**Lieff Cabraser**) and [Previn Warren](#) (**Motley Rice**) said in an emailed statement:

"Defendants tried to end this case before a jury could weigh the evidence, and today, the court rejected that effort."



Alexandra Walsh of Walsh Law. Courtesy photo

Uber Was 'Going After Our Client and Her Credibility'

The first federal jury to hear a case alleging **Uber** was liable for the sexual assault of one of its

passengers awarded \$8.5 million to the plaintiff, who alleged she was raped in Tempe, Arizona.

[Here's my article](#) on the Feb. 5 verdict, which was far below the \$144 million that plaintiffs' lawyer [Alexandra Walsh](#) (**Anapol Weiss**) [asked for](#), but a victory when contrasted with the Sept. 30 verdict a **San Francisco Superior Court** jury came back with in the first trial in the nation against Uber. In that case, jurors found Uber was negligent in failing to provide safe rides to women but not liable for the plaintiff's sexual assault by one of the drivers.

This time, jurors in **U.S. District Court for the District of Arizona** found Uber, represented by [Kim Bueno](#) (**Kirkland & Ellis**), had not failed to warn about its safety risks, and did not design a defective platform, but concluded that the driver in the case, Hassan Turay, was an "agent" of Uber when he picked up plaintiff Jaylynn Dean, then 19, on the 2023 night of the assault.

Walsh told me the verdict was a win because the jury found Uber, which publicly advertises that women can ride safely in its vehicles, liable for the driver's actions. She didn't want to speculate on the jury's findings against her client, but said this:

"Uber spent a large amount of its time in that trial trying to undercut our client, that our client was actually raped. That was a humongous part of their defense. They spent more time going after our client and her credibility than defending the conduct of their company. And the extent to which-- and I'll say it here because we said it in court—we think they played on very powerful and ingrained rape myths on these issues that, unfortunately, our society has made a lot of progress on, but not completely."



Credit: Timon/Adobe Stock

Who Got the Work?

A federal judge in Massachusetts granted a motion to appoint [Martha “Marty” Geer](#) (**Bryson Harris**) and [Michael Ram](#) (**Morgan & Morgan**) as co-lead counsel in four class actions over **SharkNinja’s** Foodi OP300 Series Multi-Function Pressure Cookers, which were recalled last year due to burn injuries. “SharkNinja had a duty to its customers and allegedly failed to adequately warn and protect them from the risk of the lid opening during operation,” Ram said in an emailed statement. In this month’s order, **U.S. District Judge Angel Kelley** also appointed [Joel Smith](#) (**Smith Krivoshey**) as liaison counsel and an executive committee made up of [Jason Sultzer](#) (**Sultzer & Lipari**), [Zachary Arbitman](#) (**Feldman Shepherd**), [Leslie Pescia](#) (**Siri & Glimstad**) and [Kevin Laukaitis](#) (**Laukaitis Law**). Shark Ninja as turned to [Tom Sullivan](#) (**Shook Hardy**) in the cases.

Here’s what else is happening:

Talc DQ: A [New Jersey appeals court found](#) that **Beasley Allen** should have been disqualified from talcum powder lawsuits against **Johnson & Johnson**. **Atlantic County Superior Court Judge John Porto**, in 2024, rejected Johnson & Johnson’s motion to disqualify the Alabama plaintiffs’ firm after discovering that [Andy Birchfield](#) (**Beasley Allen**) was working with one of its former lawyers,

James Conlan, on a possible \$19 billion global talc settlement. The appeals court disagreed, reversing that decision and writing, “Beasley Allen knowingly collaborated with Conlan on the same issue and in the same litigation that Conlan represented its adversary—J&J.”

Lyft MDL: The **U.S. Judicial Panel on Multidistrict Litigation** [sent more than 20 sexual assault cases](#) against **Lyft** to **U.S. District Judge Rita Lin** of the **Northern District of California**. Lyft, which already faces a coordinated sexual assault proceeding in **San Francisco Superior Court**, had opposed multidistrict litigation. Sexual assault multidistrict litigation against **Uber** is pending in the Northern District of California before **U.S. District Judge Charles Breyer**.

PAM Verdict: A **Los Angeles Superior Court** jury [awarded \\$25 million](#) to a man who alleged he developed “popcorn lung” after being exposed to diacetyl in butter-flavored **PAM Cooking Spray**. Diacetyl is a chemical known to cause bronchiolitis obliterans, more commonly referred to as “popcorn lung.” Plaintiff Roland Esparza, 58, is now waiting for a double lung transplant while on 24-hour oxygen, according to his attorney, [Jake Plattenberger](#) (**TorHoerman Law**) who won the verdict, which is all compensatory damages. **ConAgra**, represented at trial by **Norton Rose Fulbright** partners [D’Lesli M. Davis](#), [Mary Young](#) and [Gerardo “Jerry” Alcazar](#), said its product is safe and diacetyl-free for almost two decades.

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

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YouTube's Attorney Tells LA Jurors in High-Profile Trial: 'It's Not an Addiction'

YouTube attorney Luis Li, of Wilson Sonsini Goodrich & Rosati, told jurors in his opening statement, "It is not social media addiction when it's not social media, and it's not an addiction."

February 10, 2026 at 03:33 PM By  **Amanda Bronstad**

What You Need to Know

- The first-ever trial pinning the mental health problems of a teenager on social media opened on Monday.
- Plaintiff Kaley, sometimes referred to as K.G.M., alleged she became addicted to YouTube and Instagram, developing depression and body dysmorphia.
- Luis Li told jurors that Kaley's average daily time on YouTube for the five years up through 2024 was 29 minutes.



Los Angeles Superior Court courthouse at 312 N. Spring St. in downtown Los Angeles. The courthouse is also the home of the U.S. District Court for the Central District of California. Photo: Amanda Bronstad/ALM

YouTube attorney Luis Li told jurors on Tuesday in a groundbreaking trial in Los Angeles that his client, one of the most popular apps in the world, was not addictive.

“Counsel says this case is about social media addiction,” Li, a Los Angeles partner at Wilson Sonsini Goodrich & Rosati, said in his opening statement. “It is not social media addiction when it’s not social media, and it’s not an addiction.”



Luis Li of Wilson Sonsini Goodrich & Rosati. Courtesy photo

The first-ever trial pinning the mental health problems of a teenager on social media opened on Monday. Plaintiff Kaley, sometimes referred to as K.G.M., alleged she became addicted to YouTube and Instagram, developing depression and body dysmorphia. But Li, on Tuesday, said YouTube provides a host of tools to monitor or restrict use of the app. Kaley’s parents, he said, never used them. Instead, they continued to buy her the latest iPhone or Apple device, even posting on the app themselves.

Further, he said, only one of 10,000 documents involving Kaley’s medical records referred to YouTube, which she used to help her sleep. In fact, he told jurors, Kaley’s average time per day on YouTube for the five years up through 2024 was 29 minutes. Kaley’s average daily time watching videos on “autoplay,” over that same period, was 4 minutes and 9 seconds, he said. For YouTube shorts, it was 1 minute and 14 seconds.

“What you’re going to learn is that infinite scroll is not infinite,” he told jurors.

Kaley’s attorney, W. Mark Lanier, of the Lanier Law Firm in Houston, [told jurors on Monday](#) that both YouTube, owned by Google, and Meta Platforms Inc., which owns Instagram, engineered their platforms to addict kids, much like slot machines at casinos.

“These companies built machines designed to addict the brains of children, and they did it on purpose,” Lanier said.

Lanier briefly introduced jurors to his client, Kaley, now 20, who did not remain in the courtroom.

‘If You Don’t Like It, Turn It Off’

But Li said many of the features highlighted by the plaintiff, such as recommendations and “likes,” are available on other Internet sites, such as Netflix or Disney+.

“This is how people figure out what we like, and what we don’t like,” he said.

And those features can be disabled, he said.

“If you don’t like it, turn it off,” he said. “It’s that simple.”

Li painted a more positive picture of YouTube, which helps creative artists, like Kaley once aspired to be, promote themselves by allowing them to receive 55% of the revenues from advertising. YouTube also helps people in a myriad of ways, from dealing with their mental health struggles to learning how to make slime using Borax.

“I’m going to get right to the point: Ms. G.M., Kaley G.M., is not addicted to YouTube,” Li said. “You don’t have to take my word for it. You can listen to her own words. She was asked under oath, ‘Do you believe you’re addicted to YouTube today?’ Her answer? ‘I don’t.’”

Neither her therapist, nor her father, thought she was addicted to YouTube, he said.

And Li noted that Kaley originally did not sue YouTube as a defendant in the case, which also names Meta. Two other defendants, ByteDance’s TikTok and Snap Inc., parent of Snapchat, settled prior to trial.

On Monday, Meta attorney Paul Schmidt, of Covington & Burling in New York, spent most of his opening focused on the plaintiff’s troubles at home. Kaley, who has been in therapy since she was 3 years old, when her parents divorced following instances of domestic violence, told her mental health professionals that her mom hit and screamed at her, and called her dumb or stupid, all of which made her want to kill herself.

Schmidt asked jurors to focus on one primary question: “Was Instagram a substantial factor in Kaley’s mental health struggles?”

The trial is part of a consolidated proceeding in California state courts before Los Angeles Superior Court Carolyn Kuhl. Meta CEO Mark Zuckerberg and YouTube CEO Neal Mohan plan to testify during the trial, which is expected to last through March. Instagram president Adam Mosseri is scheduled to testify tomorrow.

The case is separate from the addiction multidistrict litigation against the same four social media defendants in the U.S. District Court for the Northern District of California.

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'It's not an addiction': YouTube pushes back in landmark social media trial

 [courthousenews.com/its-not-an-addiction-youtube-pushes-back-in-landmark-social-media-trial](https://www.courthousenews.com/its-not-an-addiction-youtube-pushes-back-in-landmark-social-media-trial)

Hillel Aron

February 11, 2026

LOS ANGELES (CN) — An attorney for Google on Tuesday countered a plaintiff's claim that YouTube was one of a handful of social media apps that she had become addicted to, worsening her depression and anxiety.

"Kaley GM is not addicted to YouTube," Google attorney Luis Li told the jury during his opening statement, referring to the now 20-year-old plaintiff, who has withheld her full name to preserve her anonymity. "It's not social media addiction when it's not social media and it's not an addiction."

The verdict in Kaley's trial could be used to help determine a global settlement. But in the weeks leading up to the bellwether trial, Snapchat and TikTok reached confidential settlements with the plaintiff, removing them from the highly anticipated and much-publicized trial.

On Monday, plaintiff attorney Mark Lanier [promised](#) to present "evidence that these companies built machines designed to addict the brains of children. And they did it on purpose."

Meta's attorney, Paul Schmidt, focused on Kaley GM herself, focusing on what he portrayed as lifelong mental health struggles — her difficult upbringing, including a mother who was physically and emotionally abusive, was the primary cause of those struggles, he argued, while Instagram, far from being the cause of her torment, was actually a "coping mechanism" and a "positive outlet."

Google's position, meanwhile, might have been best summarized when Li asked the jury, "So why are we here?"

A 2024 [report](#) by the U.S. surgeon general found that social media poses a "profound risk of harm" to adolescent mental health, and called for warning labels to be placed on social media apps.

Many parents and advocates are hoping that Kaley's trial, the first of its kind in the world, will be a turning point leading to greater regulation and, perhaps, a large payout to thousands of families.

But Meta and Google aren't on trial for fomenting a public health crisis. They're on trial for harming Kaley GM. According to the plaintiffs, Kaley started using YouTube when she was 6. This was her first experience with social media, paving the way for later forays into Instagram, Snapchat and TikTok.

But Li argued that Kaley was never addicted to YouTube. And YouTube, he said, isn't a social media app, not in the same way Instagram is, but rather a streaming channel, like Netflix or Disney+. And he defended YouTube design decisions, pointing to an internal email from 2017, claiming that the company "thoughtfully decided to forego viral videos. Instead we want to focus on channels."

In other words, Li argued, YouTube tries to build viewership by promoting content creators, rather than bite-size videos like TikTok.

Li also argued that there was little evidence that Kaley ever had a problem compulsively watching YouTube videos. In 10,000 pages of medical records obtained through discovery, Li told the jury, "You're not going to see a single mention of Ms. KGM being addicted to YouTube ... You're not gonna see a single suggestion in these 10,000 pages that she should stop watching YouTube."

In fact, he added, "You're only going to see one single reference to YouTube." That reference: Kaley told a therapist that she sometimes used a YouTube video to help her fall asleep.

From 2020 to 2024, Li said, Kaley watched, on average, only about 29 minutes of YouTube per day.

After Li's opening statement, the plaintiffs called their first witness: Dr. Anna Lembke, a renowned expert in addiction medicine at Stanford University.

"We get high, and we get dopamine, by making human connections," Lembke told the jury. "What happens with social media is that it essentially 'druggifies' human connection. I can sit on my couch and swipe right, swipe left, and be exposed to a universe of beautiful faces."

Lembke drew a number of parallels between social media usage and drugs. Both, she said, could be used as a coping, or "self-soothing" mechanism, and used as a temporary refuge from some sort of trauma.

"Most young people with mental health challenges are initially using social media to escape," Lembke said. But that escape, she said, could soon become a new trap, as vulnerable children turn to social media more frequently and for longer periods

of time, using the apps compulsively. "Then they have a new problem, a bigger problem. And the addiction itself can become a source of the trauma."

When asked by Lanier if YouTube was addictive, she gave an unequivocal "yes." When asked if watching YouTube wasn't the same as watching old-school television, she said, "Your interacting with the TV doesn't change the programming. That is the fundamental difference."

She added: "It's the interactive nature of the platform that makes it more potent and hence more addictive."

On Wednesday, the plaintiffs will call Adam Mosseri, the head of Instagram, to the stand as an adverse witness. Meta CEO Mark Zuckerberg is expected to testify in person later this month.

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California Brief

YouTube Lawyer Sees No Addiction From Half Hour of Videos (1)

Feb. 10, 2026, 3:36 PM PST

The 20-year-old woman at the center of a landmark trial over social media addiction used YouTube for an average of just 29 minutes per day over the last five years, a lawyer for Google told jurors.

Moreover, the woman identified in court filings as K.G.M. and in the courtroom as Kaley said in pretrial testimony last year she didn't consider herself at the time to be an addict, and neither her mental health therapist nor her father saw her as one, attorney Luis Li said Tuesday in his opening statement.

"She says she's not addicted, her dad said she's not addicted, her doctor says she's not addicted," Li said. "Her medical records in 10,000 pages don't say she's addicted. Her behavior doesn't seem like she is addicted. So why are we here?"

Kaley, from Chico, California, was presented by her lawyers at the start of the trial against Google and Meta Platforms Inc. as the face of a scourge that has allegedly poisoned millions of American youths — overconsumption of social media.

The trial set to play out in Los Angeles Superior Court until the end of March will serve as a critical test for thousands of similar lawsuits that target not only Meta and Google, but also TikTok Inc. and Snap Inc. The latter two companies aren't participating in the current case because they reached confidential settlements with the woman's lawyers at the Seattle-based Social Media Victims Law Center shortly before trial.

The first witness called by Kaley's lawyers voiced doubt about whether she would have even recognized if she was addicted.

Anna Lembke, a professor of psychiatry and addiction medicine at Stanford University, provided jurors with details about the nature of addiction and about her clinical experience treating patients hooked on social media. She said it is "very uncommon" for a child to be able to self-identify that they are struggling with any kind of addiction, including social media.

"There is a saying about why middle-aged folks come in for treatment. It's a phrase from Alcoholics Anonymous: 'I'm sick and tired of being sick and tired,'" Lembke said. "Teenagers are not often sick or tired, not yet. They have poor insight generally on their addiction and are typically reluctant to get treatment."

Earlier, lawyers for Meta and Google took turns pushing back aggressively on the allegations that their companies designed their products to foster addiction at the expense of the well-being of young users.

Li denied claims that YouTube employed tools like "infinite scroll" and "autoplay" to hook young people. He said the video platform has numerous features that allow users to customize their experience, including turning off functions that automatically suggest new content at the conclusion of a video.

"All of those sorts of things – they can be disabled," Li said. "If you don't like it, turn it off. It's that simple. The only tool that works is the one you use."

Read More: 'Massive Legal Siege' Against Social Media Companies Looms

In his opening statement, Kaley's lawyer Mark Lanier accused the platforms of "building machines designed to addict the brains of children" by introducing features that keep them constantly engaged.

"Imagine a slot machine that fits into your pocket," he told the jury of six women and six men. "It doesn't require you to read or type, it only requires one physical motion. For a child like Kaley, this motion is the handle of a slot machine. Every time she swipes, she's gambling. Not for money, but for mental stimulation."

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

Lanier said that in a quest to make "trillions of dollars," the companies intentionally engineered the platforms to "trap" children by stimulating their developing brains to crave rewards.

"They use the science of the human brain and my experts will liken it to building a Trojan horse," Lanier said as he showed the jury slides displaying the companies' internal documents. "YouTube and Google will tell you they are just a streaming service, a digital library. Harmless. But that's not what the evidence shows."

Li countered by pointing out that going back to 2020, Kaley's average viewing on YouTube was 29 minutes per day. She watched an average of 4 minutes and 9 seconds of videos suggested by autoplay on a daily basis. During the same time period, she also averaged 1 minute and 14 seconds per day spent watching YouTube Shorts, or vertically oriented videos.

"Folks, when you strip away all of the rhetoric and the blocks and the pounding, when you strip that away, what you are left with is a simple truth: Infinite scroll is not infinite," he said. "In some cases, in this case before this court and before you the jury, it is as little as a minute and 14 seconds. It is not social media addiction when it is not social media and it is not an addiction."

Li noted that data was not available on Kaley's YouTube usage prior to when she was about 15 because she had deleted the history.

Kaley's time spent on platforms was a data point cited by all the attorneys in opening statements.

Her own lawyer, Lanier, said data from Instagram showed that she spent hours scrolling on the platform every day, with her highest usage recorded as 16.2 hours on a single day in March 2022.

"Kaley will tell you: she was trapped," Lanier said. "She told her sister that she can't get off and she wished she never downloaded it."

Meta attorney **Paul Schmidt** said Monday that data compiled by an expert witness showed how frequently Kaley interacted on each social media platform — interacting being clicking "like" on a post, making a comment or sending a post as a message to another person.

He said the data revealed that 71% of Kaley's interactions online were on TikTok, 15% were on Snapchat, 12% were on Instagram and 2% were on YouTube.

Schmidt said there's no dispute that Kaley suffered psychological distress and sought treatment to recover. But he argued that the sources of her trauma came from family turmoil, physical and verbal abuse and bullying at school.



Attorneys Phyllis Jones, left, and Paul Schmidt, center, representing Meta, arrive at Los Angeles County Superior Court on Feb. 9.

Photographer: Frederic J. Brown/AFP/Getty Images

"If you took Instagram away, and everything else was the same in Kaley's life, would her life be completely different or would she still be struggling with the same things she is today?" Schmidt said.

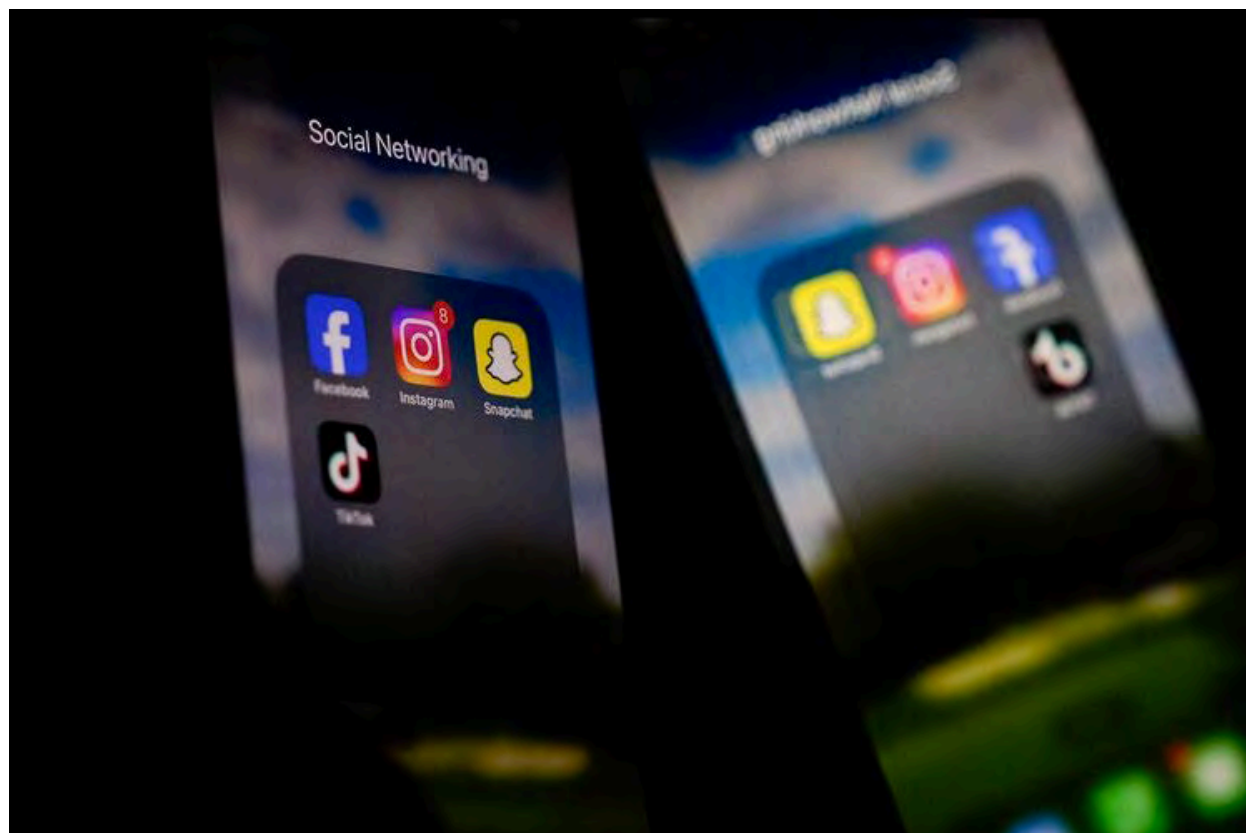
Kaley hasn't been identified by her full name because she was a minor throughout much of the period described in her lawsuit, which alleges that her nonstop use of social media caused her anxiety, depression and body dysmorphia.

Lanier said he plans to call Kaley as a witness, along with her sister and mother, but won't make her listen to other testimony. She made a brief appearance in court on Monday to greet jurors, but Lanier said that in her fragile state, she needs to be spared from hearing advocates and experts dissect and debate her mental health struggles over the next several weeks.

Schmidt said that social media is often beneficial to young people — and has been so for Kaley. When lawyers asked about her social media habits, she said spending time on her phone was a coping mechanism, one that allowed her to "avoid everything."

She also described social media as a creative outlet, and acknowledged that it provided her with a way to communicate about her feelings, according to Schmidt.

He said Kaley told company lawyers she was still actively using Instagram, YouTube and TikTok and that she hoped to find a job that would allow her to pursue her passion for editing videos.



Social media networking apps.

Photographer: Asanka Ratnayake/Getty Images

Schmidt said medical records show Kaley had been through more than 260 mental health treatment sessions and that she didn't spend that time talking about social media addiction.

"You'll not see more than twenty of those records that even reference social media, good or bad," Schmidt told the jury. "You'll see ones that reference other things going on."

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

Similarly, Li noted that in the thousands of pages of medical records about Kaley's treatment, YouTube is mentioned only once, when a therapist notes that she "shared that she has been using a YouTube video to assist with sleep at night when feeling anxious."

Instagram head **Adam Mosseri** is set to testify on Wednesday. Meta Chief Executive Officer Mark Zuckerberg and YouTube boss **Neal Mohan** are expected later in the proceedings. Jurors also will hear from dueling expert witnesses in child psychology and related research fields.

--With assistance from Maia Spoto.

Google tells jurors plaintiff not addicted to YouTube in bellwether trial

DJ [dailyjournal.com/articles/389723-google-tells-jurors-plaintiff-not-addicted-to-youtube-in-bellwether-trial](https://www.dailyjournal.com/articles/389723-google-tells-jurors-plaintiff-not-addicted-to-youtube-in-bellwether-trial)

Counsel for Google told jurors in the first bellwether minors' social media addiction trial Tuesday that the plaintiff is not addicted to YouTube and that the platform may not even qualify as social media.

"I'm not sure YouTube is social media ... but it's not an addiction," Wilson Sonsini Goodrich & Rosati partner Luis Li said. The comments were made on the second day of opening statements in the high-profile case before Los Angeles County Superior Court Judge Carolyn B. Kuhl.

Despite claims that a YouTube addiction substantially worsened the plaintiff's mental health struggles and disrupted her development when she was a minor, Li argued the company's evidence will show the platform functions more like traditional on-demand entertainment apps, where viewing time is driven by user choice rather than a compulsive social feedback loop.

He also said YouTube's records show the plaintiff - now an adult identified as Kaley - averaged relatively little time watching videos on the platform, which he argued did not amount to an addiction.

"Ms. Kaley GM ... is not addicted to YouTube. You don't have to take my word for it. You can listen to her own words," Li said. "She says so. Her doctor says so. Her dad says so."

Li then pointed jurors to what he described as voluminous medical records - three boxes totaling "about 10,000 pages" - that he said contain no mention of YouTube addiction or treatment for it.

Instead, Li said, jurors would see "only one reference to YouTube," in which a report noted Kaley "shared she's been using a YouTube video to help sleep when feeling anxious."

"One report, 10,000 pages," Li told the panel.

Kaley's case is one of thousands in a coordinated proceeding before Kuhl involving similar claims of harm to minors by Meta Platforms, Google, TikTok and Snapchat. Days before jury selection began late last month, TikTok and Snapchat settled Kaley's claims on undisclosed terms, while remaining as defendants in the other lawsuits.

Kaley, represented by Lanier Law Firm founder Mark Lanier, filed the action when she was a teenager. Social Media Cases, JCCP5255 (L.A. Super. Ct., filed Oct. 24, 2022).

In opening statements Monday, Lanier told jurors the evidence will show Meta and Google deliberately designed their platforms as "addiction machines" and "digital casinos" that targeted children's developing brains and caused lasting harm.

Covington & Burling LLP partner Paul W. Schmidt, for Meta, countered that Kaley's mental health struggles stemmed from a troubled home environment and predated her use of social media, arguing the platforms were not a substantial factor in her medical problems.

In her lawsuit, Kaley alleged that heavy use of Instagram and YouTube when she was a minor, starting at age 6, substantially disrupted her emotional development and contributed to anxiety, depression and thoughts of suicide.

The start of Tuesday's proceeding was delayed about 30 minutes due to some jurors arriving late because of traffic and long lines at the Spring Street Courthouse entrance.

In the downtime, the attorneys and judge discussed logistics for Instagram head Adam Mosseri's expected testimony on Wednesday, including plans to complete plaintiff's examination by the lunch hour so Meta could begin questioning him afterward.

"We'll take it how it goes," Kuhl said. "Hopefully the jury will not be late tomorrow."

When jurors were seated, Li began his presentation and disputed the plaintiff's portrayal of YouTube's design features as inherently addictive.

"What you're going to learn is infinite scroll is not infinite," Li said, pointing to usage data he claimed showed Kaley's five-year average watch time was 29 minutes per day.

He also focused on autoplay and YouTube Shorts, arguing the numbers were far from the "rollercoaster" and "tortilla chips" analogies Lanier used to describe compulsive engagement.

During his opening, Lanier compared features like autoplay and infinite scroll to a never-ending rollercoaster ride and to "chips at a Mexican restaurant" that keep coming before a user can decide to stop.

Kaley's average autoplay time, Li said, was 4 minutes and 9 seconds. He claimed her average watch history for YouTube Shorts was 1 minute and 14 seconds.

"You can't really boil an egg in 4 minutes and 9 seconds ... unless you like it really runny," Li told the panel. "That's what counsel is saying is the endless rollercoaster ... the thing you cannot get off of."

Li suggested the framing of the case was not driven by addiction but by litigation choices, noting Kaley initially did not assert claims against YouTube in early plaintiff fact sheets.

Evidence presentation began with expert testimony from a Stanford psychiatrist, Dr. Anna Lembke, who offered jurors a clinical framework for addiction. She said she was not asked to offer an opinion on Kaley herself.

"Addiction is the continued, compulsive use of a substance or a behavior despite harm to self and others," Lembke testified, explaining that compulsive social media addiction is a form of behavioral addiction.

She described what she called the "4 Cs" used to diagnose addiction: control, cravings, compulsion and consequences.

Lembke told jurors adolescence is a particularly vulnerable period because the brain's prefrontal cortex, which she compared to brakes on a car, is not fully developed until around age 25.

According to the attorneys, Kaley just turned 20.

"What's distinct about teenagers ... is that the prefrontal cortex, the brakes of the car, is still not complete," Lembke testified, explaining there is less communication between the brain's "brakes and accelerator" at this age, which makes adolescents more vulnerable to risk-taking and addiction.

#389723

Instagram's leader to testify in court on app design, youth mental health

 [reuters.com/legal/litigation/instagrams-leader-testify-court-app-design-youth-mental-health-2026-02-11](https://www.reuters.com/legal/litigation/instagrams-leader-testify-court-app-design-youth-mental-health-2026-02-11)

Reuters

February 11, 2026

Teenagers pose for a photo while holding smartphones in front of a Facebook logo in this illustration taken September 11, 2025. REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights, opens new tab](#)

Feb 11 (Reuters) - Instagram's leader is set to face questions in court for the first time on Wednesday about whether the Meta-owned [\(META.O\)](#)  [, opens new tab](#) app's design is fueling a youth mental health crisis.

Adam Mosseri, the head of Instagram, will testify in Los Angeles as part of a trial on what plaintiffs call "social media addiction" in children and young adults. Meta CEO Mark Zuckerberg is also expected to testify in the coming weeks.

The case involves a 20-year-old woman who said she [became addicted](#) to Instagram at a young age because of its attention-grabbing design, according to court filings.

The outcome of her case will influence how social media companies respond to hundreds of similar lawsuits in the U.S.

"We strongly disagree with these allegations and are confident the evidence will show our longstanding commitment to supporting young people," a Meta spokesperson said in a statement ahead of Mosseri's testimony.

The California woman said in a deposition that Instagram's "endless" scroll feature kept her on the app and contributed to her anxiety, according to court filings.

Endless scroll is a design feature where content loads continuously as the user moves down the page. The [American Academy of Pediatrics](#)  [, opens new tab](#) said in January that the feature may make it harder for kids to "disengage from digital devices."

Mosseri is expected to be questioned on internal company documents.

The plaintiff's counsel said the records show the company was aware of harms to children from using Instagram. The attorneys pointed to a recent Meta study they said showed that teens facing other difficulties in their lives were the most likely to become addicted and that parents had no meaningful control.

Meta's lawyer said in court that the company's internal discussions were for the purpose of addressing problems and adding features to give users more control.

Access to social media for children has become an issue globally, with Australia in December becoming the first nation to prohibit use of the platforms for children younger than 16. Spain, Greece, Britain and France are among the many countries considering [similar action](#).

Reporting by Courtney Rozen in Washington; Additional reporting by Jody Godoy in Los Angeles; Editing by Jamie Freed

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Google Urges Court to Remove It From Authors' AI Copyright Suit

Feb. 11, 2026, 9:36 AM PST

Summary by Bloomberg AI

AI Generated



- Google LLC is trying to escape a copyright lawsuit from six authors by saying it shouldn't be lumped together with other tech companies accused of pirating books to build artificial intelligence models.
- Google said infringing the same copyrights cannot be the basis of including it in the roster of defendants, and nothing in the complaint suggests the authors' claims against each tech firm depends on actions of the other defendants.
- The six authors seek individualized court-ordered relief, such as damages, against each company, and Google said the authors' claims mirror ones brought by writers and artists in a separate copyright class action against the company.

Google LLC is trying to escape a copyright lawsuit from six authors by saying it shouldn't be lumped together with other tech companies accused of pirating books to build artificial intelligence models.

Infringing the same copyrights cannot be the basis of including Google in the roster of defendants, the company said in a Tuesday filing in the US District Court for the Northern District of California. The other companies defending against the case include OpenAI Inc., Meta Platforms Inc., xAI Corp., and Perplexity AI Inc.

Nothing in the complaint suggests the authors' claims against each tech firm depends on actions of the other defendants, Google wrote. John Carreyrou and the other authors that brought the case allege each company used their works "in different ways, at different times, using different systems, and for different AI services," the filing said.

The six authors also seek individualized court-ordered relief, such as damages, against each company, it added.

Google also said the authors' claims mirror ones brought by writers and artists in a separate copyright class action against the company in the same court. Rather than potentially joining that class, Carreyrou and the five other authors instead seek to "retread the same ground" with this lawsuit, Google said.

The other tech companies in the suit are also involved in other copyright class actions, Google said, and have "indicated that they too intend to" file motions to sever from this suit.

Wilson Sonsini Goodrich & Rosati represents Google. Freedman Normand Friedland LLP and Stris & Maher LLP represent the authors.

The case is Carreyrou v. Anthropic PBC , N.D. Cal., No. 3:25-cv-10897, motion to sever filed 2/10/26 .

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‘A Sacred Cow’: Phila. Jury Deliberations Begin in Johnson & Johnson Baby Powder Trial

In closing arguments on Tuesday, Leigh O’Dell, a lawyer for plaintiff Gayle Emerson, who alleged that Johnson & Johnson’s baby powder caused her ovarian cancer, told jurors that the baby powder was the cornerstone, or the “sacred cow,” of the company.

February 10, 2026 at 04:27 PM By  **Tristin Hoffman**



Philadelphia City Hall.

A Philadelphia jury began deliberations today in a trial involving whether or not a woman’s prolonged use of Johnson & Johnson’s baby powder was the cause of her ovarian cancer.

Throughout [the roughly 14 days of trial](#), the Philadelphia Court of Common Pleas jury heard evidence about plaintiff Gayle Emerson, who was diagnosed with ovarian cancer in 2015 and died in 2019.

During Tuesday’s closing arguments, Leigh O’Dell of Beasley Allen in Montgomery, Alabama, did not ask the jury to award a specific damage award, but instead pointed toward the total net worth

of Johnson & Johnson.

“J&J’s net worth is stipulated to be \$72.277 billion,” O’Dell said in her closing statement. “Whatever amount of punitive damages—and I urge you to award punitive damages—it should be enough in light of this net worth to send a message that this was not right.”

Johnson & Johnson, O’Dell told the jury, failed to warn consumers about the potential dangers of its baby powder product, the danger being that it contains talcum powder and asbestos, and in doing so, failed to act as a responsible company, instead acting negligently.

O’Dell also told the jury that the product was the cornerstone, or “sacred cow,” of the company’s profits.

“There’s no such thing as clean mines; the evidence is clear. There’s no such thing as pure talc, the evidence is clear,” O’Dell said. “J&J knew testing could never show that talc is asbestos-free, and J&J allowed millions of asbestos fibers to go undetected and expose Gayle Emerson and thousands of other women.”

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

Diwan, to the jurors, also called into question the testimonies of plaintiff counsel’s expert witnesses throughout the trial. Namely, Diwan said that one of the witnesses, Dr. Goldstein, had testified that talc dissolves nine years after being in the body.

That testimony, Diwan said, directly refutes plaintiff counsel’s argument that the product had caused Emerson’s ovarian cancer, as she underwent a hysterectomy in the early 1980s, which would then prohibit any use of Johnson & Johnson’s baby powder to affect her body.

“If you think Johnson’s baby powder is the cause,” Diwan said in her closing statement. “Then you should be seeing disease around 1989. But that doesn’t happen; it happens about 30 years later. None of this makes sense. It’s 26 years too late for Johnson’s baby powder to be the cause.”

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

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

California Brief

Conagra Must Pay \$25 Million to PAM Spray User With Popcorn Lung

Feb. 10, 2026, 10:28 AM PST

A Los Angeles jury awarded \$25 million to a man who said his use of PAM cooking spray caused a debilitating lung condition, assigning maker Conagra Brands Inc. full responsibility for his injuries.

Roland Esparza alleged that Conagra's butter-flavored PAM cooking spray contained diacetyl and other harmful flavor chemicals that created inhalation hazards. He said he developed the chronic lung disease bronchiolitis obliterans, also known as popcorn lung, from using the spray.

A jury in the Superior Court of California for Los Angeles County found that the cooking spray failed to perform as safely as customers would have expected and that Conagra failed to adequately warn of the spray's potential risks. The jury found for Esparza on his design defect, failure-to-warn, and negligence claims Feb. 4.

"The jury saw through decades of corporate wrongdoing and awarded the largest consumer verdict ever in a diacetyl lung injury case," Jacob Plattenberger and Alan Holcomb of TorHoerman Law said in a press release Monday. The firm represented Esparza.

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

The Law Offices of Scott Hall also represented Esparza. Norton Rose Fulbright US LLP represented Conagra.

The case is Esparza v. The Vons Cos. , Cal. Super. Ct., No. 20STCV37014, verdict 2/4/26 .

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California Brief

LA Utility Unlikely to Dodge Legal Exposure for Massive Wildfire

Feb. 10, 2026, 5:02 PM PST

The Los Angeles Department of Water and Power got a tentative rejection from a judge on its request to throw out lawsuits by victims of last January's massive Palisades Fire seeking billions of dollars in damages.

The nation's largest public utility is facing claims by thousands of residents in one of the wealthiest parts of Los Angeles over the fire, which burned more than 23,000 acres, destroyed almost 7,000 structures and killed 12 people.

At a hearing Tuesday, Los Angeles Superior Court Judge Samantha Jessner heard arguments from lawyers and said she will issue a final ruling next week. Unless she changes her mind, the case will proceed with pretrial information sharing.

The plaintiffs claim that a reservoir that had been drained and not repaired — coupled with inadequate water pressure in fire hydrants — undercut efforts by firefighters and ultimately allowed the wind-whipped fire to spread out of control.

Lawyers for LADWP argued that the utility can't be held legally responsible for its alleged failure to supply enough water to battle the blaze.

"It is not a claim under the California constitution," Daniel Levin, an attorney for the utility, told the judge. "There is no precedent in California, or frankly, anywhere, anywhere in the country, has ever recognized this claim, ever,"

The fire that broke out on Jan. 7, 2025 was one of the most destructive in the history of the second-biggest US city. Total insured losses are estimated at \$40 billion.

LADWP's legal exposure is different in one key respect from the hundreds of lawsuits aimed at holding Edison International liable for a fire that started the same day in the Pasadena area and which also torched thousands of homes. Edison can seek reimbursement for most of its legal losses from the state, but LADWP isn't covered by the \$21 billion California Wildfire Fund.

The utility saw its bonds drop and its credit rating downgraded even as the fire was still burning last January.

“The liability issues for LADWP, regardless of how the court rules in this specific case, are enormous and, really, only manageable in the long term via state intervention in the insurance markets or with the utility directly,” said **Matt Fabian**, president of Municipal Market Analytics. “This won’t be the last wildfire or natural disaster that creates a potential legal risk for the utility.”

Read More: LA Fires Rattle a Bond Market Rarely Fazed by Natural Disasters

If the fire victims ultimately prevail in court, the utility may have to ask its ratepayers to absorb costs that could reach into the tens of billions of dollars.

“We’ve seen more utilities use securitized fees to payoff large liabilities, so that could be an option available to LADWP,” **Dora Lee**, director of research at Belle Haven Investments. “But when the lawsuits around the fires are resolved, there’s still the potential for LADWP to be saddled with a substantial judgment.”

She said it that if the lawsuits are ultimately dismissed, “this will be a huge weight off” the utility’s credit woes.

The Palisades Fire stretched across an area larger than Manhattan in neighborhoods where the median home price approaches \$4 million.

The lawyers behind the litigation allege the city’s mishandling of the 117 million-gallon Santa Ynez Reservoir left the upscale neighborhood with no defense against the flames and turned victims from “homeowners to homeless in a matter of hours,” according to the initial complaint filed in Los Angeles Superior Court.

The fire victims have also accused the utility of failing to turn off electricity in the Palisades area before the blaze erupted. They allege that about 12 hours after the first ignition in the Santa Monica Mountains, LADWP wooden power poles snapped, causing a downed line next to a hiking trail to spark a “second ignition” that quickly spread through ultra-wealthy Malibu and destroyed oceanfront homes.

Read More: LA City Utility Accused in Suit of Igniting Malibu-Area Blaze

Under California law, a utility can be held liable for property damage when its equipment ignites a fire even if it didn’t act negligently.

That legal principle — known as inverse condemnation — was a driving force in the move by PG&E Corp., the state’s largest investor-owned utility, to file for Chapter 11 bankruptcy protection in 2019 to deal with a wave of lawsuits tied to multiple fatal northern California fires blamed on its wires.

LADWP has argued in a court filing that inverse condemnation doesn’t apply to the issues around the Santa Inez Reservoir because “the water system did not create the risk of a fire igniting.”

The utility also has said that its power line nearest to the suspected area of the fire's origin was manually de-energized more than eight hours before the plaintiffs said the second ignition happened.

Levin argued at the hearing that allowing 15,000 claims from property owners to go forward over a "single pole in Malibu" that sparked "is not a way to move a case toward any kind of resolution."

Making matters more complicated, federal prosecutors have brought arson charges against a man who allegedly ignited a brush-filled area early on the morning of New Year's Day 2025. Though that blaze was quickly contained by firefighters, prosecutors said it continued to burn underground for nearly a week until heavy winds caused it to resurface and become the Palisades Fire.

Bloomberg Intelligence says LADWP will probably lose its bid to dismiss the claims over the downed lines causing spot fires, while it's a "close call" whether the allegations over the firefighting water supply will be allowed to move forward.

"Our thesis: Though close, inverse condemnation may be deemed to apply to the LADWP," BI litigation analyst **Holly Froum** wrote in a research note.

--With assistance from Jef Feeley.

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Law Firms and Legal Departments Dip Toes Into Agentic AI as Gen AI Use Surges

According to Thomson Reuters's 2026 AI in Professional Services Report, organizations like law firms and legal departments are ramping up their AI use while grappling with concerns over the technology's ROI and impact on the unauthorized practice of law.

February 10, 2026 at 04:56 PM By  **Aleeza Furman**

What You Need to Know

- On Monday, Thomson Reuters released its 2026 AI in Professional Services Report.
- The report showed that, while generative artificial intelligence has taken off among professional services organizations in the past year, agentic AI has yet to gain such widespread adoption.
- Agentic AI's adoption appears to be following a similar trajectory as gen AI did a few years ago, according to report author Zach Warren.



Credit: Deemerwha studio/Adobe Stock

While generative artificial intelligence has taken off among professional services organizations in the past year, agentic AI has yet to gain such widespread adoption, according to a report published Monday by Thomson Reuters.

Only 15% of the more than 1,500 organizations surveyed in Thomson Reuters's 2026 AI in Professional Services Report said they already use agentic AI, while nearly one-third said they have no plans to use agentic AI. The respondents included law firms; corporate legal, risk and tax departments; tax firms and governments.

Law firms and legal departments' usage rates of agentic AI were slightly higher than the overall total, at 16% and 18%, respectively.

Those figures represent a much more muted embrace of agentic AI compared to gen AI. Given time, however, organizations' use of agentic AI may catch up.

While this is the first year Thomson Reuters included agentic AI stats in its AI in Professional Services Report, the technology's adoption appears to be following a similar trajectory as gen AI did a few years ago, Zach Warren, report author and senior manager of legal enterprise content at Thomson Reuters Institute, told Legaltech News.

"It's very early days where people are still experimenting with a tool, understanding what it can do," Warren said of agentic AI. "A lot of people see it as the future. So, even though it's not central to what they do right now necessarily, a lot of people say, 'Hey, when this technology becomes more fully formed, when it's adopted organization wide, that's when I really think I'm going to get the most out of it.'"

In contrast to the modest adoption of agentic AI, the percentage of organizations reporting that they are already using gen AI nearly doubled this year compared to last year, jumping from 22% in 2025 to 40% in 2026. In the same period, the percentage of organizations saying they had no plans to use gen AI shrunk from 28% in 2025 to 19% in 2026.

As with agentic AI, law firms and legal departments are slightly ahead of other organizations in their gen AI use. Forty-one percent of law firms and 47% of corporate legal departments reported that they are already using gen AI.

Warren noted that agentic AI is not as intuitive to use as gen AI, which may lead to a slightly slower adoption.

"It's a lot of workflows on the back end. It's giving it a task rather than asking it a question. And because of that, I don't think there's as much of a pick-up-and-play element," he said. "The flip side of that, though, is because it's so workflow based and because I know so many legal tech

companies across the board are already working on this, it's really easy to bake into the back end. And frankly, some lawyers will be using agentic AI and don't even know that they're using agentic AI. Because of that, I think it's going to be baked into tools relatively quickly, and that will help the adoption as well.”

Legal’s outlook for the future of gen AI appears to be optimistic, with 62% of law firms and 72% of legal departments saying gen AI should be applied to their work. Meanwhile, less than half (46% and 48%, respectively) said the same of agentic AI.

Still, there remains some trepidation surrounding the technology. Even as AI becomes more widespread, its ultimate impact on professional services remains a source of shifting anxiety.

Amid cross-industry concerns over AI’s impacts on jobs and available work, one especially prominent worry expressed in the survey dealt with the impact AI will have on the unauthorized practice of law. Half of legal professional respondents said they viewed AI-related unauthorized practice of law as a “major threat”—a 14-percentage-point jump compared to last year’s survey.

Meanwhile, professionals are struggling to quantify the returns on their AI investment, with 82% of respondents saying either their organization does not measure AI ROI metrics or they do not know whether their organization collects AI ROI metrics.

Page printed from: <https://www.law.com/legaltechnews/2026/02/10/law-firms-and-legal-departments-dip-toes-into-agentic-ai-as-gen-ai-use-surges-/print/>

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Baker McKenzie Blamed AI For Massive Layoff, But The Problem Is Much More Complicated

A abovethelaw.com/2026/02/baker-mckenzie-blamed-ai-for-massive-layoff-but-the-problem-is-much-more-complicated

Joe Patrice

February 11, 2026

When Baker McKenzie announced plans to [cut roughly 700 business services staff](#), the firm pegged some of the blame squarely on AI, feeding into the technology-fueled paranoia surrounding artificial intelligence. It certainly doesn't help that the AI hype cycle turns on tech gurus juicing up their VC sugar daddies with promises that AI will replace human workers any moment now, even though AI agents can't reliably do much more than [accidentally delete a whole computer and then apologize for it](#). I don't know if Baker McKenzie really believes it can replace 700 staff with AI or if blaming the bots just provides a convenient excuse for general management missteps, but either way it's not a great sign for the remaining team.

And, of course, the headlines naturally raise attorney anxiety as lawyers wonder if they're about to be replaced.

The short answer is that AI isn't replacing Biglaw lawyers. The long answer is that it might depend on which Biglaw firm we're talking about.

While the developers hustling for VC cash to heap upon the AI furnace will tell you that "agentic" AI is new and revolutionary, the reality is that agents are still stumbling with multi-stage tasks and the more people try to aim them at higher-level thinking, the more time the "human in the loop" spends fixing the mistakes generated along the way. That's not to say AI isn't radically changing business workflows — including legal — but it's not building robot lawyers. Hell, it's hemorrhaging money to make the technology hallucinate 1 percent less.

As bots go, AI is charting a sci-fi future path closer to *Star Wars*. He's cute and personable and can perform a lot of useful technical tasks, but R2D2 is more or less defeated by a flight of stairs. These AI tools will accelerate your summaries and timelines, but pump the brakes before handing it a case file and turning it loose.

In this way, AI doesn't replace lawyers, it improves attorney efficiency significantly enough that the firm doesn't need as many lawyers to produce the same results. That won't feel any different than "replacement" for the lawyers on the wrong end of that equation, but it's still a useful distinction. Law firms shaving a few percent

off their associate hiring is not the same as the cataclysmic human layoffs that tech futurists warn about. Or, more accurately, that they entice their deeply anti-humanist investors with. Either way, AI will impact hiring at the margins.

Mostly.

Now come the caveats. Adopting AI isn't going to replace scores of lawyers and spark Biglaw layoffs, [but in-house and small firm adoption might](#). Clients continue to deal with mounting budgetary pressure. If AI allows a deputy GC to handle the matter entirely in-house [as opposed to forking over Biglaw rates](#), that's a gold star from the board. Even if the job can't be entirely ported in-house, if smaller firms — at a lower price point than Biglaw — can use AI to give their handful of lawyers the brute force power of a large law firm, they'll drink some of that Biglaw milkshake.

And *that* is where Biglaw lawyers stand to get laid off. Not from the internal automation, but from the fleeing revenue.

But this fate won't strike all firms equally. There are essentially two kinds of firms sitting at the top of the Am Law 100. On one side, you've got decently large firms doing incredibly lucrative, high-margin work. These are your Wachtells, your Cravaths, your Davis Polks. These firms boast hundreds of attorneys generating massive revenue per lawyer. Wachtell's RPL clocked in at \$4.47 million on the most recent Am Law 100. It's a business model built on capturing valuable work from clients ready to spend big for it.

On the other side, you've got the megafirms. This is where you'd find a firm like Baker McKenzie. The firm's sitting at No. 9 on the Global 200 with an impressive \$3.4 billion in revenue. But it's spread across roughly 4,500 lawyers, yielding an RPL somewhere around \$721,000. DLA Piper, Dentons, the various Verein Voltrons. These are firms raking in revenue by stationing an office on every continent and leaning on offering clients expertise all over the place. And generating revenue from volume.

One model has a lot more exposure to AI.

The high-RPL firms have clients who already decided they'd rather pay big bucks than shop for a deal. It's not work a client is eager to take on themselves. If AI speeds up the process, the firm is still going to collect its fees. These are the firms that will trim their future offers but aren't about to purge lawyers.

On the other hand, when a business model is based around size and volume, efficiency takes a toll. When you've built a \$3.4 billion business on the premise that clients need 4,500 lawyers scattered across 70 offices to handle cross-border compliance, due diligence, and regulatory work at volume, the math gets ugly fast when technology lets a team of 50 handle what used to require 150. If AI makes lawyers more efficient, that \$721K RPL isn't going to cut it for a lot of those lawyers.

Which should give some pause to all the firms scrambling to merge their way up the revenue charts. But these headcount-and-geography mergers rest on the same volume-dependent operation that AI threatens to hollow out. Not every merger is doomed, of course. Combinations can bring together complementary high-value practices. But when a pair of second-50 firms joins to create a behemoth that suddenly moves them into the top-25... that's begging for a "harder they fall" narrative.

The Baker McKenzie layoffs this week didn't involve lawyers, but we received tips over the last few days suggesting a number of junior associates were let go for non-performance reasons. When a firm says it's "rethinking the ways in which we work, including through our use of AI," that doesn't sound like they're sure they're finished making changes.

But even as the megafirms consider their exposure to AI advancements, it's worth considering the Salesforce experience. No company invested more in the agentic AI hype than Salesforce and they laid off swaths of employees accordingly. By the end of 2025, their own studies determined [their agents mostly failed](#) and reports surfaced that senior executives at Salesforce determined that they had "massively overestimated AI's capabilities."

The risk isn't that AI is competent enough to replace lawyers, but that there's a lot of hype out there fooling people into believing that it is. When that sci-fi mythologizing collides with the genuine risks AI presents to a volume-based business model, firms are going to make some overestimations that unnecessarily cost a lot of people their jobs.

Reuters Finds AI-Using Surgery Devices Harmed Patients; Nature Magazine and Reuters Find Medical Chatbots Not Beating Patients' Own Internet Sleuthing

 [nakedcapitalism.com/2026/02/reuters-finds-ai-using-surgery-devices-harmed-patients-nature-magazine-and-reuters-find-medical-chatbots-not-beating-patients-own-internet-sleuthing.html](https://www.nakedcapitalism.com/2026/02/reuters-finds-ai-using-surgery-devices-harmed-patients-nature-magazine-and-reuters-find-medical-chatbots-not-beating-patients-own-internet-sleuthing.html)

Yves Smith

February 11, 2026

We have been alarmed at how the profit-driven US medical system has been eagerly embracing AI despite ample evidence of uneven performance, such as too-frequent, serious errors in what ought to be simple tasks like transcriptions of MD treatment notes. Two new Reuters investigations plus an article in Nature give further cause for pause.

The most troubling one is the newer of the two new Reuters investigations, which includes examples of harm done by AI-enhanced surgical tools. Worse, it specifically finds that recent AI updates have increased the incidence of serious errors and resulting harm to patients. [The article opens with a major AI backfire by Johnson & Johnson:](#)

In 2021, a unit of healthcare giant Johnson & Johnson announced “a leap forward”: It had added artificial intelligence to a medical device used....to assist ear, nose and throat specialists in surgeries.

The device had already been on the market for about three years. Until then, the U.S. Food and Drug Administration had received unconfirmed reports of seven instances in which the device malfunctioned and another report of a patient injury. Since AI was added to the device, the FDA has received unconfirmed reports of at least 100 malfunctions and adverse events.

At least 10 people were injured between late 2021 and November 2025, according to the reports. Most allegedly involved errors in which the TruDi Navigation System misinformed surgeons about the location of their instruments while they were using them inside patients’ heads during operations.

Cerebrospinal fluid reportedly leaked from one patient’s nose. In another reported case, a surgeon mistakenly punctured the base of a patient’s skull. In two other cases, patients each allegedly suffered strokes after a major artery was accidentally injured.

Let's stop here. First, some of these injuries were severe. Second, they call into question one of the premises of medicine practiced by AI, which is that it can do an adequate job of what in humans would be visualization and resulting decision-making. A comment on Twitter challenged this premise independent of these accounts, based on whether enough good training data could be obtained.

AI and robotics might be advancing at an amazing pace, but this is just BS, you still need a huge amount of training data to develop stand-alone surgical robots and this is not simply not available. Would be surprised if even 1% of surgeons is recording their procedures at the...

<https://t.co/3gC40zwGoE>

— Dries Develtere (@DriesDeveltere) [February 11, 2026](#)

Admittedly the use case here is full AI surgery as opposed to surgical assistance. But the fact that patients are suffering major injuries in surgery via the tool mis-locating where it is a huge red flag.

The training set concern also raises doubts as to whether AI can ever adequately substitute for visual and manual examination by a doctor. KLG recently gave an example of the hazards of merely over-relying on a chart history versus physical presentation.¹

Reuters later describes one of the strokes attributed to TrueDi. Note it resulted after what should have been a minor procedure:

In June 2022, a surgeon inserted a small balloon into Erin Ralph's sinus cavity...Dr. Marc Dean was employing the TruDi Navigation System, which uses AI, to confirm the position of his instruments inside her head.

The procedure, known as a sinuplasty, is a minimally invasive technique to treat chronic sinusitis. A balloon is inflated to enlarge the sinus cavity opening, to allow better drainage and relieve inflammation.

But the TruDi system "misled and misdirected" Dean, according to the lawsuit Ralph filed... A carotid artery – which supplies blood to the brain, face and neck – allegedly was injured, leading to a blood clot....Ralph's lawyer told a judge that Dean's own records showed he "had no idea he was anywhere near the carotid artery."...

After Ralph left the hospital, it became apparent that she had suffered a stroke...A section of her skull was removed "to allow her brain room to swell," the GoFundMe appeal stated.

"I am still working in therapy," Ralph said in an interview more than a year later in a blog about stroke victims. "It is hard to walk without a brace and to get my left arm back working, again."

The story reports a later horrorshow with the same doctor:

In May 2023, Dean was using TruDi in another sinuplasty operation when patient Donna Fernihough's carotid artery allegedly "blew." Blood "was spraying all over" – even landing on an Acclarent representative [which distributes TrueDi] who was observing the surgery...

And we soon learn that Dean had a major conflict of interest:

Dean began consulting for Acclarent in 2014 and received more than \$550,000 in consultant's fees from the company through 2024, according to Open Payments, a federal database that tracks financial ties between companies and physicians. At least \$135,000 of those fees related to the TruDi system.

While the focus on Dean might lead readers to conclude he's just a not-very-good doctor somehow made worse by TruDi, the Reuters story describes how this Johnson & Johnson TruDi AI-induced performance deterioration is not an isolated case:

At least 1,357 medical devices using AI are now authorized by the FDA – double the number it had allowed through 2022. The TruDi system isn't the only one to come under question: The FDA has received reports involving dozens of other AI-enhanced devices, including a heart monitor said to have overlooked abnormal heartbeats and an ultrasound device that allegedly misidentified fetal body parts.

Researchers from Johns Hopkins, Georgetown and Yale universities recently found that 60 FDA-authorized medical devices using AI were linked to 182 product recalls, according to a research letter published in the JAMA Health Forum in August. Their review showed that 43% of the recalls occurred less than a year after the devices were greenlighted. That's about twice the recall rate of all devices authorized under similar FDA rules....

Reuters found that at least 1,401 of the reports filed to the FDA between 2021 and October 2025 concern medical devices that are on an FDA list of 1,357 products that use AI. The agency says the list isn't comprehensive. Of those reports, at least 115 mention problems with software, algorithms or programming.

One FDA report in June 2025 alleged that AI software used for prenatal ultrasounds was misidentifying fetal body parts. Called Sonio Detect, it uses machine learning techniques to help analyze fetal images....

At least 16 reports claimed that AI-assisted heart monitors made by medical-device giant Medtronic failed to recognize abnormal rhythms or pauses. None of the reports mentioned injuries. Medtronic told the FDA that some of the incidents were caused by "user confusion."

Even as these incidents are rising, so too is AI deployment in devices:

Reuters takes pains to point out that software and computer assistance, including what formerly might have been called algos, is not new, and these advances have often been beneficial, such as pattern-matching to enhance images in cancer exams. It also laments at considerable length how the FDA had established a large team to evaluate AI in devices but the Trump Administration has been cutting headcount.

I wish the Reuters account had mentioned two other issues. First is that FDA regulation of devices is much more permissive than that of drugs. Second is that any introduction of software into a medical device, which is on the rise, is

problematic. Like buyers of smart homes, patients are at risk of a vendor going out of business or (as with the AI) updates making matters worse.

We'll give a shorter recap of the Reuters post from the start of the week, but urge you to read it in full. [AI-powered apps and bots are barging into medicine.](#) [Doctors have questions](#) gives numerous examples of patients seeking medical advice from AI and too many instances getting alarmingly bad readings, like telling a particular patient twice within months that he was set to die soon of cancer. But the vendors insist that the AI isn't giving "advice". Help me:

A growing number of mobile apps available on the Apple and Google app stores claim to use AI to assist patients with their medical complaints – even though they're not supposed to offer diagnoses.

Under U.S. Food and Drug Administration guidelines, AI-based medical apps don't require approval if they "are intended generally for patient education, and are not intended for use in the diagnosis of disease or other conditions." Many apps have disclaimers that they aren't a diagnostic tool and shouldn't be used as a substitute for a physician. Some developers seem to be stretching the limits.

An app called "Eureka Health: AI Doctor" touted itself as "Your all-in-one personal health companion." It stated on Apple's App Store that it was "FOR INFORMATIONAL PURPOSES ONLY" and "does not diagnose or treat disease."

But its developer, Sam Dot Co, also promoted the app on a website, where it stated in big letters: "Become your own doctor."

"Ask, diagnose, treat," the site stated. "Our AI doesn't just diagnose – it connects you to prescriptions, lab orders, and real-world care."

Apple removed the Eureka Health app only after Reuters made inquiries, confirming lax oversight.

And some of these apps are piss poor:

"AI Dermatologist: Skin Scanner" says on its website that it has more than 940,000 users and "has the same accuracy as a professional dermatologist." Users can upload photos of moles and other skin conditions, and AI provides an "instant" risk assessment. "AI Dermatologist can save your life," the site claims....

The app claims "over 97% accuracy." But it has drawn hundreds of one-star reviews on app stores, and many users complain it's inaccurate.

Finally to the paper in Nature. Troublingly, it compares AI chatbot performance in diagnosis and treatment to patients winging it. I am not making that up. Nature is using as a control for diagnosis patients NOT seeing a doctor. While one can see this as look at how a very carefully designed chatbot works (it was subjected to multiple levels of design, review, and testing), it has the effect of normalizing the idea of having AI play at being doctors.

A Twitter overview:

A paper in Nature Medicine suggests that large language models may not help members of the public make better decisions about their health in everyday medical situations. <https://t.co/k086BJL2Qn>
[pic.twitter.com/ND6kWq9cZ4](https://t.co/k086BJL2Qn)

— Nature Portfolio (@NaturePortfolio) [February 10, 2026](#)

Note that the summary does not convey that "everyday situations" includes whether or not to go to the ER. [From the paper:](#)

We tested whether LLMs can assist members of the public in identifying underlying conditions and choosing a course of action (disposition) in ten medical scenarios in a controlled study with 1,298 participants. Participants were randomly assigned to receive assistance from an LLM (GPT-4o, Llama 3, Command R+) or a source of their choice (control).

The LLMs had performed well...except with actual patient-type humans:

Tested alone, LLMs complete the scenarios accurately, correctly identifying conditions in 94.9% of cases and disposition in 56.3% on average. However, participants using the same LLMs identified relevant conditions in fewer than 34.5% of cases and disposition in fewer than 44.2%, both no better than the control group.

The researchers did not constrain what the control group did, so they may have used the Internet, asked someone who had had similar symptoms or was otherwise deemed to be knowledgeable, or maybe even just relied on earlier doctor warnings. The point is the AI performed no better than patients stumbling around on their own.

So there is indeed a lot not to like about our Brave New World of more AI, less care by medical practitioners. But it's going to be foisted even more on all of us. Enjoy being a guinea pig.

¹ From [Coffee Break: Science and Medicine, Bad and Good](#):

Dr. Will Lyon is a geriatrician from Wauwatosa, Wisconsin (pop. ~48,000). From *Front Porch Republic* he writes of the practice of modern medicine in [Doctoring and the Device Paradigm](#):

Before doctors see a patient, they perform a procedure called “chart review.” This involves reviewing the patient’s history, medications, lab or imaging data, and notes from any recent specialist visits or hospital stays. There is variation in how much chart review one prefers to perform before meeting a patient, but in general it is good and necessary to be sufficiently informed and prepared before the visit. But chart review can be a double-edged sword: it can save time and help put the history you obtain and the physical exam you perform into context, but it can also box you in to a false understanding of who the patient is. In the age of ubiquitous electronic health records, which promise an ostensibly more efficient method of chart review but also contain vast amounts of information, chart review can become daunting.

...

Several years ago, when my wife’s grandfather – “Opa” – presented to the ER with shortness of breath while I was on service in the hospital, I learned the value of meeting the real patient first.

I only learned of his arrival because I was notified by my family, and I could not access his medical record. Instead, I went straight to meet him in his emergency department room. On my elevator ride down, I thought about his shortness of breath. I knew that he had had a myocardial infarction earlier in the year, treated with the placement of a coronary stent.

When I walked in the room, he looked almost as pale as the bedsheets. When I shook his hands, I noticed that they were cool. He described feeling lightheaded whenever he stood up at home and was so short of breath that he wasn’t able to walk across his living room – a drastic change in his functional status. All of these signs suggested a common cause – anemia. However, the iPatient’s story suggested at a different suspected cause: new or recurrent heart problems. Or so I learned when the ER doctor stopped by.

Turns out it was anemia and not a heart attack, and according to Dr. Lyon "I still think of Opa's case when I get lost in the weeds of chart review and need to remember that **sometimes, the most valuable information is gathered from the patient by using our eyes, ears, and hands.**" This is the lesson we try to teach our medical students from their first few weeks of medical school, even as they are consumed by biochemistry, genetics, and cell biology. From Dr. Lyon:

I do not intend to minimize the importance of reviewing the patient's chart. Oftentimes, a thorough review provides critical information that guides your clinical approach (in the case I described, the fact that Opa was on blood thinners would increase the likelihood of blood loss as the cause of his anemia). Failing to identify key history on chart review can have devastating consequences, especially in the case of complex medical patients. The error comes when we mistake the iPatient for the flesh-and-blood human being in the exam room or hospital bed.

Securities
Column

Paul Weiss' Progressive Culture Fell Victim to the Vampire Rule

Feb. 11, 2026, 1:30 AM PST

I recently learned about the “vampire rule”—which provides, in a nutshell, that a vampire can’t enter your home unless you let it in. The rule’s most famous expression can be found in Bram Stoker’s 1897 gothic horror novel, “*Dracula*”: A vampire “may not enter anywhere at the first, unless there be some one of the household who bid him to come, though afterwards he can come as he please.”

The rule figures prominently in “*Sinners*,” which just snagged a record 16 Oscar nominations. It’s also invoked in discussions of *Wolford v. Lopez*, a pending US Supreme Court case about whether Hawaii can prohibit the carrying of handguns on private property unless the property owner affirmatively grants permission.

And the vampire rule might be an apt explanation for the sudden resignation of Brad Karp as chairman of Paul Weiss, the firm he has led since 2008. Allow me to explain. (This story is based on conversations with current and former partners and associates at Paul Weiss—who were not willing to speak on the record, given the sensitivity of the issues and the firm’s desire to reduce its media coverage.)

For decades, Paul Weiss was known primarily as a litigation powerhouse. Its most celebrated lawyers—including Arthur Liman, Martin “Marty” London, Ted Wells, former federal judge Simon Rifkind, current federal judges Lewis Kaplan and Colleen McMahon—were litigators. And roughly two-thirds of the firm’s revenue came from litigation.

And it wasn’t just a litigation firm, but a particular kind of litigation firm. As former partner (and former Homeland Security secretary) Jeh Johnson told me, it was a public-spirited and politically engaged firm, with deep ties in Democratic circles.

In 2008, Karp—a veteran litigator—became chair. He had big ambitions for Paul Weiss, eager to grow its profitability and prestige further. Karp succeeded in many ways: Between 2008 and 2026, the firm rose in industry rankings of both profits per partner and prestige.

Part of Karp's strategy involved doubling down on the firm's traditional strengths. He brought in well-known, well-connected litigators with high-level government experience—such as Johnson (who returned to the firm), former attorney general Loretta Lynch, former associate White House counsel Karen Dunn, and former assistant to the solicitor general Kannon Shanmugam. He maintained the firm's robust commitment to pro bono work—including prominent, public-facing, and politically inflected matters, such as representing families affected by the first Trump administration's family-separation policy.

But Karp also built out the firm's transactional practice. In 2011, he brought in seven partners from O'Melveny & Myers, to help grow Paul Weiss' private-equity practice. The firm already had a strong relationship with Apollo, after Karp and Paul Weiss helped the PE giant secure what The Wall Street Journal called a "sweet deal" resolving the messy Huntsman/Hexion litigation. But the former O'Melveny lawyers helped Paul Weiss take its Apollo work to the next level—to the point where Apollo is now one of Paul Weiss' largest and most lucrative clients.

And then in 2016, Karp scored what many regarded at the time as a coup: He convinced Scott Barshay, a star of the M&A bar, to leave Cravath—a preeminent transactional firm—and join Paul Weiss. Over the next decade, Barshay turbocharged the firm's corporate practice, especially in terms of public M&A. Today, Paul Weiss is a top-10 M&A firm—and corporate work generates a majority of the firm's revenue, with litigation falling to around 45% (not because the litigation work has declined, but because corporate has grown much faster).

This shift toward transactional practice brought about changes at Paul Weiss. It made the firm more conservative—perhaps politically, but definitely culturally—and more cautious. Corporate America is more politically balanced than the undoubtedly liberal world of Big Law, and some companies are uncomfortable with their outside counsel being too outspokenly progressive.

And some businesses, wanting to avoid controversy of any type, don't want their lawyers to be involved in conservative causes either—such as the Kirkland & Ellis clients who opposed the Second Amendment work of Paul Clement, who left Kirkland over the issue. Put another way, corporate clients—and many of the Big Law firms who service them—don't focus on blue or red, but green.

As the Biden administration was drawing to a close, with the Trump administration waiting in the wings and warning about retribution, some corporate partners argued that Paul Weiss needed to maintain a lower profile on political issues. But by then, it was too late. The firm's leftward leanings and history of hiring high-profile progressives—including Mark Pomerantz, who returned to Paul Weiss after investigating Donald Trump—made the firm a target of the new administration.

In March 2025, the Trump administration hit Paul Weiss with a punitive executive order. As Karp explained in a firm-wide email, Paul Weiss considered fighting the order in court. But in the end, the firm entered into a controversial settlement with the administration—a position strongly advocated for by Paul Weiss' ascendant corporate partners, especially Barshay, who believed they needed to stay in the good graces of the federal government to get many of their deals done.

Then last month, the Department of Justice released some three million pages of documents related to the late financier and sex offender Jeffrey Epstein. The emails included previously undisclosed correspondence between Karp and Epstein, showing a friendlier relationship than the firm had previously acknowledged.

In one email from March 2019, Karp commented on a draft motion, prepared by Epstein's lawyers, that opposed an effort by Epstein victims to modify his (scandalously lenient) plea deal. Karp praised the motion as being "in great shape" and "overwhelmingly persuasive," adding that he "particularly liked the argument that the 'victims' lied in wait and sat on their rights for their strategic advantage, knowing you were in prison, before they came forward" (quotation marks around "victims" in the original).

Amid the controversy that ensued, Karp resigned as chair (but remains at the firm as a litigation partner). According to media reports, Karp was ousted by some of Paul Weiss' most powerful partners, led by Barshay—who immediately succeeded Karp as chair.

Based on last year's Trump deal and this year's replacement of Karp by Barshay, the first M&A partner to lead the firm, I recently suggested Paul Weiss' days as a public-spirited, politically engaged firm might be over. One could argue that in many ways, it's no longer that different from eight other firms, dominated by their deal practices, that reached settlements with Trump.

"What's most sad about all of this is the destruction of the unique Paul Weiss culture," a former Paul Weiss partner told me. "Maybe some of it might have been marketing BS, and maybe I'm looking at this through rose-colored glasses—but I really believed in the idea of a special Paul Weiss culture."

What brought Paul Weiss—and Karp—to this point? Maybe we can think of it like the vampire rule. Hoping to take the firm higher, Karp invited Barshay and other top dealmakers into the firm—and for a time, it worked.

But the corporate partners brought more than just books of business. They instituted a less civically engaged, more bottom-line-driven approach to practice at Paul Weiss—one in which closing deals is paramount, and dealmakers run the firm. That mindset drove last year's Trump deal—and likely this year's departure of Karp.

In defense of Karp, perhaps this is less about Paul Weiss and more about Big Law more generally. Law firms were already focusing much more heavily on corporate work over litigation, especially politically tinged litigation. By growing his firm's transactional practice, Karp was simply bringing Paul Weiss into the present—and keeping it competitive.

Did Karp accelerate certain changes at Paul Weiss? Maybe—but many of them were probably going to happen anyway. The transactional worldview was already inside the house.

David Lat, a lawyer turned writer, publishes Original Jurisdiction. He founded Above the Law and Underneath Their Robes, and is author of the novel "Supreme Ambitions."

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California Brief

Tom Goldstein to Take Stand in His Own Defense Wednesday (1)

Feb. 10, 2026, 2:30 PM PST; Updated: Feb. 10, 2026, 3:24 PM PST

Lawyers for high-profile US Supreme Court advocate Tom Goldstein said he will testify in his own defense on tax and false statement charges starting Wednesday morning.

His attorneys made the announcement after prosecutors concluded their case Tuesday in the US District Court in the District of Maryland.

It's a risky proposition. He's opening himself up to cross-examination and could expose himself to a an obstruction-of-justice enhancement to any sentence if he's convicted and the court decides he was dishonest on the stand.

The government's final witness was IRS revenue agent Colleen Ranahan. She was there to summarize the evidence that had been presented and to act as a "human calculator," prosecutors said.

Ranahan told jurors that Goldstein understated his gambling income by \$3.4 million in 2016. Her analysis was based on her assessment of the documentary evidence including Goldstein's bank records, a gambling ledger documenting his gambling activities in 2016, a stipulation of agreed-upon facts that was entered into evidence, and contemporaneous emails and text messages.

Goldstein reported just \$2.7 million in gambling income on his 2016 tax return, she said. She said he should have reported \$6.2 million.

According to Ranahan, Goldstein got to the lower number primarily by overstating his gambling losses that year.

Goldstein stipulated to winning \$26,735,000 while losing \$21,643,700. But the stipulation says the parties can present evidence of other transactions not mentioned in it.

Ranahan also walked jurors through alleged misstatements on each of Goldstein's tax returns between 2017 and 2020, explaining why the government believes certain line items on the returns were false.

On cross-examination, counsel for Goldstein said he wanted to talk about “responsibility” for the alleged errors. That there were mistakes on Goldstein’s taxes isn’t so much in dispute.

Ranahan acknowledged there was no documentary evidence showing that Goldstein intentionally mischaracterized any transaction.

This line of questioning also made it clear to the jury that the government isn’t alleging that Goldstein had net gambling winnings to declare for any year at issue but 2016.

Goldstein is charged with one count of tax evasion, eight counts of aiding and abetting in the preparation of false and fraudulent tax returns, four counts of willful failure to pay taxes, and three counts of making a false statement on a loan application. The government rested its case-in-chief Tuesday following 15 days of trial—12 when you exclude the three full days of jury selection.

Goldstein is represented by Munger Tolles & Olson LLP.

The case is United States v. Goldstein, D. Md., No. 8:25-cr-00006, trial held 2/10/26 .

(Updates throughout with information about government’s last witness.)

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Supreme Court lawyer Tom Goldstein takes stand at his criminal tax trial

 [reuters.com/legal/government/supreme-court-lawyer-tom-goldstein-takes-stand-his-criminal-tax-trial-](https://www.reuters.com/legal/government/supreme-court-lawyer-tom-goldstein-takes-stand-his-criminal-tax-trial-2026-02-11)
2026-02-11

Mike Scarcella

February 11, 2026



Tom Goldstein, a top U.S. Supreme Court attorney and former publisher of the SCOTUS blog news website arrives for jury selection in his trial on charges of tax fraud, at U.S. District Court in Greenbelt, Maryland, U.S., January 13, 2026.

REUTERS/Leah Millis REFILE - CORRECTING INFORMATION FROM "PUBLISHER OF THE SCOTUS BLOG NEWS... [Purchase Licensing Rights](#) , [opens new tab](#) Read more

WASHINGTON, Feb 11 (Reuters) - Former longtime U.S. Supreme Court lawyer Tom Goldstein testified in his own defense at his criminal tax trial on Wednesday, saying he never willfully broke the law while maintaining a side career playing multimillion-dollar poker games.

Answering questions from his lawyer in front of a federal jury in Greenbelt, Maryland, Goldstein admitted to leaving gambling debts off mortgage applications.

"I did not want my wife to know about the scope of my gambling debts," Goldstein told jurors in the courtroom of U.S. District Judge Lydia Griggsby, who has overseen the trial.

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Goldstein took the stand on the 16th day of trial in the Washington suburb, where he was indicted last year for allegedly failing to report millions of dollars he won in poker games, lying on mortgage loan documents and making improper payments through his now-defunct law firm Goldstein & Russell.

Griggsby earlier on Wednesday rejected Goldstein's request that she acquit him now before the jury deliberation phase of the trial. Such requests face a high bar and often fail.

The charges against Goldstein and the alleged details of his gambling exploits stunned the legal community in Washington, where he had risen over two decades to become a central figure in the elite U.S. Supreme Court bar.

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Goldstein argued more than 40 cases before the high court before retiring in 2023. He pleaded not guilty last year and has maintained he acted in good faith at all times, relying on his accountants and law office managers for tax and financial matters.

Legal experts have said defendants [face risks when they testify](#) at their own trial, since doing so opens them to direct questioning by the prosecution. Goldstein will face prosecutors' questions later on Wednesday or on Thursday after his attorneys finish their direct examination.

Jurors have heard from more than a dozen witnesses so far, including [law firm leaders](#), IRS agents and other poker players in the high-stakes gambling circles Goldstein inhabited.

Prosecutors showed jurors that Goldstein won about \$50 million playing poker in 2016 but told his tax preparer about only \$27 million. Goldstein, prosecutors allege, lied to the IRS about his 2016 tax return to obscure his poker activities.

Actor and Spider-Man star [Tobey Maguire](#) testified last month about hiring Goldstein to help him recover millions of dollars he was owed in poker winnings. Maguire paid Goldstein \$500,000 in legal fees, which prosecutors said Goldstein asked Maguire to send to a third-party to cover the lawyer's own poker debts. Maguire is not accused of any wrongdoing.

Jurors also saw snippets of a lengthy profile of Goldstein published in December in The New York Times by legal affairs journalist Jeffrey Toobin.

Goldstein in the article recounted his development as a poker player and described taking steps to conceal his gambling debts from his wife Amy Howe.

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The attack on our free press: attorneys must stand up for the truth

Amid rising misinformation, recent journalist arrests and broader Trump-era actions are framed as escalating threats to press freedom--highlighting weak legal remedies against federal officials and the urgent need to defend a free press to protect democracy.



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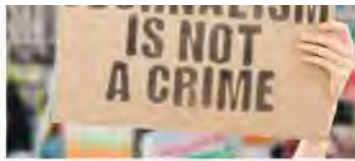
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other means, making the role and integrity of the press more important than ever, and the actions of the current Trump administration demonstrate a stark disregard for such ideals. In the early 1930s, some of the

first things the Third Reich did in Germany were to suppress the press and the judicial system, leading to the domination of Western Europe and eventually WWII.

The role of the press in our country has been respected as a fundamental part of our country through which the public receives information about our communities, government and matters of national importance. Even before our Declaration of Independence in 1776, the early newspapers had the responsibility of letting people know the news, with journalists risking their lives under British rule so the truth could be heard. Today, it is critical that we protect the press from the influence, intimidation and retaliation of those in power. Having a free press is paramount to having a free nation itself, as made clear in the First Amendment to our Constitution.

Most recently, on Jan. 30, 2026, former CNN news anchor Don Lemon, as well as independent journalist Georgia Fort, were arrested by federal agents following their reporting on anti-ICE protests in Minnesota. On Jan. 18, Lemon released video documenting his interviews and interactions with protesters and members of the public, entering Cities Church in St. Paul as part of their demonstration. In it, Lemon stated that he was not a participant in the activities and was merely reporting on them. The two were arrested for various claims, and Attorney General Pam Bondi took credit for the arrests after a federal magistrate judge had previously denied approval for Lemon's arrest. Lemon and Fort are not alone. Recently, in mid-January 2026, a Washington Post journalist had his home raided by federal officers.

The Civil Rights Act of 1871, codified at 42 U.S.C. § 1983, applies to state and local government officials for violations of civil rights. Section 1983 does not apply to federal agents, ICE and the FBI. As such, we need the passage of legislation that would extend Section 1983-style liability to federal officers. For many, the arrests of Lemon and Fort rang as clear threats against the press and its independence.



Filing suit against federal defendants presents many challenges. Under *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), a plaintiff may file a suit against federal officers in their individual capacity under limited circumstances. In *Bivens*, the plaintiff claimed excessive force was used in a warrantless search of the plaintiff's apartment and that he was arrested without probable cause. Later, in *Ziglar v. Abbasi*, 582 U.S. 120 (2017), the Court held that the expansion of the *Bivens* remedy is a "disfavored" judicial activity, and it will not be extended to new areas. When evaluating a *Bivens* claim, the court compares the subject claim to the Supreme Court cases authorizing *Bivens* claims against federal officers, decisions that are very limited.

However, under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671 et seq., a person may file negligence suits against the United States, but the waiver of sovereign immunity is also limited. The FTCA is subject to a number of exceptions, including the discretionary function exception under 28 U.S.C. § 2680(a) and the intentional tort exception under 28 U.S.C. § 2680(h). But the intentional tort exception is also subject to the "law enforcement" proviso in 28 U.S.C. § 2680(h), which Congress enacted in 1974 in response to Watergate-era abuses of power by federal officials. *Caban v. United States*, 671 F.2d 1230 (2d Cir. 1982), explains that the enactment of the law enforcement proviso "was triggered by the abusive tactics of federal narcotics agents, who engaged in illegal, unconstitutional 'no-knock' raids."



In the past decade, President Trump has used X (formerly Twitter) and Truth Social to post thousands of messages aimed at discrediting and undermining the press, including referring to the media as the "enemy of the American people." Trump's social media platform, Truth Social, was created after his initial ban from Twitter in 2021. On Truth Social, President Trump accused outlets such as The New York Times of "endangering national security" and being "a serious threat"--the Trump administration also restricted White House privileges for outlets such as the Associated Press earlier in 2025.

President Trump has initiated lawsuits against a variety of news outlets for defamation and libel, seeking billions of dollars in damages, including suits against CBS, ABC and the Wall Street Journal; and, in late 2025, Trump referred to The New York Times as "a virtual 'mouthpiece' for the Radical Left." Other attempts by the Trump administration to silence the press include cutting over \$1 billion in public broadcasting funds used to support NPR and PBS stations. These actions constitute a brazen attack on the First Amendment rights of reporters and journalists throughout the nation.

Lemon and Fort's arrests break new ground for the administration, occurring in the wake of civil unrest caused by the increased aggression of ICE agents during arrests that claimed the lives of citizens such as Renee Good and Alex Pretti. The administration's suppression of journalists like Lemon and Fort represents a broader attempt to control the press and subdue controversy. Today, the legal profession has to stand up against the arrests, bring civil rights lawsuits to challenge illegal government action, and seek expansion of available claims against federal officials.

Senate Majority Leader Chuck Schumer stated that the event sends "a dark message to journalists everywhere: If you dare criticize this administration, watch your back." One has only to look around the world at some countries to see just how important it is that the press be safeguarded. It is critical for those in the legal profession who believe in our Country to protect and fight for both the truth and for the journalists who defend it--without that, our democracy is gone. As one said, "democracy dies in darkness."

#389695

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Section: News

Ex-lawyer recounts Randazzo concerns
Says he took issue with FirstEnergy consulting deal

Patrick Williams

February 11, 2026

"It's so ambiguous, such as to mean almost absolutely nothing."

Mark Hayden

Former attorney for FirstEnergy Services Co., about scope of consulting agreement with Sam Randazzo

A former lawyer for FirstEnergy said he wasn't sure why the company agreed to pay Sam Randazzo hundreds of thousands of dollars each year for five years. Mark Hayden formerly worked as an attorney at FirstEnergy Services Co., a subsidiary of the Akron-based electric utility, supporting the parent company's former FirstEnergy Solutions power generation subsidiary.

Hayden testified Feb. 9 that he held "a number of concerns" in the 2010s about an agreement that FirstEnergy Services Company had with Sam Randazzo, who at the time was a prominent attorney in the energy space. Later, in 2019, Randazzo became chair of the Public Utilities Commission of Ohio, a state regulatory agency.

Ex-FirstEnergy Senior Vice President Michael Dowling and former FirstEnergy CEO Chuck Jones are accused of bribing Randazzo in their ongoing criminal trial. Randazzo was a defendant in the case before he died in 2024.

For a time, Hayden said, he approved the monthly FirstEnergy Services payments to Sustainability Funding Alliance of Ohio, a shell company that Randazzo owned and controlled.

Testifying as a witness for the prosecution, Hayden said he, Dowling and others at FirstEnergy who worked with Randazzo knew about what the utility called a consulting agreement with Randazzo.

Hayden, who objected to being photographed or recorded in court, said he had numerous issues with the agreement.

For one, Hayden said Randazzo appeared to have a conflict of interest. The utility paid Randazzo at least \$25,000 per month while Randazzo represented energy trade group Industrial Energy Users of Ohio, which purchased electricity and generally had different interests than FirstEnergy, Hayden said.

Additionally, Hayden said, the background and purpose of the agreement was not clear to him.

And Hayden said Randazzo would reach out to employees of FirstEnergy Solutions "as an attorney, knowing that those individuals were represented by counsel."

The defense contends that the consulting agreement was a legal settlement between FirstEnergy and Industrial Energy Users of Ohio.

In his opening statement Feb. 3, Assistant Ohio Attorney General Matthew Meyer called the consulting agreement a "magic paper" that the defendants used to create a distraction and conceal the flow of FirstEnergy funds.

Meyer asked Hayden if he had ever seen a settlement in any other context that's called a "consulting agreement."

Hayden said no.

Witness: Consulting agreement terms unclear

Meyer asked Hayden to review a document, and Meyer asked Hayden if the document defined the scope of work for the consulting agreement.

"It has words next to the word 'work,'" Hayden said.

Hayden added, "It's so ambiguous, such as to mean almost absolutely nothing. ... I don't know what that scope of work means."

George Stamboulidis, an attorney for Jones, said Jan. 10 that two FirstEnergy executives — not the defendants — met with Randazzo twice a month without Hayden.

Stamboulidis asked Hayden if learning that information would surprise him.

"If they met with him twice a month, yes," Hayden said.

Dowling called Randazzo's insertion into FirstEnergy affairs 'a problem'

In an email exchange between Hayden and Dowling presented as a trial exhibit, Hayden expressed his frustration to Dowling about Randazzo's involvement in FirstEnergy affairs.

Dowling said in an email to Hayden that "this has been a problem for more than a decade and probably longer."

Stamboulidis asked Hayden if Dowling's statement was in response to Hayden's concern about Randazzo being a consultant for FirstEnergy Solutions.

Hayden said he was generally concerned about the relationship that Randazzo had with the company.

The witness said he raised his issues about Randazzo to "as many people as I possibly could" at FirstEnergy.

Meyer then asked Hayden what happened to the witness's career.

Hayden said his responsibilities at FirstEnergy lessened, to include removal from invoice approvals and from the department in which he was working.

Meyer then asked Hayden if he was "separated" from the company, and Hayden said yes.

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"It's so ambiguous, such as to mean almost absolutely nothing."

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Former attorney for FirstEnergy Services Co., about scope of consulting agreement with Sam Randazzo

---- Index References ----

Company: FIRSTENERGY SOLUTIONS CORP.; FIRSTENERGY SERVICE COMPANY

News Subject: (Government Litigation (1GO18); Legal (1LE33))

Industry: (Electric Utilities (1EL82); Electric Utilities Distribution (1EL02); Electric Utilities Generation (1EL37); Electric Utilities Generators (1EL15); Energy & Fuel (1EN13); Utilities (1UT12))

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Section: mct-noindex news

Witness: Ex-FirstEnergy CEO 'surprisingly' confident
Convinced investors a rate review wouldn't happen

Adam Ferrise cleveland.com

By Adam Ferrise • cleveland.com

AKRON, Ohio - Former FirstEnergy CEO Chuck Jones exuded a "surprising" amount of confidence as investors fretted over a public review of the utility's finances. That's according to new witness testimony in the high-profile corruption trial of the ousted utility leader.

Jones in November 2019 convinced those investors not to worry, insisting a pending Public Utilities Commission of Ohio review that threatened to cut FirstEnergy's revenue would never happen, FirstEnergy's top accountant Jason Lisowski testified on Wednesday.

"In every one of those conversations he was very convinced and very comfortable that there was no risk with the 2024 rate case," Lisowski said.

Lisowski's testimony teed up prosecutors' arguments that Jones knew PUCO chair Sam Randazzo would soon shut down the possibility of the review.

Prosecutors say Randazzo did so the same month because Jones and FirstEnergy's former top lobbyist Mike Dowling paid Randazzo a \$4.3 million bribe to stop the review, among other official actions.

Jones and Dowling face 11 charges, including conspiracy and bribery. Randazzo was charged in the case but died by suicide in April 2024. His company pleaded guilty to several charges and agreed to pay \$2.2 million in penalties and restitution.

The testimony marked a turn in the trial away from Randazzo, who prosecutors portrayed as something of a double agent. Witnesses testified Randazzo was on FirstEnergy's payroll for years while simultaneously representing clients opposing FirstEnergy.

When Jones and Dowling learned in 2018 that incoming Gov. Mike DeWine intended to appoint Randazzo as PUCO chair, prosecutors say the two executives bribed Randazzo to help the company through several official actions worth millions of dollars, including stopping the review.

Lisowski testified Wednesday against his former bosses, who sat just feet away.

During a November 2019 utility conference, Jones hosted a steady stream of analysts and investors who peppered him with questions about the PUCO review set for 2024, Lisowski testified.

Lisowski said he worried that Jones' confidence that the review would never happen could hurt Jones' and FirstEnergy's credibility if he ended up being wrong and the PUCO review went forward.

"PUCO makes that decision, not us," Lisowski said. "So we only had so much control over the outcome of the rate case. Without that certainty, he was very convinced this was not something to be concerned about or worried about, even though we didn't have complete control over it, surprised me."

Later that same month, Randazzo stopped the review of FirstEnergy's prices.

Lisowski also told the jury that Jones' and Dowling's salary was mostly tied to performance bonuses and FirstEnergy stocks. If the company's stock prices jumped, their pay skyrocketed, Lisowski said.

When Randazzo stopped the review, the decision caused FirstEnergy's stock prices to soar, prosecutors previously said.

"If your stock price goes up significantly, especially compared with other utilities, you'd be doing much better," Lisowski said of Jones' and Dowling's pay.

---- Index References ----

Company: FIRSTENERGY CORP

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Financial Fraud (1FI18); Fraud (1FR30); Social Issues (1SO05))

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

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

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NewsRoom

News from Bloomberg Terminal

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By Matt Levine

(Bloomberg Opinion) --

AI eats the world

Okay so I have a business plan for Sam Altman. Here's what you do. You build an artificial intelligence application for some specific sort of business, coding or tax planning or whatever. You roll it out on a Tuesday morning. You announce it in blandly optimistic terms and do some cool demos. You go on financial television, and when they ask you – as they will – a question like “won't this disrupt the business model of software-as-a-service companies” or “won't this put financial advisers out of business,” you smirk ruefully and shake your head and say “well there is a lot of disruption coming, and it may be difficult to know what role money will play in a post-artificial general intelligence world.”

And by Tuesday afternoon every software company or wealth management company or whatever sector you're targeting will have sold off by like 10%. Oh and of course the other thing you do is, on Monday – *before* you announce the new product – you buy a bunch of put options on all of the software/wealth management/whatever companies' stocks. And you make like a 1,000% one-day return on your money, probably not in *huge* size but in *useful* size.

And then you do it again next week. You have, let us hypothesize, built something that is artificial, pretty intelligent and pretty general. You have a quite smart robot. “Robot, disrupt the X industry,” you tell it each week for some new X. And each week you eat some industry's lunch and turn it into trading profits for yourself. Not investing advice!

Actually we have talked about this business model a few times before. I proposed it for OpenAI last year, for instance, and I also wrote about it when DeepSeek came out with a model that briefly crashed all the other AI stocks. And we've talked about the idea – “short an incumbent industry, and then disrupt it” – in other contexts; Joe Weisenthal proposed it decades ago.

Of course it is not specific to Sam Altman. OpenAI is a big AI lab, and I sort of like the idea of him smirking through this short thesis on TV, but any AI lab could do it, or they could take turns. Or, more generally, every AI lab could short every industry, and then they could disrupt each industry when they get around to it.

I feel like one way to express the model is:

1. Right now, there is an economy. People spend trillions of dollars on goods and services, and many of those trillions of dollars go to big public companies as revenue.
2. In N years, AI will satisfy all human needs and desires, so people will not spend any more money on goods or services, and all of those companies' revenues will go to zero. As I once put it, in talking about DeepSeek: "Everyone has a magic lamp in their pocket with a genie that can grant unlimited wishes; the lamp is cheap and each wish is free."
3. One possibility is that, if you control the robots, then in N years all of those trillions of dollars of revenue that other companies currently get will go to you instead.
4. But this is not the only possibility. Maybe robot control will be competitive, the genie will be nearly free, and all of the revenue will just *vanish*, just become consumer surplus. (Or perhaps all of the profits will end up with the chip makers, or the electric utilities, or something, but not the AI labs.)
5. Or maybe the robot-controller *will* get rich, but it won't be OpenAI (or whichever other lab). If you are building the robots, you want to hedge your risk of losing to better robots in a winner-take-all competition.
6. Also you don't know what N is, and it might be a long time, and you need billions of dollars now to build more robots.
7. Also maybe this is all stupid. "Everyone has a magic lamp in their pocket with a genie that can grant unlimited wishes," come on. You might want to hedge your risk that this is all wrong, that the revenue won't vanish, that the industries won't be disrupted, etc.

If the market *now* is both optimistic about AI and jumpy about its disruptive effect on other industries, you can monetize that jumpiness. If the market *thinks* that AI disruption will be this total, that AI will eat software and wealth management and everything else – or if the market just ascribes a meaningful probability to that – then you might as well capture that now.

The magic of financial markets is that they can turn a *bad future* fact about the world like "the revenue of Industry X will go down by \$1 trillion" into a *positive* amount of money, for you, *now*. (A negative amount for someone else, sure, but that's not your problem.) Also they can turn some *probability* of a bad future fact, or even some widespread *beliefs* about the probability of a bad future fact, into money for you now. Anyway:

On Wall Street, rising fears about artificial intelligence keep pummeling shares of companies at risk of being caught on the wrong side of it all, from small software makers to big wealth-management firms.

The latest selloff was triggered by a tax-strategy tool rolled out by a little-known startup, Altruist Corp. The perceived threat sent shares of Charles Schwab Corp., Raymond James Financial Inc. and LPL Financial Holdings Inc. down by 7% or more, before going on to hit European companies, too.

It was the deepest slide for some of those stocks since the market's trade-war meltdown in April. But it was only the most recent example of a sell-first, ask-questions-later mentality that has rapidly taken hold as new products emerge from the hundreds of billions of dollars poured into AI, sowing anxiety about how the technology may upend entire industries.

"Every company with any sort of potential disruption risk is getting sold indiscriminately," said John Belton, a money manager at Gabelli Funds.

If AI is destroying the current economy to build something new, maybe make some money on the destruction first.

Defeasance!

Companies often borrow money by issuing bonds. This gets them money, but it limits their flexibility. For one thing, they have to pay back the bonds: They have to make scheduled interest payments and pay back the principal at maturity, or else they will be in default and the bondholders will be able to sue to get all their money back. But that's not all. Bonds might also have covenants saying that the company can't do certain transactions – new borrowing, dividends, stock buybacks, etc. – and will often have change-of-control provisions saying that, if the company is acquired, it has to pay back its bonds immediately at 100 or, often, 101 cents on the dollar. The bondholders don't want the company to do risky things – borrowing more, getting bought in a leveraged buyout, etc. – that would endanger their payments, so they negotiate covenants to prevent that.

Sometimes a company's circumstances will change, and it will no longer want those limits on its flexibility. How can it get rid of them? Well, it could get rid of the bonds. How can it do that? Most corporate bonds are not freely callable; the company can't just give bondholders their money back anytime it wants. It can call up each bondholder and say "hey we'd like to buy back your bonds" and negotiate a price, but that's administratively annoying and probably won't get everyone. It can do a tender offer, a public offer to buy back all of the bonds at the same price, but that probably won't get everyone either. (In particular, if bondholders know that the company needs to get rid of the bonds, they might hold out for a higher price.)

There is another, weirder way, at least sometimes. This is "defeasance." Some bonds will have a provision saying that the company is allowed to defease them. To defease a bond, a company deposits all of the future interest and principal payments on the bond with the bond's trustee, and then it washes its hands of the bond. Roughly speaking, the bond is no longer the company's problem: The trustee has all the money it needs to make all the payments, so the company is off the hook. All those covenants – about not borrowing more money or doing mergers – no longer apply, because the bondholders no longer need to worry about the company's credit, because the money is already there.

There is one important simplification in the previous paragraph: I said that the "company deposits all of the future interest and principal payments" with the trustee, but it normally doesn't do that in *cash*. It normally does it in US Treasury securities. Consider, just hypothetically, a company that a few years ago issued a \$750 million 30-year bond that matures in February 2051 and pays 2.95% annual interest. The company has to pay about \$22.1 million of interest every year for the next 25 years (2.95% of \$750 million), and then \$750 million at maturity in 2051. If it decided to defease that bond, it could deposit \$1.3 billion in cash (\$750 million plus 25 years of \$22.1 million interest payments) with the trustee, and then the trustee would have enough cash to pay off the bond.

But that would be dumb. There's a US Treasury bond that matures around the same time and has a coupon of 3%.¹ There's about \$54 billion of it outstanding. The company could just buy \$750 million principal amount of that Treasury bond and deliver it to the trustee. Every year that Treasury bond would pay \$22.5 million of interest, enough to cover the company's bond's interest payments, and in 2051 it would mature and pay \$750 million, enough to cover the company's bond's principal. Perfect, done. You've replaced the company's credit with US government credit, which seems like strictly an improvement. The bond is defeased, the bondholders are happy, and the company can walk away from the bond and its annoying covenants.

The nice thing about this trade, for the company, is that that Treasury bond is trading at about 74.5 cents on the dollar. The company could go out and buy \$750 million principal amount of that bond for about \$560 million. The company could completely satisfy its obligations under its own \$750 million bond – a total of \$1.3 billion of principal and interest – for a cash outlay of \$560 million now.

That's, you know, whatever, the magic of compound interest; the present value of those \$1.3 billion of payments, discounted at the Treasury rate, is just \$560 million. More specifically what is going on here is that both the company and the US Treasury issued 30-year bonds a few years ago, when long-term interest rates were very low, but now it is 2026 and long-term interest rates are higher. Back in 2021, a promise to pay \$22 million a year for 30 years and then \$750 million at the end was worth \$750 million; now it is worth \$560 million.² That's also the magic of interest rates.

Now forget about defeasance for the next two paragraphs. Say you bought that 30-year corporate bond back in 2021. You paid 100 cents on the dollar. Now interest rates are higher, and the bond is worth less. I said above 74.5 cents on the dollar, but that's for a Treasury bond with no credit risk; a corporate bond with credit risk might be worth 65 cents on the dollar. Getting paid 2.95% interest for the next 25 years is no longer that attractive a proposition, so you have lost money. Oh well.

But you still have those covenants, and every so often they generate a windfall. For instance: What if the company has a change of control? What if there's a leveraged buyout? Well, then it has to pay back its bonds at 101 cents on the dollar, right? Instead of paying you 100 cents on the dollar in 2051, which is worth about 65 cents today, the company would have to pay you 101 cents on the dollar *right now*, which is worth about 101 cents. That's a big improvement!

Or it is, if you forgot about defeasance. But if the company can defease the bonds before its leveraged buyout, the covenants go away, and so does the change-of-control put at 101. Instead of getting 101 cents on the dollar today, you get exactly the contracted cash flows for the next 25 years, which are worth about 75 cents.³ Oh well.

Anyway the company here is Electronic Arts Inc., which in 2021 did issue \$750 million of 2.95% bonds due in 2051, along with \$750 million of 1.85% bonds due in 2031, and which did announce a leveraged buyout in late September. (The LBO has not closed yet.) EA's 2051 bonds were trading at about 65 cents on the dollar in September, before the deal was announced, but when it was announced they traded up to the 80s, and they were trading at around 92 cents on the dollar as recently as this Monday. Because those bonds do say 4:

Upon the occurrence of a "change of control repurchase event" ... each holder will have the right to require us to repurchase all or any part of that holder's notes at a price equal to 101% of the aggregate principal amount of the notes.

So the LBO should trigger the holders' right to get 101 cents on the dollar when the deal closes. But the bonds also say, further down and more boringly:

The indenture provides that we may discharge any and all of our obligations in respect of a series of debt securities, and, except with respect to certain provisions,⁵ the provisions of the indenture will no longer be in effect with respect to that series of debt securities on the 91st day after the date of the deposit with the trustee or paying agent, in trust, of money or U.S. Government Obligations in an amount sufficient to pay the principal, premium, if any, and interest on that series of debt securities, when due.

So one possibility seems to be that EA could defease the bonds (at about 75 cents on the dollar) instead of paying them off (at 101 cents on the dollar). (Not legal or investing advice! ⁶)

Obviously 75 is less than 101, so EA (or rather its acquirers) chose that. Bloomberg's Gowri Gurumurthy reports:

Electronic Arts Inc.'s bonds plunged Tuesday after the prospective buyers of the videogame maker launched a buyback offer that tied the notes' prices to US Treasuries.

EA's note due 2051 plunged 13.75 cents on the dollar to 78.25 cents on the dollar as of 2:39 p.m. in New York, according to Trace data. A bond that matures in 2031 fell 4.7 cents to 92 cents. Both are at their lowest level since the company's buyout was announced in late September.

The slump came after EA's acquiring group launched a tender offer for the \$1.5 billion of notes that stopped short of offering investors face value, bucking the norm for such transactions. Instead, the bonds would be purchased at zero spread to US Treasuries, which weighed on prices.

Oops! People were expecting a tender at 101, and they're getting a tender at 75-ish. Here is the tender offer announcement, which explicitly threatens:

To the extent any Notes remain outstanding following the consummation of the Tender Offers and the Consent Solicitations, the Company may (or the Offeror may cause the Company to) defease one or both series of Notes, in which case Holders of such Notes will continue to receive interest on each scheduled interest payment date and principal on the stated maturity date but will not benefit from any restrictive covenants removed pursuant to the defeasance, including the change of control repurchase obligations.

Again, you do not see a ton of this; defeasance is a weird curiosity that does not come up a lot. (It's not even in the index of Fabozzi.) But generally bondholders expect to get paid off at 101 in an LBO, especially if their bonds say "you will get paid off at 101 in an LBO," so it is an unpleasant surprise for them to wake up and learn about defeasance.

Bitcoin margin loan securitization

In the long run, loans want to be securitized. When some new form of lending is invented – art loans or crypto loans or whatever – the company that invents it will probably both (1) make the loans and (2) own the loans. The company will have some money, and it will meet with potential borrowers and evaluate them, and if it decides to lend them money, it will lend them its own money. That just feels right. The lender knows the borrowers, it has decided to trust them, it understands this new form of lending that it just invented. People who *didn't* invent this form of lending, who *haven't* met with the borrowers, have no particular reason to give them money. The company making the decision is the company taking the risk. It has skin in the game.

But then the company will do this for a while and it will work pretty well and the company will make money and the new form of lending will take off, and eventually the company will realize that it has a lot of demand for loans and only so much money. So it will go to other people, outside investors, and say "hey we are making all these loans and they're going great and earning a high return, do you want some?" And the outside investors will look at the company's track record and say something like "hey you are earning high returns with low volatility and low correlation to other assets." They will say this in part because it's *true* – a newly invented form of lending *should* have high returns (no one else does it) and low correlations (it's not like everything else) – and in part because there is *limited data*: A newly invented form of lending hasn't been around for long enough for all of its risks to be realized.

But once it has been around for long enough to have some track record of good results, outside investors will be interested in getting in. So the company that makes the loans will be able to sell them to outside investors, who will not meet the borrowers and make the lending decisions themselves, but will trust some combination of (1) the pitch and documents and handshake that they get from the company that makes the loans and (2) the track record of the asset class. And ultimately there will be a division of labor between people who *make* the loans (who meet the customers and do the underwriting) and the people who *own* the loans (who put up the money). And this has various well-known problems, because the people making the loans have less skin in the game than they used to, though you can arrange the incentives to manage those problems.

This is all a sort of handwavy generic analysis and obviously not every sort of loan will be securitized, because not every category of loan will be big and popular and homogenous enough to be securitized. It is tempting to say something like “a private banker or auction house might lend you some money against your art collection, but that is a bespoke deal with one-of-a-kind collateral and would be hard to securitize to outside investors.” But in fact, sure, art loans get securitized. It’s a big enough category now.

Can Bitcoin margin loans be securitized? Oh absolutely. Lots of people want Bitcoin margin loans, and “Bitcoin margin loan” is a relatively straightforward concept for outside investors to understand and underwrite. If you write a bunch of loans against Bitcoin, and you have reasonably good methods for (1) taking collateral and (2) liquidating it when prices drop, then you can probably get outside investors to fund them.

It’s tricky to do it *right this minute*, though, what with falling Bitcoin prices and lots of liquidations. The Wall Street Journal reports:

Bankers at Jefferies have been pitching big investors for months on a \$188 million bond sale backed by thousands of loans that crypto lender Ledn made to individuals. Ledn’s customers put up cryptocurrency as collateral for one-year loans, and the bond sale would give the company more money to lend.

But Ledn recently had to liquidate about one-quarter of the loans meant to back the deal, a person familiar with the transaction said. The forced sales happened after the price of bitcoin plunged by 27% since mid-January, triggering margin calls on the loans.

Asset-backed bonds—often associated with the 2008 financial crisis—are enjoying a renaissance as investors including big insurers and fund managers seek higher returns than conventional bonds offer. Ledn’s bonds are expected to pay 3 to 6 percentage points more than benchmark rates, according to data provider CreditFlow. ...

Jefferies originally told potential investors the Ledn bonds were to be backed by \$199 million of bitcoin loans and \$1 million of cash. The mix has since changed to about \$150 million of loans and \$50 million of cash, the person familiar with the transaction said.

The bond deal is still on track to close on Feb. 18, according to S&P Global Rating, which rated the bonds. Ledn must now extend new loans with the liquidation proceeds to generate interest income needed to pay bondholders.

Oops. Ledn does margin calls at 70% loan-to-value ratios and liquidates at 80%; “so far, the mechanism has worked,” and “Ledn has liquidated 7,493 loans in its seven-year history at a maximum loan-to-value of 85% and has never experienced a loss.” It’s nice when a new asset class has a track record of earning high returns with low risk.

Things happen

Thoma Bravo Inserts Lender Anti-Rebellion Clause In Buyout Loan. How Fake Invoices Duped BlackRock Unit Into a \$400 Million Loan. (Earlier.) Activist Investor Pushes Warner to Walk Away From Netflix Deal. Co-founders of Elon Musk's xAI join exodus from start-up's tech team. OpenAI Executive Who Opposed 'Adult Mode' Fired for Sexual Discrimination. OpenAI disbanded its mission alignment team. Quant Manager Qube Grows China Fund 10-Fold to Above \$2 Billion. Elliott Takes Stake in London Stock Exchange Owner. Kraft Heinz Pauses Plan to Split Into Two Companies. Treasury Allows U.S. Companies to Provide Supplies to Venezuela for Oil Production. What It's Like to Be a Banker in Russia During Wartime. Switzerland to vote on plan to cap population at 10mn. "Wall Street had a really good year, and that's being reflected directly in Hamptons prices." Goldman Sachs ups its late-night dinner budget for bankers to \$35. What it was like to be a bush at Bad Bunny's Super Bowl performance.

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1. I am fudging the numbers here by using a 2049 bond, not a 2051 one, because it has a better coupon. (The bond is T 3 02/15/49 Govt on Bloomberg, CUSIP 912810SF6.) There's a February 2051 bond but the coupon is 1.875%, which is inconvenient. Obviously this is pretty crude and really you'd, like, buy the right Strips, but this bond is close enough for an easy illustration.
2. "It" being the bond, which is now of course a promise to make those payments for 25 years, not 30. Also, again, I'm fudging slightly; EA issued these bonds in 2021 when rates were very low, but I'm using a higher-coupon Treasury from a few years earlier.
3. Not 65, because the defeasance eliminates the credit risk: It's 25 years of Treasury-backed cash flows.
4. I am quoting the prospectus, though technically the controlling language is in the indenture and supplemental indenture. Customarily no one reads the indenture, though, so I won't.
5. Section 7.3 of the base indenture lists the exceptions. The merger covenant (section 4.1) is not one of the exceptions. The change of control put is not in the base indenture, only in the supplement, and so doesn't seem to be one of the exceptions either, though it is not necessarily a model of clarity.
6. I am not enough of an expert on the bond indenture to know if this **quite** works; my gut is that it does but what do I know. See the previous footnote, and also here's Junk Bond Investor saying "Whether bondholders would accept that outcome without challenge is another matter."

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Securities

Retired Audit Partner Takes Helm of Reconstituted US Audit Board

Feb. 10, 2026, 1:58 PM PST

The US audit board entered a new era Tuesday with the installation of three leaders, including retired EY audit partner Demetrios Logothetis as chair.

Mark Calabria and Steven Laughton joined Logothetis to take their seats as members of the Public Company Accounting Oversight Board, charged with delivering cost-effective oversight of auditors. Under its new leadership, the board is expected to follow the SEC's lead with a more relaxed approach toward regulation, including a lighter enforcement caseload and a possible redesign of the board's inspections approach.

The Securities and Exchange Commission, which oversees the PCAOB, last month also named Kyle Hauptman to serve on the non-profit board. Hauptman, who is the chair of the National Credit Union Administration, has said he will stay on at that financial regulator until his successor is confirmed.

Logothetis, who retired from Ernst & Young in 2019, called the board's independent oversight a "critical pillar of the investor confidence that powers" the US markets. He also pledged to deliver on the board's mission "efficiently and effectively," he said in a statement.

Calabria was a Trump administration official who held roles in the Office of Management and Budget and the Consumer Financial Protection Bureau. Laughton previously served as counsel to former board member Christina Ho.

George Botic, who has served as acting chair since July, will continue to serve on the board.

Congress created the PCAOB to restore investor confidence in corporate accounting after frauds toppled two Wall Street giants, Enron Corp. and WorldCom Inc. Republican lawmakers last year attempted to dismantle the board and have since filed separate legislation that would bundle the board's functions into the SEC.

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Securities

Crypto Investor Exodus Weighs Heavier on Bitcoin Also-Ran Ether

Feb. 10, 2026, 12:39 PM PST

Ethereum was promoted as Bitcoin 2.0 by many early advocates because the programmable aspects of the blockchain network allowed users to do more than just make peer-to-peer payments. It also led to scores of predictions that the Ether token would surpass Bitcoin in overall value.

More than a decade later, the long-forecast “flipping” in market value has failed to materialize, with Ether becoming an eternal also-ran to Bitcoin. One consequence is that Ether has tended to do worse than Bitcoin during periods such as during the current market downturn because of lower liquidity.

Ether has stumbled almost 60% since its peak in August, while Bitcoin is down roughly 45% from its all-time high reached in early October. On Tuesday, Ether slumped as much as 6.2% to \$1,989. Bitcoin was off as much as 3.5% to \$67,878. Bitcoin’s percentage of the \$2.35 trillion value of the digital asset market holds steady at around 60%, while Ether has dropped to about 10%.

Ether’s “high volatility can be easily explained by lower capitalization and lower institutional involvement,” said **Alex Kuptsikevich**, chief market analyst at FxPro. “Coins ranked in the second 10 or second hundred by capitalization not only make wider movements but also often fall out of the market’s focus, permanently moving away from their historical peaks.”

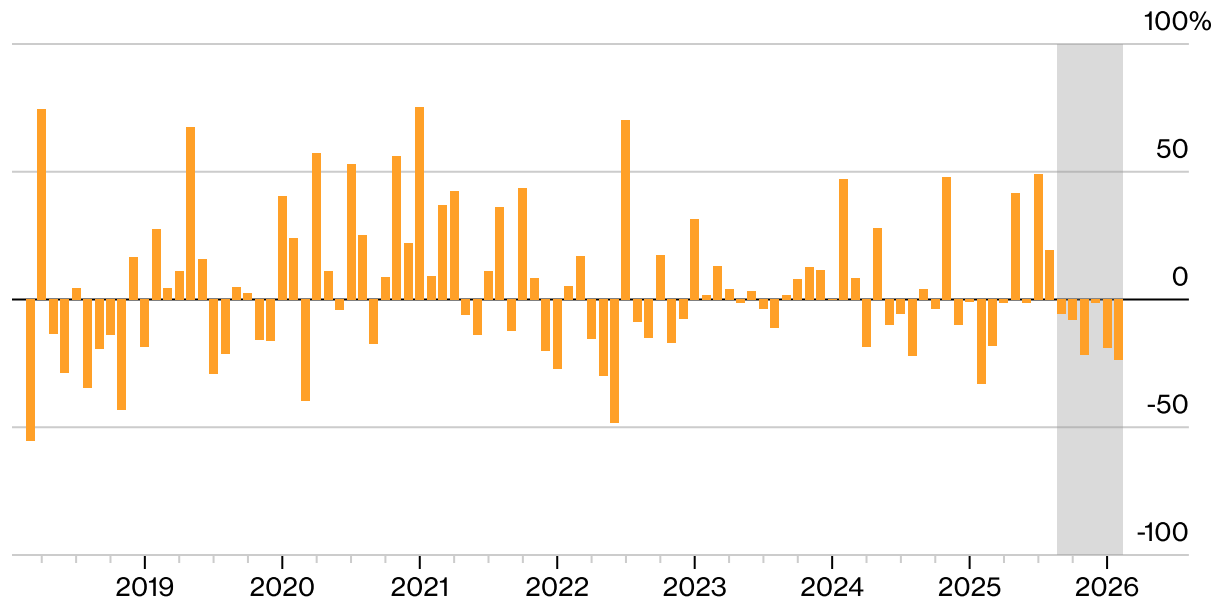
Bitcoin had nearly touched \$60,000 on Friday before rebounding. The token is coming off a particularly bruising week that saw it erase all of its gains since US President Donald Trump was reelected at the end of 2024. While the crypto-friendly administration has been seen as a boon for the industry, Bitcoin recently reached its longest monthly losing streak since 2018.

"Bitcoin is trading just below \$70,000 in a cryptocurrency market that appears to be still looking for a clear sense of direction as the shock waves from last week's selloff continue to reverberate," said Petr Kozyakov, co-founder and chief executive at Mercury. "This has left crypto market analysts trying to read the tea leaves for signs of where the market may be heading in the near term."

Ether's Monthly Slide

Second-largest token heads for six months of losses

Ether Monthly Return



Source: Bloomberg

Bloomberg

Bitcoin hoarders are among those feeling the pressure. Last week, **Michael Saylor's** Strategy Inc. reported a net loss of \$12.4 billion for the fourth quarter. Appearing on CNBC on Tuesday, Saylor said concerns that falling Bitcoin prices might force the company to sell its holdings were "unfounded," adding that the firm intends to buy Bitcoin every quarter.

"We're not selling our Bitcoin," Strategy Chief Executive Officer **Phong Le** reiterated later Tuesday at the Bitcoin Investor Week conference in New York. "If Bitcoin trades down to \$8,000 for five years straight, we might need to sell our Bitcoin."

Despite bouncing back from last week's lows, markets are showing little risk appetite for the two largest cryptocurrencies. Bearish signals still plague Bitcoin derivatives. Funding rates for Bitcoin perpetual futures have remained below zero, signaling that traders remain positioned for downward pressure.

"Funding rates are heavily negative right now and sentiment on the lesser known names is generally really bad," said Adam McCarthy, a research analyst at Kaiko.

What Bloomberg Strategists say...

“As macro conditions pressure higher-beta and frothier corners of the market, crypto’s current malaise underscores its role as a bellwether for speculative excess. Its depressed state does not yet signal a return to the exuberant, risk-seeking environment that characterized markets just a few months ago, but instead points to a longer process of adjustment still underway.”

—**Brendan Fagan**, Macro Strategist, Markets Live

—For the full analysis, [click here](#).

Both crypto tokens have seen billions in outflows from their exchange-traded funds since the early October crash. Investors have pulled \$3.2 billion from Ether ETFs, with \$462 million withdrawn just this year. Bitcoin ETFs, meanwhile, have seen \$7.9 billion in outflows in the same period, with \$1.8 billion of that pulled this year.

“ETH remains in a bearish structure overall after breaking down from the \$2,800 to \$3,000 range,” said Rachael Lucas, an analyst at BTC Markets. The selloff comes on the back of macro risk-off sentiment and a broader crypto selloff, she added.

Explainer: How Bitcoin’s Volatility Is Testing Crypto’s Appeal

--With assistance from **Sidhartha Shukla** and **David Pan**.

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Securities

Opinion

AI Threatens Finance's Perpetual Profit Machine: Paul J. Davies (Correct)

Feb. 11, 2026, 6:18 AM PST

Artificial intelligence doesn't only threaten to put herds of software businesses out to pasture. Anthropic PBC's schooling of its Claude models in financial modelling has also sent a cold shiver down the spines of bankers and analysts. While I mostly suspect that the banking industry's talent for self-preservation will defend it from technological change, I do wonder if the extreme version of our fully automated AI future could make financial services as irrelevant as everything else.

Finance has a very long history of always finding new ways to get paid even as the world of money keeps changing. In only the past few decades, collecting peoples' savings, buying and selling securities and sending money to the other side of the world have all become faster and cheaper. The internet and smartphones have taken out the frictions and delays that were long a source of revenue for intermediaries.

And yet banks, brokers and money managers are still in business and making handsome profits. The process of turning a dollar of savings into a dollar of investment hasn't gotten cheaper in more than 130 years, according to studies by Thomas Philippon, a finance professor at NYU Stern School of Business. From the age of the telegraph in the late 1880s to the era of high-frequency, algorithmic trading, the all-in cost of intermediation has remained close to 2% of financial assets, Philippon found.

How does that work? For every development that undercuts what financiers did previously, they've been able to come up with more sophisticated or complex products and services to sell. Some of the names have changed but the overall cost to the economy remains much the same.

Look at asset management for one recent example. Traditional actively managed funds have been brutally squeezed by passive index trackers for years, which do a similar job at a fraction of the cost. But the industry has kept its income flowing through the rise of hedge funds and private capital, which charge even higher fees for more complex products. Globally, the fund industry's total revenue was 34 cents per \$100 of assets managed in 2024, little changed from 36 cents in 2005, according to Boston Consulting Group.

Another example is investment bank trading desks, which were hit hard by tighter regulations after the 2008 crisis as well as electronification and greater transparency and automation. But in the past few years, they've reversed a long steady decline by lending more to those costly alternative managers and by selling more derivatives and structured trades, for instance. Even in something as dull as processing payments for big companies, banks have protected income by combining simple low-cost transactions with premium add-ons like clever cash management and analytics.

To be sure, banking and money has been helped by social and political forces, too. Since the 1980s, a vast cloud of surplus financial capital has been inflated, in the words of strategist and author Viktor Shvets. The generation that grew up after World War II wanted less government and more individualism. Politically, that delivered rapid deregulation and policies that prioritized assets over income, Shvets argues in his recent book *The Twilight Before The Storm*. More people and companies gained access to greater amounts of debt for all kinds of investment and consumption. Insurance and savings products mushroomed. Global trade and corporate borrowing exploded. And the global financial system, which had been roughly the same size as the real economy through the 1970s, grew rapidly to being more than five times the value of global economic output today.

Combined with technology, this has made almost everyone better off, but increased inequalities in many places. Shvets's warning is that AI unchecked will swiftly widen and deepen the resulting social fractures. As this technology slashes the need for labor, the marginal cost of producing goods and services will drive towards zero — and the returns available from winning ideas rocket ever higher. Consequently, it's never been easier to become a billionaire or to sink into inescapable poverty, Shvets told me.

The utopian promise of AI is abundance, but the only guaranteed beneficiaries are the super elites that own the machines. But here's the rub: In a future where most industries need hardly any workers, who's going to consume all the services and goods they produce? Shvets, like many others, thinks a good part of the answer will need to be a universal basic income for all, whether they have any kind of job or not, paid for out of taxes.

But that will be very little help to financial services. When you're guaranteed a wage for life and have little chance of doing much else, there won't be any point in saving for retirement and probably no reason to take on debt to buy a house either. The financial deepening of the past 50 years could rapidly reverse.

What could Wall Street do? One idea already taking hold is to turn money into entertainment: Prediction markets, gambling with stock options and crypto are just that. The inglorious future of finance could be economically pointless game playing. Only an ever shrinking super elite would need financial services at all — and they'd probably just ask machines to do it. In the end, money itself could end up a hollow prop in an economy where the decisions of most individuals no longer matter at all.

Some think this is the way things will go. I have no idea, but even leading finance executives are realizing that politicians need to start figuring out how to slow the disruption and set up guardrails to protect society from greater polarization and chaos.

Just last month in Davos, Jamie Dimon, chief executive officer of JPMorgan Chase & Co., suggested that governments could figure out a way to stop banks like his from cutting staff numbers quickly as AI takes their work. It was a thought that didn't bear much scrutiny, but the finance industry could still be worth listening to. After all, few others have been so consistent in reinventing ways to employ people and charge fees for products the world never knew it needed.

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(Corrects asset management revenue figure in fifth paragraph.)

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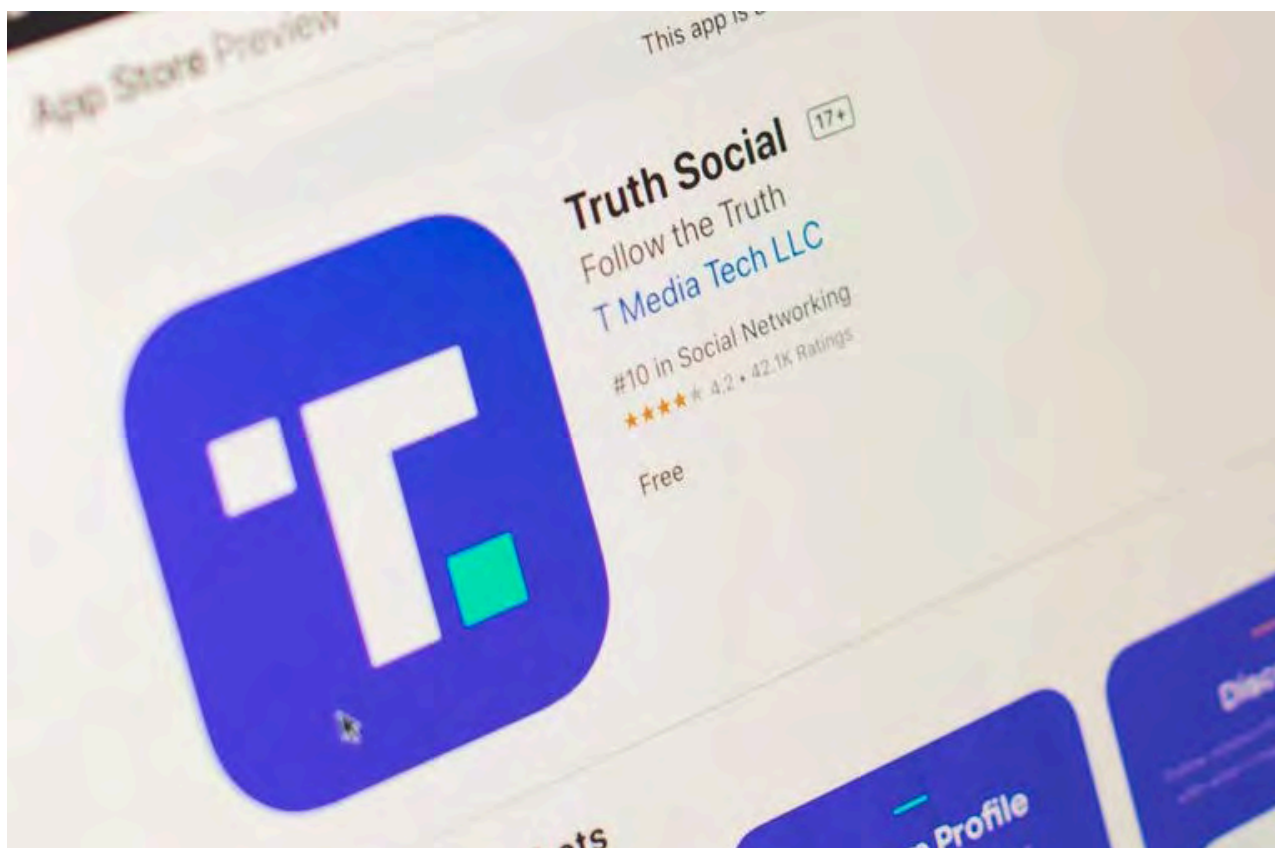
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Dispute Over Shares Awarded to Truth Social Parent Company's Investor Heads to Delaware Supreme Court

Cross appeals of a September 2024 Court of Chancery decision were filed by sponsor ARC Global Investments II and Digital World Acquisitions Corp., the SPAC that's now Trump Media & Technology Group Corp., the parent company of Truth Social. The dispute involves the ratio by which, based on language in DWAC's charter, ARC-owned stock in DWAC was to be converted.

February 11, 2026 at 02:18 PM By  **Ellen Bardash**



Truth social app. Credit: Michelangelo Oprandi/Adobe Stock

Counsel for the SPAC that became Truth Social's parent company told the Delaware Supreme Court on Wednesday that the Court of Chancery correctly calculated a share-conversion ratio, while an attorney for that SPAC's original sponsor said that ratio was too low.

Cross appeals of a September 2024 Court of Chancery [decision](#) were filed by ARC Global Investments II and Digital World Acquisitions Corp. ARC was the sponsor of DWAC, a special purpose acquisition company that underwent a business combination in 2021 and is now Trump Media & Technology Group Corp., the parent company of Truth Social.

The dispute involves how, based on language in DWAC's charter, ARC-owned Class B stock in DWAC was to be converted to Class A stock when the merger closed. ARC claimed the proper conversion ratio was about 1.82 to 1, while DWAC argued it was about 1.35 to 1. The Court of Chancery set the ratio at 1.49 to 1.

At the center of ARC's appeal is the argument that ARC, as well as all other former shareholders of Class B DWAC common stock, are entitled to anti-dilution protections that warrant more DWAC stock than the Court of Chancery awarded because creditors of a target company are not sellers in a de-SPAC transaction.

"The trial court found that the lenders had become target company stockholders, and therefore sold their stock in the transaction, which meant they fell in a narrow exclusion to the broad anti-dilution provision for stock issued to sellers," said Richards, Layton & Finger director Matthew Perri, representing ARC.

For that reading to be correct, Perri argued, DWAC would have needed to show that those lenders received TMTG stock to sell. But despite DWAC claiming creditors initially received the equivalent value of their DWAC shares in the form of TMTG stock totaling hundreds of millions of dollars, he said, the post-trial record relies on four documents supporting that claim, none of which prove the TMTG shares were issued in a way that supports the Court of Chancery's conclusion.

"Instead, the trial court incorrectly flipped the burden of proof on this issue with no analysis of our position," Perri said. "Once the burden of proof is placed on the correct party, the fundamental premise for excluding these shares from the anti-dilution formula fails, and ARC is therefore owed damages for the shares it should have received."

DLA Piper partner John Reed, arguing for DWAC, said ARC, pursuing a breach of contract claim, always had the burden of proof, having not taken the factual view prior to trial that conversion had never occurred.

"I think it's a little bit of a distraction," Reed said of the burden of proof argument. "It's not clear to me whether they're saying the note holders never became stockholders, or we just don't know for certain."

DWAC's appeal asks the Supreme Court to reverse the Court of Chancery's interpretation that the conversion ratio constituted an anti-dilution provision, as argued by ARC. It also seeks reversal of the trial court's \$75,000 fee award to ARC, claiming the disclosures that resulted from the litigation weren't delivering valuable new information to stockholders.

Reed said the question under Delaware law is whether an objective, reasonable person would view the relevant contract language to mean that the converted note holders are sellers, defined as

those who transfer property pursuant to an agreement of sale. The only reasonable reading of that provision, he argued, is that the ARC note holders were sellers.

"It doesn't matter that the required conversion occurred immediately before the merger, or before the closing, because it still happened before the closing," Reed said. "That's why the then-former note holders received DWAC shares based on the number of Trump shares that they held at closing. DWAC did not inherit note obligations because those notes had already converted by operation of the agreements prior to the closing."

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Swipe-Fee Class Wants Personal Injury Firm Sanctioned

By **Katryna Perera**

Law360 (February 10, 2026, 9:08 PM EST) -- A class of merchants in a lengthy antitrust litigation against Visa and Mastercard is seeking sanctions against a personal injury firm and one of its referral partners, arguing the third-party entities have repeatedly misled would-be class members about the case's settlement and how much recovery they might receive.

The class, which secured a **\$6 billion settlement** in 2018, filed a **motion** for sanctions Monday, claiming that over the last year, Betz & Baril PLC and its referral partner, ClickFunds, have been providing would-be class members with false information regarding the settlement. They added that this is not the first time the firm and its referral partner have engaged in such misconduct.

According to the motion, a class member reported to class counsel in November that he was given false information by Betz & Baril and ClickFunds "regarding when he would receive payment [from the settlement] and the payment amount, a figure that at this time is not available to anyone, and was given incorrect information regarding his transactions."

The motion further notes that, following an October 2024 hearing on its conduct, Betz & Baril acknowledged that class counsel would pursue sanctions if the law firm continued to engage in misconduct in the case. Those sanctions could include the cancellation of contracts between Betz & Baril and class members for claims filing services and a notification to the Tennessee State Bar about the firm's conduct, the motion says.

Based on the latest reports from class members, class counsel requested discovery last month from Betz & Baril and ClickFunds to support a motion for sanctions, the motion states.

This discovery has, in turn, revealed that Betz & Baril knew class members were receiving false and misleading information from ClickFunds and that the firm continued to work with the referral partner even after representing that it had ceased the partnership, the motion says.

Class counsel argues that sanctions are warranted because it has incurred significant expenses trying to correct the false and misleading information and "bad faith" conduct perpetrated by Betz & Baril and ClickFunds.

"[Betz & Baril and ClickFunds] have repeatedly been before the court and received clear warning through an agreed stipulation that they would face sanctions if they were brought to court again," the motion states.

"Plaintiffs have made a significant showing that the conduct here is part of a continuing failure to properly train and monitor agents and the proposed sanctions are tailored to least affect innocent class members, but harsh enough to, it is hoped, finally have all false and misleading conduct cease," it continues.

The class seeks an order for sanctions stating that, among other things, neither Betz & Baril nor ClickFunds will receive any portion of class members' settlement benefits; that the firm and ClickFunds must alert all of their class member clients that they have been sanctioned; that they must pay the reasonable attorney fees and costs of class counsel associated with the dispute; and that they must report any sanctions order to the Tennessee State Bar Professional Responsibility Office.

According to the motion, the issues with Betz & Baril began in 2019 when a federal magistrate judge **ordered** the firm to remove allegedly false and misleading class member recruitment marketing language from its website. At the time, class counsel argued that Betz & Baril had set up a website and social media presence under the banner of "Business Refunds of America" to attract would-be class members, and that the website falsely implied Betz & Baril was involved in the case.

Following the 2019 incident, the plaintiffs say the issues "seemed to be at an end" until 2024, when class counsel was alerted to five separate incidents relating to agents or referral partners of Betz & Baril who were allegedly soliciting merchant class members, claiming to know how much settlement recovery they could expect to receive, among other things.

More specifically, the court was alerted to videos by ClickFunds that included misleading statements about the number of settlement claims filed, expected payouts, and the claim-filing process, according to Monday's motion.

Class members also filed complaints with class counsel, stating that Betz & Baril falsely represented it would take 40% of any recovery and that this figure was "regulated by the federal court," according to the motion.

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

Another **recent settlement** in the litigation that would lower fees, with a five-year cap, and give merchants greater flexibility over which cards they accept, saving merchants an estimated \$200 billion over the course of the deal, is **awaiting court approval**. If approved, the deal is expected to affect more than 12 million merchants in the U.S.

Representatives of the class have been battling since 2005 with Visa, Mastercard and several banks over rules set by the credit card companies that allegedly reduced choice and forced merchants to accept higher-fee cards without the ability to refuse them or steer consumers toward ones with cheaper rates.

The class is represented by Alexandra S. Bernay and Patrick J. Coughlin of Robbins Geller Rudman & Dowd LLP, K. Craig Wildfang, Thomas J. Undlin and Ryan W. Marth of Robins Kaplan LLP, and H. Laddie Montague Jr., Merrill G Davidoff and Michael J. Kane of Berger Montague PC.

Betz & Baril is represented by James J. DeCristofaro of DeCristofaro Law.

The case is In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, case number 1:05-md-01720, in the U.S. District Court for the Eastern District of New York.

--Editing by Bruce Goldman.



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How Securities Class Action Deals Fare After Prelim Approval

By **Rahul Chhabra** (February 10, 2026, 5:05 PM EST)

A fintech provider in Brazil, StoneCo Ltd., and its investors have received recent preliminary court **approval** of their \$26.8 million settlement for a securities class action brought on behalf of investors who purchased the company's common stock during the class period.[1]

The plaintiffs had alleged that StoneCo made false or misleading statements and omissions about the risks and performance of its credit-related products and other aspects of its fintech operations. Essentially, the investors argued that StoneCo violated federal securities laws, including Section 10(b) of the Securities Exchange Act.[2]



Rahul Chhabra

The stipulation and agreement of the settlement was entered on Oct. 15. On Nov. 10, the U.S. District Court for the Southern District of New York granted the preliminary approval. In the preliminary approval the court also set a deadline of 10 days after the preliminary approval, for sending the notice to the settlement class members. The hearing for the final approval of the settlement is set for Feb. 27.[3]

Although preliminary approval is a significant milestone, it does not guarantee final approval. It doesn't occur often in practice, but a settlement can still fail if a blow provision is triggered or if the court finds the deal unfair.[4]

In this article, we present analysis of the Institutional Shareholder Services, or ISS, data on cases filed in the past 10 years involving allegations under Section 10(b) of the Exchange Act. We did not find any example of a settlement that had received preliminary approval to be denied at final approval. More commonly, there are procedural delays rather than a settlement termination or withdrawal.

Background on Settlement Process

The securities class action settlement process involves several stages. First, plaintiffs and defendants reach a tentative settlement. The settlement is then subject to court approval under Rule 23(e) of the Federal Rules of Civil Procedure.[5] The court process involves:[6]

- Preliminary approval: The court reviews the settlement to ensure that it appears fair and reasonable.
- Notice to the class: Class members are informed about the preliminary approval and given a chance to object or opt out.
- Final approval: The court decides whether to grant final approval.

A settlement that has received preliminary approval can fail to reach final approval due to one or more of the following reasons:[7]

- Excessive objections or opt-outs: If too many investors object or opt out, the court can refuse final approval.
- Blow provisions: If opt-outs exceeded the threshold, defendants could exercise their right to terminate.
- The court finds the settlement unfair or collusive.

Blow provisions give the defendant the right to terminate or renegotiate the settlement if opt-outs exceed a negotiated threshold.[8] The threshold can be linked to the total opt-out damages or to the number or percentage of damaged shares that opt out.[9]

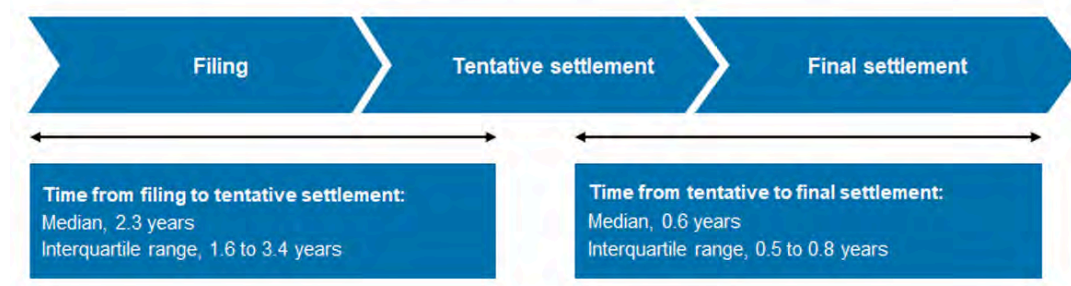
The blow provisions are kept confidential to avoid strategic opt-outs; if the thresholds of the blow provision are known, then a group of class members with enough shares to exceed the threshold could come together to block the settlement or demand benefits from those who are supporting it. [10]

No Evidence of Settlement Failures Due to Blow Provision

We conducted a search in the ISS database for Section 10(b) cases that were filed between Jan. 1, 2015, and Dec. 31, 2024.[11] We did not include cases filed in 2025 as they are likely still active. The search resulted in 1,966 unique cases.[12]

Of those cases, 998 have been dismissed, and the remaining 968 cases are either settled or currently active.[13] We removed 61 cases that reached tentative settlement in 2025 as they are likely to be in the process of getting final approval, if not already settled, resulting in 907 remaining cases.

We have summarized the median and the interquartile range of time from filing to tentative settlement and from tentative settlement to final settlement in the figure below.



Of the 907 cases, 570 cases reached tentative settlement in 2024 or earlier.[14] Of the 570 cases, 566 cases have reached final settlement, and the remaining four cases have not.

Section 10(b) cases that reached tentative settlement by 2024	570	100.0%
Cases that have reached final settlement	566	99.3%
Cases that have not yet reached final settlement	4	0.7%

We examine the four cases that have not yet reached final settlement and discuss their current case status in the table below.

Case name	Tentative settlement date	Current case status
Kiromic BioPharma, Inc.; filed on 8/5/2022	8/7/2023	Defendant filed for bankruptcy in March 2025, initiating a stay on all case activities. As of October 2025, the defendant was still engaged in bankruptcy proceedings. ¹⁵
Robinhood January 2021 Short Squeeze Trading; filed on 1/29/2021	5/28/2024	Defendants and the named plaintiffs settled the named plaintiffs' claims and stipulated to the dismissal of those claims in May 2024. ¹⁶ In April 2025, a judge ordered remaining plaintiffs in the case to arbitrate their claims. ¹⁷ The case is prolonged by one pro se plaintiff's continued filing on procedural grounds (and the court's continued denials) as of January 2026. ¹⁸
Tenet Fintech Group Inc. (f/k/a Peak Fintech Group Inc.); filed on 11/19/2021	4/8/2024	Parties tentatively settled in April 2024, but defendants did not provide payment according to the agreed upon schedule. ¹⁹ Plaintiffs terminated the settlement as of September 2025, and the parties engaged in an ex parte settlement conference in December 2025. ²⁰ The parties were not able to reach a resolution – they will submit a joint status report and attend a status conference in late January 2026. ²¹
Wins Finance Holdings, Inc. (2017) (C.D. Cal.); filed on 4/20/2017	11/26/2018	The defendant is in China and its funds are subject to Chinese currency restrictions. Defendant entered into an agreement on May 7, 2025, to raise financing outside of China. As of August 2025, the court allowed an extension in light of the defendant's agreement, postponing the settlement hearing until April 2026. ²² The parties submitted supplemental briefs concerning the settlement status in January 2026. ²³

Conclusion

In summary, we did not find any evidence of cases that had reached tentative settlement but did not reach final settlement; all cases that reached tentative settlement either ultimately settled or are currently active, suggesting that settlements were not terminated due to the court not providing final approval of the settlement or the triggering of a blow provision.

However, because the blow provisions are kept confidential, it's possible that one was triggered but the settlement went through, either because the parties renegotiated or the defendants waived the right to terminate. In such cases, the blow provision may have caused, at most, a delay in the final approval.

Rahul Chhabra is a principal at Charles River Associates.

Charles River Associates consulting associate Aidan Westley and associate Alene Hanson contributed to this article.

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[1] Law 360, "Fintech StoneCo Investors Get First OK For \$27M Settlement," November 12, 2025.

[2] Amended class action complaint for violation of the federal securities laws, In re: StoneCo Ltd. Securities Litigation, Civil Action No. 1:21-cv-9620, US District Court, Southern District of New York, August 8, 2022.

[3] Order granting preliminary approval of class action settlement, approving form and manner of notice, and setting date for hearing on final approval of settlement, In re: StoneCo Ltd. Securities Litigation, Civil Action No. 1:21-cv-9620, US District Court, Southern District of New York, November 10, 2025.

[4] A blow provision allows the defendants to terminate a settlement if too many class members opt out. "A fair settlement takes into account both the defendant's incentive to minimize total settlement

compensation and the plaintiffs' inherent conflict when facing a limited amount of compensation available for class members that must be further diminished by contingent attorneys' fees." Gregory A. Markel, "Settling Class Actions: Process and Procedure," Practical Law, October 2013: <https://www.cadwalader.com/uploads/books/b917a8bcc802cf0ded2cdfc849f49d42.pdf>.

[5] Cornell Law School Legal Information Institute, "Rule 23. Class Actions," last accessed October 17, 2025: https://www.law.cornell.edu/rules/frcp/rule_23. Typically, the tentative settlement between the parties is disclosed when the parties file the motion for preliminary approval. As such, for the purposes of this article, we assume that the tentative settlement and filing of the motion for preliminary approval were on the same date.

[6] See Gregory A. Markel, "Settling Class Actions: Process and Procedure," Practical Law, October 2013: <https://www.cadwalader.com/uploads/books/b917a8bcc802cf0ded2cdfc849f49d42.pdf>.

[7] See Gregory A. Markel, "Settling Class Actions: Process and Procedure," Practical Law, October 2013: <https://www.cadwalader.com/uploads/books/b917a8bcc802cf0ded2cdfc849f49d42.pdf>.

[8] Mike Lange, "Three takeaways from the February 6 decision regarding the Petrobras (\$3B) deal," February 9, 2018. Last accessed October 17, 2025: <https://frtservices.com/insights/three-more-things-to-know-about-the-petrobras-case/>.

[9] Louis C. Ludwig, "Plantiffs' [sic] Attorneys and 'Blow Provisions': An Uneasy Coexistence," August 2019. Last accessed October 17, 2025: <https://pomlaw.com/monitor-issues/plantiffs-attorneys-and-blow-provisions-an-uneasy-coexistence>.

[10] Louis C. Ludwig, "Plantiffs' [sic] Attorneys and 'Blow Provisions': An Uneasy Coexistence," August 2019. Last accessed October 17, 2025: <https://pomlaw.com/monitor-issues/plantiffs-attorneys-and-blow-provisions-an-uneasy-coexistence>.

[11] Data accessed October 17, 2025.

[12] A case is identified by a unique combination of its case number and court. We have removed the Securities and Exchange Commission (SEC) administrative proceedings cases where the settlement is negotiated prior to the SEC order.

[13] A case is identified as "Settled" if the case status is "Settled," "Settled Disbursed," or "Settled Partially"; as "Dismissed" if the case status is "Dismissed"; and as "Active" for all other statuses, specifically, "Active," "Tentative Dismissal," "Partial Dismissal," "Tentative Partial Dismissal," "Class Certified," "Tentative Partial Settlement" or "Tentative Settlement."

[14] For cases with multiple filings, we selected the latest available tentative settlement date across all filings. The remaining 337 cases did not reach a tentative settlement and are currently active.

[15] Docket entries 63, 64-65, and 70 (Case: S.D.N.Y.1:22-cv-06690-JHR).

[16] Docket entry 678 (Case: S.D.Fla.1:21-md-02989-CMA).

[17] Law360, "Four Robinhood Users Must Arbitrate Meme Stock Claims," April 8, 2025. Last accessed October 17, 2025: <https://www.law360.com/articles/2322824>.

[18] E.g., see Docket entries 803-820 (Case: S.D.Fla.1:21-md-02989-CMA).

[19] Law360, "Fintech Faces Investor Suit Over Unpaid \$1.25M Settlement," April 22, 2025. Last accessed October 17, 2025: <https://www.law360.com/articles/2328386>.

[20] Docket entry 69 (Civil Action #: 1:21-cv-06461-PKC-JAM) and Order as of October 17, 2025.

[21] Minute Entry for proceedings held December 11, 2025, FTR Log #2:22-2:23 and 3:15-3:20 (Civil Action: E.D.N.Y. 1:21-cv-06461-PKC-JAM).

[22] Docket entries 160, 164 (Civil Action #: 2:17-cv-02983-CAS-AGR).

[23] Docket entries 170, 171 (Civil Action #: 2:17-cv-02983-CAS-AGR).

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AI Docs Sent By Exec To Attys Not Privileged, Judge Says

By **Pete Brush**

Law360, New York (February 10, 2026, 12:46 PM EST) -- A Manhattan federal judge said Tuesday that a Texas financial services executive accused of a \$150 million fraud cannot claim privilege over documents that he prepared using an artificial intelligence service and sent to his attorneys — but suggested the materials could be problematic if used at trial.

U.S. District Judge Jed S. Rakoff made the comments from the bench during a morning conference in the run-up to former Beneficient CEO Bradley Heppner's scheduled April 6 trial on charges including fraud and lying to auditors.

Starting around 2018, Heppner, of Dallas, looted GWG Holdings, a publicly traded company he controlled that invested heavily in Beneficient, the Manhattan U.S. attorney's office **charged last year**. Heppner took millions for himself prior to GWG's bankruptcy, which caused \$1 billion in investor losses, the feds say.

Heppner denies guilt and has argued, among other things, that the indictment unfairly blames him for the bankruptcy.

In 2025, after Heppner knew he was a law enforcement target, he used an unnamed AI tool to prepare 31 documents related to his legal case and shared them with defense counsel from Quinn Emanuel Urquhart & Sullivan LLP, according to filings and statements in court Tuesday.

That gave rise to a government request for the court not to shield the documents under either attorney-client privilege or under the theory that they are protected work product.

Judge Rakoff quickly dispatched the first theory, saying Tuesday, "I'm not seeing remotely any basis for any claim of attorney-client privilege."

On the work-product theory, defense counsel Benjamin O'Neil then argued that the documents incorporate information that Quinn Emanuel conveyed to Heppner.

"It's not as if these were documents created during the course of the alleged scheme," O'Neil said, though he conceded they "were prepared by the defendant of his own volition."

Prosecutor Alexandra Rothman said the documents do not "reflect the legal strategy" of Heppner's defense team.

Judge Rakoff agreed, concluding that the AI documents were not prepared by attorneys.

The judge also noted that the tool used by Heppner contains a provision that any information inputted is not confidential — essentially, that a user has no expectation of privacy.

O'Neil said that if prosecutors try to use the AI-generated information at trial, it could give rise to a "witness-advocate conflict" since his law firm would become a witness in such a scenario.

"That's an interesting point, and you've put the government on notice," Judge Rakoff said. Having defense counsel morph mid-trial into a witness would risk a mistrial, the judge suggested.

Also on Tuesday, Judge Rakoff said he is examining a defense dismissal motion, including an assertion that a count against Heppner of making false statements to auditors should be dismissed because the charged conduct took place in 2019, outside a four-year statute of limitations.

"I'm particularly intrigued by the motion to dismiss Count 4 as time-barred," the judge said.

The sides are due back in court on April 2.

Heppner is represented by Benjamin O'Neil, Christopher Clore, John Scanlon and Robert Zink of Quinn Emanuel Urquhart & Sullivan LLP.

The government is represented by Daniel Nessim and Alexandra Rothman of the U.S. Attorney's Office for the Southern District of New York.

The case is U.S. v. Heppner, case number 1:25-cr-00503, in the U.S. District Court for the Southern District of New York.

--Editing by Marygrace Anderson.

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Robinhood Asks Justices To Rein In Pre-IPO Disclosure Suits

By **Jessica Corso**

Law360 (February 10, 2026, 5:53 PM EST) -- Robinhood Markets Inc. is asking the U.S. Supreme Court to hear an investor dispute stemming from its \$2.1 billion initial public offering, arguing that the Ninth Circuit's decision to revive the lawsuit "exposes companies seeking to go public to expansive liability."

Robinhood's Supreme Court petition, docketed Monday, calls on the justices to determine whether publicly traded companies are required to report interim financial data in order to avoid lawsuits over new securities offerings.

Suing investors claim that the popular trading platform failed to warn them about flagging financial performance in the second quarter of 2021, which ended shortly before Robinhood notified the public of its IPO that July.

The U.S. Securities and Exchange Commission gives companies 45 days to report quarterly financial information, and so the data that investors sued over wasn't ready for publication at the time that Robinhood announced its public offering, the company said.

The Ninth Circuit's decision to reopen the lawsuit "badly misinterprets foundational disclosure requirements and is fundamentally incompatible with the SEC's quarterly reporting rules," Robinhood said. It also "exposes companies seeking to go public to expansive liability for failing to disclose intra-quarter interim data," the company said.

The company also argued in its petition that investors "have increasingly brought suits alleging that a failure to release data early violates" Section 11 of the Securities Act of 1933, which allows shareholders to sue over misstatements or omissions in registration statements.

Robinhood is asking the justices to decide whether a company can violate Section 11 by failing to report interim financial data.

Shareholders first brought the case in December 2021, accusing Robinhood, its executives and its underwriters of misleading them and others about the strength of its business, since the strong performance was heavily intertwined with trading of the cryptocurrency token dogecoin and other so-called meme stocks.

They argue that Robinhood knew that the hype for its trading application wouldn't last, as shown by the company's then-unreleased second-quarter report. After the report was released, the company's stock price dropped 82% from its IPO price, according to investors.

Robinhood told the Supreme Court that its stock currently trades for well above its IPO price, but that it could suffer "billions in damages" if the investors win.

U.S. District Judge Edward M. Chen **dismissed the case** in January 2024, saying that shareholders' allegations "do not reflect results so extraordinary as to warrant out-of-quarter disclosure."

But a divided Ninth Circuit **revived some claims**, with the majority ordering the district court to "ascertain whether plaintiffs adequately alleged that the omitted information was material."

"If they did, then they have adequately alleged that Robinhood had a duty to disclose the omitted information," the appellate court said.

Dissenting from the majority, U.S. Circuit Judge Johnnie Rawlinson said Robinhood did disclose to investors that it expected a possible slowdown in the latter half of 2021 and warned that the use of its platform could fluctuate from quarter to quarter.

Shareholder attorneys didn't immediately respond to a request for comment Tuesday.

Robinhood is represented by Kevin Orsini, Antony Ryan and Brittany Sukiennik of Cravath Swaine & Moore LLP and Jeffrey Wall, Yaira Dubin and Robert Flatow of Sullivan & Cromwell LLP.

The investors are represented by Thomas Laughlin, Hal Cunningham, John Jasnoch and Emilie Kokmanian of Scott + Scott Attorneys at Law LLP.

The case is Robinhood Markets Inc. et al v. Sodha, case number 25-944, before the U.S. Supreme Court.

--Editing by Alanna Weissman.

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BlackRock Brass Face Derivative Suit Over Coal Investments

By **Sydney Price**

Law360 (February 10, 2026, 8:42 PM EST) -- Several officers and directors of BlackRock have been hit with a shareholder's derivative suit accusing them of damaging the asset manager's reputation by participating in a scheme to drive up coal prices, an issue at the center of an antitrust suit brought by a coalition of Republican-led states.

BlackRock shareholder Joseph Crognale's **suit filed in Texas federal court** Monday alleges that BlackRock used its voting power to "bully" coal producers into suppressing coal output to reduce industrywide output despite rising prices.

According to the complaint, BlackRock is one of the largest investors in global coal production. As of Feb. 15, 2022, about a year after the suit's relevant period begins, BlackRock's total investment in coal was \$108.78 billion, the suit said.

"By artificially restricting coal supply while demand remained strong, BlackRock inflated the value of its coal company holdings and the management fees it collected on those assets," the suit said.

BlackRock has acquired between 4% and 16% of every major publicly traded coal producer, including 14% of Peabody Energy and 15% of Arch Resources, which are major forces in the South Powder River Basin coal market of the U.S., according to the suit.

The complaint said the publicly traded coal companies controlled by BlackRock, State Street and Vanguard reduced thermal coal output by 19% while prices increased 26% between 2019 and 2022, which is the "inverse of normal competitive behavior."

In 2024, 13 Republican-led states sued BlackRock alleging anticompetitive behavior related to coal production.

In August, a Texas court denied BlackRock's motion to dismiss the suit, finding that the states sufficiently alleged that BlackRock and fellow asset managers State Street Corp. and Vanguard Group Inc. used their ownership stakes to substantially lessen competition in coal markets.

The shareholder complaint alleges that BlackRock's involvement in the Net Zero Asset Managers initiative and other commitments gave it power to dictate supply decisions across the coal industry, which, among other things, damaged independent coal operators, power plants and consumers.

"[BlackRock] actively used proxy voting, board engagement and coordinated pressure campaigns to force coal companies to adopt production reduction targets aligned with net-zero emissions goals," the suit said.

In addition to nominal defendant BlackRock, the suit's individual defendants include several BlackRock executives and directors, including its CEO Larry Fink and Chief Financial Officer Martin S. Small. The suit accuses them of promoting BlackRock's "climate agenda" over their fiduciary obligations to the company's shareholders.

The suit also claims BlackRock's 2025 proxy statement, which was approved by the individual defendants, omits information regarding the pending antitrust litigation.

"The 2025 proxy's silence on this, while highlighting 'record revenue and operating income' from 2024, misleads stockholders about known uncertainties under Item 303, implying unencumbered growth without regulatory threats," the suit said.

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

Crognale is represented by Mazin A. Sbaiti and Griffin S. Rubin of Sbaiti & Company PLLC, Gregory M. Nespole, Correy A. Suk and Daniel Tepper of Levi & Korsinsky LLP and Brian J. Robbins and Michael J. Nicoud of Robbins LLP.

Counsel information for BlackRock and the individual defendants was not immediately available Tuesday.

The case is Crognale v. Fink et al., case number 6:26-cv-00085, in the U.S. District Court for the Eastern District of Texas.

--Editing by Stephen Berg.

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Goldstein's Defense Questions Missing Tax Emails

By **Jared Foretek**

Law360 (February 9, 2026, 9:02 PM EST) -- Document retention at the outside accounting firm for SCOTUSblog founder Thomas Goldstein and his law firm took center stage at the U.S. Supreme Court lawyers' tax fraud trial Monday, as the defense claimed that the accountants' internal emails about Goldstein's tax returns were never produced despite being sought in subpoenas.

According to testimony from Gelman Rosenberg & Freedman accountant Ian Shuman, internal emails the defense has hinted at since the start of trials were never produced because the accounting firm didn't think they were responsive to government subpoenas. By the time defense subpoenas last year requested the internal communications specifically, Shuman said, the accounting firm's document retention policy had changed, meaning that any responsive emails from before 2023 had been automatically deleted.

"The jury will never see any internal emails from 2017, '18, '19, '20 or 2021 related to Mr. Goldstein or his law firm's tax returns, right?" lead defense attorney Jonathan Kravis of Munger Tolles & Olson LLP asked during Shuman's cross-examination Monday.

"They'll see whatever was in the subpoena responses that we did," Shuman answered.

Kravis argued Monday that the internal communications should have been provided after the first government subpoena in 2020 and in response to a later grand jury subpoena in 2023, which requested all correspondence "with or about" the clients listed. But the government never followed up when GRF, the accounting firm, failed to produce internal emails. GRF even consulted with its legal insurer after receiving a voluntary request for information from Goldstein's lawyers but still declined to turn any internal emails over, Shuman said.

"If you emailed with [GRF accountant Walter] Deyhle about Mr. Goldstein's tax return ... that would be a communication about the ... clients, would it not?" Kravis asked Shuman Monday.

It's unclear what could have been gleaned from any internal communications, but the jury has now heard about the deleted emails on several occasions during the trial, which is now in its fifth week. Under direct examination, Shuman told U.S. Department of Justice attorney Sean Beaty that he didn't think any of the emails would somehow show that Goldstein had told his accountants to keep poker-related payments off of the business expenses portion of his tax returns.

Shuman also told Beaty that he'd never seen a client use his firm's bank account for personal transactions as much as Goldstein did.

"Not this extensively. I don't think I've seen that degree," Shuman said. "Six digit transactions? That's unusual."

Part of the government's argument throughout trial has been that Goldstein deliberately used his firm's account to pay poker debts and personal loan installments before listing the transactions on his firm's tax returns to reduce his tax burden.

According to Shuman, it was consistently hard to get answers to important questions about how to classify certain transactions when the books for Goldstein's law firm were being reconciled at the end of the year. In exhibits shown to the jury Monday, poker-related transactions key to the government's case had been coded as legal fees in the law firm's accounting files. According to the government's calculations, Goldstein saved more than \$500,000 in taxes by misclassifying poker and loan

payments as business expenses on his firm's 2016, 2017 and 2019 tax returns.

Shuman said that things only got harder to track when the law firm switched its bookkeeping software to a company called Bench in 2020, telling the court that he was surprised by the move.

"It was very, very simple," he said of Bench. "They don't ask any questions, they don't correct anything ... on the balance sheet."

The government also put Darran Anthony, a mortgage originator from Main Street Home Loans, on the stand to go through one of Goldstein's loan applications for the Washington, D.C., home Goldstein and his wife purchased in 2021. In the liabilities section, Goldstein's application failed to mention his \$10 million loan from The Wonderful Company president Stewart Resnick, more than \$9 million of which was still unpaid at the time.

Goldstein's defense attorneys have done little to refute the allegation that Goldstein lied on mortgage applications, two of the counts in the government's indictment. Instead, they've focused their cross-examination of the government's mortgage-related witnesses on the fact that Goldstein has repaid his home loans on time. On Monday, defense attorney Sarah Weiner of Munger Tolles also pointed out that the loan Main Street ultimately approved was actually for less than the home's appraised value of \$2.6 million. In the event that Goldstein ever defaulted on the loan, she said, Main Street Lending still could have likely recouped.

The government is represented by Kelly O. Hayes and Adeyemi Adenrele of the U.S. Attorney's Office for the District of Maryland and Sean Beaty, Hayter L. Whitman and Emerson Gordon-Marvin of the U.S. Department of Justice's Criminal Division.

Goldstein is represented by Jonathan I. Kravis, Stephany Reaves, Sarah E. Weiner and Adeel Mohammadi of Munger Tolles & Olson LLP.

The case is U.S. v. Goldstein, case number 8:25-cr-00006, in the U.S. District Court for the District of Maryland.

--Editing by Dave Trumbore.



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Judge Limits Insurers' Exposure in Opioid Coverage Fight

By Hope Patti

Law360 (February 10, 2026, 9:39 PM EST) -- Insurers garnered several wins Tuesday in a dispute over coverage for thousands of opioid suits against bankrupt pharmaceutical company Endo International, with a Pennsylvania federal court ruling favorably for the carriers on the interpretation of claims-made provisions and the meaning of "damages for bodily injury."

In four separate rulings, U.S. District Judge Chad F. Kenney granted in part and denied in part a total of eight motions for summary judgment filed by Endo's insurers.

The insurance policies at issue include commercial general liability policies issued by units of Travelers, Chubb, AXA XL, Liberty Mutual and others between 2010 and 2022, as well as multiple claims-made products policies issued for the 2013-2014, 2016-2017 and 2017-2018 policy periods.

According to court filings, state and local governments, individuals and third-party payors began filing suit against Endo in 2014, over the drugmaker's role in manufacturing and promoting opioids. As of 2023, more than 3,500 suits have been filed.

Endo, an Irish company with U.S. headquarters in Pennsylvania, filed for **Chapter 11 protection** in New York bankruptcy court in August 2022. The court **confirmed** Endo's reorganization plan in March 2024, which, together with a trust agreement, provided for the **formation** of a general unsecured creditors' trust and the appointment of Matthew Dundon as trustee, according to court filings.

Dundon filed the present action against Endo's insurers in August 2024, alleging that they breached the terms of their respective policies by refusing to defend Endo against the underlying litigation or pay for defense and indemnity costs.

The trustee asserted that the 2013-2014 tower provides coverage for the government suits, the 2016-2017 tower covers suits brought by individuals for personal injury claims and claims related to neonatal abstinence syndrome allegedly caused by opioids, and the 2017-2018 tower covers suits brought by third-party payors, such as unions, hospitals and insurers. Additionally, the CGL policies provide coverage for liability that Endo may have incurred with respect to its involvement in unbranded promotions of opioids, the suit alleged.

Judge Kenney held Tuesday that a products exclusion in the **CGL policies** bars coverage for the opioid suits to the extent that they involve claims for bodily injury arising out of Endo's products, including the drugmaker's unbranded promotions of opioids. That exclusion, in part, bars coverage for bodily injury or property damage "arising out of 'your product,'" which is defined to include any of the drugmaker's goods or products, its warranties or representations, and its failure to warn about its goods or products, the ruling stated.

The judge also found that Endo breached the notice provisions of the CGL policies by failing to provide those insurers with notice of the underlying opioid suits "as soon as practicable." While Endo did not notify the insurers of the suits until 10 years after the first actions were filed, Judge Kenney found that a genuine dispute remains as to whether the CGL insurers suffered actual prejudice as a result of the late notice.

"The CGL insurers have not adequately demonstrated as a matter of law that earlier notice would have led to a substantively different result, such as a lower settlement figure or lower costs of

defense," the judge said.

As for the **2013-2014 tower**, the judge found that excess policies issued by Aspen Insurance UK Ltd., Catlin Syndicate Ltd., Chubb Custom Insurance Co. and Columbia Casualty Co. did not incorporate the six-year basic extended reporting period of the primary policy. Rather, the excess policies contain their own extended reporting provisions, which were either inapplicable or provided a more restrictive window, the judge said.

Of the government suits identified by the parties, only the two filed by the state of California and the city of Chicago were timely under the excess policies, Judge Kenney added.

"But even if additional government suits were claims made during the coverage period, many would not be covered because they do not seek damages for bodily injury," the judge said, holding that "damages for bodily injury" means redress for specific bodily injuries.

While many government suits fall outside the 2013-2014 tower's coverage, the judge said that does not mean that a government suit could never seek damages for bodily injury.

The judge further held that all claims made by individuals after the **2016-2017 policy period** are not covered under that tower — which includes a primary policy issued by Gemini Insurance Co. and five excess layer policies — because Endo did not elect to batch the claims and the extended reporting period provisions are not applicable.

However, three suits that were filed during the 2016-2017 policy period are covered under that tower, Judge Kenney said, refusing to find that the claims do not fit the definition of an "occurrence" or are barred from coverage.

Additionally, third-party payor suits filed after the **2017-2018 policy period** do not satisfy the requirements of the basic extended reporting period, which "requires a loss asserted by a claim filed outside the policy period to be linked in some capacity to a specific 'demand for damages' made during the policy period," Judge Kenney said.

The judge added that later-filed third-party payor suits involve "different locales, different entities, and seek to recover different damages" from suits filed during the policy period.

Many suits filed within the policy period are not entitled to coverage because they do not seek damages for bodily injury, but that is not to say a third-party payor suit could never seek damages for bodily injury, the judge concluded.

Counsel for Gemini Insurance Co. and the AXA XL units declined to comment. Representatives of the other parties did not immediately respond to requests for comment Tuesday.

The trustee is represented by Lee M. Epstein of Flaster Greenberg PC, by Kyle A. Lonergan, Radu Lelutiu and James H. Smith of McKool Smith PC, and by Kami E. Quinn, Richard J. Leveridge, Jason S. Rubinstein, Heather Frazier and Meredith Neely of Gilbert LLP.

The insurers are represented by attorneys from Holwell Shuster & Goldberg LLP, White and Williams LLP, Clyde & Co. LLP, Dentons Cohen & Grigsby, Dentons US LLP, Kennedys Law LLP, Batescarey LLP, Stewart Smith, Hanglely Aronchick Segal Pudlin & Schiller, Nicolaides Fink Thorpe Michaelides Sullivan LLP, Wilson Elser Moskowitz Edelman & Dicker LLP, Post & Schell PC, Choate Hall & Stewart LLP, Mintz Levin Cohn Ferris Glovsky and Popeo PC, Simpson Thacher & Bartlett LLP, Usery & Associates and Wiley Rein LLP.

The case is Dundon v. Ace Property and Casualty Insurance Co. et al., case number 2:24-cv-04221, in the U.S. District Court for the Eastern District of Pennsylvania.

--Editing by Leah Bennett.