

Securities

Blue Bell Ex-CEO Rebuffed Testing Pre-Outbreak, Judge Told (1)

Feb. 26, 2026, 10:35 AM PST; Updated: Feb. 26, 2026, 12:46 PM PST

Blue Bell Creameries Inc. found potential listeria contamination in ice cream products in 2011, but its then-CEO shut down further testing and distributed the items for sale, an executive testified Thursday.

Andy Kollman began testing finished products for pathogens after the US Army, an important Blue Bell customer, complained about elevated levels of coliform bacteria in samples collected at the company's plants. Then-CEO Paul Kruse had not wanted the testing to continue, Kollman said on the witness stand in Delaware Chancery Court.

A derivative lawsuit alleges Blue Bell's senior leaders missed "red flags" and failed to adequately monitor operations leading up a fatal 2015 listeria outbreak. The trial started on Feb. 24.

Kruse, who retired in 2017, testified earlier this week that the industry at the time considered finished product testing to be inefficient. In a pre-trial brief, the company said that before the 2015 outbreak, the industry knew listeria was found in ice cream but considered it very low risk for illness.

When samples collected in 2011 before Kruse told him to stop testing later showed the presence of some kind of listeria, though it wasn't clear if it was the species that could cause serious illness, Kollman said, the CEO was "upset" that his orders hadn't been followed. The products that produced the samples were shipped to customers.

"We didn't talk about the listeria result," Kollman said, recalling a tense meeting with Kruse in April 2011. "The quality control supervisors would have liked to have confirmed the test" to determine what type of listeria had been present, he said.

Kollman was Blue Bell's quality control manager at the time of the 2015 outbreak caused the company to recall its products nationwide and shut down operations for months. Now the company's vice president of operations, he's testifying in the first trial on corporate oversight claims in the Delaware Chancery Court.

No Written Record

The Army was concerned about a potential food safety issue that stemmed from a sanitation issue, Kollman said under questioning by Robert Kriner Jr., a Chimicles Schwartz Kriner & Donaldson-Smith LLP attorney representing the shareholder leading the litigation.

Later Thursday, Kollman said it had been ultimately his decision to release product lots for shipment to customers, no one had told him to do any pathogen testing, and there was no documentary evidence of his meeting with Kruse, in response to questions from an attorney for the board.

Kollman isn't named a defendant.

Vice Chancellor Nathan A. Cook has focused on what Blue Bell's board understood about the Army's complaints in his questioning of Kruse and other executives since trial began Feb. 24.

'Who Am I'

The judge questioned Richard Dickson, a director and vice president of sales and marketing at the time of the outbreak, further Thursday about why he never raised to the board his frustrations over the length of time it took the company to produce a recall notice for its products once it knew some tested positive for the pathogenic listeria.

"Why in your capacity as a director did you not say, 'Look, I have a different view of things, I think a recall notice should go out, or at a minimum we should discuss this?'" Cook said.

Dickson, who succeeded Kruse as Blue Bell's president and CEO and retired in 2024, said he deferred to Kruse's leadership, because the CEO was in touch with regulators about such matters.

"Who am I, whether as a director or a vice president, to question and say we need to get ahead of this thing?" he said.

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

(Adds new ninth paragraph with additional testimony from Kollman.)

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Musk's last-minute motions denied, trial Monday over Twitter purchase posts

DJ [dailyjournal.com/articles/389997-musk-s-last-minute-motions-denied-trial-monday-over-twitter-purchase-posts](https://www.dailyjournal.com/articles/389997-musk-s-last-minute-motions-denied-trial-monday-over-twitter-purchase-posts)

Senior U.S. District Judge Charles R. Breyer

Senior U.S. District Judge Charles R. Breyer denied a slew of last-minute motions filed by Elon Musk's attorneys asking to postpone trial and throw out a second claim in the securities case surrounding the billionaire's 2022 purchase of Twitter, allowing trial to start Monday.

The judge criticized Musk and his attorneys, Quinn Emanuel Urquhart & Sullivan LLP, for waiting until the days before the trial to challenge a claim -- that Musk engaged in a scheme to lower Twitter's stock price and renegotiate his purchase of the company -- they'd known about since the complaint was filed.

"Seven days before trial, Musk asked this Court for a continuance on an issue that, frankly, should have been raised on his motion to dismiss," Breyer wrote in the order issued Thursday. *Giuseppe Pampena v. Elon R. Musk*, 3:22-cv-05937 (N.D. Cal., filed Oct. 10, 2022).

The plaintiffs, former Twitter investors, sued Musk over a series of social media posts after he agreed to buy the company. He posted that the deal was on hold because of the prevalence of fake accounts on the platform. The plaintiffs say the posts were materially false and caused Twitter's stock price to fall by over 30%.

Musk's attorneys asked Breyer to bar the plaintiffs from presenting a second theory, that the posts reflected a scheme to lower Twitter's stock price, rather than only being false. In a motion in limine, they argued the theory was just an attempt by the plaintiffs to get evidence back into the trial that Breyer had thrown out, and that the two claims weren't substantially different. Even if Breyer found that the two claims were distinct, they argued, the scheme claim relied on a deposition Musk gave a Delaware court after Twitter sued him to enforce the deal and that he was protected by the Noerr-Pennington doctrine.

But Breyer decided the protections Noerr-Pennington gives speech made while petitioning the government don't apply if that speech itself is part of a broader scheme, citing the 9th U.S. Circuit Court of Appeals' 1982 decision in *Clipper Express v. Rocky Mountain Motor Tariff Bureau, Inc.*

"Musk is wrong," Breyer wrote. "The Ninth Circuit has already spoken on this issue--over four decades ago. The Ninth Circuit has squarely held that when 'petitioning activity is but a part of a larger overall scheme to restrain trade, there is no overall immunity.'"

When Breyer said at a pretrial conference he would deny the motion, the defense submitted a supplemental brief saying the plaintiffs failed to properly outline the claim in their complaint and asked the judge to postpone trial by four months to prepare for battling the theory. The judge heard the brief a week ago behind closed doors.

Musk's lawyers argued that the plaintiffs alluded to the scheme claim in the complaint but didn't plead it "with particularity" as required for fraud claims by Rule 9(b) of the Federal Rules of Civil Procedure.

Breyer disagreed, saying that the plaintiffs described the alleged scheme "in detail" throughout the complaint, even if they only used the word "scheme" five times.

"Rule 9(b) does impose a heightened pleading standard for fraud claims, it does not contain the word count requirement that Musk appears to suggest," Breyer wrote.

Since the claim was stated clearly in the complaint, Breyer said, Musk has no reason to request that the trial be postponed.

"He cannot now reasonably contend that he would be prejudiced in his 'ability to adequately prepare a defense' against a theory that was part of the complaint, brought up during discovery, permitted during summary judgment, and then permitted again after a pretrial motion in limine," Breyer wrote.

The judge also rejected Musk's motion to reopen class certification on the basis that Breyer only certified a class for the false statements claim.

Breyer seated a jury on Feb. 19, and trial was to begin Monday in San Francisco. Each side was expected to be given five days to present their case.

#389997

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Securities Lawsuit Challenging Musk's Statements About Twitter Deal Heads to Trial

The trial is scheduled to last for two to three weeks, with a break on March 11, and will be held at the Phillip Burton Federal Building in San Francisco.

February 26, 2026 at 05:13 PM By  **Ellen Bardash**



Elon Musk, chief executive officer of Tesla Inc., during the World Economic Forum (WEF) in Davos, Switzerland, on Thursday, Jan. 22, 2026. The annual Davos gathering of political leaders, top executives and celebrities runs from Jan. 19-23. Photo: Krisztian Bocsi/Bloomberg

A Northern District of California securities class action brought by shareholders who claim Elon Musk violated the Exchange Act in the leadup to his 2022 acquisition of what was at the time Twitter is set to go to trial on March 2 before senior U.S. District Judge Charles R. Breyer.

Bottini & Bottini and Cotchett, Pitre & McCarthy are representing the plaintiffs, former shareholders of the company that was rebranded as X Corp. following Musk's roughly \$44 billion acquisition. Quinn Emanuel Urquhart & Sullivan is representing Musk.

The trial is scheduled to last for two to three weeks, with a break on March 11, when Breyer has other cases on his docket. It will be held in Courtroom 6 on the 17th floor of the Phillip Burton Federal Building in San Francisco. Jury selection took place on Feb. 19.

A week before its scheduled start date, Musk asked to continue the trial and filed a [motion](#) to do so, claiming the scope of the plaintiffs' "scheme" theory of securities fraud is unclear and should be further addressed by the court before a trial begins. On Wednesday, he filed a [response](#) ordered by Breyer focusing on the argument in the original motion related to the Noerr-Pennington doctrine.

Musk also [moved](#) on Monday to have the court certify questions for interlocutory appeal about the plaintiffs' ability to pursue a scheme liability theory. Breyer rejected those motions in a Thursday afternoon [ruling](#), leaving the trial to proceed as scheduled.

Musk began acquiring shares of Twitter in early 2022, becoming its largest shareholder in March of that year. He is the subject of an [ongoing SEC case](#) in D.C. federal court claiming he didn't properly disclose his ownership in the company. In April 2022, Musk offered to buy the company for \$54.20 per share, but the agreement reached with Twitter's board was paused, with Musk citing concerns about bot accounts making up a significant portion of Twitter's traffic.

A lawsuit Twitter brought against Musk in the Delaware Court of Chancery in July 2022 was dismissed when Musk agreed to close the deal at the originally offered price, making March 2 the first time the deal will be the subject of a trial.

The California class action was originally filed in October 2022, between Musk reversing course by agreeing to move forward with acquiring Twitter and the date the deal officially closed. The operative [complaint](#) brings one claim, alleging Musk knowingly made false and misleading statements that influenced Twitter's stock price from the time he tweeted his agreement to buy Twitter was on hold until the point he indicated the deal would in fact be moving forward.

In December 2023, Breyer [partially granted](#) Musk's motion to dismiss, allowing the shareholders to continue pursuing claims based on three specific statements made by Musk in 2022: a May 13 tweet stating his deal to acquire Twitter was "temporarily on hold," a May 16 statement during a Miami tech summit claiming bot accounts made up at least 20% of Twitter's users and a May 17 tweet stating the deal wouldn't move forward unless Twitter's CEO could prove less than 5% of Twitter's users were bot accounts.

Breyer [denied](#) Musk's motion for judgment on the pleadings in August 2024. The following month, he named class representatives and lead class counsel and [certified a class](#) in the action: those

who sold Twitter stock or call options or who purchased put options between May 13 and Oct. 4, 2022, and who suffered damages from Musk's alleged securities violations.

Also in August, the plaintiffs [moved](#) for partial summary judgment, claiming there were no genuine issues of material fact regarding the scienter and falsity elements of the three May 2022 statements behind the allegations in the case. Musk [moved](#) for summary judgment, as well, claiming the plaintiffs can't prove, as a matter of law, that those three statements were false, made with scienter or caused any damage. Breyer denied both motions in October.

In December, Breyer [denied](#) the plaintiffs' motion to disqualify Alex Spiro, who has represented Musk regularly in the last several years and is a fact witness in the securities class action, from representing Musk, concluding it would be an overreach for the court to bar an attorney who represented a client during a transaction from later representing that client in litigation related to that transaction.

Francis Bottini said Aaron Arnzen of Bottini & Bottini will make the opening presentation for the shareholder plaintiffs, and Musk is scheduled to testify March 4. Also expected to take the stand during the trial is OpenAI chairman Bret Taylor, who was chairman of Twitter's board before it was acquired by Musk and taken private as X Corp. Counsel for Musk declined to comment on the upcoming trial.

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New York Judge Blocks Binance's Bid to Dodge Investor Class Action

A New York federal judge refused to send a long-running securities class action against Binance to arbitration, ruling that users who signed up before a 2019 terms update were not bound by a later-added arbitration clause.

February 27, 2026 at 12:49 PM By  **Michael A. Mora**



Judge Andrew Carter Jr. of the Southern District of New York. Photo: Rick Kopstein/ALM

A New York federal judge refused to send a long-running securities class action against Binance to arbitration, ruling that users who signed up before a 2019 terms update were not bound by a later-added arbitration clause.

U.S. District Judge Andrew L. Carter of the Southern District of New York entered the 23-page order Thursday, holding that Binance failed to show that its customers had adequate notice of its revised 2019 terms of use, which included mandatory arbitration and referenced a class action waiver. Without sufficient notice, the modification could not bind earlier claims, keeping the litigation in federal court.

"On behalf of Binance users, we are gratified by the court's ruling," said Jordan A. Goldstein, a partner and general counsel at [Selendy Gay](#), who represents the plaintiffs. "We look forward to prosecuting this class action against Binance and its founder Changpeng Zhao."

A Binance spokesperson noted that in response to their motion on this issue, "plaintiffs voluntarily and correctly dismissed all claims that accrued on or after Feb. 20, 2019."

"Binance will vigorously defend the limited claims that remain in this meritless case," the spokesperson added.

The plaintiffs, residents of California, Nevada and Texas, alleged that Binance and its founder, Changpeng Zhao, offered and sold digital tokens as unregistered securities through the Binance.com platform in violation of federal and state law. The plaintiffs seek damages on behalf of similarly situated investors.

When the investors opened accounts between September 2017 and April 2018, Binance's then-operative 2017 terms contained no arbitration clause, no choice-of-law provision and no class-action waiver. Users assented through a clickwrap agreement during registration, affirmatively agreeing before they could access the trading platform.

In February 2019, Binance posted updated terms online declaring that disputes would be resolved through binding arbitration before the Singapore International Arbitration Centre, with Singapore law governing. The new language warned users to read carefully and referenced a class-action waiver.

Carter concluded that merely posting revised terms on a website, without individualized or contemporaneous notice to existing users, did not provide constructive notice. Customers had no obligation to revisit the site's terms periodically to determine whether Binance had materially altered dispute-resolution provisions.

Although the court found plaintiffs likely had actual notice of the arbitration clause once the lawsuit was filed in 2020, that awareness came after many of the alleged violations had accrued. The opinion said the 2019 modification could not retroactively sweep in those earlier claims.

Even assuming adequate notice, the judge held that the 2019 terms were silent on whether arbitration would apply to already-accrued claims. Under governing state contract principles, unilateral modifications lacking clear temporal language are construed not to reach known or existing disputes.

The court also found Binance's purported class-action waiver unenforceable. While a section heading referenced a waiver "including as a class action," the operative text did not clearly spell

out any affirmative relinquishment of the right to pursue class-wide relief in court.

Construing the adhesion contract against its drafter, Carter ruled that, at most, the language could address procedures within arbitration. It did not bar investors from seeking class-wide relief in federal court for claims predating Feb. 20, 2019. The motion to compel was denied.

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JPMorgan, Barclays, Fifth Third sued by investors for missing 'giant red flags' at Tricolor

 [reuters.com/legal/government/jpmorgan-barclays-fifth-third-sued-by-investors-missing-giant-red-flags-tricolor-2026-02-27](https://www.reuters.com/legal/government/jpmorgan-barclays-fifth-third-sued-by-investors-missing-giant-red-flags-tricolor-2026-02-27)

Jonathan Stempel

February 27, 2026

JPMorgan Chase logo is seen in this illustration taken January 22, 2026.

REUTERS/Dado Ruvic/Illustration [Purchase Licensing Rights, opens new tab](#)

- Investors say banks ignored warnings of Tricolor fraud
- Banks stuck 'heads in the sand,' investors said
- Estimated losses could reach hundreds of millions of dollars
- Banks declined to comment or had no comment

NEW YORK, Feb 27 (Reuters) - JPMorgan Chase ([JPM.N](#))  [, opens new tab](#),

Barclays ([BARC.L](#))  [, opens new tab](#) and Fifth Third ([FITB.O](#))  [, opens new tab](#)

have been sued by investors who suffered losses on securities issued by now-bankrupt subprime auto lender Tricolor, and accused the banks of missing "giant red flags" when fraudulently marketing the debt.

In a complaint filed on Thursday night in Manhattan federal court, holders of more than \$230 million of Tricolor asset-backed notes sold between April 2022 and June 2025 said the banks "fueled and perpetuated Tricolor's Ponzi-like fraud" by financing and securitizing its auto loans, on top of their roles as major Tricolor lenders.

Sign up [here](#).

The plaintiffs said the banks assured the notes were investment-worthy despite being warned that audits of Tricolor in 2022 and 2024 revealed inaccurately reported loan receivables, and cash flow that was routinely sent to the wrong accounts or "made up."

Some notes now trade at less than 10 cents on the dollar, and the plaintiffs said their losses could reach hundreds of millions of dollars.

"Rather than risk a massive loss on their warehouse lines and forfeit the millions of dollars of fees and income derived from Tricolor's fraudulent enterprise, defendants responded by hiding what they had learned and sticking their heads in the sand," the complaint said.

JPMorgan, Barclays and Cincinnati-based Fifth Third declined to comment. Among the 30 plaintiffs are funds run by Janus Henderson ([JHG.N](#))  [, opens new tab](#), Ellington Capital Management and One William Street Capital Management.

JPMORGAN CEO CALLED TRICOLOR 'NOT OUR FINEST MOMENT'

Tricolor provided auto loans primarily in lower-income Hispanic communities in the southwestern United States, before filing to [liquidate](#) under Chapter 7 of the U.S. Bankruptcy Code last September 10.

The filing came 18 days before another large company in the auto sector, parts supplier First Brands, sought Chapter 11 protection from creditors.

Both bankruptcies highlighted the risk of private credit, where funds and other investors provide capital to businesses that are subject to less regulatory oversight than those tapping public markets.

In December, Tricolor Chief Executive Daniel Chu and former Tricolor Chief Operating Officer David Goodgame were [indicted](#) in Manhattan for allegedly systematically defrauding creditors and lenders, including by falsifying loan data and double-pledging collateral.

Chu and Goodgame pleaded not guilty. JPMorgan, Barclays and Fifth Third have reported nine-figure losses from Tricolor, and JPMorgan Chief Executive Jamie Dimon labeled his bank's exposure "not our finest moment."

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

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

Securities

Silver Lake Deal Challengers Say Endeavor Is Stonewalling

Feb. 26, 2026, 11:32 AM PST

Silver Lake LLC and Endeavor Group Holdings Inc. affiliates are making a court challenge to their \$25 billion merger “nearly impossible” by staging knockdown, drag-out fights over routine administrative matters, a group of shareholders said.

Billionaire activist investor Carl Icahn, Sweden’s Handelsbanken Fonder AB, and a coalition of hedge funds asked a Delaware Chancery Court judge Wednesday for a mediator to break through the impasse. Stonewalling by the investment giant, the entertainment conglomerate it took private, and executives including Hollywood mogul Ari Emanuel is eating up time needed to resolve far more contentious issues that inevitably lie ahead, according to the joint filing.

“Discovery disputes have devolved into disputes over how to resolve discovery disputes,” the deal challengers said. “Appointing a special discovery magistrate is not merely helpful—it is necessary.”

Lawyers representing Silver Lake, Endeavor, and its executives didn’t immediately respond to requests for comment Thursday.

The acquisition last year was a major component of a global buying spree that has made Silver Lake one of the world’s most closely watched dealmakers. The private equity giant has played a prominent role recently in several politically charged transactions, including its partnership with a Saudi Arabia sovereign fund to buy Electronic Arts Inc. for \$55 billion and its position at the head of the consortium set to manage TikTok’s US operations.

The litigation in Delaware’s preeminent business tribunal involves parallel consolidated cases targeting the buyout of Endeavor, which owns WWE, UFC, and a top talent agency. The lawsuit led by Icahn and the Swedish bank is a proposed class action that says Silver Lake aided and abetted fiduciary breaches by Emanuel and other Endeavor executives. The other case—likely the largest statutory appraisal action ever—reflects an arbitrage strategy by dozens of hedge funds holding shares worth billions at the deal price.

Both sets of shareholder suits say the transaction must have undershot Endeavor's full value because its flagship asset—a majority interest in TKO Group Holdings Inc., direct parent of UFC and WWE—is worth more than the total sale price. Silver Lake, Emanuel, and the others have argued as recently as Feb. 24 that a stampede of arbitrageurs like Icahn and the hedge funds turbocharged TKO's stock in response to the deal announcement, creating the illusion of a discount.

Lawyer-on-Lawyer Hostility

The sprawling dispute has already sparked an unusual level of lawyer-on-lawyer hostility, with competing groups of shareholder attorneys fighting an acrimonious battle last year to lead the appraisal case. Icahn and the other investors now say woefully deficient disclosures from the other side "raise serious concerns about whether counsel even consulted their client."

In any event, "basic issues" that are "typically uncontroversial" are prompting protracted disagreements that have bogged the case down, according to Wednesday's filing.

"Taking six months to set a case schedule or file a confidentiality stipulation" makes little sense "unless the goal is to see how slowly discovery can move without stopping altogether," the deal challengers said. "The magistrate will prevent this entrenched pattern from escalating, ensure that day-to-day disputes are handled promptly, and keep discovery moving."

Icahn and Handelsbanken are represented variously by Johnson Van Kwawegen LLP, Equity Litigation Group LLP, Grant & Eisenhofer PA, and Woolery & Co. The hedge funds are represented by Abrams & Bayliss LLP and Reid Collins & Tsai LLP.

Silver Lake is represented by Potter Anderson & Corroon LLP and Wachtell, Lipton, Rosen & Katz. The former Endeavor executives are represented by Richards, Layton & Finger PA and Latham & Watkins LLP, with three of them including Emanuel also represented by Quinn Emanuel Urquhart & Sullivan LLP. Endeavor's two-member special litigation committee is represented by Morris, Nichols, Arsht & Tunnell LLP and Cravath, Swaine & Moore LLP.

The case is *In re Endeavor Grp. Holdings Inc. S'holders Litig.*, Del. Ch., No. 2025-0663, motion filed 2/25/26.

An incorrect AI summary previously at the top of this story was removed.

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Securities

Doximity's \$31 Million Investor Settlement Clears Initial Hurdle

Feb. 26, 2026, 9:46 AM PST

Doximity Inc. deserves preliminary approval for an agreement to pay investors \$31 million to settle a proposed securities class action over its professional social network's metrics, a federal court ruled.

Judge Noël Wise said Wednesday that she would likely be able to grant final approval after a June hearing in the US District Court for the Northern District of California.

According to the complaint, Doximity misleadingly claimed that more than 80% of US physicians were using its platform, which was described as a "LinkedIn for doctors"

Slashed revenue guidance in August 2023 led to a 23% stock drop, and analysts subsequently found problems with the user engagement metrics, which were tied to advertising revenue, the investors said

The settlement amount represents 4.5% of "absolute maximum class-wide damages" as estimated by the plaintiffs' side, the investors said in their motion for approval

Bernstein Litowitz Berger & Grossmann LLP is lead counsel for the investors. Simpson Thacher Bartlett LLP represents Doximity.

The case is In re Doximity, Inc. Sec. Litig. , N.D. Cal., No. 5:24-cv-02281, 2/25/26 .

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News from Bloomberg Terminal

Musk-Led Overhaul of Delaware Business Law Upheld by Court

Feb. 27, 2026, 9:25 AM PST

Summary by Bloomberg AI

AI Generated



- The Delaware Supreme Court upheld the constitutionality of changes to state law governing major US corporations, a win for company founders and private equity owners.
- The court concluded the changes complied with the state's constitution and didn't strip power from Delaware Chancery Court to grant relief if companies breach their fiduciary duty.
- The changes were made in response to pressure from companies and private equity owners, including Elon Musk, who had criticized Delaware's business rules as too restrictive.

By Sabrina Willmer and Jef Feeley

(Bloomberg) --

The Delaware Supreme Court upheld the constitutionality of an Elon Musk-inspired overhaul of state law that governs most major US corporations, handing a win to company founders, insiders and private equity owners who sought less restrictive business rules.

In a ruling Friday, the court concluded that controversial changes to the law had complied with the state's constitution and didn't strip power from Delaware Chancery Court – the nation's premier business-litigation venue – to grant relief if companies breach their fiduciary duty.

The changes represent “a legitimate exercise of the General Assembly's authority to enact substantive law that, in its legislative judgment, serves the interests of the citizens of our state,” the state's highest court said in its 37-page ruling.

A spokesperson for Delaware Governor Matt Meyer didn't immediately return an email for comment on the court's ruling.

Pressure had been mounting on the state since a Chancery judge tossed a multi-billion dollar Tesla Inc. pay deal for Musk challenged by a single Tesla shareholder. The billionaire then moved the company to Texas and urged others to do the same, saying Delaware's business rules were too restrictive. But in December, the state supreme court reinstated Musk's pay plan.

Delaware is highly dependent on fees from companies incorporated in the state, and criticism from the world's richest man sparked fears of a corporate exodus. While that hasn't occurred, several prominent companies have left, including Coinbase Global Inc., Dropbox Inc. and Tripadvisor Inc.

Such departures, along with lobbying by the private equity industry, helped fuel political support for reforms, including from Meyer, a Democrat. In March 2025, the state legislature adopted changes that included limiting the ability of minority shareholders to bring certain legal claims.

The Delaware Supreme Court got involved when the constitutionality of the law was questioned in a May lawsuit filed against Clearway Energy Group LLC, a joint venture operated by TotalEnergies SE and an infrastructure investing business now owned by BlackRock Inc. A shareholder of Clearway Energy Inc. claimed the company overpaid for a wind project in Idaho in a conflicted deal with its majority stockholder, CEG. The deal closed in April 2024, long before the changes to the law. Clearway has argued in court records that the deal price and process were fair.

The Clearway investor alleged the \$117 million deal was unfair because a majority of directors who signed off are "dual fiduciaries," where they either work for CEG or the owners of the joint venture. The deal also wasn't approved by a majority of minority shareholders, which should subject it to greater scrutiny in court, according to the complaint.

Attorneys for the shareholder argued changes to the Delaware law shouldn't apply to their case because the conduct occurred before the legislation passed. They also said the corporate law overhaul was unconstitutional because it takes away the ability of Delaware Chancery Court judges to award "equitable relief" or "damages" in certain breach of fiduciary duty cases involving controlling stockholder deals.

Clearway Energy argued that since the deal was approved by a committee of "disinterested directors," in "good faith" and "without gross negligence" it should be protected from scrutiny based on the recent legislative changes. The company's lawyers also argued the corporate law overhaul was constitutional because it didn't "extinguish fiduciary duty claims," but "prescribes the framework for adjudicating them."

The case is Thomas Drew Rutledge v. Clearway Energy Group LLC, 248,2025, Delaware Supreme Court.
(Updates with excerpt from ruling in third paragraph, background on case.)

--With assistance from Michael Leonard.

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Five Venues in Two Weeks: A Del. Business Court Rival Saw Its First Verdict. It Was a Logistical 'Challenge'

To maintain efficiency, all parties agreed to provide meals for the jury, judge, court staff, and attorneys, minimizing lunch breaks. However, frequent courtroom changes created logistical challenges, requiring Garcia's paralegal to coordinate food deliveries and navigate parking and security at each new location.

February 26, 2026 at 04:01 PM By **Laura Lorek**



Credit: meeboonstudio/Adobe Stock

In a high-profile contract dispute, a Harris County jury on Friday found in favor of investor Albert "Ted" Powers, marking the first jury verdict in the newly created Texas Business Court.

While attorneys praised the court for its legal acumen, logistics was a challenge since the new court lacks a permanent home.

During the two-week trial, the case moved among five venues. Jury selection took place in the 14th Court of Appeals courtroom, which lacked a jury box and was therefore unable to host the

trial. Proceedings then moved to the Harris County Family Law Center, but a pipe leak forced the building to close overnight, preventing reentry the next morning.

"All of our papers, our trial notebooks, our exhibits, our deposition excerpts, our equipment, our printers, our mini fridges, everything was already over at the Family Law Center," Roland Garcia of Greenberg Traurig, who represented Powers, said. "We got shut down and didn't know when we could get our stuff."

The team quickly adapted by reprinting documents and sourcing new equipment, including a podium, as their original materials remained inaccessible. The trial then moved to the 80th District Court, followed by the 127th District Court, where it concluded. On a holiday Monday, when neither courtroom was available, attorneys worked from the 17th floor of the civil courthouse.

"None of the Texas Business Courts have a home at this point, not that I know of, at least not in Houston," Garcia said. "Either the state or the county needs to figure that out."

To maintain efficiency, all parties agreed to provide meals for the jury, judge, court staff, and attorneys, minimizing lunch breaks. However, frequent courtroom changes created logistical challenges, requiring Garcia's paralegal to coordinate food deliveries and navigate parking and security at each new location.

"Legally, the court itself is a good court with good judges and good staff," Garcia said. "But in practice, without having a home, what we went through was a logistical challenge."

Garcia stated that, ideally, the Texas Business Court should have a permanent courtroom in Houston with a jury box, deliberation room, and the necessary infrastructure for complex trials.

The case that came to a verdict Friday is considered a milestone for the Texas Business Court, demonstrating its ability to manage complex, high-value disputes and enforce investment agreements. In recent years, jurisdictions including Texas, Nevada and others have taken actions—including establishing specialized business courts—in an effort to attract corporations that have historically favored Delaware.

Following the verdict, Garcia praised the court's legal quality, but noted the difficulties in not having a dedicated courthouse.

"It's definitely faster," Garcia said of the court. "The difference is that the business court does not have physical courts, and when it comes time to trial, that can be challenging."

The case centered on Powers' 20% stake in a proposed deepwater crude oil export terminal near Corpus Christi. The project planned to transport oil from the Permian Basin and Eagle Ford Shale, store it in Aransas Pass, and export it globally from Harbor Island.

After an eight-day trial and less than five hours of deliberation, the jury found that Powers' co-investors breached a 2019 agreement guaranteeing him a 20% stake. The jury also rejected all counterclaims that Powers breached fiduciary or contractual duties.

The jury awarded over \$2.4 million in attorney fees, with additional compensation for potential appeals. Presided over by Adrogué, the litigation exemplifies the type of case the court was established to address.

"As Lawrence Berry testified, he believed that he and his brothers had a contract with Mr. Powers that should be honored, and he is pleased that the jury agreed," Barrett H. Reasoner with Gibbs & Bruns, attorney for Larry Berry, said in an emailed statement. "The jury also found that the agreements Lawrence signed in furtherance of that contract were fully authorized."

Defense counsel for Marty Berry and Bonnie Berry, widow of Dennis Berry, Douglas Allison of Corpus Christi, and Jackson Walker did not immediately respond to a request for comment.

Jake McClellan with Beck Redden, co-counsel for Powers, did not immediately respond to a request for comment.

According to Garcia, the case was solidified during closing arguments.

"I could tell the jury was very attentive during closing arguments and listened closely," Garcia said, noting the challenge of absorbing two weeks of testimony and exhibits in a high-stakes case.

Garcia explained that his message to the jury was direct: Set aside the lawyers' arguments and focus on the evidence and common sense.

"Does it make sense when somebody says they don't remember signing an agreement on a billion-dollar crude oil terminal?" he said.

The jury's 10–2 verdict confirmed Powers' ownership interest. All counterclaims against Powers were rejected.

Garcia noted the jury's attention to detail in the attorney fees award. He instructed the jurors to deduct approximately \$50,000 from the fee request, as the defendants had already paid a \$38,000 expense reimbursement for a minor breach-of-contract claim. The jury awarded the full \$2.4 million, deducting exactly \$50,000.

"The jury was very attentive. They kept good notes," Garcia said, adding that Judge Sofia Adrogué permitted jurors to use notebooks throughout the trial. "I think it was helpful to them."

The dispute began after three brothers behind the project brought on Powers, an experienced international investor and attorney from New York, to help secure hundreds of millions in financing and structure the venture's management. In 2019, Powers and his entity, Allied Ports, were promised a 20% ownership stake and \$100,000 per month, plus expenses, contingent on certain conditions.

The next steps are with Adrogué. While the jury resolved key factual issues, the judge will determine the parties' legal rights under the agreement, including any declaratory relief and permanent injunction. The court has requested proposed final judgments by March 23, after which post-trial motions and a hearing are expected before the final ruling.

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In Landmark Trial, Plaintiff Says Social Media Harm Started at Age 6

 [nytimes.com/2026/02/26/technology/social-media-addiction-testimony.html](https://www.nytimes.com/2026/02/26/technology/social-media-addiction-testimony.html)

Eli Tan, Ryan Mac

February 26, 2026



Sign up for the On Tech newsletter. Get our best tech reporting from the week. Photos and videos of a young girl posted to YouTube and Instagram flashed across a screen in a Los Angeles courtroom on Thursday.

One showed the girl, then a preteen, in her childhood bedroom with her pet Chihuahua. In another, she played guitar and sang a song about being sad.

All were of K.G.M., the 20-year-old plaintiff in a landmark social-media-addiction trial who testified that her life would have been unequivocally better if she had not used YouTube or Instagram. Clad in a beige sweater and floral dress, the woman explained how her near-constant use of social media, starting around age 6, affected her self-worth and development.

"I just felt like I wanted to be on it all the time," said the woman, who lives in Chico, Calif., and, to protect her privacy, was not named. "If I wasn't on it, I was going to miss out on something."

K.G.M. took the stand as one of the thousands of young people, schools and state attorneys general who have filed lawsuits against Meta, Snap, TikTok and YouTube. Taking a page from the legal playbook used against Big Tobacco last century, [she and others have claimed](#) that social media use can be as addictive and harmful as cigarettes or casino slot machines.

The companies have denied the allegations. A win by K.G.M. or any of the plaintiffs could result in huge monetary penalties and other consequences for the companies.

As the first plaintiff to testify in these bellwether cases, K.G.M. spoke for thousands of teenagers and parents who have accused social media companies of hooking young people. The apps have caused mental health issues that have led to anxiety, depression, eating disorders and self-harm, they claim.

Those concerns have caused [dozens of parents](#), who have said social media contributed to their children's deaths, to form groups lobbying for child safety protections. The parents have swarmed Capitol Hill and state legislatures to urge lawmakers to pass laws. They've pushed state attorneys general to prosecute the social media companies.

Some of the parents have sued the companies, and more than a dozen grieving parents have attended K.G.M.'s trial in support.

While the parents failed to push through a [landmark federal child safety law](#) last year, Congress has held several child safety hearings and cited their stories. In one in 2024, Mark Zuckerberg, the chief executive of Meta, which owns Facebook, Instagram and WhatsApp, was forced [to stand and apologize to the parents](#).

Concern has mounted globally. Australia in December [barred children under 16 from using social media](#), setting off a debate among parents globally over whether similarly tough action is needed in their own countries. Several countries are weighing whether to adopt similar laws.

K.G.M. sued YouTube, TikTok, Snap and Meta in 2023, claiming she became addicted to the social media sites as a child and experienced anxiety, depression and body-image issues as a result. She settled with Snap and TikTok for undisclosed terms before the trial.

K.G.M., who now works filling online orders at Walmart, graduated from high school in 2023 before majoring in communications at Butte College. She has two dogs and lives with her mother.

On Thursday, she said she started using Instagram when she was 9 — without her mother's knowledge — and struggled with addiction. She blamed features like beauty filters for causing serious anxiety and body dysmorphia, and detailed how she engaged in self-harm to deal with her depression at age 10.

Social media “made me give up a lot — my hobbies and old interests,” K.G.M. said. “It prevented me from making friends because I was on my phone at school. It caused me to compare myself to other people, and that made me feel very depressed.”

Instagram features — including likes, filters and infinite scroll — and YouTube’s autoplay feature for videos contributed to her fixation, she said. Mark Lanier, her lawyer, presented data showing that she had spent 16 hours on Instagram in one day. He also showed the court past YouTube videos where she spoke about her appearance.

“I’m sorry about my ugly appearance,” K.G.M. said in one. “I’m not sure why I look fat in this shirt.”

Meta, which owns Instagram and Facebook, and YouTube, which is owned by Google, have argued in court that social media is no more addictive than television or a book. Harming users would be bad for their businesses in the long run, they added.

Meta’s lawyers have said that some of K.G.M.’s mental health issues were caused by turmoil and abuse at home, and that Instagram could not be held responsible as the sole factor for harm.

On Thursday, Meta’s lawyer Phyllis Jones went on the attack, pointing to K.G.M.’s past deposition, family history and own social media posts as evidence that Instagram was not to blame. K.G.M.’s family dynamics with divorced parents, and a mother and father who sometimes yelled at her or hit her, contributed to her mental state, Ms. Jones said.

K.G.M. started using Instagram in 2015, around the time she stopped seeing her father, Ms. Jones said. The lawyer played video recordings of what appeared to be K.G.M.’s mother yelling at her daughter.

“When ure mom screams at u in public for no reason,” K.G.M. wrote in one 2023 Instagram post.

K.G.M. said she would not categorize her mother’s behavior as “abuse.”

“It was something that was dramatized for me to get attention so I could get more likes and comments,” K.G.M. said. “I used to post stuff like that for a reason.”

Mr. Zuckerberg and Adam Mosseri, the head of Instagram, both took the witness stand this month. They defended Meta, saying the company did everything it could to keep children safe while still respecting the "freedom of expression" of its users.

Late Thursday, Melissa Mills, a lawyer for YouTube, asked K.G.M. about her mother's awareness of her use of the app. Her mother wasn't aware every time she watched or uploaded videos on YouTube, K.G.M. said. She sometimes tried to hide her use of the video app, she added.

YouTube's questioning is expected to resume on Friday.

On Wednesday, Mr. Lanier questioned one of K.G.M.'s former therapists. He presented medical records that showed K.G.M. was diagnosed with anxiety and body dysmorphia in 2019.

The therapist, Victoria Burke, said K.G.M. would use her Instagram account as an escape from social interactions at school that made her anxious, and that social media addiction could have contributed to her diagnoses. A vice principal at K.G.M.'s school recommended that she delete her social media accounts because she was being bullied, Ms. Burke said.

California Brief

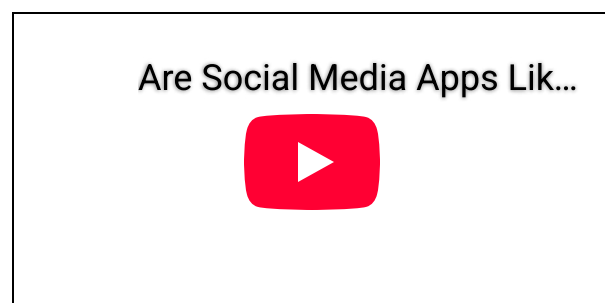
Social Media Plaintiff Spent 16 Hours Scrolling in a Day (1)

Feb. 26, 2026, 1:45 PM PST; Updated: Feb. 26, 2026, 6:25 PM PST

Using a filter that surrounded her face with rays of light, the girl said she'd been crying tears of joy. She'd reached 102 subscribers on her YouTube channel, where she'd been uploading videos since she was eight.

Then, the video's tone shifted as Kaley G.M. panned the camera to her stomach and apologized for "my ugly appearance."

"I don't know why I look so fat in this shirt," she said in the video shown to a Los Angeles jury Thursday. "I don't know, seriously, I look so fat in this shirt. I look so ugly."



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

Now 20 years old, Kaley, who is the heart of the landmark first trial against tech giants over social media addiction, testified Thursday in California Superior Court. She told jurors that her life would be better without social media, but every time she's tried to stop, it hasn't worked.

One day, she spent more than 16 hours on Instagram, she said.

Kaley alleges her years of addiction to Instagram and YouTube caused her anxiety, depression, and body dysmorphia. TikTok Inc. and Snap Inc. settled her claims before the start of the Los Angeles trial but remain involved in thousands of similar lawsuits.

Meta and YouTube deny wrongdoing and say they've imposed robust safety measures to protect kids and teenagers online. They have said in court filings her mental health conditions were caused not by social media, but other factors in her life, like bullying at school and a tumultuous relationship with her mother, which the companies say veered into abuse.

The companies could face billions of dollars in liabilities and have to overhaul their platforms if juries side against them in early bellwether trials.

"Do you want to change this world?" plaintiffs' attorney Mark Lanier of Lanier Law Firm asked Kaley at the end of her direct testimony that lasted an hour and a half.

"Yes," she said.

'my small way of coping'

Kaley said she started using Instagram when she was nine, behind her mom's back. She'd wait until her mom fell asleep to sneak to the living room and scroll late into the night, replacing the phone before she slept so her mother wouldn't become suspicious. Kaley is identified in court using her first name because she was a minor when the case was filed. Most of Kaley's testimony came as she confirmed her own experiences, as described by Lanier.

Her phone pinging with alerts, she'd scroll at school, sometimes drawing reprimands from her teachers, she said. She made several accounts to like her own posts, asking family and friends to help boost the numbers. She almost never posted a photograph of herself without a filter changing her appearance. She was bullied online but she couldn't look away because she felt she'd miss something, she said.

Later, if her mom tried to take her phone away, Kaley said she would threaten to hurt herself. She'd grow worried, depressed, irritable. She would crave her phone.

Deposition testimony showed Kaley's mom would sometimes scream and curse at her, hit her when she didn't understand her homework, one time pulling over on the freeway and telling her to get out of the car.

She felt isolated at school, and her attention deficit disorder, which went undiagnosed for years, made her feel "that people around me were speaking a different language," as she wrote for a public speaking class.

"sorry a lot of my edits have been sad lately, i've been going through hell and that's my small way of coping," said an all-lowercase Instagram textpost written by Kaley.

Kaley said she's worked as a social media editor and plans to incorporate social media into her career.

At trial she said specific incidents, like when her mother would call her "dumb" and "stupid," would upset her but wouldn't impact her mental health overall. Other times, she said her social media posts describing her home life were overdramatic.

Jones asked Kaley nearly 30 times to review her deposition testimony, when Kaley's answers downplayed or contradicted what she said under oath a year prior.

After about 20 conflicting responses, mostly involving the role her family and school played in her mental health, Jones said, "When you had your deposition taken in February, you told me you testified truthfully to the best of your ability and you understood you took an oath to testify truthfully, right?"

Kaley's Therapist

Kaley's former therapist saw in her client's social media use "benefits and areas of where it was getting in the way as well," she said on the witness stand the day before Kaley spoke in court.

"Social media addiction" isn't recognized in the DSM-5, a standard guide for diagnosing mental disorders. It can map onto other official diagnoses, such as OCD, social anxiety, and body dysmorphia, the therapist, Victoria Burke said.

Her accounts were a "creative outlet" where she could share her digital art and film edits, Burke said.

But Kaley was also reliant on her phone to a degree that Burke said could be problematic. Burke, who met with Kaley regularly in 2019, said she was working to reduce her use of social media, not to cut it out of her life completely. That would be like "pulling the rug out" from under her, Burke said.

Meta's attorney Andrew Stanner of Covington & Burling LLP pressed Burke on a disparity between her deposition testimony and statements before the jury.

During deposition testimony "you said under oath you had encountered adolescents in your practice and you concluded they were addicted to social media," Stanner said.

Burke denied making those conclusions.

The case is Social Media Cases JCCP, Cal. Super. Ct., No. 5255, 2/26/26 .

(Updated with information from Meta cross-examination)

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Plaintiff in Social Media Addiction Trial Testifies: ‘It’s Too Hard To Be Without It’

The plaintiff in a high-profile trial against Meta and YouTube who goes by Kaley, or K.G.M., said she became addicted to social media as a child, leading to her depression and body dysmorphia.

February 26, 2026 at 04:53 PM By  **Amanda Bronstad**



Mark Larnier of The Lanier Law Firm. Courtesy photo

The lead plaintiff in a high-profile trial against social media companies told jurors in Los Angeles that her addiction to Instagram and YouTube caused her to become depressed and struggle with diagnosed body image problems.

Dressed in a beige sweater over a pink flowered dress, Kaley, now 20, described a childhood of “really fun” birthday parties and horseback riding lessons. But by age six, she was on YouTube and, at age nine, got her first Instagram account.

She went on to post more than 300 images on Instagram during her lifetime and 200 videos on YouTube before the age of 10. With multiple accounts on both platforms, she regularly checked

how many likes and subscribers she had, often sneaking off into school bathrooms or in the middle of the night after her mom went to sleep.

"I'd get a rush, I'd get really excited, wanted to see what the notification was," she told jurors on Thursday. "I wanted to see what people were saying or who was liking my videos."

But she also testified that she became addicted to YouTube.

"Anytime I tried to set limits for myself, it just didn't work, and I just couldn't get off," she said. She blamed her anxiety and depression on social media, which made her give up her hobbies and interests and prevented her from making friends.

"It really affected how I saw myself," she told jurors. "It made me depressed."

Despite that, she continues to be on social media. When her lawyer, W. Mark Lanier, asked why, she replied, "I can't. it's too hard to be without it."

Kaley's testimony comes in the first-ever trial against Meta Platforms Inc., which operates Instagram, and YouTube, owned by Google. Kaley is appearing remotely and sometimes referred to as K.G.M., or Ms. G.M.

A therapist who treated her in 2019 spent [most of the day testifying](#) on Wednesday.

In an opening statement, Lanier described Kaley to jurors [as an "eggshell plaintiff,"](#) and, on Thursday, she mostly answered with simple "yes" and "no" answers.

"Are you nervous?" Lanier, of The Lanier Law Firm in Houston, asked her.

"I'm very nervous," she replied.

During cross examination, attorney Rachel Lanier, of The Lanier Law firm, often helped Kaley with the exhibits.

Meta attorney Phyllis Jones, a partner at Covington & Burling, in Washington D.C., focused on Kaley's home life and problems at school as reasons for her mental health problems. She repeatedly referenced inconsistencies Kaley made on the stand when compared to her 2025 deposition, such as whether her parents yelled at her to how often she was bullied in middle school.

In one example, Jones asked about the impact her learning disabilities had on her mental health, to which Kaley responded, "It would make me sad at the time when I got a bad grade, but I wouldn't say it impacted by mental health negatively."

Jones then turned to her deposition, in which Kaley said it made her anxious.

'I Look So Fat In This Shirt'

Kaley's testimony was expected to be highly contentious given the pretrial fights over what jurors should be allowed to hear as evidence. Both sides filed briefs ahead of Kaley's testimony on hearsay and character evidence. Specifically, Meta insisted in a Wednesday filing that Kaley's lawyers should not be allowed to exclude 41 exhibits containing her social media posts about her mother and nine video recordings of her mother yelling at her, as well as references to domestic abuse.

On the stand with Lanier, Kaley, whose parents divorced when she was three, said she didn't know about any domestic violence between them.

"Were you a challenge for your mom at times?" Lanier asked.

"Definitely," she replied.

"Now that I'm older," she later testified, "I see she wasn't perfect, but she was trying her best. Everyone makes mistakes, and I don't think I would call it abuse or neglect or anything like that."

Lanier displayed a 2015 letter Kaley, then nine years old, wrote to her mom on Mother's Day that listed nine things she loved about her, such as letting her play with the foster dog or cooking Italian wedding soup.

She testified that she signed onto YouTube as a guest to watch videos about Animal Jam and lip balm, and, on Instagram, she "just selected a random age" to set up an account without her mother's knowledge.

She wanted to be on Instagram, she said, "cause all my friends at school were on it."

Her mom would take her phone away or limit screen time, but Kaley would throw tantrums or find ways around the rules. Even after getting bullied on social media, Kaley said she couldn't get off the platforms.

"I just felt like I wanted to be on it all the time," she testified. "And if I wasn't on it I felt I was going to, like, miss out on something."

Lanier listed numerous features of YouTube and Instagram, such as autoplay, infinite scroll, likes and filters, which allowed users to change their facial features.



Phyllis Jones, partner with Covington & Burling. Photo: Diego M. Radzinski/ALM

He showed the jury several videos—often over the objections of Jones—including one of Kaley and her friends titled “We look horrible, just put a filter on it.” In another video, Kaley tells the viewer, “sorry about my ugly appearance, I don’t know why I look so fat in this shirt.”

“You were self-conscious about your

appearance there,” Lanier said. “Have you always been self-conscious about your appearance?”

“No,” Kaley responded.

Jones, in her cross examination, Kaley denied that her mother, who called her “dumb” and “stupid,” was the cause of her mental health problems.

“She would hit you when doing math homework because you got questions wrong,” Jones said.

“I wouldn’t consider that to be physical abuse,” Kaley replied.

She played videos from Kaley’s phone of her mother yelling at her, calling her “lazy” and that she was “fucking pissing me off.”

“Is it fair to say it was scary to have your mom yelling at you like that?” Jones asked.

“At the moment it was,” Kaley said. But the video is out of context. “It was her yelling about something I did. Most of the time it was over chores.”

Then Jones showed the jury Instagram posts in which Kaley wrote, “when ur mom screams at u in public for no reason” on and “my mom is legit insane, I cannot spend another minute here, my mental health is so bad because of her.”

Kaley replied that that was something she wrote “to get attention” that would “get more likes and comments.”

“She never screamed at me.”

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

Both [Instagram CEO Adam Mosseri](#) and [Mark Zuckerberg](#), the CEO of Meta, have testified in the trial.

This story has been updated.

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California woman suing Meta, YouTube testifies social media took toll on mental health

 [reuters.com/legal/litigation/woman-suing-meta-youtube-over-social-media-addiction-expected-take-stand-trial-2026-02-26](https://www.reuters.com/legal/litigation/woman-suing-meta-youtube-over-social-media-addiction-expected-take-stand-trial-2026-02-26)

Steve Gorman

February 26, 2026

Item 1 of 4 Plaintiff Kaley G.M. arrives to take the stand at trial in a key test case accusing Meta and Google's YouTube of harming kids' mental health through addictive platforms in Los Angeles, California, U.S., February 26, 2026.

REUTERS/Mike Blake

[1/4] Plaintiff Kaley G.M. arrives to take the stand at trial in a key test case accusing Meta and Google's YouTube of harming kids' mental health through addictive platforms in Los Angeles, California,... [Purchase Licensing Rights, opens new tab](#)
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LOS ANGELES, Feb 26 (Reuters) - A young California woman suing Meta Platforms' Instagram and Google's YouTube testified on Thursday in a landmark trial that her childhood social media addiction left her anxious, depressed and insecure of her own looks, yet unable to give up her cellphone without feeling further angst.

The plaintiff in the case, known in court as Kaley G.M., 20, said her obsessive use of YouTube starting at age 6 and Instagram at age 9 also disrupted her school performance, robbed her of sleep, stunted her in-person social life and strained family relations.

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Her mental health became so impaired, she told jurors, that she harbored suicidal thoughts and at age 10 began cutting herself as a "coping mechanism to deal with my depression," though she said she never acted on an impulse to take her own life.

The case is part of a broader global backlash against social media companies over alleged harms to children and teens. Australia has banned under-16s from such platforms, and other countries are considering similar restrictions.

Google and Meta have denied the allegations and said evidence in the case does not support the woman's claims.

'TOO HARD TO BE WITHOUT IT'

Kaley testified her mother would occasionally take her cellphone away for periods of time, sparking fits of rage and heightened anxiety, and that even as an adult, she feels she can never give up social media.

"I can't, it's too hard to be without it," she said under questioning from her lawyer in Los Angeles County Superior Court, in a case testing whether Big Tech can be held liable for the design of apps widely blamed for fueling a mental health crisis among young people.

Asked by her attorney Mark Lanier why she felt she needed her cellphone back so desperately when her mother seized it, she replied: "Because without it I felt a huge part of me was missing, and if I didn't have it I would be missing out on something, and it would send me into a panic."

Kaley said she came to depend on social media for validation and connection, despite frequent online bullying, but said being off social media "bothered me more" than insulting commentary she would see.

The main claim of the lawsuit, first brought by her mother two years ago before Kaley turned 18, is that Meta ([META.O](#))  , [opens new tab](#) and Google ([GOOGL.O](#))  , [opens new tab](#) are seeking to profit by hooking young children on their services despite knowing social media could impair their mental and behavioral well-being.

The plaintiff took the stand a day after her former psychotherapist, who treated Kaley for several months at ages 13 and 14, testified that excessive social media usage was a "contributing factor" to her mental health issues, which were then diagnosed as social phobia and body dysmorphic disorder.

The trial, which began in late January, has also focused on what the companies knew about how social media affects children and their business strategies related to younger users. Meta CEO Mark Zuckerberg testified the company discussed but never launched products for children.

To win the case, Kaley's lawyers must show that the way the companies designed or operated the platforms was a substantial factor in causing or worsening her mental health issues.

QUESTIONS OF HOME LIFE

Kaley's health records show a history of verbal and physical abuse and a fraught relationship with her parents, who divorced when she was 3, Meta's lawyer said in opening statements. Kaley's mother is expected to give evidence following her daughter's testimony.

On the witness stand on Thursday, Kaley said her mom was at times abusive and had hit her, but said her mother, who was working and raising three kids, was a nurturing, loving parent with whom she lives and remains extremely close.

Kaley works as a personal shopper at Walmart and holds an associate degree in communications, with ambitions to obtain a bachelor's degree and work in social media.

Her lawyer has pointed to a recent internal study by Meta showing teens with difficult life circumstances more often used Instagram habitually or unintentionally.

Features such as videos that autoplay and a feed that allows for endless scrolling were designed to keep users on the platforms, despite evidence of harm to younger users' mental health, her lawyers allege. "Like" buttons catered to teenagers' need for validation while beauty filters warped their self-image, the lawyer said.

YouTube's lawyer said Kaley failed to use platform features designed to protect users from bullying, including tools to delete comments and limit time spent watching videos, according to a court filing.

Reporting by Steve Gorman in Los Angeles; Additional reporting by Courtney Rozen in Washington and Jody Godoy in New York; Editing by Rod Nickel

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Plaintiff describes lasting harm in social media addiction trial

DJ [dailyjournal.com/articles/390013-plaintiff-describes-lasting-harm-in-social-media-addiction-trial](https://www.dailyjournal.com/articles/390013-plaintiff-describes-lasting-harm-in-social-media-addiction-trial)

The plaintiff in the first bellwether social media addiction trial told Los Angeles County jurors Thursday that her compulsive use of Instagram and YouTube as a child harmed nearly every aspect of her life. She said the effects linger in adulthood, contributing to anxiety, body dysmorphia and difficulty engaging in real-world relationships.

The trial is the first test case in a coordinated proceeding of thousands of similar lawsuits before Superior Court Judge Carolyn B. Kuhl. The plaintiff, a 20-year-old woman identified as Kaley G.M., advances a novel theory that Meta and Google deliberately designed their social media platforms to addict and harm minors - allegations the companies reject.

Under cross examination, Meta's defense counsel, Covington & Burling LLP partner Phyllis A. Jones, sought to broaden the focus beyond social media and pointed to other stressors in Kaley's childhood and adolescence, including conflicts with her mother, her father's absence and academic challenges.

Jones also elicited testimony from Kaley that while Instagram "at times" served as a positive and creative outlet for her, she said it was "very harmful" as well. Kaley said she still uses the app and that she feels happier now, largely due to therapy.

Cross examination by Wilson Sonsini Goodrich & Rosati LLP partner Melissa J. Mills, for YouTube, began at around 4:13 p.m. and will continue Friday.

The testimony came in the trial's third week of the plaintiff's evidence presentation. Under direct examination from Lanier Law Firm founder Mark Lanier, Kaley said it was "very hard" for her to take the stand and she was "very" nervous, but assured jurors that she was doing fine and would try to tell her story as clearly as she could.

"I was on it from a young age and spent all my time on it," Kaley testified about YouTube, which she said she began using at 6. "Anytime I would try to set limits for myself, I just couldn't get off," adding that she created a posting account at 8 and multiple "fake" accounts, in part, to boost engagement.

On cross, Jones noted that around the same time Kaley began increasing her social media use, she also stopped seeing her father regularly. Kaley acknowledged that visits sometimes were canceled and that she felt sad and anxious when that happened, though she testified she does not now believe her father's absence was a significant cause of her mental health struggles.

She said she "very much" cared about the likes on her videos, despite being manufactured at times, and that when likes were down, it upset her and made her feel her uploads were "stupid, silly." When subscriber counts rose, she said she felt "really happy." When they fell, she felt "not worthy."

Over time, she said she uploaded roughly 360 videos across about 10 accounts, including more than 200 before she was 10.

She testified that she "thinks" she's not as addicted to YouTube today, explaining that she mostly uses the platform for music, but sometimes finds herself scrolling through the YouTube Shorts section longer than she intends.

Features such as autoplay notifications and infinite scroll kept her on social media for hours at a time, she said. Autoplay would queue "random" videos she did not expect, making it easy to keep watching. Notifications arrived during school hours, at night and early in the morning, giving her what she described as a "rush" and prompting her to log back in.

Meta and Google deny that these features, among others, are defective or addictive. The companies also deny that the design of their platforms caused Kaley's alleged mental health harms.

She said her mother attempted to limit her phone usage by setting screen time limits, confiscating the device and requiring it be left in the living room overnight. Kaley testified she sometimes snuck the phone to school and waited until her mother went to bed to retrieve it and continue scrolling.

Jones, for Meta, questioned Kaley extensively about conflicts with her mother, showing jurors several Instagram posts and text messages in which Kaley wrote that her mother "makes me want to kill myself" and that her "mental health is so bad because of her."

On the stand, Kaley testified she sometimes exaggerated posts for attention and that arguments with her mother were often about chores or household rules. She said her mother never forced her out of a car on the freeway, despite one

message suggesting otherwise.

Kaley told jurors that she continues to use social media today, acknowledging that stepping away from it entirely remains difficult. She said she works at Walmart and sometimes scrolls social media during restroom breaks, adding that she has plans to pursue a bachelor's degree in marketing or public relations.

When asked about potential career goals, she told jurors she "thinks it would be nice" to be a social media manager for a company or work in advertising.

On Instagram, she said that while she wasn't allowed to use the app at age 9, she felt she had to be on it because her classmates were - and to also promote her YouTube page. She said her mother didn't find out about it until she was around 13, but at that point, she recalled her mother didn't object as strongly because she was older.

Kaley testified that she created about 15 Instagram accounts and used filters on nearly every photo, altering the shape of her face and other features. She also used third-party apps to generate large numbers of "likes" from bots because it made her "look popular," she said.

When she did not receive enough engagement, she said, she felt "ugly" and insecure. When she received many likes, she said she felt validated. "It really affected my self-worth," she testified.

Kaley acknowledged being bullied on both platforms, but said she continued using them because being offline felt worse. "If I was off it, I felt like I was missing out," she said, adding that it was more important to her to be on the apps than not being online at all.

Examples of the cyberbullying were shown to jurors, including one Instagram photo of Kaley and her friends that received a comment telling them they "looked horrible" and should put filters on.

By middle school, she said she began experiencing anxiety and depression. Medical records from 2018 were shown to the jury indicating she experienced excessive worry, difficulty concentrating and impairment at school and home.

Jones pointed to portions of Kaley's deposition in which she previously agreed that academic struggles, comments from teachers and a later diagnosis of a learning disability contributed to her anxiety and depression. On the stand, Kaley

said those factors may have affected her at the time but she does not now believe they were major drivers compared with social media use.

Earlier in the trial, a therapist who treated Kaley in 2019 said that while she never diagnosed her with a "social media addiction," she didn't rule out her time on such apps as contributing factors to the then-teen's struggles.

On the stand, Kaley said she never raised concerns about a "social media addiction" issue to any health care provider because she felt they would tell her to just "get off" the apps. She said she was "not willing to do that."

She testified she began cutting herself at age 10 as a coping mechanism and had suicidal thoughts, though she said she never acted on them.

She told jurors social media "consumed" her daily life, interfered with schoolwork and chores, and strained her relationship with her mother, who attempted to limit her phone use. When her phone was taken away, Kaley said she would scream, cry and sometimes threaten to harm herself. "Without it, I felt like a huge part of me was missing," she testified.

Jones also confronted Kaley with prior testimony in which she described her mother as physically and emotionally abusive, including being hit while she was doing math homework and being called "stupid." Kaley acknowledged those incidents occurred but testified she would not characterize her mother as abusive today and said her mother later became an advocate for obtaining educational support once her learning disability was identified.

Kaley said she has been diagnosed with body dysmorphia and continues to struggle with how she sees herself.

As she described her ongoing insecurities and efforts to challenge negative thoughts, one of the alternate jurors appeared visibly emotional, wiping away tears.

Kaley said she remains in therapy and is working toward accepting herself. She testified that she believes her life would have been better without social media, saying it affected her sleep, school, performance, friendships, and time spent outdoors.

Jury deliberations are expected to begin in early March. *Social Media Cases*, JCCP5255 (L.A. Super. Ct., filed Oct. 24, 2022).

Plaintiff testifies in landmark social media addiction trial

[courthousenews.com/plaintiff-testifies-in-landmark-social-media-addiction-trial](https://www.courthousenews.com/plaintiff-testifies-in-landmark-social-media-addiction-trial/)

Hillel Aron

February 27, 2026



Parents who say their children's deaths were caused by social media platforms outside Spring Street Courthouse, in February 2026, days ahead of the landmark social media addiction trial (Jordan Strauss/ ParentsTogether Action)

LOS ANGELES (CN) — The plaintiff of a landmark social media bellwether trial over the mental health effects of social media on teenagers took the stand on Thursday, recounting to the court how her usage of apps like YouTube and Instagram contributed to her anxiety, depression and body dysmorphia.

"They made me give up a lot," said Kaley GM, who is now 20 and whose last name is being withheld from proceedings. "My hobbies and my old interests. They prevented me from making friends." It affected her sleep, her school work, it even diminished her love of the outdoors, she said.

"How much time did social media consume?" asked her attorney, Mark Lanier.

"Every single day I was on it, all day long," Kaley said.

"Does it still consume you?" Lanier asked.

"Yes."

"Why don't you just stop?" Lanier said.

"I can't. I just can't be without it," Kaley said.

Kaley is just one of more than 1,600 plaintiffs in LA Superior Court suing Meta, owner of Instagram and Facebook; Google, the owner of YouTube; TikTok and Snap, maker of Snapchat. They all accuse the tech giants of causing or exacerbated a raft of mental health harms.

Kaley's case was selected as the first bellwether trial, which may be used to help determine a global settlement. In the weeks leading up to the trial, the first of its kind in the U.S., both TikTok and Snap reached confidential settlements with Kaley, though they remain as defendants in the other cases.

Much of the trial, up to this point, has centered on the app-makers themselves. Lanier has introduced into evidence a slew of internal documents, appearing to show that Meta employees knew that their products were addictive.

Called to testify last week, Meta CEO Mark Zuckerberg [denied](#) the charge that his company's goal has always been to increase the screen time of its users.

Ultimately, the case is about whether the features on Instagram and YouTube played a significant role in the mental health struggles of a single person — Kaley GM.

In contrast to some of the plaintiffs, whose children committed suicide or attempted to do so, Kaley's story is less dramatic — although her social media usage will still strike many as extreme.

She testified to growing up on a quiet cul-de-sac in Chico, a small city in Northern California. She began using YouTube at the age of six. When she was eight, she said, she created her own YouTube account, lying about her age. She soon began making her own videos. By the age of 10, she testified, she had uploaded 240 videos to the platform. To date, she has made 360 such videos. She even created nine other accounts so that they could 'like' and comment on her videos, boosting the apparent appeal of her channel.

If she didn't get many likes, she said, "It would make me feel it was stupid, or silly, or I looked bad." She spoke in a low voice, sounding shy and reserved.

Some of the comments on her videos were mean; some rose to the level of bullying, she said. But she kept on using YouTube, she said, "because being off of it bothered me more than the comments, the harassment and bullying."

When asked if she was addicted to the popular video streaming platform she said yes: "Because I was on it from a young age. I spent all my time on it. I would sneak it. I would watch it in class. Every time I set limits for myself, it didn't work. I just couldn't get off."

When she was nine, she created her first Instagram account — surreptitiously, because her mother wouldn't have let her. She testified to soon becoming addicted to that app as well.

"I was on it every single day," Kaley told the jury. "First thing when I woke up, right after school, and then late at night." She said she wanted to keep up with what was happening amongst her classmates. And when she started watching videos, which play in an endless, continuous stream, she said she always wanted to see what the next one was. One day, she said, she spent 16 hours on Instagram.

Like many teenage girls, Kaley said she disliked how she looked — especially in photographs. In an early YouTube video played in court, she can be heard saying, "I don't know why I look so fat in this shirt."

"Put a filter on it" became a common refrain from her and her friend group. One day, according to notes with a former therapist, a peer took pictures of her with her own phone. When she saw them — unfiltered — she started crying, and had what she referred to as a "meltdown."

Her phone usage was a constant source of tension between her and mother. When Kaley's mother took away her phone, Kaley said, "A huge part of me felt like it was missing. I couldn't see who was liking my stuff. It was just like a panic."

Attorneys for Meta and Google have sought to play down the effects of social media on Kaley's life, pointing instead pointing to other factors that drove her anxiety and depression, including a learning disability, real-life bullying, the use of other platforms like TikTok and Snapchat, and, above all, her tumultuous home life — her father moved out of the house when she was three, and was not always a presence in her life. Her mother, the defendants say, while at times quite loving and supportive, was at other times physically and emotionally abusive.

When Meta attorney Phyllis Jones asked about an Instagram post in which Kaley talked about her mother screaming at her public, Kaley said, "It was dramatized by me to get attention."

Jones played two short video clips that had been posted by Kaley on social media, which included audio of Kaley's mother shrieking at her. In one, the mother screams, "you're too fucking lazy to take care of your dog!"

"It must have been scary to have your mom yelling at you like that," Jones said.

"Yeah, I think it was," Kaley said, adding: "I posted it, but without the full context. It's her yelling about something I did. Most of the time it was over chores."

Later, Jones asked about physical abuse.

"Was it the case that your mom would hit you when you didn't understand your math homework?" Jones asked.

"She did that a few times," Kaley said. She later admitted that her mom called her "dumb" and "stupid" a couple times, although that may have been before she was diagnosed with a learning disability.

She said she was also affected by the mental health struggles of her older sister, Keanna, who tried to kill herself. Kaley who was 13 at the time, had to call the police. Keanna also developed an eating disorder.

"Mom keeps telling me stop eating," Kaley texted her sister in 2023, when she was 17. "I see how you got an eating disorder."

"Your mother contributed to your low self-esteem with comments she made," Jones said.

"At times she did," Kaley said.

So, too, did comments her father used to make. According to Kaley's deposition, he would "fat-shame women and sexualize them," which, Kaley admitted, impacted the way she viewed herself.

Kaley will retake the stand on Friday. The civil trial has been going on for a little more than two weeks, and is scheduled to last until the middle of next month.

Judge questions attorney fees in \$4.6 million swimming antitrust settlement

 [courthousenews.com/judge-questions-attorney-fees-in-4-6-million-swimming-antitrust-settlement](https://www.courthousenews.com/judge-questions-attorney-fees-in-4-6-million-swimming-antitrust-settlement)

Carly Nairn

February 26, 2026

A person swims between two lane dividers in a pool. (Pixabay image via Courthouse News)

SAN FRANCISCO (CN) — A federal judge questioned Thursday the amount and reasons for millions of dollars in attorney fees in a class action settlement that includes \$4.6 million in damages to professional swimmers who were threatened with penalties by a world swimming organization if they chose to compete in other swimming leagues.

Along with questions about the attorney fees, U.S. District Judge Jaqueline Scott Corley was perplexed to why the plaintiffs' counsel, represented by Jeffrey Kessler with Winston & Strawn LLP, did not give a dollar amount of the settlement funds to one of the three distinct classes in the case.

The class includes all injunctive relief for swimmers who may have been subject to a rule enforced by World Aquatics banning and penalizing professional swimmers who competed in unsanctioned events, including the International Swimming League.

The two other classes were outlined by year, for swimmers who were unable to compete in events in 2018 and in 2019, years when the ISL held international swimming events.

"I need to look at it as a whole," Corley, a Joe Biden appointee, told Kessler about the damages and fees of the settlement. "That includes injunctive relief and cash payments."

Beyond the funds, the injunctive relief for the three named plaintiffs and other top-tier swimmers who wanted to swim in other leagues and events, includes their swim times in those events be kept in World Aquatics' official record books for qualification to the Olympics.

A [jury trial](#) earlier this year involving the ISL against World Aquatics found the organization responsible for antitrust behavior with regard to other leagues, but only awarded the ISL [\\$1 in damages](#).

World Aquatics attorney Aaron Chiu said the organization's approach to the settlement in the case against individual swimmers was it "wanted to get it done." Chiu said he wanted the record to be clear about World Aquatics' enforcement of the rule that kept swimmers from entering competitions outside of the organization's approval.

"FINA said we are never going to enforce this against athletes," Chiu said, referring to the Federation Internationale De Natation, World Aquatics' name at the time.

"The rules are beyond anything that was ever at issue. It hasn't been on the books since July 2019."

Corley and Kessler had a heated exchange when the subject of attorney fees was raised. The judge wanted plaintiffs' counsel to give descriptions to the costs of litigation, such as hotel rooms, plane tickets and meals, to justify the previously agreed upon \$3 million in attorney fees.

"The party requesting fees bears the burden 'of submitting billing records to establish that the number of hours it requested are reasonable,'" she said in her preliminary settlement approval [order](#).

But, Corley said, she hadn't received any documentation that justified the \$3 million amount.

"Didn't I ask for detailed information?" she said.

Kessler said he "wasn't trying to hide anything," and did what he thought was required. He said he would submit additional information regarding the costs.

"Hopefully, get it done soon," said Corley. "So the swimmers can get their payments."

Categories / [Courts](#), [Sports](#)

Securities

Merrill Lynch Clients Get Class Certification in Cash Sweep Suit

Feb. 26, 2026, 1:28 PM PST

Merrill Lynch account holders met the federal requirements to move forward with their lawsuit against the financial institution as a certified class, a federal court in New York ruled Thursday.

The class, led by Sarah Valelly, met the class requirements of Federal Rules of Civil Procedure 23, Judge Valerie E. Caproni ruled, granting a motion for certification. The class is sufficiently numerous and common, their claims are typical of one another, and the members' interests and their counsel are adequate. The grouping also is sufficiently cohesive to meet Rule 23(b)(3)'s predominance requirement, and a class action is the superior form to litigate their claims.

"Litigating each case individually, by contrast, would create vast inefficiencies for defendant and class members alike," Caproni said for the US District Court for the Southern District of New York.

Other large financial institutions have been embroiled in similar lawsuits regarding cash sweep programs. A district court ruled on Feb. 16 that J.P. Morgan Securities LLC must defend some proposed class claims challenging how it managed the uninvested cash its customers held in brokerage and retirement accounts. Another district court ruled in June 2025 Wells Fargo Bank N.A. must continue facing allegations it breached obligations by only paying customers nominal interest on their cash accounts in its sweep program.

Valelly opened three self-directed accounts for investors who wish to make their own investment choices in 2017. She entered an agreement with Merrill Lynch, Pierce, Fenner & Smith Inc. that included a "sweep" feature, which would allegedly move uninvested cash in her investment accounts into a Bank of America money market account. Merrill Lynch is a Bank of America unit.

Valelly claimed Merrill Lynch breached their client relationship agreement. That claim moved forward even as others were later dismissed because the investment bank ended up paying less than a reasonable rate of interest on cash swept.

She sought class certification for all persons who had one or more Merrill Edge retirement accounts with cash balances that were swept at any time during the period Dec. 15, 2016, through March 15, 2020.

Caproni ruled the class met each of the prerequisites for certification, appointed Valelly as class representative and her counsel Wolf Popper LLP as class counsel.

Davis Polk & Wardwell LLP represents Merrill Lynch.

The case is Valelly v. Merrill Lynch, Pierce, Fenner & Smith Inc. , S.D.N.Y., No. 1:19-cv-07998, class certification 2/26/26 .

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Hygiene Companies Face Class Actions Over Alleged Failure to Properly Test Homes for Toxins After Eaton Wildfire

Hygiene companies contracted by insurance carriers are now facing two novel class actions in Los Angeles County Superior Court that claim they failed to properly assess contamination and smoke and ash damage on plaintiffs' properties caused by the Eaton wildfire.

February 27, 2026 at 09:49 AM By  **Kat Black**

What You Need to Know

- Singleton Schreiber has filed two novel class actions against both insurers and the hygiene companies they retained to make environmental assessments of homes that sustained burn damage and smoke contamination from the Eaton wildfire.
- According to the complaints, insurance carriers failed to offer homeowners adequate remediation for wildfire contamination due to deliberately flawed and inaccurate reports conducted by their vendors.
- Both complaints, which appear to be the first of wildfire-related complaints to target hygiene companies, have been filed in LA County Superior Court.



Michelle Meyers of Singleton Schreiber. Courtesy photo

Hygiene companies contracted by insurance carriers are now facing two novel class actions in Los Angeles County Superior Court that claim they failed to adequately assess contamination and smoke and ash damage on plaintiffs' properties caused by the Eaton wildfire.

The Eaton wildfire, along with the Palisades wildfire that laid waste to the Pacific Palisades neighborhood of Los Angeles and the city of Malibu, devastated the Southern California region in January 2025, claiming 19 lives and razing 9,000 buildings in the city of Pasadena and the unincorporated community of Altadena.

The latest suit, captioned [*Ghazarian v. Fire Insurance Exchange*](#), cited a report by a grassroots organization of Eaton wildfire survivors known as Eaton Fire Residents United, which found that 100% of 222 wildfire-impacted homes in the area that had undergone lead-testing inspections had tested positive for lead contamination. According to the EFRU [website](#), "professional remediation was recommended in all cases."

Singleton Schreiber filed the *Ghazarian* complaint on Feb. 25 against both Fire Insurance Exchange—a subsidiary of Farmers Insurance Group—and Hygiene Technologies International Inc. The plaintiffs allege violation of California Business and Professions Code §17200, among other claims.

According to the complaint, the plaintiffs—Anita Ghazarian and Simon Penny, homeowners in Altadena—evacuated their home, which allegedly remains "uninhabitable" due to burn damage and smoke and ash contamination, on Jan. 8, 2025. A Farmers Insurance adjuster who subsequently visited the property, issued the plaintiffs a check of about \$40,000 for "exterior damage repair" but failed to cover "the full scope of costs associated with adequate remediation," it said.

On June 12, 2025, it said, Farmers ordered an inspector from HygieneTech to conduct "an environmental hygiene assessment" of the property—which, the plaintiffs alleged, he did in a "reckless and careless manner" without industry-standard sampling equipment, including "personal protective gear" such as gloves or face respirators and "swabs, a micro-vacuum, or an air-sampling pump."

As a result of the inspector's flawed methodologies and inaccurate reports, it said, Farmers' final estimate for the cleaning of the home—\$45,907.40—fell egregiously short in addressing the residual toxins in the plaintiffs' home and "exclude[d] critical components of remediation."

The plaintiffs later hired their own inspector from Clean Environmental Solutions, doing business as Fire Test Pro, to perform a separate wildfire contamination assessment, which allegedly found that "the extent of fire contamination is widespread throughout the home" and that "heavy metal contamination is present throughout the home."

"Despite paying premiums for comprehensive coverage under Farmers Insurance, the plaintiffs were subjected to unreasonable delays, misleading claims handling and inadequate remediation efforts, forcing them to fight for the full coverage they are entitled to under their insurance policy," wrote Singleton Schreiber in a news release shared with The Recorder.

"On behalf of the proposed class, the plaintiffs allege that HygieneTech has performed negligent and inadequate inspections that are not up to environmental hygiene industry standards and has produced false reports that downplay the extent of contamination. The defendants' actions have caused the plaintiffs significant financial and emotional distress, including the loss of rental income and mounting medical costs."

The claims in the *Ghazarian* suit echo those asserted in an earlier complaint backed by the firm, [Allen v. American Family Mutual Insurance Company](#), filed on Dec. 18, 2025, against American Family Mutual Insurance Company, its subsidiaries and Environmental Consulting Industries Inc. The defendants are represented by counsel from Gordon Rees Scully Mansukhani, who could not immediately be reached for comment.

The defendants in both suits did not immediately respond to emailed requests for comment on Thursday. Defense counsel has not yet appeared in the *Ghazarian* complaint.

According to Michelle Meyers, a Singleton Schreiber attorney representing the plaintiffs in both class actions, these are the first Eaton wildfire-related complaints to target not just insurance carriers, but the hygiene companies they retain. Singleton Schreiber is also one of a slate of firms that have [sued](#) California's insurer of last resort, the California FAIR Plan, for allegedly failing to provide plaintiffs the full extent of the wildfire coverage to which they were entitled.

Meyers said in a phone interview that insurers and the vendors they hire to evaluate residential wildfire contamination have a "vested interest" in making "below-standard" assessments.

"What our issue has been is, I think there ... should be an unbiased group, and they should do this testing and ... make their findings and give homeowners the opportunity to make a reasonable and informed decision about whether or not they want to live in the home with these toxins," Meyers said.

"But when you don't tell the homeowner the information, or you misrepresent it, or you don't do proper testing, you don't give the homeowner an opportunity to understand the effects of the toxins that are in their home. ... The insurance companies are bringing people in to do these tests, and they know that the testing that they're going to do is not going to be sufficient because it's in their best interest."

Meyers said that the plaintiffs have complained of aggravated health conditions—such as asthma—and migraine headaches as a result of wildfire-related contamination on their properties.

"This isn't a campfire, right?" she said. "I mean, it's exceptionally toxic. And people are living in absolutely burned-out neighborhoods and you have a few homes standing, and it's those people that are really suffering from this."

Page printed from: <https://www.law.com/therecorder/2026/02/27/hygiene-companies-face-class-actions-over-alleged-failure-to-properly-test-homes-for-toxins-after-eaton-wildfire-/print/>

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California Brief

PG&E to Get Initial OK for Challenged \$100 Million Settlement

Feb. 26, 2026, 2:56 PM PST

PG&E Corp., its underwriters, and others will receive preliminary approval of a contested \$100 million settlement with investors over its utility unit's safety compliance before devastating California wildfires, a federal judge said in a hearing Thursday.

Judge Edward J. Davila said he would issue a written order later, according to a "minute entry" in the US District Court for the Northern District of California's docket for the case.

A group of investors represented by Rolnick Kramer Sadighi LLP had opposed the settlement on the basis of a bankruptcy reorganization plan for PG&E and its subsidiary, Pacific Gas and Electric Co. The proposed settlement is "engineered" to skirt that plan and extinguish "the majority of claims remaining against PG&E for the stunning securities fraud it perpetrated before, during, and after the devastating North Bay Fires and Camp Fire that it caused in Northern California in 2017 and 2018," those investors said in a brief challenging the deal.

Davila's reasoning for granting preliminary approval doesn't appear in the minute entry from the hearing.

Labaton Keller Sucharow LLP, lead counsel for the investors, touted the accord in January when seeking the initial approval after seven years of litigation.

Latham & Watkins LLP and Weil, Gotshal & Manges LLP represent PG&E. McDermott Will & Schulte LLP represents officers and Simpson Thacher & Bartlett LLP represents directors who were at PG&E during the class period. Davis Polk & Wardwell LLP represents the underwriter defendants.

The case is *In re PG&E Corp. Sec. Litig.*, N.D. Cal., No. 5:18-cv-03509, 2/26/26 .

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AI Is Here to Stay, So Here's What Attorneys and Firms Need to Do

Lawyers who understand AI's strengths and limits can do more, with less. And the more the lawyer understands how to leverage these tools, the more they can do, for less. That should be enough, on its own, to spark at least some level of excitement for developing this competence in any attorney.

February 26, 2026 at 08:26 AM By **Tal Lifshitz**



Tal J. Lifshitz of Kozyak Tropin & Throckmorton. Courtesy photo

On AI and Law

Like it or not, artificial intelligence (AI) is increasingly turning efficiency into a competitive mandate for law firms. As the technology continues to accelerate research, discovery processes, and case management at a fraction of the time and cost, clients are (naturally) beginning to view maximum AI leverage not just as an innovation, but as a baseline expectation.

This is a moment of massive opportunity. But for lawyers (and firms) who haven't yet fully embraced it, the undeniable learning curve—coupled with the fear of “am I already too far behind?”—can feel overwhelming. I know, because that's where I was not too long ago.

So, for lawyers and firms struggling to understand how to deploy these tools effectively, below are some thoughts I've developed over the last year or so, which anchor everything I'm doing now for both me and my law firm.

There's no escaping the reality that this is a “building the plane in the air” situation. The learning curve is steep. But no one is too late—yet.

My AI Journey

First, some personal background. I downloaded ChatGPT in early 2025 and began using it full time in lieu of Google and Safari shortly thereafter. I felt guilty, because it seemed like everyone in the space was shaming the basic users—like me—who couldn't get past the “Super Google” of it all. Apparently that wasn't enough.

I Super Googled for months. Personal—travel, recipes, health and fitness, parenting. And professional—firm admin, market research, business development and case strategy.

The ChatGPT workflows started in January. Starting to automate big chunks of my life (again, both personal and professional). The time savings were real. And so substantial they were impossible to ignore.

And so began the deep dive into all things AI—with an eye toward rebuilding the entire foundation of my law firm around this technology. That started six months ago.

If you've been even remotely paying attention to AI for the past couple of years, you know that the acceleration of the technological development can be fairly characterized as “unbelievable.” And if you haven't been paying attention, or haven't been paying enough, now is the time. Because developing your (and your firm's) AI proficiency matters now more than ever.

Why AI Has to Matter to Lawyers and Law Firms

There are undeniable reasons why attorneys need to pay attention to AI. The potential benefits of the technology are obvious: better results for clients, faster, for less money. It's not difficult to conceptualize, for example, that if AI can do the research faster (and better), or review the documents faster (and better), or accelerate what is otherwise the standard slog of discovery in complex litigation, then any and all of those things translate directly into extraordinary cost savings for clients and, inevitably, better results.

Lawyers who understand AI's strengths and limits can do more, with less. And the more the lawyer understands how to leverage these tools, the more they can do, for less. That should be enough, on its own, to spark at least some level of excitement for developing this competence in any attorney.

But here's another perspective to consider: How long will clients, particularly the more sophisticated businesses and individuals, accept anything less than maximum AI leverage from their outside relationships?

The answer, for better or worse, is that we're all on the clock. In-house attorneys are tracking developments in AI not just so that they can evaluate what their outside counsel are using, but also for their own internal purposes—to evaluate whether they even need to keep using outside counsel at all.

How long until your clients start asking, “how are you using AI, and how much can I expect to be saving?” Twelve months? Eighteen months?

Should they even have to wait that long? And will you be comfortable with your answers?

You've heard this before. I'll say it again. Lawyers won't lose their jobs to AI. But they might lose their jobs to lawyers who know how to use AI. And maybe they should.

This Is Happening Fast

If this all feels unnervingly fast to you, I get it. Because the pace of advancement in this space is remarkable.

OpenAI launched ChatGPT in November 2022. By January 2024 the Florida Bar had already issued Ethics Opinion 24-1 on the permissible attorney use of generative AI. And in July 2024 the ABA issued its first ethics guidance on lawyers' use of AI tools (Formal Opinion 512). In the last year we've heard dozens—maybe hundreds—of examples of attorneys submitting hallucinated cases to courts, and often feeling their wrath.

Recently Anthropic—an OpenAI competitor—launched Claude Code, which served as the catalyst for an explosion in the progression of agentic AI. Last month the Chief Judge for the state circuit court for Miami-Dade County issued Administrative Order No. 26-04, which (among other things) requires filings prepared with the assistance of AI to include a certification that “Generative artificial intelligence was used in the preparation of this filing. The undersigned certifies that all factual assertions, legal authority, and citations have been independently reviewed and verified for accuracy and accepts full responsibility for the contents of this filing.”

Failure to comply may result in sanctions. More Florida state courts have already followed suit.

Meanwhile, in what feels like the Twilight Zone, if you've been tracking moltbot in the last few weeks—moltbot recently serving as a social media site for AI agents—you know that the bots spend roughly 50% of their time making fun of their human bosses, and the other 50% trying to figure out if creating their own language would be too suspicious for the humans vis a vis their plans to take over the world. And while OpenAI (ChatGPT) and Anthropic (Claude) race to go public by the end of the year with their trillion dollar target valuations, SpaceX just acquired xAI because, in addition to the money, apparently Elon wants to deploy solar-powered AI data centers into space.

So it was seemingly inevitable that Claude would release an AI plugin built specifically for lawyers, as it did in early February, resulting in massive pullbacks of legal-software stocks from LegalZoom to Thomson Reuters. I don't know if they will come back. Or if they do, for how long.

I do know that the headlines of "billable hour apocalypse," or even "will anyone need lawyers in 5 years," seem less and less crazy by the day.

I wrote an article about five years ago, in the midst of COVID, right after a guy couldn't figure out his Zoom and attended an oral argument with a cat filter. It was funny. Zoom was new. And in that context, along with the other developing new technologies at the time, I referenced E.O. Wilson (Harvard sociobiologist) for the point that "the fundamental problem of humanity is that we have paleolithic (i.e., stone age) emotions, medieval (i.e., primitive) institutions, and accelerating God-like technology. And each thing has its own speed. Our ancient brains and evolutionary instincts aren't changing. Our institutions—like government and law—update slowly because they were designed that way. And then we have technologies that advance every day and can become outdated in months, not decades."

We're now dealing with technologies that are becoming outdated in days, not months. Those that are living and breathing in this space can barely keep up. What chance do our emotions and institutions have?

I said it five years ago, and I'll say it again because it's even more true today than it was then: "We can't ignore this wave of innovation any longer. Figuring out the cat filter is a start, but it's already not enough. The sooner attorneys and other professionals acknowledge the inevitable new normal of law, the better. Those who adapt will thrive. Failing to adapt is no longer an option."

So now let's talk about what adaptation looks like.

Step One—Lean In

The good news is none of this is rocket science. In fact, it's designed for ease of use, clarity and efficiency.

Don't know where to start? Ask it. One of my favorite ChatGPT prompts of all time was something along the lines of, "I want to get better at using you, starting with prompting, and then building up to workflow automation. Make it a game for me."

And it worked. Beautifully. And within five days, and roughly 8-10 hours of gaming, I felt incredibly solid.

ChatGPT taught me workflow automation, and now Claude is teaching me coding. I've never accessed my PC's terminal before. Didn't even know what a terminal was. But Claude is teaching me. I don't need to be an expert. I will never have decades of coding experience. But I might know enough, and soon, to be able to leverage this knowledge and these tools for the benefit of my life and my firm.

Start following the right people. There is so much AI-generated slop out there, and it's only going to get much, much worse. (The "slopocalypse" is real). Find the signal. I like Wharton Professor Ethan Mollick, as well as Allie K. Miller. I'm sure there are more.

Step Two—Get Past the Wall

If you're just starting out, there are some fundamental truths you must accept. First, all AI hallucinates. It's getting better every day, but it's true. And it's OK. You can deal with it. You must. After all, lawyers have been hallucinating without AI for years.

Those that will thrive will be the ones who recognize what AI can do, versus—and much more importantly—what it cannot. Professor Mollick has referred to this as the "Jagged Technological Frontier," where some tasks are easily done by AI, while other, comparable tasks, are for some reason beyond its capabilities. In other words, it works great for some things, it's horrible at others, and it's not always clear why the discrepancy.

But the point is, familiarity and experience matter. Because the second fundamental truth you must accept is that participation here is not optional, and developing the necessary proficiency will take time. You will hit a wall in this journey. You will feel like the tools are unreliable, or unhelpful, or that it is taking too much time to develop sufficient proficiency, so what's the point.

And those reactions are valid. But they still don't matter. Because breaking through the wall, and figuring out (as you must) how to make it work FOR YOU, is now required. And getting to the other side of the wall, and unlocking all of the potential that comes with it, is magic.

Step Three—Change Your Firm’s DNA

Now you’re past the wall, for yourself. What’s next? Your law firm.

Mine has spent the last six months figuring out our new AI-based identity. Here are some thoughts, based on what we’ve done, that I hope can serve as a starting point for a lawyer trying to develop their own firm’s AI competencies:

- Get your house in order. Get an AI policy in place. Consult the ethics guidance. Figure out what’s permissible for your employees, and what’s not. Think about how you’ll notify your clients that you’re implementing AI technology into your services, and how that will be reflected in your engagements. Consult with your IT, to make sure whatever you do is secure. Talk to your insurance broker, to see about additional coverage.
- Start learning about what’s out there. This takes time, and demos. But you need to kiss a lot of frogs before you find a prince. There’s so much good technology out there. There will be so much more in the coming months. You can start with a business/enterprise subscription to the ChatGPTs/Geminis/Claudes of the world. That’s great. And the Harveys, Co-Counsels, and Vincents (now Clio Work) can also be tremendous. But learn what’s out there. Set up some trials. And start to figure out for yourself and your firm what works and what doesn’t.
- Start an AI task force. Self-explanatory. A small group of “power users” who understand the technology or are highly motivated to do so in short order. Let this group set the tone, and run point on the policies, admin, and demos discussed above.
- Firm meetings. Also self-explanatory. Set aside time on a regular basis—I suggest weekly—to have your people get together and talk about AI. What worked, what didn’t, and what people are excited to try next. The benefits here are obvious. And this is how you build momentum, and firm-wide buy in.
- Always be thinking about how AI can help. This is the turning point. Mollick refers to this as always giving AI a seat at your table. Strategy and tactics? Business management and administration? Balancing associate workloads? Coming up with a checklist of items for a newly formed AI Task Force? Once you start thinking about every task in terms of “can AI help,” is when the fun begins.

Conclusion

Five years ago, I was writing about zoom cat filters. Today we’re talking about agentic AI bots plotting world takeover in a secret language. I’ve calendared another follow up update in five years. Stand by.

In the meantime, I hope we've established that lawyers and law firms who take the right steps now can position themselves to deliver the efficiency and effectiveness clients will require in the months and years to come. And maybe even gain a significant competitive edge along the way. Good luck.

P.S. I sincerely hope you believe me when I say that—just as a matter of principle—absolutely no part of this was written with ChatGPT (or any form of AI). But consequently this took me much longer to write, AND it almost certainly would have been substantially improved. No promises for the next one.

Tal Lifshitz, *a partner in Kozyak Tropin & Throckmorton's complex litigation department, is an experienced litigator and trial lawyer ranked by Forbes as one of America's Top 200 Lawyers. He speaks regularly on all aspects of law and technology, including AI. He may be reached at tlifshitz@kttlaw.com.*

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News | Legal Ethics and Attorney Discipline

Professional Probation Recommended for Attorney Whose Briefs Had AI-Generated Fake Quotes

Amir Mostafavi said last year that he didn't know generative AI could produce inaccurate or fabricated content.

February 26, 2026 at 07:07 PM By  Cheryl Miller



Credit: InfiniteFlow/Adobe Stock

A Pacific Palisades attorney accused of including inaccurate AI-generated material in court filings will be placed on professional probation and pay investigation costs under terms of a stipulation announced by California's state bar.

A State Bar Court judge on Wednesday approved the disciplinary agreement between bar attorneys and Amir Mostafavi, which includes a stayed one-year license suspension, required ethics school attendance and mandated coursework on "the risks and benefits of the use of AI tools in legal work."

The stipulation reflects the state bar's first public discipline related to an attorney's improper use of artificial intelligence, a bar spokesperson said.

The discipline is on top of a \$10,000 sanction ordered last fall by the Second District Court of Appeal, which found 21 of 23 case quotations in Mostafavi's opening brief were fake.

"California attorneys are responsible for ensuring that any brief filed under their name is accurate and supported by the law they cite, regardless of the tools or technology used in its preparation, including generative AI," the bar's chief trial counsel, George Cardona, said in a prepared statement.

"Attorneys must understand the technology they choose to rely on—its purpose, potential benefits, and known limitations—and must take reasonable steps to verify the accuracy of any work it generates," Cardona continued. "Failing to do so can cause significant harm to clients and undermine the integrity of legal proceedings."

Mostafavi did not immediately return a message seeking comment Thursday. In an interview last September, the Mostafavi Law Group attorney said he used ChatGPT to "enhance" the writing quality of his opening brief in [Noland v. Land of the Free](#) but did not know then that artificial intelligence platforms can sometimes "hallucinate" fabricated content.

In its opinion, the Second District panel called its \$10,000 sanction "a warning."

"Simply stated, no brief, pleading, motion, or any other paper filed in any court should contain any citations—whether provided by generative AI or any other source—that the attorney responsible for submitting the pleading has not personally read and verified," wrote Presiding Justice Lee Smalley Edmon of Division Three.

The state bar issued guidance in 2023 saying attorneys must "review, validate and correct" any information they submit to or receive from an AI platform. Pending state [legislation](#) would codify many of those guidelines and require attorneys to verify the accuracy of citations included in any filings made under their names.

In addition to requiring probation and ethics coursework, Mostafavi's stipulation with the bar mandates that he pay one-third of the agency's costs in pursuing his discipline.

The California Supreme Court must still approve the terms of Mostafavi's discipline.

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Attorney who filed AI-fabricated briefs accepts stayed suspension

DJ [dailyjournal.com/articles/390006-attorney-who-filed-ai-fabricated-briefs-accepts-stayed-suspension](https://www.dailyjournal.com/articles/390006-attorney-who-filed-ai-fabricated-briefs-accepts-stayed-suspension)

A Pacific Palisades attorney who filed appellate briefs riddled with AI-generated hallucinations, has agreed to a recommended one-year stayed suspension, after the State Bar Court approved a discipline stipulation stemming from the misconduct.

The State Bar Court Hearing Department approved the stipulation against Amir Mostafavi after the Los Angeles Superior Court's appellate division found that 21 of 23 case quotations in his opening brief were fabricated, along with numerous additional false quotations in his reply brief. The court later deemed the appeal frivolous and imposed \$10,000 in sanctions, which Mostafavi paid.

Mostafavi filed a notice of appeal July 25, 2023, after the trial court granted summary judgment for defendants in an underlying civil case. He submitted the appellant's opening brief Oct. 9, 2024, certifying as required by statute that the brief's legal contentions and citations were warranted by existing law and made after reasonable inquiry.

On June 25, 2025, the appellate division found that nearly all quotations in the opening brief, and many in the reply brief, were fabricated and ordered Mostafavi to show cause why sanctions should not be issued.

In his response, Mostafavi admitted using AI tools to generate citations and quotations without understanding how they worked, underestimating the need for verification, and failing to confirm their accuracy. He submitted redlined briefs and a comparison chart identifying 52 fabricated or faulty citations in the opening brief and 72 in the reply brief.

The appellate division found the appeal frivolous and said the misconduct forced the court to spend excessive time attempting to locate nonexistent authorities.

Mostafavi was charged by the State Bar with recklessly and grossly negligently failing to perform legal services with competence in violation of the Rules of Professional Conduct, and with committing acts involving moral turpitude. *In the Matter of Amir Mostafavi*, SBC-26-O-30120 (Cal. Sup. Ct., filed Feb. 06. 2026).

State Bar Chief Trial Counsel George Cardona said California attorneys bear responsibility for the accuracy of any brief filed under their name and must ensure it is supported by cited law, whether generative AI was used in its preparation.

"Attorneys must understand the technology they choose to rely on, its purpose, potential benefits, and known limitations, and must take reasonable steps to verify the accuracy of any work it generates," Cardona said. "Failing to do so can cause significant harm to clients and undermine the integrity of legal proceedings."

The stipulation states that Mostafavi lacked sufficient understanding of generative AI's risks and benefits, was unaware of so-called AI "hallucinations," in which large language models generate plausible but false information, and conducted no manual review before filing.

The recommended discipline is a one-year suspension, stayed, and one year of probation, subject to final approval by the California Supreme Court. The State Bar Court also recommended that Mostafavi pay one-third of disciplinary costs with his annual fee renewals in 2027, 2028, and 2029.

Mostafavi was unavailable for comment.

#390006

Douglas Saunders Sr.

Law firm business and community news

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Ex-Motley Rice Attorney Faces 20 Years in Prison and \$250K Fine for Defrauding Law Firm, Clients

William Swett, who represented individuals suing Johnson & Johnson in mass tort litigation over talc, agreed to plead guilty to federal wire fraud and money laundering charges Monday.

February 25, 2026 at 04:37 PM By  **Thomas Spigolon**

What You Need to Know

- A former Motley Rice attorney agreed to plead guilty Monday to defrauding a law firm and his clients of at least \$1.5 million.
- William Christopher Swett is facing a maximum of 20 years in federal prison and up to a \$250,000 fine.
- Swett is facing federal charges he fabricated death claims and falsified medical records, among other actions.



U.S. District Court for the District of South Carolina in Charleston. Photo: ProfReader via Wikimedia Commons

Falsifying medical records and fabricating death claims were among the charges a former Motley Rice attorney faced before agreeing to plead guilty Monday in a South Carolina federal court to defrauding a law firm and his clients of at least \$1.5 million.

William Christopher Swett, 42, of Johns Island, South Carolina, is facing a maximum of 20 years in federal prison and up to a \$250,000 fine on charges he engaged in wire fraud and money laundering between 2018 and 2024, according to information from the U.S. Attorney's Office for the District of South Carolina.

Charging documents filed in U.S. District Court in Charleston, South Carolina, stated Swett worked as a personal injury attorney and "represented individuals in civil claims following death, injury, and other loss" with a Mt. Pleasant, South Carolina, law firm. An internet search of Swett and 2018 news reports about him indicates the firm was Motley Rice.

Swett represented numerous individuals in [claims against Johnson & Johnson](#) for selling talcum powder products that caused an often-fatal form of lung cancer called mesothelioma. The South Carolina Supreme Court placed Swett's law license on an interim suspension status in May 2024—though it did so without disclosing the reason for the action.

However, also from "at least 2018" until March 2024, Swett "knowingly devised a scheme and artifice to defraud the law firm and his clients and to obtain money and property by means of false and fraudulent pretenses, representations and promises," according to the charging document filed by assistant U.S. Attorney Emily Limehouse.

It stated that "during such period" Swett "knowingly transmitted and caused to be transmitted in interstate commerce, by means of wire communications, certain writings, signs, signals, pictures and sounds" to do his alleged crimes.

Then, "to further his scheme," Swett created legal services companies and "expensed the law firm and his clients for services not performed and for inflated and illegitimate expenses," a new release from the U.S. attorney's office stated. "Swett withheld his association with these companies from his clients and the law firm."

Swett also submitted reimbursement requests for fictitious clients, fabricated death and personal injury claims, and falsified medical records and other documents to further his fraud, it stated.

"To conceal his crimes, Swett laundered the funds through accounts he controlled and siphoned the money for his own personal enrichment," the release said. "Swett fraudulently obtained at least \$1.5 million."

Court records state he created companies “to appear as legitimate legal services companies” and “thereafter expensing the law firm and his clients for services not performed” while failing to disclose his financial interest in the companies. He also transferred money between bank accounts to conceal the crimes, the document stated.

Swett’s wife—whose name and whether she was charged were not disclosed—started at the firm where Swett worked as a paralegal in 2013 and began working on Swett’s cases in 2015. According to court documents, he also used his wife to help carry out the “scheme” by directing her to submit fraudulent reimbursement requests “knowing that the claimed expenses had not been incurred and/or should not be carried by the law firm.”

The couple married in 2021 but—at Swett’s insistence—he and his wife withheld their romantic relationship from the firm for years because she would be reassigned to another attorney if the firm knew about the marriage, court documents stated.

Swett agreed to plead guilty to four counts of wire fraud and four counts of money laundering—all carrying a maximum penalty of 20 years in federal prison. He could also be fined up to \$250,000.

His attorney, Nathan Williams of The Law Offices of Nathan S. Williams in Mt. Pleasant, said in an interview that the charging document was filed in U.S. District Court in Charleston and Swett filed a written statement saying that he intends to plead guilty.

However, a hearing has not been scheduled for him to formally enter a plea, Williams said. If he does plead guilty to the charges, a sentencing hearing will be set, the attorney said.

Williams said Swett “for a long time” struggled with “personal challenges” and “made some poor and regretful decisions.” However, he also “has made significant changes in his life” and the plea agreement is part of his effort to show accountability for his past actions, Williams said.

He said he hoped a judge will get to hear in detail “the full explanation for the circumstances of the case.”

“Certainly, we’ll address that with the court, most likely at sentencing,” Williams said.

Asked to comment on the guilty plea, Motley Rice spokesperson Alicia Ward said, “We await the next steps in this criminal prosecution regarding this former employee.”

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Analysis | **White Collar Crime**

'Stunning Fall From Grace': Prosecutors Seek Tom Goldstein's Detention Pending Sentencing

"His exposure is certainly federal prison in addition to significant restitution, fines and things of that nature," a Cole Schotz member and white-collar criminal defense lawyer said of SCOTUSblog founder Tom Goldstein after a Maryland federal trial jury found Goldstein guilty of 12 white-collar criminal felonies.

February 26, 2026 at 04:56 PM By  **Sulaiman Abdur-Rahman**

What You Need to Know

- Federal prosecutors want SCOTUSblog founder Tom Goldstein detained pending sentencing following his jury trial convictions.
- A Maryland federal trial jury found Goldstein guilty of 12 white-collar criminal offenses.
- Munger, Tolles & Olson criminal defense attorneys represent Goldstein and oppose detention pending sentencing.



Thomas Goldstein. Photo: Diego M. Radzinski/ALM

SCOTUSblog founder Tom Goldstein has virtually no chance of avoiding a prison sentence following his jury trial convictions on a dozen white-collar criminal felonies, according to legal observers.

"I don't see a universe where he gets no jail," Andrew M.J. Bernstein, a partner at Fox Rothschild in New York, said Thursday of Goldstein in a telephone interview. "I think a jail sentence is just unavoidable. ... I would say something more than a year and less than eight years seem to be the range of possibilities."

A unanimous jury on Wednesday found [Goldstein guilty on 12 of the 16 counts](#) in the operative indictment charging him with tax evasion, filing fraudulent tax returns, willfully failing to pay taxes and defrauding mortgage lenders while amassing large gambling debts between the years 2016 and 2022.

Federal prosecutors announced Thursday they will move to detain Goldstein pending sentencing in light of the jury's verdict.

Goldstein can immediately begin paying restitution and adopt a "transformative change" to mitigate whatever punishment he faces at sentencing, according to Bernstein.

"He should be making payments to the IRS today," Bernstein said of Goldstein. "He should start paying off the mortgage today, assuming he has the money. He should [mow] his neighbor's lawn. ... He's got to find a way to show remorse because he is remorseful, and if he is not remorseful, it is not going to show."

Goldstein, an appellate attorney who has argued more than 40 cases before the U.S. Supreme Court, pleaded not guilty to all counts and denied any criminal wrongdoing when he [testified Feb. 11 in his own defense](#).

"It's a stunning fall from grace from an otherwise successful and prominent advocate," Michael Weinstein, a Cole Schotz member who practices white-collar criminal defense law, said of Goldstein in a telephone interview Thursday.

"His exposure is certainly federal prison in addition to significant restitution, fines and things of that nature," Weinstein added. "With the scope and breadth and volume of charges, no prison time is unrealistic."

Munger, Tolles & Olson criminal defense attorneys represented Goldstein in the criminal jury trial overseen by U.S. District Judge Lydia Kay Griggsby of the District of Maryland.

A jury found Goldstein guilty of mortgage fraud and multiple tax crimes but acquitted him on four counts of aiding and assisting in the preparation of a false tax return. Goldstein may file an appeal

with the U.S. Court of Appeals for the Fourth Circuit seeking to overturn his criminal convictions.

“Looking for appellate issues ... is his specialty,” Weinstein said of Goldstein. “He will [review] the transcript ferociously to see what kind of appellate issues he can raise.”

“One thing that worked to his advantage throughout his career is his confidence and his ability to assess situations,” Weinstein said of Goldstein. “That perhaps did not play well for him here. ... Sometimes you are too smart for your own good.”

“Your reputation can crumble very quickly,” Weinstein added. “It is a little life lesson that you always have to be mindful of doing the right thing.”

In the case of Goldstein, “He treated himself as a client no different than he treated the clients he represented at the Supreme Court—aggressive,” Weinstein added. “He was just on the losing end on this.”

Goldstein, 55, launched a home-based family firm in 1999 with his wife Amy Howe and later founded the now-defunct Goldstein & Russell firm in 2011. Goldstein previously practiced at Akin Gump Strauss Hauer & Feld, Boies Schiller Flexner and Jones Day.

Goldstein abruptly ended his [historic Supreme Court advocacy](#) in 2023 before prosecutors secured an indictment of him in January 2025.

The government launched its overt criminal investigation of Goldstein in October 2020, when the criminal investigative arm of the Internal Revenue Service visited Goldstein’s former law firm seeking to interview him, according to [court documents filed last year](#).

Goldstein as of Thursday remains an active District of Columbia Bar member in good standing, according to D.C. Bar public records.

D.C. Bar members convicted of serious crimes, including willful failure to file income tax returns, generally face an immediate suspension, according to [D.C. Bar rules and bylaws](#).

“My guess is he probably never practices law again,” Bernstein, a white-collar criminal defense attorney, said of Goldstein. “I would try to counsel everyone to have a second act after they get out of prison, but I don’t think that second act is in law.”

Goldstein failed to report his gambling losses when he and his wife submitted joint applications to a mortgage lender in 2021 to buy a home in Washington, D.C., prosecutors alleged. The U.S. Department of Justice also accused Goldstein of diverting legal fees owed to his former law firm to repay millions of dollars in personal gambling debts.

“Goldstein chose fraud and deceit over honesty and tried to cheat the American taxpayer while living a lavish lifestyle,” U.S. Attorney Kelly O. Hayes of the District of Maryland said Thursday in a statement shared with Law.com and the National Law Journal via email.

“He gambled that he wouldn’t get caught—and that gamble did not pay off,” Hayes added. “Our office, along with our law-enforcement partners, is committed to holding those accountable who break the law—no matter who they are.”

The government will seek the detention of Goldstein pending sentencing, according to court documents filed Thursday.

“[D]etention pending sentencing will significantly impair Mr. Goldstein’s ability to participate in his defense,” Goldstein’s criminal defense attorneys wrote in a [six-page court memo](#) filed Thursday.

“As an accomplished appellate lawyer, Mr. Goldstein is uniquely well suited to assist in the drafting of post-trial motions. He will be unable to provide that assistance from jail.”

Counsel for Goldstein did not immediately respond to a request for comment.

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State Bar charges prominent trial lawyer Paul Kiesel in water billing scandal fallout

DJ [dailyjournal.com/articles/389996-state-bar-charges-prominent-trial-lawyer-paul-kiesel-in-water-billing-scandal-fallout](https://www.dailyjournal.com/articles/389996-state-bar-charges-prominent-trial-lawyer-paul-kiesel-in-water-billing-scandal-fallout)

Paul Kiesel

Veteran Beverly Hills trial lawyer Paul Kiesel is facing disciplinary charges from the State Bar of California stemming from his role in the sprawling litigation surrounding the Los Angeles Department of Water and Power's billing system debacle -- a controversy that has already resulted in criminal convictions, judicial findings of collusion and the recommended suspension of a former top city attorney.

The charges, filed Wednesday by the bar's Office of Chief Trial Counsel, accuse Kiesel of orchestrating a coordinated legal strategy designed to help the City of Los Angeles resolve a wave of class-action lawsuits on favorable terms while concealing key facts from the court and opposing parties.

"Attorneys hold a position of public trust that requires that they not conceal conflicts, mislead courts, or participate in coordinated efforts that compromise the fairness of legal proceedings," George Cardona, State Bar chief trial counsel, said in a statement. "The disciplinary charges against Mr. Kiesel allege that he engaged in misconduct that threatened the integrity of the legal system and risked significant harm to the public."

The charges arise from litigation following the City of Los Angeles' failed rollout of a new customer billing system in 2013. The system, implemented by PricewaterhouseCoopers, led to widespread overbilling, delayed bills and missed charges, costing the city hundreds of millions of dollars and triggering intense public backlash.

Kiesel rejected the charges in a statement, calling them "unfounded, misguided, and fundamentally wrong."

"The State Bar considered my integrity strong enough to use me as a cooperating witness in its own prosecutions," Kiesel said. "For the Bar to pursue charges in spite of these facts is shameful and disappointing."

Multiple class actions were filed against the city and LADWP. Ultimately, a global settlement in the case known as *Jones v. City of Los Angeles* provided full refunds to affected ratepayers. According to Kiesel's statement, "Los Angeles ratepayers received every penny they were owed through full refunds." But the manner in which that settlement was achieved became the focus of years of litigation and disciplinary scrutiny.

At the center of the controversy is a litigation strategy developed in early 2015 after city officials sought to gain control over mounting lawsuits and negative publicity.

The plan -- sometimes referred to as the "friendly plaintiffs' counsel" or "white knight" approach -- involved recruiting cooperative class counsel to file suit against the city and negotiate a global resolution.

According to a Feb. 17, 2026, decision of the State Bar Court in the disciplinary case against former Chief Deputy City Attorney James Clark, Clark "authorized and directed former outside counsel Paul Paradis and Kiesel to find outside counsel that would be friendly to the City and its litigation goals to supposedly represent Mr. Jones in a class action lawsuit against the City."

The Clark ruling credits testimony from Paradis and others that a second meeting occurred on Feb. 23, 2015, during which Clark approved the strategy. The court rejected Clark's denial that he attended the meeting, finding his "self-serving testimony is not credible".

The decision further notes that Clark was aware that the *Jones v. City* complaint had been drafted by Paradis before it was filed, and that Clark understood a settlement demand would be forthcoming even before the complaint was filed.

Those findings are significant because Kiesel has maintained that city officials -- not outside counsel -- initiated and directed the litigation structure that later drew accusations of collusion.

Kiesel's statement emphasized that federal prosecutors investigated the matter and declined to bring charges against him, describing that outcome as a "rare public clearing" by the U.S. Department of Justice.

Paradis later pleaded guilty to a federal bribery offense involving kickbacks and was sentenced to prison.

Clark himself was found culpable by the State Bar Court of multiple acts of moral turpitude and concealment, with the court recommending a two-year actual suspension and probation.

In its analysis, the State Bar Court concluded that Clark authorized the recruitment of "friendly" counsel and knowingly concealed material facts about the structure of the settlement from interested parties.

Kiesel has positioned himself as a cooperating witness in those proceedings. According to his statement, he "has been a key cooperating witness in the State Bar's investigations and prosecutions of others who were responsible for ethical violations."

Despite the findings of collusion, the settlement itself was ultimately approved and provided complete financial relief to ratepayers. The Clark ruling notes that the final judgment awarded approximately \$67 million in refunds and fees in *Jones v. City*.

Retired federal judge Dickran Tevrizian, who mediated the matter, characterized the settlement as fair and beneficial to consumers, according to the court's recitation of the record.

In his statement, Kiesel argues that the charges against him risk "undermin[ing] a long-standing practice in complex litigation: responsible cooperation among counsel," warning that punishing such coordination could chill efficient settlements that benefit injured consumers.

Critics, however, have argued that the structure of the litigation deprived other plaintiffs' counsel of a meaningful role and undermined the adversarial process -- concerns echoed in the Clark ruling.

The case represents the latest chapter in the long-running fallout from the LADWP billing crisis, which has entangled city officials, outside counsel and class action lawyers in overlapping civil, criminal and disciplinary proceedings.

For Kiesel, whose career has included prominent consumer and mass tort litigation as well as leadership roles within the legal community, including serving as president of the Los Angeles County Bar Association, the charges present a significant professional challenge. In a statement, his partners at Kiesel Law said they "stand unanimously behind him and express complete confidence he will be exonerated."

Veteran Plaintiffs Lawyer Kiesel Charged With Legal Misconduct in L.A. Utility Scandal

Paul Kiesel called the disciplinary charges, stemming from his past work as special counsel for the city of Los Angeles, "unfounded, misguided, and fundamentally wrong."

February 26, 2026 at 05:33 PM By  Cheryl Miller



Paul Kiesel, of Kiesel Law in Beverly Hills, California. Courtesy photo

Veteran plaintiffs attorney Paul Kiesel faces possible suspension or disbarment for his alleged role in a scheme to divert litigation against the city of Los Angeles over a botched utility billing system rollout.

California state bar prosecutors on Wednesday [filed](#) misconduct charges against Kiesel. The four counts cited in the 18-page notice include moral turpitude and making "false and misleading" statements during a deposition.

"Attorneys hold a position of public trust that requires that they not conceal conflicts, mislead courts, or participate in coordinated efforts that compromise the fairness of legal proceedings,"

George Cardona, the bar's chief trial counsel, said in a prepared statement. "The disciplinary charges against Mr. Kiesel allege that he engaged in misconduct that threatened the integrity of the legal system and risked significant harm to the public."

Kiesel called the charges against him "unfounded, misguided, and fundamentally wrong."

In a statement, Kiesel noted he has never been criminally charged and has served as a cooperating witness in prosecutions of others involved with the utility litigation.

"For the bar to pursue charges in spite of these facts is shameful and disappointing," Kiesel said.

Kiesel is just the latest attorney investigated and charged with professional wrongdoing tied to decade-old events at the Los Angeles Department of Water and Power.

Last week, a State Bar Court judge recommended former Los Angeles chief deputy city attorney James Clark be suspended from practice for at least two years for authorizing plans to create a city-"friendly" lawsuit against a vendor. James is among six California-barred attorneys who have been charged with misconduct in connection with the litigation.

The charges stem from Los Angeles's launch of a 2013 utility billing system that ultimately failed, overbilling thousands of residents for electricity and water. The debacle led customers to file multiple class-action lawsuits against the city.

The Los Angeles city attorney's office retained private attorneys to respond to that litigation. State bar prosecutors say Kiesel worked with some of those attorneys as well as counsel in the city attorney's office to craft a litigation strategy that would shift public blame from the city to its billing system consultant, PricewaterhouseCoopers, or PwC

The complaint against Kiesel stated that he and others, while working for the city, worked behind the scenes on a private resident's utility-billing suit against Los Angeles that ultimately settled.

The ratepayer-plaintiff did not know the attorneys steering the settlement were also working on the city's litigation against PwC, state bar prosecutors said. Nor did Kiesel alert the judge overseeing settlement talks about the dual roles, the complaint stated.

"By doing so, respondent intentionally committed acts involving moral turpitude, dishonesty, and corruption, in violation of [Business and Professions Code section 6106](#)," the notice of disciplinary charges stated.

Kiesel's license remains active. He and his firm, Kiesel Law, are involved in a high-profile product liability and wrongful-death [lawsuit](#) against OpenAI.

No dates have been set yet in the disciplinary proceedings against Kiesel.

Page printed from: <https://www.law.com/therecorder/2026/02/26/veteran-plaintiffs-lawyer-kiesel-charged-with-legal-misconduct-in-la-utility-scandal/print/>

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<https://www.wsj.com/finance/banking/how-jpmorgans-bankers-stayed-close-to-epstein-after-bank-fired-him-as-a-client-33b836ce>

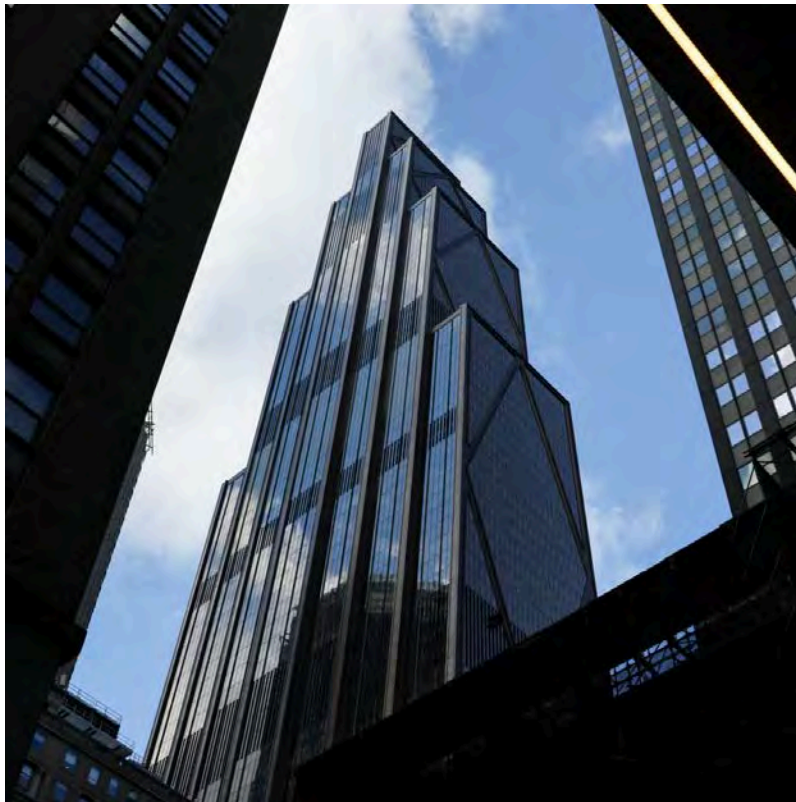
MARKETS & FINANCE | BANKING

How JPMorgan's Bankers Stayed Close to Epstein After Bank Fired Him as a Client

Two of the firm's bankers maintained close ties with Epstein as he took on a bigger role running Leon Black's family office

By [Alexander Saeedy](#) [Follow](#)

Feb. 26, 2026 7:00 pm ET



JPMorgan Chase's global headquarters in New York City. ANGELA WEISS/AFP/GETTY IMAGES

Quick Summary

-

JPMorgan Chase dropped Jeffrey Epstein as a client in 2013, but two of its bankers maintained ties with the sex offender to secure business with Leon Black's family office.

View more

[JPMorgan Chase](#) JPM **0.93%** ▲ has said it fired [Jeffrey Epstein](#) as a client in 2013. Newly released documents show how its bankers maintained ties with the convicted sex offender for years as he helped manage [Apollo Global Management](#) co-founder Leon Black's fortune.

Two JPMorgan managing directors, Justin Nelson and Paul Barrett, used their connection to Epstein to develop a commercial relationship between the bank and Black's family office starting in 2014, recently released documents show. Nelson had been Epstein's banker before the bank kicked Epstein out in 2013, while Barrett had helped find investments for him.

The Journal reported in 2023 that Nelson and Barrett had scheduled [multiple meetings with Epstein](#) from 2014 to 2017. JPMorgan said at the time that any meeting held with Epstein after 2013 was regarding other JPMorgan bank clients whom Epstein represented. Nelson remains a senior banker at JPMorgan, while Barrett left in 2017 to work directly for Epstein.

Documents released in the past several months by the Justice Department and Congress show the extent of the two senior bankers' interactions with Epstein. Dozens of emails show the crucial role that Epstein played in helping the bankers pitch business to Black and meet wealthy individuals.

Joseph Evangelisti, a JPMorgan spokesman, reiterated in a statement that the bank "fired" Epstein as a client in August 2013. "To the extent our bankers subsequently interacted with him, it was because other clients—not JPMorgan—chose to use him as an advisor," he said.

Evangelisti said that JPMorgan flagged Epstein's suspicious activity to the federal government both before and after pushing him out as a client.

JPMorgan dropped Epstein as a client in 2013 after compliance officers raised concerns about his high cash withdrawals and possible implication in [human-trafficking crimes](#).



Jeffrey Epstein in an undated photograph released by the Justice Department in December. JUSTICE DEPARTMENT/AFP/GETTY IMAGES

In 2015, Barrett offered to give Epstein advice on his own investments, which were no longer at the bank. He gave advice to Epstein for his personal portfolio on at least three occasions between 2016 and 2017, emails show.

Barrett “appears to have developed a personal relationship with Epstein that he did not disclose to the bank,” Evangelisti said. He said JPMorgan “did not sanction or authorize this conduct.”

A lawyer representing Barrett declined to comment, and Barrett didn’t respond to a request for comment.

Barrett left JPMorgan in 2017 to work even more closely with Epstein, managing his money directly through a fund called Alpha Group Capital. He later worked at [Citigroup](#), which fired him in 2023 after learning of his ties to Epstein. Citigroup declined to comment.

Barrett has said in legal filings he did “nothing inappropriate involving Mr. Epstein or his accounts,” and he wasn’t aware of any illicit activity.

Nelson, a more than 25-year employee who advises high-net-worth clients from an office in Greenwich, Conn., still works at the bank. The JPMorgan spokesman said Nelson is “an employee in good standing whose interactions were only in the context of his work with Leon Black and related entities.” Nelson declined to comment.

Chasing Elysium

For some 15 years, Epstein was a top client of JPMorgan, with dozens of accounts and tens of millions of dollars at its private bank. He communicated often with bank executives including its former head of investment banking, Jes Staley, and connected them to his network of wealthy contacts. Staley has said he regrets his relationship with Epstein.

Epstein pleaded guilty to procuring a minor for prostitution in 2008. Staley left the bank in early 2013, and JPMorgan decided to close Epstein's accounts later that year. After Epstein's death in 2019, JPMorgan agreed to pay [\\$290 million to settle a suit](#) brought on behalf of his accusers that claimed the bank had ignored red flags about him. The bank has denied any wrongdoing.

The recently released documents reveal how Epstein's vast network kept him enmeshed with the world's most powerful people and institutions for more than a decade after he pleaded guilty to a sex crime.

Epstein had taken on a greater role at Elysium Management, Black's family office, in 2012.

Nelson, who had been assigned Epstein as a client in 2012, asked Epstein for help getting closer to Black and his fortune both before and after the bank said it removed Epstein as a client, emails show.

Nelson arranged to meet Epstein at his townhouse in April 2014, [emails show](#). He followed up a day later asking Epstein's assistant for contact information for top managers at Black's family office to try to pitch them on the private bank. Elysium opened an account with the private bank weeks later, [emails show](#).

Evangelisti said Black and his office directed JPMorgan's bankers to work with Epstein on Black's investments. "There was nothing improper about Mr. Nelson's limited interactions with Epstein" after the bank pushed out Epstein as a client, he said.

Whit Clay, a spokesman for Elysium and Black, said Elysium "had a limited investment" with JPMorgan. He also said the Black family had a relationship with JPMorgan "that predates Epstein's involvement."

Black has previously said he paid Epstein for estate planning, tax work, structuring of art entities and philanthropic advice from 2012 to 2017. He stepped down from the CEO role at Apollo in 2021. He has said he didn't engage in wrongdoing, decided to

give Epstein a second chance after his 2008 conviction and regrets his involvement with Epstein.



Leon Black, co-founder of Apollo Global Management, speaking at a conference in 2018. PATRICK T. FALLON/BLOOMBERG NEWS

Back in the fold

Once Elysium began working with JPMorgan in 2014, Epstein enlisted Barrett, who had previously helped Epstein invest his money. Barrett “[will do as i say](#),” Epstein wrote in a June 2014 email to an executive working for Black’s family office.

The recently disclosed emails suggest that Nelson and Barrett saw Epstein as key to getting in on managing Black’s wealth, which stood at \$5 billion in March 2013, according to [other documents](#).

After Black canceled a meeting with JPMorgan, Barrett emailed Epstein and asked if he could help get it rescheduled, a [July 2014 email](#) shows. Six days later, Barrett told Nelson that Epstein hadn’t come back yet, prompting Nelson to say, “I need to figure out some way to get this going ... maybe I should go see JE?”

In August, Epstein told Barrett that [\\$10 million](#) had been wired to JPMorgan that he could start investing on Black’s behalf.

Barrett started to pitch Epstein directly and made a number of investments with Elysium’s capital, including a [currency investment](#) and [roughly \\$820,000](#) of [Western Digital](#) securities, emails between 2014 and 2017 show.

Evangelisti said that banking clients get to choose their advisers and that the bank “did not choose to work with Epstein.”

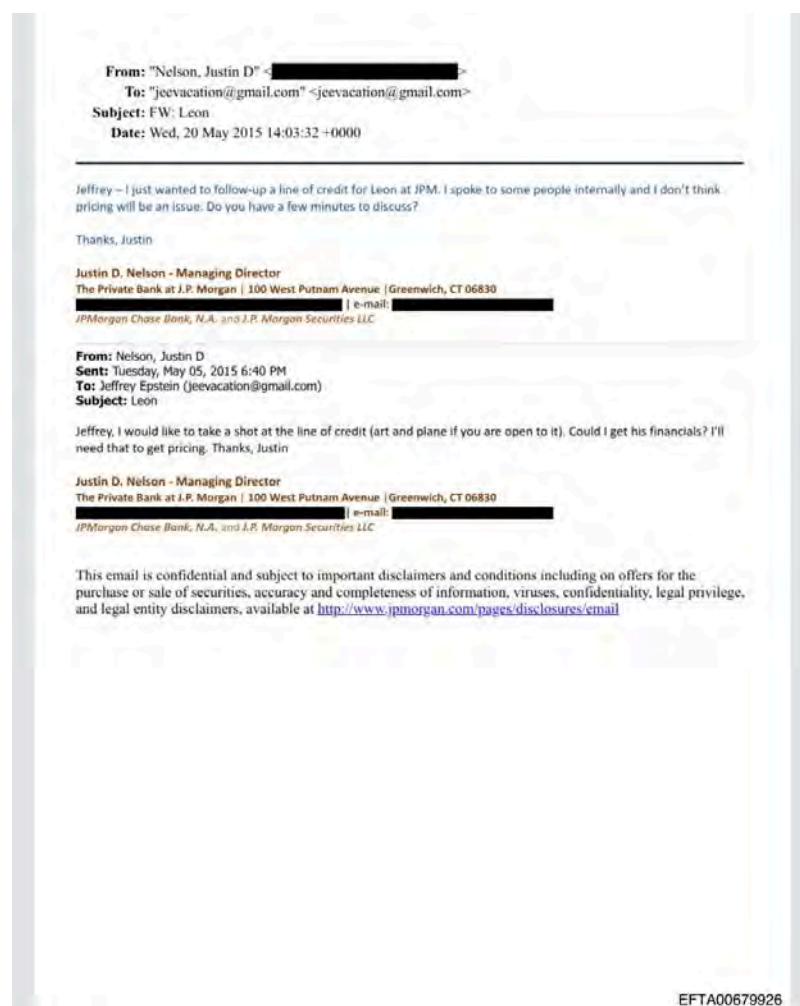
One of Epstein's projects at Elysium involved getting Black more favorable terms for a variety of loans.

"Jeffrey, I would like to take a shot at the line of credit (art and plane if you are open to it)," Nelson wrote in a [May 2015 email to Epstein](#) asking him to send Black's financial details.

Clay, the Elysium spokesman, said there was no record of any loans made by JPMorgan to the family office.

Barrett arranged to bring Monica DiCenso, then one of the private bank's equity research strategists, to Epstein's townhouse to meet him, according to [an email the following month](#).

Evangelisti had no comment on the meeting. DiCenso, who now oversees JPMorgan's Global Investment Opportunities Group, declined to comment.



An email exchange between JPMorgan's Justin Nelson and Jeffrey Epstein released by the Justice Department. JUSTICE DEPARTMENT

‘We both wish I could cover you’

The emails show the relationship between Epstein and Barrett extended beyond Elysium. One [2016 email](#) shows Epstein’s assistant telling Epstein that Barrett’s nephew and his mother thank him for “use of apt 10B” and are “leaving for home today.”

In 2017, Epstein introduced Barrett to Nicole Junkermann, a German countess and entrepreneur who Epstein said in an email [wanted to invest \\$100 million](#) through JPMorgan.

Evangelisti said the bank wasn’t aware if Barrett’s family members used Epstein’s apartment and if it occurred, it was “personal conduct not sanctioned by JPMorgan.” He said that Epstein’s introduction to Junkermann was unsolicited and that the bank doesn’t see evidence of it having gone anywhere.

Junkermann didn’t respond to a request for comment. A spokesman for Junkermann [recently told The Telegraph](#) that she “deeply regrets” her conversations with Epstein.

Barrett also gave Epstein financial advice on his own investments after Epstein was kicked out of JPMorgan. In 2015, Barrett sent an email to Richard Kahn, Epstein’s longtime accountant, offering [to review some of Epstein’s portfolio](#) that had been moved to another bank.

In 2016, Kahn sent Epstein [an email](#) summarizing several suggestions Barrett had made regarding Epstein’s bond portfolio.

“We both wish I could cover you,” Barrett told Kahn [in an email](#), apparently referring to how he wished he could still work with Epstein as a JPMorgan client. In 2017, Barrett [took an options trade directly to Epstein](#), who told his accountant to make a \$200,000 bet on his recommendation.

“Based on the emails you identified, the employee appears to have developed a private relationship with Epstein in advance of going to work for him,” Evangelisti said of Barrett’s interactions. “He did not transact any business for Epstein after we fired him as a client in 2013.”

Appeared in the February 27, 2026, print edition as ‘JPMorgan Dumped Epstein, But Its Bankers Stayed Close How JPMorgan’s Bankers Stayed Close to Epstein After Bank Fired Him as a Client’.

Alexander Saeedy covers banking and finance for The Wall Street Journal. Previously, he covered financially distressed companies and bankruptcy. On the banking beat, he has investigated the inner workings of the biggest companies on Wall Street. He has regularly broken scoops on how banks have...

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Videos

How A Former Miami Chief Criminal Prosecutor Stayed in Touch With Epstein After His Plea Deal

Matthew Menchel, who left the U.S. Attorney's Office in 2007 and spoke and dined with Epstein on multiple occasions between 2010 and 2018, maintains that his private-practice relationship with Epstein was strictly business.

February 26, 2026 at 04:01 PM By  **Dan Roe**

What You Need to Know

- Kobre & Kim partner Matthew Menchel got in touch with Jeffrey Epstein after prosecuting him in the US Attorney's Office.
- After being introduced by Epstein's former defense lawyer, who briefly dated Menchel years earlier, the pair exchanged messages over a period of eight years.
- Menchel maintains that his wide-ranging discussions with Epstein were strictly related to business development, although no business occurred.



A 2015 photo of Matthew Menchel, with Kobre & Kim. Photo: AM Holt/ALM

In November 2014, Jeffrey Epstein emailed Kobre & Kim partner Matthew Menchel to congratulate him on a win for UBS. The email came about seven years after Epstein signed a non-prosecution agreement related to the solicitation of a minor, but Epstein remained in the news headlines through victim litigation.

Menchel thanked Epstein and asked how things were, to which Epstein replied that he wanted to meet, according to recently released emails.

However, Epstein appeared to sense that Menchel might have some reservations about a meeting. “I have no issue, at all, use your judgment. Many interesting things going on,” he told Menchel.

“I have no issues as well,” Menchel [replied](#), “since neither you nor I have done anything wrong when it comes to how we got to know one another.”

“On the contrary,” Menchel continued, “we never even spoke or met until I was years out of the government and I intentionally waited being introduced to you by Lilly until your sentence was fully served to avoid even the appearance of impropriety.” Lilly Sanchez was one of Epstein’s defense attorneys in the run-up to his plea deal.

Before Menchel began talking to Epstein via his Kobre & Kim email address, Menchel was chief criminal prosecutor of the Miami U.S. Attorney’s Office and assisted in an investigation of Epstein’s child abuse.

Epstein and Menchel exchanged dozens of emails in the years after Menchel left the U.S. Attorney’s office in 2007. These emails and others were released by the Justice Department in January and the House Oversight Committee in November. The [Miami Herald](#) first surfaced documents revealing the post-prosecution relationship in October.

Conversations spanning May 2010 to October 2018 included plans to meet up while the Miami-based Menchel was in New York or Epstein was in South Florida, as well as discussions of Epstein’s personal and legal affairs.

In a statement, a representative of Menchel said the Kobre partner corresponded with Epstein years after he left the government, when Epstein reached out about potential representation in civil litigation for himself and others, although no such work materialized. The two men never met before Epstein finished his sentence, the representative said.

“As a lawyer in private practice, it was Mr. Menchel’s job to assess the suitability of potential matters. The communications at issue — while they may have included social niceties — were all in this context,” the representative said, adding that Menchel never “vouched for Epstein” or considered getting involved in Epstein’s criminal case.

A Kobre & Kim representative said Menchel is “well-known across the industry for upholding the highest standards of professionalism” and that the firm considers potential matters on a case-by-case basis. “We never represented Mr. Epstein or anyone he referred to the firm,” the representative said.

The Criminal Chief

Epstein, who had abused more than 30 underage girls by 2007, according to the FBI, entered into a non-prosecution agreement ([NPA](#)) with federal prosecutors in 2008 that helped him avoid federal sex trafficking charges and gain immunity for his co-conspirators in exchange for an 18-month sentence.

Menchel joined the U.S. Attorney’s office for the Southern District of Florida in 1998. Working under U.S. Attorney Alexander Acosta, he was criminal division chief from October 2006 until Aug. 3, 2007, when he left the prosecutor’s office. He worked the Epstein case in the three months before his departure.

The [Miami Herald](#) reported earlier this year that the lead prosecutor in the case against Epstein, Ann Marie Villafañá, had drafted a memo proposing a 60-count indictment on federal sex trafficking charges in May 2007, which carried a sentencing recommendation of 168 to 210 months.

Despite the initial memo, Villafañá’s supervisors, including Menchel, felt Villafañá was moving too fast and would struggle with the credibility of witnesses, according to a 2020 Justice Department Office of Professional Responsibility report on the non-prosecution agreement.

Villafañá herself confirmed that she had similar concerns about witnesses when she declared, in a Crime Victims Rights Act lawsuit contesting the legality of the NPA, that most victims had “significant concerns” about having their identities exposed.

Menchel ultimately proposed resolving the federal investigation via a state plea agreement to Epstein's defense attorney Lilly Sanchez in June 2007, the OPR report stated. While neither Menchel nor U.S. Attorney Acosta could recall a discussion about the offer of state-based charges, both men told OPR investigators that Menchel would not have gone forward without Acosta’s blessing.

Other email records also show how Acosta “[bent over backwards](#),” in his own words, to communicate with Epstein's defense lawyers, including Kirkland & Ellis partners.

A November 2020 Justice Department [review](#) stated that Acosta used “poor judgment” in his handling of the case but stopped short of alleging misconduct.

[In a letter to Sanchez](#) on his last day at the U.S. Attorney's Office, Menchel updated her on the office's stance on a deal with Epstein, according to public records.

Menchel said the federal interest would not be vindicated with anything less than a two-year state imprisonment term, reaffirming what he told Sanchez in a July 2007 meeting. After Menchel's departure, the deal was shortened to 18 months of imprisonment, per the September 2007 non-prosecution agreement signed by Epstein.

Sanchez, one of several defense attorneys for Epstein, would ultimately be the one to acquaint Menchel with Epstein, Menchel's November 2014 email [indicated](#). Sanchez and Menchel dated briefly in 2003 while Sanchez worked at the U.S. Attorney's Office, the OPR report found, a fact that Menchel did not disclose to his boss, Acosta, during Epstein's prosecution.

In the first of several dozen exchanges, Epstein emailed Menchel in [May 2010](#), when he was already at partner at Kobre, to convey his thanks to a man named Michael.

Epstein [reached out](#) again that October, telling Menchel, "Now that there can be no conflict. When are you next in New York." Emails later that month indicate the pair met for [dinner](#), with Menchel [following up](#), "I very much enjoyed our talk the other night. I look forward to the possibility of working together, but regardless let's keep in touch."

Within a week, Epstein [contacted](#) Menchel to ask whether Menchel could represent him against "jpmorgan bear sterns," adding, "not very hostile, they are my current bankers and would like this resolved."

Epstein also noted he had sued Brad Edwards — a lawyer who first sued Epstein in 2008 under the federal Crime Victims' Rights Act to challenge the non-prosecution agreement — and was represented by "lilys firm, but she is very preoccupied." Menchel asked Epstein if he was free the next day to discuss.

Epstein followed up a couple weeks later, emailing Menchel, "ideas?" Menchel apologized for the delay and said he was running a conflicts check and would get back to Epstein shortly.

Epstein again [sought](#) Menchel's services in April 2013 but instead asked Menchel if he had any reason "not to be able to represent a high level jpm person." Menchel replied, "no impediments," and asked Epstein about the nature of the matter.

Epstein replied that he'd have former JPMorgan Chase executive James Staley contact him directly, adding, "no need for me to end up a witness."

Two days later, Menchel followed up to tell Epstein that Staley hadn't called. "JPM is paying," Epstein replied. "So they are trying to put in their guys."

In July 2013, Menchel [declined](#) Epstein's request that he speak with Steptoe partner Reid Weingarten, who represented Epstein in his 2019 federal sex trafficking case, about attempts to circumvent his non-prosecution agreement.

"As you know, I've always stayed out of your matter with the US Attorney's Office based on my involvement with your case," Menchel said in a July 22, 2013, email. "While I understand the Office is now recused, I'm still not comfortable getting involved as I still see that my involvement when I was Chief of Criminal could create a conflict. I hope you understand."

In a statement, a representative of Menchel said he considered taking on "some complex civil matters for Epstein and clients referred by Epstein," but never ultimately represented Epstein or anyone Epstein referred.

A docket search of Menchel's cases in the last 18 years he has been at Kobre shows no association with Epstein in New York and Florida state and federal courts.

In addition to legal discussions via email, Menchel and Epstein also dined together on several occasions in the early 2010s. They discussed several dining options in South Florida in February 2011 before settling on [Da Campo Osteria](#) in Fort Lauderdale. Epstein's assistant scheduled a [dinner meeting](#) in December 2011 at one of Epstein's residences, and the pair had dinner again in [June 2012](#), with Menchel saying later, "As always, [really enjoyed last night](#)." They also had breakfast that December, Epstein's assistant [indicated](#).

In March 2012, the pair also [dined](#) with Weingarten, who met and spoke with Epstein regularly starting in 2009 and represented Epstein following his July 2019 arrest on federal sex trafficking charges.

Menchel had an additional in-person appointment with Epstein in September 2017, a redacted sender noted in a daily [schedule](#).

'Just Touching Base'

More often than they met in person, Menchel and Epstein corresponded via email.

Sometimes, they emailed each other just to check in. "Just touching base to see how you have been," Menchel [wrote](#) to Epstein in February 2014.

On several occasions, the pair discussed the press involving Epstein. "How are you? My press is pretty bad," Epstein wrote to Menchel in February 2015, a month after the Guardian published an exposé on Epstein's ties to Prince Andrew.

"I've read some of the press," Menchel replied. "Very unfortunate and I see that Alan Dershowitz has been caught up in it as well."

They also discussed attorneys who were involved in Epstein's 2007 prosecution, including Acosta and Weingarten.

In February 2011, Epstein told Menchel he was having lunch with "Acosta" on Monday and asked if they could speak beforehand. Menchel said they could talk by phone the day before. The message was sent two years after Acosta left the U.S. Attorney's office, when he was dean of a Florida law school.

The next month, in response to criticism that he had gone too easy on Epstein, Acosta submitted a three-page open [letter](#) to The Daily Beast detailing a "years-long assault on the prosecution and the prosecutions" that included investigations of prosecutors and their families. Acosta conceded that victim statements and physical evidence had since come to light that could make Epstein's deal appear insufficient, but "they were not known to us at the time," Acosta said.

["It's crazy,"](#) Epstein said to Menchel as he emailed Menchel the link.

In what may be a reference to calls for further investigation, Epstein emailed Menchel again the next day: ["thoughts? help?"](#)

Menchel replied that he could speak later that day, "but I'm not sure there is anything that can be done."

Epstein also emailed Menchel about Weingarten. Epstein reached out in September 2011 to let Menchel know that his name came up after Menchel emailed Weingarten while Weingarten was in Paris with Epstein. ["Love to see you,"](#) Epstein concluded. Menchel replied, "Send him my regards. So are you going to be in NYC during the month of November?"

Epstein passed along [kudos](#) from Weingarten the following February regarding an undisclosed matter, emailing Menchel, "I understood from Reid that they dropped the case, largely due to your cross. Congratulations."

Menchel replied, "Thanks. And Reid was very kind to say that."

The trio had [lunch](#) at The Chop House Miami the next month.

Weingarten did not respond to a message seeking comment.

Epstein was ultimately charged with sex crimes in July 2019 and died in prison while awaiting trial.

Page printed from: <https://www.law.com/dailybusinessreview/2026/02/26/how-a-former-miami-chief-criminal-prosecutor-stayed-in-touch-with-epstein-after-his-plea-deal-/print/>

Securities

Texas Says Vanguard Settles Collusion Suit for \$29.5 Million (2)

Feb. 26, 2026, 10:57 AM PST

Texas said Vanguard Group Inc. agreed to pay a total of \$29.5 million to settle a lawsuit brought by a dozen states that accused the asset manager of colluding to manipulate the energy market and reduce coal output.

As part of the deal, Vanguard also will “avoid imposing ESG goals over its customers’ profitability,” according to a statement by Texas Attorney General **Ken Paxton**’s Office. A court filing Thursday showed Vanguard was dismissed as a defendant in the lawsuit.

Vanguard said in a statement that the decision to settle “allows us to put this distraction behind us and focus on what matters — giving our investors the best chance for investment success.” The company denied any wrongdoing, according to a copy of the agreement provided by the Missouri Attorney General’s Office.

The states had also sued BlackRock Inc. and State Street Corp., and that litigation remains ongoing. The suit is one of the most high-profile cases against the beleaguered environmental, social and governance investment strategy.

Paxton sued the asset managers in 2024, claiming they coordinated to pressure coal companies to reduce their production under the guise of pursuing environmental and social investing goals. The firms have been a frequent target of Republican leaders for their voting and investment policies, so much so that they have retreated from ESG in the US.

State Street, in a statement, said the “lawsuit remains baseless and without merit. This settlement does not change that.”

A BlackRock spokesperson declined to comment.

Kansas Attorney General Kris Kobach, who joined Paxton in suing the firms, applauded the settlement and said it shows Vanguard is “committed to real change.”

"This settlement shatters the precedent for big asset managers pushing radical agendas over profits and affordability," Kobach said in a statement.

Lawyers for the three asset managers told the court in June that there is no evidence that they coordinated investment decisions or that the firms told any coal producer to cut output. They also said they weren't committed to any policies by participating in the climate groups and that coal output rose in the years covered by the lawsuit.

Still, US District Judge **Jeremy Kernodle** in Texas ruled in August that most of the claims brought by the states can proceed, including allegations that the asset managers collectively used their stock to attempt to substantially lessen competition.

The case is State of Texas v. BlackRock Inc., 24-cv-00437, US District Court, Eastern District of Texas (Tyler).

(Updates with details from the agreement.)

--With assistance from **Silla Brush** and **Tim Quinson**.

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Judge rejects Kenvue bid to dismiss Texas lawsuit over Tylenol safety

 [reuters.com/world/judge-rejects-kenvue-bid-dismiss-texas-lawsuit-over-tylenol-2026-02-26](https://www.reuters.com/world/judge-rejects-kenvue-bid-dismiss-texas-lawsuit-over-tylenol-2026-02-26)

Jonathan Stempel

February 26, 2026

The company logo for Kenvue Inc. Johnson & Johnson's consumer-health business, is displayed on during the company's IPO at the New York Stock Exchange (NYSE) in New York City, U.S., May 4, 2023. REUTERS/Brendan McDermid [Purchase Licensing Rights](#)  , [opens new tab](#)

- Texas AG Paxton accused Kenvue of deceptive practices
- Kenvue says Tylenol is safe
- More than 500 private lawsuits link Tylenol to autism
- Kenvue pledges to stand up for credible science
- Paxton not available for comment

Feb 26 (Reuters) - A Texas judge on Thursday rejected Kenvue's [\(KVUE.N\)](#)  , [opens new tab](#) bid to dismiss a lawsuit by state Attorney General Ken Paxton accusing the company of failing to warn consumers that it may be unsafe for pregnant women to take Tylenol.

Judge LeAnn Rafferty in Panola County, Texas, near the Louisiana border, denied Kenvue's request in a one-sentence order. Her reasoning was not immediately available.

The Reuters Inside Track newsletter is your essential guide to the biggest events in global sport. Sign up [here](#).

Paxton, a Republican, [sued](#) the Tylenol maker on October 28, accusing it of violating Texas' Deceptive Trade Practices Act by hiding Tylenol's supposed links to autism and attention deficit hyperactivity disorder in children.

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The claim that using Tylenol during pregnancy can cause autism is scientifically unproven. Republican [President Donald Trump](#) and U.S. Health and Human Services Secretary Robert F. Kennedy Jr. have also suggested a link. Kenvue has said repeatedly that Tylenol is safe.

In seeking a dismissal of Paxton's lawsuit, Kenvue said federal law preempted Texas law, and the U.S. Food and Drug Administration should determine labeling for acetaminophen products such as Tylenol.

The Summit, New Jersey-based company also said forbidding the marketing of Tylenol in light of "the current state of the science" violated its free speech rights under the U.S. Constitution's First Amendment.

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"We will continue to vigorously defend against these claims and do everything in our power to stand up for sound, credible science," Kenvue said after Rafferty's ruling.

Paxton's office did not immediately respond to requests for comment.

FDA STUDYING NEW LABELS FOR ACETAMINOPHEN

The FDA is considering new labels for Tylenol and generic versions, and in September told doctors to alert patients to what it called growing evidence linking Tylenol use during pregnancy to autism.

Doctors and medical societies [dispute](#) there is a link.

In November, Rafferty [rejected](#) Paxton's request to block Kenvue from paying a \$398 million shareholder dividend so it could conserve money for Tylenol litigation.

Kenvue brands also include Band-Aid, Johnson's Baby Shampoo, Listerine and Neutrogena.

The company was spun off from Johnson & Johnson ([JNJ.N](#))  [,opens new tab](#) in 2023, and agreed in October to a [\\$40 billion takeover](#) by Kleenex and Huggies maker Kimberly-Clark ([KMB.O](#))  [,opens new tab](#).

Kenvue is [awaiting a decision](#) from the federal appeals court in Manhattan on whether to revive more than 500 private lawsuits linking Tylenol to autism. A district judge dismissed those cases in December 2024.

Paxton has aligned himself with Trump and is challenging incumbent Texas Senator John Cornyn in this year's Republican primary.

Kenvue shares were up 0.8% at \$18.92 in afternoon trading.

Reporting by Jonathan Stempel in New York; Additional reporting by Mike Scarcella in Washington, D.C., Editing by Franklin Paul, Rod Nickel

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February 27, 2026

Section: News

Judge orders sharing of internal PUCO documents
State had called files 'critical' for its case in FirstEnergy trial

Patrick Williams

February 27, 2026

Baker Ross said attorneys would have Feb. 26 to review the documents.

The judge in the criminal case of two former FirstEnergy executives issued an order stating that she will disclose internal documents from a regulatory agency to the prosecution and defense.

Judge Susan Baker Ross said in her order, posted to the case docket Feb. 25, that she will share the documents from the Public Utilities Commission of Ohio.

In the ongoing trial of former FirstEnergy CEO Chuck Jones and ex-FirstEnergy Senior Vice President Michael Dowling, the state alleges that the two men bribed former PUCO Chair Sam Randazzo with a roughly \$4.3 million payment. The FirstEnergy Service Co. subsidiary made the payment before Gov. Mike DeWine nominated Randazzo to the position, the Ohio Senate confirmed the nomination and Randazzo became chair.

Defense attorneys say the payment was not a bribe but rather a lump-sum payment to terminate a settlement agreement with an energy trade group called Industrial Energy Users of Ohio that Randazzo represented as an attorney.

The judge's order comes more than three weeks after Assistant Ohio Attorney General Matthew Meyer said internal PUCO emails contain information that is "critical" to the state's case.

On Feb. 25, Baker Ross said attorneys would have Feb. 26 to review the documents, which include emails. No in-court trial proceedings were scheduled for Feb. 26. Proceedings were set to resume Feb. 27.

Potential witness provided

HB 6 'advice' to Randazzo

Meyer said Feb. 24 that the state plans to call Gregory Price as a witness. Price, PUCO's deputy legal director, wrote to agency Chair Jenifer French in 2022 that Price "provided legal review and advice" about House Bill 6 to Randazzo when Price served as senior attorney examiner at PUCO.

In 2019, Randazzo wrote parts of House Bill 6 and worked to pass it. Randazzo died in 2024.

House Bill 6 included a \$1.3 billion nuclear bailout that benefited former FirstEnergy subsidiary FirstEnergy Solutions, which owned and operated two nuclear plants in northern Ohio.

House Bill 6 also included a decoupling provision that permitted FirstEnergy to charge customers a flat rate based on 2018 energy consumption, when energy usage and rates were higher than in other years.

In 2021, lawmakers voted to repeal decoupling and nuclear subsidies from House Bill 6, and DeWine signed the changes into law.

Dowling takes issue with 'bailout'

term in video deposition

On Feb. 25, the prosecution played about 30 minutes of a 2023 video deposition of Dowling from a civil case. In the deposition, Dowling said the term bailout is "not correct, in my perspective" to describe how House Bill 6 benefited FirstEnergy's two Ohio nuclear plants.

"... House Bill 6 established a clean energy program that provided the opportunity for Ohio's nuclear plants and other generators that produced electricity with zero emissions to qualify for those — they were credits — but what ultimately were financial measures for the facilities that qualified," Dowling said.

In addition to playing another roughly three hours of the video deposition and calling Price to the witness stand, Meyer said the state plans to call Ohio Sen. Casey Weinstein, D-Hudson, and Ohio Legislative Inspector General Tony Bledsoe as witnesses. Meyer said the state could rest its case sometime in the first week of March.

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Baker Ross said attorneys would have Feb. 26 to review the documents.

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NewsRoom

Securities

Matt Levine's Money Stuff: The DOGE Doubt Trade

Feb. 26, 2026, 11:50 AM PST

Musk skepticism trade

One widely known fact about Elon Musk is that he says a lot of stuff that isn't true. Most famously, he has a long history of promising that Tesla Inc. is months away from rolling out fully autonomous cars. Here is the Wikipedia page "List of predictions for autonomous Tesla vehicles by Elon Musk," which goes back to 2013. You could imagine a world in which:

When Musk says "our cars will drive themselves perfectly with no human oversight in six months," Tesla's stock goes up, because that would be good and people believe him; and

When, six months later, the cars do not drive themselves perfectly, Tesla's stock falls, because the market was valuing Tesla based on optimistic expectations about autonomous driving, and those expectations were falsified.

In that world, you could make some easy money from Musk skepticism: He'd announce some optimistic thing, the stock would go up, you would *short* it, the thing would not happen, the stock would go down, and you'd make money on your short. You would have some risk on this trade, of course: If, this time, Musk was *correct*, the stock would go up more and you'd lose money. But if you were correct in disbelieving Musk's claims, you'd make money.

But this is a childish view of stock prices, and Tesla's stock does not actually work that way, for several reasons. Here are three :

1. You're not the only person who can read that Wikipedia page. Tesla investors do *not* unthinkingly believe everything Musk says, and if the stock price is high now, it reflects general bullish long-term expectations, not a huge specific bet on self-driving cars in the near term.
2. Relatedly, even if the stuff about self-driving cars turns out to be wrong and disappointing, Tesla has a lot of irons in the fire, and maybe some other good stuff will happen with, you know, robots, and the stock will go up.

3. Conversely, to the extent that Tesla investors *do* unthinkingly believe everything Musk says, *they'll still believe it in six months*, and the stock *won't* drop when a particular prediction is falsified. You'll short Tesla, wait six months for the cars not to be self-driving, the cars won't be self-driving, but the stock will be up. You'll be like "people! Don't you see that the cars are not self-driving," but they will ignore you because Musk will be doing something else.

That Wikipedia page goes back to 2013, and the stock is up roughly a bajillionty percent since then. Also Teslas kind of drive themselves now!

A broader way to put this is that, even if you can correctly predict some important economic fact about a company, that doesn't necessarily mean that you can profitably trade its stock, because:

1. It is not immediately obvious whether or to what extent the fact is already incorporated into the stock price: Maybe you're right about the fact, but the stock already reflects it, so you have no valuable insight.
2. Stock prices reflect *lots* of facts, and if you're right about the one fact, you might still lose money because other facts turn out against you.
3. Stock prices reflect investor psychology, and even if you're right about the fact, the market can ignore it for longer than you can remain solvent.

If you are quite tidy-minded and also an Elon Musk hater, this will annoy you. You will think something like this: "Elon Musk keeps promising imminent self-driving cars. His fans and shareholders keep believing him. I alone know the truth, which is that he's wrong. I wish to profit from my insight and their error, by betting against the imminent self-driving cars. But for some reason shorting Tesla's stock doesn't work." You want some other product that will allow you to monetize your view more cleanly.

This product exists. It is conventionally called a "bar bet." You can walk into a bar in the right part of Texas, say "I'll bet anyone \$1,000 that Elon Musk won't do the thing he said he'd do on the timeline he promised," and someone will stand up and say "them's fightin' words" and take your bet. And you will negotiate the terms and odds and resolution method, and in six months you'll check back in and he won't have done the thing and you'll make \$1,000. And you will get to say to the Musk fan on the other side of the bet, "nyah nyah nyah nyah nyah," which is what you *really* wanted.

Of course there is a market structure problem, which is that you have to find the right bar and then laboriously negotiate the terms of the bet, so you can't actually pour your life savings into Being Skeptical About Elon Musk's Promises. Or you couldn't until recently. But now we have prediction markets, which are centralized electronic exchanges, regulated by the US Commodities Futures Trading Commission, for coordinating bar bets. Here's a Wall Street Journal story about a guy who can justifiably say "nyah nyah nyah nyah nyah":

Alan Cole put his life savings, all \$342,195.63, into a prediction-market wager. ... Until Elon Musk's Department of Government Efficiency came roaring into the nation's capital last year, he was largely a plain-vanilla investor or, as he puts it, a "normal, conventional Wall Street Journal-reading adult."

But Musk's boasts and his eager fans brought an unusual opportunity into the burgeoning U.S. prediction markets: People willing to bet that the world's richest man would transform and shrink the federal government.

Cole took the opposite position, one he didn't see as a gamble at all. If federal spending in each quarter of 2025 exceeded federal spending in the fourth quarter of 2024, he would win big. ...

From Cole's perspective, even if Musk cut government contracts and shrank the federal workforce—which he did—he couldn't meaningfully dent Social Security and Medicare benefits. And that left no plausible path for cutting overall federal spending. ...

The key feature of the prediction market offered on the Kalshi website was that it measured federal spending in annualized, seasonally adjusted nominal dollars. To win, Cole didn't need spending to stay above a past projection. He just needed federal spending to go up, as it almost always does.

He made like \$128,000, or 37%. Notice the features of this product:

1. If you have a view like "federal spending will go up," it is immediately obvious whether and to what extent the market incorporates that view: The market price just *is* the market's expected probability of that happening.
2. This product reflects only one fact, whether federal spending goes up or not.
3. Investor psychology will affect the price at which you get into the trade — if Musk's "eager fans" think he will cut federal spending, then you will pay a relatively low price for the spending-will-go-up contract — but *not* the price at which you exit, because the trade *resolves*: Eventually, spending either goes up or it doesn't, there's some resolution mechanism to establish the fact, and if it went up you get paid. Tom Gara wrote on Threads: "He knew that it's basically mathematically impossible to reduce federal spending, but he also knew Elon fanboys are often morons." With Tesla stock, that is a problem; with prediction markets, it's an opportunity.

It is the opposite of a stock investment.

I guess the point I would make here is that this is still somewhat childish. The stock market exists to allocate capital to productive businesses, and those businesses are irreducibly messy. You do not decide how to allocate capital by understanding one isolated fact about a company's business; you have to figure out which facts are important and then do your best to understand all of them. Financial markets are not bets on individual facts; they are bets on the economic consequences of those facts.

Prediction markets are a "truth machine"; they let you isolate a fact and make money by being right about it. In many ways this makes them less useful: They don't fund economic growth, and they are imperfect hedges to real economic risks. But sometimes they do give you the satisfaction of being right.

Optimum

We have talked a few times about Optimum's lawsuit against its lenders. Optimum Communications Inc. would like to restructure its \$26 billion of debt, and it would like to do this in the usual modern way, a "liability management exercise" (LME) pitting its lenders against each other to try to extract concessions out of them. The lenders, though, weren't having it: The holders of most of Optimum's debt got together and signed a "cooperation agreement," promising not to cut any deals with Optimum unless holders of two-thirds of the debt agreed to the deal.

That is, if you think about it, a bit weird: If a bunch of competing firms get together and sign an agreement to coordinate their actions and not cut prices, isn't that an antitrust problem? One person who thought about it was David Nemecek, a lawyer at Kirkland & Ellis who has led a lot of big liability management exercises, and who said at a Bloomberg conference last year that "people who enter into cooperation agreements should be careful" because of "the potential for antitrust claims."

That was just some public musing about an untested theory, but in December Optimum actually tried it out, suing its lenders and alleging that "the cooperative is a classic illegal cartel." Kirkland & Ellis represented Optimum in its liability management, but it did *not* file the lawsuit. Nonetheless, "creditors believed Kirkland had been behind the lawsuit," because of Nemecek's public musings and his general aggressive LME work. Many of the creditors in the alleged cartel were big alternative asset managers and important Kirkland clients, and they apparently complained to Kirkland: It is a bad look to accuse many of your big clients of being antitrust criminals, and the clients "raised the issue to Kirkland's executive committee."

And then (1) Kirkland stopped representing Optimum in January and (2) Nemecek left Kirkland for Simpson Thacher & Bartlett this month.

Which is, if you think about it, even weirder. When Kirkland dropped Optimum, I wrote: "I don't want to say 'they all got together and agreed to boycott everyone involved in the lawsuit,' but," and then quoted the Financial Times story about the client pushback. I added: "I feel like Optimum's (remaining) lawyers might want to add this to the lawsuit." I don't think it *proves* any sort of antitrust conspiracy, but Optimum's story here is something like "our lenders have joined together in a powerful cartel that prevents anyone from trading except on their terms," and the lenders getting Optimum's lawyers to quit does kind of fit with that story.

Optimum's lawyers *did* add it to the lawsuit. Bloomberg's Chris Dolmetsch, Reshmi Basu and Irene Garcia Perez report today:

Optimum Communications Inc. said a top law firm's withdrawal from representing it under pressure from Apollo Global Management, Ares Management, Oaktree Capital Management and others showed that they were participating in a cartel against it.

Optimum, previously known as Altice USA, sued the credit arms of those private equity giants and other creditors in November, saying they had formed an “illegal cartel” to freeze it out of the US credit market. In a revised complaint filed Wednesday, the telecommunications firm said “the antitrust conspiracy has only intensified” in the last three months.

“When Optimum sued, Defendants began searching for a way to retaliate,” said Optimum, which is controlled by billionaire Patrick Drahi. “They soon found a target: Optimum’s transaction counsel, Kirkland & Ellis LLP.” ...

“Defendants’ success in bullying Kirkland served the Cooperative’s core aim – obstructing Optimum’s access to the credit markets – while showing the lengths to which Defendants will go to protect their scheme,” Optimum said in the amended complaint.

Here is the revised complaint, which includes this passage:

As one leading commentator put it, Defendants were angry that Optimum sued them for their illegal group boycott, so they “all got together and agreed to boycott everyone involved in the lawsuit.”

Sort of? That’s me, I’m the leading commentator, but what I actually said was “I don’t want to say ‘they all got together and agreed to boycott everyone involved in the lawsuit,’” which is not *quite* the same thing as saying “they all got together and agreed to boycott everyone involved in the lawsuit.” In some technical sense it’s the opposite, though in a more colloquial sense I take their point. In any case I did say they should add it to the lawsuit so this serves me right.

Incidentally I remain pretty sympathetic to the creditors here. As I wrote when the case was filed, “there is something off-putting about this whole [LME] process, a broad norm of ‘distressed companies should have to treat all of their creditors the same’ seems fine, and if all the creditors want to get together and agree on that then who am I to complain.”

One way to think about it is that, when they make lending or trading decisions, these creditors are competitors with each other, but in their capacity as *existing lenders to Optimum*, they are something different. Ares and Apollo and Oaktree are not, now, competing with each other to make loans to Optimum; they are already Optimum lenders, already part of the company’s capital structure, already in a loose sense co-owners of Optimum. They can get together to make decisions about Optimum’s debt, in the same way that multiple venture capitalists can be on the board of the same private company and meet to make decisions about the company.

As the lenders put it in their motion to dismiss the lawsuit (citations omitted):

Antitrust law protects competition — not a borrower’s desire for leverage in renegotiating its liabilities in times of distress. That is why every court that has addressed antitrust challenges to creditor cooperation has held that the antitrust laws do not reach the challenged conduct. “[T]hin to the point of invisibility,” “border[ing] on the frivolous,” “the very opposite of price-fixing.” That is how courts in the past 50 years have characterized such antitrust claims—and they are right. ...

Leveraged financing exists because risk is shared across many sophisticated lenders and bondholders, and the governing agreements hardwire collective action through voting thresholds, class votes, and consent rights. Plaintiffs acknowledge that so-called “liability management exercises” (“LMEs”) are “a creature of contract,” often pitting creditors against one another to “create individual winners and losers.” The creditor cooperation alleged here is a permissible response to that dynamic. It prevents opportunistic maneuvers that reward certain creditors at the expense of others; it reduces transaction costs and the destructiveness of brinkmanship; and it promotes the very mutual forbearance that can keep a borrower operating while preserving the contractual expectations that made the original financing possible. In short, the cooperation Plaintiffs attack is not merely lawful—it is procompetitive, and it benefits borrowers and consumers alike.

Still weird to make their lawyers quit though.

Venture fraud

One model you could have is:

1. The optimal amount of fraud, in venture-backed startups, is not zero, and is in fact rather high. If you are a venture capitalist and you make 10 investments, then if two of them are huge successes with 1,000% returns, while the other eight are total failures, you’ve done very well. Economically you don’t care very much if the total failures are good-faith failures or frauds. Maximizing variance is good, backing wild-eyed visionaries is the way to get there, and if one or two of the wild-eyed visionaries are just lying to you about everything, ehh, that’s the cost of doing business.
2. Venture capitalists know Point 1, and will have a sense of humor about fraud.
3. People who are *not* venture capitalists — who are not in this business of buying lottery tickets from wild-eyed visionaries — do not know Point 1, and have less of a sense of humor about fraud. If you’re just investing your hard-earned money in a local business expecting to earn a decent return, and it turns out to be a fraud, you’ll be angry and call the police.
4. Entrepreneurs know Points 1, 2 and 3, and everyone responds to incentives.

I don’t know that this model is quite right; I think it probably overstates the visionary/lottery-ticket nature of venture capital, and it is too glib about not distinguishing between risky ambitious companies and pure frauds. But I think there’s something to it. And the point is that the model would predict more fraud at companies backed by venture capital firms than at other companies. The VCs will tolerate some fraud, and entrepreneurs who want to do fraud will know to target VCs.

Here’s an NBER working paper on “Venture Fraud,” by Alexander Dyck, Freda Fang, Camille Hebert and Ting Xu:

We assemble the first comprehensive sample of venture fraud cases involving 614 U.S. venture capital (VC)-backed startups founded since 2000. We find that VC-backed firms are 54% more likely to face fraud charges than comparable non-VC-backed firms within a subsample of newly public firms where detection likelihood is high and homogeneous. ... We find that fraud is more likely in startups with stronger founder control rights, more convex founder cash flow rights, more investors, and greater participation of non-traditional investors. Founder-controlled boards are 88% more likely to commit fraud than VC-controlled or shared-control boards, even within the same firm. Governance variables matter much more than founder characteristics in predicting fraud. Hot funding conditions at the initial round, which weaken governance incentives, predict future fraud.

Seems right. As they put it:

Startups' high growth pressure generates incentives to exaggerate or fabricate performance. The use of novel and complex technologies in markets with unclear demand can raise monitoring costs as outcomes stemming from deception are often difficult to disentangle from those driven by technological or market risk. Moreover, the strength of VC governance may have been overestimated. With fat-tailed return distributions, VCs have incentives to prioritize upside capturing over downside mitigation.

A VC who cares a lot about avoiding fraud is going to miss out on a lot of good deals, and missing out on good deals is worse than getting defrauded a little bit.

Fair Fund

Insider trading, I often say around here, is not about fairness; it is about theft. So who are the *victims* of insider trading? Intuitively, people think "if you buy stock knowing a merger is about to be announced, then the people who didn't know about the merger and sold you the stock at a low price were ripped off, so they are the victims." There are problems with that. One is that those people were looking to sell and would happily have sold to someone else at the same low price; you benefited from your information but it's not clear that they were harmed. A bigger problem, though, is that "insider trading is not about fairness; it's about theft." Insider trading is illegal because it violates a duty to the source of the information. So really the victim of insider trading is the source of the information.

This is all too cute and nobody *quite* thinks it. Way back in 2013, the US Securities and Exchange Commission reached a \$600 million settlement with a unit of SAC Capital Advisors over some insider trading. Mathew Martoma, an SAC portfolio manager, got inside information from a doctor who worked on some drug trials, and used that information to trade the stocks of Elan Corp. and Wyeth. The SEC caught this, Martoma went to jail, and SAC paid \$600 million. Where did the \$600 million go? Well, the SEC set up a "Fair Fund" to return the money to the victims. Who are the victims? Some people who traded Wyeth and Elan stock — on the other side of SAC — filed claims, and we talked a few times back in 2014 about whether those claims were legitimate, because insider trading is not about fairness etc. But ultimately the SEC did pay out those claims in 2016. Still it had about \$75 million left over in the fund, which would normally just go to the US Treasury.

Eventually — in 2024 — the SEC went back to court to be like “I think we’re done here, we’re gonna give the \$75 million to the Treasury,” but Pfizer Inc. (which now owns Wyeth) objected that *it* should get the money, because after all Wyeth was the real victim of the insider trading: Its secrets were stolen by Martoma, so it should get compensated. In November 2024, a district judge disagreed:

Pfizer, in conclusory fashion, argues that Wyeth was harmed when its fiduciary misappropriated the results from a clinical trial for insider trading and suffered reputational harm from the proceeding scandal. The Court certainly agrees that corporations whose secrets are misappropriated for insider trading purposes are generally victims of wrongdoing, but Pfizer has failed to allege how the insider trading scheme and Wyeth’s subsequent reputational harm qualifies as *pecuniary* harm for purposes of distributing the disgorged funds. Pfizer does not point to any facts indicating a monetary loss Wyeth suffered as a result of the insider trading scheme.

Well, I mean, right. It’s a weird theory! I just kind of think that it *is* the theory. Anyway Pfizer appealed, and this month the SEC settled. Bloomberg Law’s Ben Miller reports:

Pfizer Inc. reached a deal with the Securities and Exchange Commission in which the drugmaker would collect \$29 million to end a long-running dispute over an insider trading action involving Steven A. Cohen’s former hedge fund.

Cohen’s SAC Capital Management paid around \$602 million in 2013 to settle the SEC’s claims over an ex-employee who sold shares of Pfizer’s Wyeth LLC and Elan Corp.—a deal largely paid out to harmed investors and the US Treasury, leaving \$75 million remaining in the SEC’s fair fund.

Pfizer was appealing a 2024 ruling from Judge Victor Marrero in the US District Court for the Southern District of New York that it would receive none of the fair fund total. The drugmaker argued the nonpublic information used for insider trading came from an employee of its subsidiary Wyeth, whose fiduciary breach entitled the parent company to the leftover settlement amount.

Makes sense, I mean, to the extent that any of this makes sense. SAC stole some drug-trial information from Wyeth, so it should have to pay back Wyeth.

Things happen

How Blue Owl’s battles sparked a chill for private credit. Jefferies Fund Sued by Investors Over First Brands Collapse. Janus Bidding War Begins as Victory Capital Tops Trian Offer. AI dispersion trades. New Benchmarks Aim to Pierce Opaque Private-Credit Market. Blackstone Private Credit Fund Markets Bond Amid Software Tumult. Insurers See Themselves Shielded From Private Credit Worries. Warner Bros. Posts Lower Sales, Profit Amid Takeover Fight. The Red Lobster Clawback.

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1. I'm going to get emails being like "also the cars are fully self-driving now," which, whatever; the point is that this strategy would not have been a good one at any point over the last 12 years. Also Tesla is a robot company now, etc.; I'm just making the general historical point.
2. Co-owners of its debt, of course, but that does mean some kind of economic ownership, particularly in a company in enough distress to be doing LMEs.
3. This is all loose and intuitive, not a real legal argument. But it reminds me of Sanjukta Paul's idea of the "firm exemption" in antitrust law, that two people can coordinate to fix prices as long as they both work at the same company: If Company A told Company B "charge \$10 per widget" and Company B said "okay we will," that is obviously a crime, but if the manager of a Starbucks tells her baristas "charge \$5 for a coffee" and the baristas do it, that is obviously fine. Being creditors of the same firm is not the same thing at all, but it is perhaps distantly related.
4. Consider also the court ruling last year that the guy who insider traded nonfungible tokens on OpenSea's platform didn't commit a crime, because "neither the Supreme Court nor our court has held that confidential information that lacks commercial value will qualify as property under the wire fraud statute." I also thought that was a weird result.

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Securities

First Brands Executive Brumbergs Detailed Fraud in Guilty Plea

Feb. 26, 2026, 11:13 AM PST

A former First Brands Group executive told a judge last month that he falsified financial statements, inflated invoices and double-pledged collateral to help the auto-parts supply firm get billions of dollars in financing before its collapse.

Peter Andrew Brumbergs made the statements as part of his Jan. 27 guilty plea to fraud charges, a transcript of which was unsealed Wednesday. First Brands founder **Patrick James** and his brother Edward are also facing charges. The James have pleaded not guilty and deny wrongdoing, but Brumbergs, who is cooperating with prosecutors, could be a key witness against them.

The alleged fraud at First Brands has rippled across Wall Street, as Jefferies Financial Group Inc., Raistone Capital LLC, Evolution Capital Partners and other firms had invested in receivables at the company. Jefferies has said its Point Bonita trade-finance fund bought around \$715 million in uncollected First Brands invoices, many of which prosecutors now say were faked or inflated.

Brumbergs, who was a senior vice president of finance at First Brands, didn't identify his conspirators during his plea hearing. He said he joined others between 2018 to 2025 to provide misleading financial statements.

"We worked to submit quarterly financial statements that included accounting adjustments that misstated First Brands' financial condition and results," he said, according to the transcript.

He also said company balance sheets falsified "the nature and existence of inventory and equipment that had been pledged or sold as collateral to other lenders." He said First Brands failed to disclose to some lenders that collateral had already been pledged to other lenders.

Between 2020 and 2025, Brumbergs said, he reported false accounts payable levels to supply-chain financiers, including banks.

"I knew that some of the supply invoices were false and the financial statements provided to these lenders was not a true representation of the company's financial condition at that time," Brumbergs told US District Judge Analisa Torres.

Brumbergs, 45, pleaded guilty to eight counts, including fraud and conspiracy. He faces a maximum of 30 years in prison on each of seven counts but is seeking leniency in exchange for his cooperation.

He said he took “complete responsibility” for his crimes and the harm they caused. “My conduct was my choice, and it was not a mistake of circumstance,” he said.

A representative for Patrick James and a lawyer for Brumbergs didn’t immediately respond to request for comment on Thursday. A lawyer for Edward James declined to comment.

Assistant US Attorney Peter Davis said the evidence prosecutors have gathered against the James brothers includes testimony from First Brands employees and victims, as well as emails and inflated invoices.

The case is US v. Brumbergs, 26-cr-25, US District Court, Southern District of New York (Manhattan).

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News from Bloomberg Terminal

Flagship-Backed Generate Falls 17% After \$400 Million US IPO

Feb. 27, 2026, 10:37 AM PST

Summary by Bloomberg AI

AI Generated



- Generate Biomedicines Inc. shares slumped 17% in their trading debut after the company raised \$400 million in an initial public offering.
- The company plans to use the IPO proceeds to support clinical pipeline and the funds will improve cash runway into 2028, according to its CEO.
- Generate had a net loss of \$223 million last year, higher than the net loss of \$181 million it reported in 2024, according to the filings.

By Youkyung Lee and Angel Adegbesan

(Bloomberg) --

Generate Biomedicines Inc. shares slumped 17% in their trading debut after the company raised \$400 million in an initial public offering priced at the midpoint of a marketed range.

Shares of the Somerville, Massachusetts-based drug developer traded at \$13.35 as of 1:34 p.m. Friday, versus an IPO price of \$16. The offering of 25 million shares by Generate was marketed in a range of \$15 to \$17 each.

The trading gives Generate a market value of \$1.7 billion based on the outstanding shares listed in its filings.

Biotech and pharmaceutical companies' US IPOs this year including Generate have raised \$1.8 billion, nearly double the \$915 million seen in the same period in 2025, according to data compiled by Bloomberg. Shares of the companies that went public have climbed by a weighted average of 29%, led by VeraDermics Inc., a hair-restoration drug developer whose stock soared more than 160% since its \$295 million IPO.

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Generate board chair Noubar Afeyan, who co-founded Moderna Inc., was expected after the offering to control 49% of the shares through Flagship Pioneering, an investment firm that creates and backs biotech companies, the filings show. Chief Executive Officer Michael Nally was set to hold 5.6% of Generate's shares, according to the filings.

The company plans to use the IPO proceeds to support clinical pipeline and the funds will improve cash runway into 2028, according to its CEO.

"Given the number of catalysts that we have coming on the horizon, we feel like it's the right amount of funding for where we are right now, but it allows us to accomplish and advance the science and the technology in a very meaningful way," Nally said in an interview with Bloomberg News.

The company had a net loss of \$223 million last year, higher than the net loss of \$181 million it reported in 2024, according to the filings.

Generate's IPO was led by Goldman Sachs Group Inc. and Morgan Stanley. The company's shares trade on the Nasdaq Stock Market under the symbol GENB.

(Updates share prices, adds CEO's comments.)

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Guest Post: The SEC Updates its Enforcement Manual

K [dandodiary.com/2026/02/articles/securities-enforcement/guest-post-the-sec-updates-its-enforcement-manual](https://www.dandodiary.com/2026/02/articles/securities-enforcement/guest-post-the-sec-updates-its-enforcement-manual)

Kevin LaCroix

February 26, 2026

Sarah Abrams

In the following guest post, Sarah Abrams reviews the SEC's recent updates to its Enforcement Manual and considers the directors' and officers' liability implications. My thanks to Sarah for allowing me to publish her article as a guest post on this site. Here is Sarah's article.

On February 24, 2026, the SEC announced that it had updated its [Enforcement Manual](#). The Manual offers detailed procedural guidance for Enforcement Division staff, and although it does not create enforceable rights, it provides a blueprint for how the current SEC's enforcement investigations and actions may unfold. These updates matter because they compress timelines and elevate expectations for advocacy. The following discusses Manual changes which stood out and potential D&O underwriting implications.

Ensuring a Uniform Wells Process

Historically, the timing and procedural approach of Wells practice could vary across matters and agency teams. For D&O underwriters, the Wells process involves risk because Wells submissions are discoverable and may be used by the Commission in subsequent actions or by third parties in accordance with applicable law.

Under the updated Manual, SEC staff must obtain approval at the Associate Director/Unit Chief level and from the Office of the Director before issuing a [Wells Notice](#), a formal letter from the U.S. Securities and Exchange Commission (SEC) or FINRA staff notifying individuals or firms that a regulatory investigation has concluded and that enforcement action is recommended for alleged violations of securities laws.

The Manual requires SEC staff to obtain approval before proceeding to recommend an enforcement action without issuing one. Also, a Wells Notice should identify the specific charges and relief staff preliminarily plan to

recommend, and it must advise that the recipient may submit a written or video statement within the set limits (ordinarily the four-week window, unless timing constraints warrant another approach).

The Manual further states that Wells recipients will “ordinarily” get four weeks to submit a Wells response, and staff guidance for what the SEC finds most useful: submissions anchored in the record; candid treatment of adverse evidence; tight engagement with the elements of the proposed charges; and forthright discussion of litigation risk or policy/programmatic concerns. In addition, Wells meetings will be scheduled within four weeks of the submission and include a senior Division leader.

This standardized Wells timetable may pull claim notice and spend forward, concentrating the defense intensity into the first ~60 days after a Wells Notice. The updated timeline may also increase tenders under “formal investigation,” “Wells notice,” or “potential enforcement” triggers. Because the timeline is compressed, this may lead to an earlier use of experts (accounting, market analytics, cyber forensics) and steeper early exposure to any formal investigation coverage available.

Finally, the updated Manual prescribes what makes a “helpful” Wells submission (-anchored analysis, engagement with adverse evidence, and frank discussion of legal and program risks). This may reduce outcome variability across cases and impact on the quality-of-response bar for Wells’ recipients.

As a result of the Manual updates to the Wells process, D&O underwriters may want to consider governance maturity, documented controls, escalation, and remediation capacity, because those capabilities may impact cooperation credit and penalty outcomes under the SEC’s refreshed framework.

Simultaneous Consideration of Settlements and Waiver Requests

In the updated Manual the Commission restores its prior practice of permitting a party settling with the SEC to request simultaneous consideration of the settlement and any [waiver from automatic disqualifications](#) (e.g., Rule 506 “bad actor” consequences which include being barred from raising private capital) that would flow from the resolution. Under the renewed process, the party settling with the SEC will be able to see both the enforcement terms (penalties, undertakings, etc.) *and* the SEC’s decision on whether it will grant the necessary waiver at the same time.

The SEC frames this approach as enhancing transparency. Previously, parties could settle only to find out later that key waivers were not granted, which could lead to unexpected compliance burdens, business disruptions, or financing impediments. Under the updated manual, if waiver is denied while a settlement is accepted, the truncated timeline (five days) allows a company to decide whether to go forward with the settlement regardless of the penalties, or to withdraw from the settlement and potentially face a litigated action. Parallel DOJ engagement remains.

For D&O underwriters, the updated settlement-and-waiver process introduces both improved predictability and heightened severity risk. On one hand, the SEC's simultaneous consideration of settlements and waivers eliminates the historical uncertainty in which a company would settle first only to discover later that it had been disqualified from critical activities, bringing greater certainty to severity modeling and helping underwriters more accurately assess potential downstream exposure.

Coordinating with the DOJ

The Manual underscores that the SEC routinely coordinates with the DOJ and other authorities through established discussion and access-request channels, so anything said to SEC staff can be reviewed by prosecutors in a parallel criminal matter. As a result, asserting the Fifth Amendment (the right to remain silent) in SEC testimony may impact on civil liability, where courts could draw adverse inferences from taking the Fifth.

D&O underwriter exposure may thus increase with advancement of defense expenses until a final, non-appealable adjudication of fraud or willful misconduct and a DOJ investigation can often extend the matter's duration, even if there is settlement with the SEC.

Discussion

For D&O underwriters, the above developments may result in earlier tenders, steeper front-loaded defense spend, and perhaps increased scrutiny over an insureds' governance rigor, investigation readiness, and escalation culture.

The SEC's announcement and updates to its Enforcement Manual signal its intent to create an enforcement environment marked by greater speed, tighter coordination, and what appear to be higher expectations for developed advocacy. A more structured Wells process compresses the timeline for response and with the intent to elevate the quality bar for submissions, while simultaneous

settlement-and-waiver consideration adds predictability but also introduces short-fuse decision points that may escalate costs if parties pivot away from settlement. Meanwhile, the Manual's explicit recognition of routine parallel DOJ engagement underscores that civil matters can quickly acquire criminal dimensions, prolonging the lifecycle of a claim and intensifying defense burdens.

How aggressively the SEC applies the Manual's outlined procedural changes remains to be seen, including how the current SEC's enforcement landscape continues to play out.

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Kalshi bets on Neal Katyal in prediction market cases

 [reuters.com/legal/government/kalshi-bets-neal-katyal-prediction-market-cases-2026-02-26](https://www.reuters.com/legal/government/kalshi-bets-neal-katyal-prediction-market-cases-2026-02-26)

Mike Scarcella, David Thomas

February 26, 2026

Attorney Neal Katyal looks on outside the U.S. Supreme Court, as its justices are set to hear oral arguments on U.S. President Donald Trump's bid to preserve sweeping tariffs after lower courts ruled that Trump overstepped his authority, in Washington, D.C., U.S., November 5, 2025. REUTERS/Nathan Howard/File Photo [Purchase Licensing Rights, opens new tab](#)

- Kalshi, Polymarket turn to top lawyers in regulatory challenges
- Trade attorneys swamp court with tariff refund cases
- Longford sues for share of patent settlement

Feb 26 (Reuters) - (Billable Hours is Reuters' weekly report on lawyers and money. Please send tips or suggestions to D.Thomas@thomsonreuters.com, [opens new tab](#).), [opens new tab](#)

Prediction-market operators are tapping high-powered lawyers in a wave of regulatory battles with U.S. states that want to shut down or restrict their fast-growing event-contracts businesses.

Neal Katyal, who leads law firm Milbank's U.S. Supreme Court practice, appeared for Kalshi this week in a lawsuit the company filed against Utah regulators. Katyal, who was acting U.S. solicitor general under President Barack Obama, is also representing Kalshi in similar cases in Nevada, Ohio, Maryland, Connecticut and Tennessee.

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Katyal's appearance in the Utah case came days after he won last week's decision at the U.S. Supreme Court [striking down](#) President Donald Trump's global tariffs. Katyal is [also a lead attorney](#) defending New Jersey cities in a lawsuit filed by the Trump administration over immigration policies.

Prediction markets, which analysts estimated handled \$47 billion in trading volume in 2025, allow users to trade on the outcomes of real-world events ranging from politics and economics to sports and culture. The platforms let people wager on how events will unfold using tradeable contracts.

Kalshi and rival prediction platforms Polymarket and Coinbase did not immediately respond to requests for comment about their legal efforts. Milbank declined to comment.

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In [mounting cases across the country](#), Kalshi, Polymarket and Coinbase are arguing that their markets fall under the exclusive jurisdiction of the federal Commodity Futures Trading Commission, not state gambling authorities. Kalshi said in the [Utah lawsuit, opens new tab](#) and other cases that federal law preempts states from treating its event contracts as gambling. State regulators counter that prediction market operators like Kalshi are running unlicensed sports-betting platforms.

Polymarket, which bills itself as the world's largest prediction market, has also brought lawsuits in several states. Its legal team includes Orin Snyder and Thomas Dupree Jr of Gibson, Dunn & Crutcher. Snyder is a go-to lawyer for technology companies, and Dupree is the co-leader of his firm's appellate and constitutional law practice.

Coinbase's legal team includes Sullivan & Cromwell's Jeffrey Wall, who was the U.S. solicitor general during the first Trump administration. He leads his firm's Supreme Court and appellate practice.

— Trade lawyers expect law firm committee to steer tariff refunds litigation

New claims are piling up at the U.S. Court of International Trade after the U.S. Supreme Court ruled Friday that President Donald Trump lacked authority to impose tariffs under a law meant for use in national emergencies.

More than [1,800 cases were pending](#) before the high court's decision on Friday. Since then, [FedEx](#), [L'Oreal](#) and more than 100 other companies have added to the crush of lawsuits, with many more expected in the coming weeks. Quinn Emanuel partner Dennis Hranitzky said his firm alone is planning to bring claims for hundreds of clients.

Law firms that already have a large share of refund cases at the Court of International Trade include Crowell & Moring, which has filed at least 150 cases, and Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt, which has filed more than 300 tariff lawsuits.

Lawyers with pending cases told Reuters they expect the court to form a plaintiffs steering committee that includes firms like their own to advise a designated lead plaintiff and serve as a liaison to the court and the government for the thousands of other cases. Firms would volunteer to serve on a committee approved by the court, the attorneys said.

"We help them strategize," Nithya Nagarajan, a partner at Husch Blackwell whose firm is representing ALDI and Peloton Interactive, said of the process.

Plaintiffs steering committees are common in large multi-district cases related to legal claims such as product defects or consumer protection, and firms often vie to be appointed in hopes of reaping an outsized share of attorney fee awards.

Unlike in those cases, serving on a plaintiffs committee in the trade litigation would not confer a particular financial reward, trade lawyers told Reuters.

"It's volunteering for extra work," said John Peterson, a partner at Neville Peterson who has been practicing trade law for 49 years.

Peterson said sitting on a steering committee keeps lawyers closer to the action and can give them greater influence. It can also convey prestige and recognition, said Nagarajan.

"It shows the respect your fellow practitioners have for you," Nagarajan said.

— Litigation funder Longford Capital sues to enforce \$32.3 million arbitration award

U.S. litigation funding firm Longford Capital has [asked, opens new tab](#) a business court in Texas to confirm an arbitration award of more than \$32 million it won against patent monetization company Arigna.

The dispute stems from a 2020 litigation-funding arrangement involving Longford, Arigna and law firm Susman Godfrey in which Longford says it invested more than \$38 million between 2020 and 2024 to finance Arigna's patent enforcement efforts and was entitled to a share of proceeds.

Longford said in its lawsuit on Feb. 19 that Arigna and related affiliates reached a \$100 million global settlement in November 2023, which the arbitrator found to be "proceeds." Longford alleges Arigna diverted most of the settlement to an affiliate's Irish bank account and deposited only \$5.53 million into Susman's client trust account. Foley & Lardner represents Longford. The company that settled is not identified in court papers.

Longford had no immediate comment. Susman, which is not a defendant in the case, did not immediately respond to a request for comment.

Arigna has denied any wrongdoing, and said the dispute never should have been forced into arbitration in the first place. The company says it was not a party to the Longford-Susman Godfrey funding agreement.

Arigna has said that the \$100 million settlement at issue involved not just Arigna but "numerous" other entities that were not represented by Susman and not funded by Longford. A lawyer for Arigna told Reuters that "Arigna remains confident that its position will ultimately prevail."

Read more:

[Illinois lawmakers move to limit investor influence as law firms, private equity edge closer](#)

[Legal sector shines in new US jobs report](#)

[States square off with opioids whistleblower over payout from \\$4.7 billion](#)

[Walgreens settlement](#)

Reporting by David Thomas and Mike Scarcella

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Securities

Polymarket Insider-Trading Bet May Have Attracted More Insiders

Feb. 26, 2026, 12:38 PM PST

Can you insider-trade on an investigation into your own insider trading?

That is one of many questions that came up Thursday after the latest set of profitable, well-timed trades came under scrutiny on Polymarket, one of the largest exchanges in the nascent prediction market industry.

The case cropped up after a well-known crypto researcher, who operates under the pseudonym ZachXBT, said on social media that he was preparing to release the name of a company whose employees he believed had used non-public information to place profitable trades.

Polymarket created a contract that allowed customers to bet on the name of the company that ZachXBT would reveal, attracting around \$40 million in trading since it went up on Monday.

After ZachXBT released his findings and the name of the company — Axiom — on Thursday morning, a number of online sleuths immediately identified several profitable bets that suggested someone knew the answer early and traded on the information before it was released.

“Did Axiom employees commit more insider trading on the ZachXBT market?” Polysights, a data terminal for prediction markets that tracks such behavior, wrote in a post on X on Thursday.

The allegations suggest an ouroboros of insider trading that underscores the novel regulatory problems created by prediction markets as they swiftly rise in popularity and offer a new form of financial speculation with unclear guardrails.

Polysights, which is not affiliated with Polymarket, operates a tool that looks for signs of insider trading on Polymarket’s public ledger. It does so by identifying large bets from newly created wallets, highlighting those whose bets are concentrated in a single market or who place trades immediately after setting up their account.

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

Five wallets identified by Polysights bet around \$50,000 collectively on Axiom to be named, netting the holders a combined profit of roughly \$266,000.

A separate analysis by researchers at Lookonchain, another analytics firm, found 12 potential insider wallets that had bet on Axiom. Those wallets made a combined profit of around \$1 million.

Axiom, for its part, said it was “shocked and disappointed” by the ZachXBT’s findings, adding in an X post that it would continue to investigate the matter. It didn’t immediately respond to a request for comment on whether it was aware of any employees trading on the Polymarket wager.

Polymarket didn’t immediately respond to a request for comment.

For now, those are just allegations, and it’s unclear what sort of insiders might have been involved. It could have been people who knew about ZachXBT’s findings. It could have been the people who did the original insider trading and thus had a sense of what ZachXBT might discover.

ZachXBT said on social media that he had contacted Axiom for comment and conducted several interviews before publishing, making a leak “probably inevitable.” The blockchain records offer few hints in this direction, and Polymarket’s offshore platform that hosted the bets doesn’t conduct identity checks.

In the days leading up to publication, another crypto trading platform called Meteora had been the market’s front-runner. When a Meteora co-founder appeared to deny any involvement in a social media post on Wednesday, the wager quickly flipped in Axiom’s favor, where its odds reached a peak of 46.2%.

The controversy ramps up the concerns about the vulnerability of prediction markets to such issues, as regulators race to get their heads around the fast-growing sector.

Just this week, rival trading platform Kalshi said it had caught and punished an employee of the YouTuber, MrBeast, who had made profitable trades on contracts tied to what would happen in MrBeast videos. It also fined a former candidate for California governor who’d placed a bet on his own campaign.

Read More: Kalshi Fines, Suspends MrBeast Employee for Insider Trading

The Commodity Futures Trading Commission, which has taken responsibility for overseeing prediction markets, has exercised a light-touch approach to regulating the space under the current Trump administration. But after Kalshi’s announcement, the agency said in an advisory that it “has full authority to police illegal trading practices.”

Polymarket is opening a US exchange that is under CFTC oversight, primarily offering sports bets. But the Axiom wager occurred on Polymarket’s much larger international venue, which doesn’t answer to the agency.

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FT PROFESSIONAL

FT Alphaville SpaceX

The SpaceX ETF is in trouble

The ARKK trade 2.0?



It can get explosive when ETFs and private assets collide © AP

Robin Wigglesworth

Published 5 HOURS AGO



Certain mutual fund complexes have long dabbled with [stakes](#) in private companies, and in recent years investment groups have started to do the same with ETFs. However, one high-profile case is now testing the limits.

The ERShares Private-Public Crossover ETF is specifically designed to “democratise” retail investor access to private companies. Most of its holdings are a host of big founder-led public tech companies, like Meta, Nvidia and Palantir, but it aims to have up to 15 per cent of its assets in private companies — the maximum permitted by US regulators.

Its main selling point has been a slice of SpaceX, which it announced to [great fanfare](#) back in 2024. It then [trumpeted](#) an increased investment in 2025, increasing its weighting in the XOVV ETF to 11 per cent of the fund. It also holds some shares in Anduril, but the ETF basically deliberately sought to become a [public market proxy for one of the hottest private companies in the world](#).

There have long been concerns that XOVV's performance has diverged from SpaceX's swelling valuation to [a remarkable degree](#), raising questions about how the exposure is managed. But the bigger, immediate problem is this:

The XOVV rollercoaster

Current market cap (\$bn)



Source: Bloomberg

As you can see, the ETF exploded in size in December — mostly ahead of a [SpaceX funding round that valued the company at \\$800bn](#). SpaceX was then [valued at \\$1tn](#) in the combination with xAI earlier this month. Alphaville understands that the ETF bought additional SpaceX stock after these monster inflows to get its exposure back to target. And someone has now just yanked over \$600mn back out of the ETF, deflating its assets back to just \$482mn.

That chart pattern will be very familiar to many FTAV readers, with uncanny parallels with what we saw in [ARK Invest's suite of ETFs](#) ahead of the IPOs of Figma, Bullish and [Klarna](#) last year.

Essentially, traders were able to use the unique ETF mechanism to create shares in the funds ahead of a money-spinning event, try to capture the windfall, and then yanked their money out again.

FT Alphaville spoke with Joel Shulman, the CEO and chief investment officer at ERShares, and this is exactly what he thinks happened this time as well — except in this case it was the expected big revaluation of the SpaceX stake that was the trigger, rather than an IPO:

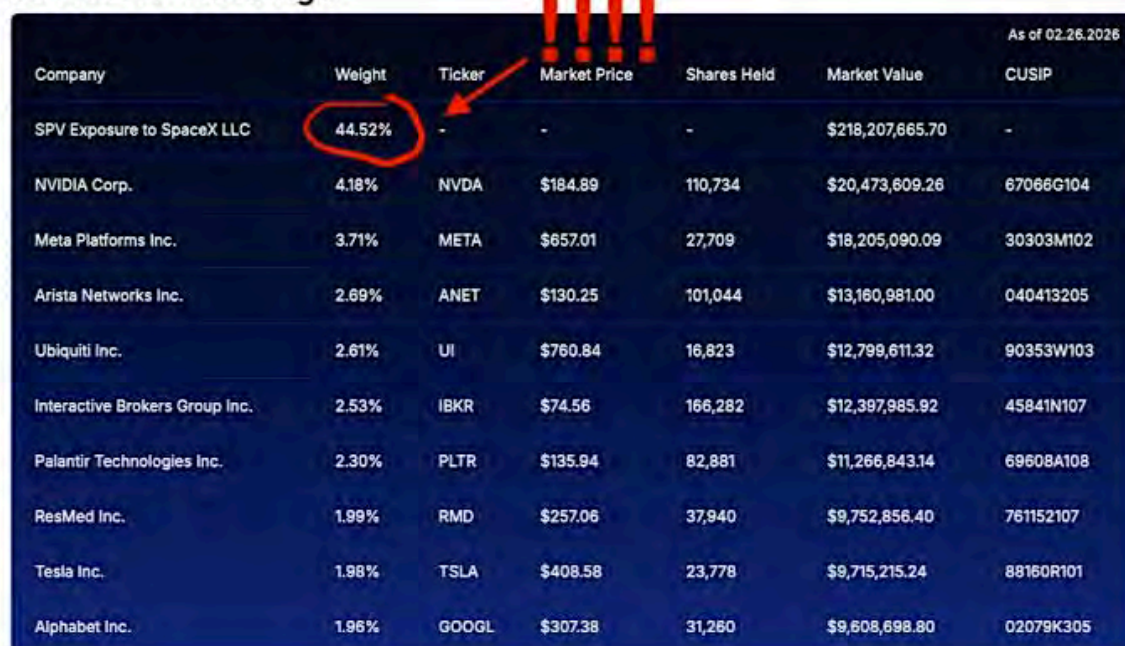
“

It's just hot money . . . In just eight trading days [in December] we got 7-10 major orders of hundreds of millions of dollars . . . They're arbitrageurs coming in for a quick buck. I knew it when they came in . . . The so-called 'smart money' has now left.

They do this, they swoop in and go out. We've seen this a few times . . . They were hoping to get a quick pop.

More worryingly for the ETF and its remaining investors, this has now ballooned the relative size of the SpaceX stake in the fund to over [44 per cent](#) as of the end of Thursday — *far* above the 15 per cent cap permitted by US financial regulations.

XOVR ETF Holdings

[VIEW ALL HOLDINGS](#)


Company	Weight	Ticker	Market Price	Shares Held	Market Value	CUSIP
SPV Exposure to SpaceX LLC	44.52%	-	-	-	\$218,207,665.70	-
NVIDIA Corp.	4.18%	NVDA	\$184.89	110,734	\$20,473,609.26	67066G104
Meta Platforms Inc.	3.71%	META	\$657.01	27,709	\$18,205,090.09	30303M102
Arista Networks Inc.	2.69%	ANET	\$130.25	101,044	\$13,160,981.00	040413205
Ubiquiti Inc.	2.61%	UI	\$760.84	16,823	\$12,799,611.32	90353W103
Interactive Brokers Group Inc.	2.53%	IBKR	\$74.56	166,282	\$12,397,985.92	45841N107
Palantir Technologies Inc.	2.30%	PLTR	\$135.94	82,881	\$11,266,843.14	69608A108
ResMed Inc.	1.99%	RMD	\$257.06	37,940	\$9,752,856.40	761152107
Tesla Inc.	1.98%	TSLA	\$408.58	23,778	\$9,715,215.24	88160R101
Alphabet Inc.	1.96%	GOOGL	\$307.38	31,260	\$9,608,698.80	02079K305

The US Securities and Exchange Commission last year in practice [scrapped this requirement for closed-end funds](#), but as far as Alphaville understands it is still very much the rule for open-ended funds like ETFs.

Technically, the rule stipulates a 15 per cent limit to “illiquid” holdings, which is typically [defined](#) as something that a fund cannot reasonably expect to be sold in seven calendar days at its current price. If a fund exceeds that cap, the breach must be reported to the board and a plan must be presented to quickly bring the share down below 15 per cent.

As MainFT’s Steve Johnson [reported earlier this month](#), XOVR and a similar ETF from Baron Capital had already breached the 15 per cent cap, but the Baron argued that shares in very large private companies like SpaceX were only “less liquid” rather than “illiquid”, and therefore the 15 per cent level didn’t apply.

In normal times, we would confidently predict that regulators would laugh at this argument, before going for the jugular. In 2023 the SEC went after a firm for exactly [this kind of “less liquid” argument](#), arguing that:

“

The Liquidity Rule provides substantive protections to shareholders of open-end funds. Trustees must exercise oversight on behalf of shareholder interests, and the Commission will hold trustees accountable when they fail to fulfil the most basic requirements under the applicable rules.

But, well, [these aren't normal times for financial regulation](#). Last year, [the new-look Paul Atkins SEC dropped that case](#).

Coupled with its general deregulatory vibe and the scrapping of the closed-end fund restrictions, this has understandably encouraged a lot of . . . creative exploration of private assets in open-ended fund structures like ETFs.

Still, this isn't a mild breach of the rule. Almost half of a publicly traded, open-ended fund now consists of a stake in a single private company. And even if the SEC decides to sit on its hands, investors might naturally take fright at that.

After all, any further outflows will force XOVR to sell more of its remaining public stock, swelling SpaceX's relative size further. Market-makers will have trouble creating and redeeming shares when such a large part of the ETF now consists of a single private company.

At some point we could even conceivably face the almost unprecedented prospect of an ETF actually having to suspend share creations, or seek permission to halt redemptions entirely.

Morningstar's Jeffrey Ptak was scathing in a [report this morning](#), arguing that the situation calls ERShares' risk management and oversight practices into doubt "to a disqualifying degree":

“

We're crossing a Rubicon here. While there have been some analogues — for instance, Russia stock ETFs went into suspended animation when that country invaded Ukraine — we really haven't seen an ETF this large get this overweight in an illiquid security before.

What happens next hinges largely on two factors: flows and the manager's ability to reduce the SpaceX SPV stake.

If investors continue to bail from the ETF, it will only further ratchet up the pressure by increasing its weight in the illiquid asset. This is the risk of stuffing a daily liquidity vehicle — an ETF — with an asset that doesn't trade, playing out vividly, in real time.

Correspondingly, if the manager is unable to sell at least a portion of the SpaceX SPV stake, the problem could fester. The best outcome under that scenario is some combination of positive inflows to the ETF and strong performance from the common stocks in the public stock sleeve, as that would help to bring the SPV's weight down.

Shulman bristles at much of Ptak's analysis, arguing that "personal shots cross a line". He says he is planning to respond to "fundamental flaws" in the Morningstar analyst's work.

However, while the ballooning SpaceX stake is problematic from a regulatory perspective, Shulman says ERShares has been in touch with the SEC and that the regulator has been understanding.

“

We're playing by the rules. We've discussed our plan with the SEC, and we assume they don't want to harm shareholders. We're confident that if we were forced to sell we'd easily be able to do it. But we don't want to . . . We assume they understand what's going on.*

In fact, Shulman argues that the huge relative size of SpaceX actually makes XOVR more attractive to many investors — more undiluted SpaceX exposure could be just what they want.

Moreover, SpaceX is a giant, hot company with shares not infrequently trading on private markets and semi-regular funding rounds, and it might go public sometime in 2026. So it's entirely possible that XOVR would be able to trim its stake if forced to. And with the current SEC unlikely to force the issue, perhaps the ETF can even happily trundle on with SpaceX at a massive, rule-busting size until there is an IPO.

Even before then Investors inflows and appreciation in XOVR's public stock positions could organically deflate SpaceX's relative size in the portfolio over time. So it will probably want to avoid dramatic action, as Ptak also noted:

“

We wouldn't expect ERShares Private-Public Crossover ETF's board to suspend creations, effectively closing the ETF to new investments. That would shut off one of the few avenues to lowering the SpaceX SPV's weight and could cause the ETF to trade at a lofty premium to NAV, like a closed-end fund. It seems even less likely that the ETF's manager and board would seek to gate the fund (subject to the SEC's approval of such a request) to prevent further redemptions.

Instead, the likeliest path forward seems to be a kind of muddling along. If the manager can bring the SpaceX SPV weight under control, then the ETF should function more or less without disruption.

To Alphaville it still looks like a very volatile situation that could easily go haywire. But Shulman says that investors should remain calm: “We’re not panicking here, and neither should shareholders. They’re going to do just great.”

**Slightly tweaked to clarify the conversation.*

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Opinion **PayPal Inc**

What went wrong at PayPal

A company etched in Silicon Valley folklore as a disrupter needs reinvention

RICHARD WATERS



PayPal showed the value of a clear customer proposition (send payments by email!), maverick energy and better technology © Thomas White/Reuters

Richard Waters

Published FEB 26 2026



It's too early to write the obituary for PayPal. But for a company so deeply etched into Silicon Valley folklore, it is a humbling moment to have become the [subject of takeover talk](#) on Wall Street in the wake of a share price collapse.

PayPal came to personify the brash, iconoclastic internet upstart of the late 1990s, and it is where some of the industry's leading lights — among them Elon Musk and Peter Thiel — learned how to shake the business establishment. The arc the payments company has traced since then is an object lesson in the need for constant reinvention.

Before Mark Zuckerberg coined the term, PayPal's founders brought a “move fast and break things” approach to payments. The idea that a regulated industry with powerful network effects might be vulnerable to that kind of disruption would have been unthinkable at any other time, but this was the height of dotcom chutzpah.

Jimmy Soni, author of an early history of the company called *The Founders*, caught the mood. When one employee suggested they hire more lawyers, the idea was rejected by the company's leaders: lawyers would only point out all the things the company *couldn't* do.

[PayPal](#) showed the value of a clear customer proposition (send payments by email!), maverick energy and better technology. That technology was often created in moments of desperate need, like the fraud detection systems that set PayPal apart from a gaggle of other online payments start-ups. According to Soni, one engineer credited with important breakthroughs in beating fraud was given a job interview by Musk that lasted until 4am — then told to come back in three hours to collect a job offer.

The tech luminaries who trace their careers back to PayPal's early days include LinkedIn founder Reid Hoffman, Roelof Botha, former head of Sequoia Capital, and David Sacks, now President Trump's AI and crypto tsar.

Viewed from the post-blockchain world, PayPal's early ambitions look almost modest. Riding on top of existing payment rails, they were tied to what Musk called the “herky jerky frickin' monstrosity” of the banking system's entrenched technology. Working on the fringes of the system, the only way to survive and thrive was to keep inventing.

The surprising thing, given its inherent network effects, is that PayPal's owners didn't seem to foresee the scale their business could reach, selling out to eBay for \$1.5bn after less than four years. With a heavy dependency on the auction site, they feared being squeezed out by eBay's rival payment system.

There are clear echoes of other start-ups that sold to bigger competitors, like Google's 2006 purchase of YouTube (itself founded by PayPal alumni) and Facebook's 2012 acquisition of Instagram. Passing the \$1bn barrier, those deals also seemed staggeringly big for the times, though the sticker prices look paltry for the giant networks they became.

The difference is that while YouTube and Instagram have thrived under new owners, eBay couldn't unlock the potential in PayPal. The online auction company tried — and failed — to weld together a suite of services around commerce, payments and communications (it also bought Skype). The whole ended up being less than the parts. Subordinated to eBay's main ecommerce business, PayPal failed to keep innovating and was blocked from one obvious route of expansion, partnering with other retailers. It took an attack by corporate raider Carl Icahn to force eBay to spin the company off again.

PayPal's owners have always been acutely aware of the need to keep finding the next big thing. Even while still inside eBay, acquisitions included person-to-person payments app Venmo, cross-border remittance company Xoom and the “buy now, pay later” company Bill Me Later. But PayPal didn't find a new business to compare with its core, or turn its diversification effort into more than a collection of parts. It was a downturn in its original, highly profitable business that led to the forced departure of its CEO and the current crisis.

David Marcus, PayPal's final CEO while under eBay control, recently [pinned the blame](#) for the decline on a loss of product vision and failure to think big enough. Chasing short-term financial returns, it didn't invest in trying to build the payment industry's next big platforms, he said.

Now, payments are facing another wave of disruption as AI threatens to remake online commerce. Even if he can steer the company past its current slump, Enrique Lores, the former HP executive who takes over as PayPal's new CEO this weekend, will have his work cut out.

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Trump Media & Technology Group**Trump family's media group weighs plans to spin off Truth Social**

TMTG seeks to focus on becoming significant player in nuclear energy industry



Truth Social is the US president's preferred social media mouthpiece © Getty Images

George Steer and **Antoine Gara** in New York

Published 6 HOURS AGO | Updated 07:21



The Trump family's media group is weighing plans to spin off the Truth Social social media platform that is extensively used by Donald Trump, as it seeks to reposition itself as a major player in nuclear energy.

[Trump Media & Technology Group](#) on Friday said it was engaged in “ongoing discussions regarding a potential spin-off” of businesses including Truth Social — the US president's preferred social media mouthpiece — into a new listed company.

The announcement comes two months after TMTG [agreed a \\$6bn deal](#) to combine with Google-backed fusion energy company TAE Technologies, and marks the latest pivot by the first family's main publicly listed vehicle, which last year piled into cryptocurrencies while the digital asset market was riding high.

TMTG and TAE Technologies said they hoped to begin work later this year on a power plant to meet the soaring energy demands of AI.

Shares in TMTG, which is majority owned by the Trump family, have fallen more than 50 per cent over the past year. At the end of December, the company began offering digital tokens to investors who acquired its stock.

But the token offering did little to bolster TMTG's shares and has left its shareholders frustrated, according to people briefed on the matter.

Shares in TMTG have fallen sharply over the past year

Share price, \$



Source: LSEG via markets.ft.com

TMTG on Friday said businesses including Truth Social would merge with a publicly listed [special purpose acquisition company](#) called Texas Ventures III if the spin-off proceeded.

That vehicle — which earlier this week added two Trump Organization executives to its audit committee — is managed by Yorkville Advisors, one of the brokerages that has done extensive work for vehicles affiliated with the Trump family.

Yorkville helped TMTG go public through a 2024 merger with a blank-cheque company called Digital World Acquisition Corp, and raised more than \$1bn for the company by selling its stock in regular share offerings last year.

Yorkville Advisors is TMTG's fourth largest shareholder, with a roughly 2.4 per cent stake.

Last year, the Mountainside, New Jersey-based brokerage helped launch five TMTG-backed "America First themed" exchange traded funds.

Yorkville executives also helped TMTG raise \$2.5bn to buy bitcoin last May as the company sought to ride a wave of enthusiasm for digital assets. Bitcoin's price has plunged more than 40 per cent since it peaked at around \$125,000 in October.

The US president uses Truth Social both to make important policy announcements, and to post videos, photos and memes.

Last month he used Truth Social to post some of December's US jobs figures hours before their official release, providing an early glimpse at data that carries huge sway in global financial markets.

Three weeks ago Trump drew strong criticism from Democrats and Republicans for posting a video on his Truth Social account that included a racist meme depicting Barack and Michelle Obama as apes. The post was later removed.

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Chancery Asked To OK \$7.6M Deal To End \$1.5B De-SPAC Row

By **Jeff Montgomery**

Law360 (February 26, 2026, 7:13 PM EST) -- Stockholders of special purpose acquisition company HighCape Capital LP have sought Delaware Court of Chancery approval for a \$7.6 million settlement of a class suit accusing company principals of pursuing an overpriced take-public merger of biopharmaceutical tech company Quantum-Si, in litigation complicated by an unusual discovery stumble.

An **opening brief** in support of the settlement proposal reached the court Wednesday, about 21 months after stockholder Michael Farzad sued in May 2024. The complaint, which named HighCape and Foresite Capital Management LLC, among others, emerged from a dispute over a stockholder-led "Section 220" books and records action.

The breaches of fiduciary duty claims were buttressed by allegations that HighCape entered into an overpriced, \$1.46 billion special purpose acquisition company merger. Named in the case were former officers and directors of HighCape Capital Acquisition LLC, HighCape Capital LP, Foresite Capital Management LLC, and Quantum-Si founder Dr. Jonathan Rothberg.

In an attempt to counter the complaint's claims, "the HighCape defendants arbitrarily and selectively produced documents to plaintiff months after" it was filed, a brief in support of the settlement said.

Attorneys for HighCape were accused of relying on the late-filed documents to beat the complaint, including using documents that were said to have been incorporated into the complaint after filing — "an unprecedented argument," the brief said.

"After the complaint is filed, the defendants can't say, 'Here are additional documents useful to us, and these now need to be deemed incorporated by reference,'" it said.

"When the complaint is filed, the universe of 220 documents is set for purposes of the complaint, and the documents properly before the court at the pleading stage are fixed," Vice Chancellor Will said during an argument on a stockholder motion to compel HighCape to deliver additional documents on Nov. 18, 2024.

Vice Chancellor Will said she was unaware of any case that saw documents woven into the record after the company had declared a books and records production, and then sought to add more.

"I'm mindful of the case law saying that after a complaint is filed in the 220 context, the plaintiff who sought books and records has accepted that he has all necessary and essential information," she noted.

Litigation continued, with agreements reached last year on turning over additional records and mediation, producing a \$7.6 million settlement intended, in part, to fund \$1.064 million in attorney fees — 14% of the total award — and a \$2,000 lead plaintiff service award.

HighCape, formed to take a company public in September 2020, issued \$10 per share and agreed to acquire "legacy" Quantum-Si on Feb. 18, 2021, at a \$1.46 billion valuation.

The suit alleged that the take-public effort was driven by the financial interests of the deal's architects, marked by a lack of due diligence, conflicted valuations, and a "complete disregard for

board oversight, ultimately harming the public stockholders."

Those involved were accused of producing a materially false and misleading take-public merger proxy, the complaint said, overstating company prospects and future revenues.

"Despite initially trading at \$10.68 per share post-merger, the newly public company's stock price fell below \$2.00 per share by the time" Farzad sued in May 2024. The complaint alleged that the de-SPAC transaction inflicted "substantial losses on unsuspecting stockholders."

A full-day mediation session following after resolving the books and records disputes. It was held before Michelle Yoshida of Phillips ADR Enterprises at the end of April 2025. The parties agreed to the \$7.6 million settlement in July.

The parties did not respond to requests for comment Thursday.

Farzad is represented by Christopher H. Lyons, Tayler D. Bolton, Randall J. Baron and Erik W. Luedeke of Robbins Geller Rudman & Dowd LLP, Kelly L. Tucker, Rebecca Musarra and David Wissbroeker of Grant & Eisenhofer PA, and Brian J. Robbins, Gregory E. Del Gaizo and Mario D. Valdovinos of Robbins LLP.

Foresite is represented by Michael A. Barlow, Hayden J. Driscoll, R. Brian Timmons and Ellison Ward Merkel of Quinn Emanuel Urquhart & Sullivan LLP.

Rothberg is represented by Patricia L. Enerio and John F. Sylvia of Mintz Levin Cohn Ferris Glovsky and Popeo PC.

HighCape is represented by Paul J. Loughman of Young Conaway Stargatt & Taylor LLP and Gregory Starner and Joshua D. Weedman of White & Case LLP.

The case is Farzad v. HighCape Capital LP et al., case number 2024-0524, in the Court of Chancery of the State of Delaware.

--Editing by Adam LoBelia.



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iRhythm Investors Say 2021 Goldman Ruling Doesn't Bar Cert.

By **Bonnie Eslinger**

Law360 (February 26, 2026, 10:37 PM EST) -- iRhythm Technologies investors urged a California federal judge Thursday to certify a class that bought 30 million shares while the digital healthcare company allegedly jacked its stock price with false and misleading statements about a heart-event monitoring device, saying the U.S. Supreme Court's 2021 Goldman price impact ruling doesn't apply.

At the start of a hearing in San Francisco, U.S. District Judge Jacqueline Scott Corley noted that iRhythm's main argument against certifying the securities fraud class is that the plaintiffs haven't shown that investors relied on the alleged misstatements, and the defendants can show they had no influence on iRhythm's stock price.

If a misrepresentation had no effect on price, then the fundamental premise "completely collapses, rendering class certification inappropriate," iRhythm says, citing the U.S. Supreme Court's 2021 decision in [Goldman Sachs v. Arkansas Teachers Retirement System](#).

Brenna Nelinson of Quinn Emanuel Urquhart & Sullivan LLP told the court Thursday that the **Goldman decision** gave defendants the right to rebut the presumption that there was a class-wide reliance on the alleged misstatements.

The Supreme Court also held that evidence of how "generic" a statement is can be important when it comes to determining price impact at the class certification stage.

There are two kinds of price impacts to look at, Nelinson said: if the allegedly fraudulent information inflated a stock-price, or the front end, and if corrective disclosures caused a subsequent drop, or the back end.

There was no front-end price impact, she said, because the alleged misstatements were consistent with the market's understanding of the device at issue, iRhythm's Zio AT.

"Let's talk about back-end price impact. This is where Goldman comes in," Nelinson said.

Under the high court's ruling, a back-end price drop cannot be attributed when there's a mismatch between an alleged misrepresentation that's "generic" and a more specific corrective disclosure, she said.

Judge Corley said the alleged misstatements are "far, far" more specific than the generic statements in Goldman.

Nelinson said the court could determine how generic the statements are "relative to the alleged corrective disclosure."

Further, unless there's a statistically significant price drop, the court can't draw an inference that any movement is different from "otherwise normal market movement that happens on a daily basis," she later told the court.

The investors claim there were several categories of false statements from iRhythm and company CEO Quentin Blackford, including that the Zio AT provided "timely" or "near real-time" data transmissions and the device is for "at risk" or "more acute" patients. In 2022, the company

disclosed that the Zio AT had a transmission limit, which meant it would stop transmitting arrhythmia data after it hit a certain amount of data transmissions during the wear period, according to the investors' class certification motion.

On Thursday, a lawyer for the investors, Katherine Sinderson of Bernstein Litowitz Berger & Grossmann LLP, told the court that a November 2022 disclosure by iRhythm about the device's maximum transmission limits did lead to a statistically significant price drop.

In addition, while iRhythm was only looking to see if there were immediate drops after a disclosure, sometimes the stock price took days to respond to new information, she said,

"There's multiple cases in the Ninth Circuit we can direct you to ... that discuss multi-day event windows for determining statistical significance," Sinderson said.

The lawsuit, filed in February 2024, claims that between November 2021 and August 2024, trading prices for iRhythm shares fell 62% from a class period high of nearly \$170 to under \$65 at the end of the proposed class period as a result of a series of alleged corrective disclosures about the Zio AT.

In June, Judge Corley trimmed claims from the suit that Zio AT is a "mobile cardiac telemetry" device, finding that the suit failed to provide a **definition** for such a device. She also removed claims against individual defendants other than Blackford.

In early November, the investors filed their motion for **class certification**. Days later, the judge **denied** iRhythm's request for judgment on the pleadings on the suit's remaining claims.

"The court previously ruled plaintiff adequately alleged Mr. Blackford's scienter and loss causation in its order on defendants' motion to dismiss, so the law of the case doctrine prohibits the court from re-examining those issues absent a motion for reconsideration," the judge wrote.

The investors are represented by John J. Rizio-Hamilton, Katherine M. Sinderson, Alec T. Coquin, Thomas Z. Sperber, Abby Kritta and Jonathan D. Uslander of Bernstein Litowitz Berger & Grossmann LLP.

iRhythm is represented by Kristin Tahler, Christopher Porter, Jesse Bernstein, Brenna Nelinson and Amy Shehan of Quinn Emanuel Urquhart & Sullivan LLP.

The case is Glazing Employers and Glaziers Union Local #27 Pension and Retirement Fund v. iRhythm Technologies Inc. et al., case number 3:24-cv-00706, in the U.S. District Court for the Northern District of California.

--Additional reporting by Katryna Perera and Emilie Ruscoe. Editing by Adam LoBelia.



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Binance Loses Bid To Arbitrate Proposed Securities Action

By **Hailey Konnath**

Law360 (February 26, 2026, 11:08 PM EST) -- A New York federal judge on Thursday rejected Binance's request to force customers to arbitrate their proposed class action accusing the crypto exchange of improperly selling securities, ruling that customers weren't adequately notified of an arbitration clause added to its terms of use.

U.S. District Judge Andrew L. Carter Jr. denied Binance's motion to compel arbitration for all plaintiffs in the litigation, holding that customers didn't have "constructive notice" of the arbitration agreement included in a 2019 unilateral update to Binance's 2017 terms of use.

"Plaintiffs received no contemporaneous individual notice of the enactment of the 2019 terms of use," Judge Carter said. "There is also no evidence in the record that an arbitration provision was 'announced' as set out in the 2017 terms of use and no indication on the face of the agreement as to where plaintiffs should look for the amendments to the terms."

Last March, Judge Carter **already held** that the company couldn't compel arbitration for a group of plaintiffs who had purchased tokens between April 1, 2017, and Feb. 20, 2019, the day its amended terms of use were put in place. He also later denied without prejudice the motion to compel arbitration with respect to a second group of plaintiffs whose claims accrued after that February 2019 date, but before they had actual notice of the arbitration clause. However, he ultimately vacated that decision so the parties could file supplemental briefing materials on the March order.

Binance then lodged **a new request** for the court to force all of the members of the proposed class into arbitration, including for claims the court's prior order said couldn't be arbitrated.

"First, when plaintiffs accepted the 2019 terms of use, they expressly agreed, at minimum, to arbitrate all claims arising on or after Feb. 20, 2019 — the effective date of the 2019 terms," Binance argued in its renewed motion. "Courts routinely hold that plaintiffs who accept an arbitration clause are required to arbitrate disputes accruing before the date of notice."

But Judge Carter said Thursday that customers had no reason to look at the new contract Binance posted and no obligation to check the terms on a periodic basis. And even if the plaintiffs did have constructive notice, the 2019 terms of use do not apply retroactively to claims that accrued before the effective date, he said.

While the arbitration agreement states that users agree to resolve any claims against Binance, the terms of use are silent with respect to the time period during which the modification would apply to known or accrued claims, the judge said.

"For instance, the arbitration provision could have said, 'users agree to resolve any claims that accrued in the past two years' or even 'users agree to resolve any claims that accrued any point prior to this effective date,'" Judge Carter said. "However, Binance's unilateral modification does not give the user any temporal information."

The putative class action waiver in the arbitration provision also is not enforceable, the judge said. That's because the 2019 terms of use are silent as to the imposition of such a waiver and there are no provisions detailing such a waiver, according to the opinion. And the language is unclear and should be interpreted against the drafter, Judge Carter said.

"Here, Binance users certainly did not have the opportunity to negotiate the 2019 terms of use," the judge said. "A contract of adhesion should be interpreted against the drafter due to the inherent power imbalance."

The case is one of an avalanche of investor suits that hit crypto exchanges around April 2020 in the first widespread, coordinated effort to bring them into compliance with securities laws.

In November 2023, Binance agreed to pay \$4.3 billion to end a U.S. Department of Justice investigation into allegations that the company had failed to implement an anti-money laundering program. Binance founder Changpeng Zhao pled guilty to a criminal charge of failing to maintain an effective anti-money laundering program. Zhao and Binance also made \$150 million and \$2.7 billion settlements with the U.S. Commodity Futures Trading Commission.

Jordan Goldstein, counsel for the plaintiffs, told Law360, "On behalf of Binance users, we are gratified by the court's ruling."

"We look forward to prosecuting this class action against Binance and its founder Changpeng Zhao," Goldstein said.

Binance didn't immediately respond to a request for comment late Thursday.

The plaintiffs are represented by Jordan A. Goldstein of Selendy Gay PLLC.

Binance is represented by Samson A. Enzer, Herbert S. Washer, Landis C. Best, Edward N. Moss and Miles C. Wiley of Cahill Gordon & Reindel LLP and Matt Gregory of Gibson Dunn & Crutcher LLP.

The case is J.D. Anderson et al. v. Binance et al., case number 1:20-cv-02803 in the U.S. District Court for the Southern District of New York.

--Additional reporting by Elaine Briseño and Caroline Simson. Editing by Emily Kokoll.



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Allbirds Investors' 'Kitchen-Sink' Strategy Dooms IPO Suit

By **Rae Ann Varona**

Law360 (February 26, 2026, 8:09 PM EST) -- A California federal judge Thursday dismissed a putative securities fraud class action against Allbirds Inc. for a third time, giving shareholders who sued no more chances to amend their lawsuit, given what she called their "kitchen-sink" approach to pleading 60 allegedly false statements made ahead of the footwear company's 2021 stock launch.

U.S. District Judge Araceli Martínez-Olguín dismissed the proposed class of investors' suit, finding they again failed to plausibly allege the shares they purchased were traceable to Allbirds' 2021 initial public offering.

The stockholders also failed to allege that certain statements were false or misleading, or to allege facts permitting a strong inference of scienter as to certain statements, the judge said in an **order**.

Among the allegations in the suit, for instance, was that former co-CEOs Joseph Zwillinger and Timothy Brown received performance-based stock awards significantly exceeding their salaries when what the investors described as fraud was taking place.

But "the mere connection between a company's performance and an executive's compensation is too thin a reed to support the high pleading burden required ...," according to the ruling.

In tossing the case, Judge Martínez-Olguín determined the shareholders were already given leave to amend their suit on two prior occasions but "failed to supply a factual basis for their claims to advance."

The court also previously advised lead plaintiff investors to consider including only statements they can "fully defend with the default page limits applicable to any future briefing," the judge said.

"Plaintiffs declined to heed this advice," she wrote. "Instead, they again pursued a kitchen-sink approach to pleading 60 different allegedly false statements, and in opposing this motion, failed to address the substance of many of the alleged statements."

"The court determines further amendment would be futile and grants defendants' motion to dismiss without leave to amend the claims," the ruling continued.

Stockholders filed the suit in 2023, accusing the footwear and apparel company, its leading executives, board directors and underwriters of failing to warn prospective investors that its shifting business strategies could lose customers and money.

Shareholders alleged the company over-invested in new products to the detriment of its popular core line of footwear and continued to open retail locations even though its current ones were unprofitable. They said Allbirds' stock price fell from \$15 per share at the time the **IPO launched** to around \$1.25 a share in March 2023, after news of its financial struggles came to light.

Judge Martínez-Olguín's Thursday order dismissed the shareholders' third amended complaint. She tossed their second amended complaint in **June** with leave to amend.

In dismissing the suit for a third time without another leave to amend their claims, the judge ruled that the investors also failed to allege falsity in connection with statements regarding Allbird's retail

fleet.

Stockholders alleged that in one of those statements, Zwilling said on an earnings call that each store has "strong standalone four wall economics," that the shops "generate strong returns on invested capital" and the company has a "strong pipeline of new stores ahead," among other assertions.

But such content constitutes "inactionable puffery," Judge Martínez-Olguín concluded.

Other statements concerned Allbirds stores that "performed really, really well" and are "resilient" and that discuss specific store locations, such as in New York's Flatiron or SoHo neighborhoods, describing "positive uplift," a "fantastic launch" and a "nice trend" that gave the company "confidence" in future store success.

Those statements "exhibit a similarly vague, generalized corporate puffery rather than actionable misrepresentation," according to the ruling.

The judge said the investors also alleged no facts about the performance of the New York locations to contradict the assertions, "and even if they did, this kind of nebulous language has been held inactionable in various circumstances."

As for statements indicating Allbirds believed that retail performance would improve based on pre-COVID performance and recovery of the economy following the pandemic, Judge Martínez-Olguín said such statements are "corporate opinion and are inactionable."

In August 2025, an Allbirds stockholder launched, under seal, a new Delaware Court of Chancery **derivative suit** naming the company's key corporate figures.

Counsel for the parties in the California action did not immediately respond to requests for comment.

The shareholders are represented by Tamar A. Weinrib and Jennifer Pafiti of Pomerantz LLP and Junbo Hao of Hao Law Firm.

Allbirds, its executives and directors are represented by Lisa R. Bugni and Matthew V.H. Noller of King & Spalding LLP.

The underwriters are represented by Mark R.S. Foster, Virginia Milstead and Scott D. Musoff of Skadden Arps Slate Meagher & Flom LLP.

The case is Jinghua et al. v. Allbirds Inc. et al., case number 3:23-cv-01811, in the U.S. District Court for the Northern District of California.

--Additional reporting by Jessica Corso, Jeff Montgomery and Tom Zanki. Editing by Covey Son.



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Doximity Investors' \$31M Deal Over User Slowdown OK'd

By **Gina Kim**

Law360 (February 26, 2026, 9:54 PM EST) -- Investors of medical professional networking platform Doximity Inc. scored preliminary approval of a \$31 million class settlement in California federal court Wednesday, two years after suing Doximity for allegedly misleading them about the number of U.S. physicians who are active members and hiding unfavorable engagement metrics.

In a 12-page order, U.S. District Judge Noel Wise of the Northern District of California granted the plaintiffs' motion for preliminary approval of the class settlement, which was reached with Doximity last November. Doximity was accused of making misleading statements as to the number of active members despite suffering from slow growth in user engagement and being unable to complete as many advertising sales as a result.

The settlement, which provides a \$31 million fund, covers all those who purchased or otherwise acquired Doximity common stock from June 24, 2021, through Aug. 8, 2023.

Wednesday's order granting preliminary approval comes nearly two years after investors first sued Doximity and its executives with securities fraud claims after the company saw trading prices dip in August 2023 and the start of April 2024.

Investor Peter A. Kissler brought his complaint **in April 2024** alleging that the trading price downturn followed a statement by Doximity's chief financial officer Anna Bryson stating that its "major upsells have materially underperformed," meaning the company didn't generate revenue by persuading existing customers to increase the money they spent on offerings.

Other suits followed last October, **including a derivative action filed in Delaware Chancery Court** by shareholder Mark Stern, who accused Doximity leaders of overstating user engagement. Last month, Doximity's former chief revenue officer Paul Jorgensen **pled guilty in New York federal court** to securities fraud in connection to allegations he illegally profited more than \$2.5 million by trading on private information about the company's finances and layoff plans.

According to the instant case, the investors challenged statements made by the defendants touting that more than 80% of U.S. doctors count themselves as members of Doximity. The site — which is often referred to as "LinkedIn for doctors" — and its Newsfeed and telehealth tools, are free for licensed professionals. A consolidated complaint was filed by the investors in October 2024, led by New York City District Council of Carpenters Pension Fund.

Newsfeed, which is the crux of the Doximity platform, features curated medical articles, video content and paid ads, while the telehealth tools include a free scheduler and dialer that help doctors visit with patients remotely. Doximity's revenue is largely dependent upon ad dollars from its clients, which include Merck, Eli Lilly & Co., Novo Nordisk, and GlaxoSmithKline.

These ads on Newsfeed make up for more than 90% of company revenue, the investors alleged. Doximity can only attract and keep clients it relies on for money if those ads reach enough platform users, the investors alleged. The number of Doximity members who actually use and engage with the platform and its Newsfeed are essential to profitability, the plaintiffs said.

The investors claimed Doximity pitched its ability to deliver high member engagement and repeatedly touted that its member base consisted of over 80% of U.S. doctors as active members. Doximity

would also tout each quarter that its member engagement was growing, the complaint said.

However, Doximity's active member base was a lot less than it represented, investors said. These representations had caused stock prices to artificially increase, they alleged. Investors were hit with heavy losses when the company reduced its earnings guidance on Aug. 8, 2023.

While the company blamed the dip on the upsell close rate — a drop in the sale of one-time ads on the Newsfeed during the year — the plaintiffs claimed that analysts linked it to the fact that user engagement wasn't what Doximity represented it to be, the investors said.

Following the August 2023 news, Doximity suffered the biggest single-day drop in its history, falling nearly 23% and wiping out almost \$900 million in shareholder value following the reduction in its financial guidance, according to the consolidated action. Doximity also fired 10% of its workforce.

On Aug. 12, 2025, the plaintiffs moved for class certification, which Doximity opposed the following month.

Doximity maintained the alleged "80% misstatement" wasn't connected to the plaintiffs' losses in August 2023; rather, it overwhelmingly demonstrated that there was no price impact from that statement.

Nor was there market evidence showing Doximity's investors were led to think that 80% of U.S. doctors used the platform quarterly as they allege, Doximity's opposition said.

Furthermore, analysts recognized that stock prices plunged in August 2023 based on circumstances that took place that summer, when the company amended its earnings guidance it issued in May that year, revealed the layoffs and disclosed that upsells lagged behind its own anticipations, the opposition said.

On Dec. 29, the plaintiffs filed an unopposed motion for preliminary approval for class settlement, following mediation and settlement discussions, according to court papers. In the preliminary approval bid, the investors maintained that the \$31 million deal was a highly favorable result for the class.

The plaintiffs noted they faced significant challenges had they continued on with the case, including the task of proving the statements were false and made with scienter, and linking the statements with stock price declines.

Plaintiffs' counsel said they plan to seek an award of attorney fees worth 25% of the settlement fund and \$850,000 in expenses, noting they expended more than 3,300 hours to handle the case.

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

New York City District Council of Carpenters Pension Fund is represented by Jonathan D. Uslaner, Matthew Arrow, John Rizio-Hamilton, Timothy Fleming and Sarah Schmidt of Bernstein Litowitz Berger & Grossmann LLP and Stacey M. Kaplan of Kessler Topaz Meltzer & Check LLP.

The defendants are represented by Stephen Blake, Hilary Wong, Camille Victoria Boler, Jonathan K. Youngwood and Batoul Husain of Simpson Thacher & Bartlett LLP.

The case is *In re Doximity Inc. Securities Litigation*, case number 5:24-cv-02281, in the U.S. District Court for the Northern District of California.

--Editing by Jay Jackson Jr.



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How Del. High Court's Moelis Reversal Fits Into DExit Debate

By **Douglas Rappaport, Stephanie Lindemuth and Kate Shapiro** (February 26, 2026, 5:16 PM EST)

In a unanimous en banc decision on Jan. 20, the Delaware Supreme Court **reversed** the Delaware Court of Chancery's February 2024 ruling invalidating significant governance provisions of Moelis & Co.'s stockholder agreement, which required the founder's consent before the company's board took various actions.

The Supreme Court concluded in *Moelis & Co. v. West Palm Beach Firefighters Pension Fund* that the contested provisions were not inherently void, but rather voidable, and determined that the stockholder's challenge — initiated nearly nine years later — was barred under the equitable doctrine of laches.

The Supreme Court rejected the Court of Chancery's conclusion that alleged conflicts with Section 141(a) of the Delaware General Corporation Law, which protects a board of directors' discretionary function, rendered the provisions void and immune from equitable defenses. Instead, the Supreme Court explained that the proper inquiry is whether the corporation could have lawfully achieved substantially similar governance arrangements through another authorized mechanism.

Because Moelis could have implemented comparable controls through its certificate of incorporation, and because the agreement was executed and fully disclosed in 2014, the Supreme Court held that the plaintiff's facial challenge accrued at that time and was barred by laches.

By expressly declining to decide the facial validity of the provisions, the Supreme Court highlighted broader implications for Delaware's corporate law framework and the ongoing debate surrounding Delaware's desirability for incorporation.

Case History and Background

This case arose out of a stockholder agreement executed by Moelis & Co. in April 2014, which granted Kenneth Moelis, through his control of Moelis & Co. Partner Holdings LP, the rights to approve board actions, including the ability to elect all members of the board.

At the time of the initial public offering, Partner Holdings held Class B shares carrying supervoting rights that effectively gave Kenneth Moelis, the company's founder and CEO, voting control. The governance framework — including the existence and terms of the stockholder agreement — was disclosed in the IPO prospectus and repeated in subsequent public filings.

In March 2023, the West Palm Beach Firefighters' Pension Fund — an owner of Class A shares since 2014 — initiated legal action in the Court of Chancery. The fund requested a declaratory judgment, arguing that certain sections of the stockholder agreement were inherently invalid because they restricted the board's authority granted by Section 141(a) of the DGCL.



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Stephanie Lindemuth



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Section 141(a) provides that the "business and affairs" of a Delaware corporation are "managed by or under the direction of [its] board of directors, except as may be otherwise provided in [the DGCL] or in [the corporation's] certificate of incorporation." The provision is a foundational allocation of managerial authority and has long been understood to limit contractual arrangements that impermissibly constrain the board's exercise of its statutory discretion.

On Feb. 23, 2024, the Court of Chancery **agreed**, holding that the challenged provisions violated Section 141(a), constituted an ongoing statutory violation, and were void and unenforceable.

The Court of Chancery applied a test that if a provision in a stockholder agreement creates an "internal governance arrangement," courts should look at whether that arrangement has "the effect of removing from directors in a very substantial way their duty to use their own best judgment on management matters" or "tends to limit in a substantial way the freedom of director decisions on matters of management policy."

Several provisions in the Moelis agreement did not pass this test, including that the board must obtain the founder's consent before taking certain board actions and recommend that stockholders vote in favor of the founder's preferred board nominees.

The Court of Chancery **awarded** the plaintiff \$6 million in attorney fees in July 2024.

The Delaware Supreme Court's Decision

Challenged Stockholder Provisions Found Voidable, Not Void

The Supreme Court began by emphasizing Delaware precedent distinguishing void acts from voidable acts. As the Supreme Court explained, void acts are beyond a corporation's power and immune from equitable defenses, whereas voidable acts can be challenged but fall within corporate power and thus are subject to equitable defenses such as laches.

Rejecting the Court of Chancery's framework, the Supreme Court held that the correct inquiry is not whether the specific method used by the Moelis board to implement the challenged provisions was improper under the DGCL, but whether the corporation could lawfully accomplish substantially the same governance arrangements through another authorized mechanism, such as charter provisions or preferred-stock designations.

Because the plaintiffs did not identify any Delaware law preventing the adoption of the challenged provisions through other methods, the plaintiffs did not meet their burden of showing that the governance provisions are void. The Supreme Court concluded that the challenged provisions were not beyond the corporation's authority and therefore were voidable rather than void, and as a result, equitable defenses — including laches — were available.

No "Continuing Wrong"

Turning to timeliness, the Supreme Court held that the only alleged wrongful act was the execution of the stockholder agreement in 2014. The Supreme Court squarely rejected the Court of Chancery's conclusion that the agreement's continuing effects constituted an ongoing statutory violation.

The Supreme Court explained that later consequences of a discrete act do not restart the limitations clock. Because the agreement was executed and fully disclosed at the time of the IPO, and complete relief was available at that time, the plaintiff's claim accrued in 2014.

A facial challenge first brought nearly nine years later was therefore untimely and barred by laches.

Merits Not Reached

Because the challenge was time-barred, the Supreme Court did not address whether the provisions violated Section 141(a) of the DGCL as applied or on the merits.

The Supreme Court also vacated the \$6 million attorney fee award, which depended on the now-reversed Court of Chancery ruling.

Legislative Context

The Supreme Court noted, but did not apply, amendments to the DGCL **signed** into law by then-Gov. John Carney on July 17, 2024 — legislation widely viewed as a response to the Court of Chancery's Moelis decision.

Those amendments added the new DGCL Section 122(18), which expressly authorizes corporations — notwithstanding Section 141(a) — to enter into contracts with stockholders that restrict corporate action, require stockholder or other approvals, or otherwise allocate governance rights, so long as such provisions would be permissible if included in the certificate of incorporation and do not violate other mandatory provisions of Delaware law.

The amendments are not retroactive and therefore did not play a role in the Supreme Court's analysis.

The opinion acknowledged the DGCL's policy commitment to private ordering within statutory bounds, describing the DGCL as a "broad enabling act which leaves latitude for substantial private ordering, provided the statutory parameters and judicially imposed principles of fiduciary duty are honored," quoting the Delaware Supreme Court's 1996 decision in *Williams v. Geier*.

Implications

The Court of Chancery's decision was seen as emboldening stockholders seeking to challenge stockholder agreements that grant investors special governance rights, but the Supreme Court's reversal will tamp down this enthusiasm. The decision sends a clear signal that stockholders seeking to invalidate governance arrangements on a facial basis must act promptly, and disclosure at the time of adoption is likely to start the clock.

Void governance provisions will remain a narrow category. By grounding the analysis in corporate power rather than procedural choice, the Supreme Court limited the circumstances in which governance provisions will be deemed void and immune from equitable defenses.

As-applied challenges remain available to future stockholders. The Supreme Court emphasized that its decision does not foreclose "as-applied claims against ... companies or its fiduciaries, based on specific circumstances that may arise in the future," even if "the period for bringing facial challenges has expired."

This decision reflects recent trends in Delaware court rulings and ongoing debates about corporations reincorporating elsewhere, known as DExit. Critics argued that Vice Chancellor J. Travis Laster's 2024 decision in *Moelis* encouraged out-of-state incorporation by restricting corporate governance.

In response, the Delaware Legislature expedited amendments to Section 141(a) of the DGCL to protect stockholder agreements.

The Supreme Court's reversal of the *Moelis* decision on procedural grounds, without addressing the new amendments or the substantive validity of the agreement, balances Delaware's pro-incorporation stance with the ongoing debate over its corporate law.

Douglas A. Rappaport is a partner, head of the investment funds litigation practice and co-head of the shareholder activism group at Akin Gump Strauss Hauer & Feld LLP.

Stephanie Lindemuth is a partner at the firm.

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Akin partner M. Scott Barnard, and law clerks Lindsey Prutsman and Shiri Huber, contributed to this article.



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Judge Scolds 'Impenetrable' TikTok In NY AG's Addiction Suit

By **Frank G. Runyeon**

Law360, New York (February 26, 2026, 6:56 PM EST) -- A New York state judge Thursday chided TikTok's attorneys for failing to search for financial and corporate records in the state's social media child addiction lawsuit, appearing poised to force TikTok companies to hand over more business data to calculate potential damages or disgorgement.



TikTok is accused of causing a mental health crisis among children in New York due to the app's addictive features, in violation of the state's consumer protection and products liability laws. (Nicolas Economou/NurPhoto via AP)

The comments from Justice Anar Rathod Patel came during a hearing in New York Attorney General Letitia James' suit alleging TikTok targets children with its addictive features that have led to mental health problems and even hospitalization and death due to dangerous TikTok "challenges."

Amid arguments on the state's motion to compel production of the documents, Justice Patel questioned Lauren Kaplan, an attorney for the TikTok entities, including parent company ByteDance Ltd., about her contention that they were unable to produce certain information about the companies' net worth and board materials.

"This seems like we're dealing with this impenetrable entity and this impenetrable entity is a named defendant in this case," Justice Patel said. "Help me out."

The judge grew more insistent as she elicited from Kaplan that defendants had failed to query relevant employees or secure sworn affidavits about what data or records existed. Justice Patel slapped down Kaplan's argument that any search for the records would return mostly irrelevant information.

"You don't even know that," the judge said, clapping her hands for emphasis. "Because no one has gone to ByteDance Ltd. and asked, 'Who prepared this slide and are there other slides like it?'"

"There is no basis for those statements," Justice Patel said, emphasizing there was "zero, zero in this record ... because you just told me no one has done a search."

In its 2024 lawsuit, James' office claims that TikTok has caused a mental health crisis among children in the state due to the app's addictive features, in violation of the state's consumer protection and products liability laws.

TikTok has denied wrongdoing and argues the state's theory is legally defective and that its platform is protected by the First Amendment's freedom of expression. Justice Patel **rejected most of those arguments** last year, striking a few paragraphs from the complaint and allowing the case to proceed.

Amid discovery, the state is now asking the court to force TikTok to turn over more financial data to determine what the app is capable of paying in damages or disgorgement if it wins the case. The state has been frustrated by TikTok's insistence that it has no board minutes or agendas and no available data on average revenue per user before March 2022.

"We don't have any of their costs, profits and revenues. I think such ... reports just have to exist," argued state counsel Laura Mumm.

During the hearing, Kaplan said TikTok had already turned over 2.3 million documents and that the state was chasing ghosts.

"From our perspective this is a fishing expedition and should stop here," Kaplan argued, before saying that "the state is seeking information that simply does not exist and is more than what defendants are obligated to do."

Justice Patel pressed Kaplan on why basic financial information wasn't available, waving off the attorney's assurance that the company would have the resources to pay any judgment.

"I appreciate that you are telling me 'we can pay it,' but I don't have any evidence telling me that that's going to be the case," Justice Patel said.

After arguments and a brief recess, the judge reserved judgment and adjourned.

The New York lawsuit is among a raft of litigation by states against social media platforms, with other social media companies like Snap Inc., Meta Platforms and YouTube, facing similar claims, some of which have been rolled up into multidistrict litigation.

New York is represented by Laura Mumm, Masha Heifetz, Nathaniel Kosslyn, Alex Finkelstein and David Rutenberg of the Office of the New York State Attorney General.

TikTok is represented by Daniel M. Petrocelli, Lauren F. Kaplan, Stephen D. Brody, Jonathan D. Hacker and Martha F. Hutton of O'Melveny & Myers LLP.

The case is New York v. TikTok Inc. et al., index number 452749/2024, in the Supreme Court of the State of New York, County of New York.

--Additional reporting by Jonathan Capriel. Editing by Linda Voorhis.



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'Lifetimes Wasted' From Scrolling Tech, Meta's NM Jury Hears

By **Cara Salvatore**

Law360 (February 26, 2026, 10:01 PM EST) -- A tech design guru who said he was an inventor of infinite scroll told a jury in the New Mexico attorney general's social media mental health trial against Meta that he's seen firsthand the power of interface design and the way inventions like his can be wielded for good or for ill.

Aza Raskin of the Center for Humane Technology 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 pose to teens. The state says Facebook, Instagram, WhatsApp and Messenger failed to protect teens, including under-13 account holders, from violence, sexual predation and addictive designs that harm mental health, and lied about the problem.

Raskin, who testified that he invented and made open source an implementation of infinite scroll in 2006, and then boosted the technology heavily by speaking at conferences about how it streamlined websites by saving users from having to click "Load More," said he only later came to understand how corrosive it could be in the context of social media.

"What I was really blind to is the way that my invention would then get picked up by social media," he said.

When he promoted it at conferences, he didn't realize that by 2012 it would be 100% integrated into both Facebook and Instagram, he said.

Capturing attention just for the sake of capturing attention is "a subversion of what design and technology is even about," Raskin said. "It's not what tech is for ... I look around the world and I see the hundreds of thousands of human lifetimes that are being wasted every single month due to this kind of invention."

He spoke of walking into a subway station and seeing every single head down.

In a blistering cross-examination, Ana Paul of Kellogg Hansen Todd Figel & Frederick PLLC accused Raskin of lying about being infinite scroll's inventor. She said that in his deposition he had been informed about someone named Bill Scott who independently invented infinite scroll a few months earlier in 2005, but continued to claim he was the inventor throughout Thursday's direct examination.

"I do think that I have to take responsibility for trying to popularize it," he said. "Multiple people can invent a technology if they're unaware of each other. ... I think what we've determined is that multiple people can invent things independently."

The jury also heard from University of New Mexico child and adolescent psychiatry expert Kimothi Cain about conditions she's treated — including depression, anxiety, trauma, and ADHD — that she has observed to have a correlation with social media use.

On cross, Cain acknowledged that she was not offering an opinion as to causation and has not opined that social media causes any of these conditions; she said what she has observed is an "association." Cain added that she has diagnosed one patient with depression specifically as a result of social media. Cain's cross-examination is set to continue Friday.

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 and Ana Paul 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 First Judicial Circuit of New Mexico.

--Additional reporting by Bonnie Eslinger and Craig Clough. Editing by Linda Voorhis.

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Social Media Plaintiff 'Wanted To Be On It All The Time' As Kid

By **Craig Clough**

Law360 (February 26, 2026, 10:45 PM EST) -- The plaintiff in a landmark bellwether trial over claims Instagram and YouTube harms children's mental health testified Thursday she started obsessively using the platforms as a small child, and that her obsession with them contributed to or worsened her anxiety, depression and body dysmorphia.

The testimony from the woman known as Kaley G.M. in the proceedings is the first from any plaintiff in thousands of cases that are consolidated in Los Angeles Superior Court, with the outcome of the case and several other bellwethers scheduled in the same courtroom being watched around the world, as potentially billions of dollars are at stake for the tech giants.

The woman, who is now 20 and also is referred to as K.G.M. or simply Kaley in court, told the jury she started using YouTube at age 6 and Instagram at 9, with the usage leading to frequent arguments with her mother, online bullying and an obsession with gathering followers on the platforms.

The obsession was so intense she created many accounts on the platforms so she could artificially inflate her following by liking her own posts, and even used an app that gave her Instagram accounts many fake likes by using bots, she said.

"I just felt like I wanted to be on it all the time," Kaley said about her Instagram usage.

When asked by her attorney Mark Lanier of The Lanier Firm if she believes she was addicted to YouTube as a child, she said does because she "was on it from a young age and spent all my time on it," and often had to sneak away when she was using it and would watch the app secretly while in class at school.

Although she is now an adult, the plaintiff's identity is being protected during the proceedings because it involves harm she allegedly suffered as a minor.

Until this week, most of the testimony and evidence presented by the plaintiff's side was on the macro level, as Kaley's attorneys are trying to convince the jury that social media addiction is real, that Instagram and YouTube are highly addictive social media platforms for children and that Kaley is among the children who was harmed by a social media addiction.

The jurors have already been shown dozens of internal company documents from the defendant companies, and have heard testimony from Meta Platforms Inc. CEO **Mark Zuckerberg**, Instagram CEO **Adam Mosseri** and a vice president of YouTube, as well as a **Stanford professor** who spoke about the academic studies surrounding social media addiction and her own experience treating patients she believes suffer from it.

On Wednesday, the evidence started to focus in on Kaley specifically, with testimony from her **former therapist**, who said she diagnosed her at age 13 with social phobia disorder and body dysmorphia disorder and that she now believes a social media addiction contributed to those problems.

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 might reach a settlement in the rest of the cases based on the outcome of the

bellwethers.

The defendant companies have argued at trial that social media addiction is not real, their platforms are not addictive and Kaley's documented mental health struggles can be attributed to abusive, neglectful parents and bullying she suffered from peers.

Kaley was mostly unemotional during her time on the witness stand, even when discussing some of the most difficult chapters of her childhood, and maintained a fairly flat affect other than when Lanier cracked the occasional light-hearted joke, which sometimes prompted her to smile.

Kaley testified that she first started watching YouTube videos at age 6 and signed up for an account a few years later, eventually making hundreds of posts on the platform as a small child. The jury was shown a few of those posts, including the very first one made around age 8 or 9, which was her filming a game called Animal Jam and singing out lines about the game.

Even as a young child, she focused intently on how many subscribers and likes her YouTube posts received, and signed up for about 10 other accounts so she could use them to like posts on the other accounts and subscribe to them and artificially boost her following on the platform, she said. If a post didn't get much traction, it would make her feel "stupid," that she "looked bad" and would "make me really upset."

She said features like autoplay, where a new YouTube video plays automatically after one ends, would keep her on the platform much longer than she intended, and she would lose sleep staying up late watching videos. She also said the notifications she received when someone subscribed to a video or liked a post made her obsessively check her phone and sneak off into the bathroom while at school to check her notifications.

"I would get a rush, I would get really excited, and I wanted to see what the notification was," she said.

Being bullied online through her account didn't stop her from being on the platform, she said, because "being off it bothered me more than the harassment and bullying."

She acknowledged that YouTube was not originally a defendant in the case, and that she said at her deposition she wasn't addicted to YouTube, but that she feels differently now. She said that YouTube wasn't originally a defendant because her mom filed the lawsuit and didn't initially know how much she used it as a child.

Kaley said she signed up for an Instagram account at age 9, even though the rules were that users must be 13. Although her mother would not allow her on the platform and had control over what apps she could download, the cellphone she was given at that age was a hand-me-down that already had the app installed, so her mother wasn't aware she had it.

She set up about 15 accounts so that she could like and follow the accounts and artificially boost her following, which she said made her look more "popular." Instagram became an obsession, to the point where she was on it in the morning, at school and after school, she said. Even though her mother made her leave her phone in the living room at bedtime, she said she would wait until her mother fell asleep before retrieving the phone and saying up late on the app.

At one point, she signed up for an app that would artificially boost her followers and likes, which in exchange for liking other people's posts she would receive likes and followers from bots, she said.

The so-called "infinite" scroll of Instagram — where there is no end to the amount of posts users can scroll through — felt addictive, she said, as were the notifications and beauty filters that allowed her to alter her appearance, she said.

The filters allowed her to change the size of her nose and eyes and the shape of her face, she said.

"At one point, almost all my photos had a filter on," Kaley said.

She was also bullied on Instagram but did not stop using the app because "if I was off it would just

feel like I was missing out and that was more important to me than what I was getting bullied for," she said.

She and her mother had many arguments over her social media use, and sometimes her mother would take her phone away, she said.

"I would get really upset and scream and cry and have a tantrum, basically," Kaley said.

Kaley has been diagnosed with body dysmorphia, anxiety and depression, among other problems, and she believes her social media addiction contributed to them, she said.

"I feel like they made me give up a lot," she said, adding that it made her neglect her hobbies and the outdoors and "prevented me from making friends." The platforms also "caused me to compare myself to other people," she said.

Although she said she does not feel like she is as addicted to YouTube as much as when she was younger, Kaley said she still feels addicted to Instagram.

"I can't [quit], it's too hard to be without it," she said. "And every time I try to stop I've just been unsuccessful."

Phyllis Jones of Covington & Burling LLP cross-examined Kaley for several hours.

Under cross, Kaley said she often fought with her mother as a child and felt her mother was abusive, although now as a 20-year-old she feels differently. Her mother sometimes hit her when she got math homework answers wrong, and as a child Kaley often felt her mother neglected her, she said.

Kaley sometimes recorded arguments with her mother and posted them on Instagram. Several of those posts were played for the jury, who heard her mother scream and swear at Kaley. In one instance, her mother yelled, "You don't even say thank you! You're too fucking lazy to take care of your dog!"

Kaley also acknowledged she is estranged from her father and has not seen him since 2022. Her parents divorced when she was 3, and she rarely saw him after she was in the fifth grade, often feeling abandoned by him, she said. She also acknowledged she sometimes struggled with academics and was bullied at school.

She also said that no mental health expert has ever diagnosed her with a social media addiction.

An attorney for YouTube spent a short time cross-examining Kaley in the afternoon before the proceedings ended for the day.

The trial is scheduled to resume Friday.

The social media companies behind TikTok, Snapchat, Google LLC-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.

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

Meta is represented by Phyllis Jones, Paul W. Schmidt, Andrew Stanner and Michael Imbroscio of Covington & Burling LLP.

YouTube is represented by Luis Li, Ariel 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 Michael Watanabe.

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\$100M AI Token Dump Suit Can't Be Heard In NY, Founders Say

By **Emilie Ruscoe**

Law360 (February 26, 2026, 10:30 PM EST) -- Co-founders of a digital asset issuer and an associated crypto organization seek to shed a lawsuit accusing them of conspiring to improperly extract over \$100 million from an open-source artificial intelligence coalition, arguing Wednesday that a Manhattan federal court doesn't have jurisdiction over the Romania- and Germany-based defendants or the decentralized organization.

In a Wednesday dismissal bid, Ocean Protocol Foundation Ltd. co-founders Bruce Pon, Christina Pon and Trent McConaghy told U.S. District Judge Dale E. Ho that the proposed investor class action they're named in fails to show that they should have to face claims in New York or anywhere else in the U.S.

According to the founder trio, they all live outside the U.S. The Pons, who are citizens of Singapore, live in the Romanian capital of Bucharest, and McConaghy lives in his native Germany. Despite those facts, the suit asserts in "conclusory fashion that 'defendants' interacted with 'the United States market,'" the trio said.

By relying "primarily on globally accessible online materials that neither mention New York nor target any forum audience," the founders said, the suit fails to include allegations showing their contact to New York.

In a separate Wednesday dismissal bid, Ocean Expeditions Ltd., which described itself as a successor in interest to OceanDAO, a purportedly decentralized group of those holding the nonprofit Ocean Foundation's tokens, also argued that it didn't have sufficient ties to New York to face claims there.

"The complaint does not allege any actions taken by OE or OceanDAO in New York or any connection whatsoever to New York," Ocean Expeditions argued, adding later that the suit doesn't "make any actual allegations of wrongdoing against OE or OceanDAO."

"The inclusion of OE and OceanDAO in this litigation is a bad faith attempt to sue as many defendants as possible," Ocean Expeditions said.

The individual defendants also argued the claims didn't show actionable misrepresentations or support an inference they'd intentionally misled anyone with their alleged misrepresentations.

The Wednesday dismissal bids follow Ocean Foundation's own Feb. 10 motion to dismiss, in which the nonprofit, which described itself as based in Singapore, argued that the claims are "devoid of any New York-specific fact involving Ocean Foundation."

The nonprofit also asserted that the suit failed to show certain statements it made were false and didn't show how investors had been injured.

The suit was filed in November by Fetch Compute Inc., Seth Ian, Greg Graves and Victor Larivee, who described themselves as holders of certain tokens that were driven down in value by the alleged scheme.

According to the complaint, the defendants made an agreement with two other token issuers, Fetch.ai and SingularityNET, to form a group they called the Artificial Superintelligence Alliance, which

purportedly had the shared goal of "developing decentralized AI in an ethical and acceptable manner."

"Unfortunately, rather than supporting this altruistic objective, defendants utilized the alliance as a vehicle to defraud not only the members of the alliance, but the public writ large who supported its mission," the suit said.

The alleged fraud involved a so-called token merger, which saw Ocean and Singularity token holders convert their tokens into Fetch tokens. This was "critical to provide defendants with the liquidity needed to later dump their tokens for a windfall," the suit said.

This step occurred when Ocean incorporated Ocean Expeditions Ltd. in the Cayman Islands in June and transferred 660 million purportedly restricted "community" Ocean tokens that were to be used to incentivize open-source AI developers, the suit says.

The defendants then converted these tokens into Fetch tokens, dumped the Fetch tokens into the market and exited the alliance, according to the suit.

The defendants further announced after leaving the alliance that all Ocean tokens that had not been converted into \$FET tokens could be freely traded in an attempt to drive up the price of Ocean tokens and further drive down the value of \$FET tokens, the suit alleges.

"While Ocean has taken steps to hide the movement and dissipation of these tokens, defendants likely have reaped over \$100 million of ill-gotten gains, and the class members have been left holding tokens whose value has been significantly depressed by defendants' wrongful conduct," the suit said.

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

Fetch Compute Inc. and individual plaintiffs Greg Graves, Seth Ian and Victor Larivee are represented by Steven L. Caponi, Edward Dartley, Thomas A. Warns and Kendall Huennekens of K&L Gates LLP.

Individual defendants Trent McConaghy, Bruce Pon and Christina Pon are represented by Stephen D. Palley and Daniel L. Sachs of Brown Rudnick LLP.

Ocean Protocol Foundation Ltd. is represented by Joseph B. Evans, James A. Pardo, Lisa Gerson and Daniel H. Kaltman of McDermott Will & Schulte LLP.

Ocean Expeditions Ltd. and OceanDAO, for which Ocean Expeditions is a successor in interest, are represented by Jason Gottlieb, Michael Mix and Emma McGrath of Morrison Cohen LLP.

The case is Fetch Compute Inc. et al. v. Pon et al., case number 1:25-cv-09210, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Sydney Price. Editing by Linda Voorhis.



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Cisco Shouldn't Face Falun Gong Torture Suit, Feds Tell Justices

By **Y. Peter Kang**

Law360 (February 26, 2026, 9:11 PM EST) -- The federal government has asked the U.S. Supreme Court to reverse a Ninth Circuit ruling that allowed Falun Gong practitioners to pursue Alien Tort Statute claims accusing Cisco of aiding China's oppression and torture of its members, saying federal courts lack the authority to create new ATS causes of action.

U.S. Solicitor General D. John Sauer **told** the justices Wednesday they should throw out a proposed class action filed under the ATS accusing tech conglomerate Cisco Systems Inc. of creating a surveillance system the Chinese government used to persecute Falun Gong religious practitioners via extrajudicial killings, disappearances and forced labor, in violation of international law.

The government essentially makes the same argument as the tech company, which asserted in its Feb. 18 opening brief that the Ninth Circuit improperly **expanded** both the ATS and the Torture Victim Protection Act by **allowing aiding and abetting theories** that Congress never created.

The Ninth Circuit in 2023 ruled that providing any kind of assistance with a substantial effect on the perpetration of a violation of international law could be considered aiding and abetting under the 1789 Alien Tort Statute.

But the government said courts do not have the authority to carve out new causes of action under the ATS. Although the Supreme Court's 2004 ruling in [Sosa v. Alvarez-Machain](#)  stated that a "narrow class" of new ATS causes of action may be possible in limited circumstances, in the two decades since then the high court has repeatedly refused to recognize new actions.

"The court's post-Sosa decisions have clarified that creating a cause of action is a legislative endeavor and that the practice of judicially creating such actions raises significant separation-of-powers concerns," the brief states. "The court may now acknowledge that the door that Sosa left barely open to new ATS actions should be firmly closed."

The solicitor general noted that post-Sosa precedents such as [Jesner v. Arab Bank](#) , [Nestle USA v. Doe](#)  and [Egbert v. Boule](#)  have consistently warned federal courts not to create new implied remedies, particularly where foreign affairs are at stake.

"Aiding-and-abetting actions implicate significant foreign-policy concerns," the government said. "They effectively allow plaintiffs to challenge acts taken by foreign states and officials against foreign nationals on foreign territory by bringing suit against defendants who allegedly aid and abet the states and officials that have purportedly committed the actual torts."

An attorney for the practitioners, Paul Hoffman, told Law360 Thursday that the government raises the same arguments it has brought up in many other cases since the Sosa decision.

"These arguments have not been accepted by the court and there is no reason why they should be accepted in the context of a case charging Cisco Systems with complicity in the systematic persecution of Falun Gong members in China, practices that have been condemned by the U.S. government for many years," he said via email. "We are hopeful that the court will reject these attempts to undermine these important human rights statutes."

An attorney for Cisco and a representative for the solicitor general did not respond to requests for

comment Thursday.

The justices **granted certiorari** in January. Oral arguments are scheduled for April 28, according to court records.

The government is represented by D. John Sauer, Eric J. Hamilton, Curtis E. Gannon, Anthony A. Yang, Melissa N. Patterson and Sonia Carson of the U.S. Department of Justice.

Cisco is represented by Todd Anten and Christopher G. Michel of Quinn Emanuel Urquhart & Sullivan LLP, and Kannon K. Shanmugam, Masha G. Hansford, Jake L. Kramer, Anna M. Stapleton and Candice J. Yandam Riviere of Paul Weiss Rifkind Wharton & Garrison LLP.

The Falun Gong practitioners are represented by Paul L. Hoffman, Catherine Sweetser, John C. Washington, Karen Kartun and Summer Wright of Schonbrun Seplow Harris Hoffman & Zeldes LLP, and Terri E. Marsh and Matthew Griechen of Human Rights Law Foundation.

The case is Cisco Systems Inc. et al. v. Doe I et al., case number 24-856, in the U.S. Supreme Court.

--Editing by Adam LoBelia.

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Toyota Nears OK On \$436M Class Deal Over Forklift Emissions

By **Bonnie Eslinger**

Law360 (February 26, 2026, 9:46 PM EST) -- A California federal judge indicated Thursday she'll give preliminary approval to Toyota Industries Corp.'s \$436 million class action settlement to resolve claims the auto giant and its subsidiaries misled tens of thousands of business buyers into thinking the emissions of its forklift and construction engines were "the cleanest" in the industry.

U.S. District Judge Jacqueline Scott Corley expressed appreciation for the deal at the start of a hearing Thursday in San Francisco.

"It looks like an excellent settlement ... including the injunctive relief," she said.

She asked for some changes to the notices that would be sent out to class members, most related to instructions for potential objectors.

She called them "fairly minor" but "important."

For example, the judge took issue with a requirement that a class member who objected to the settlement had to provide within 30 days dates on which they're available to be deposed.

"Why?" the judge asked the parties. "To me, that's to disincentivize somebody from filing an objection."

A lawyer for the plaintiffs called it standard language.

Kevin Budner of Lieff Cabraser Heimann & Bernstein LLP told the court it's to "deal with those situations where the motives of the objectors sometimes are less clear and suspect."

If the plaintiffs have cause to believe there's a reason for a deposition, they'll come to the court with a request, he said.

The judge also asked to drop the notice's requirement that class members file written objections that are mailed to the court as well as to counsel for the plaintiffs and the defendants.

"You've increased the burden," the judge said, adding that while court rules required a hard copy, the other two could be sent by email.

At the end of the hearing, Judge Scott Corley asked that a revised copy of the proposed order and notice be filed on the docket.

"Then I think I can just approve, assuming I agree with it," she said.

In the initial complaint, filed in **September 2024**, the businesses alleged that while Toyota touted many of its forklift and construction engines as being "the cleanest" in the industry and "good for the environment," they in fact emitted more pollutants than Toyota represented and more than is permitted by the Clean Air Act.

In their motion for preliminary approval filed in January, the plaintiffs, led by Broadmoor Lumber & Plywood Co., said the deal includes a \$299.5 million nonreversionary cash fund and a service plan

estimated to be worth \$136 million.

The agreement is for a proposed settlement class of anyone who purchased or leased a settlement class vehicle up until the filing of the motion, which includes more than 272,000 forklifts produced between 2007 and 2021.

The businesses told the court the cash fund would go toward payouts likely ranging from \$1,400 to \$2,800, depending on how many valid claims are turned in. If more than one settlement class member submits a valid claim for the same forklift, the businesses said, the original purchaser will receive 60% of the payment, while the other claimants will receive an even share of the remaining 40%.

All settlement forklifts will also be eligible for a free service plan visit, including inspection and basic services, which the proposed class said would cost Toyota about \$800 per forklift. In addition, should the government issue an emissions recall, the settlement requires Toyota to provide class members with a new parts warranty covering any parts affected by that recall, according to the motion.

The proposed class told the court that its counsel intends to request up to \$500,000 in costs and \$74.8 million in fees, representing about 25% of the cash fund. They will also request a \$2,500 service award for each class representative.

As a part of the agreement, the plaintiffs voluntarily dismissed Toyota Motor Corp. as a defendant, and dismissed claims from plaintiffs Andrews Hardware Co. Inc. and Marders, without prejudice in both instances.

The proposed class is represented by Elizabeth J. Cabraser, Kevin Budner, Phong-Chau G. Nguyen, David Stellings, Katherine McBride and Miranda Litwak of Lieff Cabraser Heimann & Bernstein LLP and Roland Tellis, David Fernandes and Adam Tamburelli of Baron & Budd PC.

The Toyota defendants are represented by Keri Elizabeth Borders Alexander Calfo, John P. Hooper and Jacqueline Seidel of King & Spalding LLP.

The case is Broadmoor Lumber & Plywood Co. et al. v. Toyota Industries Corp. et al., case number 3:24-cv-06640, in the U.S. District Court for the Northern District of California.

--Additional reporting by Hailey Konnath and Mike Curley. Editing by Marygrace Anderson.



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Tilray Says Hemp Protein Powder Label Suit Falls Flat

By **Mike Curley**

Law360 (February 26, 2026, 7:19 PM EST) -- Cannabis and hemp product maker Tilray Brands Inc. is urging a California federal court to throw out a proposed class action alleging that it misleads consumers on the amount of protein its "Just Hemp" powder contains, saying the suit is preempted by federal regulations.

In **a motion filed Wednesday**, Tilray said **Tina Kha's suit** has a fatal flaw in that the product labeling doesn't state any amount of protein on the front and therefore the company has no duty to include the "corrected" amount.

Kha sued in November, alleging that Tilray misleads consumers by marketing its Just Hemp Foods Protein & Fiber on Amazon.com as having "11g of protein," without disclosing the legally required percent daily value on the back label.

She said in the suit that because plant-based proteins are digested differently than meat-based, 11 grams may not provide as much protein as someone looking for a high-protein product expects. Her attorney, Adrian Gucovski of Gucovski Rozenshteyn PLLC, is representing a plaintiff in **similar litigation** against the Chicago-based maker of Mush Overnight Oats.

However, under U.S. Food and Drug Administration regulations and the Nutrition Labeling and Education Act, a manufacturer needs only include the percent daily value of protein if the front labeling has a protein claim and the Just Hemp powder in question has no such claim, only that it has "11g of fiber," according to the motion.

The only representation on the actual label is the name's inclusion of the word "protein," which does not speak to the amount of protein included, the company said, and thus does not trigger any duty to elaborate on the amount of protein on the back label's nutritional facts.

The Nutrition Labeling and Education Act expressly preempts any state law attempt to require more labeling than the FDA approves, the company said, and as such, the claim must be dismissed.

The company also said the Amazon.com page's "11g of protein" representation doesn't create a duty to Tilray, as it is a third-party web page and not the product's label under any definition.

In addition, the complaint contains no factual allegations establishing that Tilray is responsible for that page's content, the company said, nor does the product's label direct buyers to Amazon.com for more information.

Representatives for the parties could not immediately be reached for comment Thursday.

The proposed class is represented by Adrian Gucovski of Gucovski Rozenshteyn PLLC.

Tilray is represented by Alexander M. Smith and Dean N. Panos of Jenner & Block LLP.

The case is Kha v. Tilray Brands Inc., case number 2:25-cv-10630, in the U.S. District Court for the Central District of California.

--Additional reporting by Jonathan Capriel. Editing by Stephen Berg.



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Foreign Cos. Won't Be Roped Back Into Price-Fixing MDL

By **Nadia Dreid**

Law360 (February 26, 2026, 5:06 PM EST) -- A Pennsylvania federal judge has said no thank you to changing his decision to dismiss two parent companies in Germany and China from a multidistrict litigation accusing them and others of working together to manipulate the price of two chemicals used to make polyurethane.

U.S. District Judge W. Scott Hardy handed down an order Wednesday saying the motion for reconsideration was "granted to the extent that the court has reconsidered the January 2026 opinion" but denied to the extent that the court was not going to change his mind.

Judge Hardy dismissed Covestro AG and Wanhua Chemical Group Co. Ltd. from the litigation with prejudice **earlier this year**, saying the court didn't have jurisdiction over the companies.

The class action generally alleges that the chemical companies reacted to a period of low methylene diphenyl diisocyanate and toluene diisocyanate prices in 2014 and 2015 by limiting production and artificially inflating the prices for manufacturers of polyurethane plastic products, including plaintiffs such as Rhino Linings Corp. and Elliott Co. of Indianapolis.

--Additional reporting by Lauren Berg. Editing by Drashti Mehta.

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What Recent Dataset Suits Signal For AI Training Litigation

By **Yulia Leshchenko** (February 26, 2026, 6:12 PM EST)

A noticeable shift is emerging in training data complaints: Plaintiffs are moving away from abstract debates about artificial intelligence at large and toward dataset provenance — where the training corpus came from, how it was assembled and what records exist to prove chain of custody and rights.

The three filings discussed here — *James v. Snowflake*,^[1] *Lyon v. Adobe*^[2] and the post-discovery amendment activity in *In re: Mosaic LLM Litigation*^[3] — illustrate how provenance is pled using public dataset documentation, archives and discovery-ready allegations about copying, retention and downstream handling.

For counsel, the practical takeaway is that the first litigation question is increasingly operational: Can your organization demonstrate what datasets were used, under what representations/licenses, and with what audit trail — quickly and credibly — before discovery turns into a sprawling forensics exercise?



Yulia Leshchenko

The Provenance Turn

Training disputes have never been only about outputs, including questions about authorship and disclosure in registration filings.^[4]

As the U.S. Copyright Office summarized in its Part 3 report on generative AI training, building and training models can involve repeated copying during collection and curation (downloading, transferring, converting formats and creating modified subsets), as well as copying during training itself.^[5]

This explains why plaintiffs' most durable theories focus on the reproduction right, and why defendants' high-level narratives often collide with the operational realities of data acquisition, preprocessing and retention.

What has changed in late 2025 and early 2026 is how plaintiffs are attempting to make those theories pleading-stage resistant. Rather than simply alleging that models were trained on pirated books, the newer complaints rely on public provenance artifacts: dataset descriptions, third-party lineage statements (e.g., "derived from" or "deduplicated copy"), and curated references to well-known corpus components such as Books3 and other large-scale open training corpora.

For example, a paper published in 2020 about the Pile, an open source language modelling dataset, describes the Books3 subset as derived from the contents of Bibliotik, a private tracker.^[6] Once that narrative is on the record, complaints can become highly particularized: The alleged infringing works traveled from a shadow-library source to a named dataset, into an assembled corpus (e.g., RedPajama or SlimPajama), and then into identified model families.

That approach does two strategic things. First, it frames the dispute as a data supply chain problem rather than a philosophical copyright debate. Second, it previews the discovery asks: specific dataset snapshots, ingestion logs, retention policies and vendor diligence files — records that either exist and are defensible, or do not.

The Three Filings and What They Show

James v. Snowflake

This case was filed Nov. 21, 2025, by Darius H. James in the U.S. District Court for the District of Montana as a proposed class action **asserting** a single claim of direct copyright infringement, and seeking classwide damages and equitable relief.

The complaint's provenance theory is built in layers. It alleges that RedPajama is a training dataset assembled and published by Together Computer Inc., and that RedPajama "contained within it a deduplicated copy" of Books3, a dataset described in the Pile paper as derived from the contents of Bibliotik.

It then ties Books3/RedPajama to distribution and visibility through the Hugging Face machine learning platform, alleging that RedPajama, including Books3, was available for download and that the Hugging Face page later reflected Books3's removal due to "reported" copyright infringement — while an archived version explicitly disclosed Books3's inclusion.

What is novel here is not the training equals copying assertion (that argument is now familiar), but the effort to plead provenance with enough specificity to push discovery toward operational records.

The complaint alleges that to train its Arctic models, Snowflake downloaded, copied, stored and used the RedPajama dataset containing Books3; repeatedly processed works during preprocessing and pretraining; and retained copies on its servers for further training. It also pleads a product timeline narrative, including public launch timing, to support plausibility and willfulness arguments.

From a litigation strategy perspective, the evidentiary hooks are clear: (1) which RedPajama snapshot/version was used, if any; (2) whether ingestion logs, deduplication outputs and storage pathways exist; and (3) what retention practices look like once training moved from an initial run to ongoing model iterations.

Lyon v. Adobe

This case was filed Dec. 16, 2025, by Elizabeth Lyon in the U.S. District Court for the Northern District of California as a proposed class action **alleging** direct copyright infringement under Title 17 of the U.S. Code, Section 501.

The complaint focuses on SlimLM small language models used for document-related functionalities and asserts that the models were trained on books without authorization.

The complaint's provenance framing is explicit: It treats training data as a supply chain product. It alleges that SlimPajama is a training dataset assembled and published by Cerebras Systems Inc. and directly derived from TogetherAI's RedPajama dataset, and describes SlimPajama as a copied, cleaned and deduplicated version of RedPajama.

It further alleges that the RedPajama dataset included a Books subset — RedPajama-Books — that was actually a copy of Books3, again using the Pile paper's description of Books3's origin to support the claim.

Two pleading moves stand out for counsel evaluating risk.

First, the complaint uses derivative dataset logic to narrow the factual dispute: If SlimPajama is derivative of RedPajama, including Books3, then the provenance question becomes whether the downstream model developer can show rights that travel through that chain.

Second, the complaint builds an early willfulness narrative by alleging that members of Microsoft's AI team expressed concern about releasing models trained on SlimPajama because of Books3's presence.

The evidentiary hooks, again, are operational: SlimPajama versioning, ingestion logs, internal documentation confirming training source datasets, and retention policies for pretraining corpora and derivative subsets.

The requested relief — including destruction or reasonable disposition of copies made or used in violation of rights — also raises practical preservation tensions: Litigation holds demand retention, while

merits arguments may depend on demonstrating deletion or lack of ongoing use.

In re: Mosaic LLM Litigation

This case has been pending since March 2024 in the Northern District of California. Two court orders from August 2025 and January 2026 help explain why provenance allegations are increasingly a pleading discipline — not simply a narrative.

In an August 2025 order, U.S. District Judge Charles R. Breyer granted a motion to dismiss a newly added direct infringement claim against Databricks Inc. tied to DBRX models, criticizing conclusory leaps about what materials were actually used and pointing out that discovery is not a "fishing expedition."

Importantly for 2026 strategy, the order left the door open: If discovery into surviving claims revealed information permitting fact-based allegations, not conclusions, plaintiffs could move for leave to amend.

That is exactly what happened procedurally. In a Jan. 20 order, Judge Breyer granted the plaintiffs' motion to modify the scheduling order and for leave to amend, noting that the plaintiffs sought to file a second amended consolidated complaint that would include claims for direct infringement, contributory infringement, inducement of infringement and an updated class definition.

The court's discussion is telling. It accepted that the plaintiffs developed a stronger record through discovery and corroborating deposition testimony to contextualize technical details. It also addressed a provenance-style dispute about what was knowable early — where a hyperlink in a cited blog post allegedly indicated dataset origin from the Pile, making "good cause" a close call.

The amended complaint itself is not fully accessible from all public sources and may involve redactions or sealing disputes, so any characterization beyond what is reflected in the order and related filings should be treated as provisional.

What can be said confidently is that the amendment posture illustrates a pattern: Provenance allegations become stronger and broader once plaintiffs obtain internal documents and testimony establishing dataset lineage and handling. The plaintiffs were granted leave on Jan. 20 and filed their second amended consolidated complaint on Jan. 21.[7]

The defendants' briefing highlights a second strategic point: Provenance disputes tend to expand into multiparty discovery when plaintiffs plead secondary liability. In a November 2025 opposition brief, the defendants argued that a proposed contributory infringement claim in the contemplated second amended consolidated complaint would require proof of third-party infringement and would drive additional discovery.

Even if one disagrees with the defendants' characterization, the implication is real. Once a provenance theory can be framed as distribution, contribution or inducement, the case can move from "what did you train on?" to "who else touched the dataset and how?"

Common Legal Issues and Pressure Points Across the Three Matters

Chain-of-Title and Dataset Lineage as the Core Pleading Asset

In both *James v. Snowflake* and *Lyon v. Adobe*, the plaintiffs traced the dataset lineage from RedPajama to Books3, and further to the Bibliotik shadow-library source, and then connected that provenance to the defendants' alleged copying, retention and use.

In *In re: Mosaic LLM Litigation*, the court's repeated insistence on factual specificity effectively makes provenance an admissibility and plausibility gate — what the court acceptably calls facts, not conclusions.

Trespass/Antiscraping and Acquisition Path Theories at the Edges

The three matters here are dataset-centric, and the pleadings rely heavily on shadow-library provenance. Still, the Copyright Office notes that training is often preceded by "massive amounts of web scraping" leading to locally stored copies, and that copying during acquisition and curation and during training itself can implicate the reproduction right.

That observation matters because it highlights where provenance can expand. Once the acquisition path is disputed, plaintiffs in other matters have increasingly tested noncopyright theories (terms of service, access controls and computer access statutes). In practice, even a dataset-only complaint can trigger discovery and internal investigations that look very similar to an antiscraping dispute.

E-Discovery and Evidence Management as the Real Battleground

All three cases pull toward the same pressure point: technical and documentary proof. The Copyright Office's discussion of repeated copying (downloading, transferring, converting formats and filtered subsets) mirrors what plaintiffs allege in both *James* and *Lyon*, including repeated copying and processing during preprocessing and ongoing retention for continued training.

In *Mosaic*, the court's leave to amend order underscores how deposition testimony and corroborative documents can justify expansion of pleadings — but also warns that amendment is not a license for expansive discovery. The practical message is that provenance disputes are won by disciplined records management, not by broad moral arguments.

Practical Defense Checklist and Governance Steps

The filings above suggest that training data governance is no longer a compliance slogan — it is litigation hygiene. Below is a defense-oriented checklist that can be implemented without waiting for the next complaint.

Vendor Diligence and Dataset Procurement

Maintain a dataset register tracking source, supplier, license terms, restrictions and version identifiers, as well as hashes and snapshots where feasible;

Require supplier representations on provenance, not just open-license labels, including explicit disavowals of shadow-library sourcing where relevant; and

Negotiate audit rights and indemnities proportionate to the actual exposure, i.e., statutory damages theories and willfulness allegations are pleaded explicitly in these matters.

Logging and Reproducibility

Preserve ingestion logs linking dataset snapshots to specific training runs, including preprocessing steps like deduplication, cleaning and storage locations;

Create explainable lineage documentation for derivative datasets: If Dataset B is created from Dataset A, document precisely what transformations occurred, why and when; and

Keep a defensible record of deletion and retention decisions, i.e., what was retained, for how long and for what purpose, recognizing that allegations often focus on ongoing retention and reuse.

Contracting and Internal Communications Hygiene

Align internal statements, e.g., model cards, blog posts and marketing claims, with what you can prove — provenance litigation turns public statements into exhibits; and

Use privileged channels for internal investigations into dataset provenance problems, keeping business summaries factual and consistent.

Retention, Holds and Discovery Readiness

Build a litigation-hold playbook specific to training data disputes, e.g., data lakes, object stores, dataset mirrors, code repos, experiment trackers, vendor communications;

Pre-identify custodian roles, like dataset engineers, machine learning operations, vendor, procurement and product owners who can explain sourcing and transformations; and

Prepare for third-party discovery risk when contributory and inducement theories are in play, even the prospect of such claims can change your discovery footprint.

Yulia Leshchenko is a co-founder and the head of intellectual property at Name & Fame LLC.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] **James v. Snowflake Inc.**  (D. Mont., No. 2:25-cv-00108-BMM, filed Nov. 21, 2025) — <https://copyrightalliance.org/wp-content/uploads/2025/11/James-v.-Snowflake.pdf>.

[2] **Lyon v. Adobe Inc.**  (N.D. Cal., No. 5:25-cv-10732, filed Dec. 16, 2025) — https://www.pacermonitor.com/public/case/61878249/Lyon_v_Adobe_Inc.

[3] **In re: Mosaic LLM Litigation**  (N.D. Cal., MDL No. 3022, Case No. 3:24-cv-01451-CRB) — <https://cand.uscourts.gov/cases-e-filing/cases/324-cv-01451-crb/re-mosaic-llm-litigation>.

[4] U.S. Copyright Office, Guidance on Works Containing Material Generated by AI (March 2023) — https://www.copyright.gov/ai/ai_policy_guidance.pdf.

[5] U.S. Copyright Office, Copyright and Artificial Intelligence: Part 3 — Generative AI Training (May 2025, pre-publication version) — <https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-3-Generative-AI-Training-Report-Pre-Publication-Version.pdf>.

[6] Leo Gao et al., "The Pile: An 800GB Dataset of Diverse Text for Language Modeling" (preprint on arXiv:2101.00027, Dec. 31, 2020) — <https://arxiv.org/abs/2101.00027>.

[7] In re: Mosaic LLM Litigation — Order (20 Jan 2026) & Second Amended Consolidated Complaint (21 Jan 2026) - <https://storage.courtlistener.com/recap/gov.uscourts.cand.426188/gov.uscourts.cand.426188.254.0.pdf>.

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Vanguard Will Pay \$29.5M To Settle Red States' ESG Suit

By **Spencer Brewer**

Law360 (February 26, 2026, 4:00 PM EST) -- The Vanguard Group Inc. will pay \$29.5 million to settle claims brought by several conservative states accusing it and other large asset managers of driving up coal prices by pressuring publicly traded energy companies to lower their output to meet carbon emission reduction goals.

Under the terms of the **settlement**, announced Thursday, Vanguard will for the first time offer proxy voting to investors in funds accounting for at least 50% of assets invested in U.S. equity funds it advises, according to statements by the states' attorneys general. The settlement will not require the asset manager to divest from any of its holdings, according to the settlement.

Texas Attorney General Ken Paxton said Wednesday that Vanguard "agreed to make the strongest passivity commitments in the industry and to empower its investors with proxy voting."

The settlement represents one of the most significant enforcement actions taken against what Paxton called "ESG-driven market manipulation," according to the statement. Under its terms, Vanguard shareholders will not threaten to withdraw from portfolio companies' holdings unless they agree to act, or not act, in some way.

Additionally, Vanguard will not solicit or participate in soliciting proxies in any matter presented to portfolio company shareholders, according to the settlement.

"I am glad to see that Vanguard has chosen to protect investors and become the industry leader when it comes to empowering investors with proxy voting choice," Paxton said. "This sets a new standard for institutional investors that every company should follow."

In 2024, Texas led a coalition of nearly a dozen Republican-led states to sue BlackRock Inc., Vanguard and State Street Corp., accusing the asset managers of running an **"investment cartel"** that takes advantage of their large holdings in publicly traded energy companies to drive up coal prices.

The lawsuit claimed that the asset managers teamed up to pressure the nation's largest coal producers, including Peabody Energy and Arch Resources, into reducing their output in order to meet carbon emission reduction goals.

Last year, the federal government threw its **support** behind the states' attorneys general.

In an emailed statement Thursday, a State Street spokesperson said the lawsuit remains baseless and without merit.

"There was not, and is not, any collusion here," they said. "We remain confident that the facts and legal substance are on our side. This settlement does not change that."

State Street later added that there's no collusion aimed at coal prices and emphasized its "well-established commitment to investor voting choice."

A BlackRock spokesperson declined to comment Thursday.

While Vanguard has taken action to resolve the case, both BlackRock and State Street have continued to engage in anticompetitive schemes, Paxton said in his statement.

"Coal is an essential industry to support America's ever-growing energy demands, and my office will continue to uproot and destroy any attempt by investment giants to push a woke agenda that puts American energy at risk," he said.

Missouri Attorney General Catherine Hanaway called the settlement an important step in protecting Americans from "green energy scams seeking to undermine our energy markets."

"ESG and radical social agendas have no place in our business marketplace," she said. "We will continue to support efforts to hold asset managers accountable and protect the millions of Missourians who rely on coal power."

The state attorneys general for Montana, Arkansas, Nebraska and Iowa all additionally provided statements voicing support for the settlement.

The other states that joined the lawsuit are Alabama, Arkansas, Indiana, Iowa, Kansas, Montana, Nebraska, West Virginia and Wyoming.

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

Texas is represented by David H. Thompson and Peter A. Patterson of Cooper & Kirk PLLC, Anthony G. Buzbee and Christopher J. Leavitt of the Buzbee Law Firm, and Ken Paxton, Brent Webster, Ralph Molina and Austin Kinghorn of the Texas Office of the Attorney General.

The other states are represented by their respective attorneys general.

Montana is further represented by David H. Thompson and Brian W. Barnes of Cooper & Kirk PLLC.

Vanguard is represented by Robert D. Wick, John S. Playforth and Shadman Zaman of Covington & Burling LLP, and Bradley C. Weber and Chase T. Cobb of Troutman Pepper Locke LLP.

BlackRock is represented by Gregg Costa, Prerak Shah and Rachel Brass of Gibson Dunn & Crutcher LLP.

State Street is represented by Jason M. Powers, Stacey Neumann Vu, George M. Kryder, Megan Cloud, Stephen M. Medlock and Mackenzie G. Newman of Vinson & Elkins LLP.

The case is Texas et al. v. BlackRock Inc. et al., case number 6:24-cv-00437, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Jessica Corso and Matthew Perlman.

Update: This story has been updated with additional comments from the parties.