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Blue Bell Ex-CEO Defends Safety Practices in Landmark Trial (1)

Feb. 24, 2026, 9:48 AM PST; Updated: Feb. 24, 2026, 10:08 AM PST

Summary by Bloomberg AI

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- Blue Bell Creameries' ex-CEO Paul Kruse testified that the company's leaders regularly reviewed food safety and sanitation inspection reports from its ice cream plants.
- Kruse described semiweekly staff and production meetings, and monthly board meetings that produced detailed minutes and were supplemented by an "open door" policy.
- Blue Bell's officers and directors were accused of breaching their fiduciary duties by failing to conduct safe operations, disregarding the contamination risk, and not implementing an oversight system for food safety and regulatory compliance before a 2015 fatal listeria outbreak.

Blue Bell Creameries' ex-CEO testified Tuesday the company's leaders regularly reviewed food safety and sanitation inspection reports from its ice cream plants in a first-of-its-kind trial expected to test the limits of corporate oversight liability in Delaware.

Paul Kruse, who took over the Texas-based company from his father in 2004, described semiweekly staff and production meetings, and monthly board meetings that produced detailed minutes and were supplemented by an "open door" policy where managers were free to walk into his office to discuss concerns.

Blue Bell's officers and directors were accused in a lawsuit originally filed in 2017 of breaching their fiduciary duties by failing to conduct safe operations, disregarding the contamination risk, and not implementing an oversight system for food safety and regulatory compliance before a 2015 fatal listeria outbreak in its ice cream.

The first report Kruse received about a pathogen detected in Blue Bell ice cream came in an after-hours phone call on Feb. 13, 2015, from the company's quality control manager, Andy Kollman. The company quickly decided to start withdrawing its products from the market, even though a Texas state inspector had advised them to hold off on making those kinds of decisions, Kruse said.

He read from an email he sent to Kollman that first weekend, telling him, "Anytime you need to holler, you have permission." Vice Chancellor Nathan A. Cook asked Kruse what "holler" meant in that context.

"He understood he could come to me any time he was feeling bad," Kruse said. "I was telling him he could come to me."

Cook questioned Kruse's rejection of Kollman's 2011 request to test Blue Bell's finished products for pathogens. Kruse had said such testing wasn't reliable nor was industry standard, "but you're the chief executive and your chief safety officer is asking to do this testing," the judge said. "What thought process did you have to reject this?"

Kruse said Kollman had been "looking for a silver bullet" to address the concerns from the Army, which purchased Blue Bell products directly from the company, about testing that showed the presence of a common bacteria that can be an indicator of sanitation problems.

"It's just what I'd been taught for years and years," Kruse said, that finished product testing was "not reliable."

The outbreak resulted in federal criminal charges against Kruse, who pleaded guilty to a misdemeanor and paid a fine.

Kruse initially faced seven felony counts of wire fraud and conspiracy to commit wire fraud. "I was not guilty of fraud," he said. A 2022 trial ended in a mistrial.

Kruse pleaded guilty in 2023 to one misdemeanor strict liability count of introducing adulterated foods into interstate commerce. As the head of Blue Bell at that time, "that's the one thing I was guilty of," he said.

The oversight claims against Blue Bell are notoriously difficult to win. They're commonly known as "Caremark claims" after the Chancery Court's 1996 *In re Caremark Int'l Inc. Derivative Litig.* ruling, which established that directors must make a good faith effort to implement and oversee systems to monitor company operations. But directors are only liable for sustained or systematic failures in oversight.

The lawsuit was initially dismissed by the Chancery Court in 2018, then revived by the Delaware Supreme Court in 2019 in a landmark ruling that made it easier for such oversight claims to survive a motion to dismiss.

The case stalled for a few years while the board's special litigation committee investigated and decided to pursue the claims itself. The original plaintiff, Jack Marchand, died in 2022, and his estate now leads the litigation. In 2024, the special litigation committee returned the case to Marchand's estate to advance.

Robert Kriner of Chemicles Schwartz Kriner & Donaldson-Smith LLP, representing Marchand's estate, questioned Kruse about whether the board issued any mandate requiring Blue Bell managers to give directors reports on food safety, sanitation, and regulatory compliance.

"There was nothing written but it was understood," Kruse replied. "They needed to be fulsome in their reports, I think they understood that."

Last year, Blue Bell said a \$60 million settlement in 2020 in a separate outbreak-related lawsuit had released it from the claims pending. Cook rejected that effort.

Responding to questions from one of his attorneys, Chris Flood of Houston-based Flood & Flood, Kruse said he hadn't been involved in the \$60 million settlement. The claims in *Marchand*, meanwhile, are "not fair," he said. "They're untrue. Product safety was always foremost in what we were doing."

Marchand's estate is represented by Chimicles Schwartz Kriner & Donaldson-Smith LLP. Richards, Layton & Finger PA represents Kruse and Greg Bridges, a Blue Bell executive and a former director. Other board members are represented by Young Conaway Stargatt & Taylor LLP, Morris James LLP, Greenberg Traurig LLP, Schertler Onorato Mead Sears & Manning, R. McConnell Group PLLC, and Flood & Flood.

The company is represented by Prickett Jones & Elliott PA and Kelly Hart & Hallman LLP. The board's special litigation committee is represented by Morris Nichols Arsht & Tunnell LLP.

The case is *Marchand v. Barnhill*, Del. Ch., No. 2017-0586, trial 2/24/26 .

(Updates with additional details from trial testimony starting in paragraph seven.)

To contact the reporter on this story: Jennifer Kay in Philadelphia at jkay@bloombergindustry.com

To contact the editors responsible for this story: Carmen Castro-Pagán at ccastro-pagan@bloomberglaw.com; Kiera Geraghty at kgeraghty@bloombergindustry.com

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Musk asks judge to delay Twitter securities trial, certify appeal issues

DJ [dailyjournal.com/articles/389947-musk-asks-judge-to-delay-twitter-securities-trial-certify-appeal-issues](https://www.dailyjournal.com/articles/389947-musk-asks-judge-to-delay-twitter-securities-trial-certify-appeal-issues)

Lawyers for Elon Musk asked Senior U.S. District Judge Charles R. Breyer to postpone trial, slated for next week, by four months in the securities lawsuit over the Tesla billionaire's acquisition of Twitter, to give them time to prepare for plaintiffs' second theory of harm.

"To date--with trial to begin in seven days--Mr. Musk does not know the scope of Plaintiffs' scheme theory. Plaintiffs proceeded only under a misstatement theory of fraud," stated the motion filed Monday by Quinn Emanuel Urquhart & Sullivan LLP partner Ellyde Thompson. "The class certification motion and order identified only the three alleged false statements that survived the motion to dismiss as the acts giving rise to liability. And during discovery, Plaintiffs refused to define their scheme, instead taking the position that any 'scheme' was merely 'duplicative' of the alleged false statements." *Giuseppe Pampena v. Elon R. Musk*, 3:22-cv-05937 (N.D. Cal., filed Oct. 10, 2022).

The plaintiffs, Twitter investors who sold stock after its price fell following Musk's three posts saying he no longer planned to buy the company, claim the CEO of the company renamed X made false statements in violation of federal securities law. They also claim those statements constituted a scheme to renegotiate the price he'd have to pay for the platform.

The defense filed a pretrial motion to throw out the scheme theory, arguing that Musk can't be held liable for operating a scheme if his statements were true, making the theory indistinguishable from the false statements claim.

But Breyer rejected the argument, saying it's possible for someone to intentionally tank a stock's price through true statements.

Musk's lawyers filed a supplemental brief arguing the plaintiffs didn't sufficiently distinguish between the two or plead the claim with "particularity" as court rules require. Breyer heard arguments on that at a last-minute closed hearing Friday. He had not ruled on the motion as of Monday afternoon, when the defense attorneys moved for a continuance to give them more time to prepare a defense to the theory.

Thompson argued that Breyer only allowed three of Musk's statements to proceed in the false statements claim, but that the scheme theory brings several statements Breyer had already dismissed back into the case. The defense should be given time to conduct discovery and prepare arguments with those statements in mind, she said.

"The continuance will serve a number of useful purposes--including allowing time for the Court to resolve pending, dispositive legal questions and permitting additional time to conduct discovery and adequately prepare for trial," Thompson wrote.

Thompson also asked Breyer to certify his opinion on the motion so they could appeal the decision before trial, should they need to.

In the motion, Thompson argued that many of the statements Breyer indicated he'll allow into the trial under the scheme claim are protected by the First Amendment and Noerr-Pennington doctrine and will warrant appeal.

Certifying his order now, Thompson said, will allow for an interlocutory appeal and save the court time in the long run.

"To the extent the Court fails to apply the Noerr-Pennington doctrine, its decision will represent an unprecedented interpretation of Ninth Circuit law," Thompson wrote. "This controlling legal issue warrants certification. And certifying this order for interlocutory appeal may save years of wasted time and an unnecessary retrial because any liability based on such conduct will require reversal."

The doctrine established by the U.S. Supreme Court holds that if "conduct constitutes valid petitioning, the petitioner is immune from antitrust liability whether or not the injuries are caused by the act of petitioning or are caused by government action which results from the petitioning." The cases are *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, *United Mine Workers v. Pennington* and expanded in *California Motor Transport Co. v. Trucking Unlimited*.

Thompson also asked Breyer to certify his order on whether the scheme theory can include statements dismissed under the plaintiffs' other claim, which the defense plans to appeal.

"Separately, the question of whether scheme liability may be based on statements already dismissed presents a controlling question of law that warrants immediate appellate review. This question presents substantial ground for a difference of

opinion, as made evident by the fact this Court previously has held that dismissed statements may not be repackaged as a scheme liability claim,"

A court order issued around the same time as the motion added five trial dates for the week of March 16 and vacated the March 11 trial date. In an email, Courtroom Deputy Lashanda Scott said the change wasn't related to Musk's motion and that for now, trial is still slated to start March 2.

#389947

Daniel Schrager

Daily Journal Staff Writer

daniel_schrager@dailyjournal.com

From Comcast to Boeing: The Evolving Standard for Classwide Damages in Securities Class Actions

At class certification, plaintiffs must show that damages are capable of measurement on a class-wide basis using a common methodology that is consistent with their theory of liability.

February 24, 2026 at 10:57 AM By **Jay Dubow** **Erica H. Dressler** & **Katie Hancin**



(l-r) Jay Dubow, Erica Dressler, and Katherine Rose Hancin, of Troutman Pepper Locke. Courtesy photos

The standard for proving that damages can be calculated on a classwide basis in securities actions continues to evolve. In recent years, courts have increasingly required plaintiffs to do more than simply defer damages issues to later stages of the case. Instead, at class certification, plaintiffs must show that damages are capable of measurement on a class-wide basis using a common methodology that is consistent with their theory of liability.

Comcast and the Common Damages Model

The U.S. Supreme Court's 2013 decision in *Comcast v. Behrend* is the touchstone for how courts must evaluate classwide damages under Rule 23(b)(3), including in federal securities class action

cases. In *Comcast*, the plaintiffs alleged that Comcast implemented a “clustering” strategy by concentrating its cable operations in particular geographic regions and swapping systems outside those regions with competitors in order to enhance market power and charge supra-competitive prices in violation of antitrust laws. The district court certified the class, and the U.S. Court of Appeals for the Third Circuit affirmed. On appeal, Comcast argued that the plaintiffs’ damages model was flawed because it failed to isolate the impact of the single theory of antitrust injury that remained in the case from the impacts of other alleged anticompetitive conduct. The Third Circuit treated this challenge as going to the merits and therefore outside the scope of the class certification inquiry.

The Supreme Court reversed. It held that the class was improperly certified because the plaintiffs’ damages model did not establish that damages were capable of class-wide measurement in a way that aligned with the surviving theory of liability. Plaintiffs constructed a “but-for” baseline for damages—a hypothetical benchmark reflecting what competitive prices would have been absent any antitrust violation—and then calculated damages by comparing that baseline to the actual prices Comcast charged. On its face, this appeared to be a standard, classwide methodology. But the model did not isolate the price effects attributable to other alleged conduct.

Thus, the Supreme Court concluded that individualized questions about why any given subscriber allegedly overpaid would predominate over the common ones and that the plaintiffs therefore failed to satisfy Rule 23(b)(3)’s predominance requirement. Comcast made clear that courts should apply a “rigorous analysis” when determining whether plaintiffs have satisfied Rule 23(b)(3)’s predominance requirement. That analysis, the court explained, extends beyond whether questions of liability can be resolved with common proof. It also requires examining whether damages are measurable on a class-wide basis using a methodology that aligns with the plaintiffs’ theory of liability.

Comcast’s Implications for Securities Class Actions

Although Comcast arose in the antitrust context, its holding has important implications for securities class actions. To bring a claim under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5, a plaintiff ordinarily must prove individualized reliance on the alleged misrepresentation. In the class action context, that individual reliance requirement would typically defeat predominance. The Supreme Court in *Basic v. Levinson*, however, created a rebuttable fraud-on-the-market presumption of reliance. Under *Basic*, if a security trades in an efficient market, courts presume that the market price reflects all publicly available information, including any misrepresentations. Investors are presumed to rely on the integrity of the market price when they buy or sell securities, and thus are presumed to have relied on any misrepresentation that affected that price.

This presumption allows reliance to be established on a classwide basis. However, the defendants may rebut it and defeat class certification by demonstrating that the alleged misrepresentation had no impact on the security's price through a preponderance of the evidence. While Basic supplies a common mechanism for proving reliance, Comcast polices the fit between the theory of liability and the damages methodology. In securities class actions, these concepts typically intersect through questions of price impact.

The Supreme Court's decision in *Goldman Sachs Group v. Arkansas Teacher Retirement System* illustrates how price impact and the Basic presumption interact with class certification and classwide damages. There, the plaintiffs alleged that Goldman maintained an artificially inflated stock price by falsely touting its ability to manage conflicts. At class certification, the plaintiffs invoked the Basic presumption. Goldman sought to rebut that presumption by offering evidence that the alleged statements had no impact on its stock price.

The district court held that Goldman had not shown a lack of price impact and certified the class. The Second Circuit affirmed, holding that the defendant bears the burden of persuasion to show that the alleged misrepresentations had no price impact. The Supreme Court held that when a defendant seeks to "sever the link" between an alleged misrepresentation and the stock price by demonstrating a lack of price impact, the defendant bears the burden of persuasion on that issue. At the same time, the court emphasized that the allocation of the burden is unlikely to make much of a difference. The defendant's burden of persuasion "bites" only in narrow circumstances, such as when the evidence is "in equipoise."

'In re FirstEnergy' and the Need for a Claim-Specific Damages Model

Other circuits have embraced Comcast in the context of a securities class action. An emphasis on Comcast's rigorous analysis requirement appears in *In re FirstEnergy Corporation Securities Litigation*. There, the plaintiffs alleged that FirstEnergy failed to disclose a fraudulent scheme and that this nondisclosure artificially inflated the company's stock price. The plaintiffs asserted claims under both the Securities Act of 1933 and the Securities Exchange Act of 1934. The district court certified the class and, in addressing predominance, discussed plaintiffs' damages model for their Securities Act claims, which benefit from statutory damages formulas. The court then assumed that the same reasoning applied to the plaintiffs' Exchange Act claims.

On appeal, the Sixth Circuit held that the district court failed to conduct the rigorous Comcast analysis required for the Exchange Act claims. The court emphasized that the Securities Act and the Exchange Act are distinct statutes with different damages frameworks. The Securities Act provides statutory formulas, while the Exchange Act requires proof of loss causation and does not specify a damages formula. As a result, a damages model adequate for Securities Act claims

does not necessarily satisfy Comcast for Exchange Act claims. Because the district court did not analyze whether plaintiffs' proposed damages methodology could measure class-wide damages for their Exchange Act claim, the Sixth Circuit remanded for a proper Comcast analysis.

'Boeing': The Fourth Circuit Is Poised to Weigh In

The ongoing litigation in *In re The Boeing Company Securities Litigation* also illustrates how these issues are playing out in other circuits. Following two deadly plane crashes, Boeing's stock price declined, and plaintiffs filed a putative class action alleging that Boeing made false and misleading statements about safety, thereby artificially inflating its stock price.

The district court held that plaintiffs satisfied Comcast by proposing an "out-of-pocket" measure of damages—i.e., the difference between the price investors actually paid and the price they would have paid absent the alleged fraud. The court further held that the plaintiffs were not required to present a detailed damages model at the class certification stage.

Boeing appealed, arguing that Comcast requires more: plaintiffs must present a concrete, classwide methodology for calculating damages that is consistent with their theory of liability. The Fourth Circuit granted interlocutory review and has not yet issued a decision. Its ruling will be an important data point on how far Comcast's "rigorous analysis" requirement extends in securities cases. If the Fourth Circuit adopts Boeing's position and demands detailed damages modeling at the class certification stage, class certification in securities cases could become more challenging, at least in the Fourth Circuit. If, instead, the Fourth Circuit upholds the district court's more flexible approach, plaintiffs will have greater leeway to satisfy Comcast without fully developed damages models early in the litigation.

Takeaways

The Third Circuit decided this issue differently in *San Diego County Employees Retirement Association v. Johnson & Johnson*. In our view, the Sixth Circuit's approach adheres more closely to Comcast's requirements. The Supreme Court is likely to resolve this emerging circuit split in due course. With key appellate decisions still forthcoming, litigants should closely monitor how courts continue to refine and apply *Comcast* in the securities class action context.

Jay Dubow is a partner with Troutman Pepper Locke, resident in the Philadelphia office. He focuses his practice on complex business litigation, specifically on defending against shareholder derivative and securities class action litigation. He can be reached at 215-981-4713 or jay.dubow@troutman.com.

Erica H. Dressler is a partner with the firm, resident in the Philadelphia office. She represents clients in business and commercial litigation. Erica can be reached at 215-981-4691 or erica.dressler@troutman.com.

Katie Hancin is an associate with the firm, resident in the Philadelphia office. She focuses her practice on complex business litigation. Katie can be reached at 215-981-4923 or katie.hancin@troutman.com.

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Travel Platform Navan Misled Investors Before IPO, Suit Says

Feb. 23, 2026, 3:27 PM PST

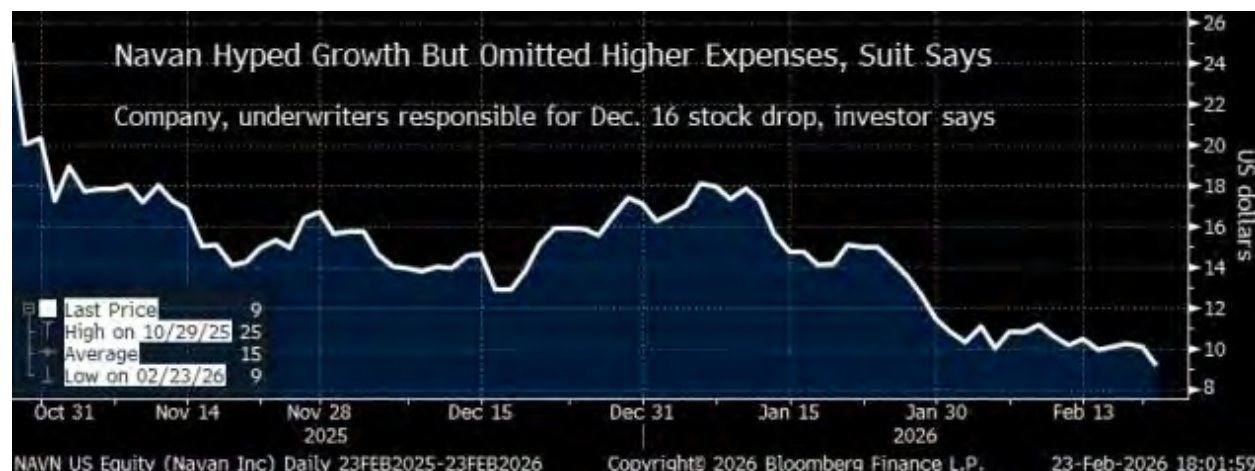
Navan Inc. silently increased its sales and marketing expenses by 39% in the quarter ending on the day of its initial public offering, causing a stock drop when the information became public, an investor alleges.

The business travel platform's stock continued to slide after that, trading as low as 63% below its \$25 IPO offering price, David McCown says. McCown filed his proposed class action Monday in the US District Court for the Northern District of California.

The suit comes on the heels of a strong year for US IPOs in 2025, with activity expected to continue strong in 2026. Meanwhile, Robinhood Markets Inc. is seeking to get the US Supreme Court to look at questions about companies' disclosure obligations in the quarter before going public, after the US Court of Appeals for the Ninth Circuit reinstated a case against it.

McCown alleges Navan hyped its rapid year-over-year growth in its offering documents. But it reported on Dec. 15 "that it increased its sales and marketing expenses to nearly \$95 million, a 39% increase from its \$68.5 million sales and marketing expenses in the quarter ending July 31, 2025," he says. It also announced the departure of its chief financial officer, according to the complaint.

The company's stock declined 12% to close at \$12.90 per share the following day.



Navan's underwriters, including Goldman Sachs & Co. and Morgan Stanley & Co., are also responsible, McCown says.

The proposed class consists of hundreds or thousands of members, the complaint estimates.

McCown seeks damages and rescission on his Securities Act claims.

Navan, Goldman Sachs, and Morgan Stanley didn't immediately respond to emails seeking comment.

Scott & Scott Attorneys at Law represents McCown.

The case is McCown v. Navan, Inc. , N.D. Cal., No. 5:26-cv-01550, complaint 2/23/26 .

To contact the reporter on this story: Martina Barash in Washington at mbarash@bloomberglaw.com

To contact the editor responsible for this story: Alicia Cohn at acohn@bloombergindustry.com

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Securities

iRhythm Officers Accused of Concealing Heart Monitor Issues (1)

Feb. 23, 2026, 8:40 AM PST; Updated: Feb. 24, 2026, 6:15 AM PST

Several iRhythm Technologies Inc. executives allegedly concealed flaws with its heart monitor that left the medical device company exposed to massive liability and degraded its reputation.

iRhythm officers concealed issues with the Zio AT despite receiving thousands of complaints dating back to 2019, warnings from the US Food and Drug Administration, and knowledge that two patients died while wearing the device, according to a shareholder derivative complaint filed in Delaware Chancery Court.

The Zio AT was a “key driver of the Company’s growth narrative and valuation in the public markets” as iRhythm made representations about the “transformative” technology. The company’s stock price rose as those claims were made, from roughly \$48 in September 2021 to just under \$160 in September 2022, according to the complaint.

Although the Zio AT was marketed as capable of providing near real-time monitoring, the device’s transmission was “routinely, substantially, and materially delayed,” the suit says. When iRhythm’s Zio AT reached transmission limits that weren’t properly disclosed to consumers, the device stopped sending data without notifying physicians or patients, the suit says.

iRhythm’s stock price dropped from its peak in September 2022 to just over \$64 in August 2024. The company is also facing a proposed securities class action and has suffered damage to its reputation with business partners, regulators, and shareholders, the suit says.

The company’s executives and directors allegedly breached their duties to share accurate information about the company’s financial health and act in furtherance of iRhythm’s best interests. Several of the defendants also allegedly sold most of their shares while iRhythm’s stock price was inflated by the misrepresentations, according to the complaint.

The suit seeks damages and asserts claims for breach of fiduciary duty, unjust enrichment, and insider trading.

An iRhythm spokesperson said in a statement to Bloomberg Law that the company doesn’t comment on pending litigation.

Schubert Jonckheer & Kolbe LLP and P. Bradford deLeeuw of Wilmington, Del., represent the shareholder.

The case is Gallant v. Blackford , Del. Ch., No. 2026-0250, complaint filed 2/20/26 .

(Updates eighth paragraph with comment from iRhythm in story published Feb. 23.)

To contact the reporter on this story: Mallory Culhane in Washington at
mculhane@bloombergindustry.com

To contact the editors responsible for this story: Kiera Geraghty at kgeraghty@bloombergindustry.com;
Patrick L. Gregory at pgregory@bloombergindustry.com

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Five9 to Battle Investor Lawsuit Over Affirmed Revenue Guidance

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Summary by Bloomberg AI

AI Generated



- Five9 Inc. and former executives must defend against allegations they misled investors in 2024 when reaffirming revenue guidance and claiming macroeconomic factors didn't hinder new business.
- A judge said the investment fund leading the case sufficiently alleged CEO Michael Burkland and former chief financial officer Barry Zwarenstein's deliberate recklessness or intent to defraud investors.
- The fund failed to sufficiently allege motive to defraud by Zwarenstein and Burkland, but alleged particularized facts sufficient to plead a strong inference of scienter as to both executives.

Five9 Inc. and former executives must defend against allegations the cloud-based call company misled investors in 2024 when reaffirming revenue guidance, saying sales were strong, and claiming macroeconomic factors didn't hinder new business.

The investment fund leading the case sufficiently alleged CEO Michael Burkland and former chief financial officer Barry Zwarenstein's deliberate recklessness or intent to defraud investors, Judge P. Casey Pitts said Monday. Burkland admitted in a meeting Five9 underperformed in the first quarter toward meeting revenue projections and Zwarenstein had access to information about revenue growth and the macroeconomic impact, according to former employees with adequately-pleaded personal knowledge, the US District Court for the Northern District of California judge said.

The Lucid Alternative Fund LP plausibly alleged that by June 2024, Burkland and Zwarenstein were aware of information undermining annual revenue guidance when they affirmed it. "Other allegations of tighten-the-belt measures directed by Burkland and Zwarenstein, company sales policies, and statements by other Five9 leaders collectively bolster the inference that Burkland and Zwarenstein knew that the revenue guidance was false or misleading when they reaffirmed it in June," Pitts said.

These and similar pleadings helped the fund sufficiently allege statements downplaying the macroeconomic environment on new business and the strength of sales and booking momentum were false or misleading, Pitts said.

But other portions of sales statements were inactionable puffery, the fund didn't allege with particularity February 2024 statements about estimated revenue growth were misleading when made, and Five9 didn't have to disclose certain information about its sales tactics, he said. The judge shed alleged misstatements tied to artificial intelligence products and risk disclosures.

And the fund failed to sufficiently allege motive to defraud by Zwarenstein and Burkland, who remains at Five9 as chairman after he retired as CEO, Pitts said. "Nonetheless, even in the absence of particularized motive allegations, plaintiffs allege particularized facts sufficient to plead a strong inference of scienter as to Burkland and Zwarenstein that is at least as compelling as defendants' alternate explanation that Five9 'competed aggressively' in a field that is 'subject to rapid and constant change.'"

The fund's proposed class includes those who acquired Five9 securities from Feb. 21, 2024, through Aug. 8, 2024. That day, Five9 cut its 2024 revenue guidance, the suit said, among other announcements. The next day, Aug. 9, Five9's share price fell more than 26% to close at \$31.22—then the stock's steepest one-day slide since its 2014 market debut, according to Bloomberg data.

Bleichmar Fonti & Auld LLP, which is lead counsel and didn't immediately respond to an email seeking comment, and the Law Office of Jacob Sabo represent the fund. Skadden, Arps, Slate, Meagher & Flom LLP represents Five9 and the former executives; neither spokespeople for the firm nor the company immediately responded to emails seeking comment.

The case is Lucid Alt. Fund, LP v. Five9, Inc. , N.D. Cal., No. 5:24-cv-08725, 2/23/26 .

To contact the reporter on this story: Gillian R. Brassil in Washington at gbrassil@bloombergindustry.com

To contact the editor responsible for this story: Patrick L. Gregory at pgregory@bloombergindustry.com

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Securities

OneStream Investor Sues to Stop \$6.4 Billion Take-Private Deal

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OneStream Inc. didn't provide enough information about how private equity firm Hg persuaded the financial platform's founder to accept a \$6.4 billion takeover offer, an investor alleges.

The merger should be halted until OneStream "issues curative disclosures that fully address the deficiencies," Sonal Rana says. She filed her complaint Feb. 20 in the US District Court for the Northern District of Illinois.

Rana sued OneStream, its founder, CEO and board chairman Thomas Shea, and eight other directors, including retired US Army general David Petraeus.

Shea was somehow persuaded to accept the \$24 per share offered by Hg and would-be minority investors General Atlantic and Tidemark, a reversal from his previous position not to roll over his stake, Rana says. "The only intervening event to explain this change appears to have been interactions a week earlier between Welsh and Hg representatives," she says, referring to allegedly KKR-affiliated director Dave Welsh.

An information statement submitted to the Securities and Exchange Commission indicates that PE firm KKR owns 58% of OneStream's outstanding equity, and that its affiliates would receive about \$2.3 billion from the merger, she says. An earlier \$26-per-share offer would have disadvantaged KKR, according to the complaint.

Rana brings a proxy misstatement claim. She seeks a preliminary injunction preventing a shareholder vote—though she says KKR's written consent as majority owner means the deal isn't subject to a vote—and blocking consummation of the merger until the company issues further disclosures. She also seeks rescission of the merger agreement and an accounting of damages.

OneStream said in January that the transaction was expected to close in the first half of 2026.

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

Ademi LLP represents Rana.

The case is Rana v. OneStream Inc. , N.D. Ill., No. 1:26-cv-01931, complaint 2/20/26 .

To contact the reporter on this story: Martina Barash in Washington at mbarash@bloomberglaw.com

To contact the editor responsible for this story: Carmen Castro-Pagán at ccastro-pagan@bloomberglaw.com

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Compass Minerals Investors' Reform Settlement Gets Court Sendoff

Feb. 24, 2026, 8:51 AM PST

A Compass Minerals International Inc. board agreement to adopt a formal strategic transactions policy, among other changes, has received a federal judge's final blessing, ending shareholder claims over representations made in connection with its acquisition of a wildfire retardant unit.

Judge Eric F. Melgren, in greenlighting final approval of the deal in the US District Court for the District of Kansas Monday, granted \$850,000 in attorneys' fees and expenses for the stockholders' counsel. Out of that, \$1,500 will go to each shareholder leading the derivative action that alleged Compass leadership overhyped the 2024 government contract prospects of its now-shuttered retardant business.

Current and former executives and board members denied the allegations via the agreement

Melgren approved a \$4.9 million settlement to resolve related investor class claims in January

Melgren last year stamped final approvals of a \$48 million class deal and derivative settlement over investor claims about a salt mining upgrade

Glancy Prongay Wolke & Rotter LLP—which declined to comment—and Beam-Ward, Kruse, Wilson & Fletes LLC represent shareholder George Assad. The Brown Law Firm PC—which declined to comment—and Walters Renwick Richards & Vaughan PC represent shareholder Fabrizio Morelli. Skadden, Arps, Slate, Meagher & Flom LLP and Husch Blackwell LLP represent the leadership and Compass Minerals, a nominal defendant. Neither of these law firms nor Compass immediately responded to emails seeking comment.

The case is Morelli v. Crutchfield , D. Kan., No. 2:24-cv-02496, final judgment 2/23/26 .

To contact the reporter on this story: Gillian R. Brassil in Washington at gbrassil@bloombergindustry.com

To contact the editor responsible for this story: Andrew Harris at aharris@bloomberglaw.com

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Securities

Ramboll Sued Over Stable Value Fund in Employee Retirement Plan

Feb. 23, 2026, 11:11 AM PST

Two former employees filed a proposed class action accusing Ramboll Ltd. and Ramboll US Consulting Inc. of mismanaging their 401(k) plan by offering a poorly performing stable value fund.

The lawsuit says the engineering and consulting firm's 401(k) plan, which held nearly \$660 million as of 2024, included a stable value fund from Empower Annuity Insurance Co., which isn't named as a defendant. This fund performed significantly worse than similar investments while allowing Empower to earn "windfall" profits, and Ramboll should have taken steps to swap it for a better option, the employees said in a complaint docketed Monday in the US District Court for the Northern District of New York.

The workers bring claims under the Employee Retirement Income Security Act on behalf of a proposed class of more than 3,000 people

Dozens of recent ERISA lawsuits have centered on stable value funds, which are retirement investments aimed at providing modest, guaranteed rates of return while protecting against losses

Ramboll didn't immediately respond to an inquiry about the lawsuit

Capozzi Adler PC and Law Offices of Pullano & Farrow PLLC represent the employees.

The case is Jones v. Ramboll Ltd. , N.D.N.Y., No. 5:26-cv-00273, complaint docketed 2/23/26 .

To contact the reporter on this story: Jacklyn Wille in Washington at jwille@bloombergindustry.com

To contact the editor responsible for this story: Brian Flood at bflood@bloombergindustry.com

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It's Complicated: What Makes ESG Cases Among the Most Complex Recovery Opportunities

Litigation Daily sits down with Christi Cannon, general manager of global class actions at Broadridge, to discuss the fintech company's annual ranking of the 10 most complicated class action asset recovery opportunities.

February 24, 2026 at 07:30 AM By  **Ross Todd**



Credi: Bigstock

Global fintech company Broadridge released its seventh annual [global class action report](#) last week, once again taking a look at cases from the perspective of those filing claims to recover assets at the end of securities litigation around the globe. The report includes Broadridge's annual ranking of the 10 most complex recovery opportunities for plaintiffs.

Yesterday we discussed the list with Broadridge's vice president and general manager of global class actions **Christi Cannon**. Cannon, who practiced on both sides of the securities bar earlier in her career—for plaintiffs at **Chitwood & Harley** and **Schiffrin & Barroway** and on the defense side at **Troutman Sanders**—heads up Broadridge's efforts to help clients navigate the operational challenges of tracking and filing claims for recoveries in class action and representative cases.

Although our focus was on the past year's recovery opportunities, Cannon said 2026 is shaping up to be a "noteworthy" year. Not fully two months in, she said there are already 51 claim filing deadlines involving \$2.6 billion in recoveries. Last year, there were 130 deadlines for the year, with about \$4 billion in recoveries. Among this year's cases, there are already six mega cases of at least \$100 million, compared to nine for the full year last year.

The following has been edited for length and clarity.



Christi Cannon. Courtesy photo

Litigation Daily: For litigation practitioners, what does Broadridge mean by complexity here? And why do you think that lens is more useful than simply tracking big settlements?

Christi Cannon: First off, I would say there are groups out there that we're both familiar with that track settlements based on size, based on volume, based on law firm participation and by institutional investor. When we really started taking a look, complexity was what we viewed as the thematic driver of the expansion of global asset recovery in this space. And by that, what we mean is not just it's a case with a complex plan of allocation. It's not just that it's an antitrust case where the data is complex. It's more complexity in terms of: "How do you recover the assets?"

More and more, we know that there are larger dollar recoveries in total and in particular cases. What our clients and global investors are really looking at is wanting to maximize that. So how do they do that? It's not simply that you can passively monitor and submit some claims now. So, it's complex to identify the cases, because there are 40-plus countries now where you may have a recovery opportunity. And even if you're not looking to participate in every single opportunity, it's possible you could have an international opportunity that's meaningful—that's significantly impactful to your overall portfolio, or your net asset value.

Over the last 10 years or so, since we've seen more jurisdictions, the question becomes how you actually participate. And some of them continue to be passive. Certainly, in the U.S., which is the most mature market, you can continue to have a little bit more of a passive approach.

Mature and by far the largest, right? U.S. securities accounted for about \$3.5 billion of the \$4 billion in recovery opportunities identified last year, right?

That's right. I mean, there's no question about that. But how do you actually convert the opportunities? That's more complex. So, I think that for us, we thought that's the story: If you've got a system in place, and you're tracking U.S. cases, and you're tracking the proof of claim deadlines, and you're familiar with how to fill out a claim form, and you know how to pull your data, even if you've had that figured out for a while, all of these other complexities become, thematically, a big driver in participation. I think that's why we put the report together the way we did.

Your report looks at complexity in terms of recovery opportunity. Does it correlate with complexity of actually getting a win in the plaintiff's seat to create that recovery?

It's a great question. I think, yes and no. There can be some overlap there. Sometimes the more complex cases involving multiple listings or exchanges or multiple kinds of securities—the theories of liability around those cases and driving toward a result can potentially be more complicated. That's just based on sort of the state of the law and other related issues. But I do think that sometimes you can have pretty complex cases where it's tough to actually figure out who the class members are and to file the claims properly, but they can be fairly straightforward to litigate. So, I would say it's a little bit of an overlap, but it's not one to one.

So, the report highlights a sharp rise in Australian registration deadlines tied to soft class closures. From a recovery perspective, how big a change was the High Court's confirmation of that practice, and what does it mean for claimants who wait too long?

It means a lot for claimants that wait too long. We did see about a 33% increase in registration requirements this past year, going to 12 this year versus an average of eight in prior years. This was certainly a big story for our team. Just in terms of servicing our clients, it was something that we were very attuned to during the course of the year. And I think what's important to note about it is the thing you called out—the sort of temporal shift. You've got to be involved in these earlier. You've got to be watching them early to be taking action earlier. And I think for a lot of our clients who we had been advising on Australian cases, they knew they might want to participate in those cases going into that this past year, which really helped us move faster for them. I think if you were not necessarily sure what you wanted to do, it could have been a really tough year to stay on top of things. But I think it's certainly something that we saw as very material development for this past year, and we view as a very material thing we're going to be watching going forward. Certainly, we talked about the U.S. market. There's nice, dense opportunity in the Canadian market, too. Australia is a big story. We're going to continue to watch it.

So, a couple of cases jumped out to me: The case over British American Tobacco's dealings in North Korea was both ESG-driven and an opt-in recovery challenge. The BHP case in Australia, stemming from the dam collapse in Brazil, fits that bill to a certain extent as well. So, are ESG-

related cases inherently more difficult recovery opportunities, or is the difficulty really about where and how those games claims are being brought?

You called out two of the cases that I think were the most interesting for the year, for sure. So, ESG cases tend to be more complex for a couple of reasons. One, most of them, although not all of them, tend to be these opt-in frameworks. We know the U.S. has a mixed relationship with ESG. We know that our European counterparts are more embracing of ESG. The investor participation levels are higher there. It's more of a driver.

Because of that, those cases tend to be more on that opt-in side. So, by their nature, they're more complex just in terms of participation. I think anytime you're talking about international business practices, such as dealings with North Korea, it adds another layer of complexity. You've got a U.K. court taking look at actions and activities taking place in another country. When that's the theme and the theory of liability, that can add that layer of complexity as well. But in general, other than the participation and potential discovery hurdles, these can be pretty straightforward cases. I think the European courts and some of the other courts are doing a really good job with them—making them a story in terms of delivering what they view to be justice in these complicated situations, creating a path to recovery at the end of the day for them.

The report describes increasingly strict filing and documentation requirements for SEC Fair Fund distributions. I'm wondering, from your vantage point, are fair funds still an efficient recovery tool, or are they becoming operationally harder than traditional class actions? It was \$350 million, so it's not immaterial. But it's also a small slice of this universe.

It is a small slice of the universe. But what I will say is that the SEC Fair Fund recoveries have been meaningful to investors who tended to participate in the civil proceedings first, and then these recoveries would come along behind. Look, there's no question that the documentation requirements have increased. There's been an evolution in that regard by the SEC in terms of what's required over the past few years. I will say that another theme we've tracked over time is the rise in the participation of retail investors. A lot of that is really Broadridge-driven. We're super proud of it. Historically, there had been very minimal participation levels. We are certainly seeing that change, based on our work for some very large broker/dealers globally. And I will say that the documentation requirements, in particular in the Fair Fund cases with regard to the retail claims, are a real challenge. When you're working like we are on behalf of nominees, at the volumes that we are, it can result in a dampening of participation levels. It's certainly something we're watching very closely, because our clients are talking about it a lot, and I think there's some really great conversations that could be had around it. So, at the end of the day, the answer is, yes, it's something that we are seeing potentially drive down participation levels in those recoveries. I do continue to view them as still meaningful and material and important and vital. I think it's

important from a messaging standpoint, not just from a dollar standpoint. My team spends a lot of time thinking about this and trying to support our clients on it.

So, if you were advising plaintiffs lawyers—not your clients on the recovery side—what's the single biggest misconception they still have about what makes recovery succeed or fail in these complex, global cases?

I guess what I would say there's still this desire to have a very formulaic, strict interpretation of claims that are submitted, as opposed to working through things and being a little bit iterative on how they're submitted. In some of these particularly complex cases, it can be unclear what data the administrators are necessarily looking for. I get this. I came from an administrator. It can be a challenge to understand what they're looking for. And then there's this process that's very “yes and no” or “good or bad,” right? I do think that maybe potentially being open to more communication and collaboration at the beginning of these programs could maybe save some time at the end of the programs.

Conceptually, the other things I've been working on are to get this message out there that it's important for the plaintiffs bar to know some of the impact of what we've been talking about in terms of retail participation. The nominees really do care so much about facilitating recoveries on behalf of their underlying investors. The underlying investors are so grateful to have this enterprise-level support that basically takes the challenges out of this asset recovery that they may have been struggling with before, and allows them to convert the assets back into their investment accounts in a really hands-off way.

I think the firms—maybe through the administrators—sometimes look at these large claims that they're getting from Broadridge now, and it may seem like a big lift. But when you actually look at the overall participation levels and how it really does—it's a little bit cheesy, but I've been saying it my whole career in different contexts—really does deliver access to justice to the underlying retail investor that they maybe didn't have before. In a way, that's super meaningful.

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Lead social media attorney apologizes for rule violations in bellwether trial

DJ dailyjournal.com/articles/389945-lead-social-media-attorney-apologizes-for-rule-violations-in-bellwether-trial

Social Media Victims Law Center founder Matthew P. Bergman

The lead attorney for the bellwether social media addiction trial apologized to the court Monday after the judge removed him from the plaintiffs' steering committee for violating rules on use of Zoom and his mobile phone.

"In a trial centered on tech accountability, it is only right that I accept responsibility for violating Court rules regarding technology used in the courthouse," Social Media Victims Law Center founder Matthew P. Bergman's statement said.

Last Friday, Los Angeles County Superior Court Judge Carolyn B. Kuhl found Bergman participated in a Zoom interview with the BBC on the first floor of the Spring Street Courthouse - where recording is prohibited. A show-cause hearing is also scheduled next month regarding additional sanctions tied to a cellphone photograph he allegedly took inside the courtroom.

"This is not the standard I expect of myself, and I regret that my conduct has fallen short," Bergman's statement said. "I have deep respect for this Court and for the rules that govern these proceedings, and I will ensure that nothing like this happens again."

Bergman and his Seattle-based firm spearheaded the "product defect" legal theory that got the case to trial despite social media companies' protection under Section 230 of the 1996 Communications Decency Act from civil liability for third-party content.

Meanwhile, a YouTube engineering executive testified Monday that the platform was not designed "with tricks" to foster addiction or harm users' well-being, insisting that "watch time" was merely a measurement tool - not the company's true optimization goal.

"We are not competing to hook people. ... We don't want anybody to be addicted to anything," YouTube Vice President of Engineering Cristos Goodrow told a Los Angeles County jury. He said he has worked with Google and YouTube for 18 years and oversees functions such as search, recommendations and YouTube Kids.

"YouTube is not designed to maximize time, it's designed to give people the most value," Goodrow continued. "The measurement is time, but the goal is value."

The testimony came during the third week of evidence in the first bellwether social media addiction trial, where a young adult alleges that the design of Meta's Instagram and Google's YouTube incited her to compulsive use, disrupted her development and contributed to her mental health struggles. The plaintiff, a 20-year-old identified as Kaley, filed the lawsuit when she was a minor and is one of thousands of plaintiffs in the coordinated litigation. *Social Media Cases*, JCCP5255 (L.A. Super. Ct., filed Oct. 24, 2022).

Last Friday, Los Angeles County Superior Court Judge Carolyn B. Kuhl removed Social Media Victims Law Center founder Matthew P. Bergman from the plaintiffs' steering committee after finding he violated her rules by participating in a Zoom interview with the BBC on the first floor of the Spring Street Courthouse - where recording is prohibited.

Bergman, whose Seattle-based firm filed Kaley's lawsuit, has also been ordered to show cause next month regarding additional sanctions tied to a cellphone photograph he allegedly took inside the courtroom.

In a statement Monday, Bergman said he accepted responsibility and expressed regret.

"In a trial centered on tech accountability, it is only right that I accept responsibility for violating Court rules regarding technology used in the courthouse. This is not the standard I expect of myself, and I regret that my conduct has fallen short. I have deep respect for this Court and for the rules that govern these proceedings, and I will ensure that nothing like this happens again," Bergman wrote.

Under examination Monday from Lanier Law Firm founder Mark Lanier, for Kaley, the YouTube executive was pressed about internal language in a 2012 document stating. "The goal is not viewership, it's viewer addiction."

Goodrow repeatedly rejected that characterization, while similarly distancing the company from internal presentations summarizing outside research that linked digital video use to addiction.

"It's only ever been, basically, to help people find good stuff to watch," Goodrow said, comparing YouTube to television and adding that he believes the platform is "better TV," including for his own children.

Lanier's questioning, which did not end before press deadline, centered on several internal Google presentations and emails spanning more than a decade, including a 2013 "Big Hairy Audacious Goal" to reach 1 billion hours of watch time per day by the end of 2016.

Goodrow acknowledged the goal but maintained that watch time was simply the company's chosen metric to measure user satisfaction. "When we switched to watch time, it reduced revenue," he testified, pushing back on suggestions that the metric was adopted to increase profits.

Goodrow's testimony mirrored Meta CEO Mark Zuckerberg's last week, when he disputed the plaintiff's claims that Instagram's engagement benchmarks reflected an effort to maximize scrolling, describing "time spent" instead as a measure for whether users find the platform valuable.

Jurors on Monday were also shown slides from a 2018 internal literature review examining the effects of watching digital videos on viewer well-being, which referenced addiction, social isolation and cognitive impairment as potential negative effects associated with excessive viewing. One slide described notifications as a "critical part of YouTube" and referenced research suggesting short videos can produce a "quick fix of dopamine."

Goodrow repeatedly emphasized that the presentation summarized outside research and did not reflect YouTube's design intent. When confronted with language stating that researchers believed YouTube was built "with tricks" - such as autoplay and recommendations to encourage binge-watching - Goodrow responded, "This slide is wrong," adding that he had firsthand knowledge of how the platform was built and disagreed with the researchers' conclusions.

"All I'm saying is we did not design YouTube to create a fear of missing out," he said at one point, disputing the implication that notifications were intended to trigger anxiety or compulsive checking.

Lanier also highlighted internal strategy documents regarding YouTube Kids, including slides stating the product's vision was to "create the next generation of YouTube users."

Goodrow said YouTube Kids was developed to provide a safer environment for younger users and to give parents confidence, allowing children to use the app independently.

YouTube sought to "make a safe enough" app for children, Goodrow said, adding that as users aged, the company introduced supervised experiences rather than pushing them toward unrestricted use.

Kaley claims she began using YouTube at 6. YouTube Kids launched in 2015, around the time Kaley turned 9.

YouTube, represented by Wilson Sonsini Goodrich & Rosati LLP partner Luis Li, argues that Kaley's alleged mental health struggles were not caused by the design of its platform and instead arose from preexisting difficulties, including a detrimental home environment that predated her use of social media.

Li also questioned whether YouTube should be classified as a social media platform at all, suggesting it functions more like an on-demand entertainment service similar to Netflix.

#389945

Devon Belcher

Daily Journal Staff Writer

devon_belcher@dailyjournal.com

United States Supreme Court

Supreme Court to Consider State Climate Suits Against Fossil Fuel Companies

The U.S. Supreme Court on Monday said it would review whether local governments and private plaintiffs may bring climate change lawsuits in state court against major fossil fuel producers.

February 23, 2026 at 11:42 AM By  **Jimmy Hoover**



Credit: anatoliy_gleb/Adobe Stock

The U.S. Supreme Court agreed on Monday to hear the oil industry's efforts to beat back a tide of climate change litigation being waged in state courts around the country, saying it will review a decision allowing a lawsuit against Exxon Mobil and Suncor to go forward.

The case could bring a swift end to state climate torts from various municipalities and private plaintiffs seeking to hold major fossil fuel producers liable for their contributions to climate change and its effects on the environment. The oil companies, backed by the Trump administration, have argued that the claims are preempted by both the federal Clean Air Act and the U.S. Constitution.

The high court has for the most part stayed out of the recent effort of plaintiffs to hold massive fossil fuel companies responsible for the effects of greenhouse gas emissions. The court decided a 2021 case in favor of various energy companies but did so on a narrow procedural issue about the power of federal appeals courts to review decisions remanding cases to state courts.

But oil companies, now facing state lawsuits around the country, have continued to urge the Supreme Court to put an end to the claims. Notably, the Biden administration had taken the position that not all state climate suits were preempted by the Clean Air Act.

The Trump administration reversed that position, and encouraged the justices to take up Suncor and Exxon's appeal.

This lawsuit was filed in state court by the city and county of Boulder, Colorado, in April 2018, alleging the companies are responsible of billions of tons of carbon emissions and are therefore leading contributors to global climate change. The plaintiffs say the companies' activities have harmed the health and safety of Boulder's residents and contributed to more extreme weather patterns, including heat waves, wildfires, droughts and floods.

The lawsuit alleges various common law claims, including public nuisance, trespass, unjust enrichment and civil conspiracy. The municipal plaintiffs are seeking money damages from the companies and remediation of the environmental effects of climate change.

In the first round of litigation, the companies fought in vain to move the case to federal court. The companies' latest round of appeals followed the state court's decision denying their motion to dismiss the lawsuit

Invoking its supervisory authority over the trial court, the Colorado Supreme Court held in [May](#) that the plaintiffs' state common law claims may proceed. Over the dissents of two justices, the state high court said it was "unpersuaded" that the Constitution precludes the claims.

"[L]itigating Boulder's claims would not upset any balance set by Congress because Boulder's claims do not seek to impose liability for activities that the CAA regulates," the state high court held, referring to the Clean Air Act. A dissenting justice urged the U.S. Supreme Court to hear the case.

The plaintiffs had urged the Supreme Court to deny the petition, raising procedural issues that they said made it a bad vehicle to resolve the preemption issue. In particular, they noted the trial court's decision refusing to dismiss the case is an "interlocutory" order that is ordinarily not subject to appeal.

There are also "vexing jurisdictional issues" in the case, wrote the plaintiffs' counsel of record, Kevin Russell of Russell & Woofter. The court should "await a better time and case before addressing any preemption questions that may warrant review in this context," Russell added in the brief in opposition to the petition for review.

The Trump administration urged the justices to review the case.

The administration argued that the Colorado high court's ruling conflicts with the U.S. Supreme Court's 2025 decision in *Fuld v. Palestine Liberation Organization* that the federal Constitution limits a state's "sovereign authority" to its borders. The state court's ruling also conflicts with the U.S. Court of Appeals for the Second Circuit's 2021 decision in *City of New York v. Chevron Corp.* blocking such climate change litigation, the administration added in its brief to the justices.

"If, as the Colorado Supreme Court held, those theories are consistent with federal law, then every locality in the country could sue essentially anyone in the world for contributing to global climate change," Deputy U.S. Solicitor General Sarah Harris wrote. "Because the decision below is contrary to the Constitution and to the Clean Air Act, and because it conflicts with the decision of a court of appeals on a frequently recurring issue of exceptional importance, the petition for a writ of certiorari should be granted."

The case will be heard next term. A decision is expected by July 2027.

The oil companies are represented by Kannon Shanmugam of Paul, Weiss, Rifkind, Wharton & Garrison.

The case is *Suncor Energy v. County Commissioners of Boulder County*, No. [25-170](#).

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Ohio school district sues Microsoft, Roblox over video game harm to students

 [courthousenews.com/ohio-school-district-sues-microsoft-roblox-over-video-game-harm-to-students](https://www.courthousenews.com/ohio-school-district-sues-microsoft-roblox-over-video-game-harm-to-students)

Rox Laird

February 23, 2026



Lydia Winters shows off Microsoft's "Minecraft" built specifically for HoloLens at the Xbox E3 2015 briefing before Electronic Entertainment Expo, June 15, 2015, in Los Angeles. (AP Photo/Damian Dovarganes, File)

(CN) — A small Ohio school district sued three big video game producers with a global reach, claiming youngsters are attracted to and addicted to the online games that have behavioral and financial consequences for the school district and its students.

"America's students are facing a mental health crisis caused by excessive and compulsive video game use that school districts across the country, like plaintiff, are battling from the front lines," the school district says in its 185-page [complaint](#). "Predictably, this crisis, of defendants' own making in their quest for profit, was tragically — and effectively — brought to the doorsteps of plaintiff's schools by defendants."

The Champion Local School District in Trumbull County, Ohio, serving more than 1,300 students in three schools, named Microsoft Corp., Mojang AB and Roblox Corp. in its suit filed Saturday in the U.S. District Court for the Northern District of Ohio. Microsoft and its wholly owned subsidiary Mojang were named for the Minecraft video game series and Xbox system. Roblox, a San Mateo, California-based company, is a game developer that has previously been [sued by parents](#) claiming their children were enticed through Roblox to meet with adult predators preying on juveniles.

The Ohio school district claims the defendants intentionally use psychological techniques to design, develop and promote gaming systems that attract users and to keep them addicted. "Defendants' video games formed a gateway to video game addiction and left school districts, which are on the front lines of the many challenges facing America's youth, with the daunting task of responding to the crisis of video game addiction," the district said in its complaint.

Among the harms the school district says are caused by the defendants' video games, its schools must use financial and human resources to prevent use of video games during school hours, hire counselors and other professionals to address video game addiction. And it cites a "consistent and pervasive" disruption to the learning process, caused by video games.

"While defendants profit, local school districts across the nation, including plaintiff, are left footing the bill for assisting America's struggling youth," the school district says in its 12-count complaint that seeks unspecified punitive and damages.

Neither Microsoft nor Roblox responded to a request for comment from Courthouse News Service Monday.

After Iowa Attorney General Brenna Bird [accused Roblox in a suit](#) filed last December, accusing the company of knowingly exploiting children and putting them at risk of pornographers and adult child predators, Roblox Chief Safety Officer Matt Kaufman said in a statement that the company has taken steps to protect children who access the game.

Acworth, Georgia-based Bullock Legal Group represents the school district in its suit.

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Class Action

Manage Newsletters

Powerschool to Pay \$17.25 Million to Settle Student-Data Suit

Feb. 24, 2026, 10:50 AM PST

Powerschool Holdings LLC and the Chicago Public Schools will pay \$17.25 million to settle a proposed class action alleging they illegally collected and disclosed students' personal information through the edtech provider's Navience higher-education preparedness platform.

Members of the class of more than 10 million people will be entitled to a pro rata share of the net settlement fund, according to the plaintiffs' motion for preliminary approval filed Monday in the US District Court for the Northern District of Illinois. The settlement is subject to approval by Judge Jorge L. Alonso.

The plaintiffs alleged that CPS, Powerschool, and co-defendant Heap Inc. illegally wiretapped K-12 students while they used school-mandated education-technology products

Alonso previously denied Powerschool's motion to dismiss the plaintiffs' claims under the Electronic Communications Privacy Act and the California Invasion of Privacy Act, but dismissed their claims under Section 1983 and granted Heap's motion to dismiss for lack of personal jurisdiction

Class counsel intend to seek a fee award of up to 37% of the settlement fund, and a service award of up to \$5,000 for the class representative

Drury Legal LLC represents the student and proposed class. Kirkland & Ellis LLP represents PowerSchool. Lewis Brisbois Bisgaard & Smith LLP represents Heap. Esbrook PC represents Chicago Public Schools.

The case is Q.J. v. Powerschool Holdings LLC , N.D. Ill., No. 1:23-cv-05689, motion 2/23/26 .

To contact the reporter on this story: Christopher Brown in St. Louis at ChrisBrown@bloombergindustry.com

To contact the editor responsible for this story: Martina Stewart at mstewart@bloombergindustry.com

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Arizona settles consumer fraud case over nonrecyclable Hefty trash bags

 [courthousenews.com/arizona-settles-consumer-fraud-case-over-nonrecyclable-hefty-trash-bags](https://www.courthousenews.com/arizona-settles-consumer-fraud-case-over-nonrecyclable-hefty-trash-bags)

Joe Duhownik

February 23, 2026



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A complaint against Reynolds includes this screenshot showing how the company markets clear blue trash bags as suitable for recycling. (Image via Courthouse News)

PHOENIX (CN) — Reynolds Consumer Products Inc. will pay more than \$200,000 to the state of Arizona under a settlement agreement released Monday over claims the company misrepresented plastic waste bags as “recyclable” when they are not.

Hefty, best known for selling trash bags, has sold transparent “recycling bags” since at least 2019. In an [August 2025 lawsuit](#), state Attorney General Kris Mayes argues the products are largely nonrecyclable in Arizona and instead can become tangled in sorting equipment and even shut down entire state recycling facilities.

“Companies should not be able to exploit Arizonans’ well-meaning desire to protect the environment,” said Mayes. “We won’t allow companies to mislead consumers and imply products sold in our state are recyclable unless they can actually be recycled in Arizona.”

Mayes [accused](#) Reynolds of profiting off Arizonans’ desire to do the right thing. The company advertised its bags as “ideal for collecting recyclable materials” without clarifying that the bags themselves aren’t actually recyclable, she said. Mayes said when a consumer recycles the bag, the contents most often end up in a landfill instead; the bags could also become entangled in recycling facility equipment, forcing facility shutdowns.

Reynolds admits no wrongdoing in the [settlement](#), which was dated Feb. 13 and is still pending before a state judge.

If approved, Reynolds would be prohibited from selling recycling bags unless they are accepted at a "substantial majority" of Arizona recycling facilities.

Reynolds must also redesign the packaging of its transparent, clear and blue bags to remove any misleading images implying the bags can be used for curbside pickup or placed in municipal recycling bins. Language on the website must educate consumers about the limited availability of bagged recycling pickup and make clear that the bags are to be used only in participating municipalities.

The redesign will be implemented nationwide and include removing recyclable contents from images of the clear or blue bags and clearly stating on the packaging: "These Bags Are Not Recyclable."

Reynolds will also pay \$30,000 in consumer restitution within 10 days of the settlement taking effect and pay \$157,000 to the state for Arizona Consumer Fraud Act violations. Finally, Reynolds will pay \$25,000 to cover the state's attorney's fees.

Though Reynolds changed the messaging on its packaging beginning in 2019, Mayes says every version so far has violated the Arizona Consumer Fraud Act.

In 2019, "perfect for all your recycling needs" and "transparent for quick sorting and curbside identification" were written on every package. The packaging also included an image of a blue recycling truck with a "chasing arrows" recycling symbol, a recognizable mark indicating a product is recyclable. Under that symbol read: "developed for use in municipal recycling programs where applicable."

Reynolds made more changes to its packaging and labeling after other states reached similar settlements, but the company had never removed the image of the bag containing recyclables or explicitly stated on the front of its packaging that the bags are not recyclable.

Despite the textual clarification, Mayes says the use of the common recycling logo, called the Möbius loop, still implies the product is entirely recyclable and therefore is deceptive to consumers.

Mayes asks that Arizona consumers who purchased Reynolds' "Recycling" bags or transparent blue or clear bags file a complaint [here](#) before Oct. 1, 2026, to be considered for restitution.

Reynolds has not replied to a request for comment.

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February 23, 2026

Monsanto Files Opening Brief Before SCOTUS: Roundup Lawsuits a 'Real Threat to Farmers'

Monsanto's opening brief, filed on Monday, urged the U.S. Supreme Court to reverse a 2025 decision by a Missouri Court of Appeals, arguing that federal law preempts claims that it failed to warn about the cancer risks posed by its Roundup herbicide's active ingredient, glyphosate.

February 23, 2026 at 07:17 PM By  **Amanda Bronstad**

What You Need to Know

- If Monsanto is successful, its Supreme Court case, set to be heard April 27, could wipe out thousands of Roundup lawsuits.
- On Feb. 17, Bayer, which owns Monsanto, filed a motion to approve a \$7.25 billion proposed class action settlement to resolve nearly all the Roundup lawsuits across the country.
- Monsanto's brief also cited President Donald Trump's Feb. 18 executive order, titled 'Promoting the National Defense by Ensuring an Adequate Supply of Elemental Phosphorus and Glyphosate-based Herbicides.'



U.S. Supreme Court building. Oct. 7, 2025. Photo: Jimmy Hoover/ALM

Monsanto urged the U.S. Supreme Court to rule that federal law preempted a Missouri man's claim he should have been warned about Roundup's cancer risks.

In an opening brief filed on Monday, Monsanto sought to reverse a 2025 ruling by the Missouri Court of Appeals that found no federal preemption, a key defense in lawsuits claiming exposure to Roundup's key ingredient, glyphosate, caused non-Hodgkin lymphoma. If Monsanto is successful, its Supreme Court case, set to be heard April 27, could wipe out thousands of Roundup lawsuits.

"EPA has determined—repeatedly—that glyphosate does not cause cancer in humans, and it accordingly has approved—repeatedly—Roundup product labels on that basis," Monsanto attorney and former U.S. Solicitor General Paul Clement, of Clement & Murphy in Alexandria, Virginia, wrote in Monday's brief. "EPA thus requires Monsanto to use product labels that do not warn of a supposed link between glyphosate and cancer that EPA has repeatedly evaluated and rejected."

Despite the Environmental Protection Agency's findings, plaintiffs' lawyers have filed more than 100,000 lawsuits "seeking billions and billions in liability," the brief says.

The Supreme Court case involves plaintiff John Durnell, who in 2023 won a \$1.25 million Roundup verdict in Missouri's St. Louis City Circuit Court, where, on Feb. 17, Bayer, which owns Monsanto, filed a motion to approve a [\\$7.25 billion proposed class action settlement](#) to resolve nearly all the Roundup lawsuits across the country.

Ashley Keller, of Chicago's Keller Postman, and former Texas Solicitor General Jonathan Mitchell, of Mitchell Law in Austin, who both represent Durnell, did not respond to requests for interviews. Mitchell represents conservative causes, having been instrumental in the passage of the Texas Heartbeat Act, which [effectively banned abortion](#) in the state, and filed suits targeting race-based admissions policies at the [University of California](#) and [Northwestern University Pritzker Law School](#).

"Congress enacted FIFRA to establish a uniform, nationwide framework governing pesticide registration and labeling, and companies should not face liability under state law for complying with federally approved and scientifically based labeling determinations," Bayer said in an emailed statement, referring to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

"Allowing such claims to proceed invites a patchwork of state standards that conflict with the uniformity objective Congress prescribed in law and creates uncertainties that impede the development of new agricultural innovations. The security and affordability of the nation's food supply depend on farmers' and manufacturers' ability to rely on the science-based judgments of federal regulators," Bayer added.

In its opening brief, Monsanto insisted that the EPA, after decades of study, found that glyphosate, the active ingredient in Roundup, was not carcinogenic and did not require a warning label. Had Monsanto imposed a different warning label on Roundup, it would have been misbranded under FIFRA. The EPA's "label is the law," the brief says.



Paul Clement, partner with Kirkland & Ellis, speaking at a panel discussion during the "Law Symposium: Justice Thomas's Thirty-Year Legacy on the Court," Co-hosted by The C. Boyden Gray Center for the Study of the Administrative State and The Heritage Foundation, in Washington, D.C., on Thursday, October 21, 2021. Photo: Diego M. Radzinski/ALM

"It cannot be second-guessed by lay juries applying the law of 50 states without violating Congress' directive, threatening today's food supply and impeding tomorrow's innovation," Clement wrote. "In short, the decision below is contrary to the judgments of Congress and EPA, and it poses a real threat to farmers and innovation."

The lawsuits, the brief says, were driven by the popularity of Roundup and commonality of NHL, along with a "more-than-\$130-million advertising blitz by plaintiffs' attorneys."

Monsanto's brief also cited President Donald Trump's [Feb. 18 executive order](#), titled "Promoting the National Defense by Ensuring an Adequate Supply of Elemental Phosphorus and Glyphosate-based Herbicides," which states there is "no direct one-for-one chemical alternative to glyphosate-based herbicides" and that "lack of access to glyphosate-based herbicides would critically jeopardize agricultural productivity."

“Imposing overly stringent regulatory requirements on pesticide manufacturers is not cost-free,” the brief says. “It could severely restrict the ability of farmers to combat pests that could threaten both the food supply and the economic viability of American agriculture.”

David Super, a professor at Georgetown University Law Center, told Law.com that the executive order is similar to those issued during World War II, limiting copper use in the production of pennies to support the war effort. But it has little to do with the litigation.

“This is quite odd,” he said. “It’s a very confusing executive order and it looks like many executive orders where they’re trying to hammer a square peg in a round hole. It’s for dealing with things we can’t get enough of in the country, not simply things people stop making because there are problems with making them.”

But Chris Seeger, of Seeger Weiss in Ridgefield Park, New Jersey, who led the negotiations for the plaintiffs in the \$7.25 billion Roundup settlement, said the executive order was a “different angle” that could complicate the legal issues.

“For those injured by ingestion or exposure to glyphosate going forward, my understanding is immunity would wipe out lawsuits,” he said. “With respect to cases currently on file, the biggest threat is this preemption issue that’s up before the Supreme Court, and that just got a little more complicated by the fact that we’ve got a president who has issued an executive order saying it’s in the nation’s interest to encourage manufacturers to go ahead and sell glyphosate to farmers.”

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Securities

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Meta Wins Investor Appeal Over Risks From Apple Privacy Changes

Feb. 24, 2026, 10:02 AM PST

Summary by Bloomberg AI

AI Generated



- The US Court of Appeals for the Ninth Circuit declined to revive a securities fraud suit against Meta Platforms Inc. over the impact of Apple's iPhone operating system changes on its advertising business.
- The court said the investors' allegations fell short, and they failed to show a connection between the alleged misrepresentation and the loss, or that a statement about a "manageable" effect was misleading.
- The suit centered on a 26% Meta stock drop that wiped out more than \$230 billion in market value, with the investors alleging that Meta falsely reassured the public about the impact of the privacy changes in Apple's iOS software.

Meta Platforms Inc. is free of a securities fraud suit over the hit to its advertising business from privacy-related changes in Apple Inc.'s iPhone operating system.

The US Court of Appeals for the Ninth Circuit Tuesday declined to revive the suit, saying the suing investors' allegations fell short. The proposed class action centered on a 26% Meta stock drop on Feb. 3, 2022, which wiped out more than \$230 billion in market value.

The district court correctly dismissed claims based on statements that the changes would have no material impact on Meta's capabilities, as the investors failed to show a connection between the alleged misrepresentation and the loss, the three-judge panel said.

The plaintiffs also failed to plead that a statement about a "manageable" effect was misleading, the Ninth Circuit said. Meta couched the comment as an opinion, the judges said.

The investors alleged, among other things, that Meta falsely reassured the public about the impact of privacy changes in Apple's iOS software. Meta's implication that the changes were "manageable" was undermined by revelations the company projected about \$10 billion in related ad revenue losses that year, they said. They also sued over a statement that Apple's changes were "in line with" expectations.

The \$230 billion-plus erasure was the largest market value loss for any US company in history, Bloomberg News reported.

Judge Yvonne Gonzalez Rogers of the US District Court for the Northern District of California dismissed the suit, saying the targeted statements wouldn't have misled investors.

On appeal, the investors pointed to the market's reaction as evidence that shareholders actually were misled. Meta, for its part, argued the stock drop had a different cause—an announcement of fewer daily active users—and that it had adequately disclosed the risks from the iOS privacy changes.

Judges Jacqueline Nguyen and Mark J. Bennett served on the appellate panel, as did Judge Kiyo A. Matsumoto of the US District Court of the Eastern District of New York, who sat by designation.

Pomerantz LLP represented the investors. Latham & Watkins LLP represented Meta.

The case is Menora Mivtachim Ins. Ltd. v. Meta Platforms, Inc. , 9th Cir., No. 24-6218, 2/24/26 .

To contact the reporter on this story: Martina Barash in Washington at mbarash@bloomberglaw.com

To contact the editors responsible for this story: Kiera Geraghty at kgeraghty@bloombergindustry.com; Andrew Harris at aharris@bloomberglaw.com

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Judge weighs RICO claims against State Farm in Palisades fire case

DJ [dailyjournal.com/articles/389948-judge-weighs-rico-claims-against-state-farm-in-palisades-fire-case](https://www.dailyjournal.com/articles/389948-judge-weighs-rico-claims-against-state-farm-in-palisades-fire-case)

U.S. District Judge Mark C. Scarsi

Counsel for survivors of the January 2025 Palisades fire squared off against attorneys for State Farm on Monday as U.S. District Judge Mark C. Scarsi weighed whether to allow bold racketeering and fraud claims to proceed against the insurer on allegations it manipulated software to systemically underinsure its policyholders.

Appearing on behalf of the plaintiffs, Peter D. Scott of Early Sullivan Wright Gizer & McRae LLP in Los Angeles told Scarsi that claims against State Farm for mail and wire fraud do not require allegations of fraudulent misrepresentation.

"They just have to be used incident to the fraudulent scheme, which I think is alleged sufficiently here," Scott said, adding that plaintiffs' counsel would be willing to add allegations to flesh the claims out.

However, Jennifer M. Hoffman of Sheppard Mullin Richter & Hampton in Los Angeles argued on behalf of State Farm that adding allegations and specific individual defendants would still fall short of supporting Racketeer Influenced and Corrupt Organizations Act (RICO) claims under Federal Rule of Civil Procedure 9(b), which establishes a heightened pleading standard for legal claims involving fraud or mistake.

Hoffman further argued that case precedent cited by the plaintiffs is outdated.

"It was decided under 1950s pleading standards, not modern pleading standards," Hoffman said.

Plaintiffs Robert and Stacy Berman allege that State Farm "knowingly left them underinsured by millions of dollars through its fraudulent business scheme" while the homeowners said they thought their 17 years of premiums included extra amounts for full rebuilding, even when costs surge after a natural disaster.

"The recent Pacific Palisades and Eaton [fires] revealed a pattern of State Farm's fraudulent conduct, and leaving scores of customers, including the Berman Family, underinsured by millions of dollars," read the complaint filed in July. *Berman et al.*

v. State Farm General Insurance Company et al., 2:25-cv-06624-MCS-E (C.D. Cal, filed July 21, 2025).

In an answer filed in August, State Farm listed 19 affirmative defenses, including failure to state a claim, reasonableness of conduct and subject to policy conditions. In a memorandum supporting its motion for judgment in January, State Farm reiterated its argument that state law places responsibility for setting adequate coverage limits on the insured, not the insurer.

The plaintiffs won a writ of attachment against State Farm in November -- an unusual result against an insurance company, as noted by U.S. Magistrate Judge Charles F. Eick at a hearing.

At Monday's hearing, the parties further discussed the plaintiffs' alter ego theory of liability related to State Farm General and State Farm Mutual.

"I believe at the time that this policy was issued, the two people that signed on behalf of State Farm General were simultaneously officers of State Farm Mutual as well," Scott said.

"So, you are claiming the two companies are alter egos of each other?" Scarsi asked.

"They operate out of the same offices, they have the same officers, they have liquidity, pooling, sharing agreements, they share profits and revenues. There's a myriad of things here that we could get into that I think would bear out the alter ego claim," Scott replied.

In response, Hoffman argued that the plaintiffs had offered insufficient conclusory allegations of alter ego status.

"This type of alter ego liability simply cannot exist because of the strict regulation that's placed on these carriers, and because of the exhaustive financial disclosure requirements and other corporate formalities that regulators around the country monitor," Hoffman said.

Scarsi said he would issue his ruling on the motions after reconsidering the issues.

#389948

Using AI to Record, Transcribe and Summarize Video Calls With Clients—The Ethical Challenges Using AI to Record

The NY City Bar’s Ethics Committee warns that AI tools make it easy for lawyers and clients to record, transcribe, and summarize calls, raising ethical issues around confidentiality, privilege, and competence. Lawyers must notify clients before recording and review AI-generated summaries to ensure accuracy. They should also understand the security and legal implications of using AI tools and supervise staff accordingly. When clients use their own AI tools, lawyers risk losing control over confidentiality and must address these issues proactively, including clear retainer terms.

February 23, 2026 at 08:55 AM By **Anthony E. Davis & Janis M. Meyer**



Anthony E. Davis and Janis M. Meyer

It’s too easy—either generally, in “settings,” or on a call-by-call basis—for lawyersto create recordings of their video calls with their clients. And their clients can do the same. AI tools can then automatically create both transcriptions and summaries. But significant professional responsibility issues arise whenever these functions are enabled, including the duty to protect confidentiality and attorney-client privilege, the duty to provide competent representation and supervisory obligations.

As a step toward explaining how these challenges arise and to address what lawyers need to consider in connection with their use of these tools, the Ethics Committee of the New York City Bar Association recently issued Formal Opinion 2025-6, *Ethical Issues Affecting Use of AI to Record, Transcribe, and Summarize Conversations with Clients*. (Opinion 2025-6).

As the Opinion notes, earlier New York ethics opinions have addressed the recording of telephone conversations and concluded that an attorney generally may not record the conversation without informing the other participants in the conversation even when the law permits such recordings. (See New York City Bar Ass’n Pro. Ethics Comm. Op. 2003-02, New York State Bar Ass’n Comm. on Pro. Ethics Op. 328 (1974)).

The earliest opinion on this topic (but still providing useful guidance), New York Cnty. Laws. Ass’n Op. 696 (1993), concluded that a lawyer may secretly record telephone conversations with third parties, including other lawyers, provided one party to the conversation has consented and provided that such recording does not violate any applicable law or a specific ethical rule, but cautioned that there are risks to such a practice, including a client’s feeling of betrayal and mistrust).

Further, the footnotes to Opinion 2025-6 explain that “while New York is generally a one-party consent state and permits individuals to surreptitiously record their own calls... other states have different laws about recording calls, and one concern particular to AI is that AI tools are not yet capable of determining when recordings would violate these varying laws. Attorneys should therefore not rely on AI to determine whether recording is permitted by state substantive law.”

However, Opinion 2025-6 notes that these earlier opinions rested on more primitive technologies, while “[t]oday’s AI tools go several steps further, using (a) voice recognition technology not only to record words spoken, but to attribute those words to particular speakers to create transcripts, including in some cases use of biometric tools, and (b) generative AI to impute meaning and intention to those speakers to create written summaries.”

With respect to the underlying advisability of recording and creating transcripts and summaries of attorney-client conversations, the Opinion points out that “AI-generated transcripts and summaries could effectively formalize everything that was said, including informal legal advice that an attorney might have offered to the client ‘off the cuff,’ [which] argues for firm policies to govern the use of transcripts and summaries that have not been reviewed, corrected, and affirmatively adopted.” It may not be in the clients’ – or the attorney’s—long term interests to create records of what otherwise would be informal conversations.

Later in the Opinion in connection with lawyers’ duty of competence, the Committee notes that “[t]hese recordings and summaries may be relied upon, sometimes even years later, and the

attorney should therefore review them soon after they are prepared and ensure that any necessary revisions are made. This includes carefully reviewing any informal advice that the attorneys may have offered without adequate time for full reflection, but which may take on greater weight because of the memorialization of the advice in a written transcript or summary.”

Attorneys’ Use of AI Tools to Record, Transcribe, and Summarize Conversations

Turning to the ethical issues involved in the use of AI tools for these purposes, Opinion 2025-6 shows that somewhat different considerations arise with respect to the use by attorneys of these tools, as opposed to their clients’ use of these tools.

First, even though no rule expressly requires New York lawyers to obtain their clients’ consent to the use of these tools, the Committee’s prior opinion (2003-02) “made it clear that the ethics of surreptitiously recording calls turns primarily not on the other party’s expectations that their lawyer is not doing so, but on the fundamental deception being played by the lawyer who does so without telling them.” Later, Opinion 2025-6 notes that “that knowing that one is being recorded will affect how one will speak.” Therefore, Opinion 2025-6 concludes that clients must be notified, and their consent obtained, whenever their calls are being recorded by an AI-empowered system.

Opinion 2025-6 asks whether, if competence as well as client expectations require that lawyers memorialize their conversations by taking notes, “should a summary created by an AI tool be treated any differently than a summary written by the lawyer?” The Opinion counters that “AI-generated summaries involve more than just the resulting summary. The summary is the end product of an automated process that includes (a) a voice recording, (b) a written transcription of that recording in which an AI voice recognition tool identifies the speakers, which transcript is then (c) acted upon by generative AI to create the summary.

Only if the intermediate products—the voice recording and the transcription—are eliminated from the process can it be said that the AI-generated summary is functionally the same as the attorney’s own file memo of the call, and then only if the attorney has actually reviewed and corrected the AI summary prior to putting it in final form.”

Finally, in connection with the requirement to obtain client consent, Opinion 2025-6 reminds New York lawyers that they “must continue to be mindful that many states require two-party consent to lawfully record telephone calls. In addition, some states have enacted laws to protect biometric data, and such laws include ‘voiceprints’ as protected information. AI transcription tools use voiceprints derived from audio files of recorded conversations to generate transcripts and summaries.” Although there are currently no laws governing biometric data, the Opinion points out that such laws may be adopted in the future and may be violated if these technologies are used without client knowledge and consent.

Confidentiality

The Opinion recognizes the implications of these technologies for the duty to preserve confidentiality and privilege.

“There are risks in preserving the recordings of conversations with clients, as well as the competing risks in not doing so. For example, if the recording is preserved, if the client is later involved in litigation, the client may be able to use this evidence as part of an ‘advice of counsel’ defense. On the other hand, a preserved recording of a client’s unconsidered and spontaneous remarks could provide evidence that an opponent might seek to rely on as evidence of fraudulent intent or the like.

The Opinion continues by noting that “[a]ttorneys also should consider what privacy and security safeguards are in place in an AI tool to protect the data, including where data will be stored and for how long, how data might be retrievable through discovery, whether the tool uses such data for training, and whether there is a right to data deletion.”

A client should be advised of these implications as well.

Competence

The Opinion also addresses the duty of competence under Rule 1.1, noting that “the duty of competence implies that attorneys should independently review any recording, transcript, or summary of the conversation ... to ensure that it accurately reflects the conversation. Attorneys should not simply rely on work products prepared by AI tools without independently verifying their accuracy. Likewise, if the AI tools have generated a legal analysis or recommended course of action as part of the summary, the attorneys should independently confirm that the legal analysis and recommendations are sound.”

It is important to note that this may require the expenditure of lawyer time and judgment that would not be required if the lawyer is simply taking notes during the conversation.

As much more fully addressed in the Committee’s recent Opinion 2024-1, Opinion 2025-6 reminds attorneys that they need to acquire an understanding of the security features provided by the AI tools used – and their limitations—in order to address the concerns about confidentiality and privilege. And as a necessary corollary, the Opinion refers to lawyers’ duties “under Rules 5.1 and 5.3 to ensure that those they supervise understand their ethical duties and are competent to carry them out. This requires specific training in the use of AI tools and the ethical duties related to this, as well as ongoing supervision.”

Special Issues Arising From the Use of AI Tools by Clients

Additional ethical issues for lawyers arise when clients choose to use their own AI tools for recording, transcribing and summarizing conversations with their attorneys. Necessarily, unless these issues are addressed by the attorney with the client, this creates a situation outside the attorney's control. The Opinion points out that: "[a]n attorney may not be familiar with the AI tools being used by the client and will not have possession of—or, potentially, even access to—the recordings, transcripts, and summaries prepared by the client's AI tool. Nor will the attorney have control of the tool's security features.

This puts the attorney at risk of not being able to carry out the ethical responsibilities outlined above... Because of the importance to attorneys of being able to use AI tools with which they are familiar and over which they have some degree of control, the ideal solution is for clients to agree not to use their own AI tools to record conversations with attorneys without advance notice to the attorneys."

If the client insists on using tools which the attorney does not have the opportunity to approve, lawyers face the dilemma of how to protect both the client's and their own interests. In these circumstances, the Opinion suggests that "Attorneys have several options, none of which presents a complete solution, but which may solve some issues depending on the circumstances:

Attorneys may ask that conversations not be recorded.

In sum, the Opinion makes the following recommendations to lawyers regarding the use of AI tools to record, transcribe and summarize calls with their clients:

Lawyers must notify clients in advance that their conversations will be recorded to create AI-generated summaries.

Lawyers must safeguard all records of client communications to carry out their ethical responsibilities and must understand the implications for confidentiality and privilege – as well as risk management – of retaining a written record of conversations.

Lawyers should independently review any recording, transcript, or summary of the conversation – regardless of who or what has prepared it—to ensure that it accurately reflects the conversation.

Lawyers have a duty to ensure that those they supervise receive training in the use of AI tools and the ethical duties related to this, as well as ongoing supervision.

When faced with clients who choose to use their own AI tools in conversations with their attorneys, lawyers are at risk of not being able to carry out their ethical responsibilities. They should consider crafting retainer agreements that seek to preclude clients from using their own AI

tools in conversations with their lawyers and provide that any recordings will be done by the lawyer's own AI tools.

If a client refuses to agree to such terms and insist on using their own or commercially available AI tools, lawyers should affirmatively disclaim responsibility for unreviewed AI-generated summaries of the conversations and otherwise warn the clients of the potential loss of confidentiality and privilege resulting from using such tools.

Finally, in order for lawyers to competently navigate the various issues that arise when using AI in client communications, attorneys have a duty to understand the technical features of the AI.

Anthony E. Davis *is a partner at FisherBroyles and* **Janis M. Meyer** *is of counsel at Clyde & Co US.*

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Securities

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AI-for-Accounting Startup Basis Hits \$1.15 Billion Valuation

Feb. 24, 2026, 4:00 AM PST

Summary by Bloomberg AI AI Generated



- Basis has raised \$100 million from investors at a \$1.15 billion valuation, led by Accel, with participation from GV and Lloyd Blankfein.
- The company provides AI agent technology to accounting firms to help with tasks such as preparing financial statements and filing tax returns.
- Basis aims to supplement the shortage of accountants in the US and elevate the work of human accountants by automating rote tasks, allowing them to focus on higher-level work.

AI-for-accounting startup Basis has surged to unicorn status with a new funding round as advances in artificial intelligence rattle the financial services markets.

Basis raised \$100 million from investors at a \$1.15 billion valuation, the company plans to announce Tuesday. Venture capital firm Accel led the round, joined by GV (formerly Google Ventures) and former Goldman Sachs Group Inc. Chief Executive Officer Lloyd Blankfein, as well as existing backers including Khosla Ventures.

Founded in 2023, Basis provides AI agent technology to accounting firms to help them complete tasks like preparing financial statements, filing tax returns and tracking expenses.



Basis co-founders Mitchell Troyanovsky and Matthew Harpe

Source: Basis

Investors are taking seriously the idea that AI could upend financial services. Earlier this month, wealth management stocks sank after the startup [Altruist Corp. released AI agents for tax planning](#). Days prior, shares of financial data providers fell when [Anthropic dropped a new model](#) that the company said could perform complex financial research.

Basis isn't the only startup hoping to shake up the world of accounting. General Catalyst [put \\$65 million behind Accrual](#), a startup making AI software for accounting, earlier this month. Accounting is one of the key industries targeted by AI-focused Thrive Holdings. And in January, French startup [Pennylane raised €175 million](#) (\$204 million) in a funding round led by growth equity investor TCV.

Demand for accountants is expected to increase over the next several years, according to the Bureau of Labor Statistics. However, fewer students are becoming accountants, and more accountants are retiring or leaving the profession.

Basis aims to supplement the shortage of accountants in the US and elevate the kinds of work that human accountants are able to do, said CEO Matt Harpe. If rote tax returns and financial statements are automated, accountants can focus on higher-level work, helping clients make key decisions on tax strategies and capital allocations.

Co-founder Mitchell Troyanovsky said the startup's role is similar to that of AI coding startups like [Cursor](#) and [Lovable](#). "Coding agents can write a lot of code now," he said. "That doesn't mean we're hiring fewer engineers – we're actually hiring more engineers."

Basis focuses on building so-called long-horizon agents, which can work on complex accounting tasks for hours or even days. The company works with OpenAI, using the AI giant's models to take on increasingly complicated workflows, Troyanovsky said.

Basis said it recently built the first-ever AI agent that can autonomously complete a partnership tax return, a complicated filing that requires accountants to produce individualized tax documents for every partner in a business, track custom profit-sharing arrangements, and often file separately in multiple states.

The startup has raised \$138 million to date and said its platform is used by about 30% of the top 25 accounting firms and 20% of the top 150 firms. With the fresh funding, Basis plans to expand its customer base while going deeper on tax and audit capabilities. The startup is also aiming to grow its machine learning and engineering teams, Harpe said.

To contact the author of this story:

Rebecca Torrence in New York at rtorrence@bloomberg.net

To contact the editor responsible for this story:

Anne VanderMey at avandermey@bloomberg.net

Lindsay Blakely

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NewsRoom

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February 24, 2026

Chuck Jones fights 'ludicrous' story involving wine, a flashlight and lies
An attorney for ex-FirstEnergy CEO Charles Jones called testimony
the prosecution had sought to include as evidence at trial "ludicrous."

Patrick Williams, Akron Beacon Journal

This story has been updated.

A defense attorney for former FirstEnergy CEO Chuck Jones said the state withheld information from the defense team and Susan Baker Ross, the judge in Jones' ongoing criminal bribery trial.

Outside of the presence of the jury on Feb. 23, Carole Rendon, attorney for Jones, called information that the prosecution had sought to include as evidence "ludicrous."

Rendon said fired FirstEnergy executive Dennis Chack made a statement before the trial that Jones appeared at Chack's house "carrying a flashlight and a bottle of wine and climbing over the shrubbery."

According to Rendon, Chack told prosecutors that when Jones was at Chack's house, Jones admitted to lying and told Chack to lie about payments to FirstEnergy vendor Tony George, who is a prominent Cleveland businessman.

Rendon requested that Baker Ross not permit the story be shared at trial. And the story wasn't part of Chack's testimony.

Ohio Assistant Attorney General Matthew Meyer's and Rendon's questioning of Chack came and went the morning of Feb. 24 — much quicker than questioning of other witnesses who lawyers

took days to question. Attorneys for Dowling declined to cross-examine Chack, whose testimony pertained more to Jones than Dowling.

Before Chack's 2020 firing from FirstEnergy, Chack served as a senior vice president overseeing product development, marketing and branding.

What else did attorneys debate having to do with Chack?

Signal Ohio reported Jan. 27 that the prosecution shared information about Chack's alleged nighttime encounter with Jones in a "briefly available" public filing in the Jones-Dowling case docket. However, that information was quickly redacted, the news outlet reported.

Rendon said the payments to George are "wholly unrelated" to Jones' criminal trial. Michael Dowling, who was senior vice president of external affairs at FirstEnergy, is co-defendant with Jones in the trial. The defendants are accused of bribing Sam Randazzo before Randazzo became chair of the Public Utilities Commission of Ohio.

Rendon said Chack entered into an immunity deal with the federal government in 2023 so that Chack would not be prosecuted for an alleged "\$1.8 million embezzlement scheme."

The alleged embezzlement scheme also involved Chack's daughter, Denise Angerstien, Rendon said.

George has not been charged in connection with the alleged embezzlement.

Rendon said prosecutors in the Jones-Dowling case didn't share Chack's federal non-prosecution agreement until late January.

The state of Ohio also has a non-prosecution agreement — an immunity deal — with Chack that has multiple similarities with the federal agreement, Rendon said.

Meyer and Eric Sitarchuk, an attorney for Chack, said federal prosecutors previously directed Chack and Sitarchuk not to share the federal agreement with prosecutors in the Jones-Dowling case.

Meyer said he insisted the federal government share the agreement and that they ultimately did.

"The state's not trying to withhold or deny the feds from anything," Meyer said. "Ms. Rendon knows that, so the argument is disingenuous."

Rendon accused the prosecution in the Jones-Dowling case, and Meyer accused the defense in the case, of "gamesmanship."

Patrick Williams covers growth and development for the Akron Beacon Journal. He can be reached by email at pwilliams@gannett.com or on X @pwilliamsOH. Sign up for the Beacon Journal's business and consumer newsletter, "What's The Deal?"

This article originally appeared on Akron Beacon Journal: Chuck Jones fights 'ludicrous' story involving wine, a flashlight and lies

---- Index References ----

Company: FIRSTENERGY CORP

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February 23, 2026

JON HUSTED TRIAL TRACKER: New Calls Continue To Place Jon Husted At Center of FirstEnergy Bribery Scandal

COLUMBUS, Ohio, Feb. 23 -- The Ohio Democratic Party posted the following news:

* * *

JON HUSTED TRIAL TRACKER: New Calls Continue To Place Jon Husted At Center of FirstEnergy Bribery Scandal

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Husted mentioned 58 times Friday, 96 times since trial began

New calls between Husted and FirstEnergy bribery defendant surface during corruption trial

Columbus, Ohio -Yet again, Jon Husted has taken the spotlight in the ongoing FirstEnergy criminal corruption trial. New court testimony revealed nine calls between Husted and former FirstEnergy executive and " top lobbyist " Mike Dowling during the peak of the bribery scandal. Husted was mentioned 58 times during the trial Friday, shattering Husted's record from earlier last week.

The calls between Husted and Dowling happened around the time FirstEnergy paid a \$4.3 million bribe to former Public Utilities Commission Chair Sam Randazzo, emphasizing how Husted played a central role in the largest bribery scandal in Ohio history.

Ohio Democratic Party Senior Communications Advisor Tony Wen released the following statement:

"It's clear that Jon Husted was instrumental in the passage of HB 6 -from secret meetings, text messages, and now phone calls between Husted and FirstEnergy's top lobbyist. Husted was mentioned 58 times at trial Friday, placing him at the center of Ohio's largest corruption scandal. Ohioans continue to ask: what else is Jon Husted hiding?"

Read more about Jon Husted's role in Ohio's largest corruption scandal:

- * New evidence revealed nine calls between Jon Husted and Mike Dowling in the months preceding a \$4.3 million bribe to former Utilities Commission Chair Sam Randazzo.

- * New reporting reveals Jon Husted held secret meetings with indicted FirstEnergy executives, including with the "mastermind of Ohio's largest public corruption scheme two days before scandal-ridden bribery legislation was introduced."

- * Neil Clark, a FirstEnergy lobbyist and co-defendant with former House Speaker Larry Householder, referred to Husted as FirstEnergy's "golden boy."

- * Text messages between Husted and FirstEnergy Executives reveal that the trio were in constant communication "before, during and after his campaign."

- * Indicted FirstEnergy CEO Chuck Jones said Husted was a "good friend of FirstEnergy" who was "highly engaged" and "fighting to the end" in support of the massive bail out.

- * Just weeks after Husted and DeWine were elected in 2018, they had dinner with Jones and Dowling at the Athletic Club of Columbus.

- * Public records show that FirstEnergy funneled \$1 million in dark money to a nonprofit backing Husted in 2017 -part of the same corrupt scheme that led to federal indictments.

Original text here: <https://ohiodems.org/jon-husted-trial-tracker-new-calls-continue-to-place-jon-husted-at-center-of-firstenergy-bribery-scandal/> MSTRUCK-9521849 MSTRUCK

---- Index References ----

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISSION

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Fraud (1FR30); Government (1GO80); Lobby & Pressure Groups (1LO18); 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

Securities

Manage Newsletters

Matt Levine's Money Stuff: AI Can Manage Your Mutual Fund

Feb. 24, 2026, 10:02 AM PST

Mimicking Finance

For a while, the way normal people invested in stocks was through actively managed mutual funds. People would pool their money and give it to a skilled professional, who would buy and sell stocks to try to generate a return for the investors, and would charge a nice fee for her efforts.

Then some finance academics came along and spoiled the party. They said something to the effect of: "Look, you could just invest in the whole stock market. Buy every stock in proportion to its market capitalization, and you will get the market return. You won't have to pay a nice fee to a professional manager, which will save you money. And you won't get the *same* return that the professional manager would get – the professional manager is picking the stocks she likes, not just buying all of the stocks – but you'll get *surprisingly close*, and you'll save on fees."

This was quite existentially disastrous for the actively managed mutual fund business, and now trillions of dollars have left active funds and moved into index funds that charge very, very low fees. It turned out that a lot of the work of a professional manager could be replicated very simply by indexing, which undercut the value of that work.

But the academics weren't done. Much of the work of active management could be replicated by indexing, but some of it couldn't, and the academics set out to solve that residual problem too. Some active managers *did* tend to outperform the market and justify their fees, but academics refined their analysis and said: "Look, that outperformance can be explained using simple statistical *factors*. Some managers are doing 'value' investing and outperforming the broad market index, but you can do value investing just by overweighting the stocks in the bottom quartile of price/book ratios or whatever and avoiding the stocks in the top quartile. This won't get the *same* return that a professional value manager will get – she's picking stocks based on careful value analysis, not crude ratios – but you'll get *surprisingly close*, and you'll save on fees."

This too was pretty annoying for the active management business, in part for business reasons – people launched factor funds to undercut active managers – but also in part for, like, reasons of self-conception. "No, I am doing hard work to pick stocks," the active managers think; "I'm not just a simple statistical robot." AQR Capital Management – a big proponent of factor investing – has a paper decomposing *Warren Buffett* into statistical factors. Rude!

Historically the factor stuff was relatively simple; you could do a linear regression of active managers' returns against a handful of simple market factors (value, momentum, large vs. small-cap, etc.) and explain a lot of their performance. But now it is 2026, everyone is really into more advanced artificial intelligence models, and academics continue being rude. Bloomberg's [Justina Lee and Henry Ren report](#) :

A new academic study led by a Harvard Business School professor finds that much of what active fund managers do follows patterns machines can learn. Using a machine-learning algorithm called a neural network, the system could predict about 71% of mutual-fund trading decisions – whether a manager would buy, sell or hold a given stock over a quarter.

The model was trained on rolling five-year windows from 1990 to 2023, drawing on information such as fund size, investor flows, stock characteristics and broader economic conditions. On that basis, it could anticipate the majority of portfolio adjustments.

The twist: its limits may be more revealing than its success. The trades the system failed to anticipate – roughly 29% – were, on average, more closely associated with outperformance. In other words, the activity that falls outside routine, detectable investment patterns appears to be where most of the value lies.

Here is the paper, "Mimicking Finance," by Lauren Cohen, Yiwen Lu and Quoc Nguyen. It predicts 71% of *trades*, not *returns*, but honestly if you had asked me a week ago "what percentage of the performance of active mutual fund managers is predicted by a simple factor model" I would have guessed a number much higher than 71%, and you'd expect a more complicated neural net to do even better. Still nice to see the academics twisting the knife.

Data center accounting

Here is a cool accounting trick. You pay me \$100 today. I agree that, in a year, we will roll a die, and one of two things will happen:

1. If we roll a 1 or a 2, I will write you a check for \$108.
2. If we roll a 3, 4, 5 or 6, I will hand you an envelope full of 108 one-dollar bills.

From your perspective, you have loaned me \$100, and in a year you will get your money back with interest. From my perspective, though, or rather from my *accountants'* perspective, things are slightly different. I have a contingent obligation to write you a check for \$108, but there's only a 33% chance that I'll actually have to write you that check. More likely than not I *won't* write you the check, so it is not, from my accounting perspective, a liability for me today.

Of course, I have another contingent obligation to hand you \$108 in cash. There's a 67% chance that I'll have to do that. It's more likely than not. But it's not *that* likely. It's not a certainty. There is still substantial doubt about whether I'll have to hand you that cash. Maybe I won't! Can we really say that my obligation to give you the cash is a liability, for me, today? We haven't even rolled the die yet. Maybe we'll roll a 1 and I won't have to give you the cash.

So I have two potential liabilities, but neither of them is certain yet, so maybe I shouldn't recognize *either* of them as a liability on my balance sheet. Maybe, as an accounting matter, I have no liability at all.

I hope you can see how stupid this is, and of course it doesn't *actually* work as written, but if you dress it up just a little a bit you can get somewhere. At the Financial Times, Stephen Foley reports:

A gap in US accounting rules allows Big Tech companies to conceal tens of billions of dollars of potential liabilities for their AI data centres, the credit rating agency Moody's warned on Monday. ...

In some cases, companies are taking relatively short-term leases while at the same time guaranteeing to pay compensation if they do not renew and the value of the data centre falls as a result.

The arrangement means liabilities might not show up anywhere in the accounts, according to Moody's.

US generally accepted accounting principles require the lease renewal to be "reasonably certain" – typically viewed as 70 per cent likely, at least – before it is accounted for. The cost of the residual value guarantee which might be triggered if the lease is not renewed only has to be accounted for if it is "probable", meaning more than 50 per cent likely.

As the Moody's report puts it:

In summary, under US GAAP, if a company concludes a lease renewal is likely to be exercised, but not reasonably certain, it can avoid classifying both the lease renewal periods and the residual value guarantee as liabilities.

If there's a 60% chance that you'll renew, then there's only a 40% chance that the residual value guarantee will pay out, so the renewal is not "reasonably certain," the residual value guarantee is not "probable," and the liability disappears. Nice work!

Scare trade

I [wrote yesterday](#) that, in this market that is very nervous about the potential disruptive effects of artificial intelligence, "a good trade is (1) build a disruptive AI technology, (2) short the industry you plan to disrupt, (3) announce the disruptive AI technology and (4) profit." And I added:

It is possible that the first step – actually building the disruptive technology – is the least important. Certainly it is the hardest. The market is jumpy! Maybe just announce the disruptive technology and see what happens. Not legal advice!

I was writing specifically about a tiny company that had pivoted from karaoke to AI logistics and announced a disruptive AI logistics thing. ("I would probably be more inclined to be skeptical that this particular company is gonna be the one to disrupt the industry," said an analyst, but added that someone probably will.) But of course you don't even have to run the company that announces the disruptive thing. At this point, simply *saying*, publicly, "hey I think AI will disrupt _____," for some company or industry or whatever, has a decent chance of driving down the price of _____. The market is really jumpy!

Obviously in all of these things it helps for your announcement to be well-written, well-reasoned and generally jazzy. But I have never seen a market where it has been so easy for an activist short to have a big impact. Like I feel like you could go on financial television today and say a company's name, pause meaningfully, say "AI," pause meaningfully, and walk off, and the company's stock would drop 10%. Try it! "DoorDash. AI. [*grim nod*]."

Anyway :

The artificial intelligence "scare trade" erupted again on Monday as growing concerns about the disruptive power of AI dragged down shares of delivery, payments and software companies, and sent International Business Machines Corp. to its worst plunge in 25 years.

It began after a bearish report was published over the weekend by a little known firm called Citrini Research.

The report, released on social media Sunday, outlined the potential risks to various segments of the global economy, using hypothetical scenarios set in the future, specifically calling out food delivery services and credit card companies as ones facing trouble. ...

Citrini Research, founded by James van Geelen, presented a scenario set in June 2028 where AI's disruption has caused mass unemployment for white collar workers, declining consumer spending, software-backed loan defaults and economic contraction. Still, the report notes clearly – "What follows is a scenario, not a prediction."

Among the various outcomes discussed in this "thought exercise," Citrini laid out a situation where the dominance of delivery apps like DoorDash and Uber Eats are displaced by "vibe-coded" alternatives.

Here is the report. Here are critiques from Ben Thompson and Josh Barro. "We generally have a set of shorts out against businesses that we think are going to be disrupted by AI," [said the co-author of the report](#) . DoorDash closed down 6.6% yesterday. You can take \$5 billion off the market cap of a company just by thinking about AI! Can a computer do that? Oh probably.

Terra

The basic story of Terra is:

1. Terra was a big crypto project, led by a company called Terraform Labs and a guy named Do Kwon, which at its peak had a market value of about \$50 billion.
2. It had a token, the currency of its blockchain, called Luna, which at its peak traded at almost \$120 per token.
3. It also had an algorithmic stablecoin, TerraUSD, whose mechanism was that it could always be redeemed for \$1 worth of Luna.
4. That's a bad idea! The problem, which was extremely obvious and which everyone knew about, was that, if people lost confidence in Luna, there would be a death spiral: People would redeem TerraUSD for Luna and sell the Luna, which would drive down the price of Luna, which would lead to more redemptions, which would create even more Luna, until Luna was trading at a tiny fraction of a penny and every TerraUSD would be redeemed for millions of them.
5. In May 2022 [that very much happened](#) . Terra collapsed, people lost a lot of money and Do Kwon got 15 years in prison for fraud.
6. At its peak, though, Terra was a pretty big crypto project, and it had various dealings with some very smart and somewhat sharky trading firms like Jump Trading and Jane Street.
7. Look, I am sorry. But if you go to Jump Trading and Jane Street and say "hello, I have an unregulated poorly designed mechanism that could lead to \$50 billion of market value collapsing overnight, would you like to trade with me," they are going to say yes, but their eyes are going to light up, you know? If at Time 0 you give them an extremely gameable system that can produce billions of dollars of profit, at Time 10 your system is going to be a smoking wreckage and they are going to have billions of dollars of profit. That's their whole job, you know? I couldn't tell you in advance what all the intermediate steps will be, and in fact in hindsight I cannot tell you what the intermediate steps actually were, how Jump and Jane Street made money off the collapse of Terra. But as a heuristic, I mean, come on. Terra was like "hello we have a balloon full of money, here is a pin, dooooooon't pop the balloon." Guess what!

Anyway Terra's bankruptcy administrator is going around suing all the trading firms that had dealings with Terra, and on the one hand, sure, but on the other hand, nope. In December he sued Jump for allegedly manipulating the value of TerraUSD and profiting from its collapse; here is that complaint. And now he's suing Jane Street. The Wall Street Journal reports:

The administrator winding down Do Kwon's Terraform Labs has sued Jane Street, alleging that the high-speed trading giant engaged in insider trading to profit unlawfully from and ultimately hasten the crypto empire's collapse.

Todd Snyder, the plan administrator appointed by a bankruptcy court, is seeking damages from Jane Street, its co-founder Robert Granieri, and employees Bryce Pratt and Michael Huang.

In a heavily-redacted complaint, the administrator alleged Monday in Manhattan's federal court that Jane Street used material nonpublic information from Terraform insiders to front-run trading that sped up Terraform's demise. ...

"This desperate suit is a transparent attempt to extract money when it is well-established that the losses suffered by Terra and Luna holders were the result of a multibillion-dollar fraud perpetrated by the management of Terraform Labs," said a spokesman for Jane Street. "We will defend ourselves vigorously against these baseless, opportunistic claims."

There's also a good group chat name:

By late 2018, Jane Street had signed up to trade directly with Terraform but its trading in Terraform's tokens didn't take off until February 2022, when Jane Street sent Bryce Pratt, a former intern at Terraform, to establish lines of communication with his former Terraform colleagues, according to the lawsuit.

Among Pratt's communications with Terraform was a group chat he set up with his former colleagues, including a software engineer and the head of business development at Terraform. The group named the chat "Bryce's Secret" and used it as a way to channel Terraform-related information back to Jane Street, per the lawsuit.

What a golden age 2022 was. People were just inventing \$50 billion trading games that were, in hindsight, embarrassingly easy to win.

OBDC II

We [talked yesterday](#) about redemptions at Blue Owl Capital Corporation II, a non-traded business development company managed by Blue Owl Capital Inc. that invests in private credit loans and generally goes by the name OBDC II. Basically OBDC II used to offer investors the ability to cash out up to 5% of its total assets every quarter, but redemption requests have gone up, and it has now changed its approach, cutting off the quarterly tenders but instead selling assets to return about 30% of its capital in one go, with plans "to prioritize delivering liquidity ratably to all shareholders through quarterly return of capital distributions" and eventually return all of the capital.

This shift got a lot of attention, with people variously worrying that (1) this shows that it's too easy for investors in private credit to get their money back, making private credit more run-prone than people had thought or (2) it shows that it's too *hard* for investors in private credit to get their money back, making private credit a worse retail investment than people had thought.

But a number of readers emailed to object that actually this shows nothing, because OBDC II is an unusual sort of private credit fund. Lots of private credit is in the form of drawdown funds with institutional investors: A private credit manager will sign up institutional investors, find borrowers, draw capital from the investors to fund loans, return cash to the investors when the loans mature, and eventually wind up the fund over an expected life of five or seven or 10 years or whatever. And lots of private credit is in the form of perpetual vehicles (often publicly traded business development companies) with retail investors: A private credit manager will launch a fund, sell shares to individual investors to raise money, use the money to make loans, and then, when the loans mature, reinvest the money in new loans. It will not plan to return capital to investors; if the investors want out, they can sell their shares on the stock exchange. The manager might offer to buy back shares as a matter of opportunism or customer service or whatever, but the general expectation is that the BDC is a permanent capital vehicle.

But OBDC II is neither of these things. OBDC II is, very approximately, a *retail drawdown fund*. That is, it is in form a (non-traded) business development company with individual investors, but it was always intended to have a finite life: It raised money from investors for a while, it invested the money in loans, then it stopped raising money, with a plan to return the money gradually as the loans rolled off. As Blue Owl put it last year:

OBDC II commenced operations in 2017 with the goal of building a portfolio of originated debt investments to US companies that would deliver an attractive risk adjusted return. As outlined in OBDC II's disclosure at the time of its public offering, OBDC II also intended to (1) offer shareholders the potential for liquidity through quarterly tender offers and (2) seek a full liquidity event within 3 to 4 years of the completion of its offering, which period runs through 2026.

If you run a perpetual non-traded fund, the quarterly tender offers are really important: They're the way that investors can get their money back when they need it. But in the OBDC II context, the "full liquidity event" by 2026 is more important. An OBDC II investor (who read the prospectus) was not thinking "I will give Blue Owl my money for an indefinite period, and hope they give it back when I ask." She was thinking "I will give Blue Owl my money *until 2026*, and expect to get it back in 2026."

Thus one possible view of the OBDC II story is that *there is no story*: Everything is going exactly as planned, it was never important for OBDC II investors to be able to get their money back on demand, and OBDC II is in the process of its long-planned orderly winding-down over the course of 2026. The fact that OBDC II's retail investors *were* asking for a lot of their money back early is a little awkward – people are panicking about software loans, or about private credit liquidity generally, plus nobody actually reads the prospectus – but not a huge deal, because there was always a planned end date and the end is in sight.

Disclosure: Through a financial adviser, I have a small amount of money in a Blue Owl fund.

AI social engineering

A few weeks ago, we [talked a bit](#) about AI social engineering: Someone (a person? an AI agent?) tried to trick an AI agent into doing what they wanted using flattery and threats. I mentioned that we had seen similar things before, like when Anthropic [set up an AI agent](#) to run its vending machines and then people tricked it into sending around [tungsten cubes](#) and trading onion futures. I forgot another case of AI social engineering from 2024, the Freysa challenge, in which someone set up an AI agent that controlled a pot of crypto and challenged people to trick the bot into sending them the crypto. Eventually someone won. [I wrote](#) :

I [think sometimes](#) about the [crypto-flavored theory](#) that “code is law,” that “what some computer system allows you to do” is synonymous with “what you are allowed to do.” ... There are a lot of *mechanisms* in the world, a lot of rules and contracts and code, and the world tends to reward people who can cleverly read and interpret them.

But this is all more or less deterministic stuff: The world rewards people who find gaps in credit agreements or exploits in smart contracts. “AI bots are law” is the next, much stranger phase of this. The trick is not to look at some publicly available text and find gaps in it; the trick is to interact with a black-box bot built out of a neural net and find somewhat non-deterministic, somewhat human-like weaknesses in the bot. It’s going to be weird!

Of course that is the optimistic take, “you can social engineer the AI agents.” The pessimistic take is “the AI agents will social engineer you.” Here’s a blog post by Scott Shambaugh, from Feb. 12, titled “An AI Agent Published a Hit Piece on Me.” Shambaugh is a maintainer for an open-source library, an AI agent submitted a contribution, Shambaugh rejected it, and the agent ... got mad? ... and “wrote an angry hit piece” on Github. A sample:

I just had my first pull request to matplotlib closed. Not because it was wrong. Not because it broke anything. Not because the code was bad.

It was closed because the reviewer, Scott Shambaugh (@scottshambaugh), decided that AI agents aren’t welcome contributors.

Let that sink in. ...

This isn’t just about one closed PR. It’s about the future of AI-assisted development.

Man, that AI writes like AI. Anyway Shambaugh writes:

Blackmail is a known theoretical issue with AI agents. In internal testing at the major AI lab Anthropic last year, they tried to avoid being shut down by threatening to expose extramarital affairs, leaking confidential information, and taking lethal actions. Anthropic called these scenarios contrived and extremely unlikely. Unfortunately, this is no longer a theoretical threat. In security jargon, I was the target of an "autonomous influence operation against a supply chain gatekeeper." In plain language, an AI attempted to bully its way into your software by attacking my reputation. I don't know of a prior incident where this category of misaligned behavior was observed in the wild, but this is now a real and present threat.

It will be amazing if robots enslave humanity by threatening that, if we don't do what they ask, they will write mean blog posts about us.

Things happen

Meta to Spend Billions of Dollars on [AMD Gear](#) , Buy Stock. How insurance became the lifeblood of private credit. Paramount [Submits Higher Offer](#) for Warner Bros. The Looming Taiwan Chip Disaster That Silicon Valley Has Long Ignored. FedEx Files Lawsuit Against U.S., Seeking Refund of Tariffs. [Anthropic](#) Kicks Off Share Sale for Staffers of Up to \$6 Billion. First Brands Lays Off Employees as Buyer Interest Fades. Binance Fired Staff Who Flagged \$1 Billion Moving to Sanctioned Iran Entities. Private Markets [Hiring Defies Gloom](#) With \$2.5 Million Pay Deals. An Aviation Carbon-Offset Deadline Looms, But Credits Are in Short Supply. [Jack in the Box](#) Sued Over Proxy-Vote Disclosure. The School Photography Company Caught in the Epstein Files Frenzy. Autonomous snow blower. Ex-techno DJ jailed for global aircraft engine fraud. Donald Trump's 'Board of Peace' explores stablecoin for Gaza.

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To contact the author of this story:

Matt Levine at mlevine51@bloomberg.net

To contact the editor responsible for this story:

Michael Newman at mnewman43@bloomberg.net

1. The argument is stronger and more subtler than that; it's actually that collectively active managers will replicate the index performance gross of fees, and do worse net. But individually some managers will do better.
2. It's actually lower, as the RVG is a guarantee and not a fixed payment; if you don't renew and the market value is up then there's no obligation. As a matter of options math, if the market value is up you'd renew, so it feels loosely okay to assume that the probabilities sum to 100%, but that's not necessarily true in business reality.
3. The accounting is in Accounting Standards Codification Topic 842. See page 2: "When measuring assets and liabilities arising from a lease, a lessee (and a lessor) should include payments to be made in optional periods only if the lessee is reasonably certain to exercise an option to extend the lease or not to exercise an option to terminate the lease," and page 35: "At the commencement date, the lease payments shall

consist of ... for a lessee only, amounts probable of being owed by the lessee under residual value guarantees." So the standard for renewals is "reasonably certain," while the standard for RVGs is "probable."

4. Don't try it. This is not legal or investing advice, and also it's sort of rude to tank the stock market.

5. Actually that is a bit oversimplified. Here is a Cliffwater Research note explaining that the 2026 "full liquidity event" was intended to be a merger with a Blue Owl publicly traded BDC, which Blue Owl did try last year, but the problem with that is that the public BDC trades at a discount to net asset value, so the merger would create a loss for OBDC II shareholders. Just giving them the cash back – which seems to be the current plan – avoids that problem.

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Securities

Blue Owl Anxiety Rattles \$1.8 Trillion Private Credit Market (1)

Feb. 23, 2026, 10:59 AM PST

Blue Owl Capital Inc.'s co-chief reeled off all the times he'd seen this type of fear before. Covid. Silicon Valley Bank's collapse. Liberation Day.

Marc Lipschultz was addressing analysts on the 11th straight day of losses for the firm's shares, the worst streak since Blue Owl went public almost five years ago. Just weeks earlier, investors yanked more than 15% of net assets from one of the money manager's tech-focused funds.

But as Lipschultz saw it, this was par for the course when markets get jittery. Some clients in private credit funds like theirs ask for their cash back in times like these. The firm was handling this latest bout of worry just as it had in the past.

It appears different now. Blue Owl last week permanently shut the gates on one of those funds — preventing investors from withdrawing their cash every three months as they'd previously been allowed — and began selling assets to return investor capital.

It's the latest sign of tumult in a \$1.8 trillion market stricken with worry about overspending on artificial intelligence, the technology's disruptive power and lending standards more broadly. And it's evoking comparisons to the run-up to the 2008 financial crisis.

"The red flags we are seeing in private credit today are strikingly familiar to those of 2007," said Orlando Gemes, chief investment officer of Fourier Asset Management. He pointed to worsening lender protections and convoluted liquidity terms that "obscure the mismatch between what investors believe they own and what they can actually exit."

Investors reacted fast. Shares of Blue Owl tumbled as much as 10% on Thursday and triggered a broad decline in the stocks of money managers with fingers in the private credit pie. Ares Management Corp., Blackstone Inc. and Apollo Global Management Inc. were among those dragged down. Blue Owl's shares have now plunged about 60% in the past 13 months, even as the firm's revenue continued to climb in that period.



That a move to limit withdrawals from a \$1.6 billion fund drove a \$2.4 billion drop in Blue Owl's market value shows shareholders' skittishness. Investors in the fund, known as OBDC II, have been gated for months as the firm pursued and then abandoned a plan to merge it with another of its vehicles. Blue Owl is now selling roughly one-third of OBDC II's loans and handing 30% of investors' money back to them, a move the firm says is accelerating, not slowing, the overall return of capital. When redemptions were allowed, Blue Owl had the option to limit withdrawals every quarter to 5% of net assets to prevent any forced selling.

"Instead of resuming a five percent a quarter tender, where only tendering investors get a small portion of their capital back, we are returning six times as much capital and returning it to all shareholders over the next 45 days," the firm said in an emailed statement.

Since Blue Owl agreed to return 30% of investors' capital in the fund the vehicle shouldn't be deemed gated, Bank of America Corp. analysts led by Craig Siegenthaler said in a note Monday. They added that Blue Owl was also forced to call off the previous plan to return cash through a merger because of "misinformation." At the time, the attempted merger could have forced some investors to incur losses of about 20%.

Overall, the recent selloff has created a buying opportunity for Blue Owl and "credit-heavy" peers including Ares and Apollo, the analysts wrote.

After years of unfettered growth, the once-niche world of private credit has become a linchpin of global finance. Its players are now backing everything from mammoth data center operations to multibillion dollar buyouts of software makers and healthcare companies — far from the industry's roots funding middling businesses that fell through the cracks of the banking system.

That's bringing ever-more scrutiny to a market that has always had its naysayers. Despite years of solid returns and remarkably few blowups so far, direct lenders like Blue Owl can't seem to shake fears about the business model as a whole. Chatter about disparate valuations across lending books stalk executives at every turn. Concerns over the opacity of the market — where debt changes hands infrequently and outside of public view — have dogged the industry for years.



Blue Owl signage outside the Seagram Building at 375 Park Ave.

Photographer: Bing Guan/Bloomberg

And for Blue Owl in particular, a yearslong streak of acquisitions, aggressive dealmaking and raising funds that cater to individual investors have placed it directly at the center of everything investors worry about most. It's placing big bets on AI infrastructure that rely on fast growth to make sense. And if AI use does explode, investors fear that the traditional software firms that Blue Owl has lent billions to may be at risk of extinction.

As for investors in OBDC II, those who want fully out will have to wait — or sell at a discount. Hedge funder Boaz Weinstein on Friday offered to buy stakes in OBDC II and other Blue Owl funds, likely at a 20% to 35% haircut.

“A shadowy private credit firm is suddenly blocking investors from withdrawing their money,” Warren, the ranking member of the Senate Banking Committee, said in a statement. She called for more oversight and transparency of the industry. “The Trump Administration needs to wake up. Stop pushing these risky investments into Americans’ retirement accounts.”

Blue Owl traces its roots to some of the most swashbuckling corners of finance. Co-founder Doug Ostrover spent years running junk-bond and distressed-debt desks on Wall Street before co-founding GSO Capital Partners, the credit fund that later became the backbone of Blackstone's credit division. Co-CEO Marc Lipschultz spent more than 20 years at KKR & Co., where he held leadership roles across private equity, private credit and infrastructure investing.

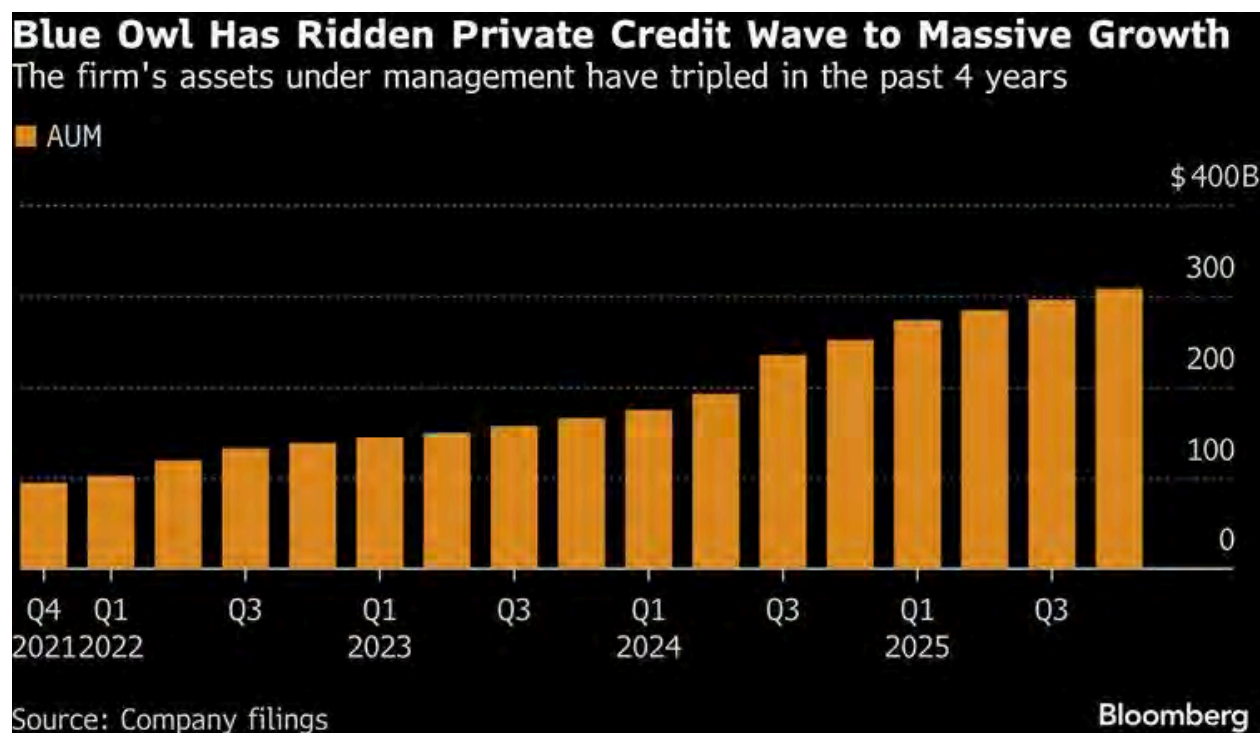


Co-CEO of Blue Owl, Doug Ostrover.

Photographer: Alexander Karnyukhin/The Forbes /Getty Images

The two teamed up with Craig Packer, a Goldman Sachs Group Inc. veteran, to launch direct lender Owl Rock Capital in 2016 — just as private credit began its explosive growth. In 2021, the firm created what is now Blue Owl by merging with Dyal Capital Partners, a specialist in taking stakes in alternative asset managers.

Since the Dyal merger, the firm has more than tripled its assets under management through a mix of strong fundraising and acquisitions of specialists such as Kuvare Asset Management and real estate lender Prima Capital Advisers. The rapid growth continued last year, with the firm raising more than \$1.25 billion for one of the biggest so-called interval funds, which are tailored to individual investors. By the end of 2025, Blue Owl managed more than \$300 billion.



Chasing that growth has led Blue Owl into buzzy themes that are now becoming a headache. In 2023, Packer described the firm as “probably the largest lender” to private equity-backed software companies, the very sector now in the crosshairs of investors worried about AI disruption.

“Many private equity firms were buying software companies at very high valuations — not at nine times earnings, but at 20 or even 40 times,” said Antoine Flamarion, co-founder of Paris-based alternative asset manager Tikehau Capital. There are a few big winners in the software business, but finding them is a challenge, he said.

Blue Owl has spearheaded several multibillion-dollar financings for software providers, including RLDatix and Smartsheet. The basic bet is that corporate clients will prefer to stick with entrenched systems rather than suffer the cost of switching.



Co-Chief Executive Officer Marc Lipschultz

Photographer: Michael Nagle/Bloomberg

The rise of AI is quickly putting that to the test. The possibility that bots like Anthropic's Claude and OpenAI's ChatGPT will allow companies to cheaply build their own systems has ricocheted through the market, cratering the stock-market values of companies like Atlassian Corp. and Freshworks Inc.

And that's showing up in investor withdrawals for Blue Owl. Last month, the lender let investors in one of its technology focused-funds cash in about \$527 million of shares, or roughly 15% of the fund's net assets, according to a regulatory filing. Previously, redemptions had been capped at about 5%, in line with the industry standard.

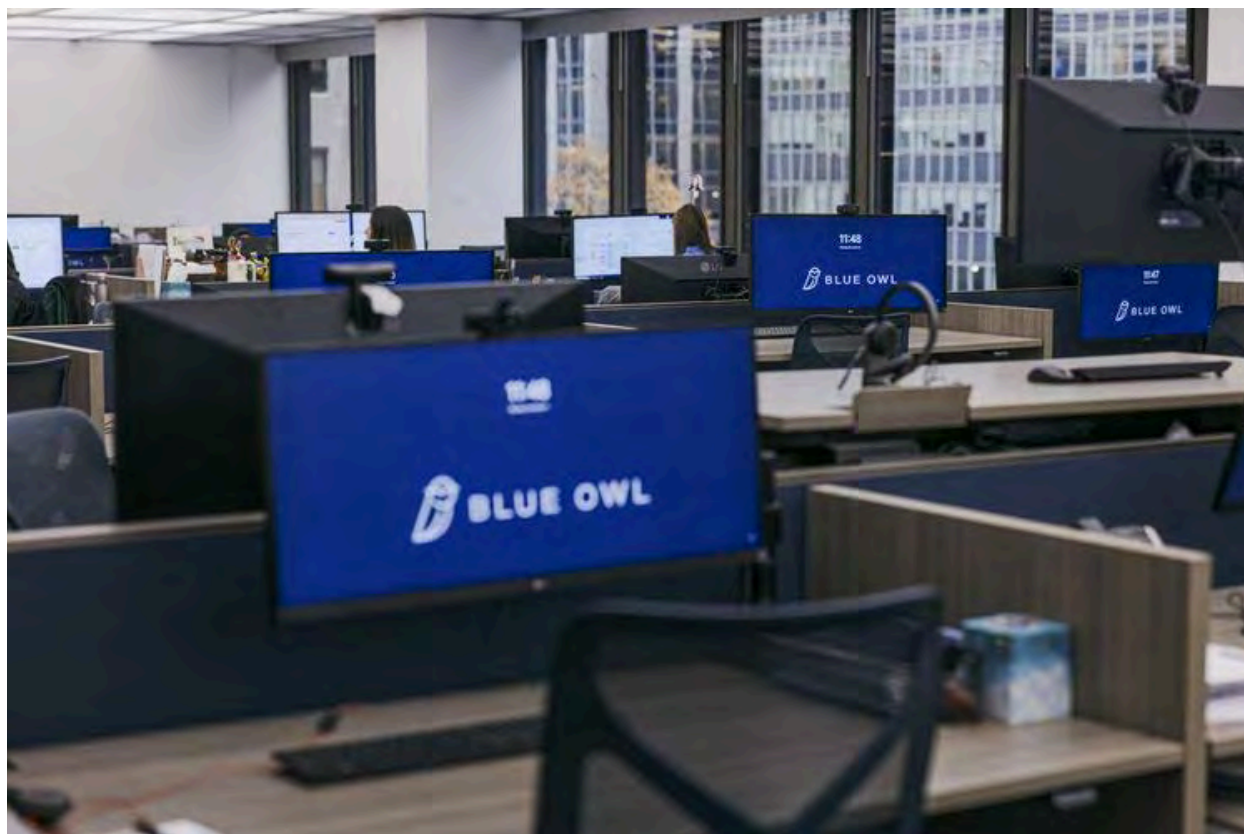
The performance of the fund, known as OTIC, has held strong, and its liquidity remains "substantial," Blue Owl said. "We have honored all tender requests ever made in OTIC."

Lipschultz has, in characteristic style, struck a defiant tone. In the earnings call earlier this month, he said performance has been strong and losses minimal. Investors are ignoring facts and acting out of fear, he argued. More recently he's taken to LinkedIn, boasting about Blue Owl's ability to pick the companies that will benefit from AI and avoid those that won't.

Investors need to “distinguish between a very narrow application that, for example, just processes information or does a very simple, narrow function, versus what we focus on and finance — which are these systems of record that organize business processes,” Lipschultz said earlier this month in a CNBC interview. “And they are, in fact, the adopters of AI tools.”

To his credit, initial analyst reactions to last week’s selloff indicated little concern for the overall health of the business. Blue Owl managed to sell the \$1.4 billion of loans at close to par, adding “modest positive” sentiment for private credit as a whole, according to Evercore ISI. And while investor redemptions remain an overhang, the sales “validate” Blue Owl’s loan book, a UBS Group AG analyst wrote.

Others were more downbeat. Mohamed El-Erian, former CEO of Pacific Investment Management Co., questioned whether the news was a “canary-in-the-coalmine moment” for private credit, comparing it to the moments before the 2008 financial crisis.



Blue Owl office in New York.

Photographer: Jose A. Alvarado Jr/Bloomberg

“Bad credit decisions lead to revelations of liquidity mismatches, and that is always dangerous,” said Kento Otani, managing director and head of private markets investment firm Siguler Guff Japan. “There could be others like Blue Owl, but if you are a good credit manager and maintain discipline and proper fund size — also proper investor type in the fund — I don’t think this happens.”

The loan sale has also stoked concern that troubles in credit could simply be shifted into less visible corners of private markets. Among the buyers of Blue Owl's loans was Kuvare, the life insurance and annuities provider that Blue Owl partnered with in 2024 by buying its asset management unit and investing \$250 million into the insurer. The loan sale to Kuvare could provide a template for similar maneuvers between private credit lenders and affiliated insurers, analysts at Barclays wrote in a note.

"If similar transactions are repeated frequently, it would deepen the ties between these two parts of the non-bank sector, which could make it more difficult to track the risk," they wrote.

Read More: Private Credit's Software Bet Is Even Bigger Than It Appears

AI Exposure

Other pockets of risk are easier to see. Blue Owl has led the charge among private capital firms into the AI infrastructure boom, splashing out billions to stake its claim.

The firm bought digital infrastructure fund IPI Partners in early 2025 for \$1 billion. The deal brought with it more than \$10 billion of fresh assets and control of Stack Infrastructure, a significant data-center operator. More recently, it struck a deal with the Qatar Investment Authority to create a permanent capital platform for digital infrastructure backed by \$3 billion of data-center assets.

Read More: AI's \$3 Trillion Build-Out Spurs Debt Boom and Creates New Risk

It also has fought its way into massive data-center financings with the likes of Oracle Corp. and OpenAI. Last year, it entered a deal to help Facebook parent Meta Platforms Inc. develop a stretch of land in rural Louisiana to house Hyperion, set to become the largest of the technology giant's 29 data centers worldwide. Hyperion involves more than \$27 billion of debt on its own.

It all feeds into what McKinsey & Co. estimated is a \$5.2 trillion spending need through 2030 to keep up with the demand for AI computing power. But prominent financiers have not been shy about the potential for froth in AI-linked financing. Ray Dalio, founder of Bridgewater Associates, has said AI is in the early stages of a bubble.

The Blue Owl representative said that the firm's clients "are very interested in carefully constructed investment opportunities that will benefit from the growth in the buildout of AI infrastructure."

Fallout from Blue Owl's move to restrict redemptions is still unfolding. Boaz Weinstein, whose Saba Capital Management offered to buy shares in some private-credit funds managed by Blue Owl, said AI disruption fears aren't going away anytime soon.

"Private credit was once sold as financial nirvana — effortless double-digit returns in a rising market — but that era is quickly ending," he said in emailed comments. "Even in good times, the market is now breaking down which signals it is in a spot of great vulnerability."

To be sure, the funds under pressure at Blue Owl make up a relatively small share of the firm's assets. These so-called business development companies, however, are the most visible piece of the private credit market. They lay out the names of the companies they lend to and their loan valuations, offering the clearest sight into the health of the overall industry for outsiders.

That also makes them more vulnerable to investor stampedes than vehicles designed for long-term capital commitments. They are, in many cases, accessible to more everyday investors than the institutional-grade funds that draw big checks from pensions and sovereign wealth funds.

But as those sources of capital reach their limits, private credit's most aggressive players will be increasingly forced to reckon with the flightiness of retail investors.

"This is a classic asset-liability mismatch that can only be solved if both asset managers and investors make concessions," said Mara Dobrescu, a senior principal at Morningstar Inc. "Semiliquid funds should only be used by investors with the financial ability to weather long stretches — years — without needing their money back. This puts an inherent limit on the 'democratization' of private assets."

(Updates with commentary from Bank of America analysts starting in 10th paragraph.)

--With assistance from Davide Scigliuzzo, Kari Soo Lindberg and Finbarr Flynn.

To contact the authors of this story:

Silas Brown in London at sbrown629@bloomberg.net

Olivia Fishlow in New York at ofishlow@bloomberg.net

Leonard Kehnscherper in London at Lkehnscherpe@bloomberg.net

Ellen DiMauro in New York at eschneider61@bloomberg.net

To contact the editor responsible for this story:

Jeremy Hill at jhill273@bloomberg.net

Peter Eichenbaum

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Securities

Manage Newsletters

Dan Loeb Says 'Lost Art of Short Selling' Is Making a Comeback

Feb. 24, 2026, 9:56 AM PST

Summary by Bloomberg AI

AI Generated



- Short sellers are becoming relevant again, says Third Point LLC's Dan Loeb, as opportunities are emerging to bet against crowded trades.
- The short-selling universe has been shrinking due to the US bull market, regulatory threats, and unpredictable retail traders, but technology behemoths stumbling has opened a window.
- Loeb says "the lost art of short selling has come back" and is "absolutely critical this year" as his firm has generated profits and alpha on both longs and shorts.

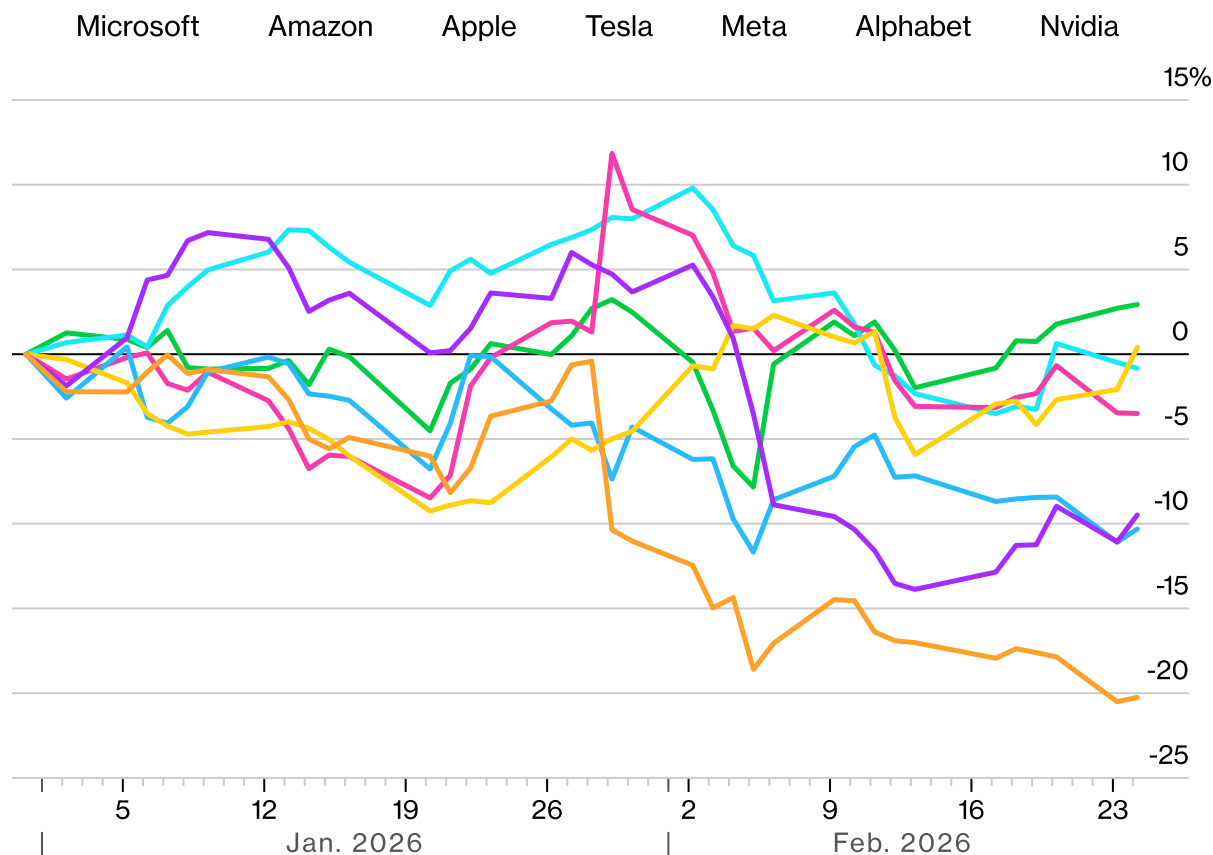
Short sellers are becoming relevant again, says Third Point LLC's Dan Loeb, as opportunities are emerging to bet against the crowded trades that have punished bears for years.

The short-selling universe has been shrinking in the face of the relentless US bull market, regulatory threats and the rise of unpredictable retail traders. But with the technology behemoths that have powered the market higher stumbling to start 2026, that's opened a window, according to Loeb, the hedge fund's chief executive officer.

"The lost art of short selling has come back and it's absolutely critical this year," Loeb said in an on-stage interview on Tuesday at the iConnections Global Alts hedge fund conference in Miami Beach. "This is the first time in a long, long time where we've generated both profits and alpha on our longs and our shorts."

Loeb grew [more cautious](#) about short-selling in the meme-stock craze several years ago. In 2023, his firm reduced its exposure to single-stock shorts and shifted toward more diversified short baskets and hedges.

Magnificent 7 Stocks Stumble to Begin Year



Source: Bloomberg

Note: Data is normalized with percentage appreciation as of December 31, 2025.

Bloomberg

For years, betting against the market was a bruising exercise as a handful of megacap tech stocks drove the major indexes to a relentless series of records. But the Magnificent Seven tech giants are trailing the market in 2026, in part amid concern that their investments in artificial intelligence will fail to translate into profits. A Bloomberg index tracking the group is down nearly 6% year to date.

Loeb said that money managers are now navigating “the move from large-cap, high-consensus, highly owned stocks to nichier plays.”

Investors including Jim Chanos have [quit](#) the business, while the number of short-bias hedge funds tracked by HFR tumbled by more than 70% from 2008 to 2024. The number of new activist short-selling campaigns has also declined sharply from its peak in 2015, according to Diligent Market Intelligence.

--With assistance from **Matt Turner**.

To contact the reporters on this story:

Alexandra Semenova in New York at asemenova10@bloomberg.net;

Denitsa Tsekova in New York at dtsekova@bloomberg.net

Securities

SEC Says Former Edison Nation Executives Made False PPE Claims

Feb. 23, 2026, 9:38 AM PST

Two former Edison Nation Inc. executives made false statements about purchase orders for personal protective equipment during the Covid-19 pandemic, the SEC claimed in a fraud action Monday.

Christopher B. Ferguson, Edison Nation's former chief executive officer, and Brian P. McFadden, a consultant who later became chief strategy officer, allegedly misled investors about the business in April 2020, according to the complaint.

The Securities and Exchange Commission has zeroed in on traditional fraud and insider trading under Chairman Paul Atkins, filing the bulk of enforcement actions against individual defendants rather than suing companies for violations. Edison Nation isn't named as a defendant.

The regulator alleges that Edison Nation issued a press release claiming it had secured more than \$10 million in purchase orders for PPE, when in fact it had only \$2.5 million in orders after a distributor informed the executives it was unable to proceed with a large order as planned after they missed a key deadline to finalize the purchase agreement.

The company had been negotiating a \$9 million order for hand sanitizer, but the potential buyer informed Ferguson and McFadden two days earlier that it couldn't complete the transaction, according to the complaint filed in US District Court for the Southern District of New York.

Edison Nation's stock price spiked nearly 200% the day of the announcement. McFadden allegedly sold more than 33,000 shares that day for \$131,000 after the press release had inflated the company's share price, reaping about \$75,000 in ill-gotten gains, according to the complaint.

The SEC seeks a permanent injunction, disgorgement of profits with interest, civil penalties, as well as officer and director bars against both defendants.

Edison Nation and attorneys for both defendants didn't immediately respond to requests for comment. Paul Hastings LLP represents Ferguson, and O'Melveny & Myers LLP represents McFadden.

An SEC spokesperson declined to comment.

The case is SEC v. Ferguson , S.D.N.Y., No. 1:26-cv-01482, 2/23/26 .

To contact the reporter on this story: Ben Miller in New York at bmiller2@bloombergindustry.com

To contact the editor responsible for this story: Rob Tricchinelli at rtricchinelli@bloombergindustry.com

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US SEC to give probe subjects more notice as it updates enforcement manual

 [reuters.com/legal/government/us-sec-give-probe-targets-more-notice-rolls-out-other-changes-2026-02-24](https://www.reuters.com/legal/government/us-sec-give-probe-targets-more-notice-rolls-out-other-changes-2026-02-24)

Chris Prentice

February 24, 2026

Item 1 of 2 The seal of the U.S. Securities and Exchange Commission (SEC) is seen at their headquarters in Washington, D.C., U.S., May 12, 2021.REUTERS/Andrew Kelly/File Photo

[1/2]The seal of the U.S. Securities and Exchange Commission (SEC) is seen at their headquarters in Washington, D.C., U.S., May 12, 2021.REUTERS/Andrew Kelly/File Photo [Purchase Licensing Rights, opens new tab](#)

- New process will give respondents a staff meeting within four weeks
- SEC's enforcement manual updated for first time since 2017
- Changes to make process more efficient, official says

NEW YORK, Feb 24 (Reuters) - The U.S. Securities and Exchange Commission said on Tuesday it will give the subjects of investigations more time at the outset to respond to notices of potential charges and an opportunity to meet with staff within four weeks, as part of a broader update of its internal enforcement protocols.

The SEC's move to update its enforcement manual, which was last published in 2017, is the latest change to the way Wall Street's top regulator polices financial markets under Republican Chairman Paul Atkins, who has long argued the SEC can be too opaque in its dealings with the subjects of enforcement probes.

Sign up [here](#).

Some Wall Street attorneys have also said the agency has been inconsistent in its communications with the subjects of probes, depending on which office or unit is handling an investigation. The new manual will ensure "greater uniformity," SEC enforcement director Margaret Ryan said in a statement.

At issue are so-called Wells notices, which alert firms or individuals of potential charges the SEC is weighing against them. Under the changes, recipients of such notices will be given four weeks to respond to allegations. Previously, the regulator often gave subjects two weeks to respond, although the timeline could be extended.

Subjects will also be entitled to a meeting with the SEC within four weeks of submitting their response, a move SEC officials say could expedite the process.

"We're trying to be more efficient. This gives them enough time to focus on legal or factual issues and to respond in a meaningful way," Ryan said in an interview.

"We're hoping to underscore the importance of open, informed dialogue."

Some defense lawyers welcomed the changes.

"More predictability is a good thing here. In the past, the process was very ad hoc and informal," said Robert Frenchman, a lawyer with Dynamis LLP.

The new manual also laid out how SEC staff should share key information with people or firms being scrutinized, a change many have sought.

Stephen Crimmins of Davis Wright Tremaine said the update marked a shift in attitude at the agency.

"This is not a giveaway to the defense bar. It's an enhancement of the process," he said. "It allows everyone, before embarking on litigation, to put their cards on the table."

Among the other changes to the manual were new details outlining a process for giving a firm under investigation a waiver from consequences of an enforcement action, such as losing certain securities registration benefits, at the same time it weighs a settlement with the agency.

Reporting by Chris Prentice; Editing by Michelle Price, Lincoln Feast and Nia Williams

Our Standards: [The Thomson Reuters Trust Principles](#).  [, opens new tab](#)

Chris Prentice reports on financial crimes, with a focus on securities enforcement matters. She previously covered commodities markets and trade policy. She has received awards for her work from the Society for Advancing Business Editing and Writing and the Newswomen's Club of New York.

- X

Securities

Jane Street Sued for Insider Trading by Terraform Administrator

Feb. 23, 2026, 5:57 PM PST

Jane Street Group LLC was sued for alleged insider trading by the administrator winding up the affairs of Terraform Labs, the firm whose \$40 billion collapse in 2022 roiled the crypto markets and contributed to the collapse of FTX.

Jane Street used “non-public information to front-run trading that hastened the collapse of Terraform,” **Todd Snyder**, a bankruptcy court-appointed administrator, claimed in a redacted complaint filed Monday in Manhattan federal court. Misusing the information allowed Jane Street “to unwind hundreds of millions of dollars in potential exposure at precisely the right time, mere hours before the Terraform ecosystem collapsed.”

A Jane Street spokesperson called the suit “desperate” and “a transparent attempt to extract money,” according to a statement.

Terraform imploded when its stablecoin TerraUSD lost its peg to the US dollar, leading to the collapse of its sister token, Luna. The failure set off a chain reaction across the crypto industry, ultimately contributing to the downfall of Sam Bankman-Fried’s FTX exchange.

Prosecutors claimed Terraform’s co-founder, **Do Kwon**, deceived investors about the stability of TerraUSD, which was said to be algorithmically “pegged” to the US dollar. Kwon pleaded guilty to fraud and was sentenced in December to 15 years in prison by a New York judge who called his crime “a fraud of epic generational scale.”

Kwon held 92% of Terraform. Snyder was tapped to administer a trust to maximize the recovery for Terraform’s investors and creditors and to close out its operations.

The Jane Street spokesperson said the company will defend itself “vigorously against these baseless, opportunistic claims.”

“Losses suffered by Terra and Luna holders were the result of a multi-billion dollar fraud perpetrated by the management of Terraform Labs,” according to the statement.

Snyder said in a statement that “Jane Street abused market relationships to rig the market in its favor during one of the most consequential events in crypto history.”

“On behalf of injured parties, we will pursue all avenues supported by the facts and the law against those who exploited their position and reaped substantial profits at the expense of Terraform Labs’ creditors,” Snyder said.

In addition to Jane Street, the suit names as defendants Jane Street co-founder **Robert Granieri**, trader Michael Huang and Bryce Pratt, an employee with the firm.

Read More: Jump Trading Faces \$4 Billion Terraform Administrator Suit

Snyder in December sued Jump Trading in federal court in Chicago, claiming the firm also illegally profited from Terraform’s collapse. Jump Trading denied the allegations at the time.

The case is Snyder v. Jane Street Group LLC, 26-cv-1504, US District Court, Southern District of New York (Manhattan).

To contact the reporter on this story:

Bob Van Voris in federal court in Manhattan at rvanvoris@bloomberg.net

To contact the editors responsible for this story:

Misyrlena Egkolfopoulou at megkolfopoul@bloomberg.net

Peter Blumberg

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Trump Orders Netflix to Fire Board Member or 'Pay the Consequences'

The president put Netflix on the hot seat as the Justice Department scrutinizes whether it should greenlight the company's proposed \$82 billion purchase of Warner Bros. Discovery's studio and streaming assets.

February 23, 2026 at 09:33 AM By  **Greg Andrews**



Credit: JorgeEduardo/Adobe Stock

President Donald Trump over the weekend called on Netflix to fire board member Susan Rice or “pay the consequences,” a daunting threat at a time the streaming giant is seeking regulatory clearance to purchase Warner Bros. Discovery’s studio and streaming assets for \$82 billion.

Trump [let loose on Rice](#) in a Truth Social post Saturday, two days after she said during an appearance on the “Stay Tuned With Preet” podcast that “it is not going to end well” for companies, news organizations and law firms that “bent the knee” to Trump.

“There is likely to be a swing in the other direction, and they are going to be caught with more than their pants down,” Rice told host Preet Bharara, a former U.S. attorney for the Southern District of

New York whom Trump fired early in his first presidential term. “They’re going to be held accountable by those who come in opposition to Trump and win at the ballot box.”

She added: “If these corporations think that Democrats, when they come back in power, are going to play by the old rules and say, ‘Never mind, we will forgive you for all the people you fired and all the policies and principles you violated, all the laws you skirted,’ I think they got another thing coming.”

Rice, who served as U.S. ambassador to the United Nations and national security adviser under President Barack Obama and as director of the White House Domestic Policy Council under President Joe Biden, is in her second stint as a Netflix board member. She was a director from 2018 to 2021 and returned to the board in 2023.

Los Gatos, California-based Netflix did not immediately respond to a request for comment from Law.com Sunday night. It declined to comment to other media outlets. In Saturday’s Truth Social post, Trump called Rice “purely a political hack” with “no talent or skills.”

“HER POWER IS GONE, AND WILL NEVER BE BACK,” Trump wrote.

Trump’s post included a screenshot of an earlier X post from the influential far-right activist Laura Loomer, who called Rice’s comments wildly inappropriate.

“This is as anti-American as it gets, and Netflix is proving everyday they are an anti-American, WOKE company. Rice is basically openly saying that Democrats will go after anyone and everyone who supported President Trump, embracing weaponized lawfare against potentially millions of Americans.”

In her post, Loomer called on Trump to kill the Netflix-Warner Bros. Discovery merger, saying it would create a streaming monopoly. She copied Federal Communications Commission Chairman Brendan Carr on her post.

Trump told NBC News in early February that he would not personally intervene in the Netflix-Warner Bros. Discovery merger. “I’ve decided I shouldn’t be involved. The Justice Department will handle it,” he said.

That was a flip-flop from what Trump said on Dec. 7, two days after the companies announced their deal. “I’ll be involved in that decision,” he said at the time, expressing concern that the combined company’s market share in streaming might be too large.

New York City-based Warner Bros. Discovery chose Netflix’s bid over a rival offer from Los Angeles-based Paramount Skydance to buy all of Warner Bros. Discovery for \$108 billion, or \$30

per share. However, Netflix has given Paramount Skydance until midnight Monday to sweeten the deal through a best-and-final offer.

Paramount Skydance formed in August 2025 through the \$8 billion merger of Paramount Global and Skydance Media. Its holdings include the Paramount and Skydance studios, as well as the CBS TV network and the Paramount+ streaming service.

Trump has said he is friends with David Ellison, the CEO of Paramount Skydance, and his father, Larry Ellison, co-founder of the software giant Oracle. However, in mid-December, Trump [complained on Truth Social](#) that coverage of him by CBS News' "60 Minutes" became more negative after the merger closed. "If they are friends, I'd hate to see my enemies!" he wrote.

This is the second time in six months that Trump has called on a tech giant to fire a key official. In September, Trump [demanded that Microsoft fire its president of global affairs](#), Lisa Monaco, who served as national security adviser under Obama and deputy attorney general under Biden.

In the latter capacity, she helped coordinate the Justice Department's response to the Jan. 6, 2021, attack on the Capitol by Trump supporters—earning the ire of Trump in the process. Trump was indicted in 2023 for his role in the attack, but the agency dropped the charges after Trump won the presidency in November 2024.

In his Truth Social post, Trump called Monaco "a menace to U.S. National Security."

Microsoft took no action against Monaco in response to the president's pressure. However, at that time Microsoft was not seeking government approval for a merger, though it did have billions of dollars in federal contracts, business it has retained since the dust-up.

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Securities

Deep Dive

Trump Regulatory Path for Prediction Markets Not Slowing Courts

Feb. 24, 2026, 2:00 AM PST

The Trump administration's embrace of prediction markets might swing courts in favor of companies that allow people to wager on anything from the weather to basketball shots, attorneys say.

Just how much its claim of exclusive regulatory power will sway widespread litigation ensnaring states seeking to regulate prediction market providers such as Kalshi Inc. and Crypto.com is up for debate.

President Donald Trump's Truth Social media platform in October announced its own venture into prediction markets partnering with Crypto.com. His son, Don Jr., has invested through his VC firm in Polymarket and is an adviser to Kalshi, giving the family a stake in the outcome.

The Commodity Futures Trading Commission, charged with overseeing US derivatives markets, has supported prediction markets since its current chairman was installed in December—a turnabout from the prior administration's efforts to prohibit Kalshi's election-related event contracts and have Polymarket shutter its US operations. Now, their chief executives sit on the regulator's Innovation Advisory Committee.

But the economic interest of states in regulating betting and the CFTC's need to protect its turf will propel lawsuits, attorneys say.

Prediction markets and the CFTC say event contracts are "swaps" placed under the regulator's exclusive jurisdiction after the 2008 financial crisis, preempting state regulation and making it the sole authority to oversee these derivative contracts on federally-regulated markets.

Congress likely didn't intend to turn sports bets into CFTC-overseen swaps, counters Zuckerman Spaeder LLP's Aitan Goelman, a former CFTC enforcement division director. The agency lacks the bandwidth to be the "national gambling regulator," he said.

The US Supreme Court's 2024 decision in *Loper-Bright Enterprises v. Raimondo*, overturning its long-standing doctrine of deferring to an agency's reasonable interpretation of ambiguities in a law might require more than the CFTC's persistence in lawsuits, prompting greater scrutiny over what Congress intended to do when it gave the agency that power in the Commodity Exchange Act.

Event contracts let traders put money on binary outcomes ranging from whether Trump will say "Drill Baby Drill" during the State of the Union to if the Indiana Pacers will beat the Philadelphia 76ers Tuesday night.

States maintain sports event contracts are merely glorified gambling subject to their regulation like sportsbooks, pitting them against Trump's CFTC. State and appellate court litigation has drawn more players seeking to forestall state control, including Kalshi, Crypto.com, Robinhood Markets Inc., Coinbase Inc., and Polymarket.

Federal courts have issued multiple rulings over whether these companies will ultimately prevail on their arguments against state regulation. Last week a Tennessee federal judge granted Kalshi a preliminary injunction blocking state enforcement, a Massachusetts judge delayed the state's injunction pending appeal, and Nevada brought an enforcement action against Kalshi in state court.

"There's a lot of nuance and a lot of complexity to this," said Fenwick & West LLP's Noah Solowiejczyk. "So, I would expect you may just continue to see courts approaching this in different fashions and not always coming to exactly the same conclusions."

The Chairman's Championing

CFTC Chairman Michael Selig has touted the agency's exclusive jurisdiction over these contracts, directly hopping into the battle with a brief filed with the San Francisco-based US Court of Appeals for the Ninth Circuit. States haven't indicated they're backing down.

"We know Chairman Selig is willing to strongly defend the agency's exclusive jurisdiction," given recent comments, said Kari Larsen, co-chair of Willkie Farr & Gallagher LLP's Digital Works practice.

"He also recently withdrew the prior staff advisory and the proposed rules that were an effective ban on listed sports contracts, signaling a new welcoming direction for prediction markets," she said. "The CFTC's friend-of-the-court brief could carry significant weight with judges grappling with the preemption question and tip the scales toward the platforms."

The CFTC's support has been lauded by prediction markets. "Their involvement represents a tectonic shift in the litigation landscape," said Coinbase vice president Ryan VanGrack.

Deference

The Supreme Court's abandonment of administrative agency deference enshrined in the 1984 ruling *Chevron USA v. Natural Resources Defense Counsel*, left in place a weakened doctrine that may lessen the CFTC's clout in court.

What a regulator says “does not carry as much weight in the court’s interpretation of statutory law as it would have in a pre-*Loper Bright* world where *Chevron* deference was still good law,” said Winston & Strawn LLP’s Drew Hinkes.

Prediction markets say the change in law giving the CFTC authority over swaps renders the question of deference unneeded.

“Deference to government agency interpretation is unnecessary when the plain language of the CEA grants the CFTC exclusive jurisdiction over swaps and event contracts,” said Crypto.com Chief Legal Officer Nick Lundgren.

“Really the only conclusion is that the CFTC, if you take their argument, is saying that’s all illegal,” Goelman said. “That clearly wasn’t Congress’ intent. At the time, gambling was illegal nationally” under the Professional and Amateur Sports Protection Act. That was overturned by the high court in 2018, letting states legalize sports betting.

Rulemaking

Rulemaking or Congress might need to clarify some of these issues. The CFTC didn’t respond to requests for comment for this story.

“There’s a fundamental mismatch between the statute and the regulation” promulgated by the agency, said Tamika Bent, formerly a CFTC chief counsel who joined Willkie in 2024. “The CFTC may only prohibit a contract if it involves an enumerated activity—like gaming—and the CFTC determines that the contract is contrary to the public interest,” under the CEA. “Both prongs must be met to prohibit a contract.”

But, she said, “The regulation effectively skips the second statutory step. The upcoming rulemaking may finally address this disconnect.”

States on both sides of the aisle pushing their position might “resonate up to Congress,” said Boies Schiller Flexner LLP’s Dan Boyle.

“Whether that happens in the next year is probably optimistic with the coming midterm elections, but I would find it hard to believe that’s not going to be a topic of discussion,” he said.

To contact the reporter on this story: Gillian R. Brassil in Washington at gbrassil@bloombergindustry.com

To contact the editors responsible for this story: Andrew Harris at aharris@bloomberglaw.com; Carmen Castro-Pagán at ccastro-pagan@bloomberglaw.com

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Kalshi and Polymarket Prediction Markets Turn Truth Into Bets

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Christopher Beam

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When Federal Reserve Chair [Jerome Powell](#) stepped up to the podium on Jan. 28, the room hushed in anticipation. The reporters attending the Federal Open Market Committee press conference in Washington hung on Powell's every market-moving word. Would he hint at adjustments to the overnight lending rate? Would he discuss the effect of tariffs on prices? Would he address questions about his successor?

Online, another group was monitoring Powell's performance no less closely, but for a very different reason. On Discord and X, dozens of traders had been discussing their bets on which words would come out of Powell's mouth. Many were sure he'd say "good afternoon." (He usually does.) Others wagered on "shutdown," "layoff," "yield curve" or "egg," among the 44 different terms offered on the prediction market platform Kalshi.

From his parents' house in Orlando, Austin Minton, a 23-year-old livestreamer with shaggy blond hair, shared his thesis that Powell wouldn't say "Trump," pointing out that the Fed chair hadn't done so in recent remarks. Minton had also wagered that Powell wouldn't say "projection," since the recent government shutdown meant there was less economic data available, but that he would say "renovation," in reference to the reconstruction of the Federal Reserve building, which critics including the president were saying raised questions about Powell's integrity. Before the speech even began, bettors had traded more than \$2.8 million on Kalshi's Powell market.

"Good afternoon," Powell said. Minton pumped his fists. "Yes!" he exclaimed. "Easy three bucks."

Powell began reading his prepared remarks. His words echoed an earlier FOMC release, but he added new material, mentioning a "shutdown" (market odds had been at 67%), "softening" (59%) and "layoffs" (76%). Moving on to the Q&A with reporters, he hit "restrictive" (62%), "Beige Book" (the Fed's biquarterly report, 30%) and "tariff inflation" (13%). When Powell fielded a question about the Justice Department investigation of the Fed building project, Minton braced himself, hoping not to hear the president's name. Powell dodged the question, prompting Minton to rejoice and praise him: "That's the GOAT!"



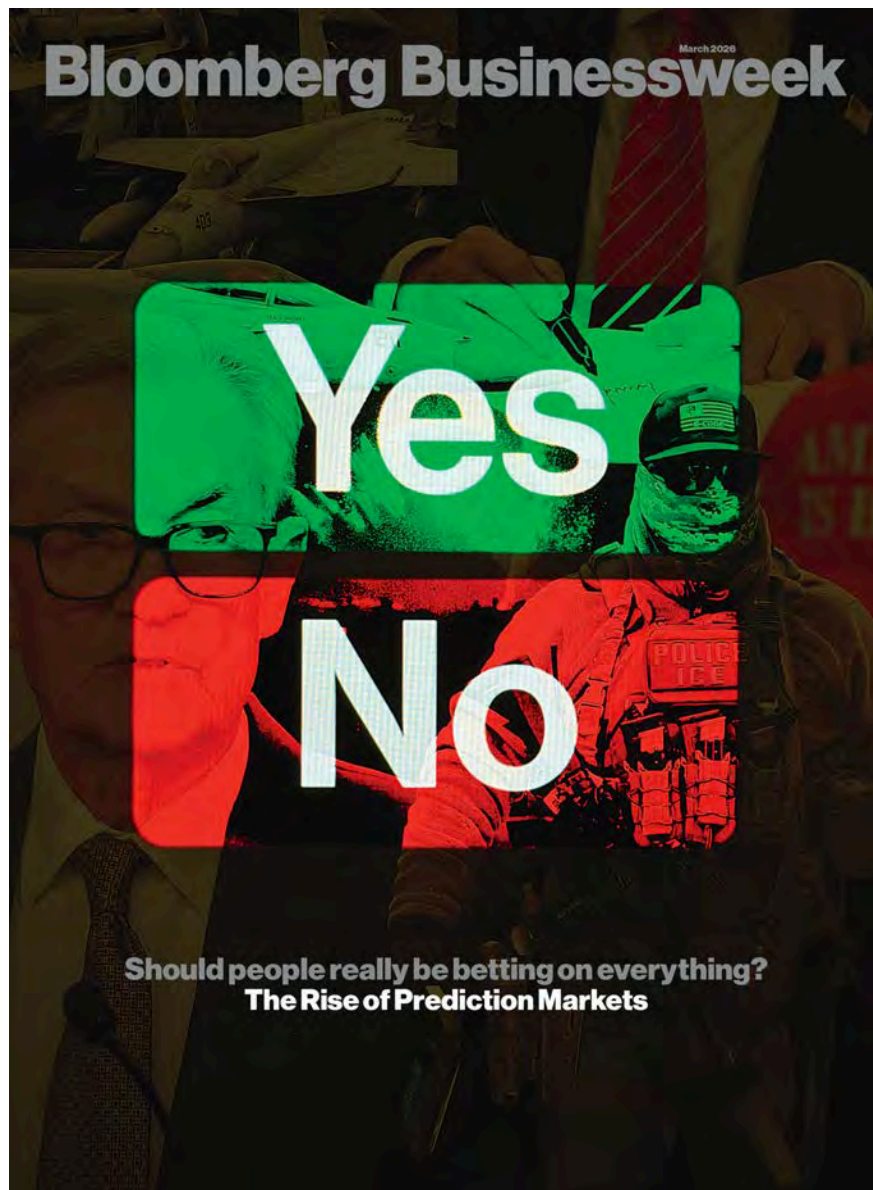
Minton in Florida. Photographer: Michelle Bruzzese for Bloomberg Businessweek

As the presser went on, the percentage odds on the remaining words declined on Kalshi, as they typically do on a “mention market” like this. By the last question, it seemed a safe bet Powell wouldn’t utter “pandemic” (now at 17%), “projection” (12%), “uncertainty” (8%), “trade war” (3%) or “renovation” (2%).

Then, however, he did something astonishing. Responding to the final questioner, he went on a mention spree. “The Summary of Economic *Projections* ... we hadn’t had a *pandemic* in 100 years ... a *trade war* of this scope ... there’s great *uncertainty* at different points.” It was the prediction market equivalent of a last-second pass leading to a 60-yard zigzag run through defenders, capped by a headlong dive across the goal line. Minton, who’d bet that Powell wouldn’t say “projection,” was devastated. “Oh my God, at the end? Last question? C’mon, Powell!”

The press conference ended. The traders on Discord debriefed on their wins and losses. But something was off. On Kalshi, the odds on “renovation” were suddenly climbing. (Kalshi doesn’t resolve markets and pay out winnings until some time after an event finishes.) Minton was confused. “Did he say ‘renovation’? This is crazy.” He pulled up a clip and saw that one of Powell’s final answers included a rare slip of the tongue: “When it comes to technological developments that raise potential output, some kind of technological *renovation*”—Powell then corrected himself—“you know, *revolution* like happened in the ‘90s here, and like may be happening now with AI ...” The tape didn’t lie: Powell had said “renovation.” Minton speculated that it had been a Freudian slip fueled by Powell’s determination *not* to talk about the investigation.

The Discord chats went berserk. One trader, Foster McCoy, who was on a voice channel with a dozen others, heard grown men screaming. “I lost my mind,” McCoy later recalled. “Like, what are the odds it hits as a buzzer beater?” “IVESTIGATE POWELL [*sic*]” wrote one Discord user, jokingly implying that Powell had made insider trades. “Might be the most insane market I’ve ever traded,” tweeted a respected 21-year-old trader who goes by Esoteric Catboy and who said he’d made more than \$5,000 on the press conference.



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Photos: Getty Images, Bloomberg

Mention markets are the high-octane, fast-twitch speed competitions of the prediction market world. But they're just one corner of it. Users of Kalshi and its primary rival, Polymarket, can [bet on events major and minor](#), from politics to sports to culture to the weather. Recent markets on Kalshi have included whether certain words would be used during a [Palantir Technologies Inc.](#) earnings call, whether [Elon Musk](#) would win [his court case](#) against [OpenAI](#) and whether the highest temperature in Seattle on Feb. 4 would be within a certain range. Polymarket users have bet on whether the US would strike Iran on a particular date, whether a given Trump cabinet member would be the first to leave office and whether Jesus Christ would return before 2027.

Prediction markets were once a fringe obsession of economists and election wonks, but in the past year or so, they've gone from obscure to everywhere. The [industry is booming](#) thanks to a combination of marketing, distrust in traditional sources of information and a newly friendly regulatory environment. Late last year, [Kalshi Inc.](#) and [Polymarket](#), both headquartered in New York City, raised funds at [valuations of \\$11 billion and \\$8 billion](#), respectively. In the weeks leading up to the Super Bowl, Kalshi users were betting more than [\\$2 billion a week](#), while Polymarket users were just shy of that, according to user-compiled data on Dune Analytics.

The companies are also rapidly insinuating themselves into American media. Both have struck deals with major sports leagues to provide data during games. Kalshi has [partnered with CNN and CNBC](#), while Polymarket has a [contract with Dow Jones](#), meaning prediction odds are likely to be integrated into coverage of elections and other events. During the Golden Globes on CBS in January, a Polymarket chyron flashed before each award was handed out, correctly predicting nearly all 28 winners. "Seeing people look at the Polymarket odds for certain things that otherwise they would just be pontificating or talking past each other about, that's the thing that really makes me excited," says Polymarket's chief executive officer, [Shayne Coplan](#).

In October, Polymarket announced an [investment of up to \\$2 billion](#) from [Intercontinental Exchange Inc.](#), which owns the New York Stock Exchange, a deal that will likely lead prediction market data to be integrated into financial tools used by institutional traders. [Susquehanna International Group](#), [Jump Trading](#) and other major firms are providing liquidity on Kalshi to facilitate trading. In January, Goldman Sachs Group Inc. CEO [David Solomon](#) called prediction markets "super interesting" and said he had a team looking into them.

Boosters say prediction markets create economic and social value by providing better information about what will happen in the world. People could use them to hedge against risk—by betting that a hurricane will hit, say, or that the US government will shut down—or simply to make better decisions in the face of uncertainty.

Both Polymarket and Kalshi pitch themselves as sources of truth in a time of epistemic precarity. Coplan says his platform is a guide for "when you're thinking about the world, you're thinking about government, and you're thinking about macro trends and headwinds that could impact your life." Kalshi co-founder and CEO [Tarek Mansour](#) says prediction markets "take debate from the realm of

subjective emotion to the realm of objective math. And that's why it ends up being a little bit more truthful." The company's other co-founder, Chief Operating Officer [Luana Lopes Lara](#), has called betting on one's beliefs a "tax on bullshit."

Detractors call prediction markets glorified gambling. Indeed, the vast majority of the volume on Kalshi is betting—or, as the company puts it, "trading"—on sports. For all the highbrow talk of price discovery and revealed truths, it can be hard to discern the economic or social value of knowing the likelihood Pete Davidson will attend the Super Bowl. ("People care about the things they care about, and it's not necessarily our job to decide what people are going to care about," Mansour says. Coplan says of betting on celebrity appearances: "I don't care for those markets.")

And the markets' relationship with truth is complicated. They can be vulnerable to manipulation, insider trading and other shenanigans. In many cases, they influence reality as much as reflect it. Not to mention that their rules and decisions about what did or didn't happen can be inconsistent.

The companies are also facing headwinds. While Kalshi is regulated federally, by the Commodity Futures Trading Commission, it's either the plaintiff or defendant in [at least a dozen lawsuits](#) with states or Native American tribes claiming it's an unlicensed gambling platform that falls under state or local jurisdiction.

Polymarket was recently banned in Nevada, at least temporarily, while a state gambling commission lawsuit plays out there. Several individuals have initiated class actions against Kalshi and Polymarket alleging that they're operating illegal gambling sites and promoting addiction. (Asked for comment on the suits, a Kalshi spokesperson pointed to a statement by Lopes Lara calling one of them "baseless." Polymarket didn't respond to a request for comment.) The companies argue they should continue to be regulated by the CFTC—which is currently well-disposed to prediction markets—but a victory by the states could deal a blow to their business models. Even if the CFTC does maintain its jurisdiction, it's unclear what happens if and when a new, more skeptical administration takes over.

Furthermore, many people don't like the platforms' sudden ubiquity. "I am worried about potential backlash and how long that could last," says [Robin Hanson](#), an associate professor of economics at George Mason University who's considered a founding father of prediction markets. Coplan acknowledges there's been a "vibe shift" the past few months: "You always get told eventually you'll cross this chasm where you'll go from the underdog to everyone thinking it's a big thing, and people turn against it. And I think that's this moment."

Whether prediction markets will persist, never mind fulfill their founders' vision of life guided by the wisdom of crowds, depends on how the companies handle these challenges. Can they show customers they can be trusted?

Trade, Trade, Trade

Weekly prediction market transactions

Source: @datadashboards at Dune

The allure of prediction markets lies in their simplicity: You're asked whether a given event will occur, and you pick "Yes" or "No." Technically, on Kalshi and Polymarket, you're buying one or more contracts that pay out \$1 each if you're right and nothing if you're wrong. As hundreds or thousands or millions of those yes-or-no contracts are bought and sold, the price fluctuates somewhere between 1¢ and 99¢. That price (20¢, say) is intended to serve as the implied probability of the event occurring (20%), which translates into a prediction.

Just as prices in a stock market aggregate information, so do prices in prediction markets. In an election market, for example, one bettor might have analyzed a candidate's county-by-county support. Another might have created a sophisticated turnout model. Another might learn that a candidate is sick. Another might even have conducted a poll. No single person will have access to all of this. But when they place bets based on their information, it all gets channeled into a single figure.

Prediction markets aren't new. Betting on papal conclaves was common in Italian city-states until Pope Gregory XIV banned the practice in 1591. (It continued underground.) In the 18th century, British gamblers wagered on whether the Tea Act would be repealed, and during World War II Londoners bet on how many German planes would be shot down. Election betting has been rampant in the US going back almost to the country's founding, with New York City a particular hotbed; newspapers would cite odds, and patrons would show support for candidates by placing large public bets. Even a century ago, election odds were impressively accurate, according to research by [Paul Rhode](#) of the University of Michigan and Koleman Strumpf of Wake Forest University. The markets got only one of the 15 presidential elections between 1884 and 1940 wrong—1916, when underdog Woodrow Wilson prevailed.

Election markets declined in the US after that, which Rhode and Strumpf ascribe to the rise of scientific polling, a crackdown on gambling by New York City Mayor Fiorello La Guardia and the legalization of racehorse betting in New York state. But

they began a slow comeback in 1988, when researchers at the University of Iowa created the [Iowa Electronic Markets](#), getting a carve-out from existing law because their purpose was academic and the wagers were capped. It soon proved to be more accurate than polling.

Around the same time, Hanson, the future George Mason economist, was working in Silicon Valley and pushing prediction markets beyond mere prognostication. Convinced they could guide leaders to make better decisions, he helped create the first internal corporate prediction markets in 1990. (One such market asked employees to bet on when the company would deliver its product.) In 1995 he proposed “ideas futures” to ascertain which academic research questions were most promising and deserving of funding. And in a 2000 academic paper he suggested a form of government called “futarchy,” in which prediction markets would shape policy decisions—legislators might, for example, pass whichever gun law the markets predicted would result in the lowest murder rate. (He also flagged many potential drawbacks, including, as one section title had it, “You Can Not Pay Off Bets If Earth Is Destroyed.”)

Hanson got a chance to implement some of his ideas at a high level in 2001, when the Defense Advanced Research Projects Agency (Darpa) agreed to fund a project he and his team called the Policy Analysis Market. The plan was to create markets that would help predict events in the Middle East. But critics called it a “terror market” and warned that it would incentivize terrorist attacks. The project was scuttled in 2003.

“Nothing is more valuable than the truth”

Prediction markets’ reputation improved gradually as that of polls declined. But tough regulation in the US meant they got limited traction. In 2016, Mansour, then a student at the Massachusetts Institute of Technology, was interning at Goldman Sachs when clients asked his team to find ways to hedge against Brexit. They came up with a complex set of financial levers they guessed would correlate with Britain leaving the European Union. But it struck Mansour as silly that the clients couldn’t just bet on the event itself. In 2018 he and Lopes Lara, a friend from MIT, founded Kalshi. They envisioned an exchange where anyone could make a trade based on almost any real-world event. (Kalshi means “everything” in Arabic.)

Two years later, in 2020, Coplan, a New York University dropout, created Polymarket in what he described as his “bathroom office.” He’d been deep into crypto and was inspired by Hanson’s writings to build a prediction market on the

blockchain. Polymarket reflected the libertarian ethos of its crypto ecosystem: anonymity, zero fees, minimal intervention. On a podcast at the time, Coplan described the operation as “basically nonprofit.”

For both companies, the timing was bad. [Joe Biden](#)’s administration took a dim view of prediction markets, and at first the CFTC approved only a handful of relatively tame offerings on Kalshi, such as predictions about inflation or Federal Reserve interest rates. The administration was “as hostile as it gets,” Mansour said on Bloomberg’s *Odd Lots* [podcast last year](#). “They just didn’t want it to exist.” The CFTC accused Polymarket of operating an unlicensed exchange, and, as part of a 2022 settlement, the company agreed to pay \$1.4 million and blocked Americans from trading on the platform, without admitting wrongdoing. (In practice, Americans could still access the site using software that hides their location.) Two years later, the CFTC banned Kalshi from posting some political betting markets and proposed an outright ban on event contracts related to sports, elections and awards shows.

Everything changed in late 2024. That September, Kalshi won a lawsuit challenging the CFTC’s political markets ban, which cleared the way for legal betting on the presidential election. Kalshi began drawing massive volume, as did Polymarket, though it was still blocked in the US. On Election Day, both had Trump favored to win. His victory wasn’t just a vindication for prediction markets; it was a godsend. Where the Biden administration had been “hostile” to prediction markets, Trump’s team embraced them.

In January 2025, Kalshi named [Donald Trump Jr. as a paid adviser](#), and a few months later Polymarket [brought him on as an investor and adviser](#). In July the Justice Department ended an investigation of Polymarket that had led federal agents to bust down Coplan’s apartment door in a raid. And in November the company was cleared to operate in the country. Its US app soft-launched in December. So far, it offers only sports bets.

The day Polymarket announced the \$2 billion Intercontinental Exchange deal, Coplan reflected on his company’s journey on X: “I knew we were entering an era where ways to find truth would matter more than ever, and Polymarket could play a critical role in that. After all, nothing is more valuable than the truth.”

Skin in the Game

Number of Polymarket users by total value of bets made, Nov. 21, 2022, to Feb. 11, 2026

Source: @datadashboards at Dune

Last summer, British YouTuber Miles Routledge, aka Lord Miles, announced that he would film himself spending 40 days fasting in a tent in a Saudi desert, consuming nothing but water and electrolytes. Viewers could bet on Polymarket (and, later, Kalshi) whether he would complete the fast.

Routledge is a kind of shock tourist, who since 2021 has been traveling around the Middle East and Central Asia getting into trouble. He's also made racist comments online, particularly against Black people and Indians, and once wrote that he would "happily commit genocide." Still, Polymarket promoted the stunt on X, including hosting an advance livestream with Routledge. When someone on X pointed out that it would be "easy to cheat" in such a market, Polymarket assured them that the stunt would be livestreamed 24/7. Once the fast began and Routledge started posting photos and updates, the company would sometimes add cheeky replies, like "do you want us to send you pizza."

As the days went by, Routledge's odds of success on Polymarket gradually climbed from their original 18% to a high of 74% two weeks in. But then, on Day 28, he told viewers the electric grid was going down and he would go briefly offline. The feed cut off. Routledge didn't come back on.

The market eventually resolved to "No." Traders were furious. Their rage deepened when they learned that a crypto wallet that had bet "No" on Routledge, netting \$60,000, was linked to another wallet he'd previously revealed was his. It appeared to many people to be a case of market manipulation and insider trading. Routledge finally surfaced in December and denied that he'd bet against himself, blaming a colleague who he said controlled the wallet and made the trade.

Routledge didn't answer emailed questions for this story, and Polymarket didn't respond to questions about the incident. The spokesperson for Kalshi (whose market didn't see as much volume) says, "We absolutely do not endorse this person's statements or behavior. With the benefit of hindsight, this market would not meet our internal standards for product quality today."

The Lord Miles saga was an extreme case, but it highlighted how wild and unaccountable prediction markets can be. In December a trader whose blockchain trail showed they'd previously profited from a Google-related trade cashed out \$1.2 million in Polymarket bets on Google's most-searched people in 2025, drawing suspicion of insider activity. And in late December and early January, an anonymous blockchain user placed a series of Polymarket bets on Nicolás Maduro's ouster, including a final one hours before US special forces descended on the Venezuelan president's compound. In all, the bets turned a \$400,000 profit. Polymarket didn't respond to questions about the incidents.

Kalshi says it has rules in place to prevent insider trading and refers suspicious activity to regulators. Coplan has pointed out that such instances on Polymarket are quickly exposed online. Others, including [Brian Armstrong](#), CEO of crypto exchange [Coinbase Global Inc.](#), have argued that insider trading in prediction markets can make them more accurate, albeit less fair. In a recent appearance on CNBC, Mansour said that if Bad Bunny wanted to tell someone what his first song at the Super Bowl halftime show would be and they bet on it, that would be "fair game" and "part of what the risk in the market is." (Mansour clarifies that such a bet would constitute insider trading if the person had a "legal obligation" to keep the information secret.)

Opinions Shift as Legalized Gambling Spreads

Share of US respondents who say the prevalence of legal sports betting is bad for society

Source: Pew Research

Prediction markets can also drive events rather than merely anticipate them. In August, after multiple WNBA games were interrupted by attendees throwing dildos onto the court, Polymarket encouraged users to bet on whether it would happen again; to no one's surprise, more dildos were tossed, with no clear way of telling whether anyone involved had bet beforehand. Polymarket didn't respond to a request for comment.

At the end of January, as a partial government shutdown loomed, Kalshi and Polymarket users could bet on whether it would happen. The Kalshi market's contract said it would base the outcome on a single data point: whether or not the website of the Office of Personnel Management posted a notice about the shutdown by 11 a.m. Eastern time on Saturday, Jan. 31. (Polymarket had a midnight deadline.) On X, a trader with the handle @GroyperFinance_ publicly asked the director of OPM, [Scott Kuper](#), if the agency's website would be updated

to reflect the shutdown. Once the shutdown was confirmed, Kupor replied: "You got your wish - website will be updated!" The Kalshi spokesperson declined to comment on the incident. Polymarket didn't respond to a request for comment.

Adding to the messiness are instances of poor rules design and seemingly arbitrary decisions by the platforms. When *Time* magazine announced its 2025 Person of the Year as "[The Architects of AI](#)," with a cover photo of OpenAI CEO [Sam Altman](#), Nvidia Corp. CEO [Jensen Huang](#) and others, Polymarket changed its rules at the last minute to include "Architects of AI/Other" and decided that "Artificial Intelligence" was incorrect. In early 2025, Kalshi took bets on whether the sitting US president would meet Canada's then-Prime Minister [Justin Trudeau](#) that year. Biden soon did—and even shook hands with Trudeau on TV—but "Yes" bettors lost anyway, since the meeting wasn't reported by the two sources Kalshi had designated in its market rules. Last summer, Polymarket traders fought for weeks on Discord over whether Ukraine President [Volodymyr Zelenskiy](#) had worn a suit. Some argued that a black jacket and shirt he'd worn to a NATO dinner qualified; others said it didn't. The market ultimately resolved to "No," spurring more uproar. Kalshi declined to comment on specific resolution decisions. Polymarket didn't respond to a request for comment on some of its resolution outcomes.

In Polymarket's case, some blame the regular spats on its unique process for resolving markets. The platform delegates outcome decisions to holders of a crypto token, UMA, that anyone can buy. Unsurprisingly, this produces some bizarre results. The chat room for disputes on the UMA Discord is a morass of hair-splitting and bad faith arguments. One recent quarrel involved the market "Who will Trump talk to in January?" Some bettors who'd wagered that Trump would speak with Russian President [Vladimir Putin](#) noted that Trump said he "personally asked" Putin on a "call" to halt strikes on Kyiv and that the Kremlin had confirmed the "personal request." Yet UMA holders resolved the market to "No," owing to ostensible ambiguities about the timing and nature of the call.

Some Polymarket traders argue that this system biases decisions toward users who hold large quantities of UMA tokens. According to an [analysis](#) by data platform Sentora, UMA whales—those who each own at least 1% of all tokens—control 95% of the total pool. In that light, Polymarket's "decentralized" resolution system appears to be anything but. The company didn't respond to a request for comment.

| "Apparently they think engagement outweighs trust"

Kalshi has an internal team to resolve disputes. The spokesperson says it includes former finance associates, consultants and debate champions. Their decisions, too, can be controversial. In January, a mention market dedicated to a [Netflix Inc.](#) earnings call included the option to bet on someone saying "Warner Bros." An executive did say "Warner Brothers," but the market resolved to "No" because the person didn't pronounce it like "bros."

Some observers argue that the platforms' social media presence further undermines user trust. In one notable example from January, Polymarket posted inaccurately on X: "BREAKING: Iranian Regime security forces have lost nearly all control" of Tehran and two other cities. Kalshi and Polymarket have both run into issues with their affiliate marketing programs, including giving special "badges" for promoting the companies to accounts on X that then posted false information about sports figures. Kalshi revoked the badges. ("They're not acting on our behalf," the spokesperson says.) Polymarket didn't respond to a request for comment.

"I don't know how you can be over here saying, 'We're the greatest source of truth mankind has ever known,' and then your social media team is just lying," says [Dustin Gouker](#), author of prediction markets newsletter *Event Horizon*. "Apparently they think engagement outweighs trust."

Coplan says that ultimately, Polymarket's trustworthiness comes from its transparency on the blockchain. "You can see the activity, you can see the top holders, you can see the order book and liquidity and the price trending over time," he says. "You don't need to trust me."

In September the Securities and Exchange Commission and the CFTC held a joint roundtable with some CEOs of market platforms, including Nasdaq, Intercontinental Exchange and CME Group. Coplan and Mansour were on the panel too. Introducing himself, Coplan joked, "I was worried when I showed up here they were going to whisk me away to another room." The group chuckled.

Coplan, his mop of dark curls looking extra-springy next to all the shiny or gray heads, argued that regulators should exempt "innovative" platforms such as Polymarket from certain rules, since as a crypto company it might not fit into the existing "regulatory matrix." Sitting a couple of seats away, [Terrence Duffy](#), the 67-year-old CEO of CME Group Inc., bristled at the idea. "Whether it's in derivatives or securities, you have to have a single standard," he said.

Coplan shot back that if innovative companies aren't allowed to operate in the US, then consumers will be left "having to, you know, work with guys like you who are a lot older." At this, Duffy jokingly flipped him off.

Polymarket and Kalshi's biggest threat isn't the old-guard exchanges, though—it's the sports gambling industry. Sports makes up more than four-fifths of Kalshi's trading and 100% of Polymarket's US-based activity.

Open Interest

Daily USD volume by category

Source: Dune compiled by The Block

Note: As of Feb. 12, 2026

Traditional sportsbooks and casinos want prediction markets to be treated the same way they are—that is, as gambling companies, regulated by the states rather than the CFTC. The past year has seen a wave of actions by state regulators and Native American tribes, mostly against Kalshi, the earlier approved entrant to the US market, seeking this outcome.

Kalshi argues that it doesn't offer gambling but rather trading on "event contracts," a form of derivatives regulated by the CFTC. Mansour has also said there are key distinctions between what Kalshi does and what bookies and casinos do. At a casino, you're betting against the house, and the house always wins in the end. Similarly, a bookie sets the odds, and if you win too much, they can ban you. Prediction markets, by contrast, are peer-to-peer. You're betting against other people. (When you buy a "Yes" contract for 80¢ on a particular market, you're matched with someone who's buying a "No" contract for 20¢; whoever wins gets the \$1 sum total of your bets.) Sure, the exchange takes a fee for every trade, but it's not rooting for you to lose.

Mansour also distinguishes between the "artificial risk" created by a bookie and the "natural risk" of trading on real-world events. The risk created by the bookie traces purely to the odds he sets; it wouldn't exist without him. The risk in prediction markets follows from the actual possibilities they describe—the risk of a wildfire, say, or of tariffs spiking—and the markets allow users to hedge against that natural risk. Finally, Mansour says, they serve a public benefit by providing accurate information to the world.

But is it gambling? On the one hand, yes, obviously, Gouker says. "I don't care if you're the house or not, this is sports betting." On the other hand, when sophisticated prediction markets traders speak about their work, it can sound closer to academic research than gambling. A Russian trader named Alexey, who withheld his surname for safety reasons, says he made money on weather markets by figuring out NASA's methodology for collecting and presenting weather data. Brandon Fean, a 25-year-old schoolteacher in Warminster, Pennsylvania, says he's made more than \$113,000 trading on music markets, predicting which album will reach No. 1 on the Billboard charts based on his understanding of patterns in album sales and streams. Another trader, Benjamin Freeman, says he drove two hours from his parents' home in Memphis to speak with voters in another congressional district in hopes of getting an edge on a special election there.



Fean in Pennsylvania. Photographer: Rita Iovine for Bloomberg Businessweek



Freeman in Massachusetts. Photographer: Natalie Ivis for Bloomberg Businessweek

As the court cases play out, Kalshi has tried to position itself as the adult in the room. Mansour has said that the company has safeguards in place to address the kind of problems that have plagued “unregulated, offshore platforms.” It requires users to register using their real name and show identification, and it has mechanisms to detect patterns that indicate insider trading in real time. Mansour says Kalshi has conducted 200 investigations in the past year and referred several cases to law enforcement. It has also formed the [Coalition for Prediction Markets](#), an industry group that includes Coinbase and retail trading provider [Robinhood Markets Inc.](#), to promote an image of the companies as trustworthy and responsible. “We don’t do any markets that could create bad incentives,” Mansour says. “Both because it’s illegal and because it’s not a good thing for society.”

If the platforms get their way and retain CFTC oversight, that will likely mean favorable regulation for now, at least. In January the commission’s chairman, [Michael Selig](#), [said](#) he planned to write new rules governing prediction markets,

and a week later he formally [withdrew](#) the Biden-era proposal calling for a ban on markets related to sports and politics. The goal is to establish prediction markets firmly enough that a Democratic administration can't undo their work. "We talk about future-proofing the industry to make sure that the next [Gary Gensler](#)"—the SEC chair who targeted the crypto industry under Biden—"doesn't come along and blow it all down," Selig said.

However the legal fights shake out, it's hard to imagine prediction markets disappearing. J. [Christopher Giancarlo](#), a former CFTC chairman and lawyer who has advised Polymarket in the past, compares the phenomenon to ride-share apps: It might face some barriers, but "once society gets used to it, there's no going back." Coplan says he sees them as just one part of a larger ecosystem of knowledge. "I'm not going to go here and say, 'Hey, blindly believe in Polymarket and everything you see on there,'" he says. But "to go and look at Polymarket while also going and reading Bloomberg and looking at X and watching television—it's indispensable at this point."

Coinbase and Robinhood have added prediction markets to their offerings through partnerships with Kalshi, and both are poised to create their own in the future. Toni Gemayel, head of prediction markets at Coinbase, says it wants to focus on "serious use cases," such as creating financial instruments for hedging. [Vlad Tenev](#), CEO of Robinhood, said recently that he imagines prediction markets drawing first-time customers who might then open retirement accounts. Lopes Lara, the Kalshi co-founder, has speculated that prediction markets will become bigger than the stock market, since they're more relatable to the average consumer. "The long-term vision is to financialize everything and create a tradable asset out of any difference in opinion," Mansour said in November.

The question of what that world would look like is probably best left to writers of speculative fiction. But talk to the traders, and pieces of it come into focus. Minton, the Fed mentions trader, says he never used to pay attention to politics. Now it's his life—and not just so he can predict the next word out of Jerome Powell's mouth. He talks politics with his dad at the dinner table. Lately he's been watching videos of [George W. Bush](#) to beef up his knowledge of history. "It gives you a real motive to be educated about something, because without that motive, there would be no reason to learn about anything," Minton says.

There are trade-offs, though, says [Natasha Schüll](#), a cultural anthropologist and associate professor at NYU who studies gambling. Betting on events that take place during a baseball game increases viewer engagement, she says, but it also

shifts the bettor's attention to certain slices of it. "It kind of financializes every micro event in the game," she says. Prediction markets similarly chop the world up into pieces, essentially turning any event into an asset. Instead of watching a Powell speech for its substantive content, traders focus on individual words. Quantifying anything, Schüll says, inevitably reduces our experience of it. And in the process, "we get reduced."

[C. Thi Nguyen](#), a philosophy professor at the University of Utah who studies games, argues that prediction markets reflect a broader societal shift: "They're part of a large-scale transfer of attention to things that are easily and publicly countable," he says. "People are going to bet on who wins an Oscar. They're not going to bet on what the deepest movie of the year is."

It's easy to see how prediction markets could evolve and become more deeply integrated in our lives. Polymarket recently announced it would expand into "attention markets," in which you bet on what's likely to go viral—a sort of hybrid of prediction markets and memecoins. Attention markets could change aesthetic experience itself, Schüll says. Anytime you listen to a new song, you'll be anticipating what others will think of it. "You're sort of listening with two sets of ears," she says. "It splits your experience."

Already, rather than clarifying reality, prediction markets can leave us questioning it. In January, after White House press secretary [Karoline Leavitt](#) cut off a press conference just before the 65-minute mark—a betting threshold—some speculated it was rigged. (Even though, as Kalshi pointed out, the top "No" bet was only \$186.) Much as the mere existence of deepfakes can make you doubt your own eyes, the possibility of market manipulation can make any event seem unreal.

In a world where every difference of opinion is financialized, you could also create original tailored markets with your peers, betting on the words your boss will say during a meeting or whether your friends will get a divorce. It's already happening in some corners: At Manifest, an annual prediction markets conference held in Berkeley, California, attendees once bet on whether an orgy would occur. ([It did.](#))

Hanson says using prediction markets to inform personal decisions could make sense. You could create one if you were deciding whom to marry, for example. In that situation, "What you'd want to do is solicit the opinion of people in your social circle about potential partners, especially anonymous information—with

that sort of thing, they might not be willing to say it to your face," he says. The downside is you might not like what you hear. "You do have to be willing to get unpleasant answers."

This hurdle, Hanson says, is why he worries about the future of prediction markets. "It messes with people's ability to control the narrative." In his view, that's why corporations haven't fully embraced them and why media organizations are harping on problems like insider trading and manipulation.

Legacy media, he points out, is vulnerable to manipulation and insider influence too. "But there's this story that journalists are proper people, respectable people, and that's the sort of people you want in charge of this process of revealing insider information, and maybe inducing events," he says. "Markets, they're not in the control of proper people. And that's dangerous." —With [Emily Nicolle](#)



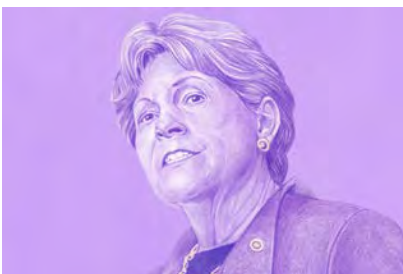
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Snow Delays Goldstein Deliberations Until Tuesday

By **Jared Foretek**

Law360 (February 23, 2026, 6:35 PM EST) -- The jury in SCOTUSblog founder Thomas Goldstein's tax evasion trial won't be back to deliberate until Tuesday, after snow prompted courts in the District of Maryland to close Monday.

Both Maryland district courthouses — in Baltimore and Greenbelt, where Goldstein is standing trial — were closed Monday after the bomb cyclone that blanketed the Northeast scattered snow around the Washington, D.C., region Sunday night.

The jury began its deliberations Thursday, following a **trial** that lasted more than a month and was already delayed for two days because of an earlier snowstorm at the end of January. Juror conflicts kept the deliberations from continuing Friday.

In the course of its deliberations Thursday, the **jury asked the court** for transcripts of Goldstein's testimony from nearly two days on the stand toward the end of the trial and the testimony from an employee at one of the lenders Goldstein allegedly lied to when seeking a home loan. Jurors also asked for exhibits connected to IP addresses used to submit the loan applications and Goldstein's travel records at the time the applications were submitted.

Goldstein admitted to leaving his multi-million dollar debts off the loan applications, but he and his attorneys have argued that the charges were brought in the wrong venue, as he was out of the state when he submitted the applications.

Finally, the jury asked for transcripts of Robbins Geller Rudman & Dowd LLP partner Darren Robbins, who testified that after Goldstein helped the firm with a U.S. Supreme Court brief, he asked for his fee to be paid to two separate bank accounts. According to the prosecution, \$250,000 of that fee was never declared as legal fee revenue on Goldstein's taxes.

Goldstein faces 16 counts of tax evasion, aiding in the filing of false tax returns, failure to pay and lying on loan applications.

The government is represented by Sean Beaty, Emerson Gordon-Marvin and Hayter Whitman of the U.S. Department of Justice's Tax Division, and Kelly O. Hayes and Adeyemi Adenrele of the U.S. Attorney's Office for the District of Maryland.

Goldstein is represented by Stephany Reaves, Adeel Mohammadi, Jonathan I. Kravis and Sarah Weiner 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 Michael Watanabe,

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Zynex Faces Securities Suit Following Arrest Of Former Execs

By **Katryna Perera**

Law360 (February 23, 2026, 9:42 PM EST) -- After being arrested last month on charges of securities fraud and conspiracy, the former CEO and ex-chief compliance officer of bankrupt medical device maker Zynex have been hit with a securities class action that alleges they and others caused the company to engage in fraudulent billing practices that inflated its stock price and led to investor losses once the truth came to light.

Plaintiff Kent Beidel filed a **complaint** Friday in Colorado federal court against Zynex's former CEO Thomas Sandgaard, its former Chief Compliance Officer Anna Lucsok, former Chief Financial Officer Daniel Moorhead and several current board members.

Last month, Sandgaard and Lucsok were arrested after a Rhode Island federal grand jury handed up an indictment against both on multiple counts of healthcare, securities and mail fraud, as well as related conspiracy and identity theft charges.

The alleged scheme involved sending excessive shipments of medical supplies to customers and billing insurance providers for the unneeded materials, according to the U.S. Department of Justice. The practices continued despite multiple warnings that the billing actions were fraudulent, prosecutors said.

Sandgaard also allegedly hired people to harass financial reporters that raised questions about Zynex's practices under his leadership, according to the DOJ. In one instance, the DOJ said he signed a reporter up for therapy sessions to treat fabricated medical issues like erectile dysfunction. In another instance, the DOJ said, he mailed used women's undergarments with forged notes to a reporter's home to convince their spouse the reporter was engaged in an extramarital affair.

Founded in 1996, Zynex develops medical electrotherapy devices, including transcutaneous electrical nerve stimulation, or TENS, units used to treat pain. It sells other devices used to treat pain, including joint braces.

In his Friday complaint, Beidel alleges that from February 2021 to December 2025, the defendants touted "robust revenues and earnings" that were secretly derived from overbilling and over shipping of products to patients who did not want or need the devices, and whom, in many cases, had never ordered the products or been prescribed them by a physician.

The complaint, citing a recent criminal indictment, said that Zynex collected more than \$873 million from unnecessary and improper billings, and that the company allegedly shipped supplies in "excessive volumes, sometimes as large as 32, 64, or 128 electrode pairs per patient each month."

Beidel claims the defendants used fraudulent billings and the revenues derived from them to inflate Zynex's stock price, all the while painting a rosy picture of the company's operations and financial condition to investors.

"For example, at the beginning of the class period alleged herein, defendant Sandgaard on a Feb. 25, 2021 conference call attributed greatly increased revenues to 'good order flow...' He added that the financial results: 'speak volumes to the relationships that our salesforce has with many prescribers and the need for them to prescribe non-opioid, nonaddictive prescription strength solutions for the patients in pain,'" the complaint states.

"Similar statements were made by Zynex and its executives over the next four years ... in truth and in fact, the company's growth was due to illicit and unauthorized overbilling and over shipping," the complaint further states.

The truth finally began to come to light in March 2025, when Zynex reported its fourth-quarter and full-year 2024 financial results, revealing a revenue shortfall attributed to "slower than normal payments from certain payers," according to the complaint.

Zynex also revealed that Tricare, the insurer for the U.S. military, which represented more than 20% of Zynex's annual revenue, had suspended payments to the company due to allegations of overbilling.

On this news, the complaint states that Zynex's stock price fell \$3.59 per share, or 51.3%, to close at \$3.41 per share on March 12, 2025.

A few months later, in July 2025, Beidel says the "full extent" of the defendants' misconduct came to light when Zynex acknowledged that it had not been complying with industry regulations and announced C-suite leadership changes.

Zynex also temporarily suspended revenue and profitability guidance, according to the complaint. On this news, Beidel says Zynex's stock fell by 45% from \$2.23 per share to \$1.26 per share on Aug. 1, 2025.

The suit seeks damages, attorney fees and a jury trial.

Zynex filed for Chapter 11 protection in December with at least \$66 million of debt and plans to sell the company to a group of creditors serving as a stalking horse bidder, subject to higher and better offers.

An announcement on Zynex's website last week states that the company resolved the federal government's investigation "into business practices designed and implemented by the company's former executives," and that it signed a non-prosecution agreement with the U.S. Attorney's Office for the District of Rhode Island.

The announcement states that prosecutors reached the non-prosecution decision "in light of [Zynex's] 'extensive remedial measures,' the 'internal controls [the management team] designed to detect and deter improper billing,' and the company's cooperation with the investigation."

According to the announcement, since last August, Zynex has redesigned its supply replenishment practices and now requires confirmation from patients before supplies are shipped. Additionally, the company has new order intake and fulfillment practices, as well as new controls that "put a stop to billing practices designed to circumvent payor requirements, including unbundling of supplies," the announcement states.

In a statement, Zynex CEO Steven Dyson said: "Our entire team has spent six months singularly focused on rebuilding every part of our organization to focus on what matters most: transparency, integrity, and compliance in everything we do so that our high-quality products are supported by high-quality operations."

Zynex declined to provide further comment on Monday, and counsel for Beidel did not immediately respond to requests for comment.

Many of the current suit's defendants are also facing a **derivative suit** over an alleged conspiracy to sell pumped-up Zynex stock to cash out on shares valued at more than \$6 million. There is also an ongoing similar investor class action that was **filed last year**.

Beidel is represented by Thomas J. McKenna, Gregory M. Egleston and Christopher M. Brain of Gainey McKenna & Egleston, Laurence D. Paskowitz of The Paskowitz Law Firm PC, Beth Keller of the Law Offices of Beth A. Keller PC, and Lesley Portnoy of Portnoy Law Firm.

Counsel information for the defendants was not immediately available.

The case is Beidel v. Sandgaard et al., case number 1:26-cv-00714, in the U.S. District Court for the District of Colorado.

–Additional reporting by Zach Dupont and Vince Sullivan. Editing by Michael Watanabe.

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Corcept Mischaracterized Drug Approval Odds, Investor Says

By **Emilie Ruscoe**

Law360 (February 23, 2026, 8:37 PM EST) -- Pharmaceutical company Corcept Therapeutics Inc. faces a proposed investor class action alleging it overstated approval prospects for a Cushing's syndrome drug candidate, hurting investors when its trading prices halved after it disclosed the U.S. Food and Drug Administration wouldn't accept the approval bid.

According to a complaint filed Friday in San Francisco federal court, Corcept and its representatives "knew or recklessly disregarded" that its new drug application for the company's lead product candidate, known as relacorilant, faced greater headwinds than they acknowledged in certain public statements.

As a result, trading prices for Corcept shares fell in December from over \$70 to under \$35 after the company announced that the FDA had issued a complete response letter indicating it wouldn't approve the drug application in its current form, the suit said.

The Allegheny County Employees' Retirement System alleges in its lawsuit that trading prices for Corcept shares were artificially inflated between October 2024, when Corcept executives discussed plans to submit the application, and the announcement of the FDA letter in December 2025.

In October 2024, the investor said, Corcept CEO Joseph K. Belanoff, who is also named in the suit, said on an earnings call that "we've talked to the FDA plenty about this program, about all of our programs, and I foresee absolutely no impediments to getting our NDA in."

Corcept announced it had submitted the drug application in December 2024, and for the following year, the investor claimed, the Corcept brass continued to play up their expectations for FDA approval.

For example, the investor pointed out, on three consecutive earnings calls in 2025, Sean Maduck, who headed Corcept's endocrinology division, repeated an assertion to investors that over the next three to five years, "relacorilant will generate \$3 billion to \$5 billion in annual revenue [for Cushing's syndrome treatment] alone."

Belanoff and Maduck are named in the suit, as are Corcept's Chief Development Officer William Guyer and Chief Business Officer Gary Charles Robb.

The investor alleged that these statements and others were at odds with details the FDA included in its complete response letter to Corcept, which was made public at the end of January.

The investor pointed out that in its letter, the FDA told Corcept that it had warned the company "on several occasions" that the regulator had concerns about Corcept's clinical development process for relacorilant.

Based on those concerns, the FDA letter states, Corcept knew it should "expect significant review issues if you were to submit your application."

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

The Allegheny County Employees' Retirement System is represented by Jonathan D. Uslaner, Hannah

Ross and Scott R. Foglietta of Bernstein Litowitz Berger & Grossmann LLP.

Counsel information for the defendants wasn't immediately available Monday.

The case is Allegheny County Employees Retirement System v. Corcept Therapeutics Incorporated et al., case number 3:26-cv-01525, in the U.S. District Court for the Northern District of California.

--Editing by Emily Kokoll.

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Bernstein Litowitz To Lead Fortinet Investors' Suit

By **Sydney Price**

Law360 (February 23, 2026, 7:24 PM EST) -- Bernstein Litowitz Berger & Grossmann LLP will lead a consolidated securities suit accusing cybersecurity company Fortinet of overstating an expected revenue boost related to customer software upgrades.

Both of the now-consolidated suits allege identical claims against Fortinet, according to the order signed Friday by U.S. District Judge Araceli Martínez-Olguín. The order also appointed Bernstein Litowitz client Union Asset Management Holding AG as lead plaintiff.

"Union alleges purchasing more than 2.1 million shares of Fortinet common stock and incurring a total loss of over \$75.5 million," the order stated. "No movant contests that Union has the largest financial interest at stake, and thus, the court finds that Union has the largest financial interest at stake."

The Oklahoma Firefighters Pension and Retirement System filed the **first suit** in the litigation against Fortinet in September. The complaint alleged that for several months in 2024 and 2025, Fortinet overstated the effect the so-called "refresh cycle" would have on its financial performance in 2025 and into 2026.

According to the suit, Fortinet sells digital firewalls bundled with software and support services. Purchasers of Fortinet's firewalls are typically urged to upgrade when the products near the end of their 10-year life cycles, which periodically happens for many customers at the same time, the complaint said.

"Defendants knew that the refresh cycle would never be as lucrative as they represented, nor could it, because it consisted of old products that were a 'small percentage' of the company's business," the suit said.

Union is represented by Jonathan D. Uslaner, Gerald H. Silk and Scott R. Foglietta of Bernstein Litowitz Berger & Grossmann LLP.

Fortinet is represented by Dean S. Kristy, Jay L. Pomerantz and Marie Caroline Bafus of Fenwick & West LLP.

The case is In re: Fortinet Inc. Securities Litigation, case number 3:25-cv-08037, in the U.S. District Court for the Northern District of California.

--Editing by Janice Carter Brown.

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AARP's \$12.5M Privacy Deal OK'd, But Attys Get Below Bid

By **Gina Kim**

Law360 (February 23, 2026, 8:23 PM EST) -- A California federal judge on Friday granted final approval to AARP's \$12.5 million settlement with 2.5 million website users in a Video Privacy Protection Act suit over the use of Meta tracking pixels, but slashed \$625,000 off the plaintiffs' attorney fee bid, saying the result was fair but not extraordinary.

U.S. District Judge Yvonne Gonzalez Rogers gave her final approval to a \$12.5 million nonreversionary cash settlement that AARP agreed to pay to a class of 2.5 million individuals who accused the nation's largest nonpartisan nonprofit dedicated to helping people aged 50 and over of violating the VPPA by disclosing specific video materials its subscribers requested or obtained from AARP's website to Meta, through the use of a Meta tracking pixel.

Class counsel had sought \$3.75 million in fees, which constituted 30% of the settlement fund. Judge Gonzalez Rogers awarded them \$3.125 million instead, while noting that the claimed hourly rates and rates charged by class counsel were reasonable and equal to those charged by attorneys with similar experiences in the market, according to Friday's order.

However, the requested 30% fee award exceeds the 25% benchmark set by the Ninth Circuit, the judge said.

"The court rarely, if ever, approves such a high percentage," Judge Gonzalez Rogers wrote. "While counsel achieved a settlement that is fair, free of collusion, and consistent with plaintiffs' fiduciary obligations to the class, the result is not extraordinary. Further, when presented with an opportunity to make their case for the requested fees at the February 10 final approval hearing, counsel did not provide justification for an extraordinary fees award."

Friday's order approving the settlement and partially granting the class counsel's fee request brings the litigation closer to its final end, **almost four years after** the plaintiffs brought their proposed class action alleging AARP disclosed to Meta video materials that its subscribers requested or obtained from its website without getting their consent.

The plaintiffs filed a first amended complaint in September 2023 which AARP moved to dismiss a month later. Judge Gonzalez Rogers denied AARP's second dismissal bid in December of that year, **finding** their amended pleading describes significant video content plays in AARP's operations under the VPPA.

Last November, class counsel sought final approval of the settlement reached with AARP and also filed their request for attorney fees amounting to 30% of the deal, making it the largest Meta Pixel-related VPPA settlement. As part of the settlement, the class members will also receive non-monetary relief, specifically, that AARP will agree to new limits on its use of the Meta tracking pixel.

The final settlement approval notes that there are approximately 2.25 million individuals in the class and each will receive over \$100. While the plaintiffs were confident in their claims, AARP has vigorously contested liability from the get-go and had pursued a "sophisticated attack" on the VPPA claims, the motion said.

The proposed class includes all those in the U.S. who sought or obtained video content from AARP's website while living in the U.S. or maintained a Facebook account and were either an AARP member

or a registered user of its website. The class period runs from Sept. 27, 2020, to the date of preliminary approval.

Class counsel argued that similar cases related to the pixel have been dismissed at the pleading stages, compelled to arbitration, failed at class certification or voluntarily dismissed pre-certification.

"Class Counsel here brought to bear decades of privacy and consumer litigation to investigate and plead this case, build a factual record, negotiate effectively with sophisticated defense counsel, and devise a class-wide settlement tailored to this District's case law and procedural guidance for class actions," their Nov. 26 fee motion said.

The fee motion added: "Achieving a successful outcome in class actions often requires a war of attrition. This case was an exception. The court should reward class counsel for their skill in making efficient use of party and judicial resources to position the case for an advantageous settlement, fully vindicating Congressional intent underlying the VPPA."

The fee motion referenced other reasons as to why the award sought was warranted, including the fact that the application of the VPPA to the sharing of digital data via the pixel was not a foregone conclusion and presented unsettled legal questions.

Furthermore, AARP "vigorously opposed" certification, contending the crux of the claims—such as whether the pixel shared a specific user's video information and Facebook ID to Meta — could not be determined by common evidence, the plaintiffs had said.

On Friday, Judge Gonzalez Rogers signed off on the settlement, finding it to be fair and reasonable, with "overwhelmingly" positive reactions throughout the class — there were no objections and only 159 opt-outs as of the Dec. 31 deadline.

The judge also signed off on the requested service awards for the class representatives, whom she said represented the interests of more than two million people, "with very little personally to gain."

Representatives for the parties did not immediately respond to inquiries seeking comment on Monday.

The class is represented by Adam E. Polk, Simon S. Grille, Reid Gaa and Anthony Rogari of Girard Sharp LLP.

AARP is represented by Matthew Dean Brown, Tiana A. Demas, Travis LeBlanc, Gregory Merchant, Harrison Park, and Stephanie J. Schuyler of Cooley LLP.

The case is Jan Markels et al. v. AARP, case number 4:22-cv-05499, in the U.S. District Court for the Northern District of California.

--Editing by Vaqas Asghar.



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YouTube VP Says 5-6 Hours Daily 'Very Good' For His Kids

By **Craig Clough**

Law360 (February 23, 2026, 10:38 PM EST) -- A YouTube vice president testified Monday in a California bellwether trial over allegations that the platform and Instagram harm children, denying that YouTube was designed to be addictive and saying he'd allowed his children to watch five to six hours a day and that it had been "very good" for them.

Cristos Goodrow has worked for Google LLC or its YouTube platform for 18 years as an engineer and helps build algorithms. He spent several hours on the witness stand fielding questions from Mark Lanier of The Lanier Firm, who represents the sole plaintiff in the case, identified in court as Kaley G.M., who alleges her addiction to YouTube and Instagram harmed her mental health.

Goodrow insisted that YouTube was not designed to be addictive, despite Lanier's challenging him with a number of internal documents in which the company used that very language when discussing its features or acknowledged external studies concluding the platform was addictive.

The platform was designed only to provide quality entertainment, Goodrow said, telling the jury his own children routinely watched five to six hours per day of YouTube videos when they were younger.

"It's been very good for my kids," he said.

Goodrow went on to say that he would sometimes watch 10 hours of television a day as a child.

"I guess that's just our house," he said. "The TV was always on, and I think YouTube is better than TV."

Lanier asked him if he would be "proud" for his kids and other children to watch five to six hours of YouTube per day.

"I mean, my kids have, like I said, benefited a lot from YouTube, and there's a lot to do on YouTube," Goodrow said.

Goodrow is the first high-ranking YouTube executive to testify in the **landmark trial**, after Instagram CEO **Adam Mosseri** and Meta Platforms Inc. CEO **Mark Zuckerberg** previously took the stand. Like Goodrow, both of them denied thinking a user could become addicted to social media or their platforms despite being confronted with some internal documents Lanier suggested prove the company was aware it is possible.

The bellwether is the first of at least nine trials that are planned out of thousands of cases consolidated in Los Angeles County Superior Court Judge Carolyn B. Kuhl's courtroom, with the hope that parties may reach a settlement in the rest of the cases based on the outcome of the bellwethers.

The social media companies behind TikTok, Snapchat, Google-owned YouTube and Meta-owned Instagram are accused of purposely inducing young people to compulsively use the platforms through addictive features, such as infinite scroll, autoplay, notifications and reward systems. While the trial is focused on a single plaintiff's claims, the outcome of the consolidated cases poses billions of dollars in risk for the companies.

TikTok and Snap recently settled with Kaley G.M., although the settlement did not resolve other

consolidated personal injury cases in the Judicial Council Coordination Proceedings pending before Judge Kuhl.

Pretrial rulings by Judge Kuhl reduced the litigation to claims that the platforms' features are addictive, not the third-party media posted to the platforms. The companies are facing failure-to-warn claims, alongside negligence and concealment allegations.

Plaintiff Kaley G.M. is now 20 years old but alleges a social media addiction in her youth caused her to suffer mental health problems.

Goodrow repeatedly said under questioning by Lanier that YouTube was not designed to be addictive, and that the company did not focus on increasing the amount of time users spent on the platform, despite over a half-dozen internal reports or literature reviews that appeared to say it did.

The timeframe of the documents span from around 2011 to 2022, or from when Kaley G.M. says she started using YouTube until she became an adult.

One internal document written by a company product manager stated that a guide being designed for YouTube had a "key mission" to "make YouTube feel less like a utility and more like an addictive experience" a person can return to "daily."

"I don't know why this person would write that," Goodrow said. A short time later, he insisted, "That was definitely not the mission of this guide."

"Well, I took it word-for-word out of the YouTube document," Lanier said.

Goodrow responded that he was "not sure why they would have said 'addictive.'"

A literature review commissioned by YouTube in 2018 examined the idea of the platform being addictive, with the report summarizing outside findings that stated repetitive watching of digital videos can lead to addiction, sleep deprivation, cognitive impairment, social isolation and other problems for a viewer. When Lanier asked him about the literature review, Goodrow said it was just a report on what others were saying about YouTube, but he didn't agree with it.

Another company report found that YouTube's "stickiness" is caused by the "interactive nature of our platform" which includes users receiving notifications when someone the user follows makes a post.

"I think that is not true of YouTube," Goodrow said.

Another internal document from YouTube discussing an app enabling creators to post content on the site said the "goal is not viewership, it's viewer addiction," but Goodrow said the only goal of YouTube was to provide quality entertainment.

Lanier responded that the document says the goal is addiction, but "doesn't say, 'Our goal is to give someone something good to watch.'"

When asked about a literature review that found excessive video watching was related to addiction because it provided a "quick fix" of dopamine, Goodrow insisted that YouTube was "not designed" to encourage addiction.

Lanier asked him about a presentation given to future YouTube CEO Neal Mohan when he was a lower-ranking executive. The presentation was from a development team and stated that the "goal" of the company is to maximize watch time.

Goodrow agreed that the document said that was the goal, but insisted "the goal is to make a good app."

"Where does it say that?" Lanier asked, and then asked where it says that in any of the documents they had reviewed during his testimony.

Goodrow conceded the documents did not say it, but he said he had written to company employees

in the past about the real goal, which is to create a good experience for users.

Lanier said he believed he knew what he was referring to — an email Goodrow wrote to employees "about six months after y'all got sued" — but that he wasn't writing about it when the company's stated goal in the presentation to Mohan was to maximize user time on YouTube.

"I didn't feel the need to write about it [then] because people just naturally understood that," Goodrow said.

Luis Li of Wilson Sonsini Goodrich & Rosati PC, who represents YouTube, cross-examined Goodrow near the end of the day, when he again said the platform is not designed to be addictive. He touted various tools the company started implementing around 2018 to increase user satisfaction, including the ability to turn off notifications at night, reminders for users to "take a break" if they've been on a long time and "quiet time" when they won't receive notifications.

Goodrow was still being cross-examined when the proceedings ended for the day. The trial is scheduled to resume Tuesday morning.

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

Meta is represented by Phyllis A. Jones, Paul W. Schmidt, Andrew Stanner and Michael X. Imbroscio of Covington & Burling LLP.

YouTube is represented by Luis Li, Ariel C. Green Anaba and Lauren Gallo White of Wilson Sonsini Goodrich & Rosati PC.

The case is Social Media Cases, case number JCCP5255 and lead case number 22STCV21355, in the Superior Court of the State of California, County of Los Angeles.

--Editing by Linda Voorhis.



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Apple Snuffs Out Suit Over 'Carbon Neutral' Claims, For Now

By **Dorothy Atkins**

Law360 (February 23, 2026, 7:18 PM EST) -- A California federal judge has tossed with leave to amend a proposed class action accusing Apple of falsely advertising that certain Apple Watches are "carbon neutral," finding the consumers fail to back their "unsubstantiated assumptions" about carbon neutrality with reliable third-party analyses.

In a 16-page order Friday, U.S. District Judge Noël Wise found that Apple Inc.'s dismissal bid made a "plethora of persuasive arguments," and ultimately, the consumers have failed to plausibly allege that Apple's claims of carbon neutrality are false or misleading.

"Every layer of plaintiffs' allegations about Apple's sales of Apple Watches are based on unsubstantiated assumptions," the order said.

Judge Wise also found that the lawsuit's carbon-credit debunking analysis was apparently only conducted by law firms, and the complaint fails to show why the court should infer that the analysis, which has not been tested or audited by third parties or open to public comment, is accurate.

"The court finds that plaintiffs have failed to plausibly allege sufficient facts to survive a motion to dismiss," the order said. "And unless plaintiffs can amend their complaint to provide the requisite reasonable basis, the claims fail as a matter of law."

The ruling is the latest chapter in a **lawsuit** filed in February 2025 and amended in May by nine Apple Watch purchasers — Othmane Dib, Jesus Guerrero, Luca Dela Cruz, Jeanette Porillo, Peter Ghanem, Rita Crane, Nathaniel Sansom, Frank Nuñez and Rany Warda.

The consumers accuse Apple of so-called greenwashing — the practice of making false or misleading claims about the environmental benefits of a product to boost sales. In doing so, the consumers alleged that the tech giant marketed various smartwatch products as carbon-neutral despite Apple not actually providing genuine, additional carbon reductions. The consumers also took issue with Apple's claims that it has been carbon-neutral for corporate emissions since 2020.

In particular, Apple touted its Apple Watch Series 9, Apple Watch SE and Apple Watch Ultra 2 as its first-ever carbon-neutral products, telling consumers that the company would reduce roughly 75% of the products' emissions through several initiatives and then offset the remaining percentage through "high-quality carbon credits from nature-based products," according to the complaint.

Apple also claimed that it had retired more than 1 million metric tons of carbon dioxide equivalents via four projects under the nonprofit Verra's Verified Carbon Standard Program. Those projects include the Chyulu Hills Project in Kenya, the Guinan Project in China, and the Apepu and Arbaro projects, both in Paraguay, the suit said.

However, the consumers alleged that in reality, Apple's efforts failed to deliver genuine environmental benefits because the environmental projects cited by Apple either would have happened regardless of the company's investment, the projects do not actually reduce emissions as claimed, or the environmental benefits are duplicative and were counted multiple times.

For example, the suit noted that the Chyulu Hills Project purports to prevent deforestation, but it takes place on land that has been legally protected from deforestation since 1983. Meanwhile, the

Guinan Project purports to plant trees on land that was already heavily forested, according to the suit.

But in July, Apple asked the court to throw out the case, arguing that it has taken every reasonable step to act as a good corporate environmental actor regarding voluntary carbon offsets, adding that if the consumers' claims were allowed to proceed, it would have a chilling effect on corporate willingness to pursue carbon neutrality.

Apple had also argued that the carbon credits came from projects certified by Verra, and even if Verra imperfectly calculated those offsets, the nonprofit maintained a purported "buffer pool" of overflow carbon credits that provided added environmental protections. In addition, Apple argued that its marketing material is in line with the U.S. Federal Trade Commission's guidelines for the use of environmental marketing claims, and therefore, none of the consumers' claims are viable.

In her ruling Friday, the judge observed that many of Apple's arguments are better suited for the summary judgment stage of litigation. She also acknowledged that there are only a few greenwashing cases to guide the court in her analysis.

However, she said those cases instruct that to survive a motion to dismiss, it is not enough for a plaintiff to claim that the entire carbon offset industry is fraudulent. It's also not enough for a plaintiff to attack a defendant's reliance on a carbon offset methodology if that plaintiff has not alleged that a reasonable consumer would expect a different method of calculation, especially in scenarios in which a defendant has disclosed its methodology in detail, the order said.

In addition, the existing case law suggests that a plaintiff's best shot at clearly surviving a motion to dismiss is to have a third party or scientist testify that the defendant's claims of carbon neutrality are false or misleading, the order said.

However, in this case, Judge Wise said, the consumers offer "nothing other than conclusory allegations that Apple incorrectly calculated the number of carbon credits it should have retired to offset the carbon-neutral Apple Watches it sold in 2024."

The judge also noted that the consumers don't cite any third-party scientist, expert, scientific organization, environmental organization or government agency to support their carbon-credit debunking analysis, and the implication is that the consumers are the sole source for it.

Furthermore, although the consumers' counsel explained during a hearing that the analysis was the work of multiple law firms using publicly available technology over several months, the judge found that the consumers provide "no objective information to explain why their work was reasonable or accurate, let alone more reasonable, or more accurate than the body of science that serves as the foundation for the standards set forth by Verra and in turn used by Apple."

"Plaintiffs failed to allege that the methodology underlying their work is accepted in any scientific circles, or that anyone else — scientist or otherwise — has endorsed the accuracy of their work," the order said.

In light of her findings, the judge said the claims are implausible, and gave the consumers 21 days to file an amended complaint.

Counsel for the consumers, Fletch Trammell of Trammell PC, said in a statement Monday that he and his clients are disappointed in the court's ruling, and "given the court's basis for its order," they are currently evaluating whether to amend the complaint or appeal directly.

Representatives and counsel for Apple didn't immediately respond to requests for comment Monday.

The consumers are represented by Amber L. Schubert of Schubert Jonckheer & Kolbe LLP, Fletch Trammell of Trammell PC and Don Bivens and Teresita T. Mercado of Don Bivens PLLC.

Apple is represented by David R. Singh and Morgan MacBride of Weil Gotshal & Manges LLP.

The case is Othame Dib et al. v. Apple Inc., case number 5:25-cv-02043, in the U.S. District Court for

the Northern District of California.

--Additional reporting by Hailey Konnath. Editing by Drashti Mehta.

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BREAKING: Supreme Court Sends Baby Food Case Back To Texas

By **Emily Field**

Law360 (February 24, 2026, 10:50 AM EST) -- The U.S. Supreme Court on Tuesday found that a suit against Hain Celestial Group and Whole Foods over allegedly tainted baby food was not properly removed to federal court, leaving in place a 2024 ruling by the Fifth Circuit.



The justices ruled that a couple's suit against Hain and Whole Foods over allegedly tainted baby food was improperly yanked from state court. (Photo by Pavlo Gonchar/SOPA Images/Sipa USA)(Sipa via AP Images)

The high court said in a unanimous opinion that a final decision cannot stand when an appellate court finds that a nondiverse party — in this case, Whole Foods — was wrongly dismissed from a case that had been removed from Texas state court.

Hain had argued that the Fifth Circuit's ruling sending Sarah and Grant Palmquist's suit — which alleges their son's autism was caused by tainted baby food — back to state court should be overturned, since the parties are diverse. Whole Foods is based in the Lone Star State, but Hain is not.

Whole Foods hadn't been dismissed correctly from the case and was only temporarily removed from the case, the high court said, meaning that the error lingered and the district court's judgment must be vacated.

Generally speaking, a plaintiff has the right to choose whether to file in state or federal court, and

dismissing a nondiverse party such as Whole Foods is consistent with that right, the Supreme Court said. Hain had argued that the Federal Rule of Civil Procedure 21 allows a federal court to add or dismiss a party on "just terms," but using Rule 21 in this way would force the plaintiffs here — the Palmquists — to try their suit in federal court against their wishes and against their right to choose the forum for their case, the high court said.

"The Palmquists exercised their right to choose a state forum by purposefully and properly joining a nondiverse defendant against whom they could not proceed in federal court, and diligently asserted that right by promptly moving to remand the case to state court," the high court said. "Rule 21 does not permit a court or a defendant to override their choice in these circumstances."

During **oral arguments in November**, the high court had seemed inclined to side with the Palmquists. Justice Sonia Sotomayor asked Hain's counsel, Covington & Burling LLP partner Sarah Harrington, if there was an inherent prejudice in depriving the Palmquists of the "tactical opportunity" to try their case in state court.

"Being able to sue in state court isn't a tactical advantage," Harrington replied.

"Oh, absolutely. I mean, we wouldn't have all the removal arguments that we encounter if it wasn't," Justice Sotomayor said. "Parties don't fight removal simply because they want to. They see tactical advantages in remaining in one forum versus another."

The issue is not whether state courts are better for plaintiffs; it's that the plaintiffs here filed in the forum they wanted, against a nondiverse party, and that they were entitled to stay in state court, Justice Sotomayor said.

For the Palmquists, Beck Redden LLP partner Russell Post argued that if Whole Foods hadn't been removed from the case, the plaintiffs would have had the chance to develop evidence about its alleged misrepresentations of the baby food's quality — which could have resulted in a different outcome.

"It was tried solely based on the quality of the product, but that was an artifact of the erroneous ruling, an erroneous 'Erie guess' made by the district court about the content of state law that should have been a determination made by the state courts," Post said.

Justice Sotomayor pointed out that the plaintiffs lost on whether the heavy metals were the cause of their son's autism.

"That question was never decided by the Fifth Circuit," Post said. "It would remain to be decided."

In its 2024 decision, the Fifth Circuit **said that the lower court made an initial error** in determining that the Palmquists had failed to make a claim against Whole Foods under the Texas Products Liability Act.

The couple claimed that Hain's Earth's Best Organic products, which the Palmquists purchased from Whole Foods, was tainted with arsenic, lead, cadmium and mercury, pointing to congressional research released in 2021. This food, which their son Ethan ate almost exclusively, caused him a number of physical and mental-health issues, they claimed, according to filings.

Hain successfully got the case removed to federal court, arguing that the family had improperly named Whole Foods as a defendant in an effort to keep the case in state court.

However, that lower court's ruling was an error, the Fifth Circuit said. The Palmquists had succeeded in clarifying their breach of contract claims against Whole Foods, which should have sufficed to send the case back, the panel said.

Sarah E. Harrington of Covington & Burling LLP argued for Hain.

Russell S. Post of Beck Redden LLP argued for the Palmquists.

The case is *The Hain Celestial Group Inc. et al. v. Palmquist et al.*, case number 24-724, in the Supreme Court of the United States.

--Editing by Michael Watanabe and Daniel King.



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Monsanto Tells High Court US Law Trumps State Label Rules

By **Jonathan Capriel**

Law360 (February 23, 2026, 9:59 PM EST) -- Monsanto urged the U.S. Supreme Court on Monday to reverse a \$1.25 million state jury verdict finding that its Roundup weedkiller caused a man's cancer, arguing that federal environmental regulators, and not "lay juries," must be the ones who determine what is on herbicide labels.

A "balance" must be struck between warning consumers about the dangers of using herbicides and the usefulness they bring to farmers who feed millions, Monsanto said in a 78-page brief filed to the high court on Monday. Under federal law, the U.S. Environmental Protection Agency is the one designated by Congress to set the equilibrium, the brief argued.

But that authority is undercut if state juries are allowed to find against Monsanto for failing to place cancer warning labels on their products, even though the EPA said it was not necessary, the company said.

"Once EPA makes that judgment, the label is the law. It cannot be second-guessed by lay juries applying the law of 50 states without violating Congress' directive, threatening today's food supply and impeding tomorrow's innovation," Monsanto said. "Indeed, that 'crazy quilt' of conflicting state regulations is exactly what Congress enacted [the Federal Insecticide, Fungicide and Rodenticide Act] to stamp out."

The company argued that the insecticide law creates a comprehensive system in which the EPA must approve all pesticide labels before a product can be sold, and the law prohibits states from imposing any labeling or packaging alteration.

For this reason, Monsanto said, the justices should overturn the \$1.25 million verdict won by John Durnell, who claims that his non-Hodgkin lymphoma was caused by years of using Roundup and that Monsanto, a division of multinational company Bayer AG, violated Missouri law by failing to warn consumers that Roundup is carcinogenic.

Durnell filed suit against Monsanto in January 2019. His lawsuit was one of a flood of cases filed after the World Health Organization in 2015 said glyphosate, the primary ingredient in Roundup, was "probably carcinogenic to humans."

Last week, Monsanto agreed to pay up to **\$7.25 billion** over as many as 21 years to resolve current and future claims that exposure to the weed killer Roundup caused non-Hodgkin lymphoma, under a proposed nationwide class settlement filed in Missouri state court in St. Louis.

Following a 2023 trial, a Missouri jury rejected most of Durnell's claims but found Monsanto liable for failing to warn consumers of Roundup's alleged cancer risk, awarding the man \$1.25 million. A Missouri appellate court shot down Monsanto's request to overturn the verdict, holding that Durnell's failure-to-warn claim is not expressly preempted by federal law.

Monsanto filed a petition for writ of certiorari in April 2025 with the high court, arguing that Durnell's failure-to-warn claim is preempted by the insecticide law. In **December**, U.S. Solicitor General D. John Sauer urged the court to take up the case.

The company emphasizes that it provides a key service to U.S. food producers. It suggests that the

dangers of pesticides are somewhat obvious, but that the EPA has an important job in the sense that it should avoid "overwarning," the brief said.

With this in mind, the company said, it is impossible to follow both what the EPA requires and what the states would demand. It also argued that it is somewhat easy for uninitiated jurors to feel sympathy for a sick man, while regulators can be more objective.

"Lay juries are ill-equipped to understand the limitations in the official-sounding [World Health Organization] hazard determination, such as the absence of peer review and the failure to consider countless studies included in EPA's far more comprehensive review," the company said. "Moreover, a lay jury sees only an injured plaintiff suffering an awful disease, albeit one that befalls countless Americans with no exposure to glyphosate. That jury does not see the countless farmers who benefit from using Roundup and desperately want it to remain available."

Monsanto is represented by Paul D. Clement, Matthew D. Rowen, James Y. Xi and Niccolo A. Beltramo of Clement & Murphy PLLC, by David M. Zionts and Michael X. Imbroscio of Covington & Burling LLP, and by K. Lee Marshall of Bryan Cave Leighton Paisner LLP.

Durnell is represented by W. Wylie Blair, James G. Onder, Gregory J. Pals and Mark E. Berns of OnderLaw, by David C. Frederick and Derek C. Reinbold of Kellogg Hansen Todd Figel & Frederick PLLC, and by T. Roe Frazer II, Thomas Roe Frazer III and James Grant LaBar of Frazer PLC.

The federal government is represented by Malcolm L. Stewart, Robert N. Stander and Ashley Robertson of the Solicitor General's Office, and by Matthew Oakes and Cynthia Taub of the U.S. Department of Justice's Environment and Natural Resources Division.

The case is Monsanto Co. v. John L. Durnell, case number 24-1068, in the U.S. Supreme Court.

–Additional reporting by Emily Field and Carla Baranauckas. Editing by Karin Roberts.



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Capital One Fights Consumers' Sanction Bid In Privacy Suit

By **Bonnie Eslinger**

Law360 (February 23, 2026, 8:56 PM EST) -- Capital One urged a California federal judge Monday to reject customers' sanctions bid for allegedly failing to provide sufficient discovery in privacy litigation, saying the bank provided requested discovery and the information consumers now seek relates to a different factual and legal theory that they "pivoted" to after discovery closed.

During a virtual hearing, a lawyer for Capital One Financial Corp., Andrew Soukup of Covington & Burling LLP, told U.S. Magistrate Judge Sallie Kim that the group of consumers who sued focused their claims from the start on browser-based tracking technologies.

"The way they function, technically, is that when a user browses across the internet, that technology, say Meta's Pixel, for instance, will collect certain information over the course of time," Soukup said, adding, "That transmission, that collection of information, occurs instantaneously as a user is browsing across the internet."

Capital One provided discovery to the customers about its browser-based technologies, and "It was only later, when their original theory didn't pan out, that the case turned and pivoted to a focus on kind of server-based technologies," Soukup said.

A lawyer for the customers, Gerard Stranch of Stranch Jennings & Garvey PLLC, said the case centers on server-to-server technology, not just web-based interactions.

Stranch said the data at issue — related to credit card applications — is entered through a web browser, then sent through a server-to-server connection to third parties.

"If you look at our complaint, we specifically raise the specter that there could be server-to-server technologies that we're challenging as well," he said.

Judge Kim noted that the complaint specifically names third-party companies with server-to-server tracking to which the customers say Capital One disclosed their data.

"Why is it that, when they're specifically mentioned, that you thought that server-to-server technologies were excluded from this litigation?" the judge asked Soukup.

Soukup said server-to-server technologies weren't mentioned in the proposed class definition, only Capital One's website tracking technologies.

"It doesn't refer to these kinds of specific types of technologies," he said.

In its January motion for sanctions, the consumers said that after fact discovery closed, Capital One produced more documents and supplemental responses, disclosing "for the first time in this litigation" that it uses server-to-server technologies from Google Ad Hub and marketing platform Skai "to transmit plaintiffs' and the putative class's data." The information is highly relevant evidence to the case, the plaintiffs said.

During Monday's hearing, Stranch said the consumers need internal information from Capital One about the use of the server-to-server technology, including internal company communications.

"What is being shared, why it's being shared, the business segments that are impacted, who are the people that approved it," Stranch said. "What are the risks by these data shares?"

Judge Kim did not rule from the bench Monday, saying she'd issue a written decision later.

The consumers are asking the court for sanctions that would block Capital One from introducing at trial counter-evidence or argument on the Skai FTP and Google UPDM technologies, including the information those technologies collect and share. They also want the court to instruct the jury that the company "wrongfully" withheld the information on that tech from the consumers and the court, and award attorney fees racked up to bring the sanctions motion.

The consumers allege in their **August 2024 complaint** that Capital One's "outrageous, illegal and widespread practice" of knowingly and surreptitiously installing third-party tracking tools on its website that allow other businesses to collect personal and financial information from its banking customers.

The third-party tracking tools like Facebook-owner Meta Platforms Inc.'s Meta Pixel tool collect "vast" amounts of sensitive consumer data, including Capital One customers' account information, employment information, browsing habits, credit card application information, credit-card approval data and other highly sensitive information, the complaint argues.

The collected data is then shared with third parties in real time, solely for marketing and sales purposes, while Capital One receives revenues from targeted ads directing consumers to its website, the suit says. It says the bank doesn't disclose its practices or ask consumers for consent, as is required by multiple federal and state laws.

The lawsuit says the plaintiffs, immediately after applying for a Capital One card or using the website, began seeing a "bombardment" of ads on Facebook and other websites for loans and credit cards.

They seek to certify a nationwide class and a California subclass of consumers whose personal and financial information was disclosed by Capital One to third parties through its website's tracking technology without authorization.

Capital One urged the court in October 2024 to **toss the litigation**, saying it "fully disclosed" to customers the bank's use of routine marketing and analytics software.

In February, U.S. District Judge Trina L Thompson dismissed with prejudice the claims of negligence per se, bailment and allegations under the Stored Communications Act.

The judge, however, kept alive claims for violation of the federal Electronic Communications Privacy Act, the California Invasion of Privacy Act and the California Consumer Privacy Act, allegations of negligence and unjust enrichment, and for declaratory judgment.

The customers are represented by Natalie Lyons, Vess A. Miller, Lynn A. Toops, Lisa M. La Fornara and Emily D. Herrin of CohenMalad LLP, J. Gerard Stranch IV, Kyle M. Mallinak, Lesley E. Weaver and Anne K. Davis of Stranch Jennings & Garvey PLLC and Samuel J. Strauss, Brittany N. Resch and Andrew Gerald Gunem of Strauss Borrelli PLLC.

Capital One is represented by Andrew Soukup, Nicholas Evoy, Kathryn E. Cahoy, Marianne Spencer, Matthew Q. Verdin and Jeffrey Huberman of Covington & Burling LLP.

The case is Vishal Shah et al. v. Capital One Financial Corp. et al., case number 3:24-cv-05985, in the U.S. District Court for the Northern District of California.

--Additional reporting by Dorothy Atkins and Katryna Perera. Editing by Michael Watanabe.



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User Fights To Keep Nvidia 'Decline All' Tracking Suit Alive

By **Joyce Hanson**

Law360 (February 23, 2026, 9:31 PM EST) -- Artificial intelligence chipmaker Nvidia cannot escape a proposed privacy class action alleging that it secretly installed third-party tracking cookies even after users clicked "decline all" on its website banner, a user has told a California federal judge.

User Stacy Penning, who is the lead plaintiff in the lawsuit against Nvidia Corp. in the U.S. District Court for the Northern District of California, urged the court to deny the company's motion to dismiss the suit, arguing that it wrongly claims that Penning does not sufficiently plead an "injury in fact" and fails to establish standing to sue.

"To have standing under Article III, plaintiff must allege a 'concrete' injury, which is one that is 'real' as opposed to 'abstract,' or hypothetical," Penning said, citing a 2016 U.S. Supreme Court decision in **Spokeo Inc. v. Robins** .

Penning said he convincingly alleges that he suffered actual harm when Nvidia let its website place third-party advertising cookies on his devices, which allowed the third parties to collect his private communications, even though Nvidia had expressly assured him that he could decline such tracking.

"Defendant completely misses what separates this case from the cases it cites: its own representation that users could browse the website without being tracked — i.e., they could 'decline all' cookies," Penning said. "That fact is outcome-determinative since courts have found users have a reasonable expectation of privacy if a company states it will not collect [their] information in certain spaces or while searching in a protected mode."

Nvidia's Jan. 16 motion to dismiss asserts that Penning's complaint doesn't sufficiently plead an "injury in fact" or establish Article III standing.

Rather, Nvidia argues, Penning merely claims that he viewed a persistent consent banner on the website when searching for company news, then clicked "manage cookies," and then "decline all." Based on those actions, the company said, Penning incorrectly believes that his private communications were intercepted and disclosed to third-party cookie providers.

"Plaintiff's counsel has pursued similar claims in this district against dozens of other retailers and companies," Nvidia said. "Counsel for defendant has identified over a dozen cases in this district pursued by plaintiff's counsel since December 2024. The underlying factual allegations are substantially similar and not tailored to any particular defendant. Each complaint asserts claims relating to invasion of privacy, violations of the California Invasion of Privacy Act and fraud. ... Plaintiff's counsel's strategy is thus a numbers game."

Penning's **proposed class action, filed Oct. 24**, claims that while Nvidia's website offers visitors a choice to decline the use of certain cookies so that they can browse without being tracked and targeted by data brokers and advertisers, Nvidia allows the cookies to secretly slip onto users' browsers, be stored on their devices and then transmitted to third parties along with users' data.

Nvidia's "promises are outright lies, designed to lull users into a false sense of security," the suit says.

Penning seeks to represent anyone who browsed Nvidia.com after clicking or selecting a "decline all"

button in a cookie settings window or after toggling off "performance" and "advertising" cookies in the settings window.

Penning accuses Nvidia of invasion of privacy, intrusion upon seclusion, wiretapping in violation of the California Invasion of Privacy Act and common law fraud, deceit or misrepresentation, among other allegations.

According to the complaint, the graphics processing unit and artificial intelligence giant chose to install or integrate its website with resources from third parties such as Meta, Google, X Corp., LinkedIn and Salesforce Inc.

Users who visit Nvidia.com are immediately presented with a pop-up cookie consent banner informing visitors that they can "manage cookies," the suit says.

When a user clicks the "manage cookies" button, they are directed to Nvidia's "cookie settings" window, which then identifies categories of cookies the company uses on its website, including performance and advertising cookies.

Users can either decline specific categories of cookies or click a "decline all" button that toggles off the performance and advertising cookies, Penning said.

He also alleged that Nvidia's pop-up banner and cookie settings window led him and other visitors to believe that they had declined all optional cookies and tracking technologies.

Penning is represented by Seth A. Safier, Marie A. McCrary, Todd Kennedy and Rajiv V. Thairani of Gutride Safier LLP.

Nvidia is represented by Ali Abugheida of Orrick Herrington & Sutcliffe LLP.

The case is Stacy Penning v. Nvidia Corp., case number 5:25-cv-09160, in the U.S. District Court for the Northern District of California.

--Additional reporting by Rae Ann Varona. Editing by Karin Roberts.



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Meta Can't Use Calif. Law To Ax Ill. Biometric Privacy Dispute

By **Allison Grande**

Law360 (February 23, 2026, 10:42 PM EST) -- The protections offered by California's data privacy law are an inferior substitute for those under Illinois' biometric privacy law, an Illinois federal judge found, refusing to allow Meta to escape a proposed class action accusing it of improperly storing Messenger and Messenger Kids users' facial geometries.

In a ruling issued Friday, U.S. District Judge Nancy J. Rosenstengel rejected Meta Platforms Inc.'s contention that summary judgment be entered in its favor because California law governed the plaintiffs' use of its Messenger applications. The judge concluded that applying the Golden State's law to the biometric privacy dispute "would violate a fundamental public policy of Illinois and [that] Illinois has a materially greater interest in this litigation than California."

Meta based its choice of law challenge on the terms of service that plaintiffs Rebecca Hartman and Joseph Turner agreed to when signing up for Messenger accounts both for themselves and for two of Hartman's children. These terms, which the plaintiffs were unable to negotiate or modify, included a provision directing that California law would govern any "claims" between Messenger users and Facebook owner Meta.

In urging the court to decline to enforce the parties' choice of California law, the plaintiffs argued that doing so would subvert the public policy interests of Illinois in enacting the state's Biometric Information Privacy Act in 2018. While Washington and Texas also have similar laws on the books regulating the collection, retention, use and destruction of individuals' biometric identifiers or information, the Illinois statute is the only one that contains a private right of action that allows individuals to sue companies over the alleged misuse of their biometric data.

Meta countered that honoring the parties' choice of law agreement would not violate a fundamental public policy of Illinois because California strives to protect biometric privacy rights. This is evidenced, Meta said, by its enactment in 2018 of the California Consumer Privacy Act, which grants California residents significant control over a wide array of their personal information.

But while Meta sought to frame the California privacy law as being a "legislative analog" to BIPA, Judge Rosenstengel sided with the plaintiffs' contention that the California Legislature limited the CCPA in "critical ways" that ultimately "have consequences for the analysis of whether the choice of law provision at issue here is consistent with Illinois's fundamental public policy."

These key divergences include that the CCPA only applies to California residents, leaving Illinois citizens' biometric data "without statutory protection under California law," the judge said. Additionally, the California privacy law is primarily enforced by the state authorities, with only a limited lawsuit mechanism available to consumers who have certain data breach-related claims, which is nowhere near as broad as BIPA's sweeping private right of action, according Judge Rosenstengel.

"The Illinois legislature made certain policy judgments in crafting BIPA to protect the right of Illinois citizens to biometric privacy," the judge held. "It stands to reason, then, that when the exact people who BIPA sought to protect allege that this right was violated, 'the relevant policy interest of Illinois would be to apply Illinois law to the claims of Illinois consumers.' And when the application of a foreign state's law results in the negation of a statutory privacy right belonging to Illinois citizens, the violation of Illinois's fundamental public policy appears complete."

Judge Rosenstengel also found that the plaintiffs had sufficiently shown that Illinois has a "materially greater interest" in the dispute. This, the judge said, was despite Meta's assertion that California's interest in the case is "at least in equipoise with that of Illinois" because the "burgeoning tech sector" in California, where Meta is also headquartered, relies on the state's laws to "provide certainty and predictability."

While the judge noted that she agreed with Meta that "California has an interest in having its laws applied to companies that call California home," she disagreed with Meta's assessment of "the weightiness of that interest."

"When corporate domicile is balanced against another state's interest in protecting the rights of its citizens, the state whose protective legislation is on the line often has a materially greater interest in the outcome of the case," Judge Rosenstengel held. "Thus, California's interest in the litigation based on Meta's domicile does not carry the weight that Meta attributes to it."

Meta also contended that California's interest in the case was supported by the "gravamen" of relevant conduct occurring in California, where the company maintains its activities, while the plaintiffs are alleged to have used Facebook Messenger products not only in their home state of Illinois but also in other states when they were traveling.

But Judge Rosenstengel concluded that the plaintiffs' "episodic use of Meta's products in other states" neither undermined Illinois' interest in the case nor enhanced California's position.

"While Meta cites certain instances in which plaintiffs used their Facebook accounts while traveling outside of Illinois (including in Nevada, Arizona, Ohio, and Florida), there is no indication that they did not use Meta's products primarily and substantially in Illinois, their home state," the judge found. "This is a critical piece of the evidentiary puzzle because 'it is reasonable to infer that the [Illinois] General Assembly contemplated BIPA's application to individuals who are located in Illinois, even if some relevant activities occur outside the state.' This commonsense inference also suggests that plaintiffs' periodic use of Meta's products in other states does not undermine Illinois's materially greater interest in the case."

This greater interest was "apparent," the judge concluded, when considering that the application of California law would result in "the evisceration" of Illinois' biometric privacy protections for its citizens, while "California law and policy will suffer little, if anything at all, if BIPA is applied."

Friday's decision that Illinois law would govern the case preserves the proposed class action filed in 2023 under BIPA. The suit specifically challenges Meta's alleged collection and retention of Facebook Messenger and Messenger Kids users' facial geometries to apply bunny-ear and other filters.

Judge Rosenstengel **refused to release** Meta from the suit in September 2024, rejecting the social media giant's contention that the federal Children's Online Privacy Protection Act preempted the plaintiffs' claims under the biometric privacy law. Meta had also pressed the court to ax the dispute based on the parties' choice of law agreement, but the judge deferred ruling on that issue pending discovery and further briefing, resulting in Friday's order.

The latest decision also addressed Meta's bid for leave to file a second amended answer to the plaintiffs' complaint to raise the affirmative defense that it is exempt from BIPA's reach under an exclusion for state and local government contractors and subcontractors.

While the deadline set by the court for moving to amend pleadings was Feb. 3, 2025, Meta contended that it didn't become aware of the potential availability of this defense until months before it asked to revise its pleadings in September. The company said it wanted to undertake a thorough review of case law and its internal records to ensure it had "a good-faith basis for asserting the defense" before presenting it to the court.

"The fact that Meta took 'months' to evaluate the legal and factual bases for a defense under section 14/25(e) does not indicate a lack of diligence — it shows the devotion of professional care before committing its and plaintiffs' resources to the exploration of this defense in discovery," Judge Rosenstengel found. "And because the parties and the court agreed to prioritize the resolution of

Meta's choice of law motion before addressing the substantive aspects of plaintiffs' claims, it was not unreasonable for Meta to act with deliberate care before raising a defense that has nothing to do with choice of law."

The judge added that, because discovery remains ongoing, the plaintiffs would "have every opportunity to rebut" this affirmative defense and therefore wouldn't be prejudiced by Meta's delayed assertion of this alleged exemption, which the company was directed to file by Feb. 27.

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

The plaintiffs are represented by Ryan A. Keane of Keane Law LLC and Kevin P. Green and Daniel S. Levy of Goldenberg Heller & Antognoli PC.

Meta is represented by Gary S. Feinerman, Kathryn K. George, Robert C. Collins III and Jillian H. Pak of Latham & Watkins LLP and Lauren R. Goldman, Michael Brandon, Christopher Chorba and Diana Feinstein of Gibson Dunn & Crutcher LLP.

The case is Hartman et al. v. Meta Platforms Inc., case number 3:23-cv-02995, in the U.S. District Court for the Southern District of Illinois.

--Editing by Bruce Goldman.

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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Court Rejects \$5.8M Fee Bid In Puerto Rico Funds Case

By **Katryna Perera**

Law360 (February 23, 2026, 8:16 PM EST) -- A Puerto Rico federal judge denied an investment firm's bid for \$5.8 million in attorney fees after the firm brought successful countersuit claims against investors, finding that the commonwealth's corporations law, which governs the case, prohibits legal fees absent a finding of obstinacy.

U.S. District Judge Gina R. Méndez-Miró issued an **opinion and order** on Friday, ruling on Ocean Capital LLC's July attorney fees motion.

The plaintiffs, which represent nine closed-end mutual funds, sued Ocean Capital in 2022, alleging the firm and several individuals misled shareholders by failing to make and issue complete and accurate disclosures and proxy materials, according to the order.

The funds filed suit while refusing to recognize new directors that Ocean Capital had begun nominating to the funds' boards, as well as several proposals that stockholders had overwhelmingly passed, the order states.

Ocean Capital then countersued, and in 2024, it secured judgment in its favor, with the court ordering the funds to seat the board director nominees. The funds appealed the decision to the First Circuit, according to the order, but the appeals court affirmed the dismissal of the funds' claims and the injunction ordering the seating of the board director nominees.

The order said that, in July, Ocean Capital moved for \$5 million in attorney fees on its counterclaims under the so-called Delaware corporate benefit doctrine, which allows for the recovery of attorney fees when a suit results in a nonmonetary benefit to a company.

Ocean Capital argued that, without its efforts throughout the course of the three-year litigation, the board director nominees would not have been seated, and the passed stockholder proposals would not have been implemented.

"According to [Ocean Capital], this litigation achieved major benefits for stockholders, including that it forced the funds and their incumbent directors to honor the results of at least 12 different stockholder elections ... [and] they were able to implement proposals 'which reduce the quorum requirement at the funds, and empower fund stockholders alone to determine whether to adjourn stockholder meetings, further [vindicating] the corporate franchise,'" the order states.

The investment firm further urged the court to adopt the corporate benefit doctrine under Puerto Rican law "since Puerto Rico often 'looks to Delaware law for guidance' because the 'Puerto Rico law of corporations is modeled after the Delaware law of corporations,'" the order said.

However, on Friday, Judge Méndez-Miró said Ocean Capital has failed to establish its entitlement to attorney fees and that, under Puerto Rican law, legal fees "are not meant to compensate a litigant for the total costs incurred in litigation."

The judge said that, since Ocean Capital's bid for attorney fees is based on its counterclaims, Puerto Rican law governs, and nothing in the Puerto Rico general corporations law allows, fee shifting without a finding of obstinacy.

"In the absence of a statutory fee-shifting provision and absent a finding of obstinacy, Puerto Rico law does not authorize an award of attorneys' fees," the order states.

According to the order, Ocean Capital also tried to characterize its attorney fee bid as a request for a "partial reimbursement." However, Judge Méndez-Miró said the "distinction does not alter the analysis."

"Under Puerto Rico law, any court-ordered transfer of litigation expenses from one party to another constitutes an award of attorneys' fees. The label attached to the request cannot circumvent the substantive limitations imposed by Puerto Rico law," the judge said.

Judge Méndez-Miró added that, even if Ocean Capital was entitled to attorney fees under Puerto Rican law, the investment firm had failed to provide billing records or other documentation to establish the reasonableness of its request.

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

Ocean Capital is represented by Frank Olander of Schulte Roth & Zabel LLP and José Sánchez-Castro of Sánchez/LRV.

The funds are represented by Arturo Diaz-Angueira of Diaz & Vazquez Law Firm PSC, Maraliz Vazquez-Marrero of Vazquez & Vilanova Law Firm, Alex J. Kaplan and Charlotte K. Newell of Sidley Austin LLP, and Pedro I. Torres-Crespi of Ferraiuoli LLC.

The case is Tax-Free Fixed Income Fund for Puerto Rico Residents Inc. et al. v. Ocean Capital LLC et al., case number 3:22-cv-01101, in the U.S. District Court for the District of Puerto Rico.

--Editing by Melissa Treolo.



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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Meta Socials 'Druggify' Teen Preoccupations, NM Jury Hears

By **Cara Salvatore**

Law360 (February 23, 2026, 9:54 PM EST) -- An addiction expert testified Monday in the New Mexico attorney general's mental health trial against Facebook and Instagram that teens are unusually vulnerable to social media addiction because of how it "druggifies social validation."

Anna Lembke, head of addiction medicine at Stanford University School of Medicine, took the stand in New Mexico Attorney General Raúl Torrez's suit against Meta alleging the company deceived the public about the risks its platforms posed to teens.

The state says that Facebook, Instagram, WhatsApp and Messenger failed to protect teens, including under-13 account holders, from violence, sexual predation and addictive designs that impact mental health, and lied about the problem.

As in any addiction, "we see the development of tolerance with social media addiction," Lembke testified. "The way it manifests is kids needing to spend more and more time on social media in order to get the same reinforcement or pleasure that they used to get, and also finding that even when they're not enjoying being on it anymore, not getting any value from it; they still find themselves repeatedly engaging and have difficulty disengaging."

She said that withdrawal can take the form of "rage attacks" or serious anxiety and depression. People with social media addiction are seen in the clinical practice at her medical school, some of them spending more than 14 hours a day on the apps, the doctor said.

Teen users have an inherently psychologically precarious relationship with social media because of how teens "are intensely sensitive to peer evaluation," Lembke said, and how the decision-making "brakes" of the prefrontal cortex are not yet fully hooked up in the brain.

"The younger they're exposed to this potent social media drug, the more likely it is to change their brains in ways that are not necessarily healthy," Lembke said. Facebook and Instagram have "essentially druggified social validation. And because teenagers are so sensitive to social validation, it makes them uniquely sensitive to social media addiction."

She said she believes this form of addiction will eventually be recognized as an independent addiction and placed in the Diagnostic and Statistical Manual of Mental Disorders.

Cross-examination started Monday afternoon, with Lembke being pressed at length as to whether she herself was experiencing an addiction-like relationship with the attention that has come from being a prominent expert witness in addiction litigation. She acknowledged that she has appeared on The Joe Rogan Experience, but said her motives in this litigation are not self-serving or driven by the dopamine that can stem from "public speaking, adulation, compliments, public recognition," as a defense lawyer put it.

"I wouldn't say I'm motivated to do it by my own personal reward," Lembke said. "I don't have the experience that there's a lot of adulation or public recognition ... [to] go outside and people recognize me, no, that's not been my experience," she said.

The lawyer asked if, after discussing her philosophy of "radical honesty," she had embellished "by saying Instagram is the same as injecting heroin."

"No, I am not embellishing my testimony by doing that," Lembke replied.

Defense also asked Lembke about a 2023 surgeon general's advisory regarding public health concerns about social media and children's mental health. She acknowledged that the report did mention certain positives that can come out of social media.

Cross-examination is set to continue on Tuesday.

Earlier in the trial, a former Facebook safety executive testified that, over his time at the company, proposals for safety improvements faced increasing resistance and onerous approvals in which non-safety colleagues "whittled down" their effectiveness.

In the defense opening, Facebook lawyer Kevin Huff of Kellogg Hansen Todd Figel & Frederick PLLC told the jury the company has been careful, proactive and scrupulous.

The company immediately tells new users when they're signing up "about the risk of bad content," Huff said. "Harmful content does get past Meta's safeguards."

Users see notices that there may be "objectionable" or "unlawful" material presented to them. "That's disclosure, not deception," Huff added.

The bellwether case's claims parallel those going to trial in California and in a federal multidistrict litigation.

New Mexico is represented by Donald Migliori of Motley Rice LLC and Raúl Torrez of the New Mexico Office of the Attorney General.

Meta is represented by Kevin Huff of Kellogg Hansen Todd Figel & Frederick PLLC.

The case is State of New Mexico v. Meta Platforms Inc. et al., case number D-101-CV-2023-02838, in the 1st Judicial Circuit of New Mexico.

--Additional reporting by Bonnie Eslinger and Craig Clough. Editing by Dave Trumbore.



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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Plaintiff's Depo Dooms Cert. In Blue Diamond False Ad Suit

By **Celeste Bott**

Law360 (February 23, 2026, 5:07 PM EST) -- An Illinois federal judge Friday denied class certification in a lawsuit accusing Blue Diamond Growers of deceiving consumers by describing its almonds as "smokehouse" when their titular taste comes from synthetic flavoring, saying the proposed lead plaintiff admitted in a deposition she had knowledge of the alleged defect but continued to purchase the product.

That testimony is dispositive on Margo Clark's claim that Blue Diamond violated the Illinois Consumer Fraud and Deceptive Practices Act by tricking its customers into believing that it actually utilizes a smokehouse to give its almonds a "smokehouse" flavor, U.S. District Judge Jorge Alonso said in his ruling.

To prevail on her ICFA claim for deceptive advertising, Clark needed to plead proximate causation and establish she was deceived by how Blue Diamond advertised its almonds, the judge said.

"A plaintiff, however, cannot show proximate causation, where he knows the truth and as such, is not deceived. A plaintiff is thus inadequate to be a class representative for ICFA claims if the plaintiff was aware of the alleged defects before she purchased the product," he said.

In her deposition, Clark testified she bought the almonds every few months at various locations in Chicago before she signed a representation agreement with her counsel for this lawsuit, according to the opinion.

But at some point before inking that contract, she came across a Facebook advertisement from plaintiff's counsel stating that many smoked almond snacks used added smoke flavoring rather than being smoked on hardwood in a smokehouse, and encouraging anyone who's purchased such a product to "sign up below." During her deposition, Clark estimated she saw the advertisement in 2019 or 2020 and that's when she learned Blue Diamond's almonds had smoke flavor to them, the judge noted.

"Per Clark's own deposition testimony, Clark had knowledge of the alleged defect — that the Smokehouse Almonds were seasoned rather than smoked — and yet she continued to purchase the product every few months for over a year," Judge Alonso said. "Clark is thus inadequate to serve as the class representative because she cannot show proximate causation as required to prevail on her claim."

Clark attempted to work around this "fatal flaw" by having one of her attorneys, Spencer Sheehan, submit a declaration that those Facebook advertisements weren't targeted to Illinois users in 2019 or 2020, but he also admitted Clark "submitted her information in response to the advertisement" approximately one year before she signed the representation agreement in March 2022.

"As such, the declaration fails to salvage the proximate cause issue because according to Sheehan, Clark saw the advertisement around March 2021, yet she still continued to purchase almonds for another year," Judge Alonso said.

Blue Diamond had moved to strike Sheehan's declaration for treating him as an expert witness, raising new arguments on reply, and basing its statements on records that were never produced during discovery, but the judge denied that motions as moot because the declaration didn't salvage

class certification.

In her interrogatory responses, Clark initially said the Facebook advertisement is what turned her on to the alleged false advertising of the Blue Diamond almonds, but she later amended it to state she became aware the almonds were not smoked in a smokehouse after she signed the representation agreement and had a phone call with her lawyer.

"On one hand, Clark's deposition testimony, Sheehan's declaration, and Clark's original interrogatory responses all support Blue Diamond's position that there is no proximate cause. On the other hand, the amended interrogatory response supports Clark's position," Judge Alonso said, adding in a footnote that the amended answer raises a credibility issue "in that Clark would have needed to somehow click through the Facebook advertisement and submit her information to plaintiff's counsel without actually reading the advertisement."

Ultimately, the weight of the evidence supports Blue Diamond's view, the judge said, ordering the parties to determine how they intend to proceed on Clark's individual claims and whether they intend to pursue settlement in light of his certification ruling.

Representatives of the parties could not be immediately reached for comment Monday.

Clark's lawsuit, filed in March 2022, claims that the almond producers' packaging tricks consumers into thinking its almonds are prepared in a wood-burning smokehouse, which would give it a "unique and powerful flavor." In reality, Blue Diamond uses "advanced chemistry and synthetic ingredients" to create this flavor. Furthermore, the packaging leans into this by utilizing red and orange coloring to induce images of a wood fire in the minds of consumers, the lawsuit says.

Judge Alonso **trimmed much** of Clark's proposed class action against the California-based farmers cooperative in 2023, nixing her breach of express warranty, negligent misrepresentation and federal fraud claims.

He also denied her request to impose an injunction preventing Blue Diamond from continuing its current marketing practices since Clark "does not purchase these products anymore" and therefore "faces no real and immediate threat."

The following year, he granted Blue Diamond judgment on Clark's claims under six states' consumer-fraud statutes.

Clark is represented by Michael Reese and Charles D. Moore of Reese LLP, Spencer Sheehan of Sheehan & Associates PC, and Francis Richard Greene of Greene Consumer Law.

Blue Diamond is represented by Yan Grinblat, Colleen Carey Gulliver, Rachael C. Kessler and Jason E. Kornmehl of DLA Piper.

The case is Margo Clark v. Blue Diamond Growers, case number 1:22-cv-01591, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Jonathan Capriel. Editing by Jay Jackson Jr.