

After Supreme Court row, Meta investor suit over data leak moves forward

2026 CORPCDBRF 0969 • By Nicole Banas

Westlaw Corporate Counsel Daily Briefing • March 03, 2026

(March 03, 2026) - Meta Platforms Inc. shareholders can proceed with a proposed class action claiming the social media giant misled investors about the misuse of Facebook user data by political consulting firm Cambridge Analytica, a federal judge has ruled.

[*In re Facebook Inc. Securities Litigation*, No. 18-cv-1725, 2026 WL 559777 \(N.D. Cal. Feb. 27, 2026\).](#)

U.S. District Judge Edward J. Davila of the Northern District of California mostly denied a motion to dismiss the suit Feb. 27, saying it sufficiently alleged that Meta misled investors about risk factors after a massive data breach in 2015.

The judge also sustained claims that the company, which was then named Facebook Inc., misrepresented users' control over their data and concealed data sharing practices. He dismissed allegations related to Cambridge Analytica's use of data that continued after Facebook's initial discovery of it in 2015.

The case made headlines in 2024 when the U.S. Supreme Court dismissed a writ of certiorari sought by Facebook as "improvidently granted" following oral arguments.

Hypothetical data risk?

The suit alleges that Facebook misleadingly framed the risk of data misuse as hypothetical in 2016, even though it knew that Cambridge Analytica had harvested information on more than 40 million Facebook users.

Cambridge initially said it had deleted the data in 2015, but Facebook learned in mid-2016 that the consulting firm was using the information to support Donald Trump's presidential campaign, the amended complaint filed in 2020 says. Facebook did not reveal Cambridge's continued use of the data until 2018, according to the complaint.

The suit also alleges that Facebook publicly claimed to prohibit third-party access to user data, but it secretly "whitelisted," or exempted, certain companies. Facebook shared user information with the whitelisted companies in exchange for advertising purchases and reciprocal data, according to the complaint.

The suit says Facebook's share price fell in March and July 2018 following reports of the Cambridge data leak and financial results that revealed the scandal's negative effect on business.

The plaintiffs allege that Facebook, CEO Mark Zuckerberg, former Chief Operating Officer Sheryl Sandberg and former Chief Financial Officer David Wehner violated the anti-fraud and control-person provisions in Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, [15 U.S.C.A. §§ 78j\(b\) and 78t\(a\)](#).

The suit also asserts that Zuckerberg sold more than \$5.2 billion in Facebook shares based on nonpublic information, in violation of Section 20A of the Exchange Act, [15 U.S.C.A. §§ 78t-1\(a\)](#).

The District Court dismissed the suit in December 2021, but a divided panel of the 9th U.S. Circuit Court of Appeals partially reversed in December 2023. The suit sufficiently pleaded that Facebook's risk disclosures and statements about user control over data were misleading, the majority said.

Revised suit moves forward

The plaintiffs filed a fourth amended complaint in the District Court in July 2025 that added allegations about Facebook's knowledge of Cambridge's misuse of data.

The defendants, represented by attorneys at [Gibson, Dunn & Crutcher LLP](#), argued in a motion to dismiss that the suit still failed to plead scienter, or deceptive intent, and other elements of a securities fraud claim.

Judge Davila denied the motion as it related to claims based on Cambridge's initial misuse of user data. Allegations that Zuckerberg and former Sandberg knew about Cambridge's possession of user profiles raised a "cogent and compelling" inference of scienter, the judge said.

However, he dismissed allegations related to Cambridge's continued misuse of data, saying the plaintiffs forfeited their right to replead those claims by failing to raise them to the 9th Circuit.

Judge Davila allowed the whitelisting claims to proceed, but he limited them to statements assuring users that they had control over their data. He dismissed whitelisting claims that arose from the company's risk factor statements.

He also sustained the control-person and insider-selling claims.

Attorneys at [Robbins Geller Rudman & Dowd LLP](#) and [Bernstein Litowitz Berger & Grossmann LLP](#) represent the plaintiffs.

By Nicole Banas

Related articles

Related Articles from Westlaw Securities Enforcement & Litigation Daily Briefing:

Article: Meta fights 'tentative' discovery ruling in investor suit over data breach [2025 SECDBRF 2398](#)

Date: July 2, 2025

Meta Platforms Inc. is urging a California federal judge to pause discovery in a long-running securities fraud lawsuit while it seeks dismissal of an updated complaint involving a Facebook data breach.

End of Document

© 2026 Thomson Reuters. No claim to original U.S. Government Works.

Related topics

[Capital Markets](#)

[Litigation and Enforcement](#)

[Fraud](#)

[Shareholder suits](#)

[Disclosure](#)

[Risk factors](#)

[Corporate Governance](#)

[Disclosure](#)

[Risk factors](#)

[Litigation and Enforcement](#)

[Scienter](#)

[Fraud](#)

[Shareholder suits](#)

[Securities](#)

[Fraud](#)

[Pleading](#)

[Scienter](#)

[Corporate Counsel](#)

[Securities](#)

[Shareholder Litigation](#)

[Litigation](#)

[Federal Litigation](#)

[California](#)

[Data Privacy and Security](#)

[Litigation](#)

[Shareholder Suits](#)

[Related filings](#)

Opinion: [2026 WL 559777](#)

Plaintiffs' opposition: [2025 WL 4099909](#)

Defendants' memo supporting motion to dismiss: [2025 WL 4099911](#)

9th Circuit's amended opinion: [87 F.4th 934](#)

District Court dismissal order: [2021 WL 6000058](#)

Third amended complaint: [2020 WL 12968251](#)

[Judicial profiles](#)

[Edward J. Davila](#), U.S. District Judge, N.D. Cal.

[Attorney profiles](#)

[Jason C. Davis](#) and [Kenneth J. Black](#); [Robbins Geller Rudman & Dowd LLP](#), [Salvatore J. Graziano](#) and [Jeremy P. Robinson](#); [Bernstein Litowitz Berger & Grossmann LLP](#) for Plaintiffs

[Brian M. Lutz](#) and [Martie Kutscher](#); [Gibson, Dunn & Crutcher LLP](#) for Defendants

[Companies](#)

[Facebook Inc.](#), [Meta Platforms Inc.](#)

Awards

Announcing the 2026 Florida Legal Awards Shortlist

The Florida Legal Awards annually recognizes those who have made significant contributions to the legal industry in Florida. All honorees will be recognized, and winners in finalist categories announced, at an awards dinner in Miami in April.

March 03, 2026 at 03:40 PM By **Katie Hall**  **Pearl Wu**



2023 Florida Legal Awards at JW Marriott Marquis in Downtown Miami. Credit: PWP Studio for ALM

The Daily Business Review and Law.com editorial staff, with the help of distinguished members of the Florida legal community, are pleased to announce the shortlist for the 2026 Florida Legal Awards.

All honorees will be recognized, and winners of finalist categories announced, at [the awards ceremony](#) to be held on April 29 at the JW Marriott Marquis in Miami. We hope to see you there.

For tickets and sponsorships, please contact Andre Sutton at andre.sutton@alm.com for more information.

While many awards recognize the contributions legal professionals or organizations have made over the past year, our Lifetime Achievement award celebrates the long-term impact that Florida lawyers have made.

Congratulations to everyone on the shortlist, and we look forward to celebrating you in April.

Lifetime Achievement Winners

David Bianchi, Stewart Tilghman Fox Bianchi & Cain

Michael A. Haggard, The Haggard Law Firm

Joseph Serota, Weiss Serota Helfman Cole + Bierman

William R. Scherer, Conrad & Scherer Trial Lawyers

Attorney of the Year Finalists

Jeffrey Bass, Bass Law

Kimberly L. Wald, The Haggard Law Firm

John Yanchunis, Morgan & Morgan

Best Mentors Finalists

Lori Adelson, Approved Dispute Resolution

Arturo Arca and Christian Rodriguez, Trembly Law Firm

Jeffrey Hearne, Legal Services of Greater Miami

Pedro E. Hernandez, Hinshaw & Culbertson

Marck K. Joseph, The Joseph Firm

Kate Lashley, Sidley Austin

Allen P. Pegg, Hogan Lovells

Martha Rabbitt, Shutts & Bowen

Miranda L. Soto, Buchanan Ingersoll and Rooney

Construction Trailblazer Finalists

Bilzin Sumberg Baena Price & Axelrod

Trent Cotney, Adams & Reese

Timothy D. Woodward, Shutts & Bowen

Cross-Border Disputes Finalists

King & Spalding

Squire Patton Boggs

White & Case

Dealmakers of the Year Finalists

Matthew Arenson and Eduardo M. Leal, Kirkland & Ellis

Francisco Cerezo, DLA Piper

David J. Cohen, Weil, Gotshal & Manges

Esteban J. Elias, Leech Tishman

Joshua B. Forman, Greenberg Traurig

Jackson Hwu, Dentons

Ira N. Rosner, Holland & Knight

Distinguished Leaders Winners

Andres Fernandez, Holland & Knight

Brian L. Hayden, Jackson Lewis

Harry Burnett, King & Spalding

Joseph J. Lazzarotti, Jackson Lewis

Alison Tanchyk, Morgan Lewis

Rick Martin, Winston & Strawn

Robin Bresky, Schwartz Sladkus Reich Greenberg Atlas

Todd J. Michaels, The Haggard Law Firm

In-House Counsel of the Year Finalists

Lynn Carrillo, FIFA

Gerald Del Amo, Broward Health

Nefertari Rigsby, Kaplan North America

Evian White De Leon, MIAMI Association of REALTORS

Innovators Finalists

Kaley Dreyer, Farah and Farah

Carl Fornaris, Winston & Strawn

Kevin Henderson and Eric Pacifici, SMB Law Group

Marlon Hill, Weiss Serota Helfman Cole + Bierman

Michael Platner, Lewis Brisbois

Stuart Ratzan, Ratzan Weissman & Boldt

Charles B. Jimerson, Jimerson Birr

Law Firm of the Year Finalists

Gastesi Lopez Mestre & Cobiella

King & Spalding

Morgan & Morgan

Litigation Departments of the Year, Construction Finalists

Cole, Scott & Kissane

Duane Morris

Litigation Departments of the Year, General Litigation Finalists

Boies Schiller Flexner

Greenberg Traurig

Holland & Knight

King & Spalding

Levine Kellogg Lehman Schneider + Grossman

Weil, Gotshal & Manges

Morgan & Morgan (Personal Injury Department)

Quinn Emanuel Urquhart & Sullivan

Ratzan, Weismann & Boldt

Litigation Departments of the Year, Insurance Finalists

Carlton Fields

Hunton Andrews Kurth

Litigation Departments of the Year, Products liability/Mass Torts Finalists

King & Spalding

Robbins Geller Rudman & Dowd

Managing Partner of the Year (Large and Midsize Firm) Finalists

Abbye Alexander, Kaufman Dolowich

Beatriz Azcuy, Sidley Austin

Dean Cannon, GrayRobinson

Albert Dotson, Jr., Bilzin Sumberg

Manuel Garcia-Linares, Day Pitney

William Lewis, Morgan & Morgan

Rick Martin, Winston & Strawn

Olga Vieira and Sam Williamson, Quinn Emanuel Urquhart & Sullivan

Managing Partner of the Year (Small Firm) Finalists

Raul Gastesi, Gastesi Lopez Mestre & Cobiella

Patricia M. Hernandez, Avila Law

John N. Lambros, Brinkley Morgan

Eric Pacifici, SMB Law Group

Spencer Payne, Moore Payne Law

Maritime Attorney of the Year Winner

Elisha Sullivan, Chartwell Law

Most Promising Newcomer Finalists

Caitlin Calvo, Winston & Strawn

Mischaël Cetoute, Holland & Knight

Evan Gilbert, Winston & Strawn

Briana Harris, Kluger, Kaplan, Silverman, Katzen & Levine

Emma G. Refuveille, Shutts & Bowen

On the Rise Winners (Large & Midsize Firms)

Valeria Angelucci, Becker

Sara A. Brubaker, Akerman

Laura Ferguson, Quinn Emanuel Urquhart & Sullivan

Alina M. Fernandez Portela, Hogan Lovells

Giovanni Giarratana, Bradley

Audrey Goldman, Robinson+Cole

Elle Hayes, McDermott Will & Schulte

Daniel McQuade, Kirkland & Ellis

Axel Miranda, Sidley Austin

Isel Perez, Jones Day

Mark Pinkert, Holtzman Vogel

Tom Schulte, Hunton Andrews Kurth

Andrew Ingalls, Day Pitney

Matthew R. Maranges, Jones Walker

Brian Vaca, Hughes Hubbard & Reed

Chanae L. Wood, Weiss Serota Helfman Cole + Bierman

James R. Williams Jr., Gunster

On the Rise Winners (Small Firms)

Melissa Bryan, HAWM Law

Marcelo Diaz-Cortes, Levine Kellogg Lehman Schneider + Grossman

Zachary Gorwitz, Podhurst Orseck

Nicole Kruegel, Rafferty Domnick Cunningham & Yaffa

Russell Monilla, Cruz Law Firm

Daryl L. Saylor, LashGoldberg

Jordan Shaw, Shaw Lewenz

David Tarras, Tarras Defense

Pro Bono Attorney of the Year Finalists

Melanie Kalmanson, Quarles & Brady

Ross Linzer, King & Spalding

Real Estate Attorney of the Year Finalists

Katherine Amador, Berger Singerman

Daniel Kaskel, Sachs Sax Caplan

Real Estate Firm of the Year Finalists

Berger Singerman

Bilzin Sumberg

Foley Lardner

Greenberg Traurig

Government Law Group

Perez Mayoral

Talent Management Winner, Firm

The Joseph Firm

Talent Management Finalists, Individual

Ravin Sahadeo, Morgan & Morgan

Andrea DeField, Hunton Andrews Kurth

Unsung Heroes Winners

Juan Bauta, Simmons Hanly Conroy

Carmen Manrara Cartaya, Continental

Sharon Caserta, Morgan & Morgan

Adam Finkel, The Haggard Law Firm

Garrett S. Kamen, Fisher Phillips

James Moon, Meland Budwick

Elizabeth Somerstein, Greenspoon Marder

We hope to see you at [the awards ceremony](#) on April 29 at the JW Marriott Marquis in Miami. For tickets and sponsorships, please contact Andre Sutton at andre.sutton@alm.com for more information.

Page printed from:

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

Guest Post: Will Allowing Companies to Block Shareholder Suits Create a D&O Mess?

K [dandodiary.com/2026/03/articles/securities-regulation/guest-post-will-allowing-companies-to-block-shareholder-suits-create-a-do-mess](https://www.dandodiary.com/2026/03/articles/securities-regulation/guest-post-will-allowing-companies-to-block-shareholder-suits-create-a-do-mess)

Kevin LaCroix

March 4, 2026

Salvatore Graziano

As readers may recall, in September, the SEC announced that it had revised its policy on whether prospective IPO companies may have their registration statement declared effective if the companies have mandatory arbitration bylaws, as discussed in detail [here](#). In the following guest post, Salvatore Graziano, a partner in the Bernstein Litowitz Berger & Grossman LLC law firm and a member of the firm's Executive Committee, provides his views on the SEC's changed policy and suggests the implications the changed policy may have for D&O insurers. My thanks to Sal for allowing me to publish his article on this site. Here is Sal's article.

In September 2025, the Securities and Exchange Commission (SEC) reversed decades-old policy to permit public companies to adopt forced arbitration clauses. The real impact of this significant change will be skyrocketing legal fees and new uncertainty and liability for D&O insurance.

The SEC's sudden reversal has already been criticized as a blow to market integrity that could severely destabilize confidence in U.S. markets. Key investor groups have also argued that it shields fraudulent companies from public accountability, and puts investors at risk of massive losses.

But what has not been discussed is the mess that is in store for directors' and officers' liability insurance. Such insurance will become exorbitantly expensive, and the amount of insurance needed to litigate securities cases in front of arbitration panels will be fraught with uncertainty, for companies who choose to adopt novel provisions against their shareholders.

Prior to the SEC's forced arbitration change, for decades, the Commission declined to accelerate the IPOs of companies who had adopted forced shareholder arbitration clauses on the grounds that such provisions were against the public interest. This position provided stability and predictability for both the insurance industry and corporations. For companies considering adopting forced arbitration

provisions against their shareholders, the uncertainty that has been created by the SEC's forced arbitration policy change means that the companies' directors and officers will be expensive to insure because of several key factors:

Legal costs will increase. Rather than litigating one consolidated case, as companies would with securities class actions, companies that adopt forced arbitration provisions will need to defend against dozens to thousands of individual arbitration cases. Each arbitration proceeding would involve individual discovery obligations, separate depositions or hearing testimony of numerous officers, directors and executives, multiple expert costs, etc. Given that the Private Securities Litigation Reform Act of 1995 (the PSLRA) triggered institutional investor awareness and strong participation in securities litigation over the last 30 years, securities claims will still be filed if the forum is shifted from the courts to arbitration. Moreover, rather than the small, even nominal individual damages in consumer cases, the individual loss amounts in securities actions are far larger than nearly all consumer cases where individual arbitrations in similar forced arbitration circumstances are going strong.

No PSLRA discovery stay pre MTD. Under the PSLRA, discovery is stayed during the pendency of a defendant's motion to dismiss in federal court. The PSLRA discovery stay is not applicable in arbitration. Without the PSLRA discovery stay, discovery and legal costs will increase exponentially, as document and deposition discovery will occur earlier in the process and in every case, not just the 40-50% that historically have survived motion to dismiss practice.

Insurers will not be able to risk-assess the value of the potential claims. It will be impossible for insurers to assess the value of potential securities claims because any such assessment will be highly dependent on how many individual actions are taken and by which investors. The variations on claims and claimants will greatly vary by case, making predictability on costs largely impossible.

Settlement value will increase. Investors pursuing claims will likely not resolve their individual actions for a percentage of total estimated class damages. Recoveries per claimant will vary greatly depending on the investors that file claims and the law firms who represent them.

Novel questions will be raised. There are no easy answers when it comes to deciding which defendants would be covered by such arbitration provisions, and importantly which defendants would not be covered.

For example, underwriters (who are typically indemnified by the company), auditors, officers and directors (again, who are typically indemnified) likely would not be covered by forced arbitration provisions because of privity issues. As such, claims against them would continue to proceed in federal court, not an arbitration forum, with joint and several liability to the Company, who would need to then be sued by those entities. This invites multi-forum dispute resolution that is anything but streamlined.

While the hope of boosting the number of US public companies might be commendable, unfortunately the SEC's shift will have the opposite impact. Companies that adopt forced arbitration clauses will face debilitating costs and uncertainty, which may hinder their ability to go (or remain) publicly traded.

On first glance, the notion of lessening legal headwinds for newer companies might seem appealing. But as seen in the consumer arbitration space, there is serious potential for significant and expensive mass arbitration in securities cases, which for insurers would be extremely difficult to predict. The reality is that companies that go down that path will be burdened with skyrocketing costs because of new uncertainty and liability for D&O insurance.

This is a mess that insurers, and the corporations they work for, should steer clear of. If only the SEC sought public comment before it dramatically changed its long-standing position on this important issue, discussion of these concerns may have avoided these obvious pitfalls. Speaking of the PSLRA, those who oppose investor access to courts mostly look back at that major piece of federal legislation as "be careful what you wish for." Here we go again?

Salvatore Graziano is a BLB&G partner and member of the firm's Executive Committee. Widely recognized as one of the top securities litigators in the country, he has served as lead trial counsel in several historic securities fraud class actions, recovering billions of dollars on behalf of institutional investors and hedge fund clients.

Copyright ©2026, Kevin M. LaCroix. All Rights Reserved.

Securities

Elevated Take

Blue Bell Case Shows Why Companies Should Keep Leaders Off Stand

March 4, 2026, 2:45 AM PST

Blue Bell Creameries Inc.'s ex-CEO meant to sound endearing when he said US Army auditors were "sticklers" for sanitation in the company's ice cream plants.

That's not smart to say in a trial over whether their monitoring systems failed to catch problems leading up to a listeria outbreak in 2015 that led to the deaths of three people.

The corporate directors' testimony over four days of trial last week in Delaware Chancery Court illustrates why these kinds of cases usually settle when companies can't get them dismissed. No business wants its senior leaders appearing to admit they just didn't track what sounds like an obvious red flag.

Blue Bell actually walked into court with an advantage: oversight liability claims, like those at the center of the case, have always been the toughest to prove. Maybe its monitoring systems weren't perfect, but well-documented weekly and monthly meetings should be more than enough to show they made a good faith effort to keep tabs on how their ice cream was made. Right?

Vice Chancellor Nathan A. Cook didn't seem to think so. He asked the same two questions over and over: You didn't make the connection between sanitation and food safety? And nobody asked additional questions about operational audits that raised bacterial concerns?

"So, did you get to the bottom of this or not?" he asked the former CEO, Paul Kruse.

Cook tried to probe each director's thought process through the good times before the outbreak, and the tense months that followed. They all thought everything was going fine, just as it always had for generations in the privately held company—until suddenly it wasn't fine at all.

The Army's ice cream order was dwarfed by those of Kroger, Walmart, and other corporate customers, but it made Blue Bell proud, and its auditors' repeated concerns were well-known and being addressed. Or so the directors said. But the copious board meeting notes that company officials pointed to were conspicuously missing any comments about the Army's alarm at high levels of coliform—common bacteria that aren't dangerous but can indicate sanitation problems. That troubled Cook.

Seven current and former Blue Bell officials testified about the company's heart in a small Texas town midway between Houston and Austin. Board Chairman Jim Kruse, a cousin of ex-CEO Paul Kruse, cried when he described his father learning to package ice cream as a 10-year-old. Dorothy McLeod MacInerney, whose grandfather had been an executive and director, likewise got emotional in talking about the relief trucks loaded with ice, water, and ice cream to survivors of hurricanes, floods, and other disasters across the Southeast.

But no one could tell Cook why something so important to the Army apparently wasn't questioned by the board.

Meta Platforms Inc. must have wanted to keep Mark Zuckerberg from giving those types of answers when it decided to settle days before he was scheduled to testify at trial over similar claims stemming from the Cambridge Analytica data scandal. Other cautionary tales include evasiveness from FTX co-founder Sam Bankman-Fried, and Elon Musk's complaints about being judged for focusing on a social media platform he'd just acquired instead of the other companies he leads.

There's still time for Blue Bell directors to avoid going down as the first board to lose on oversight claims and settle. One remaining day of trial has yet to be scheduled, to be followed by post-trial arguments.

It's important to note that the derivative lawsuit, which is trying to hold Blue Bell accountable for leadership that led to a nationwide recall and months-long operational shutdown, isn't one of the more recent cases that worry corporate attorneys for potentially expanding the definition of "corporate trauma" to encompass alleged sexual misconduct or toxic workplaces.

This is old-school: what did the directors know, when did they know it, and what did they do about it? Oversight liability in Delaware may hinge on the discontinued "Fudge Bombstick" treat—whether cleaning its equipment was sufficiently monitored by the board.

The facts against Blue Bell never looked good for the company: The Delaware Supreme Court said so in a ruling that kept the shareholder claims alive, and a special litigation committee appointed by the board found the claims were worth pursuing.

Blue Bell's board argued the whole ice cream industry learned its lesson about contamination risks from the listeria outbreak. The directors offered up another learning opportunity when they lost control of their own narrative on the witness stand.

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

To contact the editors responsible for this story: Bernie Kohn at bkohn@bloomberglaw.com; Andrew Harris at aharris@bloomberglaw.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Musk adviser testifies about pivotal meeting with Twitter bosses

DJ [dailyjournal.com/articles/390062-musk-adviser-testifies-about-pivotal-meeting-with-twitter-bosses](https://www.dailyjournal.com/articles/390062-musk-adviser-testifies-about-pivotal-meeting-with-twitter-bosses)

Mark C. Molumphy of Cotchett, Pitre & McCarthy

Elon Musk confidant Jared Birchall told the jury his version of a fateful May 6, 2022, meeting between the Tesla CEO and Twitter executives that put Musk's acquisition of the social media platform in jeopardy, on the second day of trial in a securities lawsuit surrounding the deal.

The plaintiffs, represented by Bottini & Bottini Inc. and Cotchett, Pitre & McCarthy LLP, allege Musk lied that the deal was "on hold" to lower Twitter's stock price and renegotiate the price, while the defense argues Musk had genuine concerns about the number of fake accounts on the platform and wasn't sure the deal would proceed. *Giuseppe Pampena v. Elon R. Musk*, 3:22-cv-05937 (N.D. Cal., filed Oct. 10, 2022).

Musk, represented by Quinn Emanuel Urquhart & Sullivan LLP, points to the May 6 meeting as the turning point in Musk's thinking about the agreement that he'd already signed.

Questioned by Michael T. Lifrak for the defense on Tuesday, Birchall said that the meeting lasted from 90 minutes to two hours and covered three topics: monetizing advertisements, the platform's code base, and the prevalence of fake accounts. Birchall recalled the former Twitter CFO giving an "uninspiring" and "nonsensical" response to Musk's questions about how the company arrived at its estimate that fewer than 5% of accounts aren't controlled by people.

"It, frankly, raised more questions than answers," Birchall said.

He recalled getting into an elevator with Musk after the meeting and once the doors closed, turning to his boss and saying, "Did you just hear what I just heard?" Musk, at one point, said, "my 'Spidey senses' were right," Birchall told the jury.

The plaintiffs, who called Birchall to the stand, were more interested in his work on Musk's financing of the deal.

Aaron P. Arnzen of Bottini & Bottini asked Birchall why Musk didn't disclose to the public that he'd amassed a 9.2% share in Twitter in the months leading up to the deal considering Musk's frequent posting on the platform.

"It wouldn't have been sound financial practice," Birchall said.

Arnzen asked if that's because the stock price would have gone up if Musk had disclosed the purchase and Birchall responded "potentially."

Arnzen also asked Birchall about the financing of the deal. Central to the plaintiffs' case is the theory that Musk tried to renegotiate the price he'd agreed to pay for Twitter after Tesla's stock fell. Much of the deal, Birchall said, relied on loans Musk planned to take out, some of which would be leveraged against his Tesla stock.

Arnzen showed Birchall an email from Morgan Stanley bankers charged with figuring out how Musk would finance the deal, which included a section about fake accounts on the platform accompanied by an emoji implying suspicion. Birchall said he doesn't remember the specifics of the email, which Arnzen implied shows Musk was already suspicious of Twitter's estimate before he signed the merger agreement.

On their first full day of trial, after Monday's opening statements, the plaintiffs called two other witnesses -- former Twitter general counsel Vijaya Gadde, who began her testimony Monday afternoon, and UC Berkeley law professor Adam Badawi, who conducts research on mergers and acquisitions.

Badawi, questioned by Mark C. Molumphy of Cotchett, Pitre & McCarthy for the plaintiffs, testified that he looked at 85 mergers and only saw one where the buyer declined to conduct due diligence -- a right Musk waived to urge Twitter to move the deal forward.

The terms of Musk's agreement with Twitter were seller-friendly, Badawi testified, aimed at giving the company certainty that the deal would close.

Once a company announces it intends to sell, Badawi said, "You can't really put the genie back in the bottle."

Badawi also said he'd never seen a merger in which one party could unilaterally put on hold.

Stephen A. Broome, on behalf of Musk, questioned Badawi's expertise, given his relatively short stint as a practicing lawyer before moving into academia. Broome pressed Badawi on the typical information rights in merger deals, with the professor using the common refrain that "the agreement controls." Broome asked if buyers are usually allowed out of a deal if public representations in SEC filings are incorrect.

"They need to be really, really wrong," before a misrepresentation could be considered a violation of the agreement, Badawi said.

#390062

Daniel Schrager

Daily Journal Staff Writer

daniel_schrager@dailyjournal.com

Securities

Musk Tweet on Pausing Twitter Deal Was Frustration, Adviser Says

March 3, 2026, 6:10 PM PST

Elon Musk was frustrated with Twitter Inc. when he tweeted in 2022 that his offer to buy the company was “temporarily on hold,” but his team continued to work behind the scenes to make it work, his main financial adviser testified.

Jared Birchall, who was hired by Musk a decade ago to run his family office, was called to the witness stand Tuesday in the second day of a trial over claims by a group of investors that the multibillionaire waffled on the Twitter purchase to get a better deal for himself.

A central allegation in the lawsuit is that the tweet on May 13, 2022, wasn’t true and was intended to drive down the company’s stock price.

“Work never stopped on the deal,” Birchall told jurors in San Francisco federal court. He noted that the Musk team held Twitter due-diligence meetings the same day as the serial entrepreneur fired off the controversial social media post.

“We continued full steam ahead,” Birchall said. “Nothing changed with our approach to accumulating investors, speaking with banks.”

The longtime lieutenant to the world’s richest person also said Musk never said or hinted that he wanted to drive down the Twitter deal price.

The trial is focused over the chaotic six-month period in 2022 during which Musk oscillated 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. He ended up paying \$44 billion at the \$54.20 share price he had agreed to six months earlier. He later renamed the platform X.

[Read More: Musk Is on Trial Over His Tweets Ahead of Twitter Purchase](#)

Musk’s lawyers contend that his early-morning tweet was not part of a scheme to defraud stockholders, but was instead his way of venting frustration. He also tweeted the same morning that he was committed to the deal.

But he was irritated that despite asking Twitter to differentiate how much of its user traffic was real — and how much was spam, driven by bots — company executives were not giving him the information he sought, said Birchall.

“I understood his thinking behind” the tweet, Birchall testified. “He’d made several requests for data about the bots and he hadn’t gotten it” from Twitter’s top managers, he said.

Besides running Musk’s family office, Excession LLC, Birchall also serves as chief executive officer of Musk’s Neuralink Corp. focused on human-brain implants.

Birchall said he was familiar with Musk’s approach on the tweets because he was deeply involved in lining up the deal’s financing. He said Musk sold more than \$9 billion worth of stock in his electric-car company Tesla Inc. to help fund the Twitter buyout, which also included billions of dollars in loans.

During questioning by Musk’s lawyers, Birchall dryly recounted what it’s been like to work for the billionaire over the last decade.

“Elon has high expectations for the people who work for him,” the adviser said. He recalled that Musk fired another adviser, Robert Swan, after the former Intel Corp. CEO presented an unfavorable analysis of the Twitter deal. Swan is now a partner at Andreessen Horowitz, the storied venture-capital firm.

The jury also heard from Twitter’s former top in-house lawyer, **Vijaya Gadde**, about her firing. Gadde testified that as the deal’s closing date approached, Musk told then-CEO **Parag Agrawal** to get rid of her. After he acquired the company, Musk also laid off thousands of Twitter employees.

“My CEO told me that Mr. Musk told him to terminate me immediately,” Gadde told jurors. “He didn’t give a reason.”

Agrawal is slated to testify later in the trial about the tumultuous deal negotiations.

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

To contact the reporters on this story:

Jef Feeley in Wilmington, Delaware at jfeeley@bloomberg.net;

Isaiah Poritz in San Francisco at iporitz@bloomberg.net

To contact the editors responsible for this story:

Sara Forden at sforden@bloomberg.net;

Stephanie Gleason at saerts1@bloomberg.net

Peter Blumberg

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

California Brief

Musk to Testify in Twitter Investor Case Accusing Him of Fraud

March 4, 2026, 7:00 AM PST

Elon Musk is slated to testify Wednesday in a jury trial over allegations that he manipulated Twitter Inc.'s stock price with his public tweets to try to get himself a better deal to buy the social network back in 2022.

Musk, the world's richest person, eventually bought Twitter for \$44 billion and later renamed it X, but first spent several months publicly criticizing the company's business and threatening to walk away from the buyout.

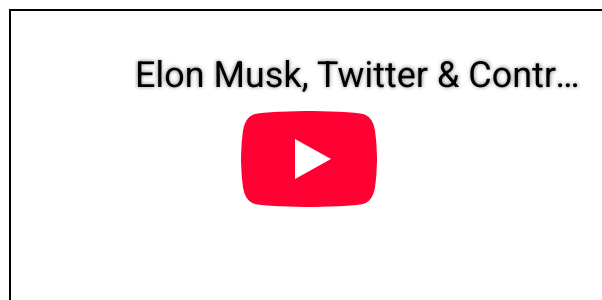
A group of investors who sued Musk in San Francisco federal court allege that he posted misleading tweets about the deal process to drive down the company's market value and benefit himself at their expense.

Musk, who has denied wrongdoing, is the trial's star witness, and is expected to face sharp questioning from the investors' lawyers.

Read More: Musk Tweet on Pausing Twitter Deal Was Frustration, Adviser Says

The attorneys are likely to challenge the serial entrepreneur over multiple tweets he posted in May 2022, including one in which he said he was putting the Twitter buyout "temporarily on hold" to investigate how much of the platform's traffic was driven by spam and fake accounts known as bots.

Twitter executives, meanwhile, told employees that the deal was still moving forward. The stock tumbled following Musk's post, and it remained volatile for months until the deal finally closed in October 2022 after the company sued him to follow through on his original offer.



WATCH: Elon Musk, Twitter, and a lesson in contract law.

"We're here today because Elon Musk cheated investors," Mark Molumphy, a lawyer for the plaintiffs, told jurors in his opening statement on Monday. "The evidence will show Mr Musk knew exactly what he was doing" by tweeting out false and misleading information about the deal, the lawyer said.

Lawyers for Musk countered that his concerns about Twitter's user base "were real and weren't a fraud," and that his tweets were not responsible for any stock price decline.

Musk is no stranger to testifying before a jury. He prevailed in a trial in 2023 over claims by Tesla Inc. investors that he misled shareholders with a 2018 tweet saying he had "funding secured" to take the electric vehicle-maker private. He took the witness stand in at least three other cases that were ultimately decided in his favor.

The US Securities and Exchange Commission is also suing Musk over the Twitter takeover, alleging he waited too long to publicly disclose his stake in the company, which the agency claims allowed him to buy up shares at artificially lower prices. Musk has denied wrongdoing.

To contact the reporters on this story:

Kurt Wagner in San Francisco at kwagner71@bloomberg.net;

Jef Feeley in Wilmington, Delaware at jfeeley@bloomberg.net

To contact the editors responsible for this story:

Sarah Frier at sfrier1@bloomberg.net;

Sara Forden at sforden@bloomberg.net

Peter Blumberg

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

**Bloomberg
Law**[Request a Demo](#)[Login](#)

Securities

Hawaiian Electric, Investors Get Nod for \$48 Million Settlement

March 3, 2026, 3:17 PM PST

Hawaiian Electric Industries Inc.'s nearly \$48 million settlement in a securities suit stemming from the deadly 2023 Lahaina wildfire received preliminary approval Tuesday after the parties gave a federal judge additional information that she'd demanded.

Judge Jacqueline Scott Corley of the US District Court for the Northern District of California said several factors weighed in favor of approval, including a 2.8% recovery of \$1.72 billion in estimated damages. The investors told her the percentage was more than double the settlement value where losses were in the range of \$1 billion to just under \$5 billion, according to the order.

The deal would end allegations against HEI and its subsidiary Hawaiian Electric Co. Inc. related to a stock decline after Maui wildfires killed more than 100 people and destroyed the historic town of Lahaina

The utility denied wrongdoing in the agreement

Corley asked for several categories of information and a revised notice Jan. 26

Pomerantz LLP is lead counsel for the investors. Skadden, Arps, Slate, Meagher & Flom LLP represents HEI. A&O Shearman represents the subsidiary.

The case is Bhargal v. Hawaiian Elec. Indus., Inc. , N.D. Cal., No. 3:23-cv-04332, 3/3/26 .

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

To contact the editor responsible for this story: Amy Lee Rosen at arosen@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Securities

Global Insurer Targeted in Fifth Investor Proposal Omission Suit

March 3, 2026, 11:07 AM PST

Progressive shareholder group As You Sow sued Fortune 500 insurance company Chubb Limited for keeping its proposal from an annual meeting vote, making it the fifth investor organization this year to take that previously seldom-used step.

As You Sow's shareholder proposal, which asked the company to assess the benefits of using subrogation to recover climate-related losses, did not meet federal criteria for exclusion, the organization said in a lawsuit filed Tuesday in the US District Court for the District of Columbia.

Litigation over proxy proposal exclusions had been unusual. But shareholders, attorneys, and corporate governance experts warned lawsuits could increase following the Securities and Exchange Commission's November decision to largely stop advising companies on whether they could omit proposals from annual meeting agendas. Just a couple months into the year, the number of those lawsuits is growing. As You Sow's complaint comes one day after similar litigation directed at warehouse shopping chain BJ's Wholesale Club Holdings Inc. and shortly after cases against AT&T Inc., PepsiCo Inc., and Axon Enterprise Inc.

PepsiCo and AT&T have since agreed to put the at-issue proposals on the ballot, ending the lawsuits.

For remaining complaints, the courts are tasked with interpreting fluid, complex guidance on which proposals companies can exclude from annual meeting ballots, an area long overseen by SEC staff. Shareholders also need relatively fast decisions ahead of springtime company meetings, which will add to the pressure on judges, said Sanford Lewis, director and general counsel of Shareholder Rights Group, where As You Sow is a founding member.

Chubb has not yet announced an annual meeting date. The company did not immediately respond to a request for comment.

The company excluded As You Sow's proposal on "ordinary business" and micromanagement grounds because the pitch sought influence over day-to-day insurance decisions, the company said in its Jan. 13 notice to the SEC. As You Sow, however, said in its lawsuit that the proposal highlighted risks to Chubb's larger business model.

"SEC rules forbid a company from excluding shareholder proposals, like As You Sow's, that go beyond day-to-day business operations and require the evaluation of matters related to important public policy issues," said Nicolas Sansone, an attorney with Public Citizen Litigation Group, which is representing As You Sow, in a press release.

The case is As You Sow v. Chubb Ltd. , D.D.C., No. 1:26-cv-00734, complaint filed 3/3/26 .

To contact the reporter on this story: Drew Hutchinson in Washington at dhutchinson@bloombergindustry.com

To contact the editors responsible for this story: Michelle M. Stein at mstein1@bloombergindustry.com; Rachael Daigle at rdaigle@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Securities

Deloitte's \$34 Million Nuclear Investor Settlement Is Finalized

March 3, 2026, 1:39 PM PST

Deloitte & Touche LLP's \$34 million class settlement with Scana Corp. investors who sued to hold the auditor liable for nuclear reactor project losses is fair, a federal court said in granting final approval.

Judge Jacquelyn D. Austin of the US District Court for the District of South Carolina also approved a more than \$6 million fee for the investors' attorneys, one-third of the settlement amount. Austin's orders Monday bring an end to the six-year-old litigation in which Deloitte sought review of class certification at the US Court of Appeals for the Fourth Circuit and reached a settlement while the appeal was pending.

Laura Posner, who represents the investors and is a partner at Cohen Milstein Sellers & Toll PLLC, hailed the settlement as particularly important in the context of the Securities and Exchange Commission "scaling back" the power of the Public Company Accounting Oversight Board. The case, and its settlement, show "the power institutional investors wield in holding auditors accountable and safeguarding our capital markets," she said.

"In addition to being one of the top five auditor settlements in the last decade and ever in the District of South Carolina, this case sets important legal precedent for establishing liability against auditors," Posner said. "It is rare for auditor cases to withstand motions to dismiss, let alone achieve class certification."

The case even went to a full briefing for summary judgment, she said.

Deloitte said it "stands behind the quality of its audit work and is participating in this settlement to avoid the ongoing cost and distraction of extended litigation."

"We are pleased to have resolved this matter," the company said by email.

The lead plaintiff representing the class—the International Brotherhood of Electrical Workers Local 98 Pension Fund—alleged Deloitte was aware that the project to construct two nuclear reactors at the V.C. Summer Nuclear Generating Station was failing. But the accounting firm allegedly kept issuing clean audit reports for Scana.

Scana's nuclear project was abandoned in 2017 after running years behind schedule and costing more than \$20 billion. Various people and entities involved with the project have faced securities charges, criminal charges, and civil litigation. Among these was Scana's eventual parent company, Dominion Energy Inc., which in 2021 reached a global settlement of several class actions over its merger with Scana.

Austin initially granted approval of the accord in November.

Cohen Milstein Sellers & Toll PLLC is lead counsel for the investors. Milbank LLP and Moore & Van Allen PLLC represent Deloitte LLP and Deloitte & Touche.

The case is Int'l Brotherhood of Elec. Workers Loc. 98 Pension Fund v. Deloitte & Touche LLP , D.S.C., No. 3:19-cv-03304, 3/2/26 .

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

To contact the editor responsible for this story: Amy Lee Rosen at arosen@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Stitch Fix investors seek approval of \$32M settlement

DJ [dailyjournal.com/articles/390060-stitch-fix-investors-seek-approval-of-32m-settlement](https://www.dailyjournal.com/articles/390060-stitch-fix-investors-seek-approval-of-32m-settlement)

Attorneys told a federal judge that a proposed \$32 million class action settlement between online clothing curator Stitch Fix and its investors is unopposed and ready for approval, ending three years of securities litigation over the company's \$6 billion loss in market capitalization in 2021.

Investors claimed that Stitch Fix and its former executives overstated the benefits of a "Direct Buy" initiative contrasting with its core stylist-curated clothing business, and the settlement reflects the risks plaintiffs faced in proving the statements were knowingly false and caused investor losses. *Retail Wholesale Department Store Union Local 338 Retirement Fund et al v. Stitch Fix, Inc., et al.* 5:22-cv-04893 (N.D. Cal. Filed Aug. 26, 2022).

The defendants, represented by Brett H. De Jarnette of Cooley LLP, denied any wrongdoing and contend their public statements were not materially false or misleading. The settlement does not constitute an admission of liability and was entered to avoid the expense and uncertainty of further litigation, Cooley wrote.

De Jarnette was approached for further comment but did not respond by press time.

In a motion for preliminary approval filed in San Jose on Monday, an attorney for the plaintiffs, Rebecca E. Boon of Bernstein Litowitz Berger & Grossmann LLP, told U.S. District Judge P. Casey Pitts that the plaintiffs would have "confronted hurdles in proving that defendants knowingly or recklessly deceived investors."

"Lead plaintiffs would have faced challenges in proving that Defendants' statements about Stitch Fix's new business line (called "Direct Buy") were false and made with scienter, and in connecting the stock price declines at issue with the alleged misstatements," Boon wrote. "For example, there was a risk that the court or jury might find that certain of the alleged misstatements were vague or aspirational statements that were unrelated to the introduction of Direct Buy to new customers and were not actionable under the securities laws."

Boon was approached for further comment but did not respond by press time.

The proposed settlement reached in February aimed to resolve claims that Stitch Fix and former CEOs Katrina Lake and Elizabeth Spaulding misled investors about the company's new initiative "Direct Buy" -- which let customers choose their own clothes rather than having them curated by a stylist -- and whether it was "additive" and "complementary" to its core business.

"When the truth was revealed to investors through multiple partial disclosures, lead plaintiffs and the class suffered significant losses as the company's market capitalization declined by over \$6 billion, or approximately 90%," according to a November 2025 case update on Bernstein Litowitz Berger & Grossmann LLP's website.

The investors asked to preliminarily approve the deal, authorize notice to the class and schedule a final fairness hearing to end the three-year litigation.

Under the deal, Stitch Fix will pay \$32 million in cash into an escrow account for the benefit of investors who acquired Stitch Fix common stock between June 9, 2020, and June 9, 2022. The settlement class excludes the defendants, certain insiders and affiliates, and others specified in the agreement.

The parties agreed to private mediation before Michelle Yoshida of Phillips ADR. Ahead of a November 2025 mediation session, the defendants produced more than 6,000 pages of internal company documents. At the conclusion of the session, the mediator recommended a \$32 million settlement, which the parties accepted, according to the settlement motion.

james_twomey@dailyjournal.com

#390060

James Twomey

Daily Journal Staff Writer

james_twomey@dailyjournal.com

NY Judge: Crypto Platform Developers Not Liable for Misconduct of Unknown Third-Party Issuers

"Despite three chances to get it right, plaintiffs remain unable to allege plausible claims," U.S. District Judge Katherine Polk Failla of the Southern District of New York wrote in the 32-page opinion and order.

March 03, 2026 at 01:24 PM By  **Michael A. Mora**



Katherine Polk Failla, during her nomination hearing before the Senate Judiciary Committee to be United States District Judge for the Southern District of New York. September 19, 2012. Photo by Diego M. Radzinski/THE NATIONAL LAW JOURNAL.

A Manhattan federal judge dismissed, with prejudice, a proposed class action accusing Uniswap Labs and its chief executive of liability for millions of dollars in losses tied to so-called “scam tokens,” ruling that the crypto platform’s developers cannot be held responsible for fraud perpetrated by unknown third-party issuers who used the decentralized exchange.

U.S. District Judge Katherine Polk Failla of the Southern District of New York dismissed with prejudice a second amended complaint on Monday brought by investors who said they lost money

trading 38 fraudulent tokens on the Uniswap Protocol. The plaintiffs sought to hold Universal Navigation Inc., doing business as Uniswap Labs, and chief executive Hayden Adams responsible.

And the ruling marks the latest chapter in a closely watched case testing the boundaries of liability for decentralized finance platforms. The same court previously threw out federal securities claims, a decision largely affirmed by the Second Circuit, which remanded for consideration of state-law theories.

On remand, the investors dropped their securities claims and pressed forward with allegations including aiding and abetting fraud, consumer-protection violations and unjust enrichment. However, Failla was unpersuaded, writing, “Despite three chances to get it right, plaintiffs remain unable to allege plausible claims.”

The investors alleged they were victims of “rug pulls” and “pump and dump” schemes carried out by token issuers who used Uniswap’s decentralized exchange to list and trade new cryptocurrency tokens. Since the identities of many issuers were unknown, the plaintiffs sought to shift responsibility to the platform’s developers.

But aiding-and-abetting liability under New York law requires actual knowledge of the underlying fraud and substantial assistance in its commission. The court found the complaint deficient on both elements and rejected allegations that user complaints, social media warnings or academic studies established contemporaneous knowledge of the specific frauds.

Providing a platform that can be used for lawful transactions, even if some actors misuse it, is not the same as affirmatively assisting fraud, Failla wrote in the 32-page opinion and order. Simply “providing the platform on which a fraud takes place,” she said, “is not the same as substantially assisting that fraud.”

Failla also dismissed claims under state consumer-protection statutes, finding no plausible allegation of materially misleading statements or actionable omissions by the defendants. The judge wrote that public blog posts and terms of service acknowledging risks undercut arguments that the company concealed information uniquely within its possession.

Finally, the unjust-enrichment theory failed because plaintiffs did not adequately allege that Uniswap Labs received a specific, direct benefit from the challenged trades during the class period. With no viable claim remaining, the court entered judgment for the defendants and closed the case.

Braden Perry, a partner at [Kennyhertz Perry](#) and expert in white-collar defense and securities law, who is not involved in the case, said the takeaway for attorneys in advising crypto companies is the importance of clear risk disclosures and avoiding entanglement with the issuers.

“There should be a separation between the platforms and the tokens, and that separation should not be commingled,” Perry said. “More broadly, courts continue to hold that if there should be broader platform liability, it’s the regulators or legislators who need to enact those rules and regulations, not the courts to stretch traditional common-law theories.”

Noah A. Levine of [Wilmer Cutler Pickering Hale and Dorr](#) and Elliot Greenfield of [Debevoise & Plimpton](#), who represented the defendants, did not respond to a request for comment. Neither did James R. Serritella, a partner at [Kim & Serritella](#), who represented the plaintiffs.

Page printed from:

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

Securities

Uniswap Labs Crypto Exchange Spared From 'Scam Token' Lawsuit

March 3, 2026, 9:49 AM PST

Cryptocurrency exchange Uniswap Labs and its chief executive won't have to face claims from investors that the company's platform issued and traded "scam tokens."

The investors failed in part because their complaint didn't sufficiently connect the acts of Uniswap and CEO Hayden Z. Adams to their alleged injuries, said Judge Katherine Polk Failla of the US District Court for the Southern District of New York. Failla permanently dismissed the lawsuit Monday.

Uniswap and Adams created and developed the Uniswap Protocol trading platform, a decentralized exchange, the judge said. The five named plaintiffs claimed they used Protocol's web interface to make losing investments in 38 "scam tokens."

The investors' initial complaint, which was dismissed in August 2023, alleged federal securities law violations, including purportedly unlawful "contracts" with the defendants under the Securities Exchange Act, as well as violations of North Carolina and Idaho securities laws.

The US Court of Appeals for the Second Circuit affirmed the judgment in February of last year, but remanded the state law claims. The investors' second amended complaint retained its original state-law claims and added claims for violations of New York, North Carolina, and Idaho consumer protection statutes.

The investors failed to allege plausible claims "despite three chances to get it right," said Failla.

Although the claims changed, "the result is the same: Plaintiffs cannot hold Defendants liable for the misconduct of the unidentified third-party issuers," she said.

The investors repeatedly tied their injuries "to the issuers' fraudulent misrepresentations and omissions" rather than the defendants' acts, so they failed to sufficiently allege that the company's and Adams' acts caused their injuries, the judge said.

The investors also didn't succeed on their claim for aiding and abetting fraud because they couldn't sufficiently allege Uniswap and Adams had "actual knowledge" of the alleged fraud. It wasn't enough for investors to say that the defendants received after-the-fact notifications that fraud had occurred or that they "should have known about the fraud," the judge said.

The investors also pointed to a report from March 2022 that found 97.7% of tokens launched on the Protocol from April 2020 through March 9, 2021 were the result of scams.

But the judge said a report issued one month before the end of a more than year-long class period is "hardly illuminative" of their knowledge at the time.

The investors also didn't adequately allege that defendants "substantially assisted" the fraud when "ordinary services" were used for "unlawful purposes," Failla said.

The investors also claimed a Discord bot allegedly operated by Uniswap stated that the company wouldn't implement security measures to prevent scam coins because "no one can prevent scammers from having their scam token traded on Uniswap," Failla said.

But these allegations don't "demonstrate falsity, much less that consumers were misled," she said.

Kim & Serritella LLP represents the plaintiffs. Debevoise & Plimpton LLP and Wilmer Cutler Pickering Hale & Orr LLP represent Uniswap and Adams.

The case is *Risley v. Universal Navigation Inc.*, S.D.N.Y., No. 1:22-cv-02780, Opinion 3/2/26.

To contact the reporter on this story: Sam Skolnik in Washington at sskolnik@bloomberglaw.com

To contact the editor responsible for this story: Kiera Geraghty at kgeraghty@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Class Action

Manage Newsletters

Cushman & Wakefield Sued for Alleged Climate Risk in 401(k) Plan

March 4, 2026, 8:36 AM PST

Summary by Bloomberg AI

AI Generated



- Cushman & Wakefield US Inc. was hit with a lawsuit claiming its 401(k) plan is mismanaged due to an underperforming fund overly exposed to climate-related risks.
- The lawsuit centers on the Westwood Quality Small Cap Fund, which the plaintiff describes as “willfully blind to climate-related financial risks” due to its significant exposure to sectors vulnerable to climate risks.
- The lawsuit seeks a court order appointing a special master to develop an investment policy statement aimed at managing risk in Cushman & Wakefield’s retirement plan, bringing ERISA claims on behalf of a proposed class of people who held the Westwood fund in their 401(k) accounts.

Cushman & Wakefield US Inc. was hit with an unusual lawsuit claiming its 401(k) plan is mismanaged because it offers an underperforming fund that’s overly exposed to risks related to climate change.

The proposed class action centers on the Westwood Quality Small Cap Fund, which the plaintiff describes as “willfully blind to climate-related financial risks.” The fund had significant exposure to “sectors disproportionately vulnerable to physical and transition climate risks,” and it invested heavily in companies with business models carrying elevated climate-related risks, plaintiff Renee Kvek said in a complaint filed Tuesday in the US District Court for the Western District of Washington.

The lawsuit appears to be one of first cases attempting to use the Employee Retirement Income Security Act to impose liability on retirement plan fiduciaries based on the purported climate risks of their investments.

The environmental impact of 401(k) funds has been a hot topic following the Biden administration’s ill-fated effort to pave the way for more socially conscious retirement investments. The only significant ERISA lawsuit centering on a 401(k) plan’s alleged focus on ESG investing led to a court ruling that American Airlines Inc. unlawfully failed to rid its plan of ties to environmental, social, and corporate governance goals.

The new suit says Cushman & Wakefield, a commercial property management company, is acutely aware of the climate-related risks that threaten its business operations. The company nevertheless failed to ensure its retirement plan was protected against these same risks, the lawsuit claims.

"Defendants' prudent and proactive management of climate-related financial risks in their own operations stands in stark contrast to their mismanagement of the Plan," Kvek said in the complaint. "With their workers' money at stake, rather than their own, Defendants exposed employee retirement savings to significant, unreasonable climate-related financial risk—apparently failing to employ any climate risk management strategy at all."

The lawsuit brings ERISA claims on behalf of a proposed class of "hundreds, if not thousands," of people who held the Westwood fund in their 401(k) accounts with Cushman & Wakefield. It seeks a court order appointing a special master to develop an investment policy statement aimed at appropriately managing risk in Cushman & Wakefield's retirement plan.

Cushman & Wakefield didn't immediately respond to an inquiry about the lawsuit. Neither did Westwood Management Corp., which serves as investment adviser for the Westwood fund and isn't named as a defendant in the lawsuit.

Cohen Milstein Sellers & Toll PLLC and ClientEarth USA Inc. represent Kvek and the proposed class.

The case is Kvek v. Cushman & Wakefield, US, Inc. , W.D. Wash., No. 2:26-cv-00736, complaint 3/3/26 .

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

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

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Critical Mass With Law.com's Amanda Bronstad: Oregon Jury Awards Record \$242M Wildfire Verdict, Bayer's \$7.25B Roundup Settlement Gets Pushback

March 04, 2026 at 10:26 AM By  Amanda Bronstad



Multnomah County Circuit Court Judge Steffan Alexander. Courtesy photo

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

This week: A record \$242 million wildfire verdict hit **PacifiCorp** as an Oregon judge plans one trial per week in 2026. More than a dozen law firms have moved to intervene in **Bayer's** \$7.25 billion **Roundup** settlement, citing numerous concerns. Find out who represents **Sanofi-Aventis** and **Regeneron Pharmaceuticals** in lawsuits over anti-inflammatory drug **Dupixent**.

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



Shawn Rabin, partner with Susman Godfrey. Courtesy photo

Record Verdict For Wildfire Damages: 'They Were Homeless for Years'

An Oregon jury awarded a record [\\$242 million verdict](#) for 16 people who lost their homes to a series of wildfires that hit the state in 2020.

Friday's verdict is the 15th jury verdict against **PacifiCorp**, which was found liable in 2023 and is subject to additional economic and punitive damages that are expected to boost the award to \$305 million. With a class of 5,000 potential wildfire victims, **Multnomah County Circuit Court Judge Steffan Alexander** has begun an aggressive schedule of planning for one trial each week for the rest of the year.

On Tuesday: Jurors in a 16th trial awarded more than \$34 million to 13 wildfire survivors, and the 17th trial began.

[Shawn Rabin](#) (**Susman Godfrey**), whose firm won the record verdict, said that after his successful cross-examination of defense experts back in December, PacifiCorp declined to have anyone

testify about the level of emotional damages each of the plaintiffs suffered from the wildfire. As a result, only the plaintiffs testified in the most recent trial.

Rabin said that, unlike other trials, each of the plaintiffs suffered through what he described to jurors as the “five stages of distress.” He told me:

“First, they all had to escape the fire, and many of them were in life and death situations. The second was they suffered pretty great loss: they lived on the properties where they were at the time, and they lost their personal belongings. The third is many of them had really long displacement, including a couple who were unhoused—they were homeless for years because they lost their only residence and lived out of their cars, and that caused them to not be able to see their kids because they can’t have custody of their kids without a house. And the fourth was they had to rebuild, which was costly. And fifth is they are suffering emotionally, which we call the aftermath.”



Credit: Ricochet64/Adobe Stock

Amici Briefs Tell SCOTUS: ‘Dire Consequences’ Without Roundup

More than a dozen plaintiffs’ firms suing over **Monsanto’s Roundup** are criticizing what they call the “fast track” approval process in place for **Bayer’s** \$7.25 billion class action settlement.

[Here's my report](#) on an intervenor motion filed by the firms, whose lawyers claim to represent 20,000 Roundup clients. The firms include **Wagstaff Law Firm** and **Weitz & Luxenberg**, the co-leads in the Roundup multidistrict litigation in **California's Northern District**.

So, what's their complaint? Primarily, it's the settlement's proposed schedule to have a preliminary approval hearing today in Missouri state court. **22nd Judicial Circuit Court Judge Timothy Boyer** granted preliminary approval and rejected the intervenor motion. The intervening law firms wanted 60 days to review the deal, which they claim has some troubling provisions—in particular, whether the lead class representatives adequately represent all class members and the \$40,000 cap on those who used Roundup at their homes, rather than for their jobs.

Class counsel said class members have an adequate 90 days to object following preliminary approval of the settlement. They insisted the **U.S. Supreme Court's** ruling in a Roundup case on the key defense of federal preemption could wipe out plaintiffs' strongest claim: that Monsanto failed to warn about cancer risks.

On Monday: Several business and agricultural groups, including the **American Tort Reform Association** and the **American Farm Bureau Federation**, and attorneys general from 15 states, including Georgia and Pennsylvania, as well as the United States, filed amicus briefs supporting Monsanto before the Supreme Court. Here's what some of them say:

States: "A disjointed patchwork of labeling regulations will have dire consequences for amici states' agricultural industries and their farmers."

American Farm Bureau Federation et al: "If Bayer halts sales of glyphosate in the U.S., farmers would be left dependent on foreign imports—primarily from China and India—further exposing the domestic food supply to price volatility and supply disruptions. The federal government recently recognized this risk, designating glyphosate as critical to national defense under the Defense Production Act."

U.S. Chamber of Commerce et al: "Should respondent's approach prevail, courts throughout the nation could gut statutory preemption across several other federal regulatory regimes. And if federal preemption is discarded in cases like this one, state-court juries could impose potentially crushing liability on manufacturers under *state* law for failing to give warnings that *federal* law forbids."



Sanofi-Aventis at 55 Corporate Drive in Bridgewater, NJ.

Who Got the Work?

[David Kerschner](#) (**Arnold & Porter**) and [Adrienne Byard](#) (**Shook Hardy**) have appeared for defendants **Sanofi-Aventis** and **Regeneron Pharmaceuticals**, respectively, after plaintiffs moved to coordinate into multidistrict litigation at least 15 lawsuits alleging anti-inflammatory prescription drug **Dupixent** causes T-cell lymphoma. Plaintiffs moved last month for the **U.S. Judicial Panel on Multidistrict Litigation** to send the cases to the **Northern District of Georgia**.

Here's what else is happening:

Instagram Plaintiff: The plaintiff [testified in a novel trial](#) to determine whether social media causes addiction in adolescents about setting up an account on **Instagram** at age 9 and on **YouTube** at 6. The plaintiff, who is appearing anonymously as Kaley, or K.G.M., told jurors in **Los Angeles Superior Court** that she was unable to limit her social media use, which caused her [depression and body dysmorphia](#). **Meta**, on cross-examination, brought up other influences, including K.G.M.'s mother screaming at her and bullying at school.

Kiesel Charged: Los Angeles plaintiffs' attorney [Paul Kiesel](#) (**Kiesel Law**) faces possible suspension or disbarment for his role in litigation involving an overbilling scandal at the **Los Angeles Department of Water and Power**. **State Bar of California** prosecutors, on Feb. 26, filed

misconduct charges that include moral turpitude, alleging Kiesel represented both the city and a ratepayer at the same time, and making “false and misleading” statements during a deposition. Kiesel called the charges “unfounded, misguided, and fundamentally wrong.”

Philly Win: The **Pennsylvania Superior Court** [upheld public nuisance claims](#) the city of **Philadelphia** brought in its opioid lawsuit **CVS** and **Albertson’s**. The retailers had challenged the city’s preliminary objections against its public nuisance claims, but the appellate court found their arguments were too narrow. The suit, filed in 2021, alleges the pharmacies created a public nuisance by fueling the city’s opioid crisis.

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

Page printed from: <https://www.law.com/2026/03/04/critical-mass-with-lawcoms-amanda-bronstad-oregon-jury-awards-record-242m-wildfire-verdict-bayers-725b-roundup-settlement-gets-pushback/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

Litigation

Manage Newsletters

Deep Dive

Meta Insurance Ruling Adds to Policyholder Woes on Opioids, Guns

March 4, 2026, 8:27 AM PST

Summary by Bloomberg AI

AI Generated



- Meta Platforms Inc. lost insurance coverage for lawsuits alleging it got kids hooked on its platforms, with the Delaware Superior Court ruling that Meta's liability insurers had no duty to defend it.
- The decision was based on California law, which concluded that the underlying suits against Meta alleged only intentional conduct, meaning there was no accidental "occurrence" that would trigger insurers' duty to defend.
- The ruling has implications for other policyholders, with some experts warning that it could lead to a narrowing of general liability coverage and leave tech companies seeking coverage outside of traditional liability policies.

Meta Platforms Inc.'s loss on insurance coverage for lawsuits alleging it got kids hooked on its platforms is the latest blow for corporate policyholders hit with expensive litigation over opioids, guns, and other "public nuisances."

The Delaware Superior Court's ruling last week that Meta's liability insurers had no duty to defend it landed in the middle of a bellwether jury trial in Los Angeles on allegations that the Facebook and Instagram parent intentionally designed its platforms to addict young people.

Other big-name policyholders including CVS Health Corp. have had their own setbacks in recent years—and insurers have garnered important wins—in coverage fights across the country over public nuisance litigation related to the opioid epidemic, gun violence, and lead contamination.

There's a growing body of law colored by social justice and politics, said Lilit Asadourian, a partner at Barnes & Thornburg LLP who represents policyholders.

"Nobody wants to feel like they gave an out to the gun manufacturer, nobody wants to feel like they gave an out to the opioid manufacturer," she said.

Judge Sheldon K. Rennie in his decision, relying on California law, concluded that the underlying suits against Meta alleged only intentional conduct, meaning there was no accidental “occurrence” that would trigger insurers’ duty to defend under various commercial general liability policies.

Although courts in California and New York have sided with insurers on the accident issue in other public nuisance-related suits, Delaware courts in deciding for carriers in opioid epidemic cases had mainly focused on whether the underlying litigation sought damages “because of bodily injury”—another threshold for coverage.

Decisions on coverage in hot-button cases have the potential to make law that bleeds into more run-of-the-mill insurance disputes, legal watchers said.

“Meta has plenty of money, so I guess in a certain sense, the victims aren’t going to go uncompensated,” said Tom Baker, a professor at University of Pennsylvania Carey Law School who studies insurance law. “But this is a standard that isn’t just about lawsuits against rich corporations.”

The first of related cases brought by public school districts arguing social media platforms harmed students’ mental health and strained resources is set for trial in California federal court later this year.

Meta’s counsel at Covington & Burling LLP didn’t respond to a request for comment.

‘Continued Narrowing’

Rennie’s decision “reflects a continued narrowing of general liability coverage through judicial interpretation—one that increasingly pulls CGL policies away from the realities of modern business risk,” said Lathrop GPM LLP’s Alexander Brown, who represents corporate policyholders.

Meta argued its conduct was accidental because at least some complaints accused the company of negligence, but the act of creating and deploying its platforms was intentional, Rennie reasoned.

The underlying complaints also sufficiently alleged that it wasn’t “mere fortuity” that the “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, handing a win to insurers including Hartford Insurance Group Inc. and Chubb Ltd. units and raising alarms for other policyholders.

If the reasoning applied in Meta’s case gains traction, general liability coverage could be reduced to “little more than slip-and-fall insurance—a result policyholders neither bargained for nor priced into their risk management programs,” Brown said.

What’s Next

Rennie’s ruling followed an extended fight over where the case should be litigated.

Insurers initially sued in Delaware state court, but Meta repeatedly tried to move it to California, including to the federal district court in Oakland handling thousands of underlying claims in multidistrict litigation against several tech giants.

Even under California law, Meta isn't entitled to insurance coverage for litigation alleging purely deliberate conduct, Rennie said.

Meta will likely appeal the decision, although it may wait for remaining issues in the coverage dispute to be resolved. If the tech giant does appeal, Delaware's top court could further solidify insurers' win or avoid the issue altogether by reversing the portion of Rennie's ruling declining to dismiss or stay the case in favor of a California state court suit filed by Meta.

In the meantime, insurers are likely to rely on the ruling to avoid covering other social media companies in similar litigation.

Insurers including American International Group Inc. and Travelers Cos. are locked in their own disputes with tech giants such as Alphabet Inc.'s Google and Snap Inc. in California and Delaware cases.

Tech companies may have to seek coverage outside of traditional liability policies, said Renee Henson, an associate professor at the University of Missouri Law School who researches artificial intelligence and insurance. The problem, she said, is that emerging risks such as algorithmic liability are revealing gaps in existing insurance frameworks.

"A potential solution would be insurers creating affirmative AI insurance that would cover these gaps," Henson said.

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

To contact the reporter on this story: Olivia Alafriz in Washington at oalafriz@bloombergindustry.com

To contact the editors responsible for this story: Michael Smallberg at msmallberg@bloombergindustry.com; Rob Tricchinelli at rtricchinelli@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

**Bloomberg
Law**[Request a Demo](#)[Login](#)

California Brief

Social Media Trial Sparks Reckoning for Product Design (2)

March 3, 2026, 11:07 AM PST; Updated: March 3, 2026, 1:56 PM PST

Companies are watching to see if a bellwether lawsuit accusing Meta's Instagram and Google's YouTube of knowingly designing a product that harms children will force them to add guardrails around algorithms and other code deployed by online platforms.

A ruling that puts Meta and YouTube on the hook for product liability could increase legal risk for developers and companies that implement consumer-facing algorithms, including AI products.

Are Social Media Apps Lik...



WATCH: Is social media Big Tobacco 2.0? A look at the lawsuits against big tech over teens' mental health.

A 20-year-old social media user sued Meta Platforms Inc., Google LLC., Snap Inc., and TikTok Inc., claiming the companies knowingly deployed addictive features she interacted with from a young age that led to her depression and self harm. At issue in the trial, brought under product liability law and currently underway in Los Angeles Superior Court, is whether the companies knew about the dangerous effects of their products and failed to warn consumers. Snap and TikTok settled outside of court before the trial. Snap declined to comment and TikTok did not respond to a request for comment.

"It's an overdue reckoning," said Peter Jackson, attorney at Greenberg Glusker LLP. "It's probably the most clarion call moment where businesses that operate online need to be thinking about product design as though they were designing any other type of consumer product."

Meta and Google have maintained in court that their products weren't built to hook children and that they already have settings and safeguards in place to protect young users.

"The question for the jury in Los Angeles is whether Instagram was a substantial factor in the plaintiff's mental health struggles," Liza Crenshaw, a spokesperson for Meta, wrote in an email. "The evidence will show she faced many significant, difficult challenges well before she ever used social media."

Google declined to comment.

The lawsuit is the first of thousands targeting companies to proceed to trial under claims of addictive technologies.

Charting New Territory

The Los Angeles judge dealt a blow to tech companies early in the case by ruling a federal law shielding online platforms from liability tied to user content does not apply.

The Communications Decency Act of 1996, specifically Section 230, protects online platforms from liability for content posted by third-party users. But in the three decades since the law passed, the internet has evolved dramatically. The federal protections have been the subject of bipartisan congressional efforts to prevent the law from protecting online abuse spurred by social media platforms. In the absence of new law, litigants are looking to courts—like the one in Los Angeles County—to step in.

"You can't hide behind Section 230 to the same extent that you once felt assured you were able to," said Jackson. "It's not just the Facebooks of the world that need to be worried."

Private lawsuits aren't the only ways in which companies are at risk. Texas and Massachusetts sued tech companies over allegedly addictive design features that violate consumer protection laws. State lawmakers could take their cues from the wave of litigation by enacting bolder laws that would regulate design features they say harm children.

"State lawmakers are likely to be watching these social media trials closely because they could clarify whether existing tort and consumer protection laws are sufficient to address alleged platform design harms to children," Tatiana Rice, senior director for US legislation team at the Future of Privacy Forum, said. "Even if the plaintiffs win, showing that existing law may be sufficient, lawmakers may nonetheless look to use those common law determinations and remedies as a legislative blueprint."

Challenges to design-feature laws have relied on the same arguments as those surfacing in the civil trials, including arguments around First Amendment rights. Those challenges haven't deterred states from pushing design feature legislation, though so far the courts haven't let the laws take effect. A ruling shooting down companies' defenses could provide a more solid footing for state efforts—and a whole new area of enforcement for companies to worry about.

Compliance Now

Companies that develop or use algorithms to personalize customer experience could see increased legal risk if the Los Angeles ruling goes against Meta and YouTube, said Philip Yannella, partner at Blank Rome LLP.

"There haven't been a lot of lawsuits that have successfully argued that code is subject to strict liability law," said Yannella. "This is charting new ground in that area. Algorithms are a fungible product to design defect principles."

The suit could also expose companies to other legal risks, including having to disclose internal communications in court.

"The theory of liability opens a company to new avenues of discovery that could be risky and problematic," said Genny Ngai, partner with Morrison Cohen.

Companies need to think proactively about what harms their technology may cause, said Ngai.

"There's never been a better time to be proactive and affirmative in implementing safeguards," she said. "It's all about child safety and vulnerable populations. And the question is, 'Are social media doing anything to protect these populations?'"

(Updated with a comment from Meta. Philip Yannella's name corrected on second reference.)

To contact the reporter on this story: Tonya Riley in Washington at triley@bloombergindustry.com

To contact the editors responsible for this story: Michelle M. Stein at mstein1@bloombergindustry.com; Fawn Johnson at fjohnson@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

California Brief

Insight

Google Ad Cases Show How Binding Government Judgments Shape MDLs

March 4, 2026, 1:30 AM PST

A pivotal court decision rooted in two separate, but now linked, federal cases has transformed the strategic landscape for the consolidated antitrust lawsuits against Google's advertising business.

The liability phase of *United States v. Google LLC* in the US District Court for the Eastern District of Virginia, concluded in April 2025. After a full evidentiary trial, Judge Leonie Brinkema found that Google violated federal antitrust laws by monopolizing the markets for publisher ad servers and ad exchanges.

Her findings detailed how Google illegally tied its products together and manipulated ad auctions to harm competition.

Building on that decision, Judge P. Kevin Castel, who oversees the large, consolidated litigation against Google in the US District Court for the Southern District of New York, issued a pivotal ruling in October 2025.

He applied the doctrine of collateral estoppel, which prevents a party from relitigating an issue that has already been decided in another case, and adopted the Virginia court's findings on several issues in their entirety. Google is therefore barred from contesting its monopoly power in the New York litigation or that it engaged in anticompetitive conduct to acquire and maintain its monopolies.

This fundamentally shifts the plaintiffs' burden as they no longer need to prove wrongdoing but only prove that Google's actions caused their injuries and quantify the resulting damages, which are subject to trebling under the Clayton Act.

Collateral estoppel, also known as the doctrine of issue preclusion, is the legal mechanism driving this outcome. It's a judicial efficiency doctrine designed to prevent a party from endlessly re-litigating an issue that was decided against them in a final judgment.

The specific tool employed here, endorsed by the US Supreme Court in *Parklane Hosiery Co. v. Shore*, is referred to as non-mutual offensive collateral estoppel. This allows a new plaintiff to use a prior judgment as a shield to prevent a defendant from contesting an issue it previously litigated and lost.

A Different Decision

The Southern District ruling's broad preclusive effect is a striking departure from the caution historically exhibited by courts in antitrust litigation that followed a previous government case. In the past, courts applied issue preclusion in a limited way by granting private plaintiffs limited advantages from a prior government victory.

For example, in the follow-on litigation against Microsoft in the early 2000s, courts were reluctant to apply the doctrine of collateral estoppel. In *In re Microsoft Corp. Antitrust Litigation*, the US Court of Appeals for the Fourth Circuit narrowed the scope of preclusion to only those findings "critical and essential" to the government's judgment.

The court in *Gordon v. Microsoft Corp.* took an even more restricted view and precluded only a few high-level conclusions like market definition and monopoly power but refused to adopt most of the previous court's specific findings.

Similarly, in *Discover Financial Services v. Visa U.S.A., Inc.*, the Southern District of New York applied collateral estoppel to only certain findings from the Justice Department's prior case against the card networks to promote efficiency but rejected the plaintiff's request to preclude 81 other specific statements, saying it would be unfair to the defendants.

The Google ruling departs from this pattern. The court didn't just adopt a few narrow, high-level findings—it gave preclusive effect to nearly the entirety of the prior court's liability determination.

This comprehensive application, which relieves plaintiffs of their burden to prove nearly every element of their claim, is an important reminder about the consequences of litigating against the government in high-stakes antitrust cases.

Practical Implications

The ruling transforms antitrust risk from a theoretical legal problem into a direct and immediate business threat. For general counsel at market-leading companies, the results could be profound and require a reassessment of litigation strategy, risk management, and compliance. Counsel should consider the following:

Magnified financial exposure and settlement pressure. With liability established, the multidistrict litigation plaintiffs now have a streamlined path to securing treble damages under Section 4 of the Clayton Act, increasing the potential financial exposure of a company.

The focus of discovery and trial will shift to causation and the quantum of damages. The real chance of facing massive damages claims across hundreds of private suits creates pressure on defending companies to settle. The pace and size of any early settlements in the Google multidistrict litigation will be a barometer of the ruling's effects. Significant settlements would signal that the increased pressure on defendants is real and effective, likely encouraging more plaintiffs to sue.

A government lawsuit as a gateway to mass litigation. The ruling provides a playbook for plaintiffs. Any company that loses a government antitrust case must anticipate a wave of follow-on private lawsuits arguing for collateral estoppel. Losing a government enforcement action will invite in a cascade of follow-on lawsuits, where defendants are procedurally unable to challenge liability.

Corporate actions available. In-house counsel should develop a coordinated litigation strategy that treats government investigations and subsequent private actions as a single and continuous event. They should review the roles of existing directors and officers and antitrust insurance policies to understand the scope of coverage for these expanded risks. Proactive compliance audits can help identify and mitigate vulnerabilities before they attract regulatory scrutiny, and having a robust contingency plan can help manage the fallout from an adverse government finding.

The legal and strategic landscape will continue to evolve as the parties await a ruling in Virginia case on the appropriate remedy for Google's conduct and as Google pursues its appeal, developments that could either unwind or solidify the liability findings now driving collateral estoppel in the multidistrict litigation.

For general counsel, the message is clear: An adverse government antitrust judgment can predetermine liability in ensuing private litigation effectively, making proactive risk assessment, strong compliance programs, and coordinated defense strategies essential to mitigating the expanding consequences of a single loss.

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.

Author Information

Jennifer Lada is a partner at Holland & Knight in New York practicing in complex commercial litigation.

David C. Kully is a partner at Holland & Knight in Washington, DC, and head of the firm's antitrust team.

Laura Askinazi is an attorney at Holland & Knight in New York focused on complex commercial disputes.

Write for Us: Author Guidelines

To contact the editors responsible for this story: Jessie Kokrda Kamens at jkamens@bloomberglaw.com; Rebecca Baker at rbaker@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

California Brief

Meta, Perplexity Follow Google in Bid to Split Authors' AI Suit

March 3, 2026, 11:49 AM PST

Meta Platforms Inc. and Perplexity AI Inc. asked a judge to sever claims against them from a copyright lawsuit brought by six authors over tech companies' AI-training process.

The plaintiff authors improperly joined claims against Meta and Perplexity with those against other defendants, the companies wrote in separate motions to sever, because the claims against them aren't connected to the actions of any others.

Perplexity told the US District Court for the Northern District of California in its Feb. 27 motion that the authors' attempt to "lump separate defendants into a single lawsuit is improper" because the claims don't arise from the same actions—"each defendant is alleged to have acted separately, at different times, using different technologies in different ways."

Meta added in its Monday motion that the infringement allegation against it is "substantively indistinguishable" from one of the direct copyright infringement claims asserted in a separate class action against Meta from a group of authors.

The motions follow one from Google LLC last month, arguing that infringing the same copyrights can't be the basis for joining unconnected defendants and that the claims mirror those in a class action against the company.

The authors, including Pulitzer Prize-winner John Carreyrou, sued companies including OpenAI Inc., Anthropic PBC, and X.AI Corp. in December, accusing them of downloading and using pirated copies of their books to train AI models.

Cooley LLP, Cleary Gottlieb Steen & Hamilton LLP, and Dunn Isaacson Rhee LLP represent Meta. Mayer Brown LLP represents Perplexity.

Freedman Normand Friedland LLP and Stris & Maher LLP represent the authors.

The case is Carreyrou v. Anthropic PBC , N.D. Cal., No. 5:25-cv-10897, motion to sever filed 3/2/26 .

Securities

Trump's About-Face in Law Firm Fights Casts Pall Over ABA Suit

March 4, 2026, 2:31 AM PST

Justice Department lawyers are heading to court today to defend President Donald Trump's attacks on law firms after the administration backtracked on a move to drop out of those fights.

DOJ wants a judge to throw out an American Bar Association lawsuit challenging what the group calls Trump's "law firm intimidation policy." The suit stems from a series of executive orders that targeted certain firms last year, and deals other firms made with the White House to avoid similar fates.

The hearing lands after a dizzying three-day stretch in cases involving the law firm orders. DOJ on Tuesday walked back a move to drop its appeals of four separate court rulings striking down Trump's orders. The department on Monday asked a federal appeals court to dismiss the appeals, only to change its mind about 16 hours later.

The ABA in its suit against the Trump administration says the orders—against law firms Perkins Coie, WilmerHale, Jenner & Block, and Susman Godfrey—have created "a chill over the whole of the legal profession." The organization alleged the moves are part of a "deliberate policy designed to intimidate and coerce law firms and lawyers," which has prompted some unnamed firms to rethink the cases and clients they take on.

DOJ in a motion to dismiss the ABA's suit said the group wants to hobble Trump in issuing future executive orders against law firms. The 150-year-old professional organization doesn't have legal standing to challenge orders yet to be issued or those already rolled out against specific firms, DOJ argued in its December court filing.

"What the ABA coins as the Law Firm Intimidation Policy is nothing more than a convenient label to lump together the previous EOs and any future ones so they can challenge them all in a single stroke," the department said.

The ABA and the Justice Department declined to comment.

MAGA v. ABA

The ABA's suit, filed in June in the US District Court for the District of Columbia, marked an escalation in the group's skirmishes with the Trump administration. Administration officials have slammed the ABA as a liberal advocacy tool, while the group steps up its criticism of Trump's attacks on the rule of law.

The ABA last year laid off one-third of its workforce after the administration cut \$69 million of its grant funding. The group is suing the administration in another case challenging an additional \$3.2 million in grant cuts.

A Labor Department official last month banned agency attorneys from participating in their official capacities at ABA events, citing the organization's "radical ideological positions." Deputy Attorney General Todd Blanche in April 2025 issued a similar ban for DOJ employees.

Shortly after joining the Justice Department, Attorney General Pam Bondi threatened the ABA's law school accreditation powers over its mandate for law schools. Texas and Florida are among states that have since moved to limit those powers.

The ABA in today's hearing will be represented by lawyers from Susman Godfrey, one of the four law firms that won court rulings striking down Trump's executive orders against them. Susman is known for representing Dominion Voting Systems Inc. in a blockbuster defamation lawsuit against Fox Corp. over claims related to the 2016 White House election. The case ended with the media company agreeing to pay a \$787.5 million settlement.

The case is American Bar Association v. Executive Office of the President, D.D.C., 6/16/25

To contact the reporter on this story: Tatyana Monnay at tmonnay@bloombergindustry.com

To contact the editors responsible for this story: Chris Opfer at copfer@bloombergindustry.com; Alessandra Rafferty at arafferty@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Securities

Trump Escalates Confrontation With Banks Over Crypto Agenda (1)

March 3, 2026, 3:45 PM PST

President Donald Trump warned banks against weakening his cryptocurrency agenda and pushed for passage of a market-structure bill known as the Clarity Act, escalating a confrontation with the financial industry over legislation that would reshape how digital assets are regulated in the US.

In a post on his Truth Social platform late Tuesday, Trump framed the fight in geopolitical terms, saying the crypto industry “cannot be taken from the People of America” and that inaction would cede ground to China.

“The Banks are hitting record profits, and we are not going to allow them to undermine our powerful Crypto Agenda,” Trump said.

It was his most direct public rebuke of the banking lobby on crypto policy, and comes as the administration pushes to establish the US the world’s capital for digital assets.

The Clarity Act legislation passed the House last year but has stalled in the Senate, where competing committee drafts have yet to be reconciled. A Banking Committee markup was postponed after Coinbase Global Inc., the largest US crypto exchange, withdrew its support.

Banks oppose provisions that would allow firms like crypto exchanges to pay yield to users holding stablecoins, arguing it could result in deposit flight.

The Genius Act, which Trump signed into law in July, created the first comprehensive US regulatory framework for US dollar-based stablecoins, requiring issuers to back tokens one-for-one with dollars or other liquid assets. The law bars stablecoin issuers from paying yield to holders but is silent on whether exchanges or other intermediaries could do so.

Ever since, banks have been lobbying to include language in the Clarity Act to prohibit exchanges like Coinbase from offering stablecoin yield to customers. The crypto industry has argued that it’s simply offering more value to consumers, an argument Trump agreed with, posting: “Americans should earn more money on their money.”

Stalemate

While representatives of the banking and the crypto industries have met several times at the White House in recent weeks to try to come up with bill language that would appease both sides, a compromise has been elusive.

“The Genius Act is being threatened and undermined by the Banks, and that is unacceptable — We are not going to allow it,” Trump said on Truth Social. “The U.S. needs to get Market Structure done, ASAP.”

Trump is known as the US’s first pro-crypto president. The sector has contributed heavily to his election campaign and inauguration. Its big war chest of funds may also be important in the midterm elections later this year.

Trump’s own family has dramatically expanded its business empire into crypto. World Liberty Financial, co-founded by the president, launched its own stablecoin last year. The family is also involved in Bitcoin mining and other crypto ventures.

Trump family members often speak about having been debanked in the past — a move that sent them into exploring crypto.

“The Banks should not be trying to undercut The Genius Act, or hold The Clarity Act hostage,” Trump wrote. “They need to make a good deal with the Crypto Industry because that’s what’s in best interest of the American People.”

(Updates with Ripple CEO comment in X post. A previous version corrected Clarity Act spelling in first paragraph.)

To contact the reporter on this story:

Olga Kharif in Portland at okharif@bloomberg.net

To contact the editors responsible for this story:

Sid Verma at sverma100@bloomberg.net

Matthew Brockett, Justin Sink

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

NewsRoom

3/3/26 Akron Beacon J. (Ohio) (No Page)
2026 WLNR 6479404

Akron Beacon Journal (Ohio)
Copyright © 2026 GANNETT

March 3, 2026

Randazzo's handling of FirstEnergy payments gets closer look at trial
An attorney who represented an industry trade group alongside Sam Randazzo
says settlement money from FirstEnergy took an out-of-the-ordinary route.

Patrick Williams, Akron Beacon Journal

An attorney who worked alongside Sam Randazzo testified March 3 that he had not heard of a shell company used by Randazzo and did not know his colleague was performing consulting work for FirstEnergy.

Matthew Pritchard, a witness for the prosecution in the criminal trial of two ex-FirstEnergy executives, worked at McNees Wallace & Nurick's Columbus office with Randazzo before Randazzo became Public Utilities Commission of Ohio chair.

The two men represented the Industrial Energy Users of Ohio, a trade group that often challenged FirstEnergy in matters decided by PUCO regulators.

Randazzo, who also headed the shell company Sustainability Funding Alliance of Ohio, died in 2024.

Prosecutors say defendants Chuck Jones, the former FirstEnergy CEO, and Michael Dowling, ex-FirstEnergy senior vice president of external affairs, paid a roughly \$4.3 million bribe to Randazzo in exchange for energy policy that financially benefited FirstEnergy. Pritchard's March 3 appearance on the witness stand was part of the prosecution's effort to show the unusual nature of Randazzo's financial transactions.

Defense attorneys say the company made the payment to terminate an existing settlement agreement with the IEU-Ohio, which Randazzo represented as general counsel. The multiyear

settlement was for IEU-Ohio's non-opposition to a FirstEnergy proposal called Electric Security Plan IV, then before the PUCO. But, defense attorneys said, Randazzo stole the money.

Pritchard testified March 3 that he also worked the IEU-Ohio account for their firm, saying it was his "main client" for a number of years. He said he estimated working between 1,300 to 1,500 billable hours for IEU for more than 10 years, beginning in 2011.

Ohio Assistant Attorney General Matthew Meyer said in opening statements Feb. 3 that the defendants used a so-called consulting agreement between the FirstEnergy Service Co. subsidiary and SFA-Ohio as a "magic paper" to disguise the flow of money to Randazzo.

Under cross-examination by Jeremy Dunnaback, an attorney for Jones, Pritchard reaffirmed Randazzo led their firm's representation of IEU-Ohio.

Pritchard and Dunnaback sorted through exhibits, including checks and emails, from 2016 through 2019 showing that Randazzo disbursed FirstEnergy settlement money to IEU-Ohio members.

Pritchard testified he would have expected settlement money from opposing parties to be distributed to IEU directly via wire transfer or check.

Dunnaback also showed Pritchard an early 2019 email that Randazzo sent to Pritchard and others that said, "Going forward, please use sam@sustain-ohio.com as my e-mail address."

Dunnaback asked Pritchard if he knew at the time what "sustain-ohio" was, and he said no.

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

This article originally appeared on Akron Beacon Journal: Randazzo's handling of FirstEnergy payments gets closer look at trial

---- Index References ----

Company: MCNEES WALLACE & NURICK LLC; PUBLIC UTILITIES COMMISSION;
FIRSTENERGY SERVICE COMPANY

News Subject: (Corruption, Bribery & Embezzlement (1EM51); 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

Other Indexing: (Industrial Energy Users; McNees Wallace & Nurick; Public Utilities Commission; FirstEnergy Service Co.) (Sam Randazzo)

Keywords: (Akron, OH, Summit County, OH, Ohio, FirstEnergy, Utilities, Electricity, Public Utilities Commission of Ohio, Corporate management, Prosecution (legal), Court proceedings, Legal Proceedings, Business (activity), Columbus, OH, Crime & Justice, Local News, Legal, Energy & Utilities, Legal Services, Business & Corporate Law, Company News, Strategy and Management, Government, Courts & Judiciary, OH Content Sharing)

Word Count: 466

End of Document

© 2026 Thomson Reuters. No claim to original U.S. Government Works.

NewsRoom

NewsRoom

3/3/26 cleveland.com (Cleveland, Ohio) (No Page)
2026 WLNR 6469742

cleveland.com (Cleveland, OH)
Copyright © 2026 cleveland.com

March 3, 2026

'Red flags': Randazzo hid \$4.3M at heart of FirstEnergy trial, attorney says

Adam Ferrise; cleveland.com

AKRON, Ohio — Sam Randazzo kept people in the dark about a \$4.3 million payment at the center of the bribery trial of two former FirstEnergy executives, a former colleague testified on Tuesday.

Columbus energy attorney Matt Pritchard said he wasn't aware of it for some six years, even though he and Randazzo worked together for years representing the same client. And when he eventually saw documentation of the agreements and payments, Pritchard said it was riddled with "red flags."

The genesis and meaning of the \$4.3 million payment are crucial in the trial of former FirstEnergy CEO Chuck Jones and top lobbyist Michael Dowling, who are accused of bribing Randazzo shortly before he was appointed chairman of the Public Utilities Commission of Ohio.

Prosecutors say Jones and Dowling rushed in late 2018 to pay the \$4.3 million as a bribe after learning Randazzo would be appointed to the PUCO, which regulates how much utilities like FirstEnergy can make. Randazzo, who died by suicide in 2024, helped push for the scandal-ridden House Bill 6 — a nuclear energy bailout — and regulatory rulings, together, worth more than \$1 billion to FirstEnergy, prosecutors say.

Defense attorneys say the payment was a legal settlement meant for Randazzo and Pritchard's clients. They also said Jones and Dowling wanted to pay out the contract early to get the expenses off FirstEnergy's books after a particularly successful 2018.

Pritchard said he worked with Randazzo at law firm McNees, Wallace & Nurick since 2011. He helped Randazzo represent IEU-Ohio, a trade group made up of businesses that use large amounts of energy.

The attorneys on behalf of IEU-Ohio fought against high prices and large surcharges levied by utilities, including FirstEnergy.

In 2015, Randazzo and Pritchard negotiated a multi-million dollar settlement with FirstEnergy, agreeing they wouldn't oppose a FirstEnergy surcharge to customers from 2016 to 2019. Pritchard helped work on that settlement.

He said he was "confused" years later when presented with a document that said Randazzo negotiated a \$4.3 million settlement extension later in 2015 that called for more pay outs from 2020 to 2024.

Pritchard said he learned of the extension after Randazzo's attorney, Roger Sugarman, asked Pritchard to sign an affidavit about the settlement. Pritchard refused.

Pritchard picked apart the settlement agreement, pointing out that the agreement didn't include crucial details that typically are included in settlements, nor did it include anyone's signatures.

He said he had never heard of Sustainability Funding Alliance, a shell company that Randazzo controlled. The \$4.3 million was routed through the shell company, unlike prior years, when FirstEnergy paid the law firm, which then sent checks or wire transfers to IEU-Ohio.

"It is my understanding that there is a record that this settlement money went to Sustainability Funding Alliance," Pritchard said.

Randazzo ultimately kept the money, both prosecutors and defense attorneys say.

Pritchard also said Randazzo kept him and others at the law firm in the dark about a \$2.1 million consulting agreement he inked in 2013 with a FirstEnergy subsidiary. He said that was against the law firm's policy because it presented a conflict of interest.

"I would only be able to represent one party in a given matter," Pritchard said.

Defense attorneys have argued that Randazzo was a thief who stole from his clients, including the \$4.3 million settlement.

On cross-examination by Jones' attorney Jeremy Dunnaback, Pritchard said he became aware that Randazzo stole from other settlements, including those that had more conventional documentation.

---- **Index References** ----

Company: MCNEES WALLACE & NURICK LLC; 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); North America (1NO39); Ohio (1OH35); U.S. Midwest Region (1MI19); USA (1US73))

Language: EN

Other Indexing: (Public Utilities Commission of Ohio; Sustainability Funding Alliance; McNees, Wallace & Nurick; FirstEnergy) (Sam Randazzo)

Word Count: 573

End of Document

© 2026 Thomson Reuters. No claim to original U.S. Government Works.

NewsRoom

FT PROFESSIONAL

Citigroup Inc

Citi's security unit was meant to probe misconduct. Employees say it protected the bank instead

Internal team staffed by ex-law enforcement 'operates as HR's internal hit squad', former executive says

Akila Quinio in New York

Published 6 HOURS AGO



After Ardith Lindsey told Citigroup her supervisor sent her threatening messages when she ended their relationship, she was summoned to a meeting.

It was not with an HR representative or workplace psychologist. It was with a former prosecutor.

Lindsey — who sued Citi over alleged sexual harassment, sexual assault and discrimination in 2023 — was called in by CSIS: Citi Security and Investigative Services, an internal unit of the Wall Street bank populated with former law enforcement officials equipped to tackle the most serious cases of wrongdoing.

CSIS's stated goal is to "to protect the employees, assets, information, integrity and reputation of Citi and its clients". But in interviews with the FT, current and former employees questioned how the unit is deployed and whether it places the bank's interests ahead of theirs. In several instances, they said their statements to CSIS were later used against them, including two who said they were forced out after raising compliance concerns.

In Lindsey's case, CSIS launched an investigation into her allegations but her supervisor resigned before the investigation was completed. [Citi](#) did not report his threats to the finance industry's self-policing body, Finra, or refer the matter to local authorities.

However, it used statements from her interview — which are supposed to remain confidential — to defend itself after she sued the bank.



Citi's CSIS counts the FBI's former chief of staff and a special agent of the FBI's terrorism task force among its ranks © Victor J Blue/Bloomberg

“Citi's CSIS operates as HR's internal hit squad, highly trained to protect the firm at employees' expense,” Lindsey told the FT.

Security and investigations roles on Wall Street have become a common second career path for veteran law enforcement officials. CSIS counts the FBI's former chief of staff and a former special agent of the FBI's terrorism task force among its ranks, according to networking site LinkedIn (they did not respond to requests for comment). The unit is distinct from Citi's employment relations branch designed to look into harassment and retaliation claims.

Citi said it “takes seriously our responsibility to look into concerns raised about conduct within the bank. These situations are inherently challenging for those involved and we approach them with professionalism, integrity and empathy.”

“Our Security and Investigative Services team consists of highly experienced professionals whose responsibilities include supporting Citi disaster response efforts, protection for colleagues around the world and looking into certain concerns about colleague behaviour along a clearly laid-out set of guidelines.”

Citi's compliance has attracted scrutiny after a series of regulatory mishaps led the bank to be placed under consent orders from the Office of the Comptroller of the Currency and the Federal Reserve. Chief executive Jane Fraser is leading a high-stakes revamp of the bank.

Laura Beth Nielsen, a lawyer and professor of sociology at Northwestern University, said Citi's reported practices appeared to be “an extreme example” of how big corporations typically deal with misconduct allegations.

“They have learned defensive practices: stressing consent, inviting people in with the promise of confidentiality, then using that against them,” Nielsen said. “There are a lot of ways the law allows businesses to control things with legal processes that are in effect mini trials and fact-finding hearings.”

“But if you let employers be in charge, they are not neutral,” she added. “Fundamentally their job is working for shareholders of the company, which means their only interest is not getting sued.”

Four former and current Citi employees told the FT they were summoned by CSIS instead of employee relations in sensitive employment matters, including issues involving alleged discrimination, [sexual harassment](#) and sexual assault.

Three of them said their CSIS interviews were subsequently used against them. In Lindsey's case, the bank used comments she made in her interview with CSIS to defend itself in the press and in her legal case. The other two said they believed their interviews were used to force them out of Citi in apparent retaliation for flagging compliance issues.



Ardith Lindsey sued Citi over alleged sexual harassment, sexual assault and discrimination in 2023 © Maansi Srivastava/New York Times/Redux/eyevine

Two former employees said they were interviewed by CSIS shortly after they raised concerns about Citi's compliance with rules and orders put in place by financial regulators.

One of them said she was fired one business day after she detailed her concerns in the interview. The other said CSIS opened and then quickly closed an investigation into her compliance concerns. But shortly after, it opened a separate probe on the nature of her relationship with a male colleague.

The second employee said the investigators refused to tell her what prompted the probe. She told them she did not have a relationship with the colleague beyond professional bounds and believed the inquiry was launched in retribution for raising concerns. She no longer works at the bank.

Lindsey spent more than 15 years working in Citi's global equities markets division, rising to the level of managing director. In her lawsuit, she alleged she endured years of harassment at the hands of colleagues and supervisors, culminating with the threats made by her supervisor, Mani Singh.

In October 2022, Lindsey decided to end what she described as a “volatile and abusive dynamic” that allegedly began with harassment, led to a sexual relationship and ended with threats and verbal abuse, according to her lawsuit. After she ended it, Singh — who at all times had been more senior than her — texted her he was “going to set you on fire”, and told her to “[h]ug [your children] tight” because your “world will be over [tomorrow]”.

The executive also called Lindsey 30 times in one day and texted her, “Taking you down in comp[ensation]. Hard. Like a bitch you are” and said “Your children will have no future with [a] Slut like you,” according to her lawsuit.

Singh was not named as a defendant in Lindsey’s case against Citigroup. A lawyer for Singh declined to comment on his behalf but said: “Not everything in print is true or accurate.”

Lindsey’s CSIS interview came a few days after she reported the threats to human resources in November 2022, according to the court filings.

The bank used excerpts from Lindsey’s interview in the press and in their legal response, even though CSIS has told employees that its interviews are strictly confidential and their content must not be shared under any circumstances.

Citi told The New York Times in 2023 that “when she reported the vile text messages to us, she described the relationship as having been consensual”.

Lindsey also alleged in her lawsuit that Citi rejected her requests to have her counsel present in the interview or provide a summary of the meeting afterwards.

Experts said it is best practice to allow employees to bring counsel to such meetings. The current and former employees who spoke with the FT about their experience with CSIS said they were not allowed to bring counsel with them.

“It’s always two on one, two CSIS people against one individual,” said one former Citi employee who was also questioned by CSIS. “All it says is, ‘We’re meeting with you about a confidential matter. Please do not disclose to anyone even your manager.’”



The bank is undergoing a high-stakes revamp led by chief executive Jane Fraser © Al Drago/Bloomberg

Citi is also facing at least two sexual harassment lawsuits, including Lindsey's and another involving a top executive, Andy Sieg, whom the bank has steadfastly defended. Citi commissioned an investigation into Sieg that [did not interview](#) some of the most senior women who had complained about him, the FT previously reported.

Citi sought to have Lindsey's case dismissed, asserting some of the allegations in her lawsuit occurred nearly 20 years ago before the law allowed corporate defendants to be held liable for them. The US judge presiding over the case agreed but allowed the rest of her lawsuit to move forward. Lindsey is on leave from her job but remains employed by the bank as the case proceeds.

Citi has said in a legal filing that it launched an investigation, suspended Singh and revoked his access to Citi's premises "within two hours" of being notified of the threats against Lindsey. The bank also said it had not been made aware of their relationship until it conducted the interview in question.

Still, in a cheery send-off, according to her lawsuit, his supervisor told employees: “Mani Singh has decided to resign from the firm for personal and family reasons. We’re all very sorry to see him go and certainly grateful to the contributions he has made over the years.”

Singh is not currently registered to work with a financial services firm, according to Finra.

[Copyright](#) The Financial Times Limited 2026. All rights reserved.

Follow the topics in this article

US companies

Banks

Sexual misconduct allegations

Citigroup Inc

Akila Quinio

Securities

US Audit Enforcement Plunges Under Interim Leader at Watchdog

March 3, 2026, 9:01 PM PST

Auditor enforcement cases fell sharply in 2025 as their US regulator prepared for new leadership and an agenda reset.

The Public Company Accounting Oversight Board brought 37 auditor disciplinary actions last year while the financial penalties it imposed plunged by half to around \$17.6 million, according to a Cornerstone Research report released Wednesday. The watchdog finalized the majority of those cases before former PCAOB Chair Erica Williams was forced out last July and replaced by an acting chair, the research found.

In comparison, the board brought 51 actions and ordered \$35.5 million in monetary sanctions the previous year—a record for the Enron-era regulator. The audit regulator operated under an acting chair for more than six months following Williams' departure, until a new slate of leaders stepped in last month.

Under Williams, the board ramped up enforcement and imposed tougher penalties for violations of its audit standards and other requirements. That aggressive approach frustrated auditors and sparked calls for the Securities and Exchange Commission to take over auditor enforcement.

Certain audit-related enforcement actions involving US firms dropped in 2025 while the number involving international auditors remained flat. Those foreign audit cases drew the bulk of the fines and financial penalties the board imposed in 2025, according to Cornerstone Research.

The audit regulator's enforcement retreat mirrors a similarly steep decline in accounting and auditing cases brought by the Securities and Exchange Commission. SEC cases fell sharply in 2025 following the start of the second Trump administration.

To contact the reporter on this story: Amanda Iacone in Washington at aiacone@bloombergtax.com

To contact the editor responsible for this story: Amelia Gruber Cohn at agrubercohn@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

SEC, PCAOB Enforcement Hit Multiyear Lows in 2025, Report Says

The U.S. Securities and Exchange Commission's 10 enforcement actions were the fewest in nine years, and the PCAOB's 37 enforcement actions were the fewest in four years, the report found.

March 04, 2026 at 12:00 AM By  **Dan Novak**



Paul Atkins, chair of the U.S. Securities and Exchange Commission. Photo: Diego M. Radzinski/ALM

Accounting and auditing enforcement actions at the U.S. Securities and Exchange Commission and the Public Company Accounting Oversight Board dropped sizably in 2025, falling to multiyear lows at both bodies, according to a report released Wednesday.

The SEC brought 68% fewer accounting and auditing actions in 2025 than in 2024 and the PCAOB brought 27% fewer actions, according to two studies by Cornerstone Research. The commission's 10 enforcement actions were the fewest taken in nine years, and the PCAOB's 37 enforcement actions were the fewest in four years, the report found.

Both agencies experienced leadership changes in 2025: Paul Atkins became chair at the SEC on April 21, while George Botic became acting chair of the PCAOB on July 23. Slowdowns in

enforcement often occur during periods of transition, but last year was an unusual decrease in activity, said Jean-Philippe Poissant, a report coauthor and co-head of Cornerstone Research's accounting practice.

"I think what we've seen in 2025 is the drop was much more substantial," he said.

The SEC brought just 10 auditing and accounting enforcement actions last year, and only four after Atkins became chair, the report found. In contrast, the SEC brought 30 such enforcement actions after Gary Gensler was sworn in as chair in 2021.

After Jay Clayton became chair during the first Trump administration in 2017, the SEC took 17 enforcement actions.

It will be interesting to see how enforcement might change at the PCAOB following former chair Erica Williams' departure in July, said Russell Molter, a report coauthor and principal at Cornerstone.

Williams three-and-a-half-year tenure as chair resulted in 134 auditing actions and \$83 million in penalties, 75% of all penalties imposed by the PCAOB in its 23-year history, the report found. The PCAOB took 25 enforcement actions in 2025 while Williams remained chair, but just five while Botic was acting chair.

Monetary penalties at the SEC and PCAOB also fell drastically in 2025, according to the report.

The SEC collected \$31 million in penalties in 2025, down from \$907 million in 2024. The PCAOB took in \$17.6 million, a 50% decrease from 2024.

The drop in penalties was mainly due to the fewer number of cases brought, Molter said. Often, Foreign Corrupt Practices Act cases bring in the largest penalties at the SEC, but the Trump administration paused enforcing the law for for several months last year, he added.

Atkins, in an October speech, said the commission will not measure its success by the number of enforcement actions or amount of penalties but by the quality of cases brought.

"If we reward the staff only for bringing enforcement actions, then we have discouraged the staff from determining not to recommend an enforcement action," Atkins said. "The wrong incentives make it more difficult for the staff to follow the evidence and the law wherever it leads and instead encourage the staff to stretch the boundaries of existing law."

2025 was a particularly slow enforcement year, Poissant and Molter said, but it remains to be seen if there is an enforcement rebound in 2026. In February, food processing company Archer-Daniels-

Midland agreed to pay the SEC \$40 million to settle accounting and disclosure fraud charges—a larger settlement amount than all cases in 2025.

“I don't know if it's a sign that it will pick up again or it's just a one time, but I think it's notable that already after two months we're higher than in 2025 in monetary settlements,” Poissant said.

Page printed from: <https://www.law.com/nationallawjournal/2026/03/04/sec-pcaob-enforcement-hit-multiyear-lows-in-2025-report-says/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

FT PROFESSIONAL

Moral Money Financial fraud

How to dodge the next Sam Bankman-Fried

New research reveals surge in start-up fraud — and some possible causes



Sam Bankman-Fried, centre, was sentenced to 25 years in prison for fraudulent schemes related to his cryptocurrency exchange FTX
© Getty Images

Simon Mundy

Published 5 HOURS AGO



This article is an on-site version of our Moral Money newsletter. Premium subscribers can sign up [here](#) to get the newsletter delivered twice a week. Standard subscribers can upgrade to Premium [here](#), or [explore](#) all FT newsletters.

Visit our [Moral Money hub](#) for all the latest ESG news, opinion and analysis from around the FT.

“Multibillion-dollar seed rounds in new start-ups that don’t have a product or technology or anything yet do seem a little bit unsustainable,” [Demis Hassabis told the FT recently](#), referring to a tidal wave of investment crashing into newly founded AI companies.

The AI start-up funding market, as the Google DeepMind chief noted, is running very hot indeed. New research suggests this kind of frenzied investment environment significantly increases the chances of fraud cases further down the line.

Should venture investors worry about that? And should the rest of us?

CORPORATE GOVERNANCE

What’s behind the rise in fraud by start-up founders?

The curse of the Forbes 30 Under 30 claimed its newest victim a few weeks ago.

Gökçe Güven, the 26-year-old founder of customer rewards platform Kalder, was [charged by US prosecutors](#) with defrauding investors in a \$7mn seed round by misrepresenting the financial details of her business.

Güven, the [cover star of a Forbes list](#) last year celebrating young stars in her sector, follows a string of other entrepreneurs who received similar accolades before facing fraud charges.

[Sam Bankman-Fried](#) and [Caroline Ellison](#), of crypto catastrophe FTX, are the most notorious. Others include “pharma bro” [Martin Shkreli](#); [Charlie Javice](#), who pumped up her numbers to secure a sale of her fintech business to JPMorgan; [Joanna Smith-Griffin](#), who is accused by prosecutors of doing a similar thing with the numbers of her education tech company; and whizz-kid real estate entrepreneur [Nate Paul](#), who got criminal convictions for perjury and false financial statements. ([Elizabeth Holmes](#), of medical tech disaster Theranos, made the cover of Forbes in 2014 just after passing the age limit for the Under 30 list.)

It’s worth stressing at this point that the vast majority of people named on these Forbes lists have not faced allegations of foul play (however offensive their LinkedIn humblebrags may have been). But these high-profile cases still prompt a compelling question: has fraud by start-up founders become more common? And if so, why?

It's not your imagination

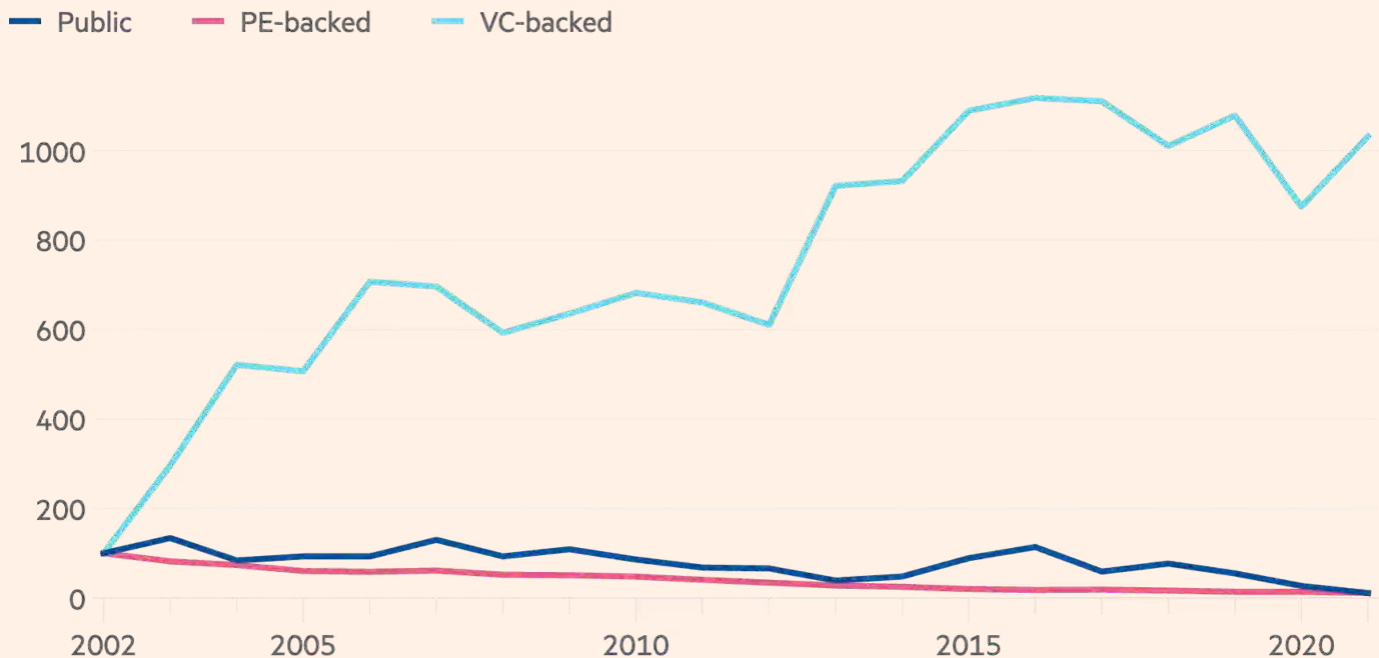
A group of academics at the University of Toronto [has published the results](#) of a two-year research project that gives important answers to that question.

The annual rate of serious alleged or proven fraud cases at US start-ups backed by venture capital money rose more than 10-fold between 2002 and 2021 — while fraud rates for other sorts of companies were plunging.

The rate of such cases fell over the same period by nearly 89 per cent for companies backed by private equity firms. The metric used here for publicly listed companies — annual fraud-related enforcement actions — had a similarly strong decline.

Fraud cases at VC-backed start-ups have become more common

Annual rate of serious alleged or proven fraud cases at US companies, rebased (2002 value = 100)



Source: I.J. Alexander Dyck et al, "Venture Fraud" (2026). For details on methodology, see the paper available at <https://papers.ssrn.com/abstract=6220259>

What's been going on here?

In case you were wondering, given the number of female founders among the highly publicised cases mentioned above, this is not about gender. The study found no significant correlations on that front — nor on the age of start-up founders.

But other factors and trends were clearly apparent in this paper, which offers several important lessons for investors seeking to avoid embroilment in the next criminal start-up disaster.

Fragile systems

“Governance incentives explain much more than founder characteristics,” study co-author Ting Xu told me.

Fraud was far more likely at start-ups with “founder-friendly” governance structures — where founders retained the lion’s share of voting rights, or had effective control of the board. This kind of governance set-up has become much more common over the past couple of decades.

Funny business was also more common among companies that had raised money in a “hot” market, with hungry investors competing to buy stakes in promising start-ups. Those conditions can set the stage for investment on the “founder-friendly” terms mentioned above, while often leading to unhealthy pressure on founders to justify inflated valuations.



Charlie Javice, left, was sentenced to seven years in prison in September for defrauding JPMorgan Chase through her start-up, Frank
© Getty Images

The paper offers a timely warning as investors rush to pour money into AI businesses. It also gives food for thought for pension funds and other non-VC investors who have been increasing their exposure to start-ups.

Fraud incidence was significantly greater at start-ups where “non-traditional” investors such as pension funds held stakes. Investors in FTX, for example, included Singaporean sovereign wealth fund Temasek and the Ontario Teachers’ Pension Plan.

One possible theory here is that non-specialist investors are less well equipped than seasoned Palo Alto VCs to hold founders to account. The more obvious problem, as Xu and his co-authors note, is fragmented investor influence. Capital tables have been getting more crowded, with a larger number of investors each wielding less clout.

Who bears the cost?

These findings may not seem alarming to many venture investors. Such funds famously invest in start-ups assuming that most of them will fail, but that a few roaring successes will more than counterbalance the flops.

Provided the venture firm itself isn't legally implicated, it may not greatly matter to it whether a bust start-up has committed fraud or not. And despite the rising rate of serious fraud allegations or convictions, the chance of a given start-up facing such a case in a given year is still only 0.3 per cent, as of 2021.

But while the risks of start-up fraud might seem acceptable to VC firms, that's largely because many of the negative impacts are "externalised" on to wider society, Xu and his colleagues argue. Consider Theranos, whose unreliable blood testing machines jeopardised the health of thousands of Walgreens customers, some of whom received false positive or negative results for serious conditions.

Meanwhile, a new sort of risk is emerging as governments remove barriers to private markets investing by individual investors, who may be less able to assess — or afford — the danger of putting money into a dodgy start-up.

"We're not saying that the optimal level of fraud is zero," Xu told me. Wiping out fraud entirely, he said, would require an oppressive level of monitoring and enforcement that could destroy more value than it saved. "But what's optimal or expected from a VC perspective, might not be optimal for society."

Smart reads

- US shale drillers say they [can't increase production quickly enough](#) to solve an oil supply crisis triggered by the US-Israeli attacks on Iran.

Securities

Apollo's Rowan Warns of Shakeout Coming for Private Markets (2)

March 3, 2026, 9:00 AM PST

Apollo Global Management Inc. Chief Executive Officer **Marc Rowan** warned that a shakeout is coming for private credit firms as the industry faces a wave of concerns about rising defaults on loans to software companies.

For weeks, private credit executives have faced questions from investors over whether the \$1.8 trillion industry can withstand sustained pressure if the software sector is upended by artificial intelligence in the coming years. Rowan's comments came as business development companies have been hit by redemptions in recent weeks amid those broader investor concerns.

"This will be a shakeout — I don't think it is going to be short term," Rowan said in an interview with Bloomberg News Editor-in-Chief **John Micklethwait** at Bloomberg Invest in New York on Tuesday. "It was foreseeable. It was predictable. And all you can do is have been a good underwriter, a good risk manager, have done a small number of stupid things."

As investors' fears have mounted, Apollo's shares have come under pressure, slumping 30% so far this year. That outpaced the 2% decline of the broader S&P 500 Index.

Read More: Blackstone Private Credit Fund Hit by Record Redemptions

Rowan also pointed to a string of blow ups in bank loans as an example of broader issues facing credit markets.

Just last week, the collapse of Market Financial Solutions Ltd. left banks including Barclays Plc, Jefferies Financial Group Inc., Banco Santander SA and Wells Fargo & Co. nursing potential losses amid allegations of financial irregularities.

Atlas, the structured-credit arm of Apollo, had about £400 million of exposure to MFS, or about 1% of its balance sheet, and a spokesperson for the firm has said it's "pursuing all legal avenues to maximize recoveries."

"We're going to have a correction, but it's no different than the correction that's happening in banking," Rowan said. "There's always going to be fraud. There's always going to be underwriting mistakes. But the question is who's a good risk manager and who's not a good risk manager? If 30% of your portfolio is in one industry and that one industry is being impacted by technology, you have not been a good risk manager."

Rowan said Apollo doesn't have a high concentration of software bets, though the fact that the industry accounted for nearly a third of the entire levered lending market meant it was "over-represented and subject to attack."

Read more: Elliott, SMBC and Macquarie Exposed to Collapsed Lender MFS

The MFS saga followed the blowups of US auto parts supplier First Brands Group and subprime lender Tricolor Holdings, adding to mounting questions about underwriting standards and risk controls in credit markets.

Rowan argued investors should prefer to have those types of risks living in private markets firms rather than on the balance sheets of banks, which can use government-insured deposits to extend such loans.

"If you're concerned about what's happening, you don't want it in your banking system," Rowan said. "You prefer it in your investment marketplace, where people can price the risk."

To contact the reporter on this story:

Laura Benitez in Los Angeles at lbenitez1@bloomberg.net

To contact the editors responsible for this story:

Amanda Cantrell at acantrell10@bloomberg.net

Jenny Surane

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Tesla's UK sales plummet in February but outpace BYD, New Automotive data shows

 [reuters.com/business/autos-transportation/teslas-uk-sales-plummet-february-outpace-byd-new-automotive-data-shows-2026-03-04](https://www.reuters.com/business/autos-transportation/teslas-uk-sales-plummet-february-outpace-byd-new-automotive-data-shows-2026-03-04)

Reuters

March 4, 2026

The Tesla logo is seen at the Everything Electric, the Home Energy & Electric Vehicle Show, in London, Britain, April 16, 2025. REUTERS/Maja Smiejkowska [Purchase Licensing Rights, opens new tab](#)

[\(TSLA.O\)](#)  [, opens new tab](#) UK sales fell sharply in February, but still outpaced Chinese rival BYD, data from New Automotive showed on Wednesday. Tesla sold 2,208 vehicles in February, down 45.2% from a year earlier. BYD's sales rose 40.9% to 968 units.

While Tesla's delivery patterns are typically volatile, year-to-date figures are down 5%, meaning the decline is likely to draw scrutiny, New Automotive said.

Tesla's position in the UK has weakened amid intensifying competition from Chinese brands such as BYD [\(002594.SZ\)](#)  [, opens new tab](#) and SAIC-owned MG, as its ageing model line-up struggles to keep pace.

Tesla's February sales also fell in Italy, [Denmark](#) and Sweden, pointing to broader challenges in Europe.

Battery-electric cars accounted for a quarter of the overall UK car market in February, while about a third of new car registrations had a plug, the data showed.

"It is fantastic to see one in four motorists opting for an electric car in February," Ben Nelmes, chief executive of New Automotive said.

"As we enter yet another fossil fuel price crisis, every electric vehicle is yet another step on the road to energy independence."

Overall UK car registrations across all fuel types rose 3.6% in February to 83,377 vehicles, the data showed.

Reporting by DhanushVignesh Babu in Bengaluru and Alessandro Parodi; Editing by Tasim Zahid

Our Standards:



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Apollo Faces Class Action Over Alleged Epstein Business Ties

By **Katryna Perera**

Law360 (March 3, 2026, 5:41 PM EST) -- Apollo Global Management and its billionaire co-founders Leon Black and Marc Rowan have been hit with a proposed class action in New York federal court alleging they misled investors about the firm's and their individual connections to convicted sex offender Jeffrey Epstein.

According to a **complaint** filed Monday by plaintiff Solomon Feldman, Apollo Global has publicly denied having a business relationship with Epstein. But in reality, the disgraced financier who died in jail in 2019 of an apparent suicide while awaiting trial on federal sex trafficking charges communicated with the firm's senior leadership and was advised on tax strategies and other corporate matters, according to Feldman.

The complaint states that reports about connections between Epstein and Apollo Global, Rowan and Black began to surface in 2020.

Specifically, the complaint points to an October 2020 article published by The New York Times detailing a relationship between Black and Epstein, including that Black had "wired Mr. Epstein at least \$50 million in the years after Mr. Epstein's 2008 conviction for soliciting prostitution from a teenage girl" and that "[i]t was not clear what kind of services Mr. Epstein provided to Mr. Black[.]"

Following the report, Apollo Global hired the law firm Dechert LLP to investigate Black's alleged ties to Epstein, and a few months later the firm announced that the investigation revealed that "Apollo never retained Epstein for any services and Epstein never invested in any Apollo-managed funds" and that the "findings of the report are consistent with statements made by Mr. Black and Apollo regarding the prior relationship," the complaint states.

The firm and its founders also made other statements during that time on investor calls and in filings with the U.S. Securities and Exchange Commission, denying any ties to Epstein, according to the complaint.

However, Feldman claims the statements made by the defendants were misleading and failed to disclose that Rowan and Black "frequently communicated" with Epstein during the 2010s about Apollo Global's business and that due to the parties' "entanglement," "harm to Apollo Global's reputation was more than a mere possibility."

According to the complaint, the truth began to surface last month when The Financial Times published an article stating that files related to Epstein, released by the U.S. Department of Justice, showed that he had requested and received internal Apollo financial documents and "emailed, met and called some of the firm's most senior decision makers on sensitive matters."

"The article also detailed Epstein's involvement in Apollo Global's tax 'inversion' deal. In connection to this, Epstein was in contact with defendant Rowan and Sanjay Patel, another Apollo Global partner who '[ran]' Apollo's business in Europe," the complaint states.

On this news, Feldman says Apollo Global's stock price fell \$1.35 per share to close at \$133.19 on Feb. 2, 2026, and continued to drop the following day by \$6.34 to close at \$126.85 on Feb. 3.

Another stock drop occurred two weeks later, after The Financial Times published an article about a

letter to the SEC from the presidents of the American Federation of Teachers and the American Association of University Professors, **urging the regulator to investigate** statements by Apollo Global Management about its alleged ties to Epstein.

The presidents called for the agency to investigate Apollo's investor communications, which the groups said "currently give an inaccurate and incomplete picture of the firm and its partners' connections to Epstein."

On this news, the complaint states, Apollo Global's share price fell \$6.81 to close at \$118.34 on Feb. 17.

The suit claims a final stock drop occurred a few days later, on Feb. 21, when CNN reported on Apollo Global's response to the teachers' unions' letter.

"The article quoted Eleanor Bloxham — founder and CEO of The Value Alliance Company, which advises boards and executives — who said the unions have a 'strong case' for pushing for an SEC investigation, described Apollo's response as 'very weak', and questioned why defendant Rowan's meetings and correspondence with Jeffrey Epstein was not previously disclosed," the complaint states.

On this news, Apollo Global shares dropped by \$5.99 to close at \$113.73 on Feb. 23, according to the complaint.

Feldman's suit seeks damages, attorney fees and a jury trial. Representatives for the parties did not immediately respond to requests for comment on Tuesday.

Feldman is represented by Phillip Kim and Laurence M. Rosen of The Rosen Law Firm PA.

Counsel information for the defendants was not immediately available.

The case is Feldman v. Apollo Global Management Inc. et al., case number 1:26-cv-01692, in the U.S. District Court for the Southern District of New York.

--Editing by Amy French.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

BioAge Investors Lose Last Bid At Obesity Drug-Linked Suit

By **Sydney Price**

Law360 (March 3, 2026, 8:37 PM EST) -- Biopharmaceutical company BioAge Labs Inc. has escaped a suit accusing it of damaging investors by unexpectedly halting a clinical trial for a weight loss drug, with a California federal judge finding that the court already dismissed the claim that BioAge's risk disclosures were lacking.

When granting BioAge's motion to dismiss the suit on Monday, U.S. District Judge Richard Seeborg said in an order that plaintiff Southeastern Pennsylvania Transportation Authority's latest complaint, filed after the suit was **dismissed in October**, reasserted the defective theory "without so much as acknowledging it has already been rejected." He did not give the plaintiff leave to amend.

The suit's second theory that BioAge only discussed risks in hypothetical terms fares no better, Judge Seeborg determined.

"SEPTA has failed to acknowledge, much less grapple with, the analysis in that order," Judge Seeborg said. "The second theory is entirely inconsistent with the arguments SEPTA has made throughout this litigation, as well as with the facts as averred in the amended complaint."

In the latest complaint, SEPTA alleged that BioAge did not expressly discuss the risk of transaminitis — a frequent indicator of liver disease — and therefore the company's offering documents created the false impression that transaminitis did not pose a substantial risk to the clinical trial for BioAge's obesity drug candidate azelaprag.

The investors claim that BioAge's shares fell from over \$20 to under \$5 in December 2024 following the company's announcement that it would discontinue its Phase 2 clinical trial after certain study participants showed signs of transaminitis.

The suit alleges that the announcement particularly hurt investors who relied on company forecasts made ahead of BioAge's September 2024 initial public offering, when the company predicted that it would have the top-line results from the trial in the third quarter of 2025.

But Judge Seeborg said that the offering documents sufficiently disclosed the relevant risks, including that the frequency of certain side effects led to unfavorable discontinuation rates, and that BioAge hoped to solve that problem by using azelaprag in combination with other drugs.

"If anything, a reasonable investor would have understood from these disclosures that BioAge was concerned about, not tolerant of, the impact that side effects of weight loss drugs could have on uptake," the order states.

Judge Seeborg also said the suit does not show that transaminitis had affected the trial's participants ahead of the IPO.

"The fact that a single individual developed transaminitis in a separate study five days after the initial dose was administered does not establish that transaminitis typically manifests early in the dosing cycle ... Absent more specific averments, it is not plausible that transaminitis manifested among those in the [trial] by the time of the IPO," the judge said.

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

The investors are represented by Stephen R. Basser, Samuel M. Ward, Jeffrey A. Barrack, Danielle M. Weiss and Andrew J. Heo of Barrack Rodos & Bacine.

BioAge and the individual defendants are represented by Bruce G. Vanyo, Christina L. Costley and Paul S. Yong of Katten Muchin Rosenman LLP.

The case is Soto v. BioAge Labs Inc. et al., case number 3:25-cv-00196, in the U.S. District Court for the Northern District of California.

--Editing by Melissa Treolo.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Breyer Rips Musk Atty For 'False Impression' To Twitter Jury

By **Bonnie Eslinger**

Law360 (March 3, 2026, 11:42 PM EST) -- U.S. District Judge Charles Breyer blasted Elon Musk's counsel Tuesday in a trial over Twitter investors' allegations that Musk intentionally tanked its stock, telling the lawyer she'd created a "false impression" with the jury by questioning an ex-Twitter attorney about her right to speak with plaintiffs' counsel while under oath.

Tuesday marked the second day of trial in a case brought by investors claiming that the tech billionaire made misleading statements in a scheme to depress Twitter's stock price during his takeover of the social media platform.

During **opening statements** Monday, a lawyer for investors told jurors that Musk "trashed" Twitter "to drive the stock price down" and then renegotiate his \$44 billion deal to buy the company, while counsel for Musk said it wasn't securities fraud for Musk to air "legitimate" concerns about fake accounts on the platform.

Later that afternoon, Twitter's former chief legal officer, Vijaya Gadde, took the stand. Gadde worked for Twitter from July 2011 to October 2022. She told jurors she was terminated shortly after Musk bought the company.

Under questioning by the investors' attorney, Aaron Arnzen of Bottini & Bottini Inc., Gadde agreed that Musk had provided Twitter with a proposed "seller friendly" merger agreement in April 2022 that waived his right to conduct due diligence on Twitter's business. She also said that Musk had not asked for information about estimating the number of bots or about the prevalence of bots on Twitter's platform before agreeing to the merger.

At issue in the case are public statements Musk made in May 2022 about bots on the Twitter platform. Musk alleged the company had falsely said that fewer than 5% of "monetized daily active users" — the number of users who see ads on the platform — are fake accounts.

The plaintiffs say Musk also posted a misleading tweet that the \$44 billion deal was "temporarily on hold" while he waited on information from Twitter about how the company determined the number of fake accounts.

Musk lawyer Ellyde Thompson of Quinn Emanuel Urquhart & Sullivan LLP cross-examined Gadde and asked about a disclosure Twitter made to the U.S. Securities and Exchange Commission, days after the merger agreement was inked, that said the company had overstated its monetized daily active users. Thompson asked Gadde if she was aware of anyone telling Musk before the deal was signed that Twitter had been preparing to recast its monetized daily active users. Gadde said no.

When Thompson continued her questioning of Gadde on Tuesday, she asked about a provision in the merger agreement that says Twitter does not have to disclose information if it would cause significant competitive harm to the company if the transaction isn't completed.

Gadde said Twitter's chief financial officer at the time, Ned Segal, was the person overseeing the negotiations with Musk's team but she was part of the process.

Thompson asked Gadde if she was aware that Segal, when asked, couldn't think of any information that Musk asked for, that he declined to provide out of competitive concerns. Gadde said no.

Thompson also pointed out a closing condition that gave Musk the right to information to "consummate the merger." She asked Gadde if she agreed that nothing limited Musk's right to that information before a lawyer for the plaintiffs objected, saying Gadde's legal opinions were off limits as privileged information.

Musk's lawyer later asked Gadde if she had spoken with counsel for the investors about her testimony before she testified, and the former Twitter lawyer said he had only asked her if her name was on a document.

"Are you aware of whether you're permitted to speak with counsel for the parties while you're on the stand under oath?" Thompson asked.

Before Gadde could answer, Judge Breyer interrupted.

The judge told the jury that witnesses frequently talk to lawyers during the course of their testimony for a number of reasons, including to make sure when they testify they don't speak on matters that have been excluded by the court pretrial.

"There is nothing wrong with a lawyer talking to a witness during the course of examination," the judge said.

He then turned to Thompson.

"So, to suggest whether she was permitted to do so suggests that I would have to give permission, counsel, you know I don't," the judge said. "You've created a false impression with the jury on that issue."

Outside the presence of the jury, another attorney for Musk cited a ruling by retired U.S. District Judge Vaughn Walker to argue that the question was not asked in bad faith, arguing that some judges prohibit consultation between a witness and counsel while the witness is on the stand. But Judge Breyer pushed back.

"Maybe some other judges had that rule," the judge said. "I've never had that rule."

Judge Breyer added that to "raise that specter that a witness has somehow violated a court order, or the counsel has violated a court order is totally inappropriate," calling it "very prejudicial."

Later in the day, Musk's right-hand man, Jared Birchall, took the stand. Birchall told the jury that he's worked for Musk for the last decade and his job "ranges from managing his balance sheet, helping him with investments, making financial decisions, helping him start and build his companies." He was also part of the Twitter acquisition team.

Birchall testified that he never heard Musk say anything about wanting to drive down the price of Twitter stock in an effort to get a better deal on the transaction.

A lawyer for the plaintiffs, Arnzen, showed Birchall a May 21, 2022, social media post tagging Musk suggesting that if 25% of Twitter's users were bots, then 25% should be shaved off the price of the company, to which Musk replied, "Absolutely."

"At any point did Mr. Musk indicate to you that he thought a purchase price reduction was warranted for any reason other than fake accounts and bots?" Arnzen asked.

Birchall said no.

Arnzen later showed another tweet from Musk from February 2023 concerning the sales of Tesla stock in connection with the Twitter transaction.

"Sucks that I had to sell so much Tesla stock" to buy Twitter, Musk wrote.

Musk could afford to buy Twitter, but didn't want to pay the \$44 billion or sell that much of his Tesla

stock to do so, Arnzen said.

"You'd have to ask him," Birchall replied.

The investors **filed** their lawsuit on Oct. 10, 2022, days after Musk **reversed course** and said he intended to close on his original \$44 billion deal to buy the social media platform.

The investors claim that if they had been aware that the market price was being manipulated by Musk's statements, they would not have sold their Twitter securities at the "artificially depressed prices" that they did or not have sold at all.

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.

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 Hailey Konnath and Dorothy Atkins. Editing by Michael Watanabe.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

EV Maker Lucid Investor Seeks Class Cert. In Production Suit

By **Emilie Ruscoe**

Law360 (March 3, 2026, 9:42 PM EST) -- An investor in electric-vehicle maker Lucid Group Inc. is seeking certification of its proposed class in litigation alleging the company misled investors about how many cars it could make in 2022, hurting investors when it disclosed months later it was on track to make about a third of its earlier estimate.

In a Friday motion in California federal court, Lucid investor Sjunde AP-Fonden asked U.S. District Judge Araceli Martínez-Olguín to certify a class of those who purchased Lucid shares between Nov. 15, 2021 — when now-former Lucid CEO Peter Rawlinson said the company was "confident in our ability" to produce 20,000 of its Lucid Air cars in 2022 — and Aug. 3, 2022, when the company disclosed it wouldn't make more than 7,000 cars that year.

According to the investor, the proposed class includes an estimated "hundreds, if not thousands" of shareholders, making joinder impracticable.

The class certification bid comes after Judge Martínez-Olguín **trimmed the suit** in May. The remaining claims relate to four alleged misstatements from November 2021, when the company and its representatives allegedly overstated the likelihood of the company making 20,000 cars.

The latest version of the suit, from September 2024, states that at the relevant time, the company and Rawlinson misrepresented Lucid's "ability and readiness to mass produce its vehicles."

In February 2021, the investor said, the company announced plans to go public via merger with a special purpose acquisition company. That deal closed in July 2021, and the company announced several months later it had finally started production of the Air cars.

In November 2021, when the company made its first quarterly earnings report as a public company, Rawlinson reiterated earlier promises that the company was aiming to produce 20,000 cars in its first full year of production.

But in August 2022, the investors alleged, the company adjusted its production target down to the range of 6,000 to 7,000 vehicles. Following that announcement, the suit states, the price of Lucid's common stock fell nearly 10%, from more than \$20 to under \$19, hurting investors.

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

Sjunde AP-Fonden is represented by Stacey M. Kaplan, Gregory M. Castaldo, David A. Bocian, Margaret E. Mazzeo, Evan R. Hoey, Farai Vyamucharo-Shawa and Aubrie L. Kent of Kessler Topaz Meltzer & Check LLP.

Lucid Group Inc. and Peter Rawlinson are represented by Michael E. Liftik, Kurt E. Wolfe and Ryan P. Gorman of Quinn Emanuel Urquhart & Sullivan LLP.

The case is *In re Lucid Group Inc. Securities Litigation*, case number 3:22-cv-02094, in the U.S. District Court for the Northern District of California.

--Additional reporting by Lauren Berg, Jeff Montgomery, Mike Curley and Bonnie Eslinger. Editing by Lakshna Mehta.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Hawaiian Electric Investors Get First OK Of \$48M Wildfire Deal

By **Sydney Price**

Law360 (March 3, 2026, 6:49 PM EST) -- Hawaiian Electric Industries Inc. and its investors have received initial approval of their nearly \$48 million deal settling a California federal suit blaming it for the downturn in its stock price following a deadly 2023 fire on Maui.

U.S. District Judge Jacqueline Scott Corley said in an order that the court has preliminarily found that the settlement in the proposed class action is "fair, reasonable and adequate." A final approval hearing is scheduled for Aug. 13, according to the order.

Lead counsel for the investors intend to request up to 33% of the settlement fund, or \$15.9 million, in attorney fees and up to \$500,000 in expenses, the order states.

The shareholders said in their **motion** for preliminary approval in January that the \$47.8 million cash recovery represents 2.8% of the estimated maximum recoverable damages, which is "well above the 1.2% median settlement recovery last reported for all securities actions in 2024."

The suit alleges that Hawaiian Electric's stock price declined significantly after a wildfire broke out in Lahaina on Aug. 8, 2023. The suit blames the drop on the news stories about Hawaiian Electric's safety protocols and accuses the company of failing to warn investors about its wildfire risks.

Judge Corley previously **dismissed** the suit without prejudice in October 2024, finding that the investors did not plausibly allege that the challenged statements were false or misleading when made, and that 11 of the statements were attributed to subsidiaries that are not named defendants.

The investors filed their second amended complaint in November 2024.

The investors are represented by Jeremy A. Lieberman and Austin Van of Pomerantz LLP.

Plaintiff Emaad Kuhdear is also represented by Shannon L. Hopkins, Gregory M. Potrepka and Andrew E. Lencyk of Levi & Korsinsky LLP.

The defendants are represented by Mark R.S. Foster, Peter B. Morrison, Jay Kasner and Susan Saltzstein of Skadden Arps Slate Meagher & Flom LLP and Daniel H.R. Laguardia and Adam S. Hakki of Allen Overy Shearman Sterling.

The case is Bhangal v. Hawaiian Electric Industries Inc. et al., case number 3:23-cv-04332, in the U.S. District Court for the Northern District of California.

--Additional reporting by Craig Clough and Katryna Perera. Editing by Michael Watanabe.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

SCANA Investors' \$34M Deal, Atty Fees Get Final OK

By **Emilie Ruscoe**

Law360 (March 3, 2026, 10:01 PM EST) -- Consulting giant Deloitte and investors in utility company SCANA Corp. have gotten a final nod for their \$34 million settlement of proposed class action claims that Deloitte gave cover to SCANA as it hid delays and cost overruns for a \$9 billion nuclear energy expansion project it eventually abandoned.

In a Monday order, U.S. District Judge Jacquelyn D. Austin granted approval to the deal, finding that it is "in all respects, fair, reasonable, and adequate to the settlement class."

Judge Austin entered a final judgment terminating the action and made separate filings approving the parties' plan of allocation.

The judge also approved the request for fees and costs for the investors' legal team, which includes attorneys from Cohen Milstein Sellers & Toll PLLC and the Tinkler Law Firm LLC.

The class counsel had requested 33.33% of the settlement fund, which is over \$11 million, plus reimbursement of over \$6 million in litigation costs. Judge Austin said Tuesday that those requests were "fair and reasonable."

Judge Austin granted preliminary approval to the deal in November 2025, finding at the time that she would likely be able to grant final approval to the deal.

In its October 2025 motion for preliminary approval of the deal, the institutional investor leading the consolidated securities class action had called the settlement "an excellent result for the class" when considered alongside separate settlements related to the same alleged misconduct.

Final approval of the deal ends claims that Deloitte gave cover to SCANA with "unqualified, 'clean' audit reports" on the utility company's financial reports and internal controls, even as SCANA misrepresented to investors that its expansion of the South Carolina nuclear station was on track for completion before its deadline to earn \$1.4 billion in nuclear tax credits.

In reality, according to the complaint, SCANA and Deloitte knew it was "unrealistic" to say they would actually meet their deadline to earn those tax credits, and SCANA eventually announced it would abandon the project.

The disclosure that the nuclear project was off precipitated probes by state and federal authorities, including the U.S. Securities and Exchange Commission.

The class is represented by William Tinkler of Tinkler Law Firm LLC, and Laura H. Posner, Steven J. Toll and Jan E. Messerschmidt of Cohen Milstein Sellers & Toll PLLC.

Deloitte is represented by Christopher A. Ogiba, Lesley A. Firestone, Tiffany Payne, Mark A. Nebrig, John A. Fagg Jr. and Nader S. Raja of Moore & Van Allen PLLC, and Scott A. Edelman, Jed M. Schwartz and Andrew B. Lichtenberg of Milbank LLP.

The case is International Brotherhood of Electrical Workers Local 98 Pension Fund v. Deloitte LLP et al., case number 3:19-cv-03304, in the U.S. District Court for the District of South Carolina.

--Additional reporting by Gina Kim, Lauren Berg and Jessica Corso. Editing by Kristen Becker.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

How Recent Del. Rulings Clarify M&A Deal Fraud Carveouts

By **Anthony Boccamazzo** (March 3, 2026, 6:18 PM EST)

After spending months or years conducting due diligence, negotiating and finalizing an M&A transaction, parties are hopeful that everything postclosing will run smoothly.

However, as is the case with all best-laid plans, after a buyer begins operating the target, the buyer and/or seller often learn of issues that they were not aware of during the transactional process. Typically, these issues, such as customer relationships that had soured or additional preclosing tax liabilities, are addressed by the agreement's representations and warranties.

As a result, parties typically have recourse for any breaches under the parties' representations and warranties insurance or the agreement's indemnity provisions, which are usually the exclusive remedy for any breaches of the parties' representations and warranties.



Anthony Boccamazzo

However, due to policy limits for representations and warranties insurance and caps in the indemnity framework of M&A agreements, a buyer and/or a seller may not be made whole, leaving parties exposed to millions of dollars of risk.

Likewise, buyers and/or sellers may learn that their contractual counterparty knew the representations were false when they made them, but, nonetheless, proceeded with the transaction anyway. In these instances, parties typically look to the fraud carveouts in the parties' agreement to address these difficult situations.

One of the primary elements of a fraud claim, as opposed to a breach of contract claim, is usually justifiable reliance by the party claiming that it was defrauded. For example, a party to an M&A transaction typically cannot claim it was defrauded when it knew, prior to closing, that the other party's representation was false.

Issues of justifiable reliance can often be complicated in the M&A space due to the terms of the parties' agreement — which often limit what representations parties can justifiably rely on — and due to the due diligence process, where the parties gain their own knowledge of the other's business.

However, recent Delaware guidance has provided further clarity regarding when a party can or cannot justifiably rely on certain representations made during the course of an M&A transaction. Specifically, the Delaware courts have addressed the (1) scope and enforceability of antireliance provisions; and (2) whether a party can justifiably rely on a representation it knew or should have known was false due to its own due diligence.

Fraud Carveouts to Representations and Warranties Insurance and Indemnity Provisions

Typically, M&A agreements provide that representations and warranties insurance and/or the agreement's indemnity provisions are the sole or exclusive remedies for any party's breaches of the representations and/or warranties in an M&A agreement.

Representations and warranties insurance is insurance that is obtained by a party to the M&A agreement — most commonly the buyer — that shifts the risk from the buyer and/or seller to a third-

party insurer with respect to breaches of the parties' representations and warranties.

According to a Dec. 17 study by the American Bar Association examining private targets being acquired by public companies, approximately 63% of agreements include a reference to representations and warranties insurance.[1] Typically, when a transaction involves such insurance, the parties' recourse for any breaches of the representations and warranties is to assert a claim under the policy, which can often be complicated and time-consuming.

Likewise, there are also specific policy limits to representations and warranties insurance, and, thus, parties may not be made whole if their claim is in excess of the policy limits.

M&A agreements also typically include indemnity provisions in addition to and/or in lieu of representations and warranties insurance. Under a typical indemnity provision, a buyer or seller must provide notice to its contractual counterparty of a claim for a breach of the representations and warranties of the agreement. If the claim is valid — which is an issue that often ends up being litigated — the breaching party is required to indemnify the nonbreaching party.

Like representations and warranties insurance, there are often caps as to the amount available to the aggrieved party under the indemnity provisions. For example, the amount available to the aggrieved party may be limited to a certain amount held in escrow. Likewise, there are often baskets — thresholds similar to an insurance deductible — and buckets, amounts dedicated to different types of claims, in indemnity provisions, which further complicate how much a party is entitled to if it has a valid indemnification claim.

According to the ABA study, approximately 89% of M&A agreements provide that the indemnity provisions are the exclusive remedy for the breach of a representation and/or warranty under the agreement.[2]

However, both representations and warranties insurance policies and indemnity provisions often include an exception for fraud, referred to as a fraud carveout. If a fraud carveout applies, parties are typically not limited to the representations and warranties insurance policy of the indemnity provisions as their sole remedy for inaccurate representations and warranties.

Importantly, parties are not limited to the policy limits under which representations and warranties insurance applies or the caps of the agreement's indemnity provisions if fraud is present and if the agreement permits the party to assert a fraud claim.

The fundamental and complicated questions then become whether a party can assert a claim for fraud under the parties' agreement, and whether a party's misrepresentation constitutes fraud. In recent months, the Delaware courts have provided additional guidance on these thorny issues.

Johnson & Johnson — When a Party Can Justifiably Rely on Representations Made Outside the Agreement

One key issue that parties often face is whether their agreements permit them to assert a fraud claim when they relied on representations made outside their agreement. For example, during the course of the parties' discussions, one of the parties may make representations, whether orally or by email, etc., to induce the other to agree to the transaction, but those representations are not ultimately included in the final executed written agreement.

The issue then becomes whether the aggrieved party can assert a fraud claim based on that extracontractual representation, or whether they are barred by an agreement's antireliance provisions. This was one of the many issues addressed by the Delaware Supreme Court's Jan. 12 **decision** in *Johnson & Johnson v. Fortis Advisors LLC*.[3]

In this case, Fortis Advisors sued Johnson & Johnson on behalf of Auris' former stockholders concerning Johnson & Johnson's \$3.4 billion acquisition of Auris, a company that created a surgical robot product known as iPlatform. Fortis sued for a breach of the parties' earnout provisions, which entitled the stockholders to additional consideration if Johnson & Johnson reached certain milestones with respect to sales of the iPlatform robot.

Likewise, in addition to its contractual earnout claims, Fortis alleged that Johnson & Johnson fraudulently induced Auris' stockholders to agree to a certain earnout milestone worth \$100 million, rather than accepting more money up front. The basis of the fraud claim was that Johnson & Johnson's CEO verbally told Auris that achieving the milestone was such a "high certainty" that Johnson & Johnson viewed it as an up-front payment.

Among many other findings, in September 2024, the Delaware Court of Chancery **found** that Johnson & Johnson's representation was fraudulent when that certain milestone was not reached, and that the \$100 million was never paid.

Johnson & Johnson appealed to the Delaware Supreme Court, arguing that, among other things, the agreement precluded Fortis' fraud claim because it contained an exclusive remedy provision in the indemnification provisions as well as certain antireliance provisions, which are specific terms in an agreement that preclude parties from relying on representations made outside that agreement.

Specifically, Johnson & Johnson argued that an antireliance provision included in the parties' agreement, which stated that Johnson & Johnson would not rely on any extracontractual representations made by Auris, should have also precluded Auris from relying on Johnson & Johnson's representations made outside the agreement.

However, in its January decision, the Delaware Supreme Court rejected Johnson & Johnson's arguments. The court, relying on its 2006 decision in *ABRY Partners V LP v. F&W Acquisition LLC*,^[4] found that Delaware law only enforces antireliance provisions where the party has "unambiguously contracted that it did not rely upon statements outside the contract's four corners in deciding to sign the contract."

The Delaware Supreme Court found that the antireliance provision in the parties' agreement only prohibited Johnson & Johnson from relying on Auris' representations made outside of the contract, not the other way around. Thus, the court found that Johnson & Johnson did not have a similar protection, and that Auris could rely on Johnson & Johnson's verbal or other noncontractual representations as the basis for a fraud claim.

Consequently, the Delaware Supreme Court reaffirmed *ABRY Partners* and found that a one-sided antireliance clause, i.e., a clause that only precludes one party from relying on extracontractual representations, cannot be relied upon by the other party to evade a fraud claim.

Consequently, the Delaware Supreme Court has made clear that exclusive remedy provisions in an M&A agreement will not preclude extracontractual fraud claims absent clear and unambiguous language stating that the party is not relying on those representations.

Paragon Metals — When a Breach Becomes Fraud

Another primary issue facing parties contemplating a fraud claim is when they can convert a simple breach of a representation contained in an M&A agreement to a fraud claim. This question often turns on whether the breaching party knew the representation was false, and, more complicated, if the aggrieved party could justifiably rely on the representation.

Delaware is a pro-sandbagging state, which means that under Delaware law, absent express contractual language to the contrary, a party can typically assert a claim for a breach of representation or warranty in an agreement, even if the aggrieved party knew that its counterparty's representation and/or warranty was inaccurate. The rationale for sandbagging is that the parties negotiated and agreed to the representation and/or warranty, and thus, the nonbreaching party should receive the benefit of the parties' bargain.

However, as discussed, one of the key elements of a fraud claim is that a party has to show it justifiably relied on the other party's alleged fraudulent representations. Therefore, while a party can assert a breach of contract claim when it knew the representation was false, it cannot assert a fraud claim based on that same false representation.

Issues typically arise in the middle ground where a party did not necessarily know that a representation was false but could or should have known of its falsity, particularly when it conducted

its own due diligence. That was the question addressed by the Delaware Superior Court in August 2025 in *Paragon Metals Holdings LLC v. Smith*.^[5]

In the *Paragon* case, the buyer of a machined components and metals company asserted claims for fraud against the sellers relating to the sellers' failure to disclose certain information concerning its customer relationships. Specifically, the buyer alleged that the seller failed to disclose that two of the company's top 10 customers had informed the company prior to closing that they planned to materially decrease their business.

According to the buyer, the seller's failure to disclose this information constituted fraud under various representations in the agreement, including the agreement's representations concerning the company's customer relationships and whether a material adverse effect had happened to the company.

Just after the closing, the buyer claimed that it learned that one customer would move the manufacturing of its parts in-house and the other would substantially reduce its volume of orders, both of which the court found that the seller knew prior to closing due to forecasts that it had received from those customers.

However, after a five-day trial, on Aug. 13, 2025, the Delaware Superior Court rejected the buyer's fraud claims. The court found that the buyer did not justifiably rely on the seller's representations because the buyer knew or should have known the representations were false during the buyer's due diligence on the transaction. For example, the court found that, during due diligence, the buyer had met with and obtained its own forecasts from the two customers it now complained about.

The court further found that the buyer knew or should have learned from those forecasts and meetings that the two customers' markets would be "softening" postclosing. Likewise, the court found that the buyer's team had discussed these specific issues concerning the two customers with the seller prior to closing, demonstrating that the buyer was at least aware of certain issues with these customers.

Thus, although the court recognized the representations in the agreement were false, the court found that the buyer could not assert a fraud claim because it knew or should have known about the customers' declining business with the company.

As a result, whether a breach will turn into a fraud claim will often turn on what the party claiming the breach actually knew or should have known regarding the representation and/or warranty prior to closing.

Conclusion

While this recent Delaware guidance is helpful in understanding certain complex issues relating to fraud claims in M&A transactions, many questions and complexities remain as to the viability of parties to assert fraud claims in addition to their breach of contract claims.

Anthony Boccamazzo is counsel at Olshan Frome Wolosky LLP.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] American Bar Association, Private Target Mergers & Acquisitions Deal Points Study (Including Transaction from 2024 and Q1 2025), (12/17/25).

[2] *Id.*

[3] *Johnson & Johnson v. Fortis Advisors LLC* , No. 490, 2024, 2026 WL 89452 (Del. Jan. 12, 2026).

[4] **Abry P'rs V, L.P. v. F & W Acq. LLC** , 891 A.2d 1032, 1059 (Del. Ch. 2006).

[5] **Paragon Metal Holdings LLC v. Smith** , No. N21C-12-090 SKR CCLD, 2025 WL 2531610, at *1 (Del. Super. Ct. Aug. 13, 2025).

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Goldman, Former Execs Seek Early Win In 1MDB Bribery Suit

By **Katryna Perera**

Law360 (March 3, 2026, 10:11 PM EST) -- Goldman Sachs and two of its former executives have asked a New York federal judge to grant them an early win in an investor suit claiming losses from the 1MDB bond bribery scandal, saying that what remains in the suit is an "incoherent, reverse-engineered theory of securities fraud that the factual record does not sustain."

Goldman, its former CEO Lloyd Blankfein, and Gary Cohn, its former chief operating officer, each filed summary judgment motions on Monday, arguing that the two alleged misstatements and one corrective disclosure that remain in the action are insufficient to support the investors' claims.

The suit claims shareholders suffered losses because Goldman made misstatements and omissions about its interactions with Malaysia's sovereign wealth fund, 1Malaysia Development Berhad, and had knowledge of corruption associated with it. The fund was meant to spur economic development in the country, but instead, hundreds of millions of dollars were misappropriated by high-level officials of the fund and their associates.

Goldman underwrote \$6.5 billion of the 1MDB debt in three bond offerings in 2012 and 2013, and was paid \$600 million in fees, according to court documents. Sjunde AP-Fonden, which is also known as AP7 and the court-appointed lead plaintiff for the investor class, contends that Goldman's stock dropped in November 2018 when The Wall Street Journal and other media outlets published stories about a purported meeting in 2013 between Blankfein, then-Malaysian Prime Minister Najib Razak and Jho Low, alleged to be the architect of the 1MDB scheme.

But on Monday, the defendants argued that the corrective disclosure theory related to the 2013 meeting on which the plaintiffs rely is false because the record shows that Low did not attend the meeting and therefore did not meet Blankfein or discuss 1MDB with him.

"There is simply no evidence supporting the truth of the 'corrective' disclosure on which the whole case depends," Goldman's **motion** said. "Every single piece of record evidence discussing who actually attended confirms that Low was not present, and no evidence supports the claim that Blankfein discussed 1MDB with anyone during that event."

The investors have also failed to prove that the Nov. 12, 2018, stock price decline was caused by the media reports published in the days prior, rather than by other "Goldman-specific news" that became public the same day as the stock price drop, the motion added.

The bank said that early in the morning on Nov. 12, 2018, the Malaysian government announced it would seek to recover \$4.5 billion in losses from Goldman and that this news "clearly drove" the stock price decline.

The bank argued that the investors have failed to "disaggregate" the effects of media reports on the stock price decline and that the failure is "especially egregious given their reliance on a corrective disclosure that occurred days before Nov. 12, even though the efficient market here would have quickly acted on any new material information."

Finally, the bank argued that the investors have failed to prove that the remaining two alleged misstatements are actionably false.

The first statement, known as the "Low Involvement" statement, was made in a 2016 Wall Street Journal article, years after the last of the 1MDB bond transactions. According to Monday's motion, the article included a statement from Goldman that the bank had found "no evidence showing any involvement by Jho Low in the 1MDB bond transactions."

The second statement, known as the "Red Flags" statement, was made on Nov. 1, 2018, by Blankfein during an interview, in which he said he was not aware of any "red flags" on the fraudulent transactions beforehand.

Goldman argued Monday that the investors' theory of falsity "depends on the premise that Blankfein personally knew both that Low was involved in the 1MDB bond transactions and that there were 'red flags' on those transactions beforehand," but it said that discovery has "disproven that premise."

"Plaintiffs point to alleged meetings between the two men, but Blankfein has no memory of being in the same room as Low, and no reasonable factfinder could conclude that Blankfein learned at those meetings about Low's involvement in the transactions," the motion further said.

Additionally, Blankfein argued in his own **motion** that the investors have failed to attach a motive to him or show that he intended to defraud investors through his "red flags" statement.

And even if his statement were false, the investors "cannot identify material disputed facts supporting a jury question on their heavy burden to prove that Mr. Blankfein intended to defraud investors when he made an unrehearsed, off-the-cuff remark during a wide-ranging live interview," Blankfein said.

Meanwhile, Cohn argued in his summary judgment **motion** that he did not make either of the remaining alleged misstatements.

"One of them was made by someone else almost two years after Cohn left Goldman to serve in government," the motion said. "The other was made by Goldman, not Cohn, in a press article published about a week before Cohn left the firm. There is no evidence that Cohn was even aware that the statement was being made, much less that he drafted, reviewed, or approved the statement."

The defendants' summary judgment bids come after the investors **secured class certification** in September for all persons and entities who purchased or acquired Goldman's common stock between Dec. 22, 2016, and Nov. 8, 2018, and were injured.

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

The investors are represented by Andrew L. Zivitz, Matthew L. Mustokoff, Jamie M. McCall, David A. Bocian, Nathan A. Hasiuk, Vanessa Milan and Nathaniel C. Simon of Kessler Topaz Meltzer & Check LLP and Salvatore J. Graziano and Rebecca E. Boon of Bernstein Litowitz Berger & Grossmann LLP.

Goldman is represented by Donald B. Verrilli Jr., Elaine J. Goldenberg, James C. Rutten, John W. Spiegel and John M. Gildersleeve of Munger Tolles & Olson LLP.

Blankfein is represented by Brad S. Karp, Andrew J. Ehrlich, Kristina Bunting and Daniel S. Sinnreich of Paul Weiss Rifkind Wharton & Garrison LLP.

Cohn is represented by Scott A. Edelman, Grant R. Mainland, Kayla M. Giampaolo and Isabel C. Pitaro of Milbank LLP.

The case is *Sjunde AP-Fonden v. The Goldman Sachs Group Inc. et al.*, case number 1:18-cv-12084, in the U.S. District Court for the Southern District of New York.

--Editing by Nick Siwek.

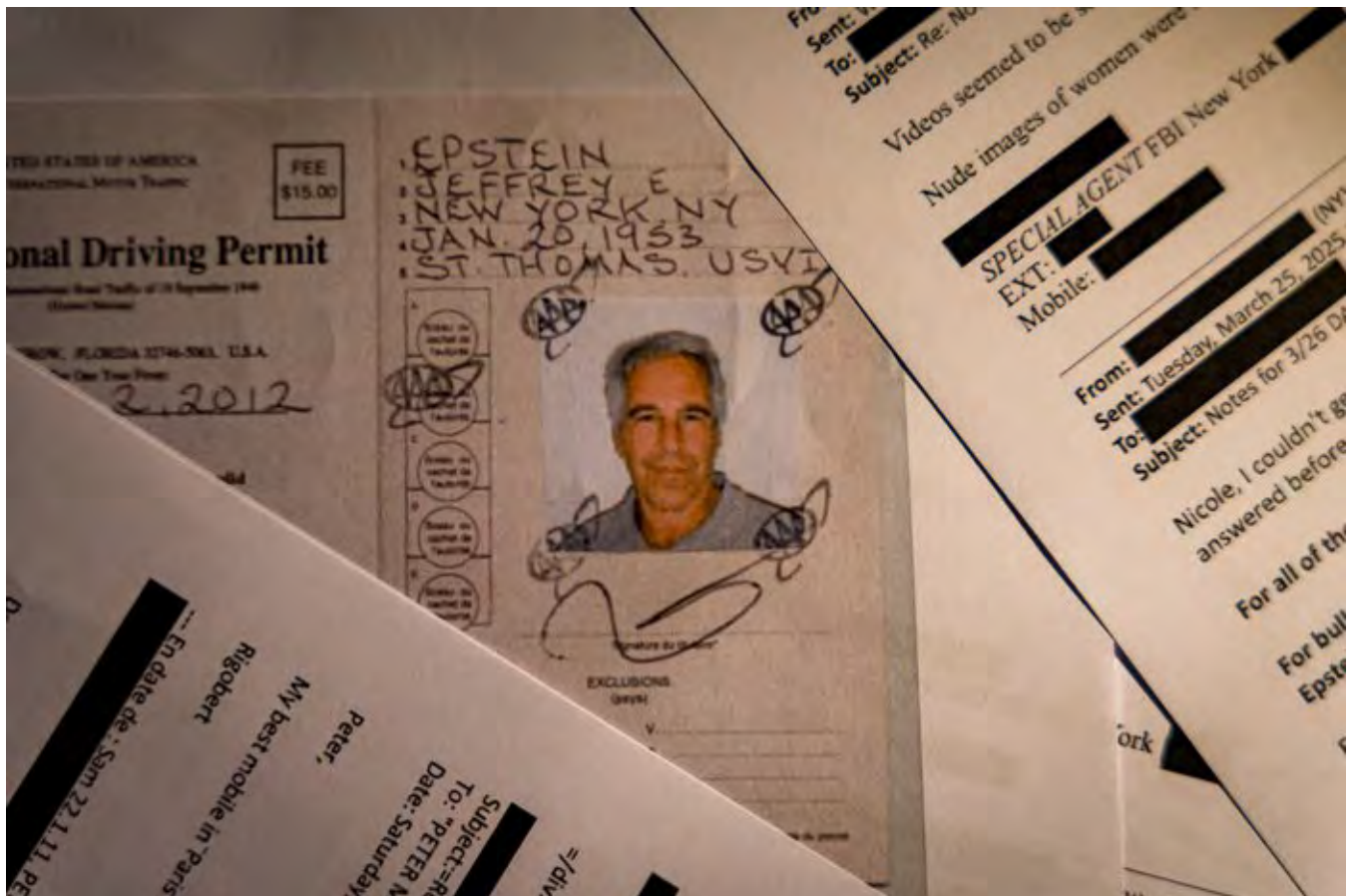


Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Goldman's Departing CLO, Gates Asked To Testify On Epstein

By Lauren Berg

Law360 (March 3, 2026, 10:55 PM EST) -- The House Oversight Committee on Tuesday asked outgoing Goldman Sachs Chief Legal Officer Kathryn Ruemmler, Microsoft founder Bill Gates, Apollo Global Management co-founder Leon Black and others to testify about their connections to child sex offender Jeffrey Epstein.



Child sex offender Jeffrey Epstein, whose driver's license is seen amid court documents, will be the focus of a House Oversight Committee hearing that will feature in-person testimony from outgoing Goldman Sachs Chief Legal Officer Kathryn Ruemmler, among others. (Sipa via AP Images/Davide Bonaldo)

Rep. James Comer, R-Ky., chair of the Committee on Oversight and Government Reform, in a brief **letter** asked for the in-person testimony of Ruemmler, who recently **announced her resignation** as Goldman Sachs' top lawyer after the U.S. Department of Justice released emails showcasing her relationship with Epstein.

The committee has been holding hearings — including interviewing former President Bill Clinton and former Secretary of State Hillary Clinton — related to its investigation into the "alleged mismanagement of the federal government's investigation" of Epstein and his **convicted co-defendant** Ghislaine Maxwell.

Comer's letter states the committee is also looking into the circumstances of **Epstein's 2019 death** in a Manhattan federal jail cell, and any ways in which Epstein and Maxwell tried to "curry favor" to protect

their sex trafficking crimes, among other questions.

"Due to public reporting, documents released by the Department of Justice, and documents obtained by the committee, the committee believes you have information that will assist in its investigation," the letter to Ruemmler states, asking her to testify in-person on April 21.

Ruemmler in February faced fresh scrutiny after recently **released files** from the Justice Department's investigation into Epstein revealed that she asked him for career coaching as she tried to leave Latham & Watkins LLP for a high-level job at Facebook in 2018. She referred to Epstein as "Uncle Jeffrey" in emails in 2016 and 2019, including one where she said she had received boots, a handbag and a watch from him as gifts.

Ruemmler's association with Epstein came to light in 2023 after The Wall Street Journal reported that his calendar listings revealed dozens of past meetings between the two. Those meetings occurred in the 2010s, after Epstein pled guilty in 2008 and spent 13 months in a Florida prison on charges of solicitation of prostitution and procurement of minors for prostitution.

After Epstein was arrested in 2019 for sex trafficking children, Ruemmler went on to join Goldman Sachs in 2020 as its global head of regulatory affairs. She was **named chief legal officer** in March 2021.

A Goldman spokesperson told Law360 Pulse in September that Ruemmler had been upfront about her **business association** with Epstein when she was hired, including serving for a time as a backup executor on his will, although not at the time of his death.

During her time at Goldman, Ruemmler became one of the **highest-paid general counsel** in the country, having earned total compensation of more than **\$17.6 million in 2024**. She said she plans to step down in June.

Comer on Tuesday sent nearly identical letters to **Gates** and **Black**, as well as Epstein's longtime assistants **Lesley Groff** and **Sarah Kellen**; lawyer **Doug Band**, who served in the Clinton administration and is a co-founder of advisory firm Teneo; and billionaire **Ted Waitt**, the co-founder of computer company Gateway.

A spokesperson for Gates told Law360 on Tuesday that he "welcomes the opportunity to appear before the committee," adding that "while he never witnessed or participated in any of Epstein's illegal conduct, he is looking forward to answering all the committee's questions to support their important work."

A representative for Goldman Sachs declined to comment, and Ruemmler and Black could not be immediately reached for comment. The other letter recipients could not be immediately contacted.

Black on Monday was caught up in with a **proposed class action** alleging Apollo and its co-founders misled investors about the firm's and their individual connections to Epstein.

Apollo Global has publicly denied having a business relationship with Epstein, according to the complaint, but in reality, the sex offender communicated with the firm's senior leadership and was advised on tax strategies and other corporate matters.

Also on Tuesday, President Donald Trump's Commerce Secretary Howard Lutnick agreed to appear before the committee for an interview regarding its Epstein investigation.

In response to Lutnick's decision, Comer said, "I commend his demonstrated commitment to transparency and appreciate his willingness to engage with the committee. I look forward to his testimony."

--Additional reporting by Aebrá Coe, Michele Gorman, Hailey Konnath, Pete Brush, Frank G. Runyeon, Carolina Bolado, Sue Reisinger, James Boyle and Katryna Perera. Editin by Jay Jackson Jr.

Update: This article has been updated to reflect that Goldman Sachs declined to comment.