PG&E Settlement Foes Look to Later Hearing After Judge OKs Pact

Feb. 27, 2026, 3:52 PM PST

Summary by Bloomberg AI

AI Generated

- A federal judge has given preliminary approval to a $100 million securities settlement between PG&E Corp. and investors, despite some investors opposing the deal.
- The opposing investors, represented by Rolnick Kramer Sadighi LLP, argued that the settlement violates PG&E's bankruptcy-exit plan and will extinguish unresolved claims, including for securities fraud.
- The judge decided that issues flagged by the opposing investors will be considered later, and some of these investors plan to opt out of the settlement and continue pursuing their claims in bankruptcy court.

A set of PG&E Corp. investors will likely get consideration later for issues they've flagged with a proposed $100 million securities settlement, now that a federal judge has formalized preliminary approval of the deal.

PG&E, its underwriters, and others received Judge Edward J. Davila's go-ahead for their settlement with investors over subsidiary Pacific Gas and Electric Co.'s safety compliance before devastating California wildfires late Thursday. The class action is pending in the US District Court for the Northern District of California.

PG&E Corp. is a holding company that is the corporate parent of public utility Pacific Gas & Electric Co., also known as PG&E. The utility filed for Chapter 11 bankruptcy in January 2019 and emerged in July 2020. PG&E Corp. also filed under Chapter 11.

A group of investors represented by Rolnick Kramer Sadighi LLP had opposed the settlement on the basis that it violated the company's bankruptcy-exit plan, which was confirmed in June 2020.

The proposed settlement is "engineered" to skirt that plan and extinguish claims that were left unresolved, including for securities fraud against PG&E "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.

The RKS investors contested the settlement as inconsistent with the requirements for class actions under Rule 23 of the Federal Rules of Civil Procedure, according to one of their attorneys, Richard Bodnar.

"The District Court decided those issues are best taken up at final approval," Bodnar said by email Friday. "We expect they will be."

The case has overtones of the tug-of-war between the bankruptcy and district court—or state trial court—processes in product liability cases like those involving 3M Co.'s combat earplugs and Johnson & Johnson's talc products. But in those cases, plaintiffs complained companies were trying to shunt the resolution process into bankruptcy court via subsidiaries in order to avoid liability, whereas here the RKS claimants argued their progress in the bankruptcy court would be lost in district court.

Securities cases also differ from product liability cases, said Michael Canty of Labaton Keller Sucharow LLP, an attorney for the retirement fund leading the case. "Securities holders don't typically collect at all in bankruptcy but we were able to use the fact that PG&E exited bankruptcy as going concern to obtain a recovery for investors," Canty said in an email Friday.

Bodnar said some of RKS's clients "will opt out of the settlement and continue to pursue their claims in the bankruptcy as they have been doing for years."

A separate, non-class lawsuit by Orbis Capital Ltd. and more than a dozen related funds is pending in the district court. The funds say they lost hundreds of millions of dollars in PG&E's slide toward bankruptcy after the fire.

In the case here, Davila first indicated he would preliminarily approve the settlement in a hearing Thursday.

"We were pleased that the judge gave preliminary approval to the settlement that resulted from hard-fought litigation over eight years on behalf of securities holders who we alleged were defrauded by PG&E," Canty said.

"What every party agreed on was that this case is 'unique,'" Bodnar said.

Attorneys for some of the individual defendants and for PG&E didn't immediately respond to requests for comment.

Labaton is lead counsel for the investors. RKS's group of investors is also represented by the Long Law Firm PLLC. 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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Securities

Blue Bell Board's Scant Listeria Notes Raise Questions (1)

Feb. 27, 2026, 10:26 AM PST; Updated: Feb. 27, 2026, 2:49 PM PST

Blue Bell Creameries Inc. senior leaders on Friday sought to defend the flow of information within the company about ice cream production and the company's response to sanitation or food safety concerns flagged by inspectors.

Vice Chancellor Nathan A. Cook questioned how detailed their discussions actually were, pointing out that one director's own notes from monthly board meetings in the years leading up to a fatal 2015 listeria outbreak failed to include any references to listeria or US Army concerns about a coliform bacteria that's usually harmless but can indicate sanitation problems.

"You have quite detailed notes on a great many specific facts concerning the company," the judge told director Dorothy McLeod MacInerney on the fourth day of testimony at the Delaware Chancery Court in Wilmington. "My sense is that if someone had discussed coliform or Army audits, particularly on a routine basis, then at some point in those many sets of minutes you would have taken a note on that."

He continued, "That it doesn't appear anywhere would seem to suggest coliform and Army audits was not a topic of discussion board meetings at least before early 2015."

MacInerney recalled two meetings where coliform was discussed. "I can't prove it, but I was there," she said. "It was not a frequent topic of discussion."

Senior leaders at the ice cream maker face derivative claims that they failed to adequately monitor operations or ignored "red flags" before a fatal 2015 listeria outbreak that killed three consumers of its ice cream products. The trial is the first of its kind for the Chancery Court as corporate oversight claims that survive a motion to dismiss are typically settled.

Production Line Shutdown

Minutes from weekly production staff meetings were widely distributed, and those meetings routinely detailed how the company would address inspectors' observations, testified William Rankin, a director who also served as CFO until 2014.

However, those minutes weren't sent to Blue Bell's outside directors, though they could request the information, he testified later.

Then-CEO Paul Kruse's board presentations included manufacturing costs related to sanitation, MacInerney said under questioning by her attorney, Paige Valeski, of Young Conaway Stargatt & Taylor LLP.

Rankin cited a packaging employee's shutdown of a production line over concerns about allergen contamination as an example of how Blue Bell properly disseminated important food safety information.

He recalled company directors discussing among themselves the first reports of potentially deadly listeria found in their products in mid-February 2015. But are there any minutes showing those discussions during the first board meeting that followed those reports? asked Scott Tucker of Chimicles Schwartz Kriner & Donaldson-Smith LLP, representing the shareholder behind the lawsuit.

"There are none," Rankin replied, though MacInerney testified that the board discussed the listeria cases "extensively" at two board meetings that month.

Tucker questioned Rankin about why the board relied on management to decide what directors needed to know. The monthly board meetings were only 90 minutes long, and managers were expected to present information "at a high level" but not overwhelming in detail, and directors could inquire for more if they needed it, Rankin said.

Board minutes didn't always record everything discussed at meetings, or details from every topic discussed, said MacInerney, whose grandfather was a Blue Bell president.

Board Chairman Jim Kruse and another longtime director, Paul Ehlert, also testified Friday about their confidence in the operations reports provided by management. "I personally knew the people who were reporting," Ehlert said.

The trial start was delayed Feb. 23 by a blizzard that hit Delaware and much of the Mid-Atlantic. A date for the fifth and final day of trial hasn't yet been scheduled.

The case is Marchand v. Barnhill, Del. Ch., No. 2017-0586, trial 2/27/26 .

(Updates paragraph 15 with additional testimony)

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Securities

Manage Newsletters

Musk's Tweets Ahead of Twitter Purchase Are Focus of New Trial

March 2, 2026, 7:00 AM PST

Summary by Bloomberg AI

AI Generated

- A trial starting this week will focus on claims that Elon Musk manipulated Twitter's stock price to get a better deal when buying the company in 2022.
- Investors allege that Musk publicly attacked Twitter in a ruse to drive down its market value, and they are targeting his statements in May 2022 about putting the buyout "temporarily on hold".
- Musk denies wrongdoing, arguing he had no intent to deceive investors, and his legal team will challenge the claim that he caused losses for Twitter shareholders by contending it's impossible to link his tweets to stock price movements.

Elon Musk's brief effort to back out of buying Twitter Inc. in 2022 is the focus of a trial starting this week over claims the world's richest person manipulated the company's stock price to get himself a better deal.

Musk eventually paid $44 billion for Twitter that fall, closing the buyout at the $54.20-per-share price he had originally agreed to six months earlier. But during the in-between months, a group of investors allege, Musk publicly attacked the company in a ruse to drive down its market value and benefit himself at their expense.

WATCH: What Elon Musk's Twitter takeover teaches us about contract law.

The trial that kicks off Monday in San Francisco federal court will cover familiar ground, namely the serial entrepreneur's unconventional penchant for communicating with the market through tweets – which has gotten him into trouble before. Musk is expected to be the star witness.

The trial will revisit the chaotic six-month period in 2022 during which Musk waffled between a hostile takeover of Twitter, an attempted withdrawal of his offer, and ultimately, consummation of the deal after the company sued him to follow through.

The investors are zeroing in on Musk's statements in May 2022 that he was putting the Twitter buyout "temporarily on hold," questioning the company's assertions over how much of the platform's traffic was driven by spam and fake accounts known as bots.

When Musk made that announcement, Twitter shares dropped almost 20% in premarket trading and closed the day down about 10%. The stock remained volatile for the months ahead.

The challenge facing the investors' legal team at trial will be to show that Musk was deliberately tanking the stock.

"Showing the intent behind Mr. Musk's statements is one of the main hills the plaintiffs in this case must climb to win," **Kevin Haeberle**, a law professor at University of California-Irvine, said in an interview. "It's not easy, but it's not an insurmountable barrier."

Musk denies wrongdoing, arguing he had no intent to deceive investors.

In an unrelated 2018 settlement with the Securities and Exchange Commission, Musk agreed to have his social media posts about "material" information involving Tesla Inc. pre-approved by an in-house lawyer. The regulator had accused him of securities fraud following his tweet that he had "funding secured" to take the electric car-maker private.

Years later, Musk fought all the way to the US Supreme Court – in vain – to try to end the " Twitter Sitter " agreement.

Tesla investors sued him over the same tweet that caused him issues with the SEC. He prevailed in a 2023 trial in San Francisco – and it took jurors just two hours of deliberations to clear him of wrongdoing.

Elon Musk in November 2025.
Photographer: Stefani Reynolds/Bloomberg

The billionaire has been dubbed "Teflon" Elon for his track record of winning high-stakes legal battles that many expected him to lose.

He dodged $2 billion in damages in 2022 when he triumphed in a Delaware trial over claims that Tesla's acquisition of SolarCity Corp. was an overpriced bailout for his cousins who founded the struggling solar panel company.

Most recently, Musk's legal team got the Delaware Supreme Court in December to reinstate his Tesla pay package – which had set a record for executive compensation in the US when he agreed to it in 2018 – after a trial judge had twice voided it in a seven-year fight.

Musk testified in all those cases, and he is likely to take the stand in the Twitter trial before Senior US District Judge Charles Breyer, the younger brother of retired US Supreme Court Justice Stephen Breyer.

Jill Fisch, a University of Pennsylvania law professor who teaches about securities law, credits what she described as Musk's dynamic personality with swaying juries to side with him.

"In today's environment, some people consider themselves to be coated in teflon when it comes to these types of claims and he's one of them," Fisch said.

Musk's lead lawyer is **Alex Spiro** of Quinn Emanuel Urquhart & Sullivan , who has successfully defended the billionaire in several of his courtroom clashes. Spiro was also one of Musk's main advisers in the Twitter buyout. The investors' lawyers tried and failed to get Spiro disqualified from Musk's trial team, arguing that they might call him as a witness.

Musk and lawyers on both sides of the dispute didn't respond to requests for comment.

Lawyers for the Twitter investors contend Musk's public statements about putting the buyout on hold "caused immediate panic that the deal was in jeopardy" — even while he knew that work on the takeover was continuing.

Musk's tweet on May 13, 2022, was false and misleading because it clearly created an "impression of a state of affairs that differs in a material way from the one that actually exists," investors said in court filings. The investors have not disclosed how much they are seeking in damages.

The investors also have targeted a follow-up tweet four days later in which Musk said the "deal cannot move forward" unless the chief executive officer of Twitter showed proof that less than 5% of the platform's accounts were fake.

"Musk's purported interest in Twitter's spam calculations was a pretext for getting out of the deal or renegotiating a lower price," lawyers for the plaintiffs said in a court filing.

Musk's legal team countered in filings that he "understood the statements to be true at the time they were made" and they were not part of a scheme to drive down Twitter's stock price.

In a reprise of Musk's defense in the 2023 Tesla tweet fraud trial, his lawyers are challenging the claim that he caused losses for Twitter shareholders, contending it's impossible to link his tweets to stock price movements.

Read More: Musk's Twitter Trial Gets Jurors Who Can Set Aside Feelings

During jury selection in February, almost half of the prospective jurors were dismissed for admitting they could not be impartial, with many voicing negative views of Musk, according to Bloomberg Law.

However Musk fares in the trial, he still faces other complaints over his purchase of Twitter, including an investor suit in New York federal court and an SEC case in Washington. He has denied wrongdoing in both.

The case is Pampena v. Musk, 3:22-cv-05937, US District Court for the Northern District of California (San Francisco).

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Securities
Manage Newsletters

March 2, 2026, 10:51 AM PST

Summary by Bloomberg AI AI Generated

- A shareholder alleges Apple Inc.'s board and top executives are responsible for billions of dollars in penalties, settlements, and other costs stemming from anticompetitive conduct.
- The directors and executives, including CEO Tim Cook, breached their fiduciary duties to Apple by allowing or furthering monopolistic conduct, according to the complaint.
- The retirement fund brings claims for breach of fiduciary duty, corporate waste, unjust enrichment, proxy misstatements, and securities fraud, and seeks corporate reforms, damages, and restitution on behalf of the company.

Apple Inc.'s board and top executives are responsible for billions of dollars in penalties, settlements, and other costs stemming from anticompetitive conduct, a shareholder alleges on behalf of the company.

The directors and executives, including CEO Tim Cook, breached their fiduciary duties to Apple by allowing or furthering monopolistic conduct stretching back more than a decade, according to the retirement fund that brought the case. The derivative suit was filed Feb. 27 in the US District Court for the Northern District of California.

A similar suit against Alphabet Inc.'s leaders ended in October with a $500 million settlement.

Apple's leaders "have either failed to oversee compliance, allowing this anticompetitive conduct to fester, or have actively engaged in this anticompetitive conduct," the Hollywood, Fla., police retirement fund says.

"Apple's anticompetitive playbook in performance smartphones and iOS app distribution now also threatens to repeat in the nascent and rapidly developing generative artificial intelligence ('gen AI') market," the fund says.

The US Department of Justice sued the computer and iPhone maker in 2024, alleging systematic anticompetitive conduct in which Apple blocked potential smartphone competition in several ways, the fund says.

Apple has been fined more than $2 billion in the European Union for anti-steering violations, the suit says. It settled a developers’ class action for $100 million in 2021, and faces damages that will likely top $1 billion in the UK, according to the complaint. Apple “has incurred and will incur additional litigation, enforcement, and compliance costs as a result of its antitrust violations,” the fund says.

The company also allegedly overpaid for its own stock and overcompensated the defendants.

The retirement fund brings claims for breach of fiduciary duty, corporate waste, unjust enrichment, proxy misstatements, and securities fraud. It seeks corporate reforms, damages, and restitution on behalf of the company.

Apple didn’t immediately respond to an emailed request for comment on behalf of itself or the individual defendants.

Scott & Scott Attorneys at Law LLP represents the retirement fund.

The case is City of Hollywood Police Officers Ret. Sys. v. Cook , N.D. Cal., No. 5:26-cv-01724, complaint 2/27/26 .

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Securities

Axsome's $7.75 Million Investor Settlement Gets Court Sendoff

Feb. 27, 2026, 7:41 AM PST

Axsome Therapeutics Inc.'s $7.75 million accord earned a federal judge's blessing to resolve investor allegations it hid complications on the road to regulatory approval for its migraine drug.

Judge Lorna G. Schofield finalized a settlement class of those who acquired Axsome stock from May 10, 2021, through April 22, 2022, while granting final approval of the deal Thursday. The agreement greenlit by the US District Court for the Southern District of New York ends nearly four years of litigation over whether Axsome misled investors over its progress toward getting the US Food and Drug Administration's imprimatur.

The investors' counsel will get 30% of the sum—almost $2.33 million—in attorneys' fees and nearly $147,000 in litigation expenses reimbursed, plus interest

The investors sufficiently alleged that Axsome and two executives made positive statements about the approval timeline that conflicted with information they had about manufacturing equipment problems and the resulting supply delays in developing the drug candidate, Schofield said while releasing other corporate leaders from the suit last year

The FDA approved AXS-07, marketed as SYMBRAVO, to treat migraines last year

Pomerantz LLP and the Rosen Law Firm PA are lead counsel for the investors. Morgan Lewis & Bockius LLP represents Axsome. None of these law firms nor Axsome immediately responded to emails seeking comment.

The case is In re Axsome Therapeutics, Inc. Sec. Litig. , S.D.N.Y., No. 1:22-cv-03925, final approval 2/26/26 .

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Securities

Manage Newsletters

Goldman, General Atlantic Ordered to Face $4 Billion Buyout Case

March 2, 2026, 11:10 AM PST

Summary by Bloomberg AI

AI Generated

- A Delaware Chancery Court judge let the case move forward against Goldman Sachs & Co. and General Atlantic LP over the $4 billion sale of EngageSmart Inc. to Vista Equity Partners Management LLC.
- The judge said it's conceivable Goldman helped deal insiders cover up a secret $500 million dividend to General Atlantic that siphoned value from public shareholders.
- The case is allowed to proceed against three former EngageSmart board members, but claims against Vista were dismissed, citing the Delaware Supreme Court's recent decision narrowing aiding-and-abetting liability standards.

Goldman Sachs & Co. and General Atlantic LP lost their bid to exit litigation over the $4 billion sale of EngageSmart Inc., then a General Atlantic portfolio business, to Vista Equity Partners Management LLC.

A Delaware Chancery Court judge let the case move forward Feb. 27, saying it's conceivable Goldman helped deal insiders cover up a secret $500 million dividend to General Atlantic that siphoned value from public shareholders. The allegations, if true, show the private equity firm was motivated to maximize its total haul in the transaction, even if that meant driving down the headline per-share price, the judge found.

The pension fund lawsuit raised an inference General Atlantic and Goldman kept a lid on the "pie-cutting issues" that outweighed the "pie-growing" concerns important to most other investors, Vice Chancellor J. Travis Laster said in a 122-page ruling. An M&A proxy statement "is not a roadshow sales document," the judge wrote. "It calls for a factually accurate description of what took place."

Laster also let the case proceed against three former EngageSmart board members. He did, however, let Vista out of the litigation, dismissing claims that targeted its role on the deal's buy-side. The judge cited the Delaware Supreme Court's recent decision narrowing aiding-and-abetting liability standards in a case involving TC Energy Corp.'s $13 billion acquisition of Columbia Pipeline Group Inc.

The EngageSmart dispute echoes other recurring themes for Delaware's elite business court, which is regularly asked to intervene in buyouts that confer special benefits on founders, controlling stockholders, and their board allies. A crackdown on abuses of corporate control and other dealmaking conflicts of interest prompted last year's fiercely fought corporate overhaul, state Senate Bill 21, which survived scrutiny from Delaware's top court the same day as Laster's decision.

The case also involves a stockholder agreement giving General Atlantic contractual control over EngageSmart. Laster invalidated a similar accord in a separate 2024 ruling against Moelis & Co. that sparked a significant backlash, inspiring a previous round of statutory amendments—putting the pacts back on the right side of the law—that foreshadowed the controversy over S.B. 21.

The state supreme court overturned the *Moelis* decision in January, the second in a trilogy of rulings aimed at restoring Delaware's business-friendly reputation with founder-led and venture-backed firms agitating about a "DExit" to other states. The wave began with a decision restoring Elon Musk's $56 billion Tesla Inc. pay plan in December and concluded with the Feb. 27 opinion upholding S.B. 21.

'Mealy-Mouthed'

The EngageSmart ruling stressed the undisclosed ties between General Atlantic, Goldman, and Vista. Goldman and General Atlantic sidelined the board's transaction committee and the committee's financial adviser—working behind the scenes to tilt the process toward a deal that included the dividend—while issuing incomplete disclosures, Laster found.

An adviser like Goldman "cannot give a mealy-mouthed disclosure that it 'may' have business relationships" with a counterparty when "the conflict is actual, not possible or potential," the judge wrote. The selective disclosures made the problem "worse, not better," he said.

Although Laster rejected the claims against Vista, he went out of his way to criticize the precedent compelling that outcome. The *Columbia Pipeline* ruling, which overturned one of his own, "cut against the legal grain" by drawing a bright line between actively assisting fiduciary breaches and "conscious inaction in the face of a duty to act," the judge said.

"Delaware courts regularly treat a conscious decision not to act as the equivalent of action," he wrote.

The pension funds are represented by Labaton Keller Sucharow LLP, Block & Leviton LLP, Friedman Oster & Tejtel PLLC, and Julie & Holleman LLP. Vista is represented by Abrams & Bayliss LLP and Kirkland & Ellis LLP. General Atlantic is represented by Paul, Weiss, Rifkind, Wharton & Garrison LLP. The former directors are represented variously by Richards, Layton & Finger PA and Skadden, Arps, Slate, Meagher & Flom LLP. Goldman is represented by Potter Anderson & Corroon LLP and Ropes & Gray LLP.

The case is In re EngageSmart Inc. S'holder Litig. , Del. Ch., No. 2023-1093, 2/27/26 .

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Securities

Tricolor Noteholders Sue JPMorgan, Barclays and Fifth Third (1)

Feb. 27, 2026, 11:26 AM PST

Holders of notes issued by Tricolor Holdings sued JPMorgan Chase & Co., Barclays Plc and Fifth Third Bancorp., accusing the banks of helping to perpetuate a fraud at the now-bankrupt used-car dealer and lender.

The banks were named in a lawsuit filed Thursday in New York by several investment firms including One William Street Capital Management and Janus Henderson Group Plc. The plaintiffs said they collectively hold more than $230 million in Tricolor notes.

Tricolor filed for bankruptcy in September. Company founder and former Chief Executive Officer **Daniel Chu** and others were chargedin December with allegedly defrauding Tricolor's banks and investors by double-pledging or inflating the value of "near-worthless" loan collateral. Chu has pleaded not guilty.

In their suit, the noteholders claim the banks ignored "clear evidence" of fraud, including "alarming" 2022 and 2024 audits of the company, because they were earning millions of dollars in fees underwriting Tricolor's securitized notes.

Spokespeople for JPMorgan, Barclays and Fifth Third declined to comment on the suit.

In the wake of Tricolor's collapse, the three banks disclosed they collectively faced hundreds of millions of dollars in potential losses. "It is not our finest moment," JPMorgan CEO Jamie Dimon said during an October call with reporters.

According to the noteholders, red flags in the audit reports included "that nearly half the payments received on a given day were posted to the wrong bank account for the wrong lender, that defaulted loan accounts showed recoveries that were never actually obtained from car repossessions that never actually occurred, and that loan delinquencies were inaccurately reported and aged."

The banks "responded by hiding what they had learned and sticking their heads in the sand to avoid learning more," the noteholders claim. JPMorgan, Barclays and Fifth Third also allegedly concealed or misrepresented concerning information in offering materials for investors.

"In doing so, defendants fueled and perpetuated Tricolor's Ponzi-like fraud," the plaintiffs claim.

The suit is One William Street Capital Master Fund Ltd. et al v. JPMorgan Chase Bank, National Association et al, 26-cv-01622, US District Court, Southern District of New York (Manhattan).

(Updates with Barclays declining to comment.)

--With assistance from **Hannah Levitt**, **Yizhu Wang**, **Robert Burnson** and **Scott Carpenter**.

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Securities

Norfolk Southern Investors Fail to Get Derailment Suit Revived

Feb. 27, 2026, 11:55 AM PST

Norfolk Southern Corp. investors didn't adequately allege the rail carrier materially misled them about its safety practices in advance of a 2023 train derailment in East Palestine, Ohio, the Second Circuit said Friday.

Seven Norfolk Southern statements that the investors challenged are inactionable or not false, the US Court of Appeals for the Second Circuit said in an unsigned, unpublished opinion affirming the case's dismissal. The investors pointed to nothing else that would have imposed "a freestanding duty to disclose more information about Norfolk Southern's safety practices" on the company and its executives, the appeals court said.

The investors alleged a 2019 Norfolk Southern strategic initiative aimed to lower operating costs by reducing staff; using longer, heavier trains; and getting rid of expensive assets such as locomotives—increasing the risk of derailments and contradicting portions of a registration statement about the company's commitment to safety

Judge Lewis A. Kaplan of the US District Court for the Southern District of New York dismissed the suit in February 2025, saying the investors didn't adequately allege that any of the statements were misleading under the Securities Act

Kaplan correctly found the statements were either puffery or not sufficiently alleged to be false, said Judges Dennis Jacobs, Barrington D. Parker, and Alison J. Nathan of the Second Circuit

Labaton Keller Sucharow LLP represented the investors. Wilmer Cutler Pickering Hale and Dorr LLP represented Norfolk Southern and its executives. A&O Shearman and Freshfields US LLP represented Norfolk Southern's underwriters.

The case is Ohio Carpenters Pension Fund v. Norfolk S. Corp. , 2d Cir., No. 25-739, unpublished 2/27/26 .

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Securities

SelectQuote Appears Poised for Success to End Investors' Appeal

Feb. 27, 2026, 10:53 AM PST

SelectQuote Inc. might've convinced an appellate panel to shut down a proposed investor class bid to revive allegations the online insurance broker overstated its revenue and mischaracterized its sales teams' skills surrounding its 2020 initial public offering.

Multiple judges of the US Court of Appeals for the Second Circuit spoke about SelectQuote competitors that also suffered stock declines, pressing the investors' attorney during oral arguments Friday on how that squares with the argument about a revelation of shoddy salespeople lowering renewal rates.

"How do you connect the fact that ill-trained salesmen sold too many policies with a drop that seems to have affected an industry?" pressed Judge Dennis Jacobs.

"We could take some form of judicial notice of the fact that the downward turn affected the entire industry, right? Bad timing, maybe," said Judge Raymond J. Lohier Jr. "Then what are we to make of that in connection with assessing your claims and the dismissal of those claims?"

"There may have been an industry-wide phenomenon, but they're not precisely parallel," said James A. Harrod, a partner at Bernstein Litowitz Berger & Grossmann LLP representing the pension funds leading the investor case.

The complaint painted a clear picture that SelectQuote misrepresented its projected insurance renewal rates, known as persistency, Harrod said. The lower court shouldn't have dismissed as forward-looking and nonactionable alleged mischaracterizations in financial statements made pursuant to generally accepted accounting principles, GAAP, he said.

Still, judges pressed SelectQuote's attorney on the forward-looking nature of persistency rate statements and whether hiring untrained salespeople could be an indicator that fewer customers would want to renew.

"I can't think of something more forward looking than predicting what your renewals are going to be 10 years in the future," said David B. Anders, a partner at Wachtell, Lipton, Rosen & Katz representing SelectQuote.

The complaint didn't sufficiently connect how having untrained salespeople would indicate to top brass that there would be a decline in insurance policy renewal rates, Anders said. In fact, it has little to do with renewals at all.

"It's the Aetnas and UnitedHealths of the world who's really on your mind, it's not the SelectQuotes, once you get the policy," he said.

Selling Medicare insurance policies isn't so simple, making the talents of salespeople pertinent in persistency rates—and SelectQuote itself in a statement connected its "highly skilled agents" to getting renewals, Harrod said.

Dismissal

The lower court failed to assess non-fraud claims under the 1933 Securities Act, Harrod said. This act targets securities issuances such as in an IPO, and has a lower pleading standard than for fraud claims.

Judge Robert D. Sack also sat on the panel.

The US District Court for the Southern District of New York dismissed the proposed class action with finality last year, saying the suit relied on inactionable forward-looking revenue projections and mere boasts about its salespeoples' training, much like a previously-tossed complaint.

The pension funds also failed to plead the level of intent or recklessness to bring securities fraud claims against SelectQuote and leadership from around the time of its 2020 IPO. Alleging executives had broad access to contrary data on renewal expectations, without any specific reports or statements, wasn't sufficient, Judge Alvin K. Hellerstein said.

Allegations

The suit, alleging violations of the Securities Exchange Act of 1934 and the Securities Act, said the insurance broker's IPO documentation misled investors about its financial prospects and sales process.

By 2022, its share prices fell 83% from its $20-a-share IPO as disclosures revealed a decline in client persistency and demonstrating its training and sales methods were deficient, the suit said.

More recent investor lawsuits have accused SelectQuote and top brass of hiding taking kickbacks for touting certain Medicare Advantage plans. Federal prosecutors publicized a False Claims Act lawsuit against brokers including SelectQuote and health insurers last year.

Bernstein Litowitz is lead counsel for the pension funds, the West Palm Beach Police Pension Fund and City of Fort Lauderdale Police & Fire Retirement System. Wachtell Lipton represents SelectQuote and current and former officers and directors. Orrick Herrington & Sutcliffe LLP represents IPO underwriters named in the suit, including Credit Suisse Securities (USA) LLC, Barclays Capital Inc., and Morgan Stanley & Co. LLC. None of these law firms nor SelectQuote immediately responded to emails soliticiting comment on the oral arguments, sent before they began.

The case is In re SelectQuote, Inc. Sec. Litig. , 2d Cir., No. 25-1180, oral arguments 2/27/26 .

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Securities

This Week in Chancery Court: Paramount-Skydance, Seegrid, Aurion

March 2, 2026, 2:00 AM PST

Paramount Skydance Corp. will return to Delaware's Court of Chancery over its Skydance Media LLC merger—days after announcing Warner Bros. Discovery formally inked an agreement to be taken over by the company.

Here's a look at what is happening in the court this week:

Monday: Metro. Water Reclamation Dist. Ret. Fund v. Paramount Glob., Del. Ch., No. 2025-0377, pretrial conference 3/2/26.

At issue: Paramount's recent M&A dealings have drawn several shareholder challenges, including this books-and-records demand seeking to peer into more informal discussions surrounding its merger with Skydance, which closed in 2025. Shareholders say their efforts have led the company to produce information for inspection, narrowing the dispute to whether Paramount must turnover emails, text messages, and other electronic communications over the departures of three special committee members during the deal's negotiation.

Court action: Magistrate in Chancery Christian Douglas Wright holds a telephonic pre-trial conference.

Paramount Loses Bid to Get Warner Bros. Suit on Fast Track (3)

Tuesday: Visnic v. Seegrid Corp., Del. Ch., No. 2022-0202, trial starts 3/3/26.

At issue: Former Seegrid Corp. employees accused the robotics business of luring them with promises of equity, then rewriting those terms as the company's value skyrocketed so directors and affiliates could buy out the workers at a steal. The lawsuit, filed in 2022, concerned an incentive plan the company allegedly adopted after emerging from bankruptcy in 2015 as a Giant Eagle Inc. subsidiary. Vice Chancellor Nathan A. Cook winnowed claims in a November 2023 ruling.

Court action: A three-day trial occurs in Wilmington, Del.

Seegrid Corp. Accused by Ex-Employees of Scheme to Seize Equity

Friday: Rostov v. Alcon Rsch., LLC, Del. Ch., Docket No. 2025-0648, hearing 3/6/26.

At issue: Chancellor Kathaleen St. Jude McCormick will consider a motion to dismiss this Aurion Biotech Inc. derivative lawsuit brought by one of the company's founders and former chief financial officer for allegedly squashing its initial public offering. The former executive, David Rostov, alleges Alcon Research LLC and others waged a takeover campaign to get Aurion for cheap to the detriment of the company and shareholders. Rostov said Alcon aggressively moved to bar the company from holding its IPO through litigation in this court and other means.

Court action: Motion to dismiss hearing in Wilmington, Del.

Alcon, Aurion Reach Accord in Dispute Over Public Offering

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Securities

Delaware High Court Seals Musk-Induced Corporate Law Power Shift

March 2, 2026, 2:00 AM PST

The Delaware Supreme Court's landmark ruling Friday completed a trilogy of high-profile decisions that signal the justices want to shore up the state's business-friendly reputation, quiet the "DExit" noise, and get out from under the political attacks—particularly those fueled by Elon Musk.

The unanimous opinion upholding a controversial legislative overhaul comes after the court restored Musk's $56 billion pay package with Tesla Inc. and revived Ken Moelis' contractual control over his namesake investment bank. The latter two rulings overturned decisions that had business leaders threatening to flee America's corporate capital while looking to lawmakers and the high court for help.

"The Delaware Supreme Court is indicating they got the message," University of Colorado law professor Ann Lipton said.

The overhaul, state Senate Bill 21, overturned several major court decisions—creating a safe harbor for self-dealing, imposing a rigid definition of corporate controlling stockholders, and beefing up the presumption that board members are capable of independent oversight. The lawsuit alleged those measures infringed the jurisdiction of Delaware's Chancery Court, an "equitable" forum designed for fiduciary breach claims, bespoke remedies, and disputes that defy categories.

The high court acknowledged that the case pitted "the authority of the Court of Chancery to exercise its equity jurisdiction against the General Assembly's power to legislate." But the legislation "does not strip the court of its jurisdiction," Justice Gary F. Traynor wrote in a 37-page opinion.

"Instead, S.B. 21 represents, in our view, a legitimate exercise of the General Assembly's authority to enact substantive law," he said.

Regardless of the political pressure, siding with a law that directly rebuked Delaware's judiciary will only encourage future legislative end runs, retired University of Delaware law professor Charles Elson predicted.

"Our secret sauce was always that we were apolitical," Elson said, referring to the state's courts. "But the legal process is now subject to the political process."

'Losing the Narrative'

The decision to uphold S.B. 21 was widely expected after the December ruling on Musk's compensation and Moelis' win in January.

Greg Varallo, the shareholder lawyer who led the challenge—and initially won the Musk compensation case—conceded in court that he was forcing an "unpopular" choice on the justices. Lipton called the case's legal theories "extraordinarily aggressive."

"I would have been very surprised if it had come out the other way," said Widener University law professor Lawrence Hamermesh, who served on the ad hoc panel that drafted S.B. 21 despite having little love for Musk. "This opinion is methodical and cool. I don't think this was a hard case."

The legislative overhaul represented the first major agenda item for Gov. Matt Meyer, a Democrat who took office in January 2025 in the face of pressure from private equity lobbyists, the corporate defense bar, and Delaware's political establishment over the judiciary's crackdown on conflicts of interest. After Meta Platforms Inc. disclosed it might move to another state, Meyer set up an expert drafting panel and put the legislation on a fast track.

"Folks in Delaware felt like they were in the sights of some pretty powerful people—Elon Musk certainly at the forefront, but not just Musk—and that Delaware was losing the narrative," said Columbia Law professor Eric Talley.

Despite pushback from pension funds, shareholder attorneys, and scholars blasting the "billionaire's bill," S.B. 21 passed easily last March. Since then, companies have continued trickling out—many of them founder-led or venture-backed tech firms—but the feared flood of departures hasn't materialized. The overhaul's supporters say they stanched the bleeding, while its opponents say the lack of momentum shows DExit was always just hype.

Meanwhile, with Texas and Nevada looking to lure companies away, S.B. 21 revived worries that corporate leaders will be able to weaken accountability standards nationwide by playing different states off one another. Those concerns aren't confined to critics: Chief Justice Collins J. Seitz Jr., who joined Friday's opinion, is set to give a March 2 talk in New York subtitled "Delaware, Texas, Nevada, and Avoiding a Race to the Bottom."

'The Court Blinked'

In doctrinal terms, the outcome hinged on the occasionally permeable boundary between jurisdiction and substantive liability rules.

Varallo's team argued that equity—an arcane concept descending from English common law—encompasses a holistic approach to fiduciary breach claims, not just the ability to put them in front of a judge. Meyer and the law's other defenders countered by stressing the distinction between limiting which cases can be heard and adjusting the standards that cover them when they are.

The court sided with the governor, saying S.B. 21 doesn't "direct any claim or category of claims to another court."

The ruling ends the battle over the bill's validity, confirming a decisive shift in legal leverage from public investors toward corporate boards and managers. But it opens a new chapter: potentially years of court fights over the legislation's meaning and effect.

It's time for Delaware's corporate ecosystem to start getting past "overwrought angst" about S.B. 21, according to Hamermesh.

"The war was last year, on policy," he said. "Now there's just the question of how the courts are going to interpret the statute."

But Talley expressed disappointment the justices failed to grapple with "some obvious counterarguments."

"They only chipped off pieces of what the Chancery Court is able to hear, but say they do it again, and then again, and after a while you're boiling the frog," he said. "How will they deal with that death-by-a-thousand-cuts problem? This opinion doesn't give us much guidance."

If the justices thought appeasing aggrieved billionaires would let them move on, though, they miscalculated, according to Elson.

"This was a confrontation between the legislative and judicial branches," he said. "And the court blinked."

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Securities

Delaware Corporate Law Reform Fueled by Musk Upheld (Correct)

Feb. 27, 2026, 9:32 PM PST

The Delaware Supreme Court upheld the constitutionality of an overhaul of state law that governs most major US corporations and was fueled by Elon Musk, 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.

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.

Musk "left and attempted to take everyone else with him," a spokesperson for Governor **Matt Meyer** said. "This law and these efforts made sure companies stayed and did not follow."

Dependent on Fees

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 lobbyingby 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.

Governor Meyer's office touted statistics that show the number of incorporated entities in the state grew to 2.2 million last year from 2.1 million in 2024. "The Delaware franchise remains strong because of our state's commitment to providing clear and predictable corporate governance rules and our ability to sustain a business-friendly environment," Meyer said in a statement after the ruling.

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.

'Dual Fiduciaries'

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."

Kevin Malcarney, Clearway Energy's general counsel, said in a statement Friday that the decision to uphold the state's new law "furthers our resolve to vigorously defend against the underlying claims in the Delaware Court of Chancery."

Greg Varallo, a lawyer for the Clearway investor who sued, said, "Although we are disappointed by the outcome, we thank the court for its hard work and guidance on this matter."

The case is Thomas Drew Rutledge v. Clearway Energy Group LLC, 248,2025, Delaware Supreme Court.

(Corrects company name in 13th paragraph.)

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News | **Litigation**

Supreme Court: SB 21's Safe Harbors Represent Constitutional, 'Legitimate Exercise' by Delaware Lawmakers

A 37-page opinion by Justice Gary F. Traynor stated the amendments to the state's corporate code don't breach the Court of Chancery's equitable jurisdiction in a way that's unconstitutional, and neither does the retroactive element of the amendments.

February 27, 2026 at 03:22 PM By **Ellen Bardash**

Delaware Supreme Court Justice Gary Traynor. Courtesy photo

The Delaware Supreme Court ruled Friday that the safe harbor provisions codified last year through Senate Bill 21 do not violate the state's constitution, contrary to claims counsel for shareholders have made for the past year.

A 37-page opinion written by Justice Gary F. Traynor stated the amendments to the state's corporate code don't breach the Court of Chancery's equitable jurisdiction in a way that's unconstitutional, and neither does the retroactive element of the amendments.

"By establishing a framework for the review of certain transactions involving a controlling stockholder or a control group, the safe harbor provisions set forth in Section 1 of SB 21 do not conflict with Article IV, § 10 of the Delaware Constitution," Traynor wrote. "That is so even though the provisions under certain circumstances affect the Court of Chancery's ability to award equitable relief or award damages in cases challenging controlling-stockholder transactions."

The decision sides with arguments from Clearway Energy, a company named as a defendant in a Court of Chancery action, as well as Gov. Matt Meyer, who moved to intervene in the matter. Clearway is represented by Gibson, Dunn & Crutcher; Young Conaway Stargatt & Taylor; and Richards, Layton & Finger. Potter, Anderson & Corroon and Wachtell, Lipton, Rosen & Katz represented Meyer, who signed SB 21 into law last March.

Argument took place on Nov. 5, addressing two questions Vice Chancellor Lori W. Will certified to the Supreme Court in June. The Clearway case was one of several in the Court of Chancery in which shareholder plaintiffs asked for the Supreme Court's guidance on the constitutionality of the amendments that became law with the passage of SB 21.

Bernstein Litowitz Berger & Grossmann, Equity Litigation Group and Morris Kandinov represented plaintiff and Clearway shareholder Thomas Drew Rutledge, arguing against the safe harbor provisions' constitutionality.

Traynor wrote that SB 21 didn't remove any causes of action—including breach of fiduciary duty claims like Rutledge's—from the Court of Chancery's jurisdiction or direct them to another court.

"Although the relief—equitable relief or damages—the Court of Chancery formerly would consider is now unavailable when it determines that a challenged transaction has been approved by one of the two statutorily designated cleansing mechanisms, SB 21 does not strip the court of its jurisdiction over equitable claims," the opinion stated. "Instead, SB 21 represents, in our view, 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."

Since the legislation was introduced just over a year ago, the safe harbor provisions have divided the corporate bar, with some attorneys who represent shareholders vocally opposed to the changes, claiming they'll curtail disputes that should go before the Court of Chancery, while those representing corporations and their boards have largely called the provisions a helpful roadmap for transactions and a necessary measure to bolster public perception of Delaware's corporate franchise.

The amendments remained in effect while the Supreme Court considered the certified questions, but other cases in which the question of constitutionality was raised have been stayed pending the court's decision.

"While we are obviously disappointed by the court's decision, we are grateful to the court for its hard work and guidance," said Greg Varallo of Bernstein Litowitz, who argued the certified questions for Rutledge.

Counsel for Clearway and Meyer did not immediately respond for comment.

Securities

Binance Fails to Bring Bitcoin Sales Class Action to Arbitration

Feb. 27, 2026, 10:15 AM PST

A cryptocurrency exchange site and its founder failed their bid to bring a proposed securities class action to arbitration.

Binance and Changpeng Zhao can't compel arbitration for claims made prior to Feb. 20, 2019, or enforce a class action waiver included in its terms of use, the US District Court for the Southern District of New York said in a Thursday opinion.

JD Anderson and four other plaintiffs sued Binance in 2020 for violating federal and state securities laws, alleging the site unlawfully offered and sold tokens without being registered as a broker-dealer. The plaintiffs seek to represent consumers who bought tokens on the Binance exchange before and after Feb. 20, 2019—when the site's terms of use agreement first started imposing an arbitration clause.

Binance and Zhao argued the 2019 terms of use requires all claims to be resolved in arbitration and waives the plaintiffs' rights to sue in a class action. Judge Andrew L. Carter disagreed, ruling the plaintiffs didn't have sufficient notice of Binance's "modification of their Terms of Use from the 2017 version to the 2019 version."

Not only did the plaintiffs never receive "contemporaneous individual notice of the enactment of the 2019 Terms of Use," but there isn't evidence from the record showing that an arbitration provision was announced, Carter said.

Even if the plaintiffs did get constructive notice, there's no language in the 2019 agreement that stipulates its arbitration provision could be applied retroactively, the court concluded.

"The arbitration provision at issue in this case states that users agree to resolve *any* claims against Binance," Carter said. "In the Court's view, the 2019 Terms of Use are silent with respect to the time period during which the modification would apply to known or accrued claims."

Carter additionally found that the 2019 agreement's class action waiver was too ambiguous to be enforceable toward the plaintiffs' proposed classes. Section 14 of the 2019 agreement said "'it involves'" a waiver for legal proceedings including class actions, but "no further details are provided in the section, or anywhere else, about the terms of this supposed class action waiver," the opinion said.

Selendy Gay Elsberg PLLC represents the plaintiffs. Cahill Gordon & Reindel LLP and Gibson, Dunn & Crutcher LLP represent Binance. Baker & Hostetler LLP represents Zhao.

The case is Anderson v. Changpeng Zhao , S.D.N.Y., No. 20-cv-02803, opinion filed 2/26/26 .

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Securities

AT&T to Include NYC Funds' Shareholder Proposal, Ending Suit (1)

Feb. 27, 2026, 12:10 PM PST; Updated: Feb. 27, 2026, 1:05 PM PST

AT&T Inc. agreed to incorporate a shareholder proposal to share employee demographic data in its 2026 annual meeting materials, resolving a lawsuit brought by New York City retirement plans.

The telecommunications giant said in a Feb. 18 email and letter dated Feb. 20 it would include the pension funds' proposal in its 2026 proxy materials, according to the dismissal stipulation signed by Judge Lewis J. Liman Thursday.

The pension funds sued AT&T in the US District Court for the Southern District of New York Feb. 17, alleging it was violating federal securities law by excluding the proposal to make the company disclose a report which breaks down its workforce by race, ethnicity, and gender.

AT&T is required to submit this report each year to the US Equal Employment Opportunity Commission and previously publicly disclosed it from 2021 to 2023, the suit said.

This suit was one of a handful filed this month over companies' plans to block such shareholder proposals.

The litigation comes after Chairman Paul Atkins' Securities and Exchange Commission said in November it would largely stop advising on whether companies can omit resolutions, despite the agency previously providing guidance for years.

"Today's settlement is a major win for investors amid ongoing attempts to undermine transparency and accountability and sends a strong message to other publicly traded companies," New York City Comptroller Mark Levine said in a statement Thursday.

The New York City Law Department represented the pension funds. AT&T represented itself, according to the stipulation, and didn't immediately respond to an email offering the ability to comment.

The case is N.Y.C. Emps.' Ret. Sys. v. AT&T Inc. , S.D.N.Y., No. 1:26-cv-01310, closed 2/26/26 .

(Updates with a comment from the New York City comptroller in the seventh paragraph.)

Commentary | **Class Actions**

Arguing Class Actions: The Case for Impressionism in Complex Jury Trials

Arguing Class Actions is a monthly column for the National Law Journal,

March 02, 2026 at 06:00 AM By **Adam J. Levitt**

Adam J. Levitt founding partner of DiCello Levitt. Courtesy photo

In civil class action and complex commercial jury trials, the parties' opposing positions are expressed through the art of persuasion. Juries receive competing narratives, not neutral compilations of facts. The winning presentation ultimately compels the verdict. In jurors' minds, it's the clearest picture of what happened, and it's the result of the communicative artistry of the best-trained trial lawyer. But how, exactly is a winning verdict most often built?

Unfortunately, law school doesn't teach which persuasion techniques actually influence jurors' decisions at trial. Instead, students quickly learn that professors give the best grades for the most comprehensive, detailed, and explanatory arguments. The students who focus on the details and who force their points of law and argument into the starkest relief rise to the top of the class. Through this process, students leave the classroom and enter the courtroom trained to approach a jury trial like a realist painter is trained to approach a canvas: showing all of the details. The assumption is that persuasion comes from completeness: The more facts that are marshalled, the more documents that are introduced, the more clauses that are parsed, the closer the jury will come to the "truth." Whether the case involves product defects, contracts, valuations, accounting rules, or complex transactions, the instinct forged in law school is to explain everything. The novice trial lawyer assumes that if every detail is proven, the jury will necessarily follow. They don't realize it at first, but after the jury votes against their side, they quickly learn that jurors don't respond to the same things that excite law professors.

Most jurors don't have the analytical tools of a scholar, who can absorb evidence and details like a hard drive. They don't deliberate with the efficiency and precision of a trained academic. And, perhaps most significantly, they don't experience a trial as an accumulation of facts—contrary to the appellate analysis of "weighted" evidence that is replete in legal briefs and decisional law. Rather, jurors take an ordinary-life, big-picture view of things as they create a story of what happened in the case. What stays with them throughout deliberations isn't the weight of every detail, but the coherence of a compelling story. So, like an impressionist painter, a well-trained trial lawyer learns the art of holding back, omitting detail, and trusting their own subjective perception of the case, knowing that selective clarity—focusing on the most important facts—and not exhaustive detail drives verdicts.

That's why communicating with a jury in a class or complex commercial trial is an act of communicative, persuasive impressionism, not realism. Call it courtroom impressionism. The goal isn't to state every detail; rather, the goal is to validate and fascinate the jurors to teach what happened, why it matters, and who should bear responsibility. To be clear, this isn't an argument for oversimplification or theatrics; rather, it's an argument for discipline. In class and complex commercial trials, the most effective trial advocacy isn't about saying more; rather, it's about choosing what to leave unsaid, trusting the jury to connect the dots, and allowing jurors to discover the truth, rather than being dragged to it.

The artful trial lawyer, or courtroom impressionist, knows that jurors don't want to be lectured; they want to be engaged. They want to feel competent. And, perhaps most importantly, they want to believe that the conclusions that they reach are both inevitable and correct. To that end, skilled trial lawyers don't force their view of the evidence upon jurors. They refrain from telling the jury what everything means, how it fits together, and why their side should win. By contrast, while the lawyer hell-bent on drowning the jury in an ocean of facts may intend to provide clarity, the effect is often disengagement. When everything is spelled out, jurors stop trusting. When jurors stop trusting, resistance grows. And, when resistance grows, the case becomes harder—if not impossible—to win.

Cognitive science confirms what experienced trial lawyers have long intuited: People reach conclusions by filling in gaps themselves, not by adopting answers handed to them fully formed. The human process of resolving ambiguity, recognizing patterns, and drawing inferences is what creates meaning and empowers verdicts. The art of persuasion demands respect for that reality.

This is where courtroom impressionism matters. Just as an impressionist painter doesn't define every edge, the courtroom impressionist doesn't offer every fact. Rather, he or she selects the most meaningful facts—those that carry interpretive weight. It's the artful execution of this selective process, born of a deep understanding of all the relevant facts, that invites the juror to participate. Just as the eye completes the impressionist's painting, when the case is well crafted, the juror completes the trial lawyer's sentences. In both the art gallery and the jury box, the audience isn't passive; rather, it's engaged in perception.

The most persuasive class and complex commercial cases are those in which jurors feel like partners in a shared project: sorting through conduct, motivations, and consequences to reach a just result. When jurors feel that the lawyer is walking with them—rather than pushing them—they're more receptive, more attentive, and, ultimately, more engaged.

This has immediate implications for how trials should be framed from the outset. Skilled trial lawyers understand that opening statements are not inventories of proof; rather, they are journeys built from that inventory. What's selected from that inventory establishes the lens through which jurors receive the case. That lens teaches jurors why the case exists and why they should trust the courtroom impressionist guiding them.

In a breach-of-contract case, for example, jurors don't need every clause and term. Rather, they need to know why the promise was broken. In a fiduciary duty case, jurors don't need to master governance structures; they need to know who was betrayed. The big picture, presented by the courtroom impressionist, always governs which details persuade.

The problem arises when lawyers confuse persuasion with explanation. Commercial litigators, particularly those steeped in motion practice, are trained to analyze and address every argument and counterargument. Before a judge, that approach makes sense. Before juries, however, it creates noise. Every additional explanation weakens momentum. Every digression framed as "what you really need to know" signals uncertainty. More explanation rarely produces more understanding. Indeed, it usually produces less.

This dynamic repeats throughout trial. On direct examination, effective courtroom impressionists don't walk jurors through every procedural step, decisional iteration, or document version. Instead, they let witnesses tell clean stories with fewer interruptions and detours. They enable contradictions to emerge through contrast, rather than commentary. They allow silence. Used well, silence is one of the courtroom impressionist's most persuasive jury communication tools.

Cross examination requires the same restraint. Jurors don't tally points the way that lawyers do. The goal isn't to extract every concession, but to create moments that jurors notice—hesitation, evasiveness, discomfort. The courtroom impressionist knows that a short, focused cross that leaves a question unanswered is often more powerful than an interrogation that answers everything.

Exhibits demand similar discipline. Jurors simply can't absorb mountains of paper. Indeed, indiscriminate document dumps telegraph uncertainty about what really matters. By contrast, selective presentation communicates confidence. Often, a single email, letter, or text establishes credibility and clarity on its own.

Experts, too, must be used impressionistically. Skilled trial lawyers select experts who can highlight a few core propositions that align with the narrative: A valuation was manipulated, a risk concealed, assumptions ignored. Once jurors grasp the point, repetition undermines credibility rather than builds it.

All of this culminates in closing argument. The closing of a courtroom impressionist doesn't persuade so much as confirm. It returns jurors to the path that they've already walked and validates the conclusions that they've prepared themselves to reach. When it works, jurors feel alignment and inevitability, not pressure, and they feel confidence that the verdict aligns with what they've already understood to be true.

None of this suggests that accuracy is optional or that complexity can be ignored. Commercial cases are complex because commerce is complex. But complexity must be curated. The discipline of trial advocacy lies in deciding which details illuminate and which merely accumulate.

Take it from the courtroom impressionists: Jury trials in class and complex commercial cases aren't about proving every fact. They're about teaching jurors what happened and why it matters. The trial lawyers who win aren't those who show jurors everything, but those who show them enough—and then give jurors space to see it for themselves.

That's courtroom impressionism. And in the jury box, it's persuasion at its most effective.

Adam J. Levitt *is a founding partner of DiCello Levitt, where he heads the firm's class action and public client practice groups. He can be reached at alevitt@dicellolevitt.com.*

Thank you to DiCello Levitt partner and Trial Center Chair Robert F. "Bobby" DiCello for contributing to this column.

LAW.COM

Litigation Trends to Watch: Claims Surge Over New DOJ Privacy Rule, Excluded Shareholder Proposals and Third-Party Hiring Agencies

A new line of class actions accuses businesses of transferring data to 'countries of concern' under the DOJ's Bulk Data Transfer Rule.

February 27, 2026 at 02:35 PM By **Mike Neighbors**

Personal data security Illustrates cyber data or information privacy idea. Color abstract internet technology. Credit: Alex/Adobe Stock

Welcome to the Trend Detection Weekly Scan from Law.com Radar. This weekly article highlights shifts and patterns in case filings that are surfaced by Law.com Radar's award-winning Trend Detection system.

New to Trend Detection? This proprietary system employs specialized algorithms to identify early signs of litigation trends in state and federal filings. Click here to learn more about Law.com Radar's new suit alerting and trend detection capabilities.

Here's what caught our attention this week:

- Class actions accuse companies of violating DOJ's Bulk Data Transfer Rule.
- Shareholders target businesses for excluding proposals.
- Employers face wave of lawsuits over third-party hiring agencies.
- Construction supplier demands payment from Florida contractors.
- Retailers fight back against SNAP disqualifications.

► **Internet & Social Media | Class Actions | California**

Law.com Radar detected a wave of class actions targeting major internet and social media companies in California between Feb. 18 and 20. The platform surfaced nine lawsuits against businesses on Radar's sector watchlist, about three times the typical weekly average across the state's federal courts and largest counties. Nearly half the suits accused **Google** of violating the U.S. Justice Department's Bulk Data Transfer Rule, which prohibits the transfer of Americans' bulk sensitive personal data to China and other 'countries of concern.' The complaints allege Google's real-time ad bidding system unlawfully transmits private browsing data to Temu, Pangle and other Chinese entities. The suits are backed by **Carroll Shamberg LLC**, **Freed Kanner London & Millen** and **Milberg PLLC**.

A similar line of class actions targets businesses with Chinese affiliates. **AliExpress**, **GNC Holdings** and **Lenovo** were accused of violating the rule by sharing bulk data with their parent companies through advertising infrastructure and associated databases. All three suits were brought by the **Almeida Law Group**.

View Surge Data

► **Food, Beverage & Tobacco | U.S, Southern District of New York**

Fortune 500 food and beverage companies were hit with a raft of lawsuits in New York Southern District Court during the week of Feb. 16. At least six cases were initiated, including a securities lawsuit challenging **PepsiCo's** exclusion of a shareholder proposal that requested an investigation into animal welfare in the company's supply chain. The suit comes after the issuance of a no-objection letter by the SEC, which announced in November 2025 that it would abstain from expressing views on most no-action requests to exclude shareholder proposals for the 2025-2026 proxy season.

The suit is part of a string of cases challenging businesses' exclusion of shareholder proposals in the wake of the SEC announcement. For instance, **AT&T** was accused of wrongly excluding a proposal to publish diversity data, and Taser manufacturer **Axon Enterprises** was hit with a similar case over a proposal requesting info on campaign spending and electioneering.

View Surge Data

► **Labor & Employment Class Actions | U.S Southern District of New York**

Employment class actions surged on Feb. 20 in New York Southern District Court. At least five cases were filed, all asserting wage-and-hour claims. Of note, automotive parts distributor **Parts Authority** was sued by a class of warehouse workers hired by logistics subcontractors. The complaint, filed by the **Pechman Law Group**, seeks to hold Parts Authority liable for the subcontractors' alleged failure to pay minimum wage and overtime, arguing that Parts Authority is the real employer because it sets conditions of employment, determines scheduling and retains authority to fire workers.

Litigation is heating up against employers that rely on third-party hiring agencies. **FedEx** was hit with a tsunami of lawsuits over alleged wage-and-hour violations by independent service providers that hire FedEx delivery drivers, and construction companies were accused of forming a payroll company to insulate them from liability for unpaid prevailing wages. Plus, the State of California launched an enforcement action against food giant **Campbell's** for allegedly requiring last-mile delivery drivers to form their own corporations and treating them as independent contractors in violation of California's 'ABC Test' for employment.

View Surge Data

► **Beacon Roofing Supply Contract Litigation | Florida**

Beacon Sales Acquisition, a subsidiary of roofing and building materials supplier **QXO**, launched a spate of contract cases in Florida during the week of Feb. 16, according to Law.com Radar. The platform detected five lawsuits, well above the typical weekly average across the state's federal courts and largest counties. The complaints target construction and contracting companies over allegedly unpaid invoices for materials purchased on open accounts. More than half the suits were brought in Florida Circuit Court for Hillsborough County.

View Surge Data

► **U.S. Department of Agriculture | New York**

Law.com Radar flagged a surge of lawsuits targeting the **U.S. Department of Agriculture** in New York during the week of Feb. 16. The platform surfaced nine cases against the department, well above the typical weekly average across New York's federal courts and largest counties. The suits are part of an influx of cases seeking to overturn the department's decisions that disqualified grocery and convenience store operators from participating in the Supplemental Nutrition Assistance Program, or 'SNAP,' based on the purported acceptance of SNAP benefits in exchange for ineligible non-food items. Most of the suits are backed by attorney **Jess M. Berkowitz** and the **Law Office of Victor J. Molina**.

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Want more trends and surges? Check out Law.com Radar for the latest results.

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California Brief

Meta Loses Bid for Insurance in Social Media Addiction Cases

Feb. 27, 2026, 6:36 PM PST

Meta Platforms Inc.'s liability insurers, including units of Hartford Insurance Group Inc. and Chubb Ltd., are off the hook for its defense costs in litigation alleging the tech giant got kids hooked on its platforms.

The lawsuits didn't present an "occurrence" that would trigger coverage because they alleged only intentional conduct by Meta, Delaware Superior Court Judge Sheldon K. Rennie said in a Friday order granting the insurers' motion for summary judgment.

"The Social Media Litigation complaints adequately allege that it was not 'mere fortuity' that youth-oriented platforms—deliberately designed to maximize engagement through algorithmic consumption—would result in children becoming addicted or otherwise suffering the alleged harms," Rennie said.

The ruling hands a major setback to Meta as it faces a first-of-its-kind jury trial in Los Angeles alleging the Facebook and Instagram parent intentionally designed its platforms to be addictive to young people. It's also contending with social media addiction lawsuits consolidated in multidistrict litigation in California federal court.

Other tech giants are locked in their own disputes with insurers over coverage for similar litigation. A unit of Travelers Cos. last November sued Alphabet Inc.'s Google in the Delaware state court, seeking a ruling that it doesn't have to cover suits alleging YouTube's algorithms were designed to maximize kids' viewing time.

Meta's coverage dispute with its insurers ended up back in Rennie's court following a forum fight.

After Hartford sued Meta, the tech giant removed the case to federal court, filed a parallel suit in California federal court, and then sought to transfer the coverage fight to the underlying multidistrict litigation in California.

The judge overseeing the MDL remanded the case to Delaware state court and dismissed Meta's parallel suit, but Meta was still seeking to pause or knock out the Delaware case until the underlying claims were resolved.

Rennie said he didn't need to wait for the underlying litigation to determine Meta's intent behind its platform features, however, because the complaints alleged purely intentional conduct.

"This Court's assessment of whether the underlying complaints *allege* intentional conduct is a legal inquiry that does not overlap with the factual determination of Meta's actual intent in the Social Media Litigation," he said.

A parallel suit the tech giant filed in California state court is still pending, but the insurers have moved for dismissal there.

Bayard PA and Ruggeri Parks Weinberg LLP represent Hartford. Stamoulis & Weinblatt LLC and Holwell Shuster & Goldberg LLP represent Chubb. Berger McDermott LLP and Covington & Burling LLP represent Meta.

The case is Hartford Casualty Ins. Co. v. Instagram LLC , Del. Super. Ct., No. N24C-11-010, 2/27/26 .

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Bloomberg Law

Manage Newsletters

Juul Labs Fails to Sway Court on E-Cigarette Buyer Class Status

Feb. 27, 2026, 12:27 PM PST

Summary by Bloomberg AI

AI Generated

- A federal judge granted certification to a class of direct e-cigarette purchasers and partial certification to classes of indirect purchasers and resellers in antitrust litigation against Juul Labs Inc.
- The judge rejected Juul's claims that the named direct purchasers couldn't adequately represent vape shops and large distributor-direct purchasers who bought millions of dollars' worth of Juul products.
- The multidistrict litigation is centered on federal and state claims that Juul made a deal with Altria Group Inc. in which the tobacco company agreed to refrain from competing in e-cigarettes with its MarkTen product in exchange for a stake in Juul.

E-cigarette maker Juul Labs Inc. lost a bid to block class status in antitrust litigation, as a federal judge concluded that the plaintiffs' claims meet all the requirements to certify a class action.

In a Thursday order, Judge William H. Orrick of the US District Court for the Northern District of California explained why he granted certification to a class of direct e-cigarette purchasers and partial certification to classes of indirect purchasers and resellers on Feb. 5. Orrick also denied Juul's motions to exclude direct purchaser plaintiffs' experts.

The multidistrict litigation is centered on federal and state claims that Juul in 2018 made a $12.8 billion deal with Altria Group Inc. in which the tobacco company agreed to refrain from competing in e-cigarettes with its MarkTen product in exchange for a 35% stake in Juul. A trial is set for May.

Orrick rejected Juul's claims that the named direct purchasers—individuals who purchased approximately $2000 of Juul products—couldn't adequately represent vape shops and large distributor-direct purchasers who bought millions of dollars' worth and who make up 93% of the direct purchaser market.

Juul argued that because the direct purchaser plaintiffs made different transactions from large companies whose purchases dominated the market, the three named plaintiffs were atypical and should at most represent a class of other online purchasers.

But the differences identified by defendants don't undermine the typicality or adequacy of the named direct purchaser class representatives, Orrick said.

"The three named DPPs have claims typical across the DPP class for allegedly being overcharged due to the alleged anticompetitive conduct between Altria and JLI and they are adequately incentivized to pursue those claim," Orrick said.

Juul also argued that many of the distributor and retailer purchasers covered by a forum selection clause or arbitration agreements should be excluded from any class that is certified.

Orrick said that which forum selection clauses may be asserted depends on whether the entities subject to forum selection clauses opt-out or remain in the litigation. "If entities covered by forum selection clauses opt-out, then this is a non-issue," he said. "If entities covered by forum selection clauses remain in the DPP class, the enforceability of those clauses can—if JLI moves to enforce them—be handled at that juncture."

The class period from November 2018 to March 2024 also had an adequate basis, Orrick said.

Indirect Purchaser Claims

Orrick granted certification to indirect purchaser classes but excluded plaintiffs in Arkansas, South Carolina, Tennessee, and Virginia because those states don't allow class actions for the antitrust claims at issue.

He also granted class status to a class of resellers, also excluding those states.

Juul had opposed certification of indirect purchasers who bought Juul products from brick-and-mortar retailers, saying the experts for both indirect buyers and indirect resellers were incapable of showing classwide proof of injury.

In his opinion, Orrick said both classes are obviously numerous and that identified class representatives have claims typical of the other indirect class members. "As with the DPPs showing, common questions of law and fact are plentiful," he said.

Juul Labs is represented by Cleary Gottlieb Steen & Hamilton LLP. The plaintiffs are represented by firms including Joseph Saveri Law Firm LLP and Kaplan Fox.

The case is In re Juul Labs Inc. Antitrust Litig. , N.D. Cal., No. 3:20-cv-02345, 2/26/26 .

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$299.5 million Toyota forklift emissions settlement moves forward

courthousenews.com/299-5-million-toyota-forklift-emissions-settlement-moves-forward

Jeremy Yurow February 28, 2026

The company logo adorns a sign outside a Toyota dealership Sunday, March 21, 2021, in Lakewood, Colo. (AP Photo/David Zalubowski)

(CN) — A federal judge granted preliminary approval to a $299.5 million class action settlement resolving claims that Toyota manipulated emissions testing on more than 272,000 gasoline and diesel-powered forklifts.

U.S. District Judge Jacqueline Scott Corley's decision opens the door for roughly 272,422 forklift owners and lessees to file claims and potentially receive payments averaging between $1,400 and $2,800 per vehicle. The settlement also includes a service plan valued between $83.7 million and $189.3 million.

The plaintiffs claim that Toyota and its subsidiaries engaged in a pattern of misconduct in the design, development and testing of forklift engines. They say the conduct caused buyers to pay inflated prices for equipment that did not perform as advertised.

Corley, a Joe Biden appointee to the Northern District of California, said that Thursday's decision was fair after weighing the strength of the plaintiffs' claims against the risks and costs of continued litigation.

"At the time the settlement was reached, the pending motions to dismiss raised issues regarding preemption under the Clean Air Act and lack of Article III standing," she wrote in her order. "If plaintiffs prevailed on these motions, plaintiffs still faced significant challenges with class certification, dispositive motions, trial, and possible appeal, all of which could take years to resolve."

She compared the case to the Volkswagen "clean diesel" scandal, where the automaker paid billions after regulators found it had used software to cheat emissions tests.

"Plaintiffs allege a common course of conduct, including manipulation of emissions and test results, that applies to all class members and is central to their claims," she said.

On the question of whether a class action was the appropriate vehicle for the dispute, Corley was direct.

“If class members were to bring individual lawsuits against [defendants], each member would be required to prove the same wrongful conduct to establish liability and thus would offer the same evidence,” she wrote. “Given that class members number in the … thousands, there is the potential for just as many lawsuits with the possibility of inconsistent rulings and results. Thus, classwide resolution of their claims is clearly favored over other means of adjudication.”

The settlement was reached after extensive discovery and hard-fought litigation, including motions to dismiss filed by Toyota. The parties ultimately reached an agreement through mediation overseen by retired U.S. District Judge Layn Phillips.

Under the deal, Toyota will pay $299.5 million into a settlement fund. Up to 25% of that amount, about $74.8 million, may go toward attorneys’ fees, along with up to $500,000 in litigation expenses and no more than $895,000 in administration costs. The remaining money will then be distributed among class members on a per-capita basis.

If multiple class members submit valid claims for the same forklift, the original owner will get 60% of the payout for that forklift, and the remaining 40% will be split equally among the other claimants.

Corley appointed David Stellings and Kevin Budner of Lieff Cabraser Heimann & Bernstein LLP and Roland Tellis of Baron & Budd PC as settlement class counsel. The court appointed Verita Global LLC as settlement administrator and Citibank as escrow agent.

Plaintiffs must seek final approval of the settlement by April 30 and file their request for attorneys’ fees with detailed billing records at the same time. Class members have until June 1 to opt out of the settlement or object to it.

The parties will return to court for a final approval hearing on July 9 in San Francisco.

Representatives for Toyota and the plaintiffs did not immediately respond to requests for comment.

Asbestos lawyers want to destroy key evidence, Del. SC told | State AGs & Supreme Courts

legalnewsline.com/state-ags-and-supreme-courts/asbestos-lawyers-want-to-destroy-key-evidence-del-sc-told/article_78defd29-8829-47e3-82eb-73f36a3d0201.html

John O'Brien, John O'Brien March 2, 2026

Delaware Supreme Court in Dover
https://courts.delaware.gov/

DOVER, Del. – Asbestos lawyers are orchestrating the destruction of evidence to leave defendants unable to mount a full defense, companies like Johnson & Johnson and Dow Chemical are telling the Delaware Supreme Court.

The dispute began last year when those in control of asbestos trusts – which are funded by companies that faced bankruptcy from lawsuits – announced they were planning to destroy evidence gathered in resolved claims.

But companies who fight these cases in court often use that information to show whether plaintiffs blame some companies in their lawsuits while naming others that established trusts. A Delaware judge last year stopped the deletion of records, and the trusts have appealed to the state Supreme Court.

"After multiple unsuccessful discovery of the Claims Data, Defendants (and the plaintiff law firms that control them) tried a new tactic: Destroy the Claims Data to ensure there is nothing left to subpoena," companies wrote in a brief filed last week.

"The result, if permitted, would be an unprecedented spoliation of evidence."

There are two avenues for asbestos victims to be compensated – sue companies in court and/or submit claims to companies that have already established bankruptcy trusts. There are dozens of these trusts.

Exposure evidence is key in court. Should someone sue J&J or others, those defendants want to be able to show whether the plaintiff also blamed other products in claims with bankruptcy trusts.

It's called "double-dipping," and in 2014 evidence of plaintiff lawyers manipulating the system by blaming different companies at different times for the same injuries was uncovered during the bankruptcy of Garlock Sealing Technologies.

Ten trusts were sued after planning to destroy bankruptcy claims that had been settled or withdrawn. It caught the attention of South Carolina Attorney General Alan Wilson and other AGs who issued a letter to the trusts and the Delaware Claims Processing Facility warning destruction of documents would jeopardize fairness in their states' courts.

The trusts, which are operated by boards that are aided by trust advisory committees often featuring plaintiffs lawyers, claim destruction of old records is key to protecting the privacy of claimants.

Companies argued in their recent brief that asbestos lawyers often conceal trust claims so that solvent companies are found more at fault in lawsuits. J&J, which tried to settle thousands of claims through bankruptcy court but was stopped thanks to the efforts of the firm Beasley Allen, anticipates fighting cases in court "for decades to come."

"But, as alleged in the complaint and as the Court of Chancery found, the claimants and their tort counsel who submitted the claims data in the first instance are not reliable sources for obtaining it," the companies wrote.

"Claimants suing manufacturers will deny exposure to other products and conceal that they have asserted the same exposure when submitting claims to trusts."

Vice chancellor J. Travis Laster ruled last year that without the claims data, defendants will lose more cases and settle more claims for larger amounts.

"For solvent defendants, the settlement trusts constitute the only realistic source of information about other potential exposures and their severity," Laster wrote.

Before Garlock Sealing Technologies convinced a judge in 2014 that double-dipping by plaintiff lawyers was happening, companies facing lawsuits had no way to prove the same clients were telling different exposure histories in claims made to bankruptcy trusts and in lawsuits filed in various courts.

After the Garlock ruling, which came after the company showed exposure history contradictions in the 15 cases it was permitted to investigate, 16 states passed laws requiring automatic disclosure of trust claims to civil defendants so they could find out who was being blamed for what.

The trusts planning destruction are Armstrong World Industries, Babcock & Wilcox, Celotex, Federal-Mogul, Flinkote, Owens Corning, Pittsburgh Corning, Quigley, United States Gypsum and WRG.

Court expert can be sued over false talc study, judge says | Federal Courts

legalnewsline.com/federal-courts/court-expert-can-be-sued-over-false-talc-study-judge-says/article_c4792af6-cad5-4e1b-a003-386c4eb0ce9f.html

Daniel Fisher, John O'Brien March 2, 2026

Moline
https://feinstein.northwell.edu/

NEW YORK - A New York doctor discovered the risks of producing research for plaintiff lawyers after a federal judge ruled Johnson & Johnson can proceed with a lawsuit accusing Dr. Jacqueline Moline of fabricating an article claiming 33 people contracted cancer from asbestos-tainted talcum powder.

After a lengthy legal fight, Dr. Moline was ordered to turn over the names of the subjects in her study. And J&J quickly discovered at least 11 people in her study had blamed other sources of asbestos for their cancer in lawsuits, including three who paid Dr. Moline to provide expert testimony about those non-talc exposures.

Faced with such evidence, Judge Georgette Castner in New Jersey reversed an earlier dismissal and allowed J&J to proceed with a lawsuit against Dr. Moline for trade libel.

The company's "new allegations when accepted as true for the purposes of a motion to dismiss render it plausible that Dr. Moline fabricated or misrepresented the underlying data from which her conclusions were drawn," Castner wrote in Feb. 27 opinion.

The ruling helps J&J in its campaign to neutralize highly paid plaintiff experts who are essential to tens of thousands of lawsuits claiming asbestos-contaminated talcum powder causes mesothelioma, a deadly cancer of the chest lining, and ovarian cancer. Without scientific testimony that talc contains asbestos – which J&J denies – and that the trace amounts of asbestos in talc can cause cancer, the lawsuits won't survive motions to dismiss.

A problem for plaintiff lawyers is some of their most dependable experts, including Dr. Moline, started working asbestos cases long before the talc theory emerged and can be accused of switching their opinions once they were paid to identify talc as a cause. William Longo, for example, claims to have found asbestos fibers in old bottles of Johnson's Baby Powder and other cosmetic talc products. But until he was paid to provide evidence in talc cases, he dismissed claims of asbestos in talc as a "urban legend."

Dr. Moline, an occupational health specialist with Hofstra University's Northwell Health in New York, has testified in hundreds of asbestos lawsuits, most of them accusing other companies of causing a plaintiff's illness. That record came back to haunt her in 2019 when she published an article in the Journal of Occupational and Environmental Medicine describing 33 mesothelioma patients with "no other identifiable source of exposure apart from cosmetic talc."

After the article came out, Dr. Moline cited the findings in court testimony and before Congress, even explaining that the talc theory emerged because experts had no other way to explain how women with no history of industrial exposure to asbestos came down with mesothelioma.

Johnson & Johnson blamed her article, along with sympathetic coverage by the Reuters newswire, for declines in talc sales and its ultimate decision to remove the product from the U.S. market. The company offered $9 billion to settle outstanding ovarian cancer claims, after twice failing to resolve litigation through bankruptcy, but an effort by the firm Beasley Allen defeated the settlement and sent the claims back to courts.

Dr. Moline's claims of "no other known exposure" were dubious from the start, since everyone in the modern-built environment inhales asbestos fibers daily in far larger volumes than the trace amounts plaintiff experts claim to find in cosmetic talc. But in Dr. Moline's case, it was particularly difficult to square with the fact some of the patients in her article had claimed alternative exposures, and she knew it.

Dr. Moline has consistently declined comment on the litigation and acknowledged one example of alternate exposure in an erratum to her original article. But J&J detailed multiple others, including Stephen Lanzo, who Dr. Moline testified for in a lawsuit claiming exposure to asbestos-coated pipe.

Dr. Moline also testified in the case of Doris Jackson, saying she was exposed to "ceiling pipes with degrading insulation while working as a teacher." In her article, Dr. Moline said Jackson, identified as "Case #3", "had no exposures to asbestos other than talcum powder."

Plaintiff talc experts were further undermined when a federal judge in Virginia allowed a similar lawsuit to proceed against three more doctors who published an article claiming 75 subjects developed cancer after being exposed to talc.

Drs. Theresa Emory, John Maddox, and Richard Kradin, described by the judge as "prolific plaintiff-side expert witnesses," published the follow-up to Dr. Moline's study in the American Journal of Industrial Medicine 2020. Some of the same unnamed subjects of that study were in Dr. Moline's paper.

Judge Castner said Dr. Moline may have had a financial motive for issuing the tainted talc report to "add a veneer of credibility" to her work as an expert witness after courts had "repeatedly barred Dr. Moline from offering testimony."

Class Action

Manage Newsletters

Deep Dive

Beasley Allen Ethics Showdown Rattles J&J Talc Litigation

March 2, 2026, 8:23 AM PST

Summary by Bloomberg AI

AI Generated

- Lawyers are preparing for bellwether ovarian cancer trials against Johnson & Johnson, but a plaintiff firm's ethics issue is testing litigation management for roughly 70,000 cases.
- Beasley Allen, co-lead counsel for the federal multidistrict litigation, was disqualified from 435 cases in New Jersey state court due to its association with a former J&J lawyer, James Conlan.
- The disqualification could delay initial trials or potentially edge the overall litigation closer to universal settlement, with some lawyers saying they are prepared to move on without Beasley Allen and others downplaying the impact of losing the firm.

Lawyers nationwide are gearing up for bellwether ovarian cancer trials against Johnson & Johnson this year, but a plaintiff firm's ethics quagmire is testing litigation management for roughly 70,000 cases in novel ways.

Beasley Allen, co-lead counsel for the sprawling federal multidistrict litigation over allegedly tainted talc products, was on a hot streak. It's won two trials in recent months against J&J after the pharma giant's third failed effort to force a mass settlement in bankruptcy, setting the stage for further trial verdicts where the New Jersey-based health company has already lost billions.

Then last month, the Alabama-based firm's preparation for three of the six bellwether federal litigants nearing trial was undercut by a novel ruling disqualifying the firm from 435 of the roughly 2,700 cases in New Jersey state court—called multicounty litigation—raising questions about past verdicts, key experts, and who could represent the firm's thousands of clients in the federal cases if courts apply that disqualification nationwide.

Key players and experts wonder whether the fallout could delay initial trials, or potentially edge the overall litigation closer to universal settlement due to the jettisoning of one of the loudest voices against resolution through bankruptcy.

“Clearly J&J thinks this is a worthwhile thing to scream and jump around about, which tells you something about whether they are more willing to play with the remaining firms,” said complex litigation researcher and University of Georgia Law School Professor Elizabeth Chamblee. “They clearly see Beasley as a hindrance.”

The US District Court for the District of New Jersey has scheduled a Tuesday conference to discuss J&J’s call to toss Beasley Allen from thousands of cases due to “association” with former J&J lawyer James Conlan in mediation.

Beasley Allen says it’s been integral to the overall litigation.

The firm’s attorney in this ethics dispute, Jeffrey Pollock of Pollock Law, said in a federal brief that disqualifying it “based on a single state appellate court’s unprecedented expansion of an ethics rule would disrupt coordinated leadership, impair settlement negotiations, and prejudice litigants who have relied on their chosen counsel for the better part of a decade.”

While some fellow trial lawyers see losing the firm as a big blow to the collective, others say they’re prepared to move on—and one insists it can easily take over Beasley Allen’s cases.

‘Switching Sides’

J&J argues Conlan, a former restructuring counselor who spent hundreds of hours representing the company before leaving to start a mass torts settlement consultancy, “switched sides.”

A New Jersey appeals court found that collaboration in a mediation between Beasley Allen and Conlan violated a rule—one that all states have adopted in some form—limiting “assistance” from nonlawyers with conflicts in a case.

That assistance, even without proof of the prior lawyer sharing confidential secrets, can disqualify a firm.

“Conlan’s prolonged access to J&J’s privileged information, followed by collaborative efforts with its most prominent adversary, leaves us with clear concern for the preservation of trust intrinsic to the attorney-client relationship,” the court said.

In a February hearing urging a disqualification pause while Beasley Allen seeks reversal from the New Jersey Supreme Court, Pollock said a decision like this hasn’t been reached anywhere else.

J&J’s lawyer Peter G. Verniero, a former New Jersey Supreme Court justice now with Sills Cummis & Gross PC, said demanding proof of a shared secret would eviscerate ethics protections against collusion. The company is leaning into its win, saying a Beasley Allen exit could get the litigation closer to a deal—something Beasley Allen fought when it meant going through bankruptcy.

“Beasley Allen’s disqualification for its egregious ethical violations should facilitate—not impede—the progress of this proceeding,” Erik Haas, J&J’s worldwide vice president of litigation, said in a statement.

MDL Impact

If Beasley Allen is disqualified from the MDL, the fallout could be tough on other plaintiff firms, some attorneys involved in the litigation said.

For 10 years Beasley Allen has taken the lead on developing trial testimony experts, taking depositions, and gathering evidence for use by all plaintiffs to litigate talc personal injury cases, said attorney David Selby of Bailey & Glasser LLP.

“The impact is just enormous,” Selby said. “All of that has been organized and run by Beasley Allen.”

One of Beasley Allen’s co-counsel is fine with ditching the firm: Allen Smith, a lawyer who has been jointly representing clients with the firm. He informed the court that he’s capable of moving forward with their thousands of cases on his own.

Mississippi-based Smith Law Firm and Beasley Allen had a public falling out over Smith’s support to settle their more than 11,000 joint cases when J&J launched its third bankruptcy gambit in 2024, as both firms accused the other of betraying their clients’ interests. Beasley Allen has sued Smith, accusing the joint venture partner of failing to pay its share of litigation expenses as it racked up more than $240 million in litigation funding debt.

Smith didn’t respond to a request for comment. But other lawyers, such as James Onder, whose firm Onder Law represents roughly a quarter of ovarian cancer patients suing J&J, also downplayed the impact of losing Beasley Allen.

“There’s a lot of good lawyers ready to step to the plate and take over and handle cases,” he said. He added that Ashcraft & Gerel, which has long served as co-lead in the MDL, is a “really good firm.”

An Ashcraft & Gerel attorney didn’t respond to a request for comment.

The potential loss of Beasley Allen will only be felt acutely by firms that “don’t know how to work up their own experts,” said plaintiffs’ attorney Majed Nachawati of Nachawati Law Group.

“We’re going to go forward with our cases,” said Nachawati, who represents more than 4,000 talc plaintiffs and is gearing up for two trials. “We don’t need MDL leadership to try our cases for us.”

The multidistrict litigation case is Johnson & Johnson Talcum Powder Prod. Mktg., Sales Pracs. and Prod. Liab. Litig. , D.N.J., No. 3:16-md-02738, case management conference 3/3/26 .

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California Brief

Live Nation's Antitrust Reckoning Kicks Off Before New York Jury

March 2, 2026, 2:00 AM PST

Live Nation Entertainment Inc. heads to a jury trial on Monday over claims by the US Justice Department and more than three dozen states that the nation's largest concert promoter is illegally monopolizing the live music industry and should be forced to shed its Ticketmaster unit.

A jury in New York City federal court will hear evidence in a civil trial that could last five or six weeks about whether the largest US venue owner and ticket seller violated antitrust law. If jurors side with the government, they'd also determine the amount of damages owed to the states on behalf of consumers, and then the judge would decide on other remedies, including a potential breakup.

The trial is moving ahead as settlement talks stalled despite Live Nation's months-long effort to reach an agreement, Bloomberg reported.

Read More: Live Nation's Settlement Efforts Stalled Ahead of DOJ Trial

The trial promises to offer a snapshot of the movers and shakers in the live entertainment industry. Live Nation's **Michael Rapino** and **Joe Berchtold** are expected to testify alongside other key figures in the music industry such as mogul **Irving Azoff** and Louis Messina, chief executive officer of the touring company that handles **Taylor Swift**'s tours.

Live Nation CEO Michael Rapino
Photographer: Kyle Grillot/Bloomberg

Artists including **Kid Rock**, a major supporter of President Donald Trump, and Ben Lovett of folk rock band Mumford & Sons are also expected to appear.

Jury selection begins Monday, with opening statements set to start the next day. US District Judge **Arun Subramanian** is presiding over the trial.

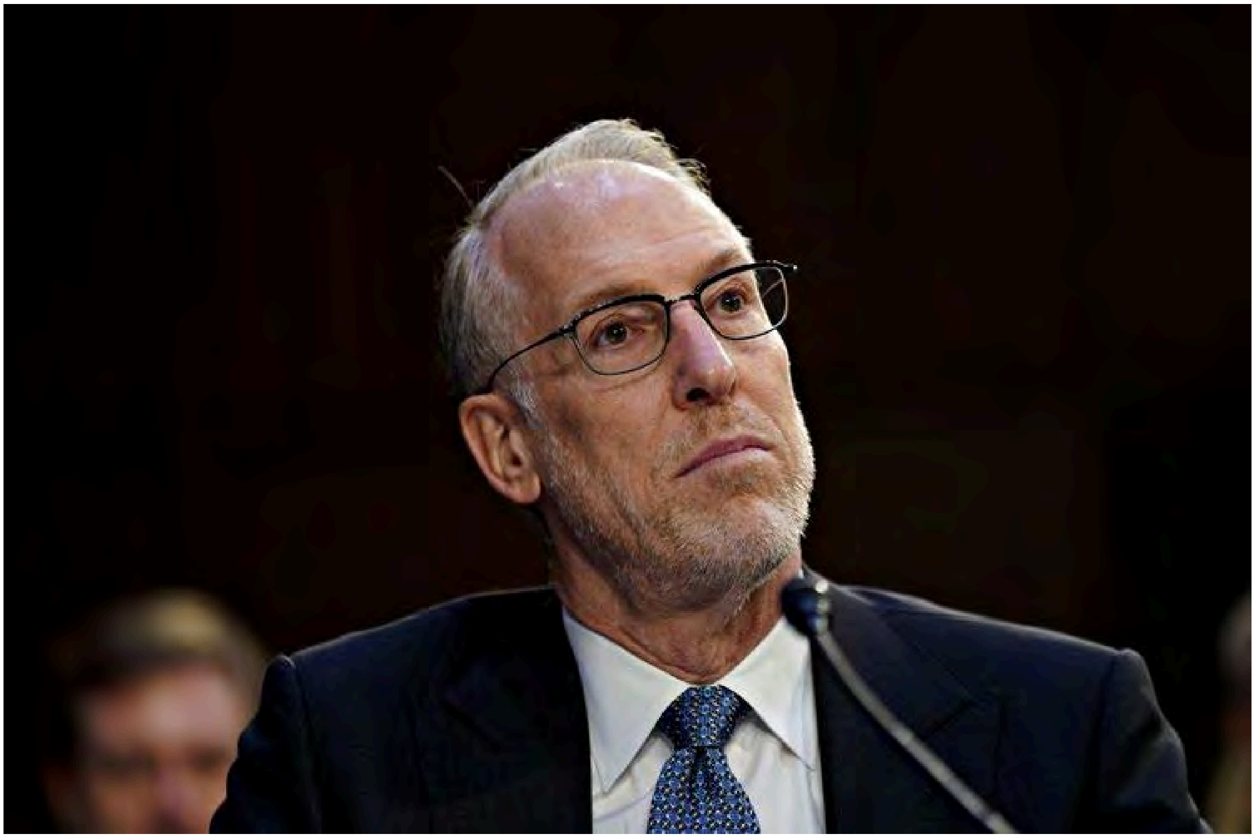
Live Nation had sought to bar anyone from serving on the jury who had ever purchased a ticket from Ticketmaster, something Subramanian indicated at a hearing on Friday he wouldn't allow. The judge did say that he would probe any biases of each potential juror both for and against the company.

Live Nation has denied it operates an illegal monopoly even as it has endured nearly two decades of antitrust scrutiny. The company merged with Ticketmaster in 2010 following a lengthy antitrust investigation. At the time, the Justice Department required the combined company to pledge that it wouldn't tie its services together or retaliate against venues that switched promoters or ticketing services.

In 2019, the Justice Department alleged that Live Nation had violated that promise and entered into a new settlement imposing an external monitor to ensure compliance and investigate any further disputes. The Biden administration then filed a lawsuit in 2024 seeking to break up the company.

‘Reinforcing’ Monopolies

Antitrust enforcers allege that Live Nation operated “mutually reinforcing” monopolies to force venues and artists to use its services. The company controls more than 265 concert venues in North America and manages more than 400 musical artists, giving it more than 65% of the concert promotion market, the government says. It also controls 87% of the concert ticketing market through its Ticketmaster subsidiary, the DOJ says.



Live Nation CFO Joe Berchtold
Photographer: Al Drago/Bloomberg

Live Nation argues those market shares are actually much lower. It says DOJ is improperly excluding a large number of venues, as well as ticketing services sold to venues for sporting events. If those things are factored in, it says its market share is a little more than 40%.

The Justice Department and a spokesperson for the New York Attorney General’s office, which is helping to lead the litigation on behalf of the states, declined to comment ahead of trial.

“Live Nation has manipulated the market and made itself untouchable by any competitor — not because it is better, but because it has created a monopoly,” said California Attorney General Rob Bonta in a statement. “This is illegal, plain and simple, and artists, their fans, and the live venues that support them are hurting as a result.”

In a statement last month, Dan Wall, the company's head of regulatory affairs said the "claim that Live Nation and Ticketmaster are responsible for high concert ticket prices and fees was, and is, false." Wall, who represented the company in private practice before joining Live Nation in 2023, said the company would be willing to settle the case before trial, but that a breakup was "implausible and improper."

The jury will decide whether Live Nation violated US and state antitrust and consumer protection laws. Under federal antitrust law, any damages awarded to states would be automatically tripled. Live Nation would also be liable for attorneys fees.

The states have not yet made their total damages numbers public, and the final math is still being sorted out, but at a hearing on Friday Subramanian noted that their damages model equates to "less than $2" per ticket.

The government aims to show at trial that the company used its control over popular concerts to coerce venues into signing lengthy, exclusive contracts for its ticketing services rather than those offered by rivals. The DOJ and states also want to convince jurors that the company forced artists who wanted to play in its amphitheaters to use its concert promoters.

Live Nation argues that it has no obligation to work with outside concert promoters at venues it owns. The Justice Department argues the only solution is to unwind the 2010 merger.

Read More: Why US Sued Live Nation, Big Tech Firms for Antitrust

The lawsuit seeking to break up Live Nation was part of a key initiative of the Biden administration to combat corporate power across the economy. The Trump team has carried parts of that effort forward, choosing to settle most merger cases, while moving ahead with monopolization cases against Alphabet Inc.'s Google, Meta Platforms Inc. and Live Nation.

"The only logical remedy is to break up the company," said **Gene Kimmelman**, who was involved in the Justice Department's 2010 merger review and is now a senior fellow at Yale University's Tobin Center for Economic Policy. The government "tried a milder remedy. It allowed the merger to go through. It tried to pry open the market and none of it worked."

With the government's attempts to break up Google's search business and Meta's social media operations now having been rejected by courts, the Live Nation case remains as the "best opportunity for the government to win a breakup," said Kimmelman, who also served in the Justice Department at the beginning of the Biden administration.

Breakup Challenge

Emboldened by the government's shortcomings in the Google and Meta cases, Live Nation says a breakup should never have been on the table given the government's prior review of the deal.

David Dahlquist, who represented the Justice Department in the Google search remedy trial last year, will take point for the government. Live Nation is represented by lawyers from law firms Latham & Watkins and Cravath Swain & Moore.

Live Nation gained a slight boost last month when Subramanian ruledthat the Justice Department can't argue Live Nation monopolized the concert promotions business.

That decision by the judge should eliminate a potential breakup from the case, according to the company. "What remains is a limited set of business practice questions," the company said in a statement.

The Justice Department disagrees and plans to offer evidence that Live Nation pressured venues into signing exclusive agreements with Ticketmaster by threatening to withhold desirable concerts. Those allegations could underpin a breakup, antitrust enforcers say.

Executives from rival ticketing companies including StubHub Holdings Inc., SeatGeek Inc. and AEG Presents LLC are expected to testify alongside representatives from popular concert venues such as New York's Barclays Center, that venues that switched away from Ticketmaster lost out on popular concerts.

The first days of the trial are expected to focus on a fight between Ticketmaster and SeatGeek over the Barclays Center contract. In 2021, Barclays switched to SeatGeek, only to return to Ticketmaster two years later.

Executives from Barclays and SeatGeek are expected to testify in the first week, along with Live Nation's Rapino.

The case is US v. Live Nation Entertainment, 24-cv-03973, US District Court, Southern District of New York (Manhattan).

--With assistance from **Mikella Schuettler**.

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News | **Personal Injury**

Law Firm Taps AI to Increase Settlements by 300%: 'Issues My Team Was Missing'

A Houston personal injury firm that was initially skeptical of artificial intelligence says AI spots details that now Zaid attributes this to the language and key details the AI identified in the medical records his team had previously overlooked.

February 27, 2026 at 01:58 PM By **Laura Lorek**

John K. Zaid, founder of of John K. Zaid & Associates. Courtesy photo.

A Houston law firm reports that artificial intelligence has improved its results, helping injury victims secure larger settlements.

And it turns out the key is in the details, as AI captures nuances in medical records that once went overlooked.

John K. Zaid, founder of John K. Zaid & Associates in Houston, has operated his 180-employee firm for 24 years. He initially saw no need for artificial intelligence, believing his existing system was effective.

Zaid's workflow relied on case managers using spreadsheets to track medical billing, treatment data and case assignments.

"If it ain't broke, don't fix it," Zaid said. "I've always been like, 'hey, I got an amazing thing going on, and I've got it figured out. I don't need this.'"

After learning from a trusted colleague about the AI platform EvenUp, Zaid decided to implement it.

By leveraging EvenUp's personal injury database, he says the firm has increased some settlement offers by up to 300 percent, improved case intake, and delivered faster results.

San Francisco-based EvenUp is among several legal tech startups using AI to automate administrative tasks for plaintiffs' firms. Others include Eve in San Mateo, which has raised $164 million and is valued at $1 billion, and Supio in Seattle, which has secured $91 million in funding. In October, EvenUp raised $150 million, led by Bessemer Venture Partners, bringing its total funding to $385 million and its valuation to $2 billion.

Zaid, once skeptical of artificial intelligence, now credits it with maximizing payouts and strengthening negotiations.

The most significant operational improvement has been AI communication agents identifying clients who missed appointments, a recurring issue that case managers often overlook.

"The AI flagged issues that my team was missing...about 20 percent reported missing appointments. That was always my struggle," Zaid said.

The firm uses EvenUp's AI Communication Agents for routine client check-ins, allowing case managers to focus on complex tasks.

Launched in January, these agents can open insurance claims, confirm liability and coverage, monitor treatment status, request medical records, and verify balances before settlement. They communicate via voice calls and text messages in Spanish and English.

According to Zaid, all clients are informed that they are interacting with an AI agent, and none have requested to opt out.

Despite the AI platform's increased efficiency, Zaid does not plan to reduce his workforce.

"It's not my objective to ever release anybody or fire anybody....My objective is to get better results for our clients — more efficiency, more effectiveness, putting out a better work product," Zaid said.

“The AI check-ins are far from replacing the human touch in my office. Nothing is going to replace my team or me speaking to our clients.”

EvenUp’s workflow automation and AI Playbooks have enabled the firm to send 30 percent more demand letters each month without increasing staff or overhead.

Fred Loya Insurance, which plaintiff firms claim is known in Texas for contesting claims, began offering policy limits after EvenUp issued demands. Zaid attributes this to the language and key details the AI identified in the medical records his team had previously overlooked.

The impact on settlements has been significant. In one case, Zaid recalled, “The adjuster called my attorney and said, ‘We’re accepting your demand of $450,000’ without even a negotiation.”

Zaid emphasized that while AI tools have transformed operations, human judgment remains central to the firm’s work.

“We are still the ones negotiating with insurance companies, speaking to clients about the value of their case, and ultimately resolving it on their behalf. That’s something we can never replace,” he said.

Looking ahead, Zaid is working with EvenUp to enhance the platform, particularly in areas like medical record retrieval. He views himself as a partner in shaping the company’s future, with litigation support and discovery tools as upcoming priorities.

Securities

Insight

Groundbreaking AI Privilege Opinion Offers Roadmap for Counsel

March 2, 2026, 1:28 AM PST

United States v. Heppner is the first case in the country where a federal judge has weighed in on the intersection of AI and privilege.

The holding itself won't surprise anyone who thinks carefully about privilege doctrine. But the court's dicta about what could be protected under different facts is where things get interesting for practitioners.

Why Heppner Lost

Bradley Heppner's conversations with Anthropic's AI tool Claude in 2025 focused on his status as a target of a federal securities fraud investigation. His chats discussed financial transactions under government scrutiny and the legal strategies he might need to deploy if indicted.

A federal grand jury in the US District Court for the Southern District of New York had charged Heppner with securities fraud, wire fraud, conspiracy, making false statements to auditors, and falsifying records, a scheme the government alleges caused $300 million in losses to investors. Days later, FBI agents descended on his Dallas home in early November 2025 with both a search warrant and an arrest warrant.

After the FBI raid, Heppner's counsel negotiated a stipulation allowing them to review seized materials, giving Heppner an opportunity to assert privilege. His attorneys withheld 31 documents logged as "artificial-intelligence generated analysis" for the "purpose of obtaining legal advice." Heppner claimed both attorney-client privilege and work product protection.

The government, undeterred, filed a motion to release the AI records, arguing they were neither attorney communications nor confidential, and couldn't have been made at counsel's direction because Heppner hadn't yet retained a defense lawyer when the chats occurred. In a 12-page opinion, Judge Jed Rakoff agreed.

The holding itself is unremarkable. Heppner's AI chats are no more privileged than a Google search. It doesn't matter how sensitive the subject matter was or that he later handed the results to counsel. Providing search results or AI outputs to a lawyer after the fact doesn't retroactively cloak those communications in privilege or work product protection.

The Court's Invitation

What's notable is what the court said next. Under different circumstances, he wrote, Claude "might arguably be said to have functioned in a manner akin to a highly trained professional who may act as a lawyer's agent within the protection of the attorney-client privilege."

That language should ring a bell for most litigators and hopefully all criminal defense attorneys: It's the *Kovel* doctrine. To refresh, *Kovel* extends attorney-client privilege to non-attorney agents (accountants, financial analysts, interpreters, industry specialists, etc.) when:

The agent is employed by the attorney
The communication is made in confidence
The agent's role is to help the attorney understand complex subject matter well enough to give legal advice.

In *Kovel*, the accountant translated a client's financial records into a format the lawyer used to provide legal advice to the client.

Judge Rakoff's opinion suggests that an AI tool could perform the same sort of highly specialized professional services (processing complex datasets, synthesizing regulatory changes over time, organizing documents for attorney review, etc.), as long as counsel actively directs the process and the communications remain confidential.

That's a meaningful signal for practitioners.

***Heppner's* Open Door**

Heppner represents the introductory lines of what will likely be an epic tale about the intersection of AI and legal privilege. The court raises serious questions practitioners must start thinking through now, including:

Direction. The *Kovel* doctrine requires the agent to operate at the attorney's direction. What does that look like with AI in practice? Does it require a formal engagement letter? A documented workflow? Queries attributed to the attorney rather than the client? The more documented and operationally genuine the attorney's role is, the stronger the argument, but the contours remain unclear.

Confidentiality. The *Kovel* doctrine also requires communications be made "in confidence." This is where public AI platforms present real problems for attorneys and clients. Most consumer-facing AI tools operate under terms of service that explicitly disclaim confidentiality and retain broad data rights. Whether enterprise or closed-system interfaces fare better is an open and important question. A closed-system AI tool used by a law firm or attorney feels more confidential, but there are no clear answers yet.

Platform design. Does it matter whether the AI tool tells users it can't provide legal advice? Does it matter that Claude, like most public AI platforms, is an open system rather than a closed enterprise deployment? Courts haven't weighed in on how these design features map onto *Kovel*'s confidentiality requirement.

Work product. If an attorney directs an AI platform to analyze documents or synthesize a regulatory framework in anticipation of litigation, arguments exist that the output reflects the attorney's mental impressions, conclusions, and legal theories, but who wants to be the first to test that argument?

Looking Ahead

The lesson from *Heppner* is clear: AI use without attorney involvement on commercial platforms with broad data retention practices likely creates a discoverable record. That's true no matter how sensitive the subject matter or how closely the AI output resembles legal analysis.

For attorneys incorporating AI into their practice, the opinion in *Heppner* provides a roadmap for potentially protecting privilege, but one that requires intentional, measured construction. Bare assertions that an AI output was prepared "for counsel's use" will not carry the day. What will matter is whether the attorney's direction was genuine, documented, and meaningful. Post-hoc labels to client research will not cut it.

The *Heppner* decision is narrow in its holding and broad in its implications. Courts will keep returning to these questions as AI becomes further embedded in legal practice.

For now, the takeaway is this: the *Kovel* framework may be the best available tool protecting privilege over attorney-directed AI work, but the attorney must be directing every step.

The case is United States v. Heppner , 2026 BL 52143, S.D.N.Y., 25 Cr. 503 (JSR), 2/17/26 .

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Securities
Insight

In-House Counsel Must Rethink AI Playbook Before Regulators Do

March 2, 2026, 1:30 AM PST

In-house teams with an "acceptable use of AI" policy need to take a closer look at how to protect themselves from a stream of new rules across jurisdictions. Doing so will reduce enforcement risk and allow firms to move faster than competitors, who will be rebuilding from scratch each time a new rule drops.

The EU AI Act has general AI obligations that apply now. And so far, more than 240 state bills referencing artificial intelligence have been enacted. Colorado, Texas, and Illinois all have AI laws with enforcement dates in 2026.

Meanwhile, no comprehensive federal statute exists. While the Trump administration's December 2025 executive order is geared at preempting state AI laws, the EO itself can't overturn them without Congress or the courts.

If your company operates across states, sells to certain regulated industries, or uses AI in employment decisions, you're already dealing with overlapping rules, and you have no single standard to anchor to.

Here's how to build a governance framework that works regardless of which state enacts its law next.

Map every AI system, especially the ones you may not know about. As a first step, make a catalog of all the AI systems your company uses, including any shadow AI tools that employees may have adopted without approval. Then, classify them by risk.

These state laws converge on the same high-risk categories, such as employment, housing, finance, health care, education, insurance, and legal services. For example, Colorado is most explicit, Texas bans certain harmful AI uses in overlapping areas, and Illinois requires disclosure specifically when AI is used in employment decisions. If you build your taxonomy with these shared categories, you'll build a classification system that scales across jurisdictions and can serve you as new laws are enacted.

Anchor everything to NIST. The National Institute of Standards and Technology AI Risk Management Framework and ISO/IEC 42001 are the standards regulators most consistently reference. Colorado goes the furthest, granting organizations that comply with a recognized framework a rebuttable presumption of reasonable care. But even where there's no safe harbor yet, NIST alignment gives you evidence of diligence, which will be important if you face an enforcement action or a vendor dispute.

To anchor to NIST, center the program around its four functions:

1. Govern (assign accountability)
2. Map (document the use cases and foreseeable harms)
3. Measure (test for bias, accuracy, and drift)
4. Manage (define escalation paths)

Each of these helps ensure that if and when a federal standard is enacted, you already will be mostly compliant, because the federal standard will almost certainly reference NIST.

Start running impact assessments before you have to. Impact assessments are how you put the framework into action.

An impact assessment documents the system's purpose, intended population, data inputs, discrimination risks, and mitigation steps. Here, you can draft a standardized template aligned to NIST's map and measure functions and require your team to complete it before any high-risk deployment.

The EU AI Act already mandates impact assessments for high-risk systems. Colorado will require them annually for high-risk AI deployers starting June 30, 2026. California's CCPA regulations, which cover automated decision-making technology and captures most AI-driven processing, include similar requirements, so it's clear that they are here to stay.

Draw hard lines on tools and data. Specify which AI tools are approved, which are prohibited, and under what conditions employees may use general-purpose models. Confidential client data, personally identifiable information, trade secrets, and privileged material shouldn't enter any non-enterprise AI model.

Name the vetted tools, specify their approved data classification levels, and designate who authorizes exceptions. Under the California Consumer Privacy Act, the EU's General Data Protection Regulation, HIPAA (the federal law restricting release of medical information), and sector-specific rules, your company is liable for what third-party AI vendors do with personal data, and outsourcing the processing doesn't outsource liability. Conduct training on this acceptable use policy, which should make that link explicit, so employees understand AI rules flow from privacy and security frameworks they already know.

Overhaul how you vet AI vendors. As the CEO of a legal technology company, I see the other side of procurement for some of the most secure organizations in the world, and the standard vendor risk questionnaire is dangerously outdated for AI.

Most of the time, these questionnaires don't ask about hallucination rates or training data provenance.

They don’t account for model drift, where outputs shift as the system updates. These questionnaires also don’t account for agentic AI, where a vendor’s autonomous system could take actions inside your environment. Build an assessment that accounts for these.

Require human oversight and enforce it. Every emerging regulatory scheme shares one requirement, which is that humans must remain accountable for consequential decisions.

Define where human review is mandatory and how it’s documented. Then train your people by their role, because what a product engineer needs to know differs from what a recruiter needs.

None of these items are huge overhead. You can start this process with all your department heads. Once you align to the NIST, this structural decision will help inform everything that comes downstream. Take inventory of your AI systems and classify them by risk. Draft your impact assessment template, which can be done in a week.

Then, rewrite your vendor questionnaires to cover hallucination rates, model drift, and training data provenance. And remember, your governance framework must have teeth and carry consequences. Otherwise, it becomes evidence that the organization knew of the risks and didn’t act.

The in-house teams who build and align to the regulatory framework now won’t only be ready, they’ll also be the ones their boards trust to deploy AI the furthest, a potentially game-changing decision for the future of every company.

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Write for Us: Author Guidelines

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Expert Opinion

Mind Your Inputs & Outputs in Litigation or Risk Waiver of Privilege—A Cautionary Tale on Use of Generative AI Tools

Judge Rakoff ruled that AI-generated information is not protected by attorney-client privilege if created independently by a client using public AI tools, as sharing with AI can waive privilege. The case highlights the need for lawyers to advise clients on the risks of using AI without safeguards, as courts will scrutinize AI communications in legal matters.

March 01, 2026 at 02:11 PM By **Mark A. Berman**

Mark Berman, with Bond, Schoeneck & King. Courtesy photo

Southern District of New York's Judge Jed S. Rakoff recently issued a decision-of first impression in a criminal case-addressing whether the attorney-client privilege and work product doctrine protect information entered into and material generated by an AI tool. See *United States v. Heppner,* No. 25-cr-00503-JSR (filed Oct. 28, 2025).

After receiving a grand jury subpoena and retaining counsel, the defendant on his own volition and without direction from counsel accessed the consumer, non-enterprise version of Anthropic's Claude (Claude) and generated 31 documents. Defendant's communications with Claude concerned the investigation, potential defenses, strategy, and legal arguments. He subsequently transmitted these documents to his attorneys. The FBI obtained defendant's AI-generated documents during a search and counsel moved for a protective order.

The court found neither the attorney-client privilege nor the work-product doctrines applied. Regarding the attorney-client privilege, the court ruled that Claude is not an attorney, the defendant did not engage with Claude to seek legal advice, providing the after-the-fact AI generated communications to counsel did not "cloak" them with protection from disclosure, and defendant's communications with Claude were not confidential. Specifically, the court noted:

AI users do not have substantial privacy interests in their 'conversations with [publicly available GenAI platforms] which users voluntarily disclosed to [the platform's corporate owner] OpenAI and which OpenAI retains in the normal course of its business.' *In re OpenAI, Inc.*, Copyright Infringement Litig., No. 25 MD 3143, ECF No. 1021 at 3 (Jan. 5, 2026).

Critically, Judge Rakoff expressly found Claude's terms of service disclaimed that it provides legal advice and directed users to consult with qualified counsel.

The court further determined the work-product doctrine was inapplicable because counsel conceded his client created the documents on "his own volition" and counsel did "not direct" him to use Claude and they did not reflect counsel's strategy at the time of the communications with Claude. The court appeared to accept that the analysis might have been different if counsel had instructed the defendant to use Claude as part of counsel's investigative or trial preparation strategy.

Implications of the 'Heppner' Decision

Importantly, *Heppner* does not establish a categorical rule as to the waiver of privilege or the disclosure of work-product when using any generative AI tool. Issues of confidentiality and the use of input to train the AI-model are fact-specific to the communications and to the platform itself. In fact, a recent District Court in Michigan found that generative AI programs "are tools, not persons, even if they may have administrators somewhere in the background" and, for there to be waiver of work product protections, the disclosure must be to a human being, to wit, "*an adversary* or in a way likely to get in an adversary's hand." (emphasis in the original). *See* 2:24-cv-12333, (E.D. Mich. Feb. 10, 2026).

The *Heppner* decision serves as a cautionary tale as to whether AI communications may be privileged. In dicta, the court noted that "even if certain information that [the defendant] input into Claude was privileged, he waived the privilege by sharing that information with Claude and Anthropic, just as if he had shared it with any other third party."

However, Jonah Perlin, a Georgetown law professor, cautioned against such a broad waiver of privilege and wrote, "[a]lthough the attorney-client privilege is lost when information is shared with unauthorized third parties (absent certain narrow exceptions), simply using a third-party technological tool that gains access to confidential client information doesn't categorically render the attorney-client privilege waived." Jonah Perlin, *No, Generative AI Didn't Just Kill the Attorney-Client Privilege*, Bloomberg Law, (Aug. 12, 2025). (emphasis added). While the decision did not specifically address attorney's use of generative AI platforms, attorneys should be aware of how courts are grappling with the expanding use of generative AI.

Current Bar Opinions for New York Practitioners

The *Heppner* decision comes as litigants, attorneys, courts, and bar associations are navigating the rapidly evolving use of AI-tools. The New York State Bar Association's Task Force on Artificial Intelligence recently issued a comprehensive report addressing AI and the attorney-client privilege and highlighted the additional risks that inputs into AI platforms create related to litigation holds and preservation obligations.

Likewise, the New York City's Bar Association in Opinion 2025-6 recommended that attorneys address clients' use of AI tools as part of their representation, which would include AI-powered transcriptions, recordings, and summarization applications. It explained if "clients insist on using tools that attorneys have not had an opportunity to approve, attorneys are faced with the dilemma of having to decide how best to protect the interests of the clients and the attorneys."

In the event a client refuses to accept such terms, the opinion advises that counsel should affirmatively disclaim responsibility for any unreviewed AI-generated summaries and warn the client of the potential impact on confidentiality and privilege. This guidance promptly revealed itself as prophetic as the government in *Heppner* exploited a situation where a client independently and without direction (or potentially advice of counsel) used an AI platform to process and analyze information, thus losing any claim of privilege.

What Does This Mean for In-House Counsel and Litigants

While litigants and in-house attorneys should not read *Heppner* too broadly, the decision provides useful lessons and warnings. For in-house counsel, this creates governance obligations. Employees, and more typically executives or decisionmakers, who may be receiving legal guidance about active disputes, regulatory inquiries, or anticipated litigation, must be advised in advance that inputting counsel's advice or unilaterally using tools (particularly on public platforms and/or ones not approved by the organization) may destroy both confidentiality and privilege.

In-house attorneys need to be aware of and ensure the platform's terms of service appropriately limit disclosure. Counsel must prophylactically advise clients that using such tools on their own, and not at the direction or advice of counsel, poses significant risk.

Overall, *Heppner* should act as a catalyst for attorneys and their practices as they must now advise clients about the risks of taking matters into their own hands in using generative AI tools. Ensuring appropriate guidance, communication, training, and safeguards as generative AI continues to improve and enmesh itself in the legal community will prove crucial for attorneys and clients alike.

Mark A. Berman *is a commercial litigation partner at Bond, Schoeneck & King and a member of the firm's cybersecurity and data privacy practice.*

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Analysis | **Artificial Intelligence**

Legal AI Tools Hallucinate Less, but the Consequences Can Be Just as Severe

A recent case demonstrates the risks attorneys run in submitting AI-generated filings without checking citations, regardless of how reliable the platform they used may seem.

February 27, 2026 at 04:29 PM By **Riley Brennan** **Benjamin Joyner**

What You Need to Know

- Attorneys are continuing to submit fillings with hallucinated citations, creating reputational and financial risk.
- While some lawyers may be inclined to trust tools from long-standing providers, all gen AI require verification.
- Sanctions for false citations are unlikely to differ based on the AI system that produced the error.

Credit: khunkornStudio/Adobe Stock

This article has been updated to clarify how LexisNexis products source their data.

Legal AI Tools Hallucinate Less, But The Consequences Can Be Just As Severe

A recent case demonstrates the risks attorneys run in submitting AI-generated filings without checking citations, regardless of how reliable the platform they used may seem.

As attorneys embrace generative artificial intelligence platforms en masse, some may be relying too much on the accuracy of legal-specific tools. While gen AI tools built for lawyers may be less likely to hallucinate than general purpose models when performing legal work, the consequences for un-corrected errors can be just as severe.

Litigators across the country have faced sanctions and other disciplinary actions due to the presence of AI-generated hallucinations in their briefs, which involve an AI system producing fake or inaccurate case citations. Last month, a federal judge in Pennsylvania sanctioned two attorneys over various false case citations in a brief that allegedly occurred after the pro hac vice attorney's law clerk used Lexis+ AI and LexisNexis Protégé without the attorney's knowledge.

Attorney Rebecca Delfino, an associate law professor at Loyola Law School at Loyola Marymount University, shared that some attorneys have a blind trust when it comes to Lexis, a legal research platform many have used their entire career.

“I think people rely on these because they have been trusted based on prior beliefs, to their detriment,” Delfino said, sharing that while attorneys may think it's reliable because it's a closed, protected universe, hallucinations with Lexis’s tools, while less likely, are not impossible.

(LexisNexis told law.com that it uses proprietary Retrieval Augmented Generation (RAG) techniques to ground gen AI results in its repository of legal documents, and that is uses resources such as knowledge graphs, proprietary metadata, and taxonomy services to minimize the risk of hallucinations. It noted that it does not rely on out-of-the-box models from developers like OpenAI to source data or language, but instead uses the above techniques to ground their results in LexisNexis data).

As to how judges may view the different platforms, Delfino opined that judges may be less suspicious of a trusted legal information platform.

“I think if someone discusses they’re using Prodigy or Gemini or Chat GPT, judges are automatically more suspicious because of what they’ve read and what they know, compared to Lexis and Westlaw, I think they’re more willing to accept it and might be perplexed, honestly, if someone had an error from Lexis and Westlaw," Delfino said, referring to research tools from LexisNexis and Thomson Reuters.

Delfino added that many judges came up and were seasoned as lawyers with the view that these platforms are reliable sources of the law.

Attorney Daniel Siegel, who is the chair of the Pennsylvania Bar Association Committee on Legal Ethics and Professional Responsibility, agreed that there may be a lowering of the guard with research tools from well-known companies like LexisNexis and Thomson Reuters.

"People do trust Lexis, they trust Westlaw, because they're the major companies and they don't expect that type of thing from them," Siegel said.

"But if it's a case you find in their system, I would expect, and I would be shocked if it wasn't, you can trust that that case is there. It's when you skip that step, the research step," Siegel said, noting it is on attorneys to check the cases it provides.

Occasionally Trust, Always Verify

While attorneys may be more inclined to rely on legal-specific drafting tools, particularly from vendors they already trust, such reliance is unlikely to protect them from sanctions related to errors that appear in their filings.

“If they’re using AI, and they know they’re using AI, it shouldn’t change the calculus in terms of what they have to do as lawyers,” Siegel said.

“There’s no special leniency baked into the rules because a tool is marketed to lawyers,” noted D. Casey Flaherty, a partner at legal growth advisory firm Baretz+Brunelle and head of LexFusion Intelligence, B+B’s market intelligence offering. “Courts care about whether the cited authority exists and supports the proposition asserted. ... Any reasonableness analysis starts and ends with whether the lawyer had a sound basis for their argument.”

Dorna Morini, founder and CEO of legal tech company Gavel, concurred, noting that “if you used the best available legal-specific tool and still failed to check your citations, you're not in a meaningfully better position than if you'd used ChatGPT and failed to check your citations.”

She continued, “The source of the error is less relevant than the fact that it made it into a filing under your name.”

Morini added that any move to treat work product from legal-specific tools built on comprehensive case law databases differently from the outputs of general purpose AI systems would be better addressed by specific professional rules than ad hoc decisions from individual judges.

Although the need to diligently check output exists for all AI-powered tools, attorneys can rely to a greater extent on the outputs from legal-specific AI systems when performing preliminary legal research, legal tech experts note.

Morini compared AI-powered tools to summer associates, noting that attorneys can learn to trust the work of higher-performing associates more, reviewing what they turn in with a lighter touch.

But while such trust may make it easier to rely on the research and drafting provided by legal-specific tools, it doesn't eliminate the obligation to verify work submitted to a court. Much as the best summer associate may still make mistakes, the best AI platform may still hallucinate, mandating continued review of any citations going out under an attorney's name.

Use of legal-specific products "does justify more confidence in the tool, but not less scrutiny of the output, particularly since in most cases we're dealing with pretty simple cite-checking work," Morini said. "'Trust more' is not the same as 'verify less.'"

Class Action

Manage Newsletters

Podcast

Goldstein Still Has Cards to Play Even After Guilty Verdict

Feb. 27, 2026, 11:16 AM PST

Prominent lawyer and high-stakes poker player Tom Goldstein was convicted on some, but not all, of the 16 criminal charges against him when his federal trial wrapped up this week. But Goldstein's legal fight may be far from over.

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SAVE

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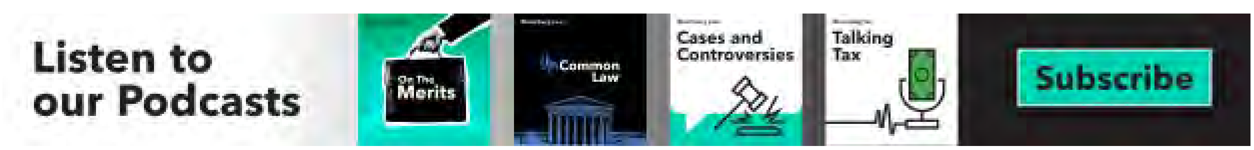
Several issues came up during the trial that could be fodder for a successful appeal, according to Bloomberg Law reporter Holly Barker, including a dispute over where Goldstein was physically located when some of these crimes were committed.

Barker covered the trial of the disgraced SCOTUSblog founder and she joins our podcast, On The Merits, to talk about why the jury split its verdict and about how Goldstein's famous propensity for risk taking influenced his defense strategy.

Do you have feedback on this episode of On The Merits? Give us a call and leave a voicemail at 703-341-3690.



This transcript was produced by Bloomberg Law Automation.

David Schultz: Hello, and welcome back to On the Merits, the news podcast from Bloomberg Law. I'm your host, David Schultz.

Well, the Tom Goldstein verdict is in, and it's guilty. And not guilty. The famous Supreme Court lawyer who founded SCOTUSblog before a spectacular gambling-related fall from grace is now a convicted felon, but the jury in Goldstein's trial only convicted him on 12 of the 16 charges he faced.

As we talked about at the start of this trial, all of the legal troubles stem from Goldstein's ultra-high-stakes case, and all of the legal troubles stem from Goldstein's ultra-high-stakes poker habit, which led him to, shall we say, get creative on his tax returns and loan applications.

Today we're gonna be talking about this with Bloomberg Law reporter Holly, who's been covering the entire trial for us, gavel to gavel.

In a bit, we're gonna get into all the issues that may come up if, or rather when, Goldstein appeals his conviction, but first I asked Holly to explain to me how, and more importantly, why the jury split the way it did.

Holly Barker:

So it was a mixed verdict, and a mixed verdict isn't in and of itself unexpected. What's a little confusing to me is how they split. They concluded that Goldstein assisted in the preparation of a false tax return for his firm on an IRS Form 1120S, but found him not guilty of assisting in the preparation of his personal tax return on an IRS Form 1040.

The reason that's confusing is that income from the 1120S feeds into line items on the Form 1040, meaning they're interrelated. So the jurors may have had a principled reason for divergent verdicts on those counts. It's just not apparent to me what it was.

The other two not guilty verdicts were for tax returns, personal and for the firm, that were filed in 2018. Those charges involved allegations that Goldstein mischaracterized income from a person identified as foreign gambler three in the indictment and allegedly redirected legal fees that should have been reported as income, but weren't. I have no idea, again, why they rejected those charges and not others.

David Schultz:

Tell me about the scene in the courtroom. Whenever there's a trial and a verdict that's read, I always love hearing about sort of what the moment is like when the defendant hears the verdict. What was that like? How did Goldstein react and how did the other folks in the courtroom react?

Holly Barker:

It was solemn and quiet. There was no sort of effusive reactions. I noticed the jurors when they came in were sort of avoiding looking directly at Goldstein and there wasn't much of a reaction from the courtroom at all. Judge Griggsby wouldn't have allowed it in any event. Goldstein's parents were there, but beyond that, it was mostly professionals like media and government folks in the room, so you weren't gonna get a lot of reactions sort of from the gallery.

David Schultz:

That makes sense. Okay, when we spoke at the beginning of this trial, one of the key themes that we talked about was how difficult it would be for the prosecutors to prove this case. It seems like, at least partially, they succeeded. How did they overcome these big hurdles to be able to prove that Goldstein committed tax crimes here?

Holly Barker:

So it's pretty clear the government persuaded jurors that Goldstein was dishonest and that the system he'd established for communicating with his accountants and getting his tax returns prepared was flawed by design. That was sort of their theory is like, this was all on purpose, this sort of sloppiness.

From my perspective, he did a really good job when he took the stand, but he opened himself up to cross-examination that the prosecution used to highlight a pattern of dishonesty. When Goldstein sat with an interview with Jeffrey Toobin that ran in New York Times Magazine at the end of 2025, he told him that this case was gonna come down to whether the jury decided he was a good guy or a bad guy, and it seems like they decided he was a bad guy or at least not a credible one.

The lead prosecutor on the case told jurors in closing that if this case was gonna turn on credibility, there was no reason to believe Tom Goldstein, and it worked.

David Schultz:

So making this a sort of vibes case, as you talked about, was a big risk for Goldstein that it sounds like it didn't really pay off.

Holly Barker:

Not at this moment, yeah.

David Schultz

Let's talk about the appeal potential though, because it sounds like there's a ton of grist for a possible appeal, and it's also worth mentioning that Goldstein himself is one of the most prominent appellate attorneys in the country. Specifically, I wanna ask you about this venue issue and how that could play into an appeal. Can you explain the venue thing that Goldstein brought up and how this may play out moving forward?

Holly Barker:

So venue refers to where a case is brought, and in the context of making a false statement on a loan application, venue's appropriate where the communication was transmitted. Goldstein faced three charges, and he basically said, look, I was absolutely out of the country, I have travel documents that can prove it, when one of these loan applications was transferred.

David Schultz:

So let's linger on that for a second, because I think this is really important. So what Goldstein is arguing here is that prosecutors can't prove that he was actually in the state that they say he was when he filed this loan application. Am I getting that right?

Holly Barker:

That's right. And the government, they offered IP addresses showing that the applications were transmitted from his home and they have a title guy who said, the closure happened, when they closed on the house, it happened in Maryland. So the government had some evidence, but Goldstein said, look, in one of these instances, you have the IP address placing me at home when we all know I was in the US Virgin Islands.

So that must cast some doubt on whether or not the IP addresses are a good indicator of sort of where the offense occurred. And he also pointed out that, yes, this title guy said he remembered the closing being in Maryland, but the signature line on the form said that they were signed in DC. So he poked holes in sort of the evidence for venue.

And I think the rub is going to be the instructions.

David Schultz:

To the jury.

Holly Barker:

Correct, yeah. And whether or not, because the jury found what it found with respect to venue. And I should add that, unlike other elements in a criminal offense, venue only needs to be approved by a preponderance of the evidence. So the bar is much lower than it is for other elements. But if the instructions were bad, this seems like an area that is ripe for challenge. And it's come up before and not all that long ago and before the same judge. So, and granted the circumstances were different, but sort of the principles and the gist of it is the same.

David Schultz:

I'm glad you brought that up because yeah, like there was another case before the same judge and with the same prosecutors where this venue issue came up again. And in that case, the defendant won an appeal as a result of this, right?

Holly Barker:

That's right. So it was a former Baltimore State's attorney, Marilyn Mosby, won an appeal to vacate a conviction for making a false statement on a loan application after the appeals court said the jury had been improperly instructed.

David Schultz:

So let's get into what's happening right now. The prosecutors initially asked that Goldstein be thrown in jail while he awaits sentencing. And then I guess backed off on that. What's happening there? This sounds really confusing.

Holly Barker:

That's right. So in the morning on Thursday, jurors had been called back to decide on this like lingering forfeiture issue, which we can talk about in a minute if you want. That morning, the prosecution stood up in front of the judge and said, by the way, judge later this afternoon, we're going to seek detention today. And Judge Grigsby said, we're going to talk about that later because she had other things on our calendar.

So we convene at four. And at that point, the prosecution conferred and said, nevermind, we're not going to seek detention. Instead, we're going to seek additional conditions of release. And the reason that they wanted additional conditions of release is because Goldstein has been deemed a flight risk. That's why they had conditions in the first place and took his passport. He's traveled internationally a lot. He's got friends in high places abroad. And now that he's been convicted and he's facing prison time, his incentive to flee is arguably much higher. So, you know, it makes sense that they would have an increased concern about flight risk.

I was a little surprised that they asked for detention. I mean, I don't think it's entirely unreasonable, but it struck me as pretty aggressive. And at the end of the day, I doubt Judge Grigsby would have gone for it because, you know, she decided that his wife serving as custodian for him, like his person, his family home has been posted as bond. His movement is seriously restricted and pretrial services can monitor him. And so she's satisfied that that's enough to ensure he shows up for his next court date.

David Schultz:

Okay, one last thing. Let's get to that forfeiture issue. This was really strange, at least I thought it was really strange. So the jury decided whether or not Tom Goldstein will have to forfeit his house. And he apparently asked the jury to do this. What was happening here? Can you explain this?

Holly Barker:

Sure, so Goldstein had asked to have the jury decide this forfeiture count and whether or not the house constituted proceeds of an offense of which he was convicted such that it was forfeitable. Then on Thursday morning, they said, listen, we don't need to have the jury decide it if we can reach an agreement with the government that protects Amy Howe, Goldstein's wife's interest. He said that was his sole concern. He just wanted to protect her interest.

The government was like, we need some time to think about this and we wanna go ahead and let it go to the jury. Like this is, like it's not okay for him to want it to go to the jury and then change his mind, whatever. So it goes to the jury, which wound up working out well for him because they found in his favor.

David Schultz:

Okay, let me just make sure I understand though the forfeiture issue, because that seems like a lot of things happen in a very short amount of time. So he wanted the jury to decide whether he would have to forfeit his house, Goldstein. Then he, at the last minute decided, no, I don't wanna do that. But the prosecutors said, no, we can't change your mind at the last minute. Yes, we are gonna do this. And then the jury decided and they decided in Goldstein's favor.

Holly Barker:

Correct, yeah. And the question they were deciding was whether there was a sufficient, the legal terms nexus between the offense and the property. And they said no. So it worked out well for him, or for Amy Howe, I should say.

David Schultz:

The reason I am sort of focused on that is that it seems like this is an overarching theme in the trial and maybe even Goldstein's entire life is that his willingness to take enormous risks that other people might balk at. And I'm thinking of him testifying on his own behalf, him asking the jury to decide this forfeiture issue. Would you agree with that? That this is kind of one in a long line of a pattern that he's shown where he's all about just sort of risking it all.

Holly Barker:

Yeah, look, this is a guy who has always bet on himself. And that has served him really well. So it's not surprising to me at all that he fought the case the way that he's fought it, or that he felt compelled to take the stand, or that he was confident enough to do it. I do think that is sort of, I think that he has a constitution many other people and a tolerance for risk that most people simply don't. And I think that is definitely manifested in the way that it's been litigated.

David Schultz:

So fascinating. Holly, thank you so much for joining us again after a pretty wild week for you. Holly talking with us about the Tom Goldstein verdict. Thanks.

Holly Barker:

Thank you so much for having me.

David Schultz:

And that'll do it for today's episode of On The Merits. For more updates, visit our website at news.bloomberglaw.com. Once again, that's news.bloomberglaw.com.

The podcast today was produced by myself, David Schultz. Our editors were Chris Opfer and Alessandra Rafferty. And our executive producer is Josh Block. Thanks everyone for listening. See you next time.

To contact the reporter on this story: David Schultz in Washington at dschultz@bloomberglaw.com

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Goldstein Faces Daunting Path to Overturn Tax Fraud Conviction

Feb. 27, 2026, 9:46 AM PST

Summary by Bloomberg AI

AI Generated

- The federal prosecution of Tom Goldstein on tax fraud charges turned on the issue of intent, with the government needing to prove a "voluntary, intentional violation of a known legal duty".
- Goldstein's defense strategy was to argue that any underreporting stemmed from his reliance on accountants who "didn't ask the right questions", but he made errors by testifying and forgetting the high likelihood of conviction in federal cases.
- Goldstein was found guilty on 12 of 16 counts and can expect a challenging sentencing, with the government alleging tens of millions of dollars in losses, and he may have a few arguments to make on appeal, including a challenge to the venue of the loan fraud charges.

The federal prosecution of Tom Goldstein on tax fraud charges was never going to be a routine case. A renowned US Supreme Court advocate, co-founder of the legal website SCOTUSblog, and a high-stakes poker player, Goldstein brought to the courtroom a resume—and a persona—that demanded attention.

But strip away the celebrity witnesses (actor Tobey Maguire and legal analyst Jeffrey Toobin testified), the tens of millions of dollars in poker chips won and lost, and the movie studios circling the story, and the case turned on something far more prosaic: Intent.

In white-collar criminal law, particularly in tax fraud cases, the government's burden isn't simply to prove that something went wrong. Prosecutors must show the defendant engaged in a "voluntary, intentional violation of a known legal duty." That formulation of the willfulness standard of intent, drawn from Supreme Court precedents such as *Cheek v. United States* and *United States v. Pomponio* , imposes an unusually high bar.

From the start, the defense smartly leaned into that demanding standard. Goldstein's lawyers argued that any underreporting stemmed from their client's reliance on accountants who "didn't ask the right questions." That's a classic strategy in tax cases. If a defendant relies on professional advice in good faith, the willfulness element folds.

Early signs suggested the strategy was working. The first real testimony about Goldstein's intent came from an accountant at the firm that prepared the tax filings—someone with every incentive to deflect blame. The defense showed on cross-examination that the accountant made mistakes on the returns and gave Goldstein questionable advice. The defense hadn't yet started calling witnesses, and prospects of an acquittal were very real.

But that's when Goldstein's appetite for risk may have failed him. He overlooked that, in white collar cases, putting the government to its burden is just the beginning. The cost of that miscalculation resulted in being found guilty on 12 of 16 counts.

Pair of Errors

Goldstein's first error was testifying. Defendants in white-collar cases rarely take the stand, and for good reason. What sounds precise and forceful in a conference room or at a Supreme Court lectern can come across as evasive or combative under cross-examination. The trials of Elizabeth Holmes, the founder of health technology company Theranos, and FTX cryptocurrency exchange founder Sam Bankman-Fried—both serving lengthy prison sentences—provide recent examples.

In a case hinging on willfulness—on what was in the defendant's mind—testifying is a high-risk bet. You not only open yourself to a withering cross, but you also run the risk of coming off as a liar. The prosecution was able to confront Goldstein with previous lies and exorbitant spending. It's like pushing all your chips to the center and trusting that the judge and jury will see you the same way you see yourself.

Goldstein's second error was forgetting the stats. More than 98% of federal cases end in a plea agreement. Of the remaining few that go to trial, an incredibly high percentage still end in convictions. Put another way, all roads lead to sentencing.

While the odds may be a little better for well-resourced white-collar defendants, and a little better still in tax cases, the most probable outcome for Goldstein was always going to be a sentencing hearing. By taking the stand, he made that even more likely. Worse yet, he may have alienated the person—US District Court Judge Lydia Kay Griggsby—who now controls his fate.

Looking Ahead

Goldstein can expect a challenging sentencing. A typical tax fraud defendant with no prior convictions might get probation or a few months in prison. But the government is alleging tens of millions of dollars in losses, and that drives federal white-collar sentences.

With no acceptance of responsibility, violating a position of trust as a lawyer, and other enhancements, Goldstein is facing a hefty sentencing range—likely 10 or more years. The final sentence won't be that high, but when a judge starts higher, they end higher.

Being acquitted of four counts won't help much. Goldstein was convicted on the most serious counts of loan fraud carrying the highest penalties. While the Sentencing Commission recently curtailed the use of acquitted conduct at sentencing, the judge still retains significant discretion under her statutory authority to consider all conduct. Bottom line is that he has exposure to a multi-year prison term.

Goldstein may have a few cards left to play. To be convicted of loan fraud, the government must prove proper venue, meaning that the criminal offense took place in the charging district. Under the US Court of Appeals for the Fourth Circuit's recent decision in *United States v. Mosby* , mere "preparatory" acts to the underlying offense cannot provide a basis for venue.

The defense will argue that while prosecutors may have proven preparatory acts such as filling out loan applications took place Maryland, they didn't prove from where he sent the documents. The Second and Eleventh Circuits would seem to agree, but language from the Tenth Circuit could create a split. That is the meatiest of a number of arguments, including over the admission of statements made in media interviews and the wording of jury instructions, that he will surely make on appeal.

Goldstein built a career managing legal risk at the highest level. Yet he's never faced what's happening now: being on the other side of a white-collar conviction. He undoubtedly will continue to push his chips forward.

This article does not necessarily reflect the opinion of Bloomberg Industry Group, Inc., the publisher of Bloomberg Law, Bloomberg Tax, and Bloomberg Government, or its owners.

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https://www.wsj.com/us-news/law/trump-administration-to-drop-defense-of-law-firm-sanctions-cb839c39

EXCLUSIVE LAW

Trump Administration to Drop Defense of Law Firm Sanctions

Justice Department plans to withdraw appeals defending punitive executive orders issued by the president, people familiar with the matter said

By *Erin Mulvaney* Follow and *C. Ryan Barber* Follow

Updated March 2, 2026 2:49 pm ET

President Trump with an executive order in the White House last year. ALEX WONG/GETTY IMAGES

Quick Summary

- The Trump administration plans to abandon its defense of executive orders sanctioning several law firms.

View more

The Trump administration plans to abandon its defense of the president's executive orders sanctioning several law firms, according to people familiar with the matter.

The Justice Department as soon as Monday was expected to drop its appeals of four trial-court rulings that struck down President Trump's actions against law firms Jenner & Block, WilmerHale, Perkins Coie, and Susman Godfrey.

Trump issued a string of executive orders last year against several law firms and individual lawyers that would have stripped security clearances, restricted their access to federal buildings and directed agencies to end any federal contracts with the firms and their clients.

The White House campaign sent a chill through the industry. Fear of the orders also prompted other large firms to make deals with the president, promising nearly $1 billion in pro bono work for causes favored by the administration.

In targeting the firms, Trump cited their connections to his political rivals and criticized their diversity initiatives and pro bono work advocating for immigrants, transgender rights and voting protections.

Several firms sued to challenge the orders, arguing they were unconstitutional retaliation and an abuse of executive power. The firms said the orders would be devastating to their business and that they risked losing lucrative clients who work with the federal government.

The Trump administration argued the president had broad leeway to take action against firms, particularly when it comes to their interactions with the federal government.

An ideological mix of judges ruled against the administration, saying the executive orders undermined bedrock principles of the U.S. legal system. In one decision, Judge Richard Leon, an appointee of former President George W. Bush, said blocking the sanctions was necessary to preserve an "independent bar willing to tackle unpopular cases, however daunting."

Watch: In March 2025 Executive Order, Trump Expanded Retribution Against Law Firms

Erin Mulvaney is a national legal affairs reporter with The Wall Street Journal. She covers the legal industry and litigation affecting business and the economy nationwide. She writes about high-profile trials, lawsuits that explore novel questions, and cases that reveal legal tensions for companies,...

Analysis | **Law Firm Client Relationships**

Crowell, Polsinelli, Hogan Lovells, Holland & Knight, Pillsbury Among Big Firms in Tariff Refund Battle

Dozens of cases have been filed in the week since the U.S. Supreme Court decision, with many more expected to be filed in the coming weeks and months.

February 27, 2026 at 03:55 PM By **Abigail Adcox**

What You Need to Know

- Polsinelli has filed at least nine lawsuits this week on behalf of clients, including Epic Pharma and Avanos Medical.
- Crowell filed the first major lawsuit following the Supreme Court decision on behalf of FedEx.
- At least a dozen firms have filed lawsuits in the past week in the U.S. Court of International Trade.

U.S. Court of International Trade in New York City. Credit: JHVEPhoto/Adobe Stock

At least a dozen law firms, including Big Law and midsize firms, have already filed lawsuits seeking to recoup tariff funds on behalf of their clients in the week since the U.S. Supreme Court invalidated President Trump’s sweeping tariffs on imports.

Crowell & Moring, Polsinelli, Pillsbury Winthrop Shaw Pittman, Reed Smith, Holland & Knight, Hogan Lovells and Herbert Smith Freehills Kramer are among the firms that have filed lawsuits on behalf of clients in the U.S. Court of International Trade to recoup funds, according to court records.

Dozens of cases have been filed in the week since the Feb. 20 Supreme Court decision, with many more expected to be filed in the coming weeks and months. That’s on top of the more than 1,000 tariff refund cases that had already been filed since last year by firms on behalf of their clients.

The litigation could kick off what may be a sprawling refund process. The Supreme Court ruling indicated that the U.S. Court of International Trade will be responsible for sorting out the legal battle over how refund claims will be handled. It’s not immediately clear how the court will handle the windfall of cases.

Crowell & Moring, which has filed more than 200 suits since last year over tariffs, brought one of the first major challenges since the Supreme Court decision, filing suit on behalf of FedEx in the U.S. Court of International Trade to recover funds. The firm also filed suit on behalf of Skechers this week.

Other companies, such as L’Oreal, Nissan North America, Yamaha Motor Corporation, Vanguard LED Displays, Sol De Janeiro, Dyson and Whoop, among others, filed lawsuits this week in the U.S. Court of International Trade seeking to recoup what they’ve paid on imports, per court records.

Polsinelli has filed at least nine lawsuits this week on behalf of clients. For example, Epic Pharma, Avanos Medical, Unitape, Mity-Lite, Woodstream Corp., Whoop, Drexel Chemical Company, RoC Opco and Lifetime Products all turned to Polsinelli.

Yamaha Motor Corporation, Agro Sevilla USA and Compass Pump turned to Pillsbury.

Meanwhile, Bausch & Lomb turned to Reed Smith, Nissan North American turned to Hogan Lovells, Dyson turned to Herbert Smith Freehills Kramer, and Dew Beauty turned to Holland & Knight.

Neville Peterson, a firm focused on international and domestic trade law, has filed several refund cases on behalf of clients this week, including L’Oreal, Sol De Janeiro, Speedy Food Group, Vanguard LED Displays, Gordini, Alt Group Babymoov Corporation, Catalynt Solutions and Easy Fat Trading.

Other boutiques and midsize firms have filed lawsuits this week, including Leake Andersson on behalf of OxFord Alloys, Chicago-based Rock Trade Law on behalf of NRB Originals and Sharretts, Paley, Carter & Blauvelt on behalf of IFG Corp.

Trade attorneys at several firms say the court ruling affects thousands of their clients, and client conversations now focus on whether they want to pursue litigation for tariff refunds, Law.com has reported. However, other short- and long-term client questions remain, including how the Trump administration will now pursue imposing tariffs, likely bringing a large stream of steady work to firms in the months and years to come.

Securities

Crowell, Sidley Spearhead Big Law's Trump Tariff Refund Fight

March 2, 2026, 2:38 AM PST

Companies seeking refunds from President Donald Trump's tariffs are turning to Crowell & Moring and Sidley Austin, who are among Big Law firms that have filed the most cases for clients.

Companies have so far filed more than 2,000 cases, according to a Bloomberg analysis. Crowell filed about 200 of them while Sidley brought around 160, according to a Bloomberg Law analysis of court dockets.

"The trade practice is a big practice within a big firm, so we have lots of clients we advise on international trade and customs issues, all day every day," said Ted Murphy, co-leader of Sidley's global arbitration, trade and advocacy practice, in an interview.

The cases show how one of Trump's signature policies has generated a rush of work for many of the biggest law firms. Among the 30 largest US law firms by revenue, at least 12 appear to have filed at least one refund case on behalf of clients, according to the analysis.

Sidley has filed refund cases for companies including Nippon Steel Corp., Heineken USA Inc., Lululemon, J.Crew, Chico's Retail Services, and Lane Bryant. Crowell has filed cases on behalf of companies including Costco Wholesale Corp. and FedEx Corp. Crowell didn't respond to a request for comment.

One company that filed a lawsuit was quoted by a large law firm between $20,000 to $30,000 to file the case, according to a lawyer at the company who was not authorized to discuss the matter publicly. The company was not represented by Crowell or Sidley.

The company viewed the case filing as an insurance policy, fearing that not doing it could mean missing out on a refund, the lawyer said. Still, the company doesn't anticipate substantial litigation in its case, the lawyer said.

The US government collected more than $160 billion through the tariffs that the US Supreme Court on Feb. 20 ruled illegal, according to the nonpartisan Tax Foundation.

Refund Prep

The refund cases, which were filed at the US Court for International Trade in New York, have been paused since before the court ruling. The number of case filings has been growing since January, and even more have been filed since the US Supreme Court ruled.

Among the top 30 firms by revenue that have filed cases, none other than Sidley has filed more than about 20 cases. Firms that have filed roughly 10 or more cases include DLA Piper, Baker McKenzie, Hogan Lovells, Greenberg Traurig, and Reed Smith.

The Supreme Court left questions of refunds to the US Court of International Trade, Bloomberg reported. In comments shortly after the ruling, Trump mused the litigation could last years.

Lawyers at Milbank who represented the plaintiff in the case before the Supreme Court last week asked the US Court of Appeals for the Federal Circuit to fast-track issuing an order enjoining the government to establish a process that would facilitate refund payments at the trade court.

The Department of Justice on Friday responded to the request, saying that it doesn't agree extra speed is necessary and noted that the refund process "will take time," citing a series of cases from 1998 involving less money that took seven years to resolve. The filing asked for at least a 90-day pause.

Sidley's clients were prepared for the Supreme Court ruling and knew in advance that filing for refunds would be part of the effort to get back the money they were taxed, Murphy said.

There is also an administrative process to apply for refunds with the US Customs and Border Protection. Murphy said he has advised clients to take a "belt and suspenders" approach—file a lawsuit at the trade court while also pursuing the administrative path.

"Nobody really knows how the refund process will work or how difficult the government will make it," he said.

A group of Democratic lawmakers this week introduced a bill that would require US Customs and Border Protection to repay the tariff collections within 180 days, though the legislation has not garnered Republican support.

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Best Practices | **Judges**

Trial By Firepower Doesn’t Impress This Bench

Thoughts on effective courtroom advocacy from three San Francisco federal jurists—District Judge Rita Lin, Senior District Judge Susan Illston and Magistrate Judge Joseph Spero.

March 02, 2026 at 07:30 AM By **Ross Todd**

L-R: U.S. District Judge Rita Lin of the Northern District of California, U.S. Magistrate Judge Joseph Spero, and U.S. District Senior Judge Susan Illston. Photos: Diego M. Radzinschi and Jason Doiy/ALM

U.S. Magistrate **Judge Joseph Spero** says it often gets “lost in the shuffle” with lawyers at large law firms that while they may be fielding teams of lawyers on any given matter, the number of people working on the case in chambers is often just two. For Spero, it’s him and one of his clerks most times, and they both have hundreds of other cases to work through.

“When you prepare things to present to the court, they ought to be done with an eye towards a person who has very little time to look at what you're looking at,” said Spero, speaking at a “Views From the Bench” event at the San Francisco federal courthouse last week sponsored by the local chapter of the Federal Bar Association. Both Spero and his colleagues, U.S. District **Judge Rita Lin** and U.S. District Senior **Judge Susan Illston,** stressed that the lawyers coming before them need to keep their audience in mind, whether it be judges and their colleagues in chambers, or jurors.

Spero said he had a case in recent months with big firms on either side where, at summary judgment, there were about 1,000 exhibits on the docket. He said the exhibits were not individually identified and were hard to access. The lawyers also made the same mistake Spero said he made as a high school debater by putting forward dozens of arguments rather than just the strongest ones. That approach, he said, left him and his clerk no choice but to come up with solutions on their own. “You hurt yourself,” he said. “Despite the firepower you bring to it, in terms of people power, make it so that one or two people with very little time can get through it and get to the end.”

Lin was a partner at **Morrison & Foerster** earlier in her career, before stints as a federal prosecutor and state court judge. She said that when she walks into a pretrial conference now and sees teams of 20 or 30 lawyers on both sides, her thoughts immediately go toward getting motions practice under control during trial. “If I look out and I see that number of lawyers, I immediately think, ‘You're probably going to be filing 15 motions every night. And I am one person with one law clerk who is working on the trial, typically,” he said. “If you do not come to me with a plan how you will make my life livable, I will come up with a plan on my own.”

Lin recently had a case where she told the parties they couldn’t file papers during the trial without first orally raising the issue with her and getting permission. She dedicated the first 30 minutes of trial days to hearing motions, with the losing party losing time off their trial clock. “There were a couple evidentiary motions that I think were pretty clear how they should come out, where the losing party lost an hour off their trial clock,” she said. The end result, she said, was that less paper hitting her docket during trial and less time was taken up by evidentiary disputes that the parties could resolve themselves.

“That's a long way of saying, for those of you who are at large law firms, I think the judges are looking at you when we go into trial with conception of ‘What you might be doing to us?’” she said. “It’s to your advantage to think about ways that you can proactively let us know that you will address it.”

Illston, who practiced at plaintiffs firm **Cotchett, Illston & Pitre** (now **Cotchett, Pitre & McCarthy**) prior to taking the bench in 1995, recalled a time when she was at trial where the judge suggested that she have her “night crew do a little brief” on an issue that had come up. “I looked up and I said, ‘You know, I am the night crew.’”

Illston, however, noted that the good thing about being in a small firm is that you get opportunities to learn and to do everything sooner than you often would in a big firm. “Sometimes you really learn how to do it really well," she said. "It's an opportunity to actually practice law that is provided."

Matthew Yelovich, a former federal prosecutor who is now a partner at **Cleary Gottlieb Steen & Hamilton**, moderated last week's panel. He asked all three judges about the characteristics of effective advocates they've seen in their courtrooms.

Lin said that it wasn't until she took the bench that she understood the importance of an effective opening statement. "One of the things that I'm always reminded of every time I see a really outstanding opening statement is how much lawyers [are] good at and recognize that the jury can only absorb a bit at a time," she said. "They go nice and slow, and they cover very … clear-cut themes."

"It sets the table for the whole rest of the trial, so it's always fun to watch," she said.

Spero said you can tell good attorneys from when they walk into the courtroom. "They understand that the point of being in a courtroom is to persuade some human being, and that everything you do in a courtroom should be aimed at that goal," he said. "Good attorneys have that sense that: 'Everything I'm doing now is about persuading.' Maybe it's the judge, maybe it's 12 jurors."

Spero said less experienced lawyers think everything centers on their argument. "They think it's about lining up bowling pins and knocking them down," he said. But Spero said that persuading individual human beings to agree with your position is about more than just making an argument. "I would say those that have that kind of emotional intelligence and that focus are really good."

Illston, for her part, said that she's never heard a juror complain that a trial was too short. "The big complaint that jurors have is about their time being wasted," she said. "Respect the intelligence of jurors."

She added lawyers need to pay attention to how they comport themselves in the courtroom. That goes for how they interact with their colleagues, their opponents and with witnesses. "It matters if the jury likes you," she said. "It really does."

2/27/26 cleveland.com (Cleveland, Ohio) (No Page)
2026 WLNR 6029325

cleveland.com (Cleveland, OH)

February 27, 2026

FirstEnergy exec 'couldn't recall' key details during three-hour deposition

Adam Ferrise; cleveland.com

AKRON, Ohio — Former FirstEnergy executive Michael Dowling spent more than three hours on Friday watching himself on a screen alongside jurors who will decide whether he and his former boss bribed a former state utility regulator.

Dowling pursed his mouth and put a pen to his lips while watching portions of his two-day 2023 deposition in a civil case related to the passage of scandal-ridden House Bill 6.

The deposition showed Dowling repeatedly saying he couldn't recall key details surrounding a crucial meeting in which prosecutors say he and Jones bribed Public Utilities Commission of Ohio chairman Sam Randazzo.

In exchange for a $4.3 million payment, prosecutors say Randazzo helped pass HB 6, which gave a $1 billion bailout to two aging nuclear plants and included a provision that allowed FirstEnergy to keep pulling in revenue at inflated rates. Prosecutors also say Randazzo shut down a PUCO review that would have cost FirstEnergy millions.

The deposition showed Dowling's reactions to direct questions about what happened during a crucial day: Dec. 18, 2018.

Dowling, Jones and two others met with DeWine and Husted for dinner and a "friendly get-together," Dowling said, after a tough election in which FirstEnergy financially supported DeWine's campaign.

Before the meeting, Dowling texted Jones handwritten notes outlining their strategy. The notes said they wanted to keep DeWine in the dark as much as possible, pass no notes or documentation during the meeting, and not mention they were meeting with Randazzo afterward.

Dowling said he didn't specifically recall what was said during the dinner, but that the subject of the administration's potential pick for PUCO chair never came up.

Dowling said he and Jones didn't want Randazzo on the PUCO, and instead intended to push another candidate.

Jones and Dowling left and made the short drive to Randazzo's condo. He said he couldn't remember if they talked to Randazzo about how the dinner went with DeWine and Husted.

Dowling testified that he didn't remember much of what he discussed with Randazzo. He said Jones gave Randazzo a short overview of what was going on at FirstEnergy and that there was no mention of Randazzo being interested in the PUCO chair. Instead, Dowling said Randazzo talked about retiring to Florida.

After Dowling and Jones left, Randazzo texted them a list of payments totaling $4.3 million.

Dowling and Jones have argued that money was in a settlement agreement that Randazzo negotiated in 2015 on behalf of a group of businesses. It was a legal settlement, and they didn't know Randazzo would keep the money until years later, defense attorneys have argued.

The next morning, Jones texted Randazzo: "We're going to get this handled this year, paid in full, no discount. Don't forget about us or Hurricane Chuck may show up on your doorstep! Of course, no guarantee he won't show up sometime anyway."

The text included a photo of a snake inside a hurricane.

Dowling was asked what Jones meant by the "Hurricane Chuck" text.

"I'm not certain, but I believe Mr. Jones was referencing Mr. Jones' retirement plan, that Mr. Randazzo and [his wife] were moving to Florida," Dowling said.

Dowling said he, Jones and other executives had, by 8:30 a.m. the next morning, discussed the payment to Randazzo and signed off on it.

Others at trial, including former chief ethics officer Ebony Yeboah-Amankwah, said Dowling pulled them into a short conversation later in the day and asked if they could make the payment and put it on the books for 2018. Yeboah-Amankwah said Jones wasn't involved in the meeting, but Dowling testified in his deposition that Jones was at the meeting.

Later in the morning, Randazzo texted Dowling and Jones: "I think I said this last night, but just in case, if asked by the administration to go for the PUCO chair spot, that I would say, yes."

Dowling in his deposition said he "didn't recall" Randazzo bringing that up the night before.

---- Index References ----

Company: FIRSTENERGY CORP

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

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

Region: (Americas (1AM92); Florida (1FL79); North America (1NO39); Ohio (1OH35); U.S. Midwest Region (1MI19); U.S. Southeast Region (1SO88); USA (1US73))

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End of Document

NewsRoom

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2026 WLNR 6022683

cleveland.com (Cleveland, OH)

February 27, 2026

FirstEnergy's Chuck Jones' bribery trial unveils damning testimony about his arrogance

Today in Ohio; cleveland.com

The trial of former FirstEnergy CEO Chuck Jones is producing testimony so damning that it raises the question about why Jones did not seek a plea agreement.

That's the conclusion of Today in Ohio host Chris Quinn on Friday's episode.

Jones — who earned more than $20 million in a single year leading one of Ohio's largest utilities — is on trial on charges connected to what prosecutors describe as a massive bribery scheme. And the testimony painting the picture of his alleged crimes has been jaw-dropping.

According to witness Stephen Staub, Jones told a group of investors in 2019 not to worry about a potentially damaging regulatory review that could have tanked FirstEnergy's stock price and revenue. He told them he could "almost guarantee" the review wouldn't happen.

The confidence seemed inexplicable at the time — the review was already scheduled. Prosecutors say Jones was so certain because he had bribed Sam Randazzo, the man he helped install as chairman of the Public Utilities Commission of Ohio.

"He just comes across as so arrogant every time somebody talks about him.," Quinn said. "I don't get what he's thinking in fighting this, because if I were a juror, I'd be hearing this stuff thinking, this is gross."

It wasn't just FirstEnergy's corporate shareholders who benefited from the alleged arrangement. Laura Johnston described how Jones personally cashed in — at the direct expense of ordinary Ohio families:

"So when Randazzo and the PUCO said, hey, you don't have to do that rate review, which would have showed that First Energy was making too much money and would have lowered prices for all of us regular Ohioans, the stock price went up because all of the stockholders are like, yay, more money for us. And then Jones got paid a whole lot more. So this isn't just for the company. This is for his own pockets."

Ohio ratepayers paid inflated electricity bills. That money padded FirstEnergy's bottom line. The stock rose. And Jones pocketed millions in performance-based compensation tied directly to that stock price.

Which brings the panel back to the central mystery: why fight it in court? Quinn put it as plainly as possible:

"His company already pleaded guilty to the bribery Iand he was running the company. Come on, this is kind of case closed. It's a fool's errand to think you can buy your way out of it with great attorneys."

The defense is doing what expensive defense teams do — challenging witnesses' memories, questioning why certain statements weren't reported for years, pointing fingers at Randazzo. But Randazzo is dead and can't be cross-examined, and as the panel noted pointedly: it takes two to commit bribery. Randazzo couldn't have bribed himself.

Listen to the discussion here.

Listen to full "Today in Ohio" episodes where Chris Quinn hosts our daily half-hour news podcast, with Editorial Board member Lisa Garvin, Impact Editor Leila Atassi and Content Director Laura Johnston.

---- Index References ----

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISION

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

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

NewsRoom

3/2/26 cleveland.com (Cleveland, Ohio) (No Page)
2026 WLNR 6296077

cleveland.com (Cleveland, OH)

March 2, 2026

A dead man's actions take center stage in FirstEnergy bribery trial

Adam Ferrise; cleveland.com

AKRON, Ohio — Two former FirstEnergy executives have spent weeks in court facing corruption accusations. Yet much of the conversation has focused on a dead man: Sam Randazzo.

Randazzo's death has cast a wide shadow over the trial of the company's ex-CEO Chuck Jones and ex-lobbyist Michael Dowling, who are accused of bribing the former state utility regulator.

For more than a month, prosecutors and defense attorneys have sparred over Randazzo's motivations, decisions and his relationship with FirstEnergy.

One aspect remains uncontested: Both sides have portrayed Randazzo as a corrupt attorney and conman who leveraged his reputation as one of the state's top energy attorneys to steal from his clients and hide it from nearly everyone, including his longtime secretary Deb Ryan.

"I have a hard time processing that he was doing anything, I guess, illegal or unethical," Ryan said during a deposition played at trial.

At times, testimony has focused more on Randazzo than Jones or Dowling. On Monday, a Public Utilities Commission of Ohio deputy director continued testifying about Randazzo's actions during his stint as PUCO chairman from April 2019 to his resignation in November 2020.

Randazzo died by suicide in April 2024 after being charged by both state and federal prosecutors. He was accused of accepting a $4.3 million bribe from Jones and Dowling. In exchange, prosecutors say he issued regulatory rulings worth millions to FirstEnergy and lobbying on behalf of scandal-ridden House Bill 6, which gave a $1 billion bailout to two aging nuclear power plants.

After Randazzo's death, a shell company that he owned pleaded guilty in the case and agreed to pay $2.2 million in penalties and restitution. In 2021, FirstEnergy admitted to bribing Randazzo and former Ohio House Speaker Larry Householder, who is serving a 20-year federal prison sentence for accepting $60 million in FirstEnergy bribes to help pass HB 6.

Testimony so far has painted a picture of a man who lived a double life.

A former University of Akron basketball team equipment manager, Randazzo became one of the most prominent electric utility attorneys in the region, who actually worked against utilities.

Randazzo argued in front of the PUCO that his clients — trade groups made up of some of Ohio's largest industrial and commercial businesses— should be charged less for the huge amounts of FirstEnergy electricity that they used.

One of his clients, Matt Brakey of Brakey Energy, testified that he trusted Randazzo "implicitly" and viewed him as something of a mentor. Brakey was part of IEU-Ohio, one of the trade groups that Randazzo represented.

Randazzo, however, simultaneously worked for FirstEnergy under a $2.1 million consulting contract inked in 2013. He also secretly stole money from his clients from settlements, including with FirstEnergy, both prosecutors and defense attorneys say.

Randazzo, who Ryan described as something of a workaholic, was set to retire in 2018 and leave Ohio for Florida, even getting a Florida driver's license.

But a request from incoming Ohio Gov. Mike DeWine changed everything. DeWine asked him about becoming PUCO chairman, a cabinet position that carried heavy sway over how much money FirstEnergy could pull in. When Randazzo considered it, his longtime assistant was shocked.

"I thought he was nuts," Ryan said during her deposition, adding: "Why not retire and enjoy life? Why retire and go work?"

At the heart of the case is the $4.3 million payment that prosecutors say was a bribe.

Witnesses, including some inside FirstEnergy, said they were confused by it. Some thought it was an extension of the 2013 consulting contract. Others said it was a settlement extension in 2015 that Randazzo secretly negotiated on behalf of IEU-Ohio in 2015, without his clients knowing.

Prosecutors say once Dowling and Jones learned that Randazzo was going to be PUCO chair, they hashed out a deal with Randazzo to pay him the $4.3 million early.

Testimony showed Dowling pushed for FirstEnergy officials to pay Randazzo the money, and Jones signed off on the payment.

Defense attorneys say the contract was a legal settlement and pushing up the payments - scheduled to be made annually through 2024 — was a business move to clear future expenses off its books after a particularly successful 2018. They said Jones and Dowling didn't know Randazzo planned to keep the money.

Ryan said Randazzo only mentioned the $4.3 million payment once.

"He did say he [FirstEnergy] wasn't obligated to make the payment, but he thought they would," Ryan said, adding that she didn't know why Randazzo believed FirstEnergy wasn't obligated to pay.

Randazzo began his shortened term at PUCO in April 2019. That same month, Jones and three other FirstEnergy executives stopped by Randazzo's vacation home in Naples, Florida.

Dennis Chack, then a FirstEnergy senior vice president, testified that Jones asked Randazzo about several issues important to FirstEnergy, including HB 6. Jones then sent the other executives outside so he and Randazzo could have a private, 10-minute chat, Chack said.

While leaving, Chack asked Jones what he thought of Randazzo.

"He's a good friend to the company," Jones said, according to Chack.

Randazzo went on to help draft the HB 6 legislation that passed in July 2019, inserting language into the bill that guaranteed FirstEnergy would lock in profits at 2018 rates.

In August of that year, Randazzo first asked PUCO staff to kill a scheduled review of FirstEnergy's finances that would have scared off investors and caused profits to plummet, according to Greg Price, the PUCO's deputy legal director.

Price testified on Friday that he pushed back and Randazzo left it alone.

About three months later, in November, he sent word back to Price through an aide to insert language into a PUCO decision to kill the rate review.

Price said that Randazzo, who witnesses testified could be prickly when confronted, didn't push back the second time.

"I had worked with Mr. Randazzo for many months at that point," Price said. "And I felt like if he asked me for a second time, there would be no pushing back."

---- Index References ----

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISION; BRAKEY ENERGY INC

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

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

Region: (Americas (1AM92); Florida (1FL79); North America (1NO39); Ohio (1OH35); U.S. Midwest Region (1MI19); U.S. Southeast Region (1SO88); USA (1US73))

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NewsRoom

2/27/26 Targeted News Serv. (U.S.) 00:00:00

Targeted News Service (US)

February 27, 2026

WHAT OHIOANS ARE READING: 'Husted backed the corrupt HB 6 bailout. Ohio households now pay $663 more a year.'

COLUMBUS, Ohio, Feb. 27 -- The Ohio Democratic Party posted the following news:

* * *

WHAT OHIOANS ARE READING: 'Husted backed the corrupt HB 6 bailout. Ohio households now pay $663 more a year.'

*

Husted at center of ongoing FirstEnergy corruption trial, mentioned more than 100 times

Columbus, Ohio - New reporting reveals that Senator Jon Husted " led the charge " to pass HB 6, the scandal-ridden bribery legislation that has contributed to Ohioans' electric bills, rising by an average of more than $660 since the bailout passed in 2019.

As the FirstEnergy criminal corruption trial continues, Husted's ties to the largest corruption scandal in Ohio history continue to deepen -with new phone calls, text messages, and previously unreported secret meetings placing him at the center of the scheme that delivered a billion dollar bailout to utilities while sticking Ohio families with higher energy bills.

Read more about the latest revelation on Husted's role in the center of Ohio's largest corruption scandal:

TiffinOhio.net: Husted backed the corrupt HB 6 bailout. Ohio households now pay $663 more a year.

* U.S. Sen. Jon Husted, who is running to keep his Senate seat in Ohio's 2026 special election, allegedly played a central role in passing a utility bailout law that sits at the heart of the state's largest-ever corruption scandal -and that has contributed to Ohio households paying $663 more per year for electricity in the years since.

* The financial toll is direct and documented. When House Bill 6 took effect in October 2019, the Public Utilities Commission of Ohio recorded the average monthly residential electric bill at $89.19 -$1,070.28 annually. By January 2026, that figure had climbed to $144.47 per month, or $1,733.64 per year. The difference: $55.28 per month, $663.36 per year.

* Text messages and internal emails released in 2024 show that Husted allegedly led the charge with now-indicted FirstEnergy executives to pass the bill, according to the Ohio Capital Journal.

* A FirstEnergy email stated that Gov. Mike DeWine "left the details of H.B. 6 to others -John [sic] Husted and Danny," referring to Husted and Dan McCarthy, DeWine's legislative director and a former FirstEnergy lobbyist.

* House Bill 6 passed in 2019 and authorized a $1 billion ratepayer-funded bailout of the state's nuclear power industry, with monthly surcharges paid by every Ohio residential electricity customer.

* Federal authorities later revealed it was secured through a nearly $61 million bribery scheme -described by U.S. Attorney David DeVillers as "the largest bribery money laundering scheme ever perpetrated against the people of the state of Ohio."

* HB 6 required Ohio residential utility customers to pay a monthly surcharge of between $1.30 and $1.50 [...]. From 2020 through August 14, 2025, Ohioans paid $527,808,043 in OVEC subsidies specifically under HB 6's Legacy Generation Rider.

* According to PUCO's January 2026 Unit Costs data, the average Ohio household now pays $144.47 per month for electricity -$1,733.64 annually, based on the commission's standard estimate of 750 kilowatt hours of monthly residential usage.

* When HB 6 took effect in October 2019, that same household paid $89.19 per month, or $1,070.28 per year.

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

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

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

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

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

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

* Just weeks after Husted and DeWine were elected in 2018, they had a dinner with FirstEnergy executives Jones and Dowling at the Athletic Club of Columbus that has become a focal point of the current criminal trial.

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

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Original text here: https://ohiodems.org/what-ohioans-are-reading-husted-backed-the-corrupt-hb-6-bailout-ohio-households-now-pay-663-more-a-year/ MSTRUCK-9528779 MSTRUCK

---- Index References ----

Company: FIRSTENERGY CORP; OHIOANS HOME HEALTHCARE INC

News Subject: (Crime (1CR87); Criminal Law (1CR79); Financial Fraud (1FI18); Fraud (1FR30); Government Litigation (1GO18); Legal (1LE33); Social Issues (1SO05))

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

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

Language: EN

Securities

Manage Newsletters

Matt Levine’s Money Stuff: War Markets Have Some Bugs

March 2, 2026, 11:13 AM PST

Death predictions

The US Commodity Futures Trading Commission, which regulates prediction markets, has a rule, Rule 40.11, that prohibits those markets from listing any contract “that involves, relates to, or references terrorism, assassination, war, gaming, or an activity that is unlawful under any State or Federal law.” I don’t know how seriously the CFTC or the prediction markets take that rule. Certainly until about a year ago , everyone understood that rule to prohibit prediction markets from offering *sports betting* (“gaming”); now the prediction markets are *mostly* venues for sports betting, and the CFTC has explicitly endorsed this. So I am tempted to assume that, if Kalshi started offering war or assassination markets, the CFTC would be like “sure that’s cool whatever.”

But for now the rule is on the books, and Kalshi has real lawyers, so it does not explicitly offer assassination contracts. This can get awkward. For instance, Kalshi offered a series of contracts on “Ali Khamenei out as Supreme Leader” of Iran, which would pay out $1 if Ayatollah Ali Khamenei “leaves office” as of the contract expiry date, or $0 if he was still in office. Total volume is in the tens of millions of dollars. As of Friday, the April 1 expiry was trading at about 26 cents on the dollar, implying about a 26% probability that Khamenei would be out by the end of March.

If you were betting Yes on that contract on Friday, what mechanism did you have in mind? Perhaps you thought that Iran might call snap elections and Khamenei would lose the Supreme Leader race to a fresh young candidate. Or perhaps you thought that, at 86 years old, he might decide to retire. But surely, on Friday, the *most* likely way that Khamenei would leave office in the next month was “bombs.” And in fact, the best available reporting is that Khamenei did in fact leave office this weekend due to bombs.

But bombs don’t count. From the current description of the Kalshi “world leader out” contract rules:

If <leader> leaves solely because they have died, the associated market will resolve and the Exchange will determine the payouts to the holders of long and short positions based upon the last traded price (prior to the death). If a last traded price is not available or is not logically consistent, or if the Exchange determines at its sole discretion that the last traded prices prior to death do not represent a fair settlement value, the Outcome Review Committee will be responsible for making a binding determination of fair allocation.

That is: “Ali Khamenei out” might *seem* like a wink-wink way to bet on “Ali Khamenei dies,” but it is not, because if he dies then you *don’t* get paid. I suppose it still could be a wink-wink way to bet on *war*: If your expected mechanism was “US invades Iran, captures Ali Khamenei and installs a new government,” that is a war bet, but it *would* pay out. “Nicolás Maduro out,” notably, did pay off in January. But it is not a great way to bet on an air war.

But you don't get zeroed either; if Khamenei leaves office due to bombs, the resolution is neither "he left office" nor "he didn't." Instead, the contract resolves to "the last traded price (prior to the death)." That creates interesting market dynamics. For instance, if on Friday you knew that, with 100% certainty, Khamenei would *either* last the month *or* get killed, then arguably the price of the "Ali Khamenei out" contract should go *down:* The price was floored at zero (if he stays) and capped at the last trading price, so until he actually "left office" the expected value of the contract was a bit less than the last trade. On the other hand, you can influence "the last traded price" by trading; buying a lot of contracts to push up the last-trade-before-settlement price could be a good strategy. And of course "last traded price (prior to the death)" is itself a somewhat fuzzy concept: The contracts traded continuously, and it's not like Kalshi's Outcome Review Committee was there in the bunker to time the moment of death.

In any case, the contract traded up to about 66% by Saturday at noon (presumably because people expected to get 100 cents on the dollar?), and then plunged to the low 40s (when they realized they wouldn't?). The Wall Street Journal reports:

As news of the strikes unfolded early Saturday in the U.S., it became clear that Khamenei was a target, but his fate wasn't known. Then, at 4:37 p.m. Eastern Time, Trump declared on Truth Social that Khamenei was dead.

A different kind of chaos ensued online, with users unclear on when, or if, they would receive payouts. Kalshi had posted midday Saturday on X that if Khamenei died, "the market will resolve based on the last traded price prior to confirmed reporting of death." A couple of hours after Trump's Truth Social post, Kalshi wrote that if the last-traded price were "unclear," its committee for reviewing outcomes would determine a "fair value." …

Users flooded the comment section of Kalshi's site for the Khamenei market with complaints, demanding that it resolve the market to a "yes" after Trump declared on Truth Social that Khamenei was dead.

"I bet his ass was going to be dead before March a week or two ago," one user commented. "I want my f*cking money."

At 8:49 p.m. ET, Kalshi's Mansour posted on X that the company is refunding users all fees collected from the Khamenei market and will make payments based on the last-traded price before Khamenei's death. On Sunday morning, Mansour stated that users who placed bets after Khamenei's death will be refunded the difference between the price at which they bought the contract and the last-traded price before Khamenei's death. The reimbursements cost Kalshi $2.2 million, according to a person familiar with the matter.

One possible interpretation here is "you were trying to bet on war and assassination, which is not allowed, so you don't get to complain that you didn't get paid." If you think that you are getting a wink-wink bet on a prohibited subject, most of what you are getting is not the clean bet you wanted (Khamenei "out") but rather a fuzzy and unpredictable bet on legality and resolution mechanisms. Another possible interpretation is that most of Kalshi's *customers* don't know about Rule 40.11, or didn't until Saturday, and just figured betting on death was the whole and legitimate point of this market. Everyone's intuitions about prediction markets are still developing.

Polymarket, meanwhile, has a bifurcated structure with US and technically-non-US markets, so it has no problem listing quite explicit war contracts, and its "Khamenei out as Supreme Leader of Iran by March 31" contract traded to 99.9%. Straightforward.

Elsewhere: "Why betting on top online prediction markets is now illegal in New Zealand." (Beause it's gambling.)

Stock market predictions

I am an old man and I tend to think that, if you want to bet that the Nasdaq 100 stock index will go up, the thing you should do is buy the Nasdaq 100 index. I mean, there are futures contracts on the Nasdaq 100, there are exchange-traded funds that hold the stocks in the index, you can buy the stocks yourself, etc. And then if the Nasdaq 100 goes up, you will make money, and if it goes down you will lose money. Straightforward. But in 2026 the world is becoming prediction markets, which are binary and more exciting than stock markets, so you want a binary bet. You want to make 100% of your money if the Nasdaq 100 goes up 0.5%, and lose 100% of your money if it goes down 0.5%. I mean, probably not you. Not me. But apparently a lot of people want this because :

Nasdaq Inc. plans to roll out options contracts that would allow yes-or-no bets on a major stock index, the latest exchange operator to put its own spin on fast-growing prediction markets.

The company wants to list binary options on its flagship Nasdaq 100 Index and the Nasdaq 100 Micro Index, according to a proposed rule change filed with the US Securities and Exchange Commission. The Nasdaq contracts would be priced between 1 cent and $1, reflecting the market's view of an outcome becoming true, the filing said.

It would be Nasdaq's first foray into products that mirror prediction markets. The so-called Outcome Related Options would let traders take binary positions on whether a specified event happens. Binary options are a simplified version of an options contract in which the payout depends on the outcome of a yes-or-no proposition.

Sure. We talked last month about Cboe Global Markets' plans to launch binary index options. Apparently the lesson everyone has learned from the rise of prediction markets is that all-or-nothing bets are more appealing than linear bets, so big traditional firms are racing to launch them.

A big story in modern markets has been the rise of zero-day options : Increasingly investors like to trade stock and index options that expire at the market's close, because that's more fun than buy-and-hold investing. One concern is that zero-day options "have been instrumental in driving more intraday volatility" in the stock market. The theory is:

1. Customers like to buy zero-day options.

2. They buy them from market makers, who hedge the options: If you buy a call option on the Nasdaq 100 that expires at the close today, then the market maker who sells you that option will buy some underlying Nasdaq 100 shares or futures to hedge the option. The market maker will buy some percentage — the "delta" — of the underlying stock, computed using the Black-Scholes formula. A very in-the-money option will have a delta near 100%, a very out-of-the-money option will have a delta near 0%, and an at-the-money option — an even-money bet that the market will go up or down — will have a delta near 50%.

3. At the end of the day, the delta will be either 0% (if the market closes below the option's strike price) or 100% (if it closes above). So the delta will move pretty rapidly to either 0% or 100%, and the market maker will have to sell or buy a lot of stock to remain correctly hedged.

4. Also, if the market bounces around near the strike price, the delta will bounce around from 10% to 90% or whatever, and the market maker will constantly be selling stock and then buying it back.

5. Specifically, if the market goes *down* (below the strike price), the delta will go down, and the market maker will have to sell a bunch of stock, *pushing the market down more*. If the market goes *up* (above the strike price), the delta will go up, and the market maker will have to buy a bunch of stock, pushing the market up more.

6. Thus if everyone is buying zero-day options then the market will become more volatile; the market makers' hedging trades will exacerbate market moves.

That's zero-day options. If the next big story is the rise of binary options, then, you know, that but more so: The delta of a binary option "approaches infinity" if it is at-the-money and near expiration; if the index is right around the binary option strike price, then a market maker will have to pay out 100 cents on the dollar if the market goes up a bit and 0 cents if it goes down a bit. If everyone is buying binary options, then market markers' hedging trades will exacerbate market moves even more.

I'm just putting this here because in a year everything will be binary options and there will be lots of stories like "Why Is The Market So Volatile? Binary Options."

DAT proxy fight

We talked a few weeks ago about an activist battle brewing at Empery Digital Inc., a digital asset treasury company (or DAT). Empery is a pot of Bitcoins with a public stock listing, which was a good idea when it launched in 2025 but a bad idea now; Empery's stock trades at a discount to the value of the Bitcoin in the pot. Given that, an obvious move is to crack open the pot, sell the Bitcoins and return the cash to shareholders. DATs seem to resist this approach. Why? Well:

1. Maybe for good reasons: They have some clever long-term strategy, they are levered bets on crypto and need to be patient, to recover value, etc.

2. Maybe for bad reasons: Their executives get paychecks and optionality as long as the company keeps going, but if it winds up they lose that.

I wrote that "perhaps we can look forward to a wave of activism and proxy fights at discounted DATs."

Well, on Friday, Tice Brown, the activist at Empery, filed notice that he's launching a proxy fight to get himself on Empery's board, where his "objective would be to work constructively—but independently—to … immediately and dramatically increases capital returned to shareholders":

I have called for, among other things, the replacement of the Board, the resignation of the Company's Chief Executive Officer, and a return of substantially all capital to shareholders. The Company's continued retention of bitcoin holds no ongoing business purpose, as dozens of cheaper ways to achieve bitcoin exposure exist.

And today ATG Capital Management, Empery's biggest shareholder, announced its own proxy fight, "nominating a slate of nine highly qualified director candidates" to Empery's board. The board currently has eight members; assuming that Empery doesn't settle with Brown or ATG, that means 18 nominees for eight seats. If there's a discounted pot of Bitcoins, it turns out a lot of people will want to get control over it.

We have talked a lot about DATs around here, and I suppose the impression that I have had, and that I perhaps convey, is that they are a largely retail vehicle. The idea of "you can sell $1 worth of crypto for $2 on the stock exchange" maybe implies a certain lack of sophistication among the stock investors. And Strategy Inc., the original DAT, has a sort of meme-stock vibe. So you might expect the average DAT shareholder to be (1) a retail investor and (2) a true believer.

But I'm not sure that's true? The way DATs got *created*, back in the DAT glory days of 2025, was that a handful of repeat-player hedge funds and other institutions would seed them, putting up money to build the pot of crypto, getting shares, and hoping to eventually sell — to retail? — at a big premium. That worked out sometimes, but not always. We talked in January about ReserveOne Inc., a *pending* DAT whose institutional investors were hoping to get their money back because the DAT trade no longer works. Some DATs have shareholder bases consisting mostly of the institutions that seeded them; Empery's reported top shareholders (besides Brown and ATG) include Anson Funds, DRW and Highbridge. That is, it would not be at all surprising if the shareholders here (1) vote on shareholder matters and (2) are rational value maximizers, not true believers.

Tone and body language

A running theme around here is:

1. Investors often meet privately with the executives of public companies,

2. Those executives are not supposed to give investors any material nonpublic information in those private meetings,

3. The meetings nonetheless seem to be useful to the investors,

4. People try to reconcile Points 2 and 3 by saying that the investors get useful information from the "tone and body language" of the executives, and

5. I don't believe them.

Like, you know, come on man. The investors are all CIA-trained interrogators? The executives are like "profits will be high this quarter" but they are sweating profusely? These people are all professionals talking about numbers in air-conditioned conference rooms; the range of tone and body language is just not that wide. I assume the obvious thing: that the investors are asking *good questions* of the executives, and the executives are *answering* them. They are giving out *actual information*, information that does not rise to the level of "material nonpublic information" but that is nonetheless clarifying and interesting to the investors. "Material" is, in my view, a vague and somewhat antiquated standard: In the olden days, everyone understood that telling a hedge fund "hey we're getting acquired next week" or even "hey we're announcing earnings that are way better than expected next week" was material nonpublic information, but modern investors are so sophisticated that helping them refine their model of margins in one business segment is enough to make them a lot of money.

Of course I might be totally wrong and tone and body language might be the main thing. I write sometimes about my favorite counterexample , which is that a big institutional investor once did dump its holdings of a public company because an analyst met with its chairman and he was "unfeasibly tanned for this time of year." That is not financial or operational data, it is not the answer to an analyst's *question*, it is the sort of thing you could learn only by actually looking at the chairman, and it has an obvious intuitive relevance that the investor correctly acted on. The company went bankrupt.

That is just one anecdote. But here is "Voice Beyond Words: Evidence That Managerial Tone Predicts Returns When Text Does Not" by David Pope of Speech Craft Analytics :

This research brief examines the incremental predictive power of managerial vocal cues in earnings calls, particularly in scenarios where textual sentiment is neutral. Building on the methodology of Ewertz (2025), we analyze a large dataset of Russell 3000 earnings calls and find that paralinguistic features, such as assertiveness, arousal, and nervousness, contain significant economic information. Our findings demonstrate that even when language is devoid of strong sentiment, the acoustic properties of executive speech can predict post-earnings announcement drift, with top-quintile portfolios based on vocal features generating alpha of 40-70 basis points over 10-to 30-day holding periods.

The acoustic stuff seems to be machine-scored, so the point here is pretty much that you can get some alpha by having your artificial intelligence model analyze the executives' tone and body language on earnings calls. Maybe you can tell if the executives are lying, but in any case your AI can.

VC fraud

I wrote on Thursday about (1) my mental model that venture capitalists "have a sense of humor about fraud" in a way that other investors don't and (2) a new paper finding that in fact "VC-backed firms are 54% more likely to face fraud charges than comparable non-VC-backed firms." I got an email from a reader saying that he runs a VC-backed company and that, at a closing dinner for one of his fundraising rounds, one of his early investors, an experienced venture capitalist, "told me that one of my biggest weaknesses as a fundraiser was that I 'didn't lie enough' in my pitch to their fund and that we should do more of it going forward."

I suppose another model is "if you are an early investor in a company, you should want the founder to get better at lying to later investors." At some level your success case is "later investors pay more than I do," whatever happens *with the business*.

Lloyd Blankfein memoir

Lloyd Blankfein, the former chief executive officer of Goldman Sachs Group Inc., has a memoir out tomorrow called *Streetwise* . I have read it and enjoyed it a lot; Blankfein is thoughtful about his life and career and the 2008 financial crisis, and his voice and sense of humor come through. Disclosure, I worked at Goldman when Blankfein was the CEO, remember it fondly, and share some life experiences with him — we were both briefly lawyers who washed up in weird jobs selling derivatives, though he was evidently much better at it — so I am probably biased. (I am also briefly and flatteringly mentioned in the book.)

Here is a Q&A between Blankfein and Andrew Ross Sorkin about the book and Blankfein's life. My favorite part is:

Q. When you think back on the crisis, all the vampire squid stuff and all the criticism that was heaped on the company, is there something you wish you had done differently?"

A. … If I had had perfect knowledge, I would have gone out and shorted every security instead of being flat.

What a great answer. It's a pure hypothetical; he can't go back and change the past. Given that, and the fact that he is being interviewed in the New York Times about "all the criticism that was heaped on the company," the obvious move is to perform some contrition. I don't know quite what that would sound like but, you know, "a lot of people suffered during the crisis and I wish we had done more to help and been less cocky and blah blah blah," I don't know. But Blankfein's answer was "I wish we had made more money." That's why he was the CEO of Goldman.

Things happen

Global Credit Markets Wobble as War Deepens AI-Triggered Selloff. A New Threat to Power Grids: Data Centers Unplugging at Once. Jack Dorsey's 4,000 Job Cuts at Block Arouse Suspicions of AI-Washing . Hedge Funds, Banks Forced Into Contingency Mode in the UAE . Saudi Arabia's Biggest Oil Refinery Halts After Drone Attack. JPMorgan Tests 'Art of the Possible' in Leveraged Buyouts . Toyota bows to Elliott in $38bn buyout battle. Nvidia to Invest $4 Billion in Data Center Optics Companies . Apollo Said to Net $250 Million in Paper Profits on xAI Debt . First Brands Races to Sell Units in Bankruptcy to Avert April Wind-Down. Crypto Firm Paradigm to Expand Into AI, Robotics With New Fund. The Polo-Pony Clone Wars. Did Jeffrey Epstein Want to Take Down the Pope? Meta Director of AI Safety Allows AI Agent to Accidentally Delete Her Inbox.

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1. I have said this before, and I got an email from a reader objecting "what about taxes?" *In general*, most of the current discounted DATs bought crypto near the peak and are now sitting on huge losses, so there's no particular tax problem with selling or liquidating.

2. So: "This research was supported by the author's employer." "We compute percentiles for each of SCA's proprietary voice signals." Etc.

Trump's SEC gave companies more power over investors. Lawsuits pushed them back

reuters.com/legal/government/trumps-sec-gave-companies-more-power-over-investors-lawsuits-pushed-them-back-2026-03-02

Ross Kerber, Simon Jessop March 2, 2026

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

- SEC's new rule creates regulatory uncertainty, leading to investor lawsuits
- Companies cautious with new power, blocking few shareholder resolutions
- Lawsuits prompt companies like Pepsi, AT&T to allow shareholder votes

BOSTON/LONDON, March 2 (Reuters) - A new federal approach giving U.S. companies more say over which proposals shareholders can vote on at their annual meetings is creating regulatory uncertainty and leading to litigation, activists said.

The U.S. Securities and Exchange Commission in November changed its traditional process of having staff sign off before a company rejected votes on shareholder proposals. Instead it gave executives more discretion to pick which resolutions would appear on their proxy statements, the mandated document issued before shareholder meetings.
Sign up here.

The change has prompted at least three investor lawsuits - against AT&T (T.N), opens new tab, Axon Enterprises (AXON.O), opens new tab and PepsiCo (PEP.O), opens new tab - and potentially more to follow. By stepping back, the SEC injected uncertainty into the engagement process, said Giovanna Eichner, shareholder advocate at Green Century Capital Management, a climate-focused Boston asset manager.
"More than anything, this lack of structure and rules is actually just leaving everyone unsure about the best way to move forward," Eichner said.

In November, activists said they were worried the change was in line with other efforts by Trump-appointed regulators to rein in shareholder efforts on environmental, social and governance (ESG) investing. Many Republicans from energy-producing states have decried ESG efforts for cutting into corporate profits.

The legal threat, however, seems to have made U.S.-listed companies cautious with their new power. Shareholder activist group As You Sow has filed 47 proxy resolutions so far this year, and companies have used their new power to block up to a half-dozen. That's roughly the same rate as last year, when companies blocked 8 of 63 such resolutions.

"Companies have to decide: Do you want to have a good relationship with your shareholders, or do you want to pay your corporate attorneys millions?" said As You Sow CEO Andy Behar.

An SEC spokesman declined to comment. A person familiar with the agency's thinking said in November the change was driven partly to save staff time.

CHANGING TACK AFTER LAWSUITS

On January 5 Pepsi told the SEC it would skip a proposal seeking a review of animal-welfare practices within its supply chain, such as whether bulls at Indian sugar facilities are forced to haul overloaded sugarcane carts. Among other things, Pepsi said the filer failed to detail their availability to discuss the proposal as required.

The filer sued on Feb 19 , opens new tab, noting she had offered to meet with the company. The next day Pepsi said it would include the resolution on its proxy. "It was us bringing the lawsuit that forced Pepsi to follow the necessary procedure here," said Asher Smith, attorney for the People for the Ethical Treatment of Animals Foundation, representing the filer.

Pepsi didn't respond to questions.

Communications giant AT&T was sued on February 17 by New York City pension funds after the company refused to let shareholders consider a proposal seeking details about the company's workforce demographics.

A week later, New York Comptroller Mark Levine, who oversees the city's pension money, said AT&T agreed to settle the suit by allowing a vote, calling it a "major win for investors amid ongoing attempts to undermine transparency and accountability" by corporations.

AT&T did not respond to requests for comment.

Stun-gun maker Axon , opens new tab plans to skip a vote calling for a report on its political contributions, saying it would "micromanage , opens new tab" its business. The filer, Nathan Cummings Foundation, sued the company in U.S. District Court for the District of Columbia to force a vote. That suit is pending. Laura Campos, senior director at the foundation, said the suit was necessary for shareholders to defend their right to file resolutions. "When the Securities and Exchange Commission stepped back from providing substantive responses to no-action requests, it left shareholders hoping to preserve their rights with few options for doing so," she said via e-mail.

Axon did not respond to questions.

Other companies have taken a different course. On November 7, Starbucks (SBUX.O) , opens new tab asked to skip a resolution on transsexual healthcare coverage filed by conservative think tank National Center for Public Policy Research. Starbucks said the matter concerned "ordinary business," which would allow a vote to be skipped.
After the SEC's change Starbucks could have buried the resolution, but instead scheduled the vote for its March 25 annual meeting. The company declined comment.

Reporting by Ross Kerber in Boston and by Simon Jessop in London. Editing by Dawn Kopecki and David Gaffen

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

Ross Kerber
Thomson Reuters

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

- 𝕏

Simon Jessop
Thomson Reuters

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

- 𝕏

Securities

SEC Announces New Insider Trading Rules for Foreign Companies

Feb. 27, 2026, 11:04 AM PST

The US Securities and Exchange Commission announced new insider trade rules on Friday for executives in non-US companies who buy or sell stock in their firms.

The SEC's rules require executives and officers to quickly reveal when they scoop up or dump shares, a disclosure meant to deter people from using non-public information to cash in on well-timed trades. The requirements, which will take effect March 18, will be mostly in line with those faced by executives in American companies that require reporting within two business days.

The regulations apply to what the SEC labels foreign private issuers, companies based overseas with certain shares that trade in the US but also have certain breaks on US disclosure and reporting requirements. The agency was required to draft the rules under a law that Congress passed last year.

Some academics and lawmakers have decried a lack of disclosure as opening the door to unfair, opportunistic trading. "These requirements will align the reporting obligations of foreign executives with those of US executives," SEC Chairman **Paul Atkins** said in a statement.

So-called beneficial owners, those who own more than 10% of stocks in a company, will not be required to report under the new regulations, according to the SEC.

Some compliance questions remain, such as the part of the law that recognizes some overseas jurisdictions may already impose similar executive reporting requirements to the US. The law gives the SEC the authority to carve out exceptions for individuals, securities or transactions, the SEC said Friday.

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Securities

JPMorgan Says Up to $150 Billion CLO-Held Loans Face AI Risk

Feb. 27, 2026, 10:44 AM PST

Up to $150 billion worth of leveraged loans held inside US collateralized loan obligations fall within sectors that are at risk of being disrupted by AI, according to JPMorgan strategists.

JPMorgan examined software, as well as other sectors, pegging the value of loans in sectors most associated with AI risk at between $40 billion and $150 billion, according to a Thursday note from strategists led by **Rishad Ahluwalia**

Managers of CLOs have been sifting through portfolios for weeks to sniff out which loans face business risks from AI, fueling bouts of selling

Investors who gathered at a recent industry conference, SFVegas, were generally bearish, though concerns about an "AI-pocalypse" are, in JPMorgan's view, "over the top"

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Cristin Flanagan

Securities

To Goldman, With Love: Lloyd Blankfein's Life on Wall Street

Feb. 27, 2026, 7:32 AM PST

One by one, the mighty of Wall Street were falling.

Bear Stearns, Lehman Brothers, AIG, Merrill Lynch – where the panic would end, no one could say.

Inside 85 Broad Street, headquarters of Goldman Sachs Group Inc., an urgent call came for Lloyd Blankfein. Is Goldman in trouble too? The legendary dealmaker **Bruce Wasserstein** asked him. Do you need help?

Blankfein's cool response on that September day in 2008: We're good. We've got this.

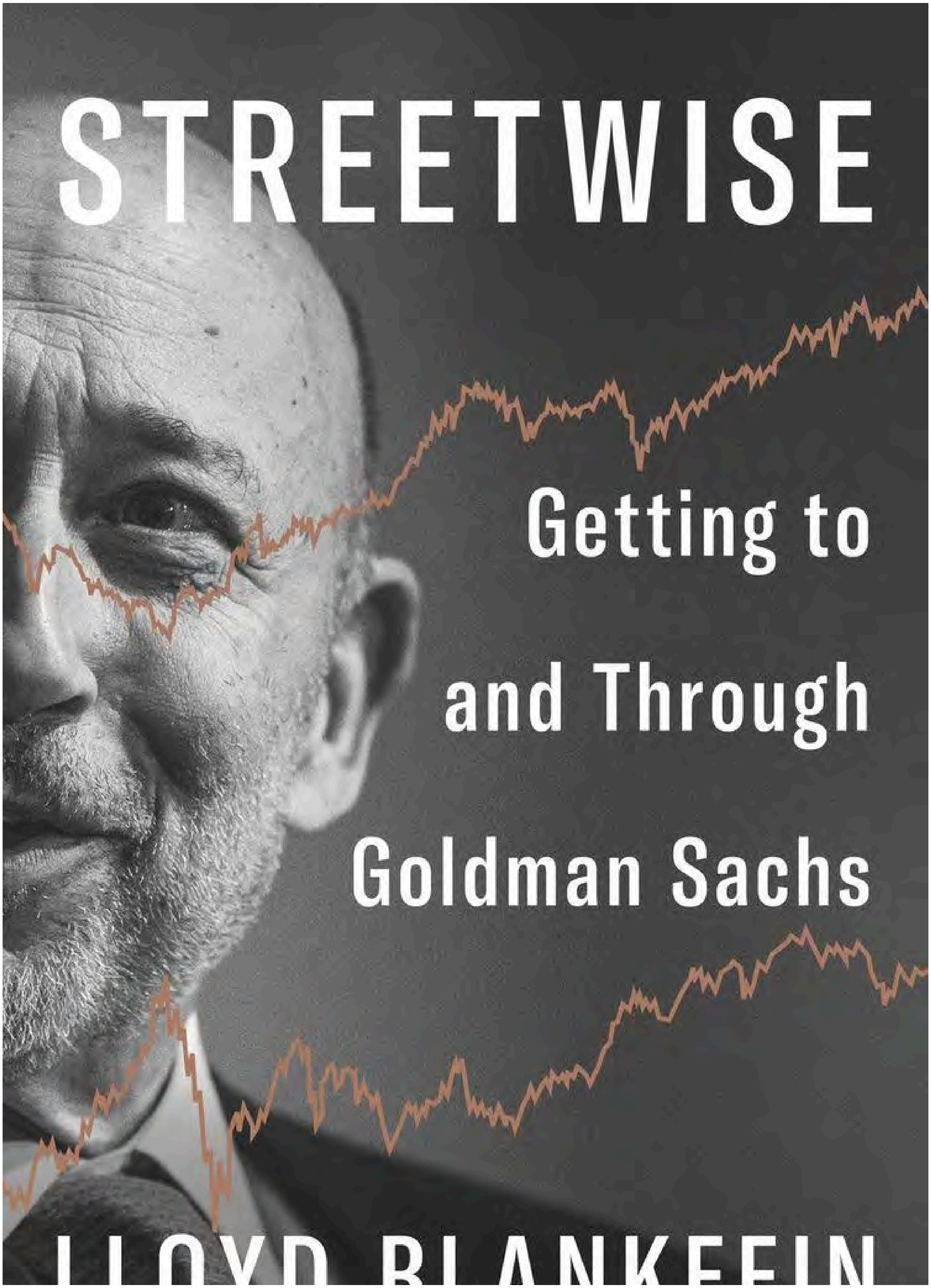
Lloyd Blankfein leaves the US Treasury building in Washington, DC, in 2008.
Photographer: Ken Cedeno/Bloomberg

"It was like an undertaker calling at your sick bed," Blankfein, who ran Goldman for a dozen years, recalls in his new memoir, *Streetwise: Getting to and Through Goldman Sachs*. "What a way to make a living."

In fact, it's a pretty good way to make a living, as Blankfein can attest. Eighteen years and more than $100 billion in profit later, Goldman and its former leader have long since put the panic of 2008 and ensuing Great Recession behind them.

Blankfein, who retired from the Goldman job in 2018, is a rare bank CEO to pen a book offering his view of the crisis, after a spate of government officials at the center of the storm — Hank Paulson (Blankfein's predecessor at Goldman), Tim Geithner, Sheila Bair and Ben Bernanke — all told their story in the years after the crash.

Now, years into retirement, Blankfein's taking a break from his schedule of philanthropy events and trading his own money. Written in pieces since he left Goldman with the help of writer Jacob Weisberg, Blankfein said he initially started the book due to boredom, and later realized the continued relevance of his story — and of Goldman — to others. It is one of the deepest dives into his time atop one of Wall Street's biggest firms, leading the bank through the financial crisis and the 1MDB scandal.


STREETWISE
Getting to and Through Goldman Sachs

“Streetwise” by Lloyd Blankfein
Source: Penguin Random House

Blankfein makes no apologies for the role high-paid bankers played in sinking the nation’s economy in the financial crisis. Goldman was accused of selling subprime junk to unwitting investors and paid $550 million to the Securities and Exchange Commission. But the bank didn’t admit to wrongdoing. And, to this day, Goldman insists that it never needed that bailout from taxpayers.

The few apologies in his entertaining memoir are largely half-jokes to colleagues he failed to pay enough or promote faster and, more sincerely, to his wife Laura, who suffered his absences and the high pressures of his job.

Blankfein’s story before he led Goldman is well-known. He came from a working-class family in downbeat East New York, through Harvard University and its law school, before successfully dodging a career as a tax lawyer. (“I can’t aspire to this — it looks deadly,” he thought.) In 1982, he jumped to J. Aron, the commodities trading firm which had just been bought by Goldman.

At the height of the crisis, he was pushed into considering mergers with Citigroup Inc. and HSBC Holdings Plc. In blunt conversations with their CEOs, both potential deals ended before they’d even started. Blankfein details frantic scenes in Goldman’s offices planning last-ditch deals and ways out of the crisis. Later, side by side with an FBI officer at a men’s urinal, the officer indicated he wouldn’t be criminally charged for any role in causing it.

Trying to foster confidence in Goldman at a time of distress, Blankfein called legendary investor **Warren Buffett**, who agreed to plow $5 billion into Goldman — few questions asked.

“That’s all fine,” Buffett interrupted, after Blankfein was about to go over some uncertainties. “I trust you. I’m taking my grandson to Dairy Queen.”

Lloyd Blankfein during a hearing on Wall Street and the financial crisis in Washington, DC, in 2010. Photographer: Andrew Harrer/Bloomberg

In 2010, Blankfein was chastised by senators in a marathon Congressional hearing, in which the bank was accused of misleading investors when it was selling high-risk mortgage-backed securities.

Understandably, the ordeal stressed him out. When he grabbed a bite at a gas station after his hearing, his driver warned him: "If you eat that, you're going to die." "Good. I really don't care at this point," Blankfein replied.

He notes that Goldman was often scrutinized. The terrorist attacks of September 11, 2001, was "the rare crisis that no one blamed on us," he quips. He spills a lot of ink noting Goldman's prowess in risk management while its rivals foundered.

There's little criticism of the financial system that enriched him, and also no mention anywhere in the book of his bonus for 2007 — the year before the crisis hit — of a record-breaking $67.9 million, which remains a record for a Wall Street CEO.

Missteps are written mostly in ways that point to his good judgment. When he was CEO, Goldman nearly missed out on Tesla Inc.'s initial public offering because of stringent caution that he then overruled. In a delicately worded passage, he describes getting a call from "gracious" pre-politician Donald Trump, who "in a very nice way" complained that a trader had told a broker that Goldman wouldn't buy his company's paper debt. Blankfein swiftly corrected that.

Blankfein spends under two pages on the Malaysian scandal, in which Goldman was accused of enabling the looting of the country's fund 1MDB. "No alarm bells went off for me," he writes, when Goldman was asked to underwrite government bonds to support a new sovereign wealth fund there.

After the 2012 and 2013 deals, the US government determined it was a fraudulent setup, used to fund a superyacht, a jet and paintings by Van Gogh and Monet.

Goldman "clearly had at least two corrupt employees," he writes. After he left, the bank "paid a stiff price in terms of money and reputation."

Blankfein shares kind words for two trading executives he mentored, **Ashok Varadhan**, who is now co-head of Goldman's banking and markets division, and **Pablo Salame**, now co-chief investment officer of hedge fund Citadel.

But Blankfein, who remains senior chairman and keeps an office at the bank, didn't opine much on the current state of the firm or its leadership. With a net worth of about $3.9 billion, according to the Bloomberg Billionaires Index which includes Goldman stock that has soared in recent years, he has little reason to.

Blankfein's successor, **David Solomon**, is described as a "tall and athletic" investment banker who had "done extremely well" at running his division. Twice, Blankfein mentions Solomon's hobby as a DJ.

DJ D-SOL performs during an event in Water Mill, New York in 2020.
Photographer: Kevin Mazur/Getty Images

There are one or two apparently veiled notes of comparison. Blankfein, of humble roots, takes pains to mention, with pride, that Goldman only leased — not owned — a Gulfstream jet. Under Solomon, the firm has bought two, which the CEO has frequently used for personal trips to the Bahamas.

Blankfein dwells greatly on his own rise to the top job and the rivals he had, noting that Goldman is too complex to bring in a CEO from the outside and it is hard to count out executives from a race.

"Each heir was never more than apparent," he said. There is no mention in the book of the bank's current president and chief operating officer, **John Waldron**, who is widely seen as Solomon's successor.

He recounts doling out blunt lessons as a manager. His line to juniors to push them to take ownership: "Tell me what you should do, because then I'm going to tell you to do it." When he faced concerns over firing under-performers: "My obligation was to the living, not the dead." His advice to young people: Study history, not math or science, to gain an appreciation of past cycles.

Goldman's profits have risen during Solomon's tenure. That success also came with downsides, in his eyes: Conforming to the demands of public investors has also made Goldman "a little less special," Blankfein laments.

Anyone hoping for a tell-all tale of Wall Street's bloody knife fights will be disappointed. After all, Blankfein writes, he is "nothing if not loyal to my institutions."

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Expert Opinion | White Collar Crime

Big Carrots, Big Sticks: Wall Street's Top Cop Fires a Warning Shot at Corporate America

The SDNY is pushing for companies to self-report misconduct quickly to avoid penalties, offering fast, clear pathways to cooperation and declination. Firms in emerging sectors like crypto should strengthen controls and act early to reduce risks. Senior leaders are encouraged to engage counsel promptly and prioritize compliance to navigate increased enforcement focus on both companies and individuals.

March 01, 2026 at 01:57 PM By **John Carney** & **Alex Karambelas**

SDNY

Speaking at the annual Securities Enforcement Forum in Manhattan on Feb. 5, U.S. Attorney for the Southern District of New York (S.D.N.Y.) Jay Clayton offered both reassurance and caution to senior executives. Clayton encouraged companies to proactively cooperate with law enforcement, emphasizing the office's goal of "get[ting] bad people out of hopefully good companies" and securing non-prosecution agreements with cooperating companies as quickly as possible. At the same time, he warned that "we are watching" both companies and individuals for potential market misconduct.

Clayton's message was formalized just weeks later, when the S.D.N.Y. adopted an updated Corporate Enforcement and Voluntary Self-Disclosure Program for financial crimes, giving companies a defined and accelerated path to a declination if they promptly self-report, fully cooperate, remediate misconduct, and make victims whole.

Under the new policy, qualifying companies may receive a conditional declination in as little as two to three weeks, followed by a followed by a final declination once cooperation, remediation, and restitution obligations are satisfied. The fact that the conditional declination is issued at the outset of cooperation may provide cooperating companies and their shareholders early clarity that has historically been unavailable in S.D.N.Y. investigations.

During his keynote address, Clayton noted that while S.D.N.Y. will offer companies “a big carrot” in exchange for cooperation, “there’s also going to be a big stick.” He made clear that companies that choose not to self-report do so at their own risk. “If you do not cooperate and there is criminal activity, you’re going to pay for not cooperating,”

The new policy makes that “big stick” explicit: when a company learns of illegal activity but elects not to self-report, that decision will weigh heavily against any future request for a declination, and there will be a strong presumption in favor of seeking a guilty plea, deferred prosecution agreement, or non-prosecution agreement with monetary penalties—penalties which would not apply to cooperating companies under the new policy.

As recent enforcement history in S.D.N.Y. makes clear, companies take on substantial risk when facing criminal or civil charges in the district without the protection of a cooperation agreement. In early 2025, cryptocurrency exchange OKX pled guilty to operating an unlicensed money transmitter business and had to pay more than $504 million in penalties to resolve the case. Even companies that were able to secure deferred prosecution agreements have run afoul of S.D.N.Y. by failing to fully cooperate with law enforcement.

In 2023, S.D.N.Y. announced that telecommunications giant Ericsson had breached a deferred prosecution agreement by violating the cooperation and disclosure provisions of the agreement, and the company was forced to plead guilty to violations of the Foreign Corrupt Practices Act and pay more than $206 million in fines. This enforcement history frames the context for Clayton’s remarks on how S.D.N.Y. intends to approach misconduct not only in traditional financial markets but also in emerging industries.

Addressing the topic of emerging technologies and markets such as cryptocurrencies and prediction markets, Clayton stuck to a back-to-basics approach and warned that individuals who engage in fraud in these industries will be held accountable under existing criminal laws. Using an example of a prediction market conspiring to rig a golf game, Clayton remarked, “That’s a crime. Because it’s a prediction market doesn’t insulate you from fraud.”

Clayton struck a similar tone on the topic of digital assets, stating that the office would look at the function of the asset at issue and continue to apply current laws to new markets. While acknowledging the importance of the crypto market, he also cautioned that "this sort of absolutist approach of some members of the crypto community that 'you should leave us all alone' and caveat emptor should apply? It's absurd, it really is."

Executives operating in emerging sectors such as digital assets, decentralized finance, and prediction markets should take particular note of S.D.N.Y.'s message that use of new technologies will not insulate misconduct from traditional criminal liability. Leaders in these industries should ensure that product functions, platform mechanics, token economics, and market-integrity controls are rigorously documented and evaluated under existing legal frameworks—not under assumptions about regulatory gaps.

Companies should also maintain strong controls around market manipulation, fraud prevention, and customer communications, recognizing that prosecutors will analyze conduct based on substance over form. For businesses innovating in fast-moving or lightly regulated areas, establishing disciplined compliance governance now is critical to avoiding the "big stick" that S.D.N.Y. signaled it is prepared to use.

Companies must also remain alert to risks arising beyond their own conduct. Misconduct by business partners, intermediaries, or counterparties can draw companies into government investigations under aiding-and-abetting theories. S.D.N.Y.'s framework therefore underscores the need for robust third-party diligence, ongoing monitoring, and clear escalation protocols. Companies operating in high-risk areas—such as prediction markets—should be prepared to examine and pressure test business relationships before potential misconduct by others becomes an enforcement problem of their own.

In light of S.D.N.Y.'s focus on proactive corporate self-disclosure and its newly formalized policy, senior executives at public companies should reassess whether their internal reporting, investigation, and escalation mechanisms are capable of supporting a prompt, substantive, and specific disclosure before the company learns of a government investigation. The policy makes clear that strategic delay—even while an internal investigation is ongoing—may disqualify a company from eligibility.

Now more than ever, leaders should ensure that potential misconduct is detected quickly, investigated promptly, and evaluated for potential self-reporting. Executives should take affirmative steps to foster a culture in which employees feel empowered to raise issues early and should confirm that the company's compliance, legal, and audit functions have clear protocols for assessing potential misconduct.

The updated policy also heightens the stakes for corporate officers and executives. By offering companies a clear path to a declination while intensifying its focus on individual accountability, S.D.N.Y. is creating a structural divergence between corporate and executive interests, such that officers who are aware of potential misconduct may find themselves in a position to engage in a race to the U.S. Attorney's Office.

Corporate officers and executives can and should consider hiring their own counsel and taking steps to ensure that they are the first one through the door of the prosecutor's office, particularly where corporate cooperation could involve identifying individual culpability. Although the new policy applies only to companies, traditional cooperation mechanisms for individuals remain available, including non-prosecution and deferred prosecution agreements.

At the same time, leaders should reassess their company's readiness to engage with law enforcement should a self-report be warranted, and they should be prepared to consult with outside counsel regarding possible cooperation as soon as any potential misconduct is detected. Senior executives should also understand S.D.N.Y.'s heightened focus on individual accountability and be prepared for regulators to scrutinize not only corporate conduct but also the actions—and inaction—of responsible personnel.

Companies that invest now in rapid-response investigation protocols, disciplined compliance governance, and early engagement with counsel will be best positioned to secure the "big carrot" S.D.N.Y. is offering, and to avoid the consequences that await those who decline it. By approaching compliance as a strategic priority, rather than a reactive obligation, executives can help their organizations navigate emerging risks, maintain market trust, and mitigate the significant consequences that accompany failure to self-report or remediate misconduct.

John Carney *is a partner at BakerHostetler and* **Alex Karambelas** *is an associate with the firm.*

Securities

Manage Newsletters

CMBS Investors Suffer $139 Million Loss on Single Office Tower

March 2, 2026, 4:10 AM PST

Summary by Bloomberg AI

AI Generated

- Money managers who invested in a $240 million commercial-mortgage bond tied to a San Francisco office building were hit with significant losses after the underlying loan was sold at a steep discount.
- The loan's sale left just $101 million to distribute to investors, with six junior classes wiped out and even the second-most senior bonds losing more than 40% of their principal.
- The episode underscores how aging US office towers hollowed out by remote work have become a hazard for bondholders, with analysts and investors cautioning that further losses may lie ahead for holders of single-asset, single-borrower bonds.

Money managers who piled into a $240 million commercial-mortgage bond tied to a San Francisco office building were hit with significant losses in recent weeks after the underlying loan was sold at a steep discount.

Buyers of the CMBS – backed by the mortgage on 600 California St., a 20-story office building in the city's financial district – got less than half of their original investment back after the loan's sale left just $101 million to distribute to investors, according to debt documents .

The damage reached what were once considered the safest slices of the deal: six junior classes were wiped out, and even the second-most senior bonds, originally rated AA- by S&P Global Ratings and AAA by Morningstar, lost more than 40% of their principal. More than $12 million in interest also went unpaid.

600 California Street in San Francisco.

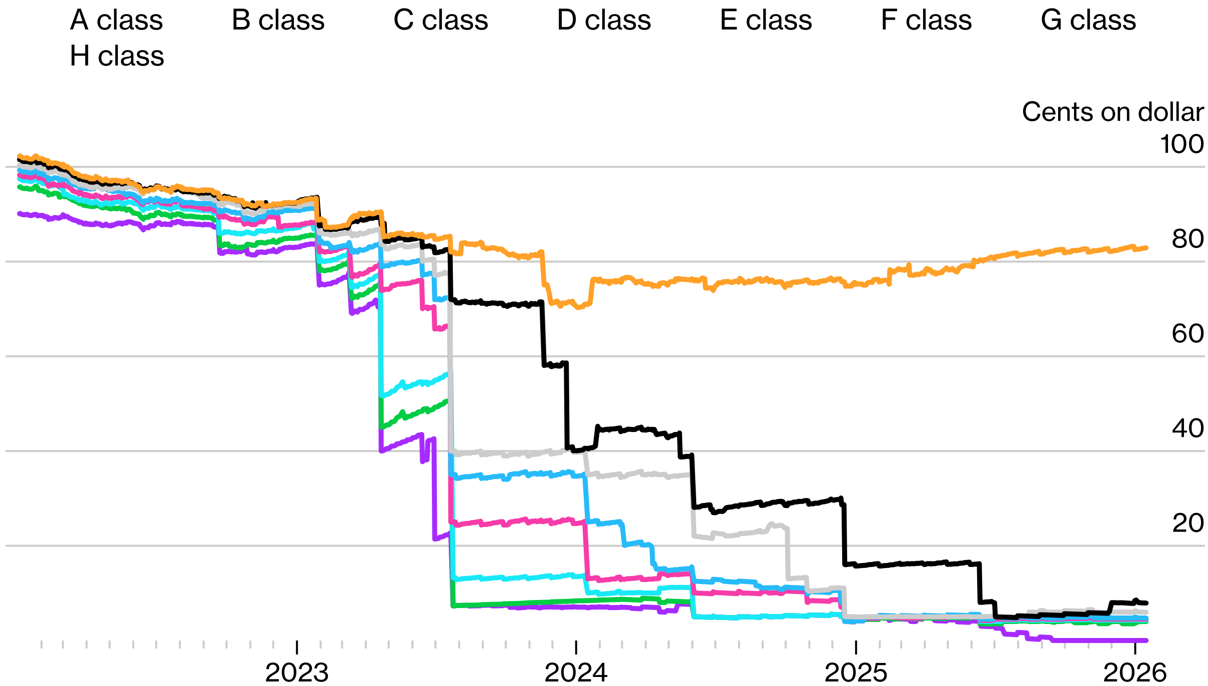
Photographer: Jason Henry/Bloomberg

The episode underscores how aging US office towers hollowed out by remote work have become a hazard for bondholders . 600 California St. was just 26% leased when the loan changed hands in December, according to real estate brokerage firm Newmark, which arranged the sale to private equity firm Lone Star Funds . Bonds backed by a single mortgage on one property, known as single-asset, single-borrower (SASB) CMBS, are particularly exposed, market watchers say.

“We've seen multiple instances now of even senior bondholders taking losses when the loans behind these single-asset securitizations default,” said Rod Dubitsky, a financial markets consultant who worked for Moody's Ratings, Credit Suisse Group AG and Pacific Investment Management Co. over a 30-year career analyzing securitized products including CMBS. “For that to happen even once is a huge deal.”

600 California St. Bonds Plunge

CMBS tied to San Francisco building repaid at pennies on the dollar



Source: Bloomberg

Bloomberg

Built in 1990, the 360,000-square-foot tower sits between San Francisco's Union Square and the Embarcadero. The property was appraised at $349 million when it was acquired in mid-2019 by WeWork Capital Advisors , a venture between WeWork Inc. and Rhone Group. The mortgage was soon packaged into a single-asset CMBS, closing just months before the pandemic upended the office market.

The joint venture stopped making payments on the loan three years ago, around the time key tenants, including Omnicom Group Inc. and real estate investment firm BGO, chose not to renew their leases, according to CoStar Group. WeWork, which remains the anchor tenant, also sharply reduced its footprint in the building amid its own restructuring, further weighing on occupancy and income.

Representatives for WeWork Capital Advisors didn't respond to requests for comment.

The mortgage was ultimately sold to Lone Star late last year for around $123 million, according to a person familiar with the matter, triggering the bond's liquidation.

Holders of 600 California CMBS Take Hit

Lower ranking creditors are wiped out

Class	Original Balance ($m)	Bond Loss	Percentage Loss (%)	Original Morningstar/S&P Rating
A	84.9	$0m	0	AAA/AAA
B	18.9	8.1	42.9	AAA/AA-
C	14.1	14.1	100	AA/A-
D	17.4	17.4	100	A/BBB-
E	31.9	31.9	100	BBB-/NR
F	21.3	21.3	100	BB-/NR
G	22.4	22.4	100	B-/NR
H	17.1	17.1	100	NR/NR

Source: CMBS Periodic Report

Bloomberg

It's not all bleak in the San Francisco commercial property market. While many older buildings have been hit by vacancies, newer and well-located offices are benefiting from a rebound in leasing demand tied to the artificial-intelligence boom.

The tech hub's office market has begun to stabilize, with tenant demand reaching a record high in the fourth quarter, according to CBRE Group Inc. Even as nearly one-third of the city's office space remains vacant and dozens of properties have been sold at steep discounts or fallen into distress, investors are cautiously returning, wagering that AI-driven expansion and a more business-friendly City Hall will help underpin a broader rebound.

Buildings on California Street in the Financial District of San Francisco.
Photographer: Jason Henry/Bloomberg

"San Francisco has entered a new phase of recovery, with tenant activity strengthening across the downtown core," **Jerome Foulon**, global head of commercial real estate at Lone Star, said in a statement released alongside the purchase of the 600 California St. mortgage. The firm declined to comment further.

Read More: San Francisco's AI Revival Sets Off Race for New Office Towers

Still, analysts and investors caution that further losses may lie ahead for holders of single-asset, single-borrower bonds backed by aging office towers — a multibillion-dollar slice of the market that continues to grapple with the lasting effects of pandemic-era remote work.

The top-ranked slices of commercial mortgage-backed securities tied to the Peachtree Center in Atlanta , EY Plaza in Los Angeles and the River North Point building in Chicago all trade below 80 cents on the dollar, according to data compiled by Bloomberg. Lower ranking tranches are trading hands at far steeper discounts, signaling investors expect heavy write downs.

“There are probably a lot more of these to come,” Dubitsky said.

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Securities

Manage Newsletters

Flagship-Backed Generate Falls 21% After $400 Million US IPO (2)

Feb. 27, 2026, 1:11 PM PST

Summary by Bloomberg AI

AI Generated

- Generate Biomedicines Inc. shares slumped 21% in the company's trading debut after it 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.

Generate Biomedicines Inc. shares slumped 21% in the company's trading debut after it raised $400 million in an initial public offering.

Shares of the Somerville, Massachusetts-based drug developer finished at $12.65 apiece 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 $1.6 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 nearly 170% since its $295 million IPO.

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 throughout.)

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Securities

UK Big Four Lose Listed Clients, Focus on Large Audits (1)

March 1, 2026, 4:01 PM PST; Updated: March 2, 2026, 6:27 AM PST

The Big Four accounting firms continue to lose ground on the number of UK-listed companies they audit but maintain their stranglehold over vetting the books of the biggest companies, according to a new report.

Deloitte, Ernst & Young, KPMG, and PwC all lost listed company audits in the three months ending on Feb. 11, Adviser Rankings said Monday. Nevertheless, all of them saw the value of their UK audit clients increase over the quarter as they concentrated on doing fewer, bigger audits.

PwC, also known as PricewaterhouseCoopers, remained the biggest auditor by number of listed companies in February, although its total client count dropped by three to 211 since Nov. 12, 2025.

Mid-size firm BDO remained in second place based on number of listed companies it held as clients as of February. This put it ahead of EY, which dropped four listed clients over that period to post a total of 160.

PKF Littlejohn, another mid-size firm, was in fourth place for number of listed clients. It was ahead of Deloitte and KPMG in this category.

All of the Big Four firms increased their market share when measured by their clients' market capitalization, however. The value of PwC's audit clients increased by more than 10% over the quarter, for example, and its clients were worth about 20 times those of BDO, which was in fifth place based on clients' market capitalization. The Big Four continued to audit 97 of the companies that make up the FTSE 100 index.

There has been a long-term trend of the Big Four concentrating on large audits. KPMG, for example, has seen its number of listed clients plunge by two-thirds over the past 20 years but its clients' market capitalization has doubled.

(Updates third bullet to note that PKF Littlejohn was ahead of Deloitte and KPMG in terms of number of listed clients. A previous version corrected that bullet to say PKF Littlejohn was fourth in that category.)

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KuCoin Operators Again Seek To Shed $1.2M Crypto Theft Suit

By **Emilie Ruscoe**

Law360 (February 27, 2026, 9:14 PM EST) -- Operators of cryptocurrency exchange KuCoin seek to shed the latest revision of a cryptocurrency theft victim's proposed class action, arguing that the amended suit's conversion and aiding and abetting allegations fare no better than the Racketeer Influenced and Corrupt Organizations Act and Bank Secrecy Act claims that were tossed in January.

In Wednesday filings in Manhattan federal court, holding company Flashdot Limited, its subsidiary Peken Global Limited, which operates KuCoin, and KuCoin's co-founders Chun Gan and Ke Tang argued that plaintiff James K. Supples "significantly overpromised" when he told the court he could fix certain defects in his earlier claims.

"Plaintiff again impermissibly seeks to hold defendants liable because he was allegedly defrauded of his cryptocurrency by bad actors entirely unrelated and unknown to defendants," the KuCoin parties told U.S. District Judge Gregory H. Woods. "Nothing in the Second Amended Complaint changes that fundamental and immutable fact."

The latest version of Supples' suit brings the state law conversion and aiding and abetting claims against the KuCoin defendants in connection with allegations that the exchange failed to return to Supples cryptocurrency that he claimed was stolen from him.

Supples claimed he had been hacked in December 2024, and cryptocurrencies worth $1.2 million at the time were taken from his account.

The cryptocurrency holder claimed that an "extensive investigation" had revealed that "a material portion" of his cryptocurrency had been sent to at least one KuCoin account.

According to Supples, "KuCoin refused to implement adequate [Know Your Customer] and [anti-money laundering] policies and procedures, so the bad actors who stole plaintiff's and class members' cryptocurrency were able to launder and convert it through KuCoin and remove the cryptocurrency from the public blockchain without risk of being identified or tracked."

On Wednesday, the KuCoin defendants said that the latest version of Supples' claim fails to show that he actually demanded the return of his stolen digital assets, or that the company refused to return them.

Supples also did not show that the defendants knew the crypto at issue was stolen, the defendants said. Nor did the complaint show that the exchange had actually done anything to convert Supples' property, as required for a conversion claim, the defendants said.

The defendants also argued that the plaintiff failed to show that KuCoin had actually known about the conversion of Supples' stolen cryptocurrency, which he'd need to show to support his aiding and abetting claims.

In January, Judge Woods dismissed Supples' suit against the KuCoin defendants, but gave him permission to replead the state law conversion and aiding and abetting claims.

At the time, the judge said that he could not "conclude that any amendment of plaintiff Supples's state law claims against KuCoin would be futile."

But the court did permanently toss the suit's claims under the Racketeer Influenced and Corrupt Organizations Act and Bank Secrecy Act, finding that the suit failed to plausibly establish the direct relationship between the alleged losses and the defendants' alleged RICO violations.

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

Plaintiff James K. Supples is represented by Samuel H. Rudman, Evan J. Kaufman, Jonathan A. Ohlmann and Eric I. Niehaus of Robbins Geller Rudman & Dowd LLP and David C. Silver and Jason S. Miller of Silver Miller.

Flashdot Limited, Peken Global Limited, Chun Gan, and Ke Tang are represented by Matthew L. Craner, Erin Sisson and Sean Boren of Allen Overy Shearman Sterling US LLP.

The case is Reca v. Flashdot Limited f/k/a PhoenixFin Limited et al., case number 1:24-cv-06316, in the U.S. District Court for the Southern District of New York.

--Editing by Vaqas Asghar.

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PG&E Investors' $100M Wildfire Suit Deal Gets Initial OK

By **Sydney Price**

Law360 (February 27, 2026, 6:13 PM EST) -- California utility Pacific Gas & Electric Co., its brass, underwriters and shareholders have received initial approval of their $100 million deal settling claims the company misled investors about its safety practices ahead of deadly wildfires in the past decade.

U.S. District Judge Edward J. Davila said in an order on Thursday that the court will likely approve the settlement as "fair, reasonable and adequate" after a hearing on Aug. 25.

According to a settlement motion filed in January, lead counsel for the investors will request up to 25% of the settlement fund, or $25 million, in attorney fees and up to $5.7 million in expenses.

Last month, Judge Davila was **urged to reject** the deal by 60 members of the proposed class who argued the settlement runs contrary to the plan PG&E established in its bankruptcy. The company filed for Chapter 11 reorganization in 2019 and emerged in July 2020.

"The proposed settlement targets a specific subset of PG&E's creditors (and putative class members), leverages their unique rights and interests, and sells those rights and interests down the river," the objectors said.

Thursday's order notes the court will consider "all proper objections" to the settlement.

The parties reached the agreement days after U.S. Bankruptcy Judge Dennis Montali denied PG&E's October bid to stay the securities class action claims and just over a week after PG&E's officers and its directors and underwriters filed a pair of bids to dismiss the latest version of the investor claims.

A previous version of the suit was dismissed in October, but Judge Davila allowed a fifth attempt to pursue the claims.

If granted final approval, the deal would end claims that PG&E "destroyed billions of dollars of economic value in the company's securities" by failing to disclose the deficiencies of its wildfire safety practices in the leadup to unusually deadly and destructive wildfires in 2017 and 2018.

The proposed class includes those who purchased PG&E shares between April 29, 2015, and Nov. 15, 2018, the filing states.

According to the investors, the wildfires "were started or exacerbated by noncompliant PG&E electrical equipment and vegetation management: an astounding fact to those who believed PG&E's public statements that it complied with California and federal safety regulation."

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

The RKS Claimants are represented by Lawrence M. Rolnick, Marc B. Kramer, Jeffrey A. Ritholtz and Frank T.M. Catalina of Rolnick Kramer Sadighi LLP and James A. Long of The Long Law Firm PLLC.

The proposed class and lead plaintiff Public Employees Retirement Association of New Mexico are represented by Thomas G. Hoffman Jr., Thomas A. Dubbs and Michael P. Canty of Labaton Keller Sucharow LLP.

The Securities Act plaintiffs are represented by Willow E. Radcliffe and Kenneth J. Black of Robbins Geller Rudman & Dowd LLP.

PG&E is represented by Michael J. Reiss and James E. Brandt of Latham & Watkins LLP.

The PG&E officers are represented by Steven S. Scholes and Jason D. Strabo of McDermott Will & Schulte LLP.

The PG&E directors are represented by Stephen P. Blake and Jonathan K. Youngwood of Simpson Thacher & Bartlett LLP.

The PG&E underwriters are represented by Charles S. Duggan and Dana M. Seshens of Davis Polk & Wardwell LLP.

The case is In re: PG&E Corp. Securities Litigation, case number 5:18-cv-03509, in the U.S. District Court for the Northern District of California.

--Editing by Emily Kokoll.

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Musk Bid 'Too Late' To Delay Trial In Twitter Investor Suit

By **Bonnie Eslinger**

Law360 (February 27, 2026, 7:07 PM EST) -- With days before trial, a California federal judge denied a slew of motions filed by Elon Musk challenging investors' claim that the tech mogul ran a "scheme" to depress the price of Twitter securities during acquisition negotiations, saying Musk waited too long to try and toss the claim.

In his **Thursday order**, U.S. District Judge Charles R. Breyer says that Musk had told the court that he only learned the specifics of the scheme claim on Aug. 12, 2025, after the close of discovery, when the investors supplemented their interrogatory responses.

Judge Breyer notes, however, that in March 2025, in response to questions from Musk, the investors described their claim that's also alleged in their operative complaint: that Musk engaged in a "fraudulent scheme" and made "false and misleading statements" to deceive the market.

But even after receiving the interrogatory responses on Aug. 12, Musk did not move to reopen discovery, Judge Breyer underscored in his Thursday order.

"Musk has provided no explanation for why he failed to request that discovery be reopened until the eve of trial," which is set to begin March 2, Judge Breyer said.

Citing a 2009 Northern District of California decision, the judge added, "It is now too late for [Musk] to pursue discovery that could have been undertaken months ago." That case is Daryl Davis v Santa Clara County, an employment matter.

Musk also didn't move to reopen discovery after the court **denied his motion** for summary judgment in October, the judge also pointed out.

The concern bubbled to the surface during a Feb. 17 pretrial conference when Judge Breyer indicated that the investors would be permitted to present a scheme claim that encompasses conduct from Musk aside from three statements Musk made on then-Twitter that are at issue in the case.

Judge Breyer noted in his Thursday order that Musk had filed a motion in limine that "functionally" sought dismissal of the scheme claim by asking the court to limit the investors' claim to those May tweets.

"Limiting the case to just the three alleged misstatements essentially neuters the scheme claim," Judge Breyer wrote in a footnote.

During the pretrial conference, Musk's legal team urged the court to reconsider, and the judge asked Musk to submit written arguments on the topic.

In that filing, Musk told the judge if he allowed the investors to pursue scheme liability, the court should grant a continuance and permit additional discovery.

On the same grounds, Musk also filed a motion to reopen class certification and a request for a mid-case appeal. In his Thursday order, Judge Breyer denied all three motions.

Musk "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," Judge Breyer stated.

In addition to contending that the investors' scheme liability claim is insufficiently pled, Musk also argued it was barred by the Noerr-Pennington doctrine, which exempts statutory liability for efforts to "petition the government."

In this case, the petitioning activity is the filing of a lawsuit — "as well as conduct 'incidental to the prosecution of the suit,'" Musk asserted in his Feb. 18 written arguments to the court. The incidental conduct extends to a pre-suit demand letter to Twitter purporting to terminate the merger, he added.

As such, under the Noerr-Pennington doctrine, that demand letter would be barred from the jury, Musk told the court.

"If Plaintiffs may now seek to re-insert the [letter] ... the Court must now address Noerr-Pennington," Musk said.

Musk, however, can't seek immunity from liability under the Noerr-Pennington doctrine, Judge Breyer said in his Thursday order.

That's because the Ninth Circuit held in 1982 that when "petitioning activity is but a part of a larger overall scheme to restrain trade, there is no overall immunity," the judge said, citing Clipper Exxpress v. Rocky Mountain Motor Tariff Bureau Inc. , an antitrust case related to trucking companies and shipping rates.

Like in Clipper Exxpress, the judge said, the investors are not challenging just the petitioning activity but Musk's "entire course of conduct."

Musk had argued that he was only seeking to exclude the evidence of the petitioning activity at trial and that didn't run afoul of the holding in Clipper Exxpress.

"But Clipper Exxpress does not stretch Noerr-Pennington so far," Judge Breyer said in his Thursday judgment. "Musk's reading of the case would turn the holding on its head."

The judge, however, said in recognition of Musk's concerns, the court will instruct the jury that they may not find scheme liability based on the petitioning activity alone.

The suit accuses Musk of attempting to drive down Twitter's stock price to back out of a promise to buy the social media company or to renegotiate a lower price. Musk first tried to back out of the promised $44 billion purchase but later agreed to close the deal after the company sued him in Delaware.

In 2023, Judge Breyer ruled that the investors had plausibly alleged Musk violated securities laws with a series of tweets that said the deal was "temporarily on hold" pending details about data regarding the number of alleged fake Twitter accounts but that he was "still committed to acquisition." Musk also stated that fake and spam accounts make up at least 20% of Twitter's users, but investors said the statement misled the investing public to believe that Musk had received bot user data from Twitter, when in fact he had not.

The judge later **certified** a class of investors who sold the publicly traded stock or call options, or purchased put options of Twitter, from May 13, 2022, through Oct. 4, 2022.

During the **pretrial conference** the judge told investors they can't bring up Musk's political beliefs if they're outside the 2022 time period at issue.

Two days later, Musk's political activities were brought up by prospective jurors during jury selection. At the start, Judge Breyer excused 38 potential jurors who said they couldn't be fair and impartial – with Musk's attorney later saying there are "so many people who **hate him** so much."

The investors are represented by Joseph W. Cotchett, Mark C. Molumphy, Tyson C. Redenbarger, Gia

Jung, Elle D. Lewis and Caroline A. Yuen of Cotchett Pitre & McCarthy LLP and Francis A. Bottini Jr. and Aaron P. Arnzen of Bottini & Bottini Inc.

Musk is represented by Alexander B. Spiro, Ellyde R. Thompson, Jesse A. Bernstein, Stephen A. Broome, Matthew Alex Bergjans and Michael T. Lifrak of Quinn Emanuel Urquhart & Sullivan LLP.

X Corp. is represented by Eric Meckley, Ashlee N. Cherry and Christopher Boran of Morgan Lewis & Bockius LLP.

The case is Giuseppe Pampena v. Elon R. Musk, case number 3:22-cv-05937, in the U.S. District Court for the Northern District of California.

--Additional reporting by Jack Karp and Katryna Perera. Editing by Michael Watanabe.

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2nd Circ. Affirms Norfolk's Win In Investors' Derailment Suit

By **Sydney Price**

Law360 (February 27, 2026, 7:46 PM EST) -- The Second Circuit on Friday declined to revive a suit by investors claiming railroad operator Norfolk Southern Corp. botched disclosures about how an efficiency plan might cause derailments, validating a lower court's interpretation that the statements about safety were inactionable puffery.

A three-judge panel's **summary order** affirmed the New York federal judge's 2025 decision dismissing the suit led by the Ohio Carpenters Pension Fund and the City of Pontiac Reestablished General Employees' Retirement System. The statements the investors point to, including those about safety training at Norfolk Southern, are either vague statements of corporate optimism or not sufficiently demonstrated to be false, the unsigned order states.

"Other than the challenged statements, plaintiffs point to nothing that would have imposed on defendants a freestanding duty to disclose more information about Norfolk Southern's safety practices," the panel said. "The mere fact that investors would have benefitted from knowing that information does not suffice."

The retirement funds sued on behalf of a proposed investor class in May 2023, alleging that they were blindsided by Norfolk's plummeting stock value after the train derailment and chemical spill in East Palestine, Ohio.

The funds pointed out that investors are especially attuned to what Norfolk Southern says about safety because it is a "common carrier," an enterprise that transports passengers or goods and is open to the general public.

The Second Circuit said, however, that this reasoning "conflates the importance of a statement with its materiality."

"Plaintiffs also note that Norfolk Southern's competitors have made similar statements, but that fact only further illustrates that no investor would take such statements seriously in assessing a potential investment," the order states.

In addition to naming the Georgia-based Norfolk Southern public company and freight railroad as a defendant, the investor suit names several Norfolk higher-ups, as well as underwriters of senior notes for Norfolk, including Goldman Sachs & Co. LLC and BofA Securities Inc.

When filing to **revive the suit** last year, the funds said the complaint plausibly alleges Securities Act violations, as it showed that Norfolk Southern omitted essential facts about deteriorating safety practices and its regulatory noncompliance.

Earlier this month, the Second Circuit indicated that it was open to **upholding the lower court's interpretation** of the case. During a hearing, U.S. Circuit Judge Dennis Jacobs said "every industry has something that's important to their customers, and they often puff about it."

A spokesperson for Norfolk Southern told Law360 in an email on Friday that the company is "pleased with the court's swift decision to uphold the dismissal of this complaint."

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

U.S. Circuit Judges Alison J. Nathan, Dennis Jacobs and Barrington D. Parker sat on the panel for the Second Circuit.

The pension funds are represented by Alfred L. Fatale III, Jessica N. Goudreault and Charles J. Stiene of Labaton Keller Sucharow LLP.

Norfolk Southern is represented by Denise Tsai, Sofie C. Brooks, Elizabeth Bedrick, Michael G. Bongiorno, Tamar Kaplan-Marans and Trena M. Riley of WilmerHale.

The underwriter defendants are represented by Adam S. Hakki, Benjamin Klebanoff and Thad Behrens of Allen Overy Shearman Sterling US LLP.

The case is In re: Norfolk Southern Corporation Bond/Note Securities Litigation, case number 25-739, in the U.S. Court of Appeals for the Second Circuit.

--Editing by Adam LoBelia.

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REIT Execs Hurt Investors With Dividend 'Reset,' Suit Says

By **Emilie Ruscoe**

Law360 (February 27, 2026, 9:07 PM EST) -- Real estate investment trust Franklin BSP Realty Trust Inc. is facing a proposed investor class action in New York federal court alleging it concealed the possibility that it would cut its quarterly dividend payouts, hurting investors when it announced a dividend "reset" and its share price subsequently fell.

In a Thursday complaint, FBRT investor Robert Moses claimed the company's shares were artificially inflated between Nov. 5, 2024, when the company's executives expressed confidence that they would maintain the company's quarterly dividend of 35.5 cents per share, and Feb. 11, when CEO Michael Comparato announced after the markets closed "a reset of the quarterly dividend" to 20 cents per share.

At the time, Comparato said it was taking longer than expected to sell certain real estate, which "has led to over-distributing capital to investors," the complaint says.

The following day, FBRT shares fell more than 14% to under $9, following news of the dividend reduction, Moses claims.

The complaint also notes that FBRT's stock price had fallen about 1% on Feb. 11 after the company announced Comparato was succeeding Richard J. Byrne as CEO effective immediately.

"FBRT's dividend was core to its operations because a steady dividend yield was material to its investors, and a growing or steady dividend is the primary reason for investors to invest in REIT," the suit says.

Moses accuses the company, Comparato, Byrne and Chief Financial Officer Jermone S. Baglien of recklessly overstating the company's ability to keep making those quarterly dividend payments.

He claims they were closely monitoring the company's financial performance and knew, or should have known, that the current dividend level might not prove sustainable.

The company's leadership had acknowledged strained economics underlying its dividend payments on earnings calls during the class period, the suit says.

For example, the executives said on calls in November 2024 and February 2025 that the company didn't reach "dividend coverage," or the ratio in which its earnings cover the quarterly dividends. Even so, the suit says, the company brass told shareholders it remained "confident" that its existing dividend levels were appropriate.

In July, the company said its distributable earnings for its most recent quarter were 27 cents per fully converted share, but said the board had "determined it was appropriate to maintain" the 35.5-cent dividend, the suit says.

The company again maintained its dividend for its third quarter, the suit says, even as an executive said on an earnings call that it was "highly focused on playing offense."

In February, the company said it was lowering its dividend to 20 cents to "match the earnings power of our company to distributions."

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

Robert Moses is represented by Phillip Kim and Laurence M. Rosen of the Rosen Law Firm PA.

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

The case is Moses v. Franklin BSP Realty Trust Inc et al, case number 1:26-cv-01107, in the U.S. District Court for the Eastern District of New York.

--Editing by Brian Baresch.

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Altria-Juul Judge Details Class Cert. Decision In Antitrust Row

By **Rae Ann Varona**

Law360 (February 27, 2026, 7:16 PM EST) -- "Common, predominant questions abound" as to whether e-cigarette company Juul and tobacco giant Altria schemed to have Altria exit the e-cigarette market, a California federal judge has said in explaining why he granted class certification to classes of purchasers in antitrust litigation over Altria's past investment in Juul.

U.S. District Judge William H. Orrick said in an **order** filed Thursday that he granted class certification to direct purchasers of Juul products because there was a "strong inference of classwide impact" and because the purchasers showed how they intend to demonstrate that impact and damages as a result of an alleged conspiracy between the two companies.

"Common, predominant questions abound regarding whether there was a conspiracy, when it started and ended, whether it impacted the class of [direct purchaser plaintiffs], and what the damages to the DPPs were," Judge Orrick wrote. "There is no dispute that addressing these claims through a class action is far superior to addressing them direct purchaser by direct purchaser, although the DPPs will be given an opportunity to opt out."

The order came a few weeks after Judge Orrick issued a four-page order **certifying classes** of direct and indirect purchasers and indirect resellers.

The antitrust litigation centers on Altria's **2018 investment** in Juul — a $12.8 billion deal for a 35% stake — which the buyers allege induced Altria to exit the e-cigarette market by shuttering its Nu Mark division. The suit targets Altria, Juul and two members of Juul's board, alleging the investment led to a reduction in the variety of products on the market and higher prices.

The Federal Trade Commission had also challenged the agreement but **dropped its case** in 2023 after Altria fully unwound its investment in Juul.

The direct purchaser class covers wholesalers and others who purchased e-cigarette products directly from Juul between Oct. 5, 2018, and the present.

Judge Orrick's Thursday order shot down several of the companies' assertions, including that named direct purchasers are fundamentally atypical for class certification purposes because the distributor and retailer members of the direct purchaser class had negotiated separate purchasing contracts with Juul to determine price, secure rebates and determine how Juul products would be advertised and resold.

Judge Orrick said that the three named direct purchasers "have claims typical across the DPP class for allegedly being overcharged due to the alleged anticompetitive conduct between Altria and JLI and they are adequately incentivized to pursue those claims."

As for individual direct purchasers, whom the companies argued were not aware that they were representing anyone other than online purchasers, Judge Orrick said that having an "imperfect understanding of the class does not fatally undermine their adequacy as long as they have a basic understanding of the nature of the claims at issue and their responsibilities as class members."

Judge Orrick had also denied the companies' "Daubert" motions to exclude or strike the opinions of the buyers' experts. He also granted in part the purchasers' bid to exclude expert opinions for the companies.

The indirect purchaser classes cover purchases of Juul pods, excluding devices or kits containing devices, indirectly from Juul for personal use between Oct. 25, 2018, and March 29, 2024. Indirect reseller classes cover those who purchased Juul pods indirectly for resale between Dec. 1, 2018, and March 31, 2025.

Excluded from the classes of indirect plaintiffs are those who come from Arkansas, South Carolina, Tennessee and Virginia.

As in the earlier order granting class certification, Judge Orrick reasoned that those states "do not allow class actions for the antitrust claims at issue."

Judge Orrick said Thursday that the companies had raised a "true, material conflict between the Cartwright Act and the four states that do not allow representative or class actions for indirect purchaser antitrust claims."

Joseph Saveri of the Joseph Saveri Law Firm LLP, counsel for the buyers, told Law360 on Friday that they "were happy to receive the court's well-reasoned order certifying the class of direct purchaser plaintiff claims with respect to both our claims under Section 1 of the Sherman Act and Section 7of the Clayton Act."

As for the Daubert motions, Saveri said that the judge's grant of their Daubert motions with respect to the companies' experts "is also important because it will substantially narrow the trial."

"We are looking forward to receiving the order denying summary judgment motions and finalizing our preparation for trial," Saveri said.

Counsel for companies did not immediately respond to requests for comment late Friday.

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

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

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

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

--Additional reporting by Matthew Perlman. Editing by Rich Mills.

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Teens Worth $270 Each To Facebook, NM Jury Hears

By **Cara Salvatore**

Law360 (February 27, 2026, 6:54 PM EST) -- A marketing professor testified Friday in the New Mexico attorney general's social media mental health trial against Meta that the company calculated young teens' value to Facebook at $270 apiece and created "personas" of users as young as 9 to understand how to better "leverage" them.

Marketing, data and statistics expert John Chandler, who helps companies create ad campaigns and also is a professor of marketing, drew on thousands of internal documents in looking at how Facebook and Instagram's parent company studied their youngest users, part of New Mexico Attorney General Raúl Torrez's case-in-chief accusing Meta of deceiving the public about the risks its platforms pose to teens.

The state says Facebook, Instagram, WhatsApp and Messenger failed to protect teens and under-13 account holders from violence, sexual predation and addictive designs that harm mental health, and lied to the public about its knowledge of the problem.

One of the documents Chandler found was an in-depth discussion of precisely how much a single teenager's attention was expected to be worth to Meta over the teen's lifetime, when sold against ad sales, with an assumption that a person who signs up as a teenager is likely to stick with the platform for a long time.

Even as a seasoned marketer who has run tens of thousands of ad campaigns, "I was surprised by some of the language around it," Chandler said.

"I wasn't shocked to see 'lifetime value' appearing … but as I went through the documents, I found clear indications that Meta was making lifetime-value calculations about very young users and talking about the way in which preteen users would feed into this lifetime-value equation."

In a Sept. 6, 2018, presentation posted on the company intranet, an internal team identified that the estimated lifetime value to the company in terms of selling advertising against a teen user was $270, the jury heard.

The document reads, "Because of the high value of young teens, more product teams, and not just the Youth Team, should care about young teens as those are the users with the potential for highest loyalty and value over time," as seen in a slide presented to the jury.

It shows an internal "recommendation to spread this sort of gospel of teen lifetime value," Chandler said.

He also showed the jury an internal document from 2016 in which research on users was broken out by age, with the youngest category being "U13" — revealing that the company was studying users who theoretically were not allowed on the platforms.

There was elsewhere a "description by Meta of the persona of kids under 9 and how they interact with tech," Chandler said, a corporate effort at "understanding the psychology of kids under 9 and leveraging that."

Other internal discussions about policy and strategy show Meta was "aware of the ways in which that focus would be contentious, and yet it's the North Star," Chandler said.

The company has not yet had a chance to cross-examine Chandler. The fourth week of trial is set to begin and is expected to bring the start of the defense case-in-chief.

But Meta has said, including in its opening statement, that it has never denied that the possibility of harm exists on the platform, and that it has taken steps like creating special "teen accounts" and showing fine print when people sign up that fully discloses these risks.

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 Trial Judge Threatens Media With Gag Order

By **Craig Clough**

Law360 (February 27, 2026, 9:54 PM EST) -- The judge overseeing the landmark bellwether trial accusing major social media platforms of harming children's mental health lashed out at the media Friday morning, threatening to issue a gag order because she believed an outlet violated her orders to stay away from jurors in the hallway.

Before the trial resumed Friday, Los Angeles County Superior Court Judge Carolyn B. Kuhl asked a member of her staff to close the door to the hallway where some jurors were already gathered and then directly addressed about a dozen members of the media who were in the courtroom.

"Okay, I have consistently advised the media who are attending, the visitors who are attending and watching, and counsel that you must stay at the other end of the hall and away from the jurors," the judge said. "That obviously did not happen in one instance because there was a report in one of the media sources today with regard to a conversation by jurors in the hallway that is a clear violation of my order."

The judge also said, "The last thing I want to do in this case is to impose a gag order. But if I have to do that in order to preserve the integrity of this trial, I will have to have a hearing on it. I hope that is clear."

She did not say which media publication she was referring to, but a Los Angeles Times story about the **plaintiff's testimony** Thursday described a conversation between two jurors overheard in a courthouse hallway.

A media gag order in Los Angeles Superior Court would be a rare move, especially in a case that is as heavily watched around the world as the social media trial underway in Judge Kuhl's courtroom.

The jurors are routinely told by Judge Kuhl not to discuss the case with each other or anyone else, not to view any media stories about the case and not to come to any conclusions until they have heard all the evidence. Jurors disobeying a judge's order not to discuss a case can result in a mistrial although Judge Kuhl did not question the jurors in open court Friday about any discussion they might have had about the case. She did, however, speak to the jurors after the lunch break without the public or media present.

The logistics of keeping the jurors secluded from the media and the public during the high-profile trial has been a challenge for courtroom staff and Judge Kuhl, as on some days the courthouse is buzzing with dozens of people clamoring to get a seat for the proceedings. Twenty-five seats have been reserved for the media, with another 15 that are reserved for the public given out each morning through a lottery.

Before the trial began, members of the media was told not to lineup outside the courtroom, where the jurors gather, but in a different part of the courthouse. Each morning, a member of the court media relations team gathers the journalists and leads them into the courtroom, and the same procedure is used after the lunch break.

The media and members of the public have also been asked by Judge Kuhl to gather during breaks in a different hallway where there are restrooms separate from the ones the jurors have been directed to use. Still, even with these guidelines, close contact between jurors, members of the media and the public have been hard to avoid on the small first floor of the Spring Street Courthouse in downtown Los Angeles.

Friday's admonition from the judge was not the first one she has given to people attending trial proceedings. After the lunch break Feb. 18, during the testimony of Meta Platforms Inc. CEO **Mark Zuckerbeg**, Judge Kuhl warned those in the courtroom that if anyone was wearing glasses equipped with artificial intelligence to remove them, and if anyone had recorded anything inside the courtroom to delete it.

"This is very serious," she added.

Although she did not state who might have been wearing the AI glasses, media photos of Zuckerberg arriving at the courthouse that morning showed several members of his entourage who appeared to be wearing glasses equipped with the technology.

Phyllis Jones of Covington & Burling LLP, who represents Meta, told Judge Kuhl the next day the people wearing the glasses had been spoken to about it, but no recording inside the courthouse had taken place.

Recording audio or video inside a Los Angeles Superior Court courthouse is generally prohibited without court permission. This issue led Judge Kuhl last week to **remove** attorney Matthew Bergman of the Social Media Victims Law Center from his seat on the plaintiffs' steering committee for violating court rules by twice filming inside the courthouse.

Judge Kuhl on Friday also issued instructions to the media members through a court media relations staff member, saying that any physical descriptions of the plaintiff, who is known in court as Kaley G.M. or simply Kaley, are prohibited. The plaintiff is 20, but because she says she was harmed when she was a minor, her identify is being protected.

The staff member told the journalists that no descriptions of Kaley's clothing or physical appearance are allowed although some members of the media pushed back on the restrictions because they have seen her in the courthouse hallways and outside the courthouse, and photos and videos of her from behind that do not show her face have been published by some major media outlets.

As the discussion was underway in the hallway, Kaley G.M. walked by.

On a few days, the judge has also advised the jurors to enter and exit the courtroom from a door typically reserved for courthouse employees due to large crowds or demonstrations in front of the courthouse. One such day was Feb. 13, when **a rally** was held about a block away from the courthouse in front of Los Angeles City Hall and Gloria Molina Grand Park and included parents who say their children have died because of social media.

The rally unveiled the Lost Screen Memorial, an art installation featuring large smartphone displays with the faces of and information for 50 children whose deaths are purportedly linked to social media.

Kaley spent a second day on the witness stand Friday after telling the jury Thursday she became addicted to YouTube and Instagram as a child, which caused her to obsessively use the platforms and check her notifications and followers all the time.

Much of the testimony Friday was redirect and re-cross on the same topics covered Thursday, with the defendant company's attorneys asking her about difficulties in her relationship with her parents, which they argue are responsible for her mental health struggles.

During his opening statement, Luis Li of Wilson Sonsini Goodrich & Rosati PC, who represents YouTube owner Google LLC, told the jury the plaintiff only used YouTube for about **29 minutes** a day since 2020, which is the only timeframe it has data on.

Mark Lanier of The Lanier Firm, who represents the plaintiff, asked her if she used YouTube more before 2020 when she was a young child, and she said she did.

Kaley said she also is unaware that evidence provided by YouTube asserts she saw over **17,000 ads** on the platform in one year.

Dr. Kara Bagot, a child and adolescent psychiatrist at UCLA and has a medical degree, testified near the end of the day Friday as an expert for the plaintiff. She said social media addiction is real, and after examining Kaley, Bagot concluded Kaley is suffering from social media addiction and that features on the defendants' platforms caused Kaley harm. Bagot was still giving direct testimony when the proceedings ended for the day.

The bellwether is the first of at least nine trials that are planned out of over 1,000 cases consolidated in Judge Kuhl's courtroom, with the hope that parties might reach a settlement in the rest of the cases based on the outcome of the bellwether trials.

The social media companies behind TikTok, Snapchat, 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 Inc. and Snap Inc. 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 trial is scheduled to resume Monday.

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 Kristen Becker.
