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Anadarko Investors Get Class Status in Suit Over Dud Oil Field

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Summary by Bloomberg AI

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- A federal court granted class status to Anadarko Petroleum Corp. investors on securities fraud claims after considering additional evidence about the cause of a 2017 stock selloff.
- The investors allege that Anadarko intentionally failed to disclose key information related to the "Shenandoah" oil field in the Gulf of Mexico, and that this failure to disclose caused a decline in the company's stock price.
- The court found that the decline in stock price was not solely attributable to a separate piece of adverse news, but rather to the write-off for the oil field, allowing the investors to show they relied on the alleged misrepresentation on a classwide basis.

Anadarko Petroleum Corp. investors once again obtained class status on securities fraud claims after a federal court considered additional evidence about competing potential causes for a stock selloff.

The re-think at the US District Court for the Southern District of Texas came after an appeal in which Anadarko won a chance to submit additional evidence about what caused the 2017 stock drop—a write-off for an oil field in development, which was the subject of the suit, or a different piece of adverse news, or both.

The "record evidence and common sense point to the same conclusion," Judge Charles Eskridge said Tuesday. "And that is, when news broke on the same day of both an *actual* \$900 million write-off as to the complained-of event and a *potential* \$140 million in new regulatory costs as to an entirely different event, an eight percent decline in the company's stock price the following day isn't *solely* attributable to the latter regulatory costs."

The investors allege that Anadarko, which was acquired by Occidental Petroleum Corp. in August 2019, intentionally failed to disclose key information related to exploratory wells drilled in the roughly 13,000-acre "Shenandoah" oil field in the Gulf of Mexico, also called "Shen." Anadarko and some of its executives allegedly doubted the oil field's commercial viability by the end of 2014 but failed to disclose that information in corporate filings.

The company disclosed after trading on May 2, 2017, that it was suspending its appraisals of the field, "resulting in \$435 million in expensed suspended exploratory well costs and a \$467 million impairment," according to Eskridge's opinion. Within an hour of that announcement, Colorado officials said in a press conference that the company was responsible for a Firestone, Colo., home explosion and fire the previous month.

Anadarko's common stock price fell approximately 8% on the following day, May 3, 2017.

Class certification hinged on the issue of what affected the stock price because the investors needed to show they relied on the alleged misrepresentation on a classwide, rather than an individual, basis, and a market reaction would allow that presumption.

Anadarko successfully appealed Eskridge's initial certification of a class to the US Court of Appeals for the Fifth Circuit on procedural grounds.

Eskridge then allowed additional evidence. But he rejected four arguments that Anadarko made, including the Firestone announcement, to muddy the presumption that the alleged misrepresentations about the Shen oil field had a price impact.

The investors also showed "that damages may be measured using a common methodology that's consistent with the theory of liability," he said.

Robbins Geller Rudman & Dowd LLP is lead counsel for the investors. Cravath Swaine & Moore LLP and Shipley Snell Montgomery LLP represents Anadarko and the executives.

The case is *In re Anadarko Petro. Corp. Sec. Litig.*, 2026 BL 79992, S.D. Tex., No. 4:20-cv-00576, 3/10/26 .

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Judge dismisses securities class action over Edison wildfire statements

DJ [dailyjournal.com/articles/390216-judge-dismisses-securities-class-action-over-edison-wildfire-statements](https://www.dailyjournal.com/articles/390216-judge-dismisses-securities-class-action-over-edison-wildfire-statements)

U.S. District Judge Otis D. Wright II has dismissed a putative securities class action against Edison International and its top executives, ruling that the company's optimistic portrayals of its Public Safety Power Shutoff (PSPS) program did not constitute verifiably false or misleading statements to shareholders prior to the destructive 2025 Eaton and Sylmar fires.

"As encouraging as the PSPS statements may have been, and as tragic as they may seem considering the devastating fires to come, they contain no verifiable measure by which a factfinder could determine their falsity," Wright wrote in the ruling filed Friday.

Edison is represented by Munger, Tolles & Olson LLP attorneys John M. Gildersleeve, John W. Spiegel and Lorraine L. Abdulahad in Los Angeles.

In a phone call Monday, David Eisenhauer, a spokesman for Edison, said, "We agree with the court's decision and remain committed to wildfire mitigation through grid hardening, situational awareness and enhanced operational practices."

Plaintiffs were represented by Evelyn S. Gonzalez, Kenneth P. Dolitsky, Kevin S. Sciarani, Matthew I. Alpert, Robert R. Henssler, Jr. and Spencer A. Burkholz of Robbins Geller Rudman & Dowd LLP in San Diego.

Counsel for the parties did not respond to phoned or emailed inquiries by press time on Monday.

The litigation was triggered by the catastrophic Eaton and Sylmar wildfires that erupted in early January 2025. On Jan. 7, 2025, investigators and surveillance footage identified sparks from Edison's overhead transmission lines in Eaton Canyon as the likely ignition source of the Eaton Fire, according to plaintiffs in multiple lawsuits. That blaze ultimately destroyed over 9,400 structures and claimed 17 lives, while a secondary fire in Sylmar damaged additional property. Following these events, Edison's share price plummeted by nearly 34%, dropping from a pre-fire high of \$77.38 to \$51.15 by early February. *Elliott v. Edison International et al.*, 2:25-cv-01383 (C.D. Cal., filed Feb. 19, 2025).

The lead plaintiffs, a group of Hawaii Sheet Metal Workers funds, filed a consolidated complaint in June 2025, alleging that Edison had artificially inflated its stock price through misleading claims. The crux of the lawsuit centered on Edison's Public Safety Power Shutoff (PSPS) program, which the company described as a "foundational strategy" for fire mitigation. Plaintiffs argued that Edison failed to disclose a critical study by the California Independent System Operator (CAISO), which found that five transmission lines--all in the Eaton Canyon and Sylmar regions--could not be safely shut off without risking massive grid overloads.

Furthermore, the lawsuit challenged Edison's public estimates that its mitigation efforts had reduced the probability of catastrophic wildfire losses by up to 85%. Plaintiffs alleged these figures were based on incomplete data provided to third-party analysts. This legal battle followed a period of heightened scrutiny for California utilities, which began seeking greater financial protections under the state's 2019 "Wildfire Bills" after Pacific Gas & Electric filed for bankruptcy due to previous fire liabilities.

#390216

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Securities

Cytokinetics Leaders Gained \$16 Million as Insiders, Suit Says

March 10, 2026, 2:40 PM PDT

Cytokinetics Inc. board members sold stock worth \$16 million while they kept the public in the dark about a deficiency in the biotech company's FDA application for a heart drug, an investor alleges.

The submission to the Food and Drug Administration was missing a necessary safety plan, delaying the agency's review of the treatment by three months, Lois Pohlmann says in her suit on behalf of the company. That in turn caused a pair of stock drops when revealed and harmed Cytokinetics, according to the complaint filed Monday in the US District Court for the Northern District of California.

The derivative suit against eleven current and former directors echoes allegations about the risk evaluation and strategy document for the company's Aficamten drug candidate in a proposed class action pending in the same district.

Pohlmann adds the insider trading allegations against six members of the board, including that CEO Robert Blum sold stock for \$11.1 million dollars in numerous transactions over the course of more than a year when the stock—according to the complaint—was artificially inflated. Pohlmann doesn't say whether those sales were made under a pre-approved plan.

Cytokinetics can't comment on ongoing litigation, the company said in an email Tuesday.

Pohlmann brings claims for proxy misstatements, breach of fiduciary duty, unjust enrichment, and waste of corporate assets, as well as for contribution in connection with the proposed class action. Her suit seeks money damages, an accounting of profits and other proceeds, and corporate governance reforms.

Rigrodsky Law PA and the Grabar Law Office represents Pohlmann.

The case is Pohlmann v. Blum , N.D. Cal., No. 4:26-cv-01998, complaint 3/9/26 .

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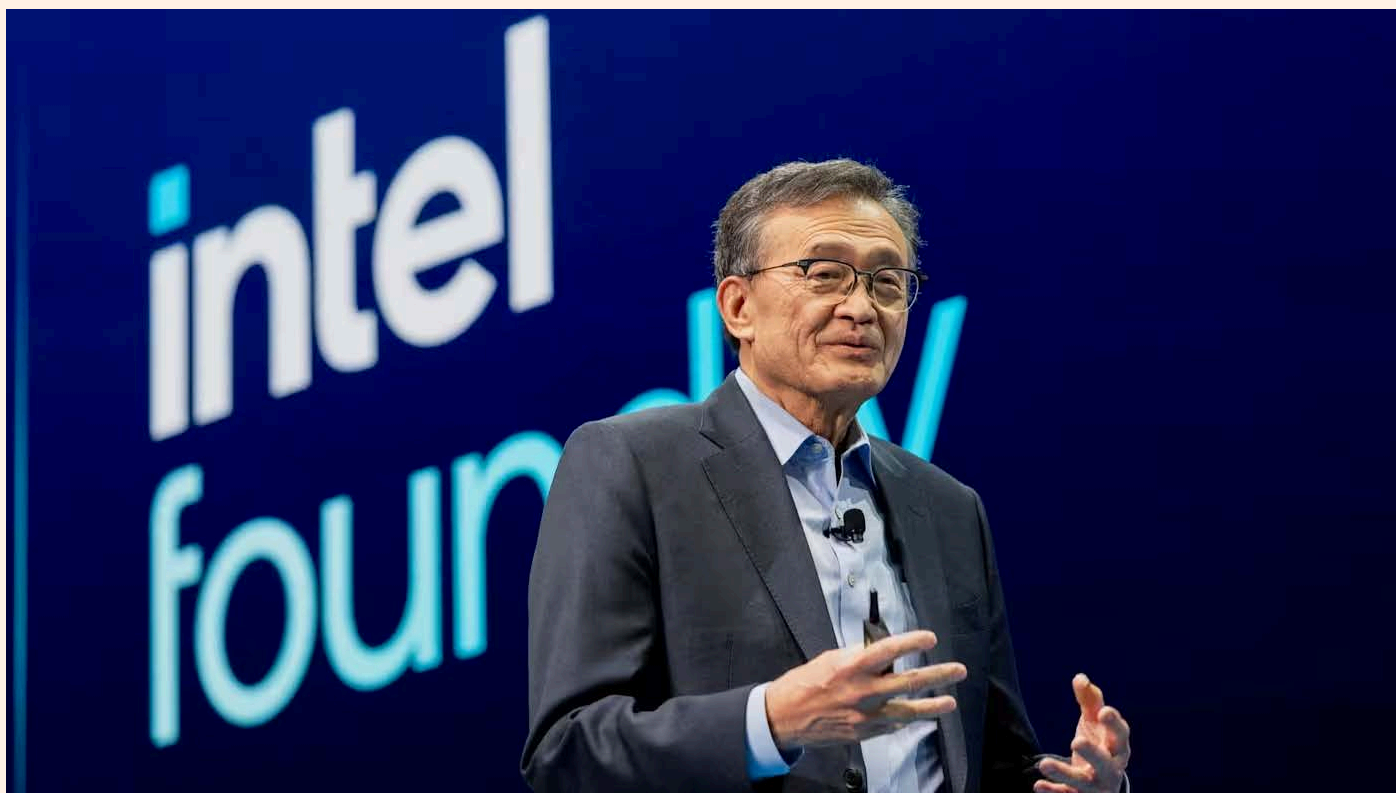
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FT PROFESSIONAL

Intel Corp

Intel shareholder claims board gave US an equity stake to avoid Trump's social media attacks

Lawsuit also criticised law firm Skadden for advising both Intel and the government



Intel CEO Lip-Bu Tan © Reuters

Sujeet Indap and **Michael Acton** in New York

Published AN HOUR AGO



Intel faces a shareholder lawsuit accusing the chipmaker's leadership of granting a 10 per cent stake to the US government because its chief executive and board members feared personal attacks from the Trump administration.

The lawsuit described the August 2025 transaction as an “unlawful contract that gives the [US government](#) \$11bn worth of Intel stock for no meaningful consideration in response to extortionary threats by the government”.

The lawsuit, which seeks to unwind the deal that gave the government a 10 per cent take in Intel, highlights the administration’s unprecedented efforts to inject the federal government into private enterprises in sectors it sees as critical to national interests.

The case filed in the Delaware Court of Chancery by a small individual shareholder, Richard Paisner, claims Intel’s CEO and board were cowed by the threat of US President Donald Trump’s attacks.

Intel’s leadership failed to do what was best for shareholders, the lawsuit claims, because they were more concerned with “protecting their personal reputations, being free from attacks by President Trump and his supporters on social media and elsewhere”.

In August, Trump abruptly called on [Intel](#) chief Lip-Bu Tan, who was born in Malaysia, to resign because he was “highly conflicted” amid questions from Republican lawmakers about his history as an investor in Chinese companies.

The attack prompted Tan to make a hasty visit to the White House, where Trump rowed back on his comments.

Shortly after, it was announced the US would take a direct ownership stake in Intel. The government’s equity was funded by converting \$2.2bn in grants under the Biden-era Chips Act, as well as \$8.9bn in federal grants that had been awarded but not yet paid.

The lawsuit alleges that the deal was struck “so that Tan could keep his job”.

The suit also takes aim at Intel’s lawyers on the deal, Skadden, claiming the firm “simultaneously represented the Department of Commerce as a result of a similar shakedown by the Administration”.

Skadden was among a group of top Wall Street law firms that in 2025 cut a deal to provide pro bono legal advice to the Trump administration in order to avoid being blacklisted by the federal government. Skadden is not named as a defendant in the Intel case.

The lawsuit also names the US Department of Commerce and secretary Howard Lutnick, who were involved in the deal, as well as Intel board chair Frank Yeary, who retired from the board earlier this month.

Shares of Intel have almost doubled since the [deal with the commerce department](#) was struck, giving the California-based company a market capitalisation of almost \$250bn.

Tan took over Intel in March 2025 after the company's board abruptly ousted his predecessor Pat Gelsinger four years into an ambitious plan to catch up to TSMC in advanced chip manufacturing and win outside customers.

Losses in this so-called foundry business mounted to \$13.4bn in the year before Gelsinger was forced out. Some analysts expected Tan to scale back the push to become a US national champion in advanced chipmaking or sell the foundry unit.

After taking the role, Tan paused several construction projects, including a major planned facility in Ohio. The Trump administration has pushed for more chipmaking in the US and opposed a sale of Intel's manufacturing business.

Intel declined to comment. The commerce department and Skadden did not immediately respond to requests for comment.

Additional reporting by Aime Williams

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Securities

Orthofix Must Defend Merger-Tied Investor Claims Over Misconduct

March 10, 2026, 11:56 AM PDT

Orthofix Medical Inc. and certain leadership must face investor claims that it failed to include misconduct-related settlement disclosures in paperwork for a 2023 merger with SeaSpine Holdings Corp.

The paperwork saying SeaSpine hadn't had a such a settlement in the past four years was "clearly a misrepresentation" because of a 2021 court-approved agreement to resolve female employees' class allegations, Judge Rodney Gilstrap said Monday. But the five other alleged categories of misstatements about leadership qualifications and corporate culture were immaterial puffery, the US District Court for the Eastern District of Texas judge said, mostly dismissing the investors' proposed class action.

The investors also failed to allege that a stock price decline following the announcement of three executives' terminations was tied to a revelation about that misrepresentation, Gilstrap said, falling short of a required pleading for securities fraud claims called loss causation.

Investors sued after the executives, who had come to Orthofix from SeaSpine, were fired in 2023, alleging the companies covered up a "good old boys' club" culture at SeaSpine that bled into Orthofix. Their alleged securities fraud class seeks to represent those who acquired Orthofix stock between Oct. 11, 2022 and Sept. 12, 2023. The investors brought non-fraud based claims on behalf of a proposed class of SeaSpine shareholders who acquired Orthofix stock in the merger.

The investors' statements and quoted analysts "clearly assert that the sudden departure" of these executives plus concerns about the future of Orthofix without them impacted the stock price, the judge said. The only disclosures ahead of the September 2023 stock slide about firings being "for cause" was that the board determined they'd each engaged in repeated conduct that violated corporate standards.

"These disclosures therefore do not even directly touch upon the material misstatement in the merger agreement regarding the" 2021 settlement of discrimination allegations, Gilstrap said. The judge didn't examine executives' intent or reckless disregard to deceive, another required pleading for securities fraud.

Gilstrap dismissed the investors' securities fraud and control person claims related to the 1934 Securities Exchange Act, but they can file an amended complaint to address their shortcoming on loss causation within 30 days of his order. He denied the investors leave to amend the allegations of misstatements he'd determined immaterial as a matter of law.

Allegations related to the sufficiently-pleaded material misrepresentation under the 1933 Securities Act survived, including control-person claims, against Orthofix, SeaSpine, and officers and directors of both companies who signed the merger documents.

Cohen Milstein Sellers & Toll PLLC is lead counsel for the proposed class. Sullivan & Cromwell LLP and McKool Smith PC represent Orthofix, SeaSpine, and certain of their officers and directors. Olshan Frome Wolosky LLP and Haltom & Doan represent the three fired Orthofix executives, CEO Keith Valentine, chief financial officer John Bostjancic, and chief legal officer Patrick Keran.

None of these law firms immediately responded to emails seeking comment. Orthofix declined to comment.

The case is *In re Orthofix Med. Inc. Sec. Litig.*, E.D. Tex., No. 2:24-cv-00690, 3/9/26 .

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Musk's attorney testifies at Twitter takeover trial

 [courthousenews.com/musks-attorney-testifies-at-twitter-takeover-trial](https://www.courthousenews.com/musks-attorney-testifies-at-twitter-takeover-trial)

Margaret Attridge

March 10, 2026

Attorney Aaron Arnzen of Bottini & Bottini questions Elon Musk during a trial over Musk's purchase of Twitter. (Photo by Vicki Behringer via Courthouse News)

SAN FRANCISCO (CN) — An attorney for Elon Musk took the stand Tuesday in a trial centered on Musk's \$44 billion buyout of Twitter in 2022.

Alex Spiro of Quinn Emanuel Urquhart & Sullivan told the eight-person [jury](#) about what happened at a May 6, 2022, meeting between Twitter executives and Musk's team, as well as conversations he had with Twitter attorney Martin Korman of Wilson Sonsini Goodrich & Rosati in September 2022 while Twitter was pursuing [litigation](#) against Musk to force the deal to go through.

During cross-examination by plaintiff attorneys representing investors suing Musk, Spiro said he did not tell Korman that Musk wanted to renegotiate the Twitter deal and drop the lawsuit, but stopped short of saying Korman had lied.

Korman [testified](#) Monday that Spiro told him in a phone conversation that it would be "in everyone's best interest" to settle the case and that if the deal was forced to go forward, Musk would have access to company records and "dig into whatever he wanted to dig into and that might not be comfortable for Twitter people and their heirs."

"I definitely said most of that statement," Spiro said, adding, "What I remember frankly was saying 'this would go on forever.' What I think happened is he is misremembering. I was talking about Musk's heirs; they would never let it go. Once you uncover fraud, there is no statute of limitations."

"There was a conversation, I don't remember the word heir. I remember the concept, forever and ever, they would never stop. If they keep going into this, he has their emails; they have a major, major problem because it will not go away. It will go on forever," he continued.

Investors, including lead plaintiffs Steve Garrett, Nancy Price, John Garrett and Brian Belgrave, sued Musk in 2022, [accusing](#) him of deliberately making misleading statements about the presence of spam bot accounts on Twitter to drive down the company's stock, in hopes of backing out of the acquisition deal or renegotiating more favorably for himself.

The statements at issue include a tweet from May 13, 2022, where Musk said the Twitter deal was on hold, "pending details supporting calculation that spam/fake accounts do indeed represent less than 5% of users." A couple hours later, Musk followed up with another tweet saying he was "still committed to acquisition."

U.S. District Judge Charles R. Breyer previously [denied](#) the plaintiffs' motion to disqualify Spiro as lead trial counsel based on the argument that Spiro was also a witness in the case. The defense moved Spiro to a non-jury facing role during the trial, though the plaintiffs never called him as a witness.

During the seventh day of trial, Breyer told the parties that Spiro's testimony would be limited to renegotiation discussions he had with Korman and the May 6, 2022, meeting. The judge denied the defense's request to have Spiro testify about other topics, including Musk's defense strategy in the lawsuit filed by Twitter.

"He is the most important witness in the case, no question," Breyer, a Bill Clinton appointee, said. "However, his client has asserted attorney-client privilege, so his most important testimony he can't testify to."

Kate Claassen, a managing director at Morgan Stanley, which advised Musk on the Twitter deal, also testified, telling the jury that she initially had no doubts over Twitter's estimates that false or spam accounts make up less than 5% of all accounts. However, she said she began to doubt the 5% bot claim after Musk could not get more information from Twitter about their user base and how they estimate spam accounts.

"Musk is buying a business and needs to have a financial model for this business. The number one driver of revenue is users. We needed to have models to go out for the debt committed to him to buy Twitter. We need to have information for the models so the day he takes the keys, he has payroll, he has bills to pay," she said.

When asked by defense attorney Stephen Broome of Quinn Emanuel Urquhart & Sullivan if Musk or his team ever indicated he was second-guessing the deal or making false or misleading statements to get out of the deal, Claassen said that he did not.

"If you thought Musk engaged in a fraudulent scheme, what would you do?" Broome followed up.

"I would call legal counsel," Claassen responded.

Representatives for both parties declined to comment. The trial scheduled to continue through March 16.

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Twitter's lawyers, not Musk, tried to renegotiate deal, Musk's lawyer testifies

DJ [dailyjournal.com/articles/390237-twitter-s-lawyers-not-musk-tried-to-renegotiate-deal-musk-s-lawyer-testifies](https://www.dailyjournal.com/articles/390237-twitter-s-lawyers-not-musk-tried-to-renegotiate-deal-musk-s-lawyer-testifies)

Alex Spiro

Ahead of trial in the securities lawsuit against Elon Musk over allegedly making false statements while acquiring Twitter in 2022, Senior U.S. District Judge Charles R. Breyer said the attorneys for both sides would need to "engage in some fiction" to prevent exploitation of attorney-client privilege.

Breyer's solution: The case should be presented to the jury as if lawyers were hardly involved in the deal.

By the time Musk's lawyer and confidant Alexander B. Spiro took the stand Tuesday, though, that pretense was gone.

The jurors had already heard from Twitter general counsel Vijaya Gadde, who testified on the first day of trial, as well as the lawyer who represented Twitter through the acquisition, Wilson Sonsini Goodrich & Rosati partner Martin W. Korman.

They had also heard an instruction from Breyer to disregard Musk's testimony that he decided to stop fighting Twitter's lawsuit to enforce the merger agreement because his lawyers said he should.

Now, Musk's team was calling Spiro, their own Quinn Emanuel Urquhart & Sullivan LLP colleague, who is named in court documents as part of the defense.

"I'm dying to know what you think of me," Musk's attorney Stephen A. Broome said to Spiro, now that he could question his colleague of roughly 10 years under oath. *Giuseppe Pampena v. Elon R. Musk*, 3:22-cv-05937 (N.D. Cal., filed Oct. 10, 2022).

Spiro testified for less than 15 minutes, providing his account of two central events in the case: a May 6, 2022, meeting that Musk points to as the start of his reservations about the deal and a phone call Korman testified about on Monday. Korman had said that call included threats from Musk's side to go after Twitter executives once he took over the company unless they lowered the merger price.

The plaintiffs allege Musk lied when he tweeted that the deal was off, citing concerns Twitter underestimated the number of fake accounts on the platform. The plaintiffs say this was a ploy to renegotiate the \$44 billion merger agreement he signed that April.

According to Spiro, it was Twitter's lawyers who called to renegotiate the price. Spiro said that Simpson Thacher & Bartlett LLP partner Alan Klein -- representing Twitter's board -- offered a 5% discount on the merger price to close the deal, but only if Musk agreed to "golden parachute" provisions for Twitter executives and waived his right to sue them.

What Korman interpreted as a threat, Spiro said, was just Musk's way of rejecting those terms.

"Depending on what [Musk] finds, he absolutely will pursue them," once he has access to company data and communications, Spiro paraphrased.

On cross-examination, plaintiffs' attorney Mark C. Molumphy of Cotchett, Pitre & McCarthy LLP asked Spiro if he'd told Twitter's lawyers it "might not be comfortable" for Twitter executives and their heirs once Musk takes over -- which was Korman's recollection of the call.

"I definitely said most of that sentence," Spiro testified, but Korman misinterpreted the "heirs" piece.

Spiro remembered saying that Musk's heirs wouldn't let go of what he saw as fraud committed by Twitter's executives. Should Musk take over, he and his successors would sue Twitter's executives over any misdeeds they uncovered "forever and ever and ever and a day," Spiro paraphrased.

Is it ever appropriate, Molumphy asked, to threaten another party's family? It isn't, Spiro responded, adding that he's never done so.

Both sides indicated they were done questioning Spiro, and he stepped down from the stand, walking past his colleagues at the defense table and out of the courtroom.

In September 2025, plaintiffs moved to disqualify Spiro from representing Musk in the case, since he was a key witness and they feared it would influence the jury if he served in both roles. They argued Spiro was the only person who could speak

to certain central events in the case, including a call he made to Musk following the Tesla CEO's May 13, 2022, social media post saying the deal was "temporarily on hold."

Breyer rejected the motion, saying Spiro's testimony would likely be limited by attorney-client privilege and that Musk's interest in having Spiro represent him outweighed any adverse effects of having him serve as both a witness and an attorney.

"It is unclear how much Plaintiffs can extract without running headfirst into the attorney-client privilege," Breyer wrote.

Despite the ruling, the defense agreed not to have Spiro serve in a jury-facing role during trial since plaintiffs indicated they planned to call him as a witness.

The plaintiffs changed their minds -- a move the defense described in a brief Tuesday as a deliberate effort to get a skilled trial lawyer like Spiro off the case -- and the defense decided to call him instead.

#390237

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Securities

Musk's Go-To Attorney Has Testimony Limited in Twitter Trial

March 10, 2026, 5:35 PM PDT

Elon Musk's top attorney, Alex Spiro, took the stand as a witness Tuesday for a few minutes, after Judge Charles R. Breyer significantly limited what Spiro could say to the jury in a trial over Musk's turbulent 2022 Twitter acquisition.

The celebrity lawyer of Quinn Emanuel Urquhart & Sullivan LLP has a long record of defending the billionaire tech mogul in cases around the country, including when Twitter sued Musk in Delaware to force him to follow through on his \$44 billion purchase agreement. Musk's statements during that period are under fire from investors who say they lost money because things Musk said on Twitter moved the stock price.

"There is no question he is the most important witness in this case," Breyer told attorneys for Musk and the investors while the jury was outside the courtroom. But Musk has asserted attorney-client privilege so Spiro's "most important testimony" can't be produced, Breyer said.

Attorneys for investors suing Musk fought for months to disqualify Spiro as Musk's attorney because they argued he was a key witness at the heart of the case who had first-hand knowledge of Musk's acquisition. Breyer, a trial judge for the US District Court for the Northern District of California, ultimately rejected their arguments and allowed Spiro to serve as both as Musk's attorney and a witness.

But the judge throughout the trial has expressed concerns about witnesses veering too far into testimony implicating attorney-client privilege, which he has ruled is off limits in the case.

All told, Spiro testified for about 15 minutes, recounting his conversations with Twitter lawyers about renegotiating the purchase price. Spiro said Twitter offered in September 2022 a 5% discount on Musk's original \$44 billion purchase price on the condition that Musk not pursue Twitter's executives for fraud connected to what Musk said were lies about the number of fake accounts on the platform.

That condition was a non-starter, Spiro said. "He absolutely will pursue them, he can pursue them forever," Spiro said.

Musk ultimately agreed to purchase the company at the original price of \$54.20 per share in October 2022.

The trial in San Francisco federal court will have an eight-person jury decide whether Musk defrauded Twitter investors by driving down the stock price to strike a better deal for his acquisition. Spiro still represents Musk in the case, but has stepped back from a jury-facing role because he would be called as a witness.

Musk, former chief executive officer Parag Agrawal, and former chief financial officer Ned Segal all testified last week.

The case is Pampena v. Musk, N.D. Cal., No. 3:22-cv-05937, 3/10/26 .

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Securities

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Squarespace Evades Shareholder Suit Seeking Merger Records

March 11, 2026, 7:08 AM PDT

Two Squarespace Inc. shareholders agreed to dismiss their suit alleging the website-building platform may have breached its fiduciary duty connected to a \$7.2 billion merger agreement with affiliates of Permira Advisers LLC.

Nathan Gross and Stephanie Smith dropped their “books and record” suit that demanded to see Squarespace documents they believed might corroborate their allegations of the potential breaches by the company’s board of directors or senior executives in connection with the buyout. The pair filed their voluntary dismissal without prejudice in the Delaware Chancery Court on Tuesday, giving them the option to refile at a later date.

The merger agreement appears “to have been orchestrated from start to finish” by Squarespace CEO Anthony Casalena, Gross and Smith alleged in their complaint

The plaintiffs alleged the process resulted in an initially insufficient purchase price of \$44 per share, later raised to \$46.50

Attorneys for both sides didn’t immediately respond to requests for comment

Bronstein, Gewirtz & Grossman LLC and Grant & Eisenhofer PC represent the shareholders. Skadden, Arps, Slate, Meagher & Flom LLP represents Squarespace.

The case is Gross v. Squarespace Inc. , Del. Ch., No. 2024-1005, notice 3/10/26 .

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Securities

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Delaware Justices Resist Expanding Insider Trading Liability (1)

March 11, 2026, 9:30 AM PDT; Updated: March 11, 2026, 10:49 AM PDT

Summary by Bloomberg AI

AI Generated



- The Delaware Supreme Court questioned an attorney's suggestion that Armistice Capital LLC owed a fiduciary duty to its shareholders due to its chief investment officer's appointment to Aytu BioPharma Inc.'s board.
- The attorney argued that Armistice had a duty to refrain from trading based on material non-public information, and sought to narrow the court's focus to situations where an investment fund's board appointee has discretionary decision-making authority.
- The court is considering whether to uphold a lower court's ruling that allowed Armistice to exit claims over its Aytu stock sales, with the investor arguing that overturning the ruling would prevent investment funds from giving their board appointees "the green light to trade based on material non-public information with impunity".

The Delaware Supreme Court balked Wednesday at the suggestion of expanding liability in derivative lawsuits alleging corporate insiders used confidential information for their own gain through trades of the company's stocks.

Three justices sharply questioned an attorney for an investor arguing Armistice Capital LLC owed a fiduciary duty to its shareholders because its appointment of its chief investment officer to the board of Aytu BioPharma Inc. created "a relationship of trust and confidence."

"Think of what you're saying means for the future," Chief Justice Collins J. Seitz Jr. told Andrew Robertson of Morris Kandinov LLP. "Anytime a company appoints someone to a board, they assume a fiduciary relationship—that's what you're saying."

The investor, Paul Witmer, is appealing a Delaware Chancery Court ruling that allowed Armistice to exit claims over its Aytu stock sales. Those March 2020 sales resulted in \$31 million in proceeds for the hedge fund, Robertson told the court.

The attorney sought to narrow the justices' focus to situations where an investment fund's board appointee "has discretionary decision-making authority with respect to that fund's investment in the company at issue."

It's a matter of first impression for the high court, but the justices can issue a narrow ruling based on the facts of Witmer's case, which argues Armistice had a duty to refrain from trading based on material non-public information, Robertson said.

Upending Liability

An attorney for Armistice, Julius Chen of Akin Gump Strauss Hauer & Feld LLP, said longstanding rules require investors to hold 50% ownership of a company or actual control before they're considered fiduciaries. The Chancery Court found Armistice's 41% stake and board representation at Aytu didn't make it a controller with fiduciary duties.

"We would be upending the idea that investors are not liable for the acts of their director designees" if the Chancery Court's ruling was overturned, he said.

The high court could establish a cautious, incremental rule that doesn't hold Armistice to all the fiduciary duties owed personally by the director it appointed, Robertson said.

A court could order an insider to return any profits made from trades involving confidential information. Witmer is asking to extend that remedy to Armistice "because it's the entity with the money," Robertson said.

"We're only asking for Armistice to be liable for its own conduct," he said. "The trades were made for Armistice's account using Armistice's money."

Affirming the lower court's ruling would increase the risk of investment funds giving their board appointees "the green light to trade based on material non-public information with impunity," he said.

"You're overstating the problem," Seitz replied. Focusing their attention on Robertson, the justices allowed Chen to speak uninterrupted by questions.

There's "no foothold in Delaware law for the idea that possessing confidential information alone creates fiduciary duties," Chen told the court.

Justices Karen L. Valihura and Gary F. Traynor joined Seitz in hearing oral arguments. A panel of three justices typically hears oral arguments, except in death penalty appeals or other cases where it determines en banc consideration is warranted.

Witmer is also represented by McCollom D'Emilio Smith Uebler LLC. Armistice is also represented by Potter Anderson & Corroon LLP.

The case is Witmer v. Armistice Cap. LLC, Del., No. 381,2025, oral argument 3/11/26 .

—With assistance from Bloomberg Law Automation.

(Updates throughout with new details from the hearing.)

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Securities

Manage Newsletters

Pioneer Beats Pension Fund's Bid for CEO Texts About Exxon Deal

March 11, 2026, 7:24 AM PDT

Summary by Bloomberg AI

AI Generated



- Pioneer Natural Resources Co. prevailed in court against a pension fund seeking text messages that may support claims its former chief executive cut secret side deals before its merger with ExxonMobil Corp.
- The lawsuit cited suspicions that the former CEO committed "fraud on the board" when he held secret talks with Exxon CEO Darren Woods via text and email, driven by a potential eight-figure bonus.
- Delaware's top legal tribunal ruled for the energy exploration company, citing prior decisions by Delaware's Chancery Court that the pension fund hadn't shown the texts contained relevant evidence.

Pioneer Natural Resources Co. prevailed in court Wednesday against a pension fund seeking text messages that may or may not support claims its former chief executive cut secret side deals before its \$60 billion merger with ExxonMobil Corp.

Delaware's top legal tribunal ruled for the energy exploration company in a brief ruling that cited prior decisions by Delaware's Chancery Court. The earlier rulings said the pension fund hadn't shown that texts between then-CEO Scott Sheffield and his counterpart, Exxon CEO Darren Woods, contained relevant evidence after Pioneer disclosed hundreds of pages of corporate files.

The lawsuit, filed in 2024, cited suspicions that Sheffield—driven by a potential eight-figure bonus—committed "fraud on the board" when he effectively held his own secret talks with Woods via text and email. Requiring more detailed allegations would create a Catch-22, given that the fund hadn't actually seen the communications, its lawyers argued.

Hanging over the litigation was last year's overhaul of Delaware corporate law, which included provisions restricting preliminary access to the texts and emails of company insiders. Those changes could effectively steer many shareholder investigations into a dead end.

Those new standards aren't supposed to apply to ongoing cases such as the Pioneer dispute. The company, however, sought to keep them top-of-mind, saying in one of its filings that the hunt for a "smoking gun" reflected "protracted books-and-records litigation of the type that the General Assembly had in mind."

The pension fund is represented by Grant & Eisenhofer PA. Pioneer is represented by Morris, Nichols, Arsht & Tunnell LLP and Davis Polk & Wardwell LLP.

The case is Op. Eng. Constr. Indus. & Misc. Pension Fund v. Pioneer Nat. Res. Co. , Del., No. 368, 2025, 3/11/26 .

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Securities

Insight

Exxon Planned Texas Move Shows Delaware No Longer Corporate King

March 10, 2026, 9:16 AM PDT

New Jersey-based Exxon Mobil Corp.'s proposed plan to reincorporate in Texas, announced Tuesday, is an inflection point in the state's bid to dethrone Delaware as the nation's hub for corporate registrations.

Texas' comprehensive overhaul of its corporate laws pulled the company to the Lone Star State. Unlike high-profile movers such as Tesla Inc. and Zynga Inc., Exxon wasn't driven out of its home state by a protracted legal battle or another push factor.

The outcome of Exxon's shareholder vote on the reincorporation proposal will send an important signal to other non-controlled public companies considering whether to take advantage of Texas' business-friendly legal environment.

Prior to Exxon's announcement, several public companies switched their legal residency to Texas or announced plans to do so. But previous corporate moves typically involved companies controlled by a few shareholders or other unique factors that prevented them from becoming case studies for a broader swath of large public companies.

By contrast, Exxon is asking its institutional and retail shareholders to approve the move at the company's May 27 annual stockholder meeting. The opportunity for retail shareholders, large asset managers, and proxy advisers to weigh in on the company's proposal distinguishes Exxon's redomicile from the moves of other public companies such as Dillard's Inc. and Coinbase Global Inc., which needed only the blessing of a small handful of controlling shareholders to reincorporate in Texas.

Like Exxon, Tesla needed approval from both institutional and retail shareholders to redomicile—the Musk family reportedly owns just 13% of the company. But Tesla's move was driven by a legal dumpster fire that Delaware ignited when its courts invalidated Elon Musk's pay package despite the hundreds of billions of dollars of shareholder value that he created. (The pay package was later reinstated.)

Delaware's legal actions over Musk's compensation were widely credited with kick-starting the "DExit" movement. They also made it hard to envision a long-term path forward for Tesla in Delaware.

Investors viewed Musk as critical to the company's success. If the Delaware courts were going to second guess their judgment, the company would have to find another home. The nail in the coffin came when the trial lawyers that upended Musk's pay package demanded \$5.6 billion in legal fees.

Exxon's move represents a more widely applicable blueprint for other big public companies considering a new domicile. The company had no active disputes with New Jersey courts. Alignment between Exxon's business operations and Texas' hospitable legal ecosystem drove the decision-making. The company's proposal for shareholder approval cites the recent amendments to the state's corporations law and its establishment of specialized business courts among other pull factors.

If shareholders ratify Exxon's move, it will represent a major vote of confidence in these business law reforms. Texas recently codified the business judgment rule, creating a legal presumption that directors and officers acted in good faith and on an informed basis when making business decisions. This contrasts with Delaware, where judges have ample discretion in their application of the business judgment principle.

Exxon's decision also validates the early rulings of the Texas Business Court, which the state legislature established in 2024 to challenge the Delaware Chancery Court's long-held dominance as the forum of choice by offering businesses a venue for informed and expedient resolution of commercial litigation. A year after creating these courts, the legislature expanded their jurisdiction. Exxon cites the new business court system as a key part of the "legal construct" that Texas has built to protect shareholder value.

Critics have claimed the Lone Star State's corporate law reforms erode shareholder rights. But the Exxon announcement shows why major US corporations don't have to worry about rocking the boat with shareholders under the new provision of Texas law permitting companies domiciled in the state to increase the ownership threshold required to file shareholder proposals and derivative lawsuits to 3% of the voting shares.

These rules simply present options. Companies are permitted but not required to change ownership thresholds up to the statutory limit. The guiding principle behind the state's corporate governance policy is that management and shareholders can be trusted to agree on what's best for their businesses.

The range of company responses to Texas' new shareholder rules shows how the system is working. After it was reincorporated in Texas, Tesla proposed amendments to its bylaws to establish a 3% ownership threshold to file derivative lawsuits. The move followed the epic battle in Delaware over Musk's pay package, which was initiated by a shareholder owning just nine Tesla shares.

Given that experience, it's not hard to see why Tesla's board and its shareholders saw value in protecting the company against similar suits in the future. Dillard's also elected to adopt ownership requirements for shareholder proposals and the increased derivative lawsuit ownership threshold.

Exxon's decision to move to Texas isn't a response to a shareholder action that's caused it to look for a new venue where it can avoid similar disputes in the future. And it isn't proposing any of the shareholder threshold changes allowed under Texas law.

To the contrary, Exxon is staying “as is”—but under Texas’ more predictable, statutory-based legal system, which doesn’t impose a one-size-fits all system for businesses.

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

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Write for Us: Author Guidelines

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Class Action

Manage Newsletters

3M Beats Challenge to 401(k) Plan's Target-Date Funds, for Now

March 11, 2026, 9:54 AM PDT

Summary by Bloomberg AI

AI Generated



- A Minnesota federal judge dismissed a case from former 3M Co. employees challenging the target-date funds in their 401(k) plans, saying they didn't include proper comparisons in their complaint.
- The employees said the 3M funds performed poorly compared to the S&P Target Date Indices and target-date funds from companies including Fidelity, Vanguard, and T. Rowe Price, but they didn't sufficiently explain why these are "meaningful benchmarks".
- The judge set a March 31 deadline for the workers to try again in an amended complaint, saying they came closer to identifying a meaningful benchmark with their comparisons to other target-date fund series, but didn't include enough details.

Former 3M Co. employees challenging the target-date funds in their 401(k) plans didn't include proper comparisons in their complaint, a Minnesota federal judge said, dismissing their case but allowing them to try again.

The employees said the 3M funds performed poorly compared to the S&P Target Date Indices and target-date funds from companies including Fidelity, Vanguard, and T. Rowe Price, but they didn't sufficiently explain why these are "meaningful benchmarks," Judge Eric C. Tostrud said. This is fatal to their fiduciary breach claims under the Employee Retirement Income Security Act, Tostrud said, but he set a March 31 deadline for the workers to try again in an amended complaint.

Tostrud's decision invoked the "meaningful benchmark" standard, which has been used to varying degrees by the Sixth, Seventh, Eighth, Ninth, and Tenth circuits to assess whether workers alleging fiduciary imprudence in their 401(k) plans have identified a better alternative that's sufficiently similar to the fund or fee structure being challenged. The US Supreme Court recently agreed to hear a case that will give it the opportunity to flesh out the contours of the standard or reject it altogether.

Details Needed

The proposed class action says 3M, the Minnesota-based conglomerate that makes Post-it notes and Scotch tape, tapped a suite of actively managed target-date funds to be the default investment in a pair of retirement plans covering more than 58,000 people. Workers say these funds, which pay investment management fees to an internal 3M investment adviser, "paled in comparison" to similar alternatives and should have been removed from the plans.

The 3M workers defended their comparisons to the S&P indices by pointing out they're the primary benchmark for about half of all target-date funds. But this isn't enough to show that they're a meaningful benchmark for the funds challenged in this lawsuit, Tostrud said, citing court rulings rejecting similar comparisons in cases against Genentech Inc. and Capital One Financial Corp.

The workers came closer to identifying a meaningful benchmark with their comparisons to other target-date fund series, but they didn't include enough details in their complaint to make their case, Tostrud said. Allegations that the funds "share the same 'risk ratio'" suggest they have similar asset allocations, which would "go a long way" toward showing they're a meaningful benchmark if true, he said.

Tostrud added that the amount by which the 3M funds underperformed these other target-date funds would be sufficient to state a viable ERISA claim if the workers can show in their amended complaint that the comparison is meaningful.

Lockridge Grindal Nauen PLLP and Kahn Swick & Foti LLC represent the workers. Thompson Hine LLP represents 3M.

The case is *Batt v. 3M Co.*, 2026 BL 79881, D. Minn., No. 0:25-cv-03149, 3/10/26.

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Securities

Deep Dive

Cushman & Wakefield Suit Over 401(k) Climate Risks Draws Doubts

March 11, 2026, 2:10 AM PDT

A novel lawsuit alleging Cushman & Wakefield US Inc.'s retirement plan illegally ignored climate-related factors is drawing skepticism about 401(k) holders' ability to show harm and prove funds underperformed.

Former employee Renee Kvek claimed in a proposed class action that the commercial real estate firm's 401(k) plan was mismanaged because it included the Westwood Quality Small Cap Fund, which is "willfully blind to climate-related financial risks."

Attorneys specializing in the Employee Retirement Income Security Act and environmental, social, and governance issues said though the lawsuit appears to be the first of its kind, it's unlikely to spur a new breed of climate-based ERISA litigation.

"Once you get past the broad statements in the complaint and more into the substantive allegations, what this really seems to boil down to is your run-of-the-mill ERISA case where they're complaining about underperformance and excessive fees," said Amy Roy, a partner at Ropes & Gray LLP.

The lawsuit is the latest wrinkle in an evolving legal and regulatory landscape for employers around the role of ESG in retirement plans.

Plan sponsors are waiting on President Donald Trump's Labor Department to rewrite a Biden administration rule that allowed plans to consider ESG factors as tiebreakers when choosing between investment options.

Kimberly Blake, an attorney at ClientEarth USA, one of the groups representing the plaintiffs, said in a statement climate risk is an economic issue and that one "cannot claim to be a prudent fiduciary while ignoring the biggest systemic threat to the global economy."

Kvek alleged in her March 3 complaint, filed in the US District Court for the Western District of Washington, that the company "exposed employee retirement savings to significant, unreasonable climate-related financial risk—apparently failing to employ any climate risk management strategy at all."

Potential Roadblocks

The challenge of proving Article III standing to sue Cushman & Wakefield could sink the suit before the merits stage.

Kent Mason, a partner at Davis & Harman LLP who represents retirement plan fiduciaries, said the complaint fell short of showing plan participants were harmed. It does not support the claim that the plan managers did not take climate risks into account, nor does it prove that alleged failure led to lower returns, he said.

The suit would need to either show there has been harm to the plan, or the likelihood of imminent harm because climate risk caused foreseeable losses for investments in the fund, Mason said.

The fund's prospectus and statement of additional information do not contain references to ignoring climate risk or other investment-related risks, according to Roy.

She said plaintiffs would likely need to establish that if the fund had adequately assessed climate risk, it would have performed better. That will be difficult to show, Roy said, but "courts give a fair amount of leeway at the early pleading stages."

The complaint did not include future projections of how climate might affect the performance of the fund. Some studies have found climate poses long-term risks for retirement investments, though shifts to climate-friendly investments have also not been risk-free.

There's also uncertainty over whether the complaint includes a "meaningful benchmark" for the claims of underperformance, as courts have required under ERISA.

The lawsuit compares the performance of the Westwood Quality Small Cap Fund to that of the Russell 3000 Index. But the former is an actively managed fund, while the latter is an index fund, making it a potentially difficult comparison.

"Had the Westwood Fund's peers likewise also outperformed or charged lower fees than the Westwood Fund, I assume the plaintiffs would have included that peer set in their allegations," Roy said.

Federal appeals courts, including the Ninth Circuit that covers Washington, require a comparator that's sufficiently similar to the fund or fee structure being challenged in order to show an investment was imprudent and violated a plan sponsor's fiduciary duties.

The US solicitor general recently warned that meaningful benchmarks under ERISA should not be based on conclusory comparisons to market index composites.

The US Supreme Court will hear a case this fall from Intel Corp. workers that also deals with the standard's application.

Cushman's Approach

A Cushman & Wakefield spokesperson in an emailed statement called the climate lawsuit a "variation on widely asserted legal theories."

"We have thoughtful processes in place that are designed to give our plan participants a variety of prudent investment options," the statement said.

The complaint details extensively how Cushman & Wakefield has for years shown its awareness of the threat climate risks pose to its commercial real estate operations.

The company was likely targeted with a lawsuit because of the nature its business, benefits attorneys said. Contrasting Cushman's business approach to climate risks with the investment fund's alleged approach is a strategy to bolster imprudence arguments, they said.

"They have great rhetoric on this comparison of how much Cushman & Wakefield took into account climate risk and how much the fund may have, but they have no evidence," Mason said.

ESG-related retirement investment suits have largely targeted public pensions outside the ERISA framework.

In one other private-sector case, a Texas federal court ruled that American Airlines Inc. violated its fiduciary duty of loyalty by failing to rid its retirement plan of ESG goals. The judge in that case did not award monetary damages, as he failed to find evidence of financial loss to the plan.

The shifting legal and regulatory environment has put a spotlight on fiduciaries as they seek to navigate the uncertain landscape, said Christopher Rillo, a partner at Baker Botts LLP.

"Generally speaking, fiduciaries aren't supposed to use nonmonetary axioms in making their investments," Rillo said. "That's why ESG investing has been under attack. You're supposed to look and see what the rate of return is for shareholders and make your investments based on maximizing value for the plan assets."

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

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Defense expert says plaintiff used social media as coping tool

DJ [dailyjournal.com/articles/390234-defense-expert-says-plaintiff-used-social-media-as-coping-tool](https://www.dailyjournal.com/articles/390234-defense-expert-says-plaintiff-used-social-media-as-coping-tool)

A psychiatric expert hired by Meta and Google testified Tuesday that the plaintiff in the first bellwether social media addiction trial used Instagram and YouTube as a coping mechanism rather than developing an addiction and likely would have gone through the same mental health struggles without the platforms.

However, the doctor's testimony and credibility were sharply challenged by the plaintiff's attorney, who questioned her qualifications to offer addiction opinions, highlighted her \$1,000 an hour consulting rate and pressed her on whether she had selectively interpreted the plaintiff's statements during her evaluation.

The testimony came as jurors in the coordinated litigation approach the final phase of the bellwether trial before Los Angeles County Superior Court Judge Carolyn B. Kuhl. With only a handful of witnesses remaining, closing arguments could begin in a few days.

Represented by Lanier Law Firm founder Mark Lanier, Kaley G.M., who is now 20, claims Meta and Google designed their social media apps in ways that addicted her as a minor, disrupted her development and caused her diagnosed mental health disorders. *Social Media Cases*, JCCP5255 (L.A. Super. Ct., filed Oct. 24, 2022).

Kaley claims the problems began when she started using social media at 6.

The defendant companies claim her mental health problems stem from preexisting stressors, including family trauma.

Under direct examination by Covington & Burling LLP partner Phyllis A. Jones for Meta, Dr. Sonia Krishna, a child and adolescent psychiatrist, told jurors she reviewed Kaley's medical, therapy and school records. She testified that Kaley's diagnoses - including social anxiety, ADHD and depression - are better explained by genetic risk factors and traumatic life experiences than by Instagram or YouTube use.

Jones said she met with Kaley and conducted the evaluation last year.

"The fact that a 3- to 4-year-old had to go to therapy means that there was something going on," Krishna said. The testimony was in reference to the claim that Kaley was exposed to domestic violence and abandonment by her father at 3.

"Her parents took her to therapy 40 different times at such a young age," the doctor continued. "The fact that it actually continued for so long and it was something that they brought up repeatedly years later when she was receiving mental health care is significant to me."

Krishna backed her testimony by recalling Kaley's records. She said the documents showed multiple risk factors, including a family history of psychiatric illness, years of bullying and untreated ADHD and learning disabilities during childhood. She said social media appeared to serve as a coping tool for the then-teen rather than the source of her diagnoses.

"I definitely acknowledge and talked to her about the fact that she uses social media, and I do believe that she's had heavy use at times. But the way she was describing it ... it was used mostly as a coping skill," Krishna said. She noted that Kaley appeared to turn to the platforms as a way to deal with difficulties she faced with her mother at home and peers at school.

"I don't think she meets criteria for any version of social media addiction."

Lanier, who conducted the cross-examination, appeared under the weather, telling the judge in a soft rasp that his voice had "left" him the night before but that he planned to continue questioning witnesses.

Since early February, Lanier has led the plaintiff's counsel through opening statements and four weeks of evidence presentation, which concluded last Friday.

"I've got a little something going on down here," Lanier told Krishna while rubbing his neck. "But I've got the same heart and questions."

Lanier then turned to Krishna's qualifications and the basis for her opinions, pressing the doctor on whether she had specialized expertise in addiction. He walked jurors through her curriculum vitae and publications, noting that while she had written on topics involving advertising and youth, none of her listed work focused specifically on addiction.

Lanier also questioned Krishna about the circumstances of her evaluation, noting she was hired by the defense after litigation began and conducted the assessment virtually from Texas. Lanier pointed out several times that Krishna does not

maintain a traditional office.

She responded that she works in a "very legal" home office and has been seeing patients that way since the COVID-19 pandemic.

Lanier further highlighted Krishna's consulting compensation, asking about her \$1,000 an hour rate for testimony and preparation. Lanier compared that figure to the compensation paid to the plaintiff's psychiatric expert, who testified earlier in the trial that certain social media features encouraged continued use of the platforms.

Lanier also suggested Krishna's questioning during the evaluation may have guided Kaley toward describing social media as a coping mechanism rather than a harmful influence.

Krishna rejected that characterization, maintaining that her conclusions were based on a review of extensive medical and school records along with her interview.

In response to questioning about how she interpreted Kaley's statements about her online behavior - and whether the plaintiff's repeated return to social media despite negative experiences could still reflect problematic use - Krishna reiterated that, in her view, the evidence did not support a social media addiction diagnosis.

#390234

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News | **Mass Torts**

Critical Mass With Law.com's Amanda Bronstad: Two Talc Trials Take Off Against Johnson & Johnson, Abbott Faces Another Trial Over Preterm Infant Formula

Two mesothelioma trials, one in Washington and one in Florida, kick off against Johnson & Johnson. A high-stakes trial tees off involving four premature babies who developed a gastrointestinal illness after ingesting Abbott's formula. Find out who was appointed to lead lawsuits alleging Ozempic and other diet drugs caused blindness.

March 11, 2026 at 10:48 AM By  **Amanda Bronstad**



William "Bill" Oxley of Kirkland & Ellis. Courtesy photo

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

This week: Two mesothelioma trials, one in Washington and one in Florida, kick off against **Johnson & Johnson**. A high-stakes trial tees off involving four premature babies who developed a gastrointestinal illness after ingesting **Abbott's** formula. Find out who was appointed to lead lawsuits alleging **Ozempic** and other diet drugs caused blindness.

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](#).



Jessica Dean of Dean Omar Branham Shirley. Courtesy photo

Talc Trial Opens With Mistrial Motion: 'That's Totally Inappropriate'

Two **talcum powder** trials are [taking off this month](#) against **Johnson & Johnson**—one in Washington's **Spokane County Superior Court**, and the other in Florida's **17th Judicial Circuit Court** in Broward County.

Dean Omar, which has won verdicts ranging from \$8 million to \$1.5 billion, is handling both trials, brought on behalf of individuals with mesothelioma.

In Florida: Jury selection has begun in a case brought by plaintiff Mary Martinez, 41, who alleges she developed mesothelioma in 2022 after being exposed to Johnson & Johnson's baby powder at her mother's daycare. [Will Stute](#) (**King & Spalding**) represents Johnson & Johnson.

In Washington: Bethany Richards is suing on behalf of her mother, Verna Richards, who died in 2018 from mesothelioma. [Jessica Dean](#) (**Dean Omar**), in her opening statement on Monday, told jurors about the **U.S. Food and Drug Administration's** [advisory panel](#) last year in which experts discussed the dangers of talcum powder, according to Courtroom View Network's livestream of the trial.

[Bill Oxley](#) (**Kirkland & Ellis**), for Johnson & Johnson, told the jury there was no asbestos in baby powder. During a lunch break, he argued for a mistrial based on Dean's remarks during opening statement referring to other lawsuits and the "national mess" created by Johnson & Johnson.

"Their claims have no validity," Dean argued. "If there are concerns, J&J needs to speak and not try to do do-overs."

Oxley referenced another remark that Dean's client decided to file a lawsuit after meeting with a friend whose mother developed mesothelioma from Johnson & Johnson's baby powder.

"That's totally inappropriate," he argued.

Spokane County Superior Court Judge Marla Polin denied the motion, saying the lawyers' remarks were not evidence.



Hariklia Karis, with Kirkland & Ellis, in Washington, D.C., on October 18, 2021. Photo: Diego M. Radzinski/ALM

Mead Johnson Formula Trial Set for July 6

A four-person trial was [set to begin this week](#) in Chicago's **Cook County Circuit Court** alleging **Abbott's** cow's milk-based infant formula caused premature babies to get necrotizing enterocolitis, or NEC, a life-threatening gastrointestinal illness.

Abbott lost a 2024 verdict for \$495 million in Missouri's **22nd Judicial Circuit Court** in St. Louis, where it later won a defense verdict along with another formula manufacturer, **Mead Johnson**, but a judge overturned the award. Mead Johnson, meanwhile, lost a \$60 million verdict in 2024 in **St. Clair County Circuit Court** in Illinois.

In this month's trial, [Ben Whiting](#) (**Keller Postman**) is taking on defense counsel [Hariklia "Carrie" Karis](#) (**Kirkland & Ellis**) and [Matt Saxon](#) (**Winston & Strawn**).

Meanwhile, in the related MDL: U.S. Chief District Judge **Rebecca Pallmeyer**, in the **Northern District of Illinois**, has scheduled bellwether trials this year, the first of which is July 6 against Mead Johnson. She tossed the first three bellwether cases on summary judgment based in large part because no alternative products were available.

The judge also scheduled a second wave of three bellwether trials against Abbott, the first of which is Aug. 3.



Who Got the Work?

U.S. District Judge Karen Marston appointed 16 lawyers to the leadership team in the multidistrict litigation alleging **Ozempic** and related diet drugs [causes blindness](#). Marston, of the **Eastern District of Pennsylvania**, on Feb. 23, appointed three lead counsel: [Parvin Aminolroaya](#) (**Seeger Weiss**), [Jonathan Orent](#) (**Motley Rice**) and [Sarah Ruane](#) (**Wagstaff & Cartmell**). The plaintiffs' executive committee members are: [Jason Goldstein](#) (**Parker Waichman**), [Bradley Honnold](#) (**Goza & Honnold**), [Keith Verrier](#) (**Levin Sedran**), [Max Kelly](#) (**Seeger Weiss**), [Grace Chandler](#) (**Motley Rice**), [Ryan Duplechin](#) (**Beasley Allen**), [W. Cameron Stephenson](#) (**Levin Papantonio**), [Hannah Pfeifler](#) (**Aylstock Witkin**), [Sara Schramm](#) (**Hammers Law Firm**), [Craig Silverman](#) (**Sullivan Papain**) and [Evan Buxner](#) (**The Gori Law Firm**). Liaison counsel are [Roberta Liebenberg](#) (**Fine Kaplan**) and [Nina Spizer](#) (**Dilworth Paxson**). Marston is also overseeing the multidistrict litigation alleging Ozempic causes stomach paralysis and other gastrointestinal problems.

Here's what else is happening:

Baby Bust: A federal judge [tossed seven of the eight plaintiffs' experts](#) who planned to testify that toxic metals in **baby food**—specifically, lead and arsenic—causes **autism** and **ADHD**. **U.S. District Judge Jacqueline Scott Corley**, overseeing 400 personal injury cases in the **Northern District of California**, found their opinions and reports were “built upon a series of extrapolations from studies that do not look specifically at consumption of baby food.” She set an April 2 hearing on “next steps” in the litigation.

Paraquat Preemption: **Syngenta** and **Chevron**, which are negotiating a global **paraquat** settlement, have filed a new [motion to preempt claims](#) that they failed to warn of the pesticide's link to Parkinson's disease. They cited the **U.S. Supreme Court's** review of a similar preemption defense in a case over **Monsanto's Roundup**. On Friday, **U.S. District Judge Nancy Rosenstengel**, of the **Southern District of Illinois**, who is overseeing the paraquat multidistrict litigation, ordered the defendant companies to supplement their briefs following the Supreme Court's decision.

Griffin Pleads: Ex-**Girardi Keese** partner **Keith Griffin** [pleaded guilty](#) on March 5 to violating a court order to pay **Boeing** settlement funds to the families of victims of Lion Air Flight 610, which crashed in 2018 in Indonesia. Griffin, 54, who worked at Girardi Keese until the firm's collapse in 2020 amid accusations that founder **Tom Girardi** had been running a multimillion-dollar Ponzi scheme out of his law office, faces up to four months in federal prison. He is set to be sentenced on Aug. 6.

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

California Brief

Insight

Talc Multidistrict Litigation Tests Judges' Gatekeeping Role

March 11, 2026, 1:30 AM PDT

The ongoing multidistrict litigation involving talc—the largest mass tort in the US—presents a critical test of whether the federal judiciary is meaningfully absorbing an amendment to Federal Rule of Evidence 702.

Rule 702 was amended in December 2023 by the Judicial Conference Advisory Committee on Evidence Rules to reinforce a principle that should have been clear for decades: Trial judges are gatekeepers who are required to determine, under Rule 104(a), that expert testimony satisfies every admissibility requirement by a preponderance of the evidence.

The amendment didn't change Rule 702's substance. It sought to correct persistent misapplications, including the tendency of some courts to treat reliability disputes as matters of "weight" for the jury rather than thresholds for admissibility that are determined by the judge.

In January, a Special Master appointed by the US District Court for the District of New Jersey issued a lengthy report and recommendation on general-causation expert testimony regarding whether perineal use of talcum powder can cause ovarian cancer.

The Special Master's report recites Rule 702's amended language and invokes the preponderance standard. Yet its analysis raises a familiar concern: Are courts still too quick to resolve challenges to dubious methodology by simply admitting the testimony and leaving it to the jury to sort out?

The central issue in the talc litigation is whether the plaintiff's claim of causation is based on sufficient facts and data, and whether the plaintiffs' experts conclusion regarding causation reflects a reliable application of the principles and methodology they are using.

The plaintiffs cite evidence of some epidemiologic association between talc and ovarian cancer, but defendants argue that the epidemiologic record is modest, contested, and subject to multiple sources of bias. Moreover, evidence on issues such as dose-response and exposure quantification remains limited, and is insufficient to reliably support the allegation that defendants' product is responsible for the plaintiffs' injuries.

Instead of requiring the plaintiffs' experts justify their methodological choices and explain how they reliably filled in the gaps in the data, the report excused their testimony's infirmities. The report concluded that under a "weight-of-the-evidence" approach, the testimony as a whole was sufficiently reliable to be admissible.

Rule 702 requires more than a demonstration that an expert has invoked a recognized methodology such as the Bradford Hill criteria. Instead, the court must determine that the methodology has been applied reliably to the facts of the case and that the resulting opinion doesn't outrun its evidentiary foundation.

When a methodology places substantial emphasis on factors such as strength, consistency, and dose response, a court must decide whether the available evidence is sufficient—by a preponderance—to support the expert's causal conclusion. That determination belongs to the judge under Rule 104(a), and only goes to the jury through if the judge has determined that it passes the rigorous test enunciated in Rule 702.

Similar concerns arise about testimony on biological plausibility. No study has shown that externally applied talc migrates through the reproductive tract. Yet plaintiffs are permitted to rely on analogies, animal studies with inconsistent findings, and laboratory conditions that don't reflect consumer use.

The report concludes that plaintiffs' experts rely on a broader body of literature supporting plausibility and therefore may present that theory. But plausibility alone isn't causation.

Rule 702 requires a reliable bridge between mechanistic hypotheses, real-world exposure, and disease risk. Where that bridge depends on contested inferences about exposure levels, particle movement, and carcinogenic effect, the court must decide whether the chain of reasoning satisfies the rule's reliability requirements or instead rests on gaps that should preclude the ultimate opinion.

By accepting possibility as equivalent to plausibility—and plausibility as sufficient for admissibility—the report lowers the evidentiary bar and opens the door to speculative theories. Rule 702 requires that expert opinions be tethered to evidence, not mere hypotheses.

More fundamentally, the ruling risks abdicating the judicial gatekeeping function in favor of jury determination.

Instead of assessing whether expert testimony is based on reliable methods and application—a core responsibility under Rule 702—the report routinely treats methodological deficiencies (such as inconsistent epidemiology, recall bias, and speculative biological mechanisms) as issues of "weight" for the jury.

That approach surrenders the court's role in filtering out unreliable science, exposing jurors (who lack specialized training) to disputes they are ill-equipped to resolve without a preliminary ruling by a judge that the underlying science is sound.

These concerns aren't abstract, and the implications of the District of New Jersey's pending ruling based on the report extend far beyond this case. By treating methodological reliability as a jury question and allowing experts to bypass meaningful judicial scrutiny, the ruling could turn federal courts into arenas for narrative persuasion rather than scientific adjudication.

If accepted by District Court, the report will erode the foundational safeguards that Rule 702 was designed to strengthen.

None of this means courts must demand scientific unanimity or resolve every genuine dispute among qualified experts. But the amended Rule 702 underscores that admissibility isn't a default position. The party proffering expert testimony bears the burden of proving, by a preponderance of the evidence, that each element of the rule is met.

When judges recite Rule 702 faithfully but resolve substantial question of data sufficiency and methodological reliability by surrendering the issues to the jury, they risk turning the rule into a formality rather than a gatekeeping standard. The 2023 amendment was meant to prevent exactly that outcome.

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Some emails from talc expert accused of fraud gone forever | Federal Courts

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John O'Brien, John O'Brien

March 11, 2026

Johnson & Johnson Baby Powder no longer contains talc powder.
Austin Kirk, Public domain, via Wikimedia Commons

NEWPORT NEWS, Va. – A researcher accused of peddling “junk science” in court now faces a light penalty for deleting emails that the company suing him believed could have proven he knowingly published false results in an asbestos study.

Dr. Richard Kradin said he had a habit of frequently cleaning out his inbox, but Virginia federal magistrate judge Robert Krask ruled yesterday that he had a legal obligation to preserve them. The result is if Pecos River Talc – a wing of Johnson & Johnson – gets its case against three experts to trial, jurors will hear what Kradin did.

However, the court did not issue an adverse-influence instruction, which means jurors can't presume there was something damaging to Kradin's defense in the deleted emails.

“Though Dr. Kradin should have been aware that the emails would be relevant to some future litigation,” Krask wrote, “the evidence tends to show that this particular litigation was unexpected.”

This particular litigation accuses Kradin and doctors Theresa Emory and John Maddox with linking cosmetic talc like Baby Powder to mesothelioma – a fatal cancer in the lungs caused by asbestos.

The tens of thousands of lawsuits against J&J and others rely on experts who testify asbestos is in talc, the plaintiff used the product, the talc entered their body and the asbestos in it caused conditions like mesothelioma and ovarian cancer.

J&J has not only denied these claims in cases against it, it has gone to court to sue over them. In addition to [the lawsuit against Kradin and others](#), it is pursuing trade libel claims against Dr. Jacqueline Moline over a study she published.

The studies purported to look at individuals with no known exposures to asbestos other than talc products, but J&J says that's not the case. At least 11 of the 33 cancer patients in Moline's research were exposed to asbestos from other sources.

Kradin, Emory and Maddox studied 75 subjects and published their results in the *American Journal of Industrial Medicine* in March 2020. Four years later, J&J sued them, alleging the study was not only misleading but was published with actual malice.

At least six of the 75 have "documented alternative exposures to asbestos," J&J wrote in its complaint. One of them had 60 feet of exposed asbestos pipe in his basement, which was a family room with a television in couches. In his elementary school, there was damage to asbestos pipe insulation and 64 bags of asbestos-containing material sitting around.

There were hundreds of similar bags at his high school, J&J says.

"Neither potential exposure is mentioned in the article," the complaint says. Another plaintiff alleged she was exposed to asbestos fibers brought home on her dad's clothes when he worked as a mechanic.

Some of Kradin's emails were recovered from the accounts of his co-defendants but lost were communications with Moline. Kradin argued he had no reason to keep emails from 2019-2020 and that he is not sophisticated in the rules of preservation of evidence.

J&J is fighting to disqualify experts and [recently called](#) them an "echo chamber for weak science" as it faces more than 67,000 lawsuits.

"The Emory article demonstrates Plaintiffs' experts' tactics to pollute the scientific literature," J&J wrote.

"They publish their junk litigation opinions in scientific journals. They use their credentials to instill their publications with false credibility. They then build from that fraudulent foundation by citing to each other's work, which manufactures a 'body of literature' to present to judges and juries with the veneer of scientific legitimacy.

"And they actively resist attempts to make public the information that would reveal the deceit. In return, they are handsomely compensated for their disparagement of the products that are the target of the plaintiffs' bar."

The American Tort Reform Association called this the ["Junk Science Playbook"](#) in a recent report. Fighting it is part of the strategy of J&J after its \$9-billion plan to settle ovarian cancer claims was defeated by plaintiffs firm Beasley Allen, which, [for the time being](#), is lead counsel for a massive amount of those claims in New Jersey federal court.

The judge there has been asked to disqualify Beasley Allen after a state appellate court in New Jersey removed the firm from more than 3,000 talc cases for strategizing with a former lawyer for J&J on an alternative plan for settling the cases.

Beasley Allen is also locked in a fight with its former partner in talc lawsuits, the Smith Law Firm, which recently filed the [complaint of a disgruntled Beasley Allen client](#) in federal court to bolster calls for its removal from the multidistrict litigation.

Class Action

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Live Nation Judge Orders Settlement Talks With States (2)

March 10, 2026, 8:51 AM PDT

Summary by Bloomberg AI

AI Generated



- A New York federal judge ordered a group of states to engage in settlement talks with Live Nation Entertainment Inc. to potentially resolve claims the company illegally monopolized the live event industry.
- The Justice Department reached a settlement with Live Nation, which would require the company to open up concert venues to rival ticketing services and cap fees at 15%, but the states have concerns about the settlement.
- The judge ordered settlement talks to take place, and if no settlement is reached, a jury trial in the case may continue next week.

A New York federal judge ordered a group of states to engage in settlement talks with Live Nation Entertainment Inc. to potentially resolve claims the company illegally monopolized the live event industry.

US District Judge **Arun Subramanian** declined to rule on a request by 27 states and Washington, DC, for a mistrial of the case after the Justice Department reached its own settlement directly with the company. Instead, he ordered the states to negotiate a potential resolution with Live Nation. If no settlement is reached, a jury trial in the case may continue next week, he said.

"It's unclear to me why you would need anything more than the right people, here, in court," Subramanian said. He ordered Live Nation Chief Executive Officer **Michael Rapino** to remain in New York for the negotiations this week.

The Justice Department [announced Monday](#) that it had reached a settlement with Live Nation to resolve the antitrust suit without the need for a sale of its Ticketmaster subsidiary – the main relief originally sought in the case. Subramanian must still review that settlement to ensure it is in the public interest before it is final.

Under the terms of the deal, Live Nation would open up concert venues it owns to rival ticketing services for at least a portion of the tickets for each show. The company also agreed to allow rival concert promoters to put on shows at its venues, and cap fees at 15%.

A group of states, including Texas, California and New York, indicated Monday they had concerns about the Justice Department's settlement and would continue with the litigation, but asked the court for a mistrial given the Justice Department's departure from the case midstream.

The states said they have hired Jeffrey Kessler and the law firm Winston & Strawn to represent them in the case. Kessler successfully sued the National Collegiate Athletics Association for antitrust violations over its rules barring student athletes from accepting compensation in a case that reached all the way to the US Supreme Court.

During the court hearing Tuesday, Subramanian chastised everyone involved, saying the Justice Department's lack of transparency about its settlement negotiations was "mind boggling." Subramanian said that the Justice Department didn't inform the court about negotiations until Friday – four days into the trial – and didn't provide a copy of the agreement it had made with Live Nation until Monday morning, even though the document was signed Thursday.

"The parties' conduct here strains the bounds of acceptable conduct," Subramanian said.

Omeed Assefi, the acting assistant attorney general for antitrust, said the Justice Department didn't provide a copy of the so-called term sheet because it was "edited over the weekend" to include some modifications.

Attorneys representing the states in the case requested 60 days to prepare to continue the trial. Subramanian rejected this request, saying he believed if both sides truly wanted to settle, a deal could be made within the week.

"I've done this for 45 years, there is zero chance we get this done by Friday," said Dan Wall, an in-house attorney for Live Nation.

"Not with that attitude," the judge responded.

Subramanian questioned Assefi about the terms of the settlement, confirming that a lot of the details still needed to be ironed out and that the government has not agreed to drop future cases against Live Nation.

"A year from now, two years from now, if the government thinks it has a viable case, it could bring that case," Subramanian confirmed with attorneys.

(Updates with states hiring Jeffrey Kessler.)

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Steve Stroth

Paraquat Producers Move to Preempt Parkinson's Claims, Cite Roundup Rulings

On Friday, U.S. District Judge Nancy Rosenstengel, who is overseeing paraquat multidistrict litigation, ordered supplemental briefs after Syngenta and Chevron moved last month to preempt claims they failed to warn of the weedkiller's link to Parkinson's disease.

March 10, 2026 at 01:54 PM By  **Amanda Bronstad**

What You Need to Know

- The preemption motion comes as lawyers have been negotiating the details of a settlement reached last fall in the paraquat multidistrict litigation, which involves about 6,500 cases.
- On Friday, the judge ordered them to supplement within 30 days after a ruling by the Supreme Court, which is set to hear oral arguments next month in the Roundup case, called Durnell v. Monsanto.
- This month, Syngenta announced it would cease global production of paraquat by the end of June.



Credit: luchschenF/Adobe Stock

The future of a global paraquat settlement remains uncertain after manufacturers Syngenta AG and Chevron USA Inc. filed a new motion to preempt claims that they failed to warn of the pesticide's link to Parkinson's disease—then cited the U.S. Supreme Court's review of a similar case involving Monsanto's Roundup.

The preemption motion comes as lawyers have been negotiating the details of a settlement reached last fall in the paraquat multidistrict litigation, which involves about 6,500 cases. But on Feb. 2, both companies filed a preemption motion, and on Friday, a judge ordered them to supplement within 30 days of a Supreme Court ruling, which is set to hear oral arguments next month in a Roundup case called *Durnell v. Monsanto*.

“Both sides agree that the Supreme Court's decision in *Durnell* could have consequences for the viability of plaintiffs' failure to warn claims in this multidistrict litigation,” U.S. District Judge Nancy Rosenstengel, of the Southern District of Illinois, wrote in her order, which comes on the same day that her previous stay of the litigation was set to expire. “Plaintiffs thus request that this court hold defendants' motion for partial summary judgment in abeyance pending a decision in *Durnell*. The court agrees with this approach.”

Co-lead plaintiffs' counsel—Khaldoun Baghdadi, of San Francisco's Walkup, Melodia, Kelly & Schoenberger; Sarah Doles of Levin, Papantonio, Proctor, Buchanan, O'Brien, Barr & Mougey in Pensacola, Florida; and Peter Flowers, of Chicago's Meyers & Flowers—did not respond to a request for an interview.

A Syngenta spokesperson and its lead counsel, Kirkland & Ellis partner Ragan Naresh, in Washington D.C., did not respond, nor did a Chevron spokesperson or its attorney, Sharyl Reisman, a New York partner at Jones Day.

The preemption motion is not the only change in the paraquat litigation. On March 3, Syngenta announced it would cease global production of paraquat by the end of June.

“This decision is about focusing our resources where they deliver the greatest value for our business and our customers,” Mike Hollands, head of Syngenta's global production, said in a statement.

The company planned to shutter a plant in Huddersfield, United Kingdom, the only facility that manufactures paraquat, which makes up less than 1% of Syngenta's global sales.

“This decision reflects significant competition from generic producers around the world, which has eroded Syngenta's competitiveness in the production of this herbicide,” according to Syngenta's announcement. “Syngenta will continue to assess future investment opportunities at the site to enable the production of advanced solutions.”

SCOTUS: 'Significant Guidance'

Rosenstengel, who previously tossed a key plaintiffs' expert on general causation in the multidistrict litigation [due to his "methodological flip flop,"](#) delayed discovery deadlines and vacated the first bellwether trial during the past year to allow time for the lawyers to continue negotiating the details of a confidential settlement reached on Aug. 4. Federal cases in the multidistrict litigation have fallen from a peak of 8,300; many are in state courts, including the Philadelphia Court of Common Pleas, where [one case settled](#) just prior to going to trial this year.



Nancy Rosenstengel, during her confirmation hearing before the Senate Judiciary Committee to be U.S. District Judge for the Southern District of Illinois. January 8, 2013.

On Jan. 30, Rosenstengel granted plaintiffs' motion to appoint a lien administrator for the settlement, which, "subject to certain conditions and acceptance by individual plaintiffs, will resolve certain claims and actions against defendants related to the development of Parkinson's disease allegedly resulting from claimants' exposure to paraquat products." And on March 2, she also granted both sides' request to establish a qualified settlement fund.

But last month's motion filed by Chevron and Syngenta for partial summary judgment sought to strike claims about the inadequacy of paraquat's labeling, which they claim are preempted by the Federal Insecticide, Fungicide, and Rodenticide Act. The U.S. Environmental Protection Agency, which approved a paraquat label that does not include a warning about Parkinson's disease despite numerous studies and data, would not permit such a change, they wrote.

"This court should grant summary judgment on those claims now because it can do so based on judicially noticeable documents—and doing so will narrow the scope of discovery, leading to the

more efficient resolution of these cases,” attorneys Naresh and Reisman argued.

They cited the U.S. Court of Appeals for the Third Circuit’s [2024 decision](#) in *Schaffner v. Monsanto*, another Roundup case, which found express preemption in “analogous circumstances.” The Third Circuit also explained why two other Roundup decisions finding no preemption—one by the U.S. Court of Appeals for the Ninth Circuit, the other by the U.S. Court of Appeals for the Eleventh Circuit—were wrong.

“The Seventh Circuit is likely to follow *Schaffner*,” they wrote.

Alternatively, they wrote, the judge could hold the motion in abeyance given the Supreme Court’s [Jan. 16 acceptance](#) of *Durnell*, which, with the [recommendation of the Solicitor General](#), aims to address whether FIFRA preempts labeling claims that Monsanto failed to warn about Roundup pesticide’s risk of non-Hodgkin lymphoma when the EPA has not required such a warning. Monsanto, owned by Bayer, [said in its opening brief](#) that allowing Roundup verdicts, such as the \$1.25 million jury award in 2023 at issue in the case, “poses a real threat to farmers.”

“The court’s decision in *Durnell* will provide significant guidance on FIFRA preemption, so this court may wish to await that ruling before deciding this motion,” they wrote.

Plaintiffs’ attorneys, in a March 4 reply, insisted that both sides already filed documents on federal preemption in 2023—theirs insisting that FIFRA was “not a shield from state tort liabilities”—but requested the judge order additional briefing after the Supreme Court’s decision.

They wrote, “Because all plaintiffs assert other claims in addition to failure-to-warn, this approach will not delay these proceedings.”

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Decade-long Case Ends With \$175 Million Verdict for Susman Godfrey's California Client

The \$175 million award does not include nearly 10 years of prejudgment interest and attorney fees. Counsel described the interest alone as significant. The court struck a punitive damages award that lacked unanimous jury support.

March 10, 2026 at 03:00 PM By **Laura Lorek**



Susman Godfrey Managing Partner Kalpana Srinivasan and Partner Max Tribble (L-R).

The case spanned 10 years, included more than 2,000 exhibits, and culminated in a month-long trial.

But in less than three hours, a San Antonio jury returned a \$175 million verdict in favor of Susman Godfrey's client, California-based HouseCanary.

Jurors found defendant Amrock Inc. misappropriated trade secrets and committed fraud in the case that hinged on whether the Rocket Mortgage subsidiary misused technology and analytics.

Now, plaintiffs counsel dive into its litigation strategy, as the defense vows to challenge the multimillion-dollar award.

Texas Judge Rosie Alvarado presided over the trial in the District Court of Bexar County, 438th Judicial District.

"This is very highly complex technology that's involved but at the end of the day it's a very simple story of Amrock promised in contract after contract to do certain things—and they not only never did them, they never intended to do them—and that's where the fraud claim came in," said Max Tribble, a partner at Susman Godfrey and co-lead counsel for HouseCanary.

HouseCanary, founded in San Francisco in 2013, is a real estate technology company and national brokerage offering AI-driven property data, valuations, and predictive analytics for U.S. residential markets.

Amrock, now Rocket Close, is a Detroit-based provider of title insurance, property valuations, and settlement services, which is owned by Rocket Mortgage.

It intends to appeal the award.

"This verdict will not stand. While disappointing, the dramatic reduction in award demonstrates how inflated HouseCanary's claims have always been," Rocket Close said in an emailed statement. "We are confident this verdict will be overturned on appeal, just as it was before."

"A decade ago, HouseCanary peddled a false narrative, claiming it had a market-ready product that was nothing more than vaporware," the statement said. "Former employees and executives testified under oath that the product did not exist. Amrock did not misappropriate trade secrets, there were none to take."

"We will aggressively challenge this verdict and are confident it will be overturned once again," the statement said.

This marks the second jury decision in favor of HouseCanary regarding allegations that Amrock misappropriated the company's proprietary home valuation analytics and data.

In 2018, a jury initially awarded HouseCanary more than \$706 million in damages.

However, the verdict was subsequently overturned due to procedural errors in the jury instructions, prompting the more recent trial.

Meanwhile, Kalpana Srinivasan, co-managing partner at Susman Godfrey and co-lead counsel for HouseCanary, attributed the most recent success to a consistent legal team throughout about 10 years of litigation.

The core team from 2018, including local co-counsel Ricardo Cedillo of Davis, Cedillo & Mendoza, returned in 2026. Their familiarity with the case materials and proceedings minimized ramp-up time, and enabled swift responses to changes in defense strategy.

In addition to Tribble and Srinivasan, HouseCanary's legal team included partners Joe Grinstein, Rocco Magni, David Peterson and Michael Brightman, as well as associates Armando Lozano and Taylor Wilson Jr.

Tribble described the case as a clear example of broken contractual promises and the misappropriation of technology.

"When it came time for them to start paying HouseCanary, Amrock terminated the contract and filed suit against HouseCanary, and they thought they could bully this company, and the truth is they were a very small startup," Tribble claimed. "They would never have sued if they hadn't been sued first, so that was the weird part."

Documents from 10 years earlier served as key evidence. Witness testimony often conflicted with written statements, while data from Amrock's shared drives further supported HouseCanary's position, counsel said.

"We didn't know about the trade secret claims when HouseCanary first got sued," Tribble said. "In discovery, we figured it out, and it became clear at some point that damages were significant."

Srinivasan noted HouseCanary's diligent protection of its intellectual property was critical to the trial's outcome.

The company implemented a non-disclosure agreement from the beginning, which extended through subsequent agreements and amendments. These agreements included not only confidentiality provisions but also specific restrictions on database access, reverse engineering, and the creation of derivative products.

"The best way to tell this story was to focus on the truth of what happened, and even though there were more defenses or distractions injected by the other side, I believe juries are good at getting to the heart of the issues," Srinivasan said.

Srinivasan emphasized that contemporaneous documents, forensic evidence, and data from Amrock's shared drives provided substantial evidence for the jury's review.

Amrock asserted it had independently developed its technology in a short time frame.

Susman Godfrey challenged the plausibility of this claim, arguing such rapid development was unrealistic for work of this complexity, and referenced supporting documents.

Srinivasan said the jury did not find Amrock's proposed independent development timeline credible.

For juries, seeing for themselves beats hearing a witness deny it, Tribble said.

"One witness, who doesn't even work for Amrock anymore, said he had been preparing with them for about a year to come testify," Tribble said. "I've never heard that answer before in my life."

The \$175 million award does not include nearly 10 years of prejudgment interest and attorney fees. Counsel described the interest alone as significant. Post-judgment interest will continue to accrue during any appeal.

"This was probably the most attentive jury I've ever seen," Tribble said. "I mean, they really paid attention the whole way through. Nobody fell asleep. They were taking careful notes. They really paid attention to the evidence."

There was one issue with the jury verdict: punitive damages were initially awarded, but because the decision was not unanimous, the judge removed this award from the verdict.

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Leon Black could be deposed in Epstein accusers' lawsuit against Bank of America, judge says

 [reuters.com/world/leon-black-could-be-deposed-epstein-accusers-lawsuit-against-bank-america-judge-2026-03-11](https://www.reuters.com/world/leon-black-could-be-deposed-epstein-accusers-lawsuit-against-bank-america-judge-2026-03-11)

Luc Cohen

March 11, 2026

Leon Black, Chairman, CEO and Director, Apollo Global Management, LLC, speaks at the Milken Institute's 21st Global Conference in Beverly Hills, California, U.S. May 1, 2018. REUTERS/Lucy... [Purchase Licensing Rights, opens new tab](#) Read more

- Judge sets Wednesday afternoon hearing over Black's deposition in Epstein case
- Lawsuit claims Bank of America ignored suspicious payments by Black to Epstein
- Black has denied wrongdoing, said he was unaware of Epstein's criminal conduct

NEW YORK, March 11 (Reuters) - Billionaire Apollo Global Management co-founder Leon Black could be deposed as part of a [civil lawsuit](#) brought against Bank of America ([BAC.N](#))  [, opens new tab](#) by women who accuse the bank of facilitating their sexual abuse by Jeffrey Epstein, court records showed on Wednesday.

In a court filing, Manhattan-based U.S. District Judge Jed Rakoff set a hearing for Wednesday at 3 p.m. EDT (1900 GMT) "concerning the upcoming deposition of Leon Black." The filing did not contain more details.

Sign up [here](#).

The lawsuit alleges the nation's [second-largest bank](#) ignored suspicious payments by Black to Epstein. Rakoff last month ruled that the accusations that the bank recklessly disregarded information that Epstein engaged in sex trafficking were sufficient to let the proposed class action lawsuit proceed.

A spokesman for Black declined to comment. He has previously denied wrongdoing and said he was unaware of Epstein's criminal conduct.

Bank of America declined to comment on Wednesday. The bank has previously said that the plaintiff in the case, referred to as Jane Doe, had "at best" alleged that it banked high net-worth clients affiliated with Epstein, and did not show it intentionally obstructed law enforcement.

A trial is scheduled for May 11.

Epstein died in a Manhattan jail in August 2019 while awaiting trial for sex trafficking. The office of the New York City medical examiner ruled his death a suicide.

In 2023, Doe's lawyers reached settlements on behalf of other accusers of with JPMorgan Chase and with Deutsche Bank. Neither bank admitted wrongdoing.

Black stepped down as Apollo's chief executive in 2021 after a review by an outside law firm found he had paid Epstein \$158 million for tax and estate planning.

Reporting by Luc Cohen in New York; Additional reporting by Saeed Azhar in New York Editing by Tomasz Janowski and Rosalba O'Brien

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Reports on the New York federal courts. Previously worked as a correspondent in Venezuela and Argentina.

- X

Analysis | **Legal Ethics and Attorney Discipline**

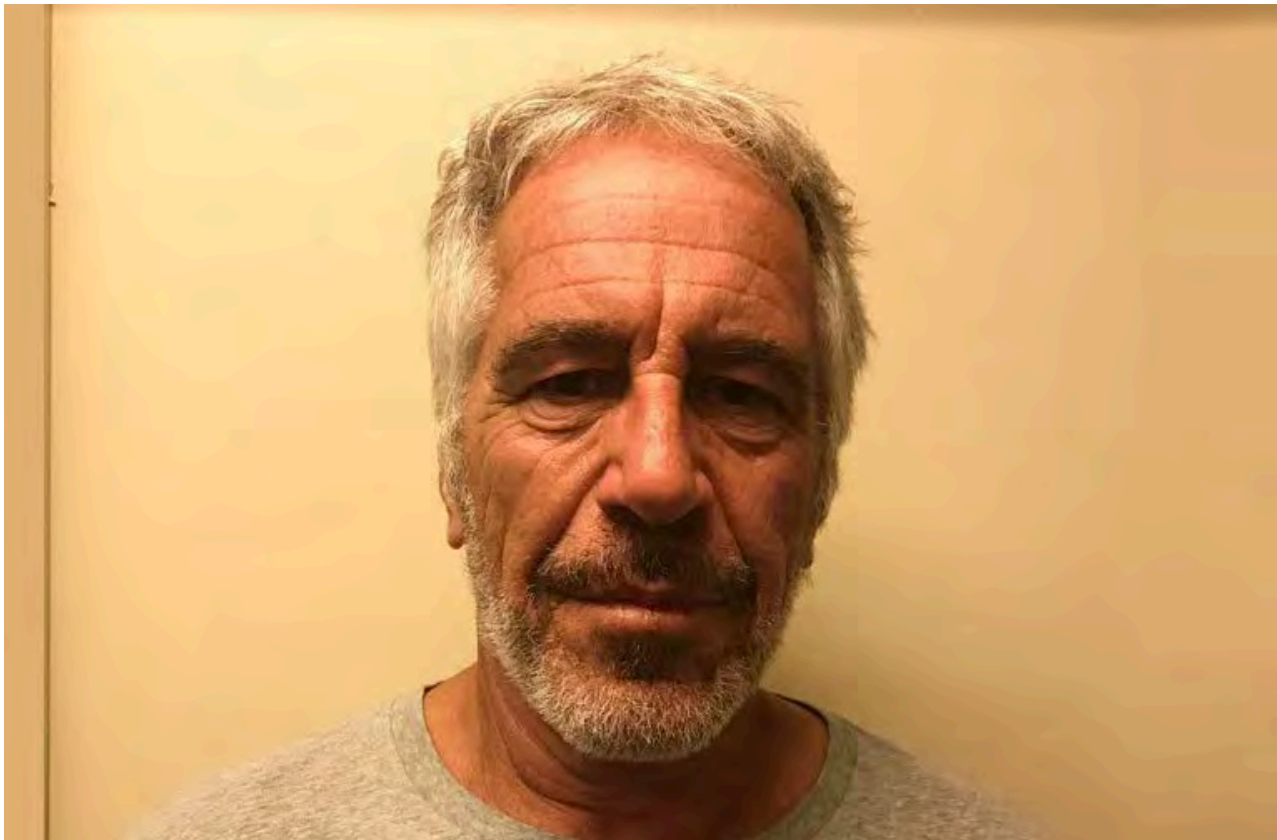
How Epstein Corresponded with a Broad Big Law Network

Lawyers from at least eight Big Law firms corresponded with Epstein on more than a couple of occasions and for a variety of purposes, from strictly business reasons to legal advice.

March 11, 2026 at 06:24 AM By  **Ryan Harroff**  **Dan Roe**

What You Need to Know

- Jeffrey Epstein spoke with attorneys at many Big Law firms about a variety of topics, including his clients' matters and his own legal issues.
- Lawyers at eight Big Law firms exchanged more than a couple messages with Epstein, a Law.com analysis found.
- Attorneys who spoke with Epstein without representing him had a variety of relationships with the disgraced financier, from strictly business to social occasions and even legal advice.



Jeffrey Epstein. Credit: New York State Sex Offender Registry

Jeffrey Epstein corresponded with lawyers at many Big Law firms over the years, according to emails disclosed by the U.S. government, discussing everything from client matters and Epstein's own criminal case to social meet-ups.

According to a Law.com preliminary review of the millions of recently disclosed emails, partners at several elite firms were regularly in touch with Epstein, including those at Kirkland & Ellis; Latham & Watkins; Paul, Weiss, Rifkind, Wharton & Garrison; Steptoe & Johnson, and Kobre & Kim, among others.

Not all firm lawyers in correspondence with now-dead sex trafficker represented him or knew him socially. Some lawyers were in contact with Epstein, a financier for wealthy individuals, only due to their role representing parties in mutual client matters and were speaking with Epstein on strictly business matters.

Law.com analyzed the correspondence to lay out the range of relationships Epstein had with Big Law partners over the years. The list below includes firms with lawyers or firm personnel who emailed Epstein on more than a couple of occasions.

Kirkland & Ellis

Kirkland & Ellis attorneys helped Epstein obtain his controversial so-called sweetheart plea deal in 2008, a deal that allowed Epstein to serve only 13 months in jail for soliciting prostitution and procuring a minor for sex.

Hundreds of emails with Epstein show the late sex trafficker's lead counsel at the time, Jay Lefkowitz, who is still a Kirkland partner, working with the late Kenneth Starr and former Southern District of Florida U.S. Attorney Alexander Acosta to negotiate the deal for Epstein. Starr, who died in 2022, was a Kirkland partner, and Acosta was an associate at the firm before his time in government.

Kirkland appears prominently in Epstein's emails thanks to the firm's [work](#) representing the late financier in his 2007 criminal case. The firm represented Epstein in a variety of matters, including in response to media questions about Epstein's non-prosecution agreement, but its work on his 2008 plea deal is the most prominent of those matters.

Representatives for Kirkland did not respond to requests for comment.

Paul Weiss

One of the most prominent legal industry figures to correspond with Epstein was Brad Karp, former chairman of Paul, Weiss, Rifkind, Wharton & Garrison. Karp [stepped down](#) from his leadership role last month after coverage of the emails outlined Karp's multi-year relationship with Epstein.

Karp's relationship with Epstein lasted for years and, according to Karp, began when he was representing former Apollo Global Management CEO Leon Black in a fee dispute with Epstein. Emails between Karp and Epstein show discussions of matters beyond the scope of the fee dispute, however.

They included Karp working with Epstein to [track at least one woman's whereabouts](#) on behalf of Black, as well as Karp discussing a 2019 [draft motion](#) intended to prevent the re-opening of Epstein's non-prosecution agreement, in which Karp said, "The case law is totally stacked in favor of our position."

Separate email threads between Epstein and Karp show, among other things, Karp thanking Epstein for inviting him to various social events, including movie screenings for Woody Allen projects. Karp asked Epstein if he could help his son secure a job working for Woody Allen on a film, as Karp's son was a film student at the time.

After Karp stepped down from leadership, Paul Weiss named one of the firm's larger rainmakers, [Scott Barshay](#), as firm chair

Epstein also discussed legal and financial matters of clients with other Paul Weiss partners, such as Alan Halperin and Brad Okun.

Halperin, co-chair of the firm's personal representation department, and Epstein traded several emails discussing the tax affairs of Black, their mutual client. Correspondence between these two appears limited to phone and email and didn't deviate from topics related to wealth preservation, the emails show.

Okun, global tax department co-head, had less email correspondence with Epstein than Halperin, according to a review of released emails, and also discussed Black's family office. Okun also appeared to visit Epstein's Paris apartment in April 2017.

A Paul Weiss representative did not respond to a request for comment.

Latham & Watkins

Latham's involvement with Epstein has layers to it, but those layers all feature former firm partner Kathy Ruemmler, who recently resigned as the chief legal officer and general counsel for Goldman Sachs following pressure related to the emails.

Ruemmler was a longtime friend of Epstein and appears repeatedly in his emails in a social context, from discussing news of the day to lamenting her living situation and the extent to which Latham & Watkins was helping her pay for her apartment while she was with the firm.

Ruemmler and the firm are also repeatedly discussed by Epstein and others, including Paul Weiss' Karp, such as one instance in which Epstein told Karp that Ruemmler should [take over the firm](#) following former chairman William Voge's departure after a sexting scandal.

Latham also reached out to Epstein via Ruemmler in at least one instance to discuss the firm [retaining Epstein's financial services](#), the emails show. That interaction occurred in 2015, though it is unclear whether Epstein was ever officially retained by the firm.

Representatives for Latham did not respond to requests for comment.

Kobre & Kim

Kobre & Kim partner Matthew Menchel exchanged dozens of emails with Epstein from his firm email address, but his interactions with the late financier began before his time at the firm.

Menchel was once chief criminal prosecutor for the Miami U.S. Attorney's Office and assisted in an investigation into reports of Epstein's child sex abuse. He got back in touch with Epstein in 2010 after leaving the government in 2007 (before the drafting of Epstein's non-prosecution agreement). In [one of the emails](#) the two exchanged in 2014, Menchel expressed that he had no reservations about his relationship with Epstein and that "neither you (Epstein) or I have done anything wrong when it comes to how we got to know one another."

A Kobre & Kim representative told Law.com last month that Menchel maintained professionalism and that the firm never represented Epstein or anyone he referred to the firm.

Clifford Chance

An unexpected and unusual appearance in the Epstein emails was Clifford Chance, and in particular, the way that the firm appeared in Epstein's inbox.

In Epstein's emails, an intern at Clifford Chance [repeatedly spoke](#) with the late financier, and some of their conversations turned sexual. Many of these emails were sent from the woman's work account, including her work email signature.

The intern appears to have been working in Europe at the time of the emails, and in some of the messages between the two, she asks about traveling to New York specifically to be with Epstein. In other emails, she asks Epstein for advice about sexual and romantic affairs, such as whether she should sleep over at a man's house following sex if the man was not her boyfriend.

Epstein also spoke with the intern about professional matters and job applications at other law firms, the emails show.

In an email to Law.com, a representative for the firm said, "Clifford Chance has never acted for Epstein. The correspondence is not related to the business of the firm."

Step toe & Johnson

Step toe & Johnson regularly appears in Epstein's emails, as the firm was representing the late sex trafficker shortly before his death. Senior counsel Reid Weingarten represented Epstein in 2019 following his arrest and regularly spoke with him via Epstein's assistant about meeting up, Trump-related news and unpaid legal bills.

Representatives for Step toe did not respond to requests for comment.

Winston & Strawn

Former Winston & Strawn partners Peter Hiebert and Barry Hart spoke with Epstein via email and phone on several occasions between 2016 and 2017, the Justice Department emails indicate.

Hiebert and Hart, who didn't represent Epstein, spoke with Epstein about their client, the U.S. Virgin Islands (which was led at the time by Epstein affiliate Governor Kenneth Mapp).

The attorneys and Epstein discussed economic development opportunities in the U.S. Virgin Islands, where Epstein owned an island.

Discussions included the Virgin Islands Financial Services Improvement and Corporate Modernization Act of 2017, which revamped the territory's corporate laws to match those of Delaware and provided for the creation of new statutory trusts based on Delaware law.

A [May 2017 email](#) from tax lawyer William Blum of Solomon Blum Heymann to Epstein indicated that Winston was involved in the 2017 act.

"Our firm has never represented Jeffrey Epstein or any Jeffrey Epstein-owned company," a Winston representative said in a statement.

"Over three decades, we have performed a broad range of legal work for the government of the US Virgin Islands, which has involved frequent contact with the sitting governors," the statement continued. "About ten years ago, at the request of the government, Jeffrey Epstein and his legal advisors contacted Winston with questions about economic development in the US Virgin Islands, our firm's client. This was the extent of our firm's contact with Mr. Epstein."

McDermott

Like Paul Weiss partners Halperin and Okun, McDermott Will & Schulte tax partners Carlyn McCaffrey and Elyse Kirschner corresponded with Epstein on a semi-regular basis over their mutual client Leon Black's tax affairs, email records show.

In a November 2012 [email](#), Kirschner asked an accountant at Raich Ende Malter & Co. for a copy of Black's 2011 gift tax return, which the accountant sent Kirschner the same day. Kirschner

forwarded the email to McCaffrey, and the two discussed the remainder of Black's gift tax credit. McCaffrey cc'd Epstein in a subsequent [email](#) to the accountant and a member of Black's family office.

Email records reviewed by Law.com show no other topics of discussion between McCaffrey, Kirschner and Epstein. The firm did not respond to a request for comment on the emails.

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Securities

Manage Newsletters

Epstein Paid to Pamper Ruemmler, 'Girls' at NYC's Fekkai Salon

March 11, 2026, 7:45 AM PDT

Summary by Bloomberg AI

AI Generated



- Jeffrey Epstein paid for pampering treatments, including hair appointments at Fekkai salon, for people in his orbit, including his girlfriend, staff members, and others.
- Epstein maintained a charge account at Fekkai and visited the salon regularly, with payments to the salon spanning more than 15 years until shortly before his death in 2019.
- The documents show Epstein's personal ties to Fekkai's founder, Frédéric Fekkai, appear to predate Epstein's 2008 conviction, with Fekkai and Epstein described as "friendly, very friendly" during the 2000s.

Just before Valentine's Day 2016, Kathy Ruemmler penciled in a trio of pampering treatments – a \$500 massage at the Mandarin Oriental, a \$340 facial in Soho and a \$95 blowout at New York's elite Fekkai salon – all on Jeffrey Epstein's dime.

Two weeks later, she was back in the hair studio for a \$660 cut-and-color. Once again, Epstein wanted to pay.

"Trust me, it makes him happy to make you happy :)" wrote Lesley Groff, then-assistant to the disgraced financier. "It does make me happy, as it is so thoughtful and unnecessary," the lawyer replied.

By Epstein's standards, the hair appointments were a modest perk. After all, he sent close friends Apple watches, cashmere sweaters and designer handbags.

INVOICE				
Frederic Fekkai - 5th Avenue				
712 Fifth Avenue				
New York, NY 10019				
Client: Jeffrey Epstein		☐ No Product Tax ☐ No Service Tax ☐ Mail Order		TAXES: TRANSAC. ID: TRANSAC. DATE:
Line	Client	Employee	Service	Price
1	Kathleen Ruemmler	SANDRA	BOL Long Blow Out	\$95.00
Have a nice day!				American Express \$95.28 Total Tax C

A receipt on Epstein's account for Ruemmler at the Fekkai salon in 2016.

Source: Department of Justice

Still, the transaction highlights one of the convicted pedophile's most recurring expenses, according to credit-card statements and invoices that were among documents recently released by the US Department of Justice.

Styling sessions at Fekkai, the upscale salon on Fifth Avenue founded by French stylist Frédéric Fekkai, were organized for people across Epstein's orbit. He maintained a charge account and visited regularly himself, while stylists occasionally made house calls to his mansion on the Upper East Side, the files show. His girlfriend and staff members, his urologist and multiple others whose names were redacted from the files also had appointments on his tab.

Payments to Fekkai's salon in Manhattan, and another in Palm Beach, span more than 15 years until shortly before Epstein's death in 2019, the files show, with some treatments costing upward of \$500 apiece.

The bookings show not only how important physical appearance was to Epstein, who paid for teeth whitening procedures and Botox for people in his network, but also how loyal he was to the high-end New York businesses that acted as cogs in his perks machine over multiple years.

At one point, he was paying for appointments at Fekkai so frequently that his assistants occasionally appeared to find it hard to keep up.

"Hi Girls, I am trying to figure out who went to Fekkai on March 14th for blow out and braids and on March 25 for coloring and hair cut," one former staff member wrote in 2015. "Please help."

Frédéric Fekkai and the Fekkai company, which owns the flagship salon now operating at The Mark Hotel, didn't respond to requests for comment. A representative for Ruemmler said the lawyer has done nothing wrong and has nothing to hide. Ruemmler will leave her position as Goldman Sachs Group Inc.'s top lawyer at the end of June.



The opening of Frédéric Fekkai Salon and Spa at Henri Bendel in New York in 2006.

Photographer: Andrew H. Walker/Getty Images

'Very friendly'

Epstein's personal ties to the business' founder appear to predate the financier's 2008 conviction for soliciting prostitution with a minor. In an interview last year with the DOJ, Ghislaine Maxwell described Fekkai and Epstein as "friendly, very friendly" during the 2000s. Fekkai previously acknowledged he flew on Epstein's private plane around that time.

In the years following Epstein's conviction and prison time, the documents show that Fekkai appears regularly among Epstein's social circle, including on invites to a Yom Kippur break-fast dinner and to join "a few people" for birthday cake in 2013.

In 2010, Fekkai's wife, Shirin von Wulffen, invited Epstein to a "fun evening of drinks and dancing" at the Top of the Standard – then one of the toughest doors in New York nightlife, and commonly referred to as the Boom Boom Room – to celebrate Fekkai's award of an order of merit in his native France. "Would you like prince Andrew at your monday boom boom," Epstein wrote later that day. "Yes," Fekkai responded.

To: Jeffrey Epstein[jeevacation@gmail.com]
From: FEKKAI
Sent: Sat 11/27/2010 1:37:03 PM
Subject: Re: Re:

Yes

Best,
Frederic,
Sent from my iPhone

On Nov 27, 2010, at 5:09 AM, Jeffrey Epstein <jeevacation@gmail.com> wrote:

would you like prince Andrew at your monday booom boom

On Fri, Nov 12, 2010 at 5:46 AM, FEKKAI <[REDACTED]> wrote:

In the uk

Best,
Frederic,
Sent from my iPhone

On Nov 11, 2010, at 8:14 PM, Jeffrey Epstein <jeevacation@gmail.com> wrote:

Im in paris until tuesday,, where are you

An email exchange between Epstein and Fekkai in 2010.

Source: US Department of Justice

Fekkai requested time – with his own masseuse – in Epstein’s massage room. On at least three occasions he also asked to “use” or stay at 301 E. 66th St., an apartment block where Epstein reportedly housed connections and some of his victims.

One former employee at the New York City salon said that young women would often say they were Epstein’s family friends when showing up for appointments with his name on the books. The person asked not to be identified because they still work in a related industry. Women would sometimes sit on Epstein’s lap and stroke his hair during his own visits to the salon, the Daily Beast reported in 2019.



Fekkai at the opening of his salon in New York in 2006.

Photographer: Andrew H. Walker/Getty Images

Many documents show people asking Epstein permission, or expressing thanks, for appointments. "As i'm looking forward to see you want to ask you for visiting Frederik Fekkai. Kisses," one person whose named was redacted asked Epstein in 2009. He agreed to the appointment. "You are the best!!!!!!!" the individual replied.

Other interactions show how quickly the benefits ground to a halt when Epstein didn't feel he was getting enough in return.

"Jeffrey, do you think your hairdresser can cut my hair for free? Or with a big discount?" the individual asked. "you find it always easy to ask, but give nothing. sorry," Epstein said. The person replied: "You want me to introduce to a young beautiful Russian model, right?"

Many of Fekkai's own interactions with Epstein appear to focus on the stylist's ambitions to expand or reorient his business of salons and hair-care products. The company – which Epstein claimed he helped form – had already changed hands in 2008 from private equity outfit L Catterton to Procter & Gamble Co. About five years later, Epstein connected Fekkai with Sycamore Partners co-founder Stefan Kaluzny, and with Hong Kong businessman Desmond Shum to discuss ideas.



Fekkai products at the opening of a salon in New York in 2006.

Photographer: Andrew H. Walker/Getty Images

Neither of those outreaches appear to have borne fruit. Instead, the company was acquired in 2015 by a UK-based joint venture, reportedly at a steep discount. Three years later, Fekkai teamed up with private investment firm Cornell Capital to reclaim ownership and combine the brand with a separate beauty line built with his wife.

Then in early 2019, the iconic Henri Bendel luxury department store that housed Fekkai's flagship went dark. Retail titan Les Wexner – who employed Epstein as his personal money manager but has said he cut ties with him around 2007– shuttered all branches as the storied brand languished. Within months of the salon's relocation, some stylists, including Epstein's main barber, had jumped ship.

As the news of their departure spread, Ruemmler sent one of Epstein's assistant's an email with the subject line: "Crisis."

"Patrick and Hubert left Fekkai!" she wrote.

"I'm in shock," Epstein's assistant replied, in a message sent about four months before the financier's death. "I will pass along to Jeffrey... (sounds like we will be heading to a new salon)."

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How Not To Get Sanctioned

This article highlights that courts consistently impose sanctions for misconduct such as false statements, frivolous claims, or bad-faith tactics like refusing to settle or cooperate despite the other side's consent. It emphasizes that legal advocacy should be truthful and straightforward; gamesmanship or delay tactics are subject to penalties. Recent cases show sanctions are often awarded when parties waste court resources through dishonesty, unnecessary disputes, or refusing reasonable resolutions.

March 11, 2026 at 04:28 AM By **Scott D. Simon**



1. (Photo: Shutterstock)

Immediately post-pandemic, the advice that attorneys should double-check legal research conducted by a large language model would have had many of us asking what, exactly, is a large language model. By June 2023, the principle that attorneys have a “gatekeeping role” to “ensure the accuracy of their filings” against “non-existent judicial opinions with fake quotes and citations” created by AI was accepted wisdom. *Mata v. Avianca, Inc.*, 678 F.Supp.3d 443, 448 (S.D.N.Y. 2023).

It is the rare *New York Law Journal* reader who would blindly submit a brief “peppered with false citations” created by “generative artificial intelligence.” *Flycatcher Corp. v. Affable Ave. LLC*, No. 24 Civ. 9429 (KPF), 2026 U.S. Dist. LEXIS 23980 at *1 (S.D.N.Y. Feb. 6, 2026). To say in 2026 that doing so invites sanctions is banal.

That sanctionable conduct is banal is the point; it is so obviously sanctionable that it is dull. Sanctions under the rules for New York state (22 NYCRR 130.1-1) and federal courts (Fed. R. Civ. P. 11) are naturally imposed for similar wrongdoing. Parties and their attorneys may not delay, prolong, or needlessly increase the cost of litigation.

They may not make false statements. And they may not make arguments that are without merit in existing law or lack a reasonable basis for creating new law. This piece aims to assist in distinguishing between permissible vigorous client advocacy and sanctionable bad-faith misconduct.

Requests for sanctions often accompany motions to compel. Unmistakably sanctionable is a bad-faith failure to comply with discovery. For example, in *C.B. v. Diocese of Brooklyn*, 229 N.Y.S.3d 895 (Kings Cty. 2025), the defendant repeatedly represented that it did not possess certain documents the plaintiff sought. The truth was that the defendant never searched for documents because defendant's counsel had not asked the defendant to do so. The court held that the defendant's misrepresentations constituted frivolous conduct and imposed sanctions on both the defendant and its counsel. Banal but true: Lying to the court is not good practice.

Failing to advise a client about its discovery obligations yet representing that a search was conducted and no documents exist is obviously frivolous. But not every failure to produce existing documents is sanctionable. In *Talos Capital Designated Activity Co. v. 257 Church Holdings LLC*, 226 A.D.3d 414 (1st Dep't 2024), the litigation concerned when a guarantor was required to pay a lender after the borrower's default—upon the default or at maturity.

The plaintiff served a discovery demand seeking documents relevant to the timing of the guarantor's payment. The guarantor's counsel claimed that no such documents existed. After an in camera review, the trial court found certain communications with the guarantor's counsel to be responsive.

Those emails asked the guarantor's counsel when payment would be due, and in response the attorney did not differentiate between when the obligation was triggered and when payment was due. See *Talos Capital Designated Activity Co. v. 257 Church Holdings LLC*, No. 651458/2020, 2023 N.Y. Misc. LEXIS 2833 at *20 (N.Y. Cty. Jun. 5, 2023). The court imposed sanctions, holding that the guarantor's counsel misrepresented that there were no documents squarely addressing the question of timing.

The First Department reversed. It reasoned that the representation by guarantor's counsel was in the nature of an argument based on the guarantor's interpretation. The First Department rejected the trial court's reliance on "the absence of a statement in the documents" to issue sanctions. *Talos Capital*, 226 A.D.3d at 416. "The fact that the court took a different view of the evidence is

not grounds for sanctions.” It is the factfinder’s role to weigh the evidence, but it is not sanctionable for counsel to present its own colorable interpretation.

Courts typically find the filing of a frivolous lawsuit to be sanctionable. See, e.g., *Sherman v. Graves*, No. 24 Civ. 8494 (AT), 2025 U.S. Dist. LEXIS 104393 at *14 (S.D.N.Y. Jun. 2, 2025) (sanctioning plaintiff for filing complaint containing “at least five patently frivolous claims”); *Aretakis v CPEX Real Estate, LLC*, No. 2024-02452, 2026 N.Y. App. Div. LEXIS 584 at *3-4 (2d Dep’t Feb. 4, 2026) (sanctioning plaintiff because complaint’s two causes of action failed to state a claim and were time-barred, respectively). However, it is atypical for a plaintiff to file a lawsuit, the defendant to offer the relief sought in the lawsuit, and the plaintiff to refuse.

That actually happened in *13 E. 124 LLC v. J&M Realty Servs. Corp.*, 222 A.D.3d 446 (1st Dep’t 2023). The plaintiff property owner filed a complaint against the defendant property management company alleging that the defendant refused to cooperate with a successor property manager. Upon receiving the complaint, the defendant offered to enter into a stipulation giving the plaintiff everything it wanted if the plaintiff acknowledged that the prior management contract was terminated.

The plaintiff refused, so the defendant moved for sanctions. The trial court held that the plaintiff acted in bad faith when it refused to discontinue despite the defendant consenting to all relief requested, and the Appellate Division affirmed. Both courts found the plaintiff’s refusal to be a waste of judicial resources and vexatious, dilatory and malicious litigation tactics warranting sanctions.

Having seen that courts award sanctions where a party relies upon the absence of a statement, or files a complaint that does not state a claim, or refuses to discontinue when the adversary agrees to address the party’s concerns, it should come as no surprise that a court recently imposed sanctions on a party and its attorneys when they did all three. See *FTX Recovery Trust v. Manifold Markets, Inc.*, *Adv. Proc.* No. 24-50214 (KBO) (Bankr. D. Del. Jan. 21, 2026).

There, a former employee filed a proof of claim in the FTX bankruptcy case seeking his prepetition employment bonus. A bonus memo allowed the employee to direct the debtor to donate a portion of the bonus to charity. The debtor objected to the proof of claim on the grounds that the employee lacked standing to assert the claim insofar as the bonus would not be paid to the employee but to a charity, and that the employee did not timely accept the bonus by designating the charity before the debtor filed its chapter 11 petition.

The bankruptcy court overruled the debtor’s claim objection. The court ruled that the employee had standing because the charitable bonus was part of the employee’s wages, and the employee timely accepted the bonus by filing a proof of claim before the bar date noticed in the bankruptcy

case. After the objection was overruled, the employee wrote to the debtor and designated a charity to receive the bonus.

Rather than pay the bonus to the designated charity, the debtor moved to reargue the claim allowance because the debtor was litigating against the designated charity to recover alleged avoidable transfers. The debtor simultaneously commenced an adversary proceeding against the employee, newly arguing that payment to the designated charity was a fraudulent prepetition obligation. The employee responded by advising the debtor that he would designate a different charity, thereby addressing the debtor's concerns.

The debtor rejected the redesignation, pronouncing that the order allowing the employee's claim was silent on the debtor's right to redesignate and the employee's choice of the purportedly unacceptable first charity proved that the employee "cannot be trusted" to designate an appropriate charity. The employee served the debtor with a rule 11 notice and draft sanctions motion asserting that the debtor had no right to object to the charitable recipient and there was nothing wrong with the first designated charity, and regardless the employee had addressed the debtor's concerns by redesignating the beneficiary.

The debtor declined to withdraw its pleadings, so the employee filed the rule 11 motion. At oral argument, the court held that the debtor had made no "credible argument" nor did the debtor "show any support in the record" as to why the employee could not redesignate the charitable beneficiary. And because the court found that the debtor had "no valid basis to have denied" the employee the opportunity to redesignate, the court found the motion to reargue and the adversary proceeding "completely unreasonable and really not based in any law or fact."

The court also noted that even if it had not allowed the redesignation, the employer's complaint about the employee's alleged prepetition wrongdoing was barred by res judicata. The court held that because the debtor had a full and fair opportunity to address the alleged wrongdoing in the objection to claim sequence, the "piecemeal litigation" wasted the time of the employee, the debtor, and the court. The court sanctioned both the debtor and its counsel.

Sanctions law is not mysterious; it is repetitive. The takeaway across state and federal practice is that courts tolerate advocacy but not gamesmanship, whether discovery posturing untethered to the truth or an unreasonable refusal to accept the result a party was seeking. The best practice remains dull and boring: be accurate, be candid, and stop when the point has been met.

Scott D. Simon *is a partner of Goetz Platzer.*

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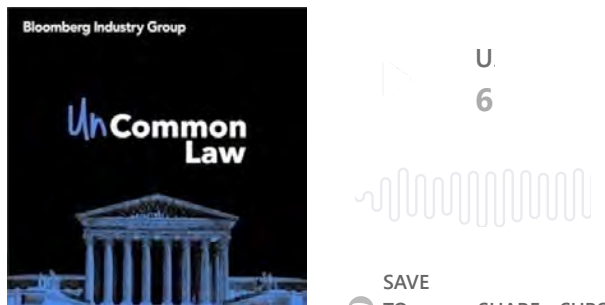
DOJ Lawyer Quits Before Judicial Scolding for AI Brief Error (1)

March 10, 2026, 2:39 PM PDT

An assistant US attorney in North Carolina said he's resigning over AI-created fabricated quotes and erroneous citations in an AI-produced court brief.

Assistant US attorney Rudy Renfer said he's made "a personal decision to separate from the office" of the US attorney for the Eastern District of North Carolina during a Tuesday afternoon show-cause hearing. Magistrate Judge Robert Numbers chastised Renfer's "disappointing" conduct, including for a lack of candor in accounting for the errors when it was discovered.

Renfer said after he accidentally overwrote and lost a prior version of the filing, he "felt panicked" and had AI rewrite it, then filed it thinking he'd reviewed it when he filed. He took full responsibility for the "unacceptable" filing, stating he'd been working on multiple filings and "put too much on myself at the same time."



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Numbers said the case was especially disappointing given the particular "power and responsibility" of the US attorney's office. He also repeatedly suggested that Renfer's explanations "strained credulity" including as to why his filed explanation didn't mention AI.

US attorney W. Ellis Boyle said his office acted quickly upon learning of the problematic brief before the judge scheduled his show-cause hearing. It sent office-wide communications warning about use of AI, and the case had been referred to the Justice Department's Office of Professional Responsibility. Boyle also said the hearing was the first he'd heard confirmed that Renfer used AI, though he had suspicions.

When Boyle asked Numbers if he has additional questions near the end of the roughly hour-long hearing, the judge said, "I certainly have more questions, but I don't know that they'll be answered to my satisfaction."

The US attorney's office is representing the Defense Department in the underlying lawsuit by a North Carolina pro se litigant Derence Fivehouse. The retired Air Force colonel, an attorney himself, is challenging a policy limiting availability of GLP-1 weight loss medications for TRICARE for Life participants.

The plaintiff asserted that a response brief to a motion to supplement the administrative record signed by Renfer included fabricated quotes and misstated the holdings of several cases. In a reply, Renfer said he "inadvertently included incorrect citations to case law from this circuit" and attributed the errors to the "inadvertent filing of an unfinalized draft document."

Numbers ordered Tuesday's hearing because he still had "serious concerns about the accuracy" of certain quotes and representations in Renfer's filings, as well as his explanation of them.

Renfer has worked at the US attorney's office since 2009 after stints as a local prosecutor, assistant attorney general, and solo practitioner, according to his LinkedIn profile and the state bar member directory.

He told Numbers he "gained nothing" with fabricated citations to mundane, uncontroversial administrative law, noting the "only thing I do is run the risk of losing my job." It also cost him his reputation with his colleagues along with the court, he said.

But Numbers said that Renfer taking "shortcuts" on "basic work" made it "all the more outrageous." He added that filings by Renfer he reviewed—beyond the AI brief and his explanation—added "grave concerns" over what was, at best, "sloppiness."

"I don't think it's helpful. It's hurtful to your cause," Numbers said. He also pushed back on Renfer's characterization that his error wasn't intentional, saying, "it sounds like you intentionally used AI, and intentionally filed it to the court."

"I did not intend to file an AI draft to the court," Renfer said.

Numbers also said, as Renfer explained the mechanics of how the erroneous filing was made, that the "challenge" is that Renfer's lack of candor "calls into question any other statements" he made to the court.

"I don't know what to say," Renfer said. "I can only tell you what I know."

The case is Fivehouse v. U.S. Department of Defense, E.D.N.C., No. 2:25-cv-00041, Show-cause hearing 3/10/26 .

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3/10/26 Akron Beacon J. (Ohio) (No Page)
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March 10, 2026

Judge dismisses money laundering charges in FirstEnergy bribery case
In the same order, the judge declined to dismiss remaining charges against
former FirstEnergy executives Chuck Jones and Michael Dowling.

Bryce Buyakie, Akron Beacon Journal

A Summit County judge threw out four money laundering charges against two former FirstEnergy executives, writing in an order that there was insufficient evidence for a conviction in the ongoing trial.

In the same order, Common Pleas Judge Susan Baker Ross declined to dismiss the remaining charges against former FirstEnergy CEO Chuck Jones and Michael Dowling, ex-FirstEnergy senior vice president of external affairs.

Husted to testify: Why will Sen. Jon Husted testify remotely in the FirstEnergy trial?

The two men are accused of bribing Sam Randazzo, former chair of the Public Utilities Commission of Ohio, with a \$4.3 million payment. Randazzo, who previously faced charges in the case, died in 2024.

Defense attorney had asked Ross to acquit Dowling and Jones of all charges after the prosecutors finished presenting evidence and witnesses to jurors.

Ross also granted the prosecution's motion to amend the forgery charge against Dowling.

Prosecutors initially accused Dowling of forging the FirstEnergy consulting agreement with Randazzo in May 2015, according to court documents. Dowling is now accused of forging the

\$4.3 million settlement — the alleged bribe that was tucked into the consulting agreement — in November 2015.

Defense attorneys had argued in court filings that this would change the type of crime Dowling faces. They likened it to changing "an indictment for theft of a motorcycle in May 2015 to stealing a Honda Civic in November 2015."

The trial is set to continue on March 11, with Sen. Jon Husted expected to appear by video for his testimony in the morning.

Bryce Buyakie is an Akron-based reporter who covers the courts and public safety for the Beacon Journal. He can be reached by email at bbuyakie@gannett.com or on X [@bryce_buyakie](https://twitter.com/bryce_buyakie).

This article originally appeared on Akron Beacon Journal: Judge dismisses money laundering charges in FirstEnergy bribery case

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Sen. Husted Testifies for Ex-FirstEnergy Execs in Bribery Trial

March 11, 2026, 7:38 AM PDT

Summary by Bloomberg AI

AI Generated



- US Sen. Jon Husted testified on behalf of the defense in the state trial of two former FirstEnergy Corp. executives accused of bribing former Public Utilities Commission of Ohio chairman Sam Randazzo.
- Husted said that as far as he knew, FirstEnergy was supporting Jason Rafeld for the chairman's seat, and that Gov. Mike DeWine would have selected Randazzo because he would have thought he was the most qualified person for the job.
- Former FirstEnergy CEO Charles Jones and former FirstEnergy vice president of external affairs Michael Dowling are accused of funneling money to Randazzo in exchange for his support of legislation and other actions benefiting the utility.

US Sen. Jon Husted (R-Ohio) testified Wednesday on behalf of the defense in the state trial of two former FirstEnergy Corp. executives accused of bribing former Public Utilities Commission of Ohio chairman Sam Randazzo.

The senator's testimony in the state court case, which lasted around 30 minutes and was conducted remotely from Washington, centered on his discussions with FirstEnergy executives around PUCO appointments in late 2018 and early 2019. He'd just been elected lieutenant governor when they started talking about the vacancy, he said.

As far as Husted knew, FirstEnergy was supporting Jason Rafeld—not Randazzo or anyone else—for the chairman's seat, he said. Rafeld, who testified for the defense in the trial, formerly served as chief of staff at the state's public utility company.

When asked why Gov. Mike DeWine (R) would have selected Randazzo, he said it was because "he would have thought he was the most qualified person for the job."

Former FirstEnergy CEO Charles Jones and former FirstEnergy vice president of external affairs Michael Dowling are accused of funneling \$4.3 million to Randazzo in exchange for his support of legislation and other actions benefiting the utility. They separately face federal racketeering charges.

Randazzo, a former attorney at McNees Wallace & Nurick LLC who was originally named as a co-defendant in the case, died by suicide in April 2024. He was known as an "industry expert," Husted said.

On cross-examination, he acknowledged that he didn't know who Jones and Dowling may have been supporting privately and couldn't speak to their state of mind with regard to Randazzo's appointment as PUCO chairman.

He also said he was unaware of any payments by FirstEnergy to a shell company owned by Randazzo, but that something like should have been disclosed.

Sprawling Scandal

Since emerging six years ago, the scandal has led to several convictions.

Jones and Dowling were indicted in February 2024 and now—following the dismissal of four counts of money laundering on Tuesday—collectively face 7 state charges, including bribery, conspiracy, and telecommunications fraud.

FirstEnergy signed a deferred prosecution agreement in July 2021 and paid a \$230 million penalty for the bribery scheme.

Former Ohio House Speaker Larry Householder, a Republican, is serving a 20-year prison sentence following his 2023 convictions on federal charges arising from the scheme. Former Ohio GOP Chairman Matt Borges, tried alongside Householder, was sentenced to five years for his role.

Two others have pleaded guilty and are awaiting sentencing, while lobbyist Neil Clark—who was named with Householder in the federal case—died by suicide in March 2021.

Dowling is represented by Tucker Ellis LLP and Winston & Strawn LLP. Jones is represented by Baker & Hostetler LLP and Vinson & Elkins LLP. The state is represented by the Ohio Attorney General's Office and the Summit County Prosecutor's Office.

The cases are Ohio v. Dowling, Ohio Ct. Com. Pl., No. CR-2024-02-0473-B, trial held 3/11/26 and Ohio v. Dowling, Ohio Ct. Com. Pl., No. CR-2024-02-0473-C, trial held 3/11/26 .

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March 10, 2026

Section: A

Trial investigator may plead the Fifth Eric Lehnhart
has previously been accused of falsifying documents.

Lucas Daprile - ldaprile@cleveland.com

Despite leading the investigation into former FirstEnergy executives accused of corruption, the case's lead investigator may not testify at trial.

On Monday, prosecutors and defense attorneys told Summit County Court of Common Pleas Judge Susan Baker Ross that attorneys for lead investigator Eric Lehnhart said he planned to plead his Fifth Amendment right against self-incrimination at the FirstEnergy trial if he were called as a witness.

Lehnhart, a special agent with the Ohio Bureau of Criminal Investigation, has previously been accused of falsifying documents in a separate investigation.

Steve Grimes, an attorney representing defendant former First Energy lobbyist Michael Dowling, called the revelation "jarring" and a blow to the state's credibility. Grimes said Lehnhart either conducted or sat in on 32 witness interviews.

Assistant Ohio Attorney General Matthew Meyer said Lehnhart's role in the investigation was mostly documenting records and serving subpoenas. The investigations were conducted by a task force including local officials, the Organized Crime Investigations Commission and Meyer personally, he said.

Ross noted the move was unusual.

"I guess we all assumed the agent in charge would get called, but he hasn't," Ross said at the Monday hearing.

Prosecutors say Chuck Jones, former FirstEnergy CEO, and Dowling bribed Sam Randazzo, the state's former top utilities regulator in the high-profile scandal.

Randazzo, who died by suicide in 2024, received \$4.3 million to rule in favor of FirstEnergy and support regulatory actions worth more than \$1 billion to the company, investigators say.

Jones and Dowling each face more than a dozen charges, including racketeering, conspiracy, aggravated theft, money laundering and telecommunications fraud.

Last week, attorneys for Jones and Dowling accused the state of "persistent prosecutorial misconduct," and asked Judge Susan Baker Ross to either dismiss the charges or give the jury special instructions that would benefit the defense.

Defense attorneys said prosecutors failed to disclose key evidence to the defense until mid-trial, violating Brady v. Maryland, which requires investigators to turn over all exculpatory evidence that might benefit the accused. That key evidence came from the grand jury testimony of a former FirstEnergy chief ethics officer Ebony Yeboah-Amankwah.

Prosecutors have said they did not violate Jones and Dowling's constitutional rights.

On Wednesday, U.S. Sen. John Husted, who has not been accused of wrongdoing in this case, is scheduled to testify over video on behalf of the defense. Husted, who was then the lieutenant governor-elect, spoke to Dowling on the phone nine times around the time prosecutors say the bribe happened.

---- Index References ----

Company: FIRSTENERGY CORP

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Criminal Law (1CR79); Financial Fraud (1FI18); Fraud (1FR30); Government Litigation (1GO18); Legal (1LE33); Social Issues (1SO05))

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

News from Bloomberg Terminal
Private Credit Gets Marked Down
March 11, 2026, 11:15 AM PDT

By Matt Levine

(Bloomberg Opinion) --

Private credit marks

Let's say I lend a software company \$100 for five years at 8% interest. I give the company \$100 in cash, and it gives me back a note promising to pay me back, which I enter into my accounting system as a \$100 asset. The next day, Anthropic releases some new artificial intelligence tool, people get nervous about the software business, and software stocks and bonds drop. The yields on loans to other software companies, companies that are similar to my borrower, go up by 0.5% over the course of the day. I call up my borrower to check in, and they say "oh yeah, we saw that headline but we're not too worried, everything's fine." How much is my asset – the company's note – worth?

There is a conventional answer, which is about \$98.¹ The price of a debt instrument moves inversely with interest rates; as the market demands higher interest rates from borrowers like my software company, the value of those companies' existing debt goes down. If I sold my note for \$98, the buyer would get a yield of 8.5%, which is the new market rate. The "mark-to-market value" of my note is \$98.

But I might object: Well, no, I'm not going to sell my note for \$98, or for any other price. I'm just going to wait my five years, collect 8% interest along the way, and get \$100 at the end. I thought that proposition was worth \$100 yesterday, and I think it's worth \$100 today. *Nothing has changed*, with the asset, or the company, or me. Oh sure sure sure stuff in the outside markets has changed, and other people are more nervous about software credit. But I don't see how that affects me. *I* am not more nervous. They'll probably change their minds tomorrow; it is nonsense to say that this loan was worth \$100 yesterday and \$98 today and for all I know \$101 tomorrow. It'll pay \$100 in five years with interest, it's a perfectly good performing loan, it's worth \$100 until I have some objective reason to think that it isn't.²

Probably a lot of you got very itchy reading that last paragraph, and I promise that I got very itchy writing it. But I want to argue that it's not insane, and that which answer – \$98 or \$100 – is "correct" depends on the purposes for which you are using the answer. Here are some purposes:

1. If I run a hedge fund, the right answer is \$98, and it is very important that I mark this note to market in my accounting system. For one thing, just as a matter of intellectual rigor and market discipline, my job is to make money every day, and I need to know exactly what every asset is worth on the market so that I can make good trades. (If I am trading notes like this every day, it seems silly for me to say “well I won’t sell *this* one so it’s worth \$100.”) Also, a lot of outside people rely on my marks. I charge my investors a performance fee – 20% of their gains or whatever – based on market returns, so I need to price everything using market prices. And I probably have a lot of leverage – I borrow a lot of money from banks, secured by my investments – and the *banks* are sure going to mark those assets to market. The banks are giving me margin loans against the value of my assets, and if that value goes down – measured by market prices – I will get margin calls.
2. If I run a mutual fund or exchange-traded fund, the right answer is \$98, and mark-to-market accounting is again very important. Not, mostly, for the hedge fund’s reasons: I don’t charge performance fees or, probably, borrow much. But because the investors in my mutual fund can get *daily liquidity*: Every day, they can take money out or put money in. They will do this “at NAV”: If they take money out, I will pay them the net asset value of their shares; if they put money in, I will sell them shares at the net asset value. If the net asset value of my fund does not reflect market prices, this will collapse: If my investors can take out \$100 when their shares are only worth \$98, then they will take out too much money and leave remaining investors with too little. Also, if the investors take out too much money, they can effectively *force* me to sell the note (to pay them back), so its value really has to be \$98, the price I could sell it for today.
3. If I run a *bank*, I am a very special snowflake and generally am not supposed to mark loans to market in my financial statements. “I loaned the company \$100, nothing has changed, so that’s worth \$100” is the normal way that banks account for loans. The theory of a bank is that it can make loans and hold them to maturity, so it doesn’t need to mark them up and down to reflect fluctuating markets. There is some complication and nuance to this, a lot of people don’t like it, and it is not clear that it is really defensible anymore. We talked about it a lot in 2023, when there was a bit of a crisis in US regional banking, much of it caused by this sort of thing: Banks do not generally mark their loans to market in part because they assume they have stable funding and can hold the loans to maturity, and the 2023 regional banking crisis was a stark reminder that banks’ funding isn’t really that stable.
4. If I am just a person investing my own money, none of this matters at all and I can tell myself anything I want. It is probably psychologically healthier for me *not* to check the market too often or worry too much about fluctuating market prices, so here \$100 does kind of feel like the right answer.

Of course the trillion-dollar question right now is: What if I run a private credit fund? I lend a software company \$100, the market starts to panic about software, *I* think the loan is fine: How do I value it in my financial statements and investor communications and my secret heart of hearts? It’s worth thinking about from first principles:

- In some deep sense, what I am selling to investors, as a private asset manager, is a psychologically healthy relationship with their investments: I am selling them an asset that doesn't trade every day, that doesn't fluctuate with market prices, that doesn't overreact to news, that appears uncorrelated with public markets. The fact that public markets are panicking about software credit has nothing to do with me, and deep down it is my job to shield my investors from those fluctuations. So, \$100.
- A thing that I and others have emphasized about private credit is that it has a much more stable funding model than banks: Banks fund themselves with short-term deposits and so are vulnerable to runs that might force them to sell assets, while private credit loans are funded mostly with long-term locked-up investor capital that can't run. So if banks don't mark to market – "we don't need to sell so the loan is worth what we paid for it" – then *a fortiori* neither should private credit. So, \$100.
- But that's only mostly true. In fact, private credit firms run retail-focused funds ("business development companies" or BDCs), some of which do allow investors to take money out – not as much as they want anytime they want, but a limited amount once per quarter. These transactions happen "at NAV," and just like any other mutual fund, it is important that the net asset value be correct. If my net asset value doesn't reflect market prices, investors are going to rush to redeem, because they want to get 100 cents on the dollar for assets that are worth 98. And if I pay them out at 100, then the remaining investors' assets will only be worth 96, etc. So, \$98.
- Also, private credit funds do use leverage. They don't generally borrow as much or as short-term as banks or hedge funds, but they do some borrowing, some of it from banks, secured by their assets. The banks will take a keen interest in how much the assets are worth, they will want to keep their loan-to-value ratios low, and they might even have the right to send margin calls if the assets lose too much value. If I am getting margin loans against my assets, you'd better believe that those assets are getting marked to market – and probably by the bank, not me. So, \$98.
- Also, like hedge funds, private credit funds tend to charge management fees (a percentage of assets) and performance fees (a percentage of profits), so correctly measuring asset prices is important. (This is less important in private funds, which often charge fees based on committed capital and realized distributions rather than market prices.)

One way to put it is that, when you look at the simple core function of private credit – raising long-term locked-up funds from institutional investors with low leverage to make loans that are held to maturity and don't trade – you might think "ehh it's fine not to mark to market very carefully; just assume most loans are worth what you paid for them." And then if you look at the modern expansion of private credit – raising lots of semi-liquid money from individual investors, borrowing more money, trading the underlying loans – you might think "eek, actually it's very important to mark to market rigorously and frequently." And so you might tell a story in which private credit started out with a bank-like, hold-to-maturity, "it's worth \$100 until they stop making payments" mentality, and is now transitioning into a rigorous real-time mark-to-market mentality.

And so Bloomberg's Laura Benitez and Hannah Levitt report today:

Apollo Global Management Inc. is ramping up its efforts to give investors more regular insight into the value of its opaque private credit holdings, just as a spate of redemption requests from such funds rattles the wider market.

The firm, which manages \$938 billion of assets, is preparing to start reporting the net asset values of its credit funds on a monthly basis, John Zito, the co-president of Apollo's asset management arm, said in an interview. Ultimately, it aims for both daily NAVs and third-party valuations over time.

Meanwhile, though, there is a lot of pressure on private credit firms' net asset values. We have talked a lot recently about how private credit BDCs have been getting a lot of redemption requests from individual investors, and how they either have or have not met those requests. One way to think about it is that those redemption requests are a form of NAV arbitrage. If a BDC says that its loans are worth \$100, but you think their market value is only \$98, you should try to redeem out of that BDC: You'll get cashed out at \$100, which is more than you think it's worth. We talked about this back in January, when I wrote that, "if you let investors take their money back, you will generally do it at NAV, ... so NAVs really matter":

It is a classic bank run dynamic: If a private credit investment is worth \$7, but you can cash out for \$8, you should, and everyone will, and eventually there will be \$0 left. And everyone knows this and will be twitchy.

The fact that private credit BDCs are getting historically high levels of redemptions *might* suggest that their investors don't believe their marks. And BDCs limit redemptions to guard against this: If too many people are cashing out, that suggests that the fund is cashing them out for more than the actual value of their shares.³ The fund sort of lives in the old hold-to-maturity world, but its investors live in a mark-to-market world.

You know who else lives in a mark-to-market world? At the Financial Times, Jill Shah and Eric Platt report:

JPMorgan Chase ... informed private credit lenders that it had marked down the value of certain loans in their portfolios, which serve as the collateral the funds use to borrow from the bank, according to people familiar with the matter. ...

The loans that have been devalued are to software companies, which are seen as particularly vulnerable to the onset of AI. ...

One person briefed on the bank's decision said the valuation haircuts did not trigger margin calls at funds but were done to pre-emptively reduce the amount of credit available to the funds. ...

Publicly traded software stocks and debt have all plummeted this year. Private credit lenders, by contrast, tend to hold loans for the entire term and have not marked down their portfolios in lockstep.

Private lenders have said enterprise software companies are still growing and expect their loans to continue performing, as investors backstop the borrowers.

"Enterprise software companies are still growing and [we] expect their loans to continue performing" is not something you can say to a *margin lender*. Or at least, not to JPMorgan:

JPMorgan is somewhat of an outlier in the private credit financing business as it reserves the right to revalue assets at any time. Most other banks require triggers such as missed interest payments.

At some level, marking private credit loans to market still feels wrong *even to most banks*.

Kalshi call spreads

I wrote yesterday about how Kalshi and Polymarket are now offering binary options on where the S&P 500 stock index will close. There are, you know, various things to say about that, but one thing I said is that binary options are a particularly appealing product for retail investors because they are so simple. We discussed a 2025 paper, "Overvaluing simple bets: Evidence from the options market," by Aaron Goodman and Indira Puri, finding that traders systematically pay more for binary options than they do for "strictly dominant bull spreads," that is, conventional option combinations that pay more than the binaries in every situation. Why would you pay more for a product that is always worse? Well, because it is simple and easy to understand.

But then I went on to quote the Bloomberg News story about the prediction-market S&P 500 contracts, which said that "the price on Kalshi for the S&P 500 Index ending the year between 8,000 and 8,200 points" was about 4 cents on the dollar (\$2,190 for a \$44,000 payoff), while "in the options market, one could pay a \$2,190 premium to bet on a 8,000/8,200 call spread," with a maximum profit of \$20,000 per contract. And I said: "Sounds like the Kalshi call spread is cheaper?"

Quite a few readers emailed to point out that, nope, these are not comparable trades: If the index finishes *above* the 8,200 cap, the Kalshi contract pays out zero, while the conventional call spread pays out the maximum. It is not quite *strictly dominant* (it pays less in the 8,000/8,200 band), but it is also not right to say that the Kalshi call spread is cheaper. Sorry.

ChatGPT is not your lawyer

Nothing in this column is ever legal advice, but in this section, you should especially assume that every sentence ends with "(not legal advice!)". Anyway:

We talked yesterday about whether Cluely did a little light securities fraud. Roy Lee, the co-founder and chief executive officer of the artificial intelligence startup, told a TechCrunch journalist some wrong numbers for Cluely's annual recurring revenue, which the journalist then published. Later, Lee apparently asked ChatGPT "is this securities fraud," and ChatGPT said no. Then he posted the exchange on X.

My point yesterday was that several people sent me this exchange to be like “well, is it?” and that I basically agree with ChatGPT. But I also pointed out that “there are various not-best-practices things here,” and asking ChatGPT for legal advice is one of them. Not only in the sense that ChatGPT might get its legal advice wrong, but also in the sense that ChatGPT is not your lawyer and so your conversations with it are not *privileged*. If you call your lawyer and say “hey I think I did a little light securities fraud, what do you think,” and your lawyer says “yep definitely fraud,” your lawyer won’t go call the police to turn you in, and the police can’t make her: Your conversations with her are subject to attorney-client privilege. Whereas ChatGPT is not a lawyer, it’s a chatbot, and so it might turn over your conversations to the police. Here’s a Perkins Coie memo from last month:

On February 17, 2026, the Southern District of New York, in *United States v. Bradley Heppner*, held that a criminal defendant’s written exchanges with a “publicly available AI platform” are not protected by attorney-client privilege or work product doctrine and, thus, could be inspected by the government. The ruling appears to be the first federal decision squarely addressing privilege claims for communications with a generative AI platform of this type.

He was allegedly doing some securities fraud, got caught, asked ChatGPT for advice, and ultimately had to turn over the advice to the FBI:

After receiving a grand jury subpoena and becoming aware that he was the target of a criminal investigation, the defendant—acting on his own initiative without instruction from counsel—used a free generative AI platform to prepare documents outlining his potential defense strategy and responses to potential charges. ...

The defendant later provided the AI-generated documents to his counsel, who reviewed them.

In October 2025, a grand jury indicted the defendant on securities fraud and related charges arising from alleged misconduct as a public company executive.

Upon arrest in November 2025, the FBI executed a search warrant at the defendant’s home and seized materials including the documents generated by the defendant’s use of the AI platform.

Right, don’t do that. Though in Roy Lee’s case he *posted ChatGPT’s advice on X*, which also seems like it would undermine the privilege.

Random number generators

I occasionally say around here, half-jokingly, that the stock market is a random number generator for gambling. At a micro level, a company’s stock price is obviously not a random number; it reflects the market’s expectation about the company’s future earnings, it will be higher if the company does good business things and lower if it does bad business things, and it is all analyzable in a logical deterministic way. But markets are highly competitive and pretty efficient and for most people the future path of a stock price might as well be random.

Random number generators are of course important in gambling, which is why it is funny to half-joke that the stock market is a random number generator, but they are also important in computer science and cybersecurity. Some good (imperfect!) ways to generate random numbers are flipping coins, rolling dice, etc., but computers are pretty deterministic and don't have hands, so they can't do that. There is thus a demand for a source of random numbers that computers can use. Is it the stock market? A reader sent me this program from a "Financial Cryptography and Data Security 2026" conference last week, which includes a paper on "Ultra-high frequency random beacons from financial tick sequences" by Silvia Onofri, Andrey Shternshis, and Stefano Marmi. Here is their related paper:

At an appropriate scale depending on the specific financial asset, multiple sequences pass standard randomness tests. Consequently, we propose a model-free approach for generating pseudo-random sequences from financial data, which can be leveraged for further cryptographic and other applications.

So there you go, the stock market is a useful random number generator.

Things happen

Regulators Plan to Relax Some Capital Proposals for Wall Street. Pushing private assets: are Europe's investors at risk of a mis-selling scandal? Blackstone, Blue Owl Take Minority Stake in US Private Equity Firm Atlas. Morgan Stanley Cuts Jobs Across All of Its Business Lines. Deleted Tweet From Energy Secretary Sends Oil Markets on Another Wild Ride. Gulf disruption chokes sulphur flows supporting swaths of global industry. Oil Trader Pierre Andurand Made 6% Last Week in Chaotic Market. Hedge fund Caxton loses more than \$600mn in Iran war fallout. Ackman's Compensation and Other News We Learned From Pershing Square's Filings. Bank of England fines Direct Line £10mn for overstating capital. The Tycoon Who Had a Secret Life as an Alleged Scam Kingpin. Lloyd's of London says it will still insure 'basically anyone' in the Gulf. Merger blocked after lawyers Simpson Thacher miss deadline for appeal.

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1. In Excel, $=PV(.085,5,8,100)$, which gets a price of \$98.03. For simplicity I assume annual interest payments and I have not accounted for the fact that a day has elapsed so it's not quite a five-year bond.
2. Here I am focusing mainly on credit risk, not interest rates. In practice a lot of private credit loans will be floating-rate and have only credit risk, not much rate risk; I'm simplifying by using a fixed-rate loan.
3. You can phrase this as "the marks are wrong" or as "the marks are right but not if you have to do a fire sale." As Bloomberg News reported last week: "One of Goldman Sachs Group Inc.'s private credit chiefs said limits on fund withdrawals are 'features and not bugs,' as the \$1.8 trillion market comes under increasing pressure from investors looking to exit. ... Gating allows 'the fund to actually protect the investor and the fund from the kind of value degradation that can happen in the context of fire sales,' Vivek Bantwal, Goldman Sachs Asset Management's global co-head of private credit, said at the Bloomberg Invest conference Tuesday in New York."

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Securities

Wall Street Regulators Seek More Enforcement, Exam Coordination

March 10, 2026, 10:31 AM PDT

The Securities and Exchange Commission and the Commodity Futures Trading Commission plan to coordinate examinations and enforcement for businesses that fall under both agencies' turf, the latest sign of cooperation between Wall Street's top regulators.

"With regards to enforcement, let me be clear: the regrettable era of duplicative enforcement actions and conflicting remedial obligations for the same conduct is over," SEC Chairman **Paul Atkins** said at a Futures Industry Association conference in Boca Raton, Florida on Tuesday. "Fragmented, redundant enforcement does not increase deterrence — it only increases confusion."

Unlike many countries that have one central financial markets regulator, the US has two: the SEC, which oversees stock and bond markets, and the CFTC, which regulates derivatives trading.



Paul Atkins

Photographer: Stefani Reynolds/Bloomberg

That split can sometimes mean duplicative enforcement actions, such as the SEC and CFTC levying fines on Wall Street firms in recent years for alleged misuse of off-channel communication devices.

Atkins said the SEC and CFTC would also need to coordinate examinations with self-regulatory organizations including the National Futures Association and the Financial Industry Regulatory Authority.

Coordinated exam planning for these entities should be “standard practice,” Atkins said, as should shared supervisory findings, subject to assurances of confidentiality.

The SEC and CFTC said last year they would work together to better align US rules across the two agencies, although officials have repeatedly said they have no plans to formally merge.

The two agencies are discussing plans to move into the same building complex, Bloomberg reported last week. Those conversations to relocate the CFTC headquarters into the same complex as the SEC are still under way.

Harmonization Efforts

Atkins also highlighted a series of other ways the two agencies would be aligning their oversight, including coordinating rules for national securities exchanges that want to start listing prediction market-type contracts, which are generally treated as derivatives contracts overseen by the CFTC.

In instances where contracts are tied to a specific equity, though, they may be deemed securities under the SEC's oversight, Atkins said.

The agencies will also explore ways to provide regulatory relief to allow for greater cross margining between cash and futures products, Atkins said.

The concept allows a trader to transfer excess margin from one trading account to another account in order to satisfy collateral requirements. Such transactions can increase liquidity for a bank, broker, or other trading firm, which can be important during times of market stress.

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Tesla delivery slide may stretch to third year, some fear, as cash burn looms

 [reuters.com/business/autos-transportation/tesla-delivery-slide-may-stretch-third-year-some-fear-cash-burn-looms-2026-03-11](https://www.reuters.com/business/autos-transportation/tesla-delivery-slide-may-stretch-third-year-some-fear-cash-burn-looms-2026-03-11)

Abhirup Roy, Akash Sriram

March 11, 2026

Item 1 of 2 A person sits inside a Tesla Cybertruck at a Tesla showroom in New York City, U.S., January 2, 2025. REUTERS/Adam Gray/File Photo

[1/2]A person sits inside a Tesla Cybertruck at a Tesla showroom in New York City, U.S., January 2, 2025. REUTERS/Adam Gray/File Photo [Purchase Licensing Rights.](#) [opens new tab](#)

- Analysts halve 2026 delivery growth forecast to 3.8% from 8.2% in January
- Morningstar, Morgan Stanley among analysts predicting a fall
- Tesla's cash flow expected to turn negative amid high capital expenditures
- Tesla faces competition, tax credit loss and weak demand for affordable variants

SAN FRANCISCO, March 11 (Reuters) - Tesla ([TSLA.O](#))  [opens new tab](#)

investors and analysts are cutting estimates for its electric vehicle deliveries and some are now expecting a third straight year of decline, pressuring profit as CEO [Elon Musk](#) refocuses on the expensive goals of launching robotaxis and humanoid robots.

Wall Street has expected Tesla to break its losing streak of declining car sales in 2026, but that is changing fast. Analysts have more than halved their growth forecast to about 3.8% from 8.2% in January and some high-profile Tesla watchers, including Morgan Stanley and Morningstar, which now project declines.

Sign up [here](#).

The shift comes as Tesla plans to double its capital expenditures to over \$20 billion, and Wall Street now expects that Tesla will be spending more cash than it takes in, a switch from seven years of positive cash flow.

Tesla is hit by the [loss of U.S. EV tax credits](#) and tougher competition in Europe, where it still lacks approval for its self-driving software, Morningstar analyst Seth Goldstein said, estimating a nearly 5% drop in vehicle deliveries this year.

"If I look at two of the three largest markets, I'm seeing a decline," Goldstein said. "So globally, I'm forecasting a third straight year of deliveries decline in 2026."

Expectations for deliveries in 2026 have been edging down gradually over recent quarters, according to Visible Alpha data, and recent months mark a clear shift, with some estimates pointing to an outright decline.

Goldstein and others also cited as a key concern weak uptake of Tesla's recently launched cheaper, stripped-down versions of its best-selling models.

To be sure, investors see Tesla's future as bright because of prospects for self-driving software, robotaxis and humanoid robots, rather than the core car business.

In addition, the projected spending is not an immediate threat to Tesla, which ended 2025 with \$44.06 billion in cash, cash equivalents and investments, and CFO Vaibhav Taneja said in January that the company might look into funding its spending through debt or other means after using internal resources.

Tesla deliveries growth estimates drop after fourth-quarter results

PRESSURE ON MUSK INTENSIFIES

Still, falling auto sales increase pressure on Musk to deliver fully autonomous driving software and robots, which underpin Tesla's \$1.5 trillion valuation as car sales still account for most revenue.

Tesla struck a guarded tone in its latest shareholder presentation in January, saying it was focused on "maximum capacity utilization" and that deliveries would be affected by aggregate demand, supply-chain readiness and allocation decisions.

Since hitting an all-time high on December 22, Tesla shares have dropped over 20%. Since then, the broader S&P 500 index ([.SOX](#))  [.opens new tab](#) has fallen a little over 1% up to Tuesday's close.

Analysts cut deliveries estimates up to 2030

DEMAND REVIVAL EFFORTS SEEN FALTERING

Tesla's deliveries fell for the first time in 2024 due to high borrowing costs, an aging lineup and poor reception of its only new model - the Cybertruck. The fall deepened in 2025 amid backlash over Musk's political turn, embracing President [Donald Trump](#) in the United States and [Germany's far-right party, the AfD](#).

Efforts to rekindle demand, including rolling out more inexpensive, stripped-down variants of its Model Y SUV and Model 3 compact sedan, priced about \$5,000 below their cheapest predecessors, have so far fallen short of expectations, analysts said.

The price cut was not enough to offset the lost EV tax credits, said Sam Fiorani, vice president at research firm AutoForecast Solutions.

"The updates to the Model 3 and Model Y were not radical enough to grow all of its market share back in the face of a range of distinctly styled and nicely featured competition," he said.

Sales in Europe showed some early signs of stabilization last month, but are still far from a recovery. Tesla's China-made electric vehicle sales [climbed for the fourth consecutive month](#) in February, as a favorable comparison from the prior year offset the typical seasonal headwinds.

Wall Street expects higher annual deliveries every year through 2030

CASH FLOW CONCERNS MOUNT

After last year's sales drop, Tesla ceded its crown as the world's top EV maker to [China's BYD \(002594.SZ\)](#)  [opens new tab](#). Any further decline could hurt its ability to self-fund Musk's ambitions outside autos.

Analysts have also been steadily reducing their estimates for Tesla's revenue from automotive sales in 2026 - they now expect the company to generate about \$72 billion, down from nearly \$138 billion they were expecting two years ago.

Substantial cash reserves and growth in energy and services have offered some comfort, but Tesla's plans to double capital expenditures this year have sparked cash-flow concerns.

While higher capital spending is needed for Tesla's ambitions in autonomous vehicles, robotics and energy, the cash burn could weigh on the stock and the company's valuation, Morgan Stanley analyst Adam Jonas said in a note. Jonas expects the company to burn over \$8 billion in 2026.

Wall Street now expects a negative free cash flow of about \$5.19 billion on average, a sharp reversal from previous expectations of generating \$2.27 billion, according to LSEG data.

But investors, focused on progress in sales of Tesla's self-driving software and the [rollout of robotaxis](#), will be happy as long as the fall in vehicle deliveries does not

accelerate, said Tesla investor Gene Munster, a managing partner at Deepwater Asset Management.

Zero growth is a "win" and a decline smaller than last year is "neutral," he said. "If the decline quickens, that's a problem."

Tesla free cash flow estimates turn negative as analysts factor in mammoth capex

Reporting by Abhirup Roy in San Francisco and Akash Sriram in Bengaluru; Editing by Peter Henderson and Matthew Lewis

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[Akash Sriram](#)

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Akash reports on technology companies in the United States, electric vehicle companies, and the space industry. His reporting usually appears in the Autos & Transportation and Technology sections. He has a postgraduate degree in Conflict, Development, and Security from the University of Leeds. Akash's interests include music, football (soccer), and Formula 1.

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Alex Spiro Says Twitter Atty 'Misremembering' Offer To Settle

By **Bonnie Eslinger**

Law360 (March 10, 2026, 11:40 PM EDT) -- Elon Musk attorney Alex Spiro testified before a California federal jury Tuesday that a lead Twitter lawyer who said Spiro tried to renegotiate Musk's \$44 billion deal to buy the social media platform was "misremembering," saying Twitter's counsel offered the discount and asked for legal waivers over the company's bot claims.

Tuesday marked the seventh day of trial in the securities fraud class action brought by Twitter investors claiming that Musk made misleading statements and threats to abandon the acquisition to depress the stock price to a renegotiate a better deal. The plaintiffs largely rested their case Monday, telling the court that they had just one last witness, a damages expert that's being called out of order due to a family concern.

Pretrial, the investors sought to **disqualify** Spiro, a Quinn Emanuel Urquhart & Sullivan LLP partner, as Musk's lead trial counsel. The plaintiffs had argued that his involvement in key events surrounding the billionaire's \$44 billion acquisition of Twitter in 2022 makes him a key witness, creating a conflict. U.S. District Judge Charles R. Breyer **rejected** the investors' disqualification bid.

Musk entered into the merger agreement with Twitter in April 2022, only to send the social media company a notice three months later seeking to terminate the deal over information the tech billionaire sought related to the percentage of fake "bot" accounts on the platform. Twitter turned around and sued Musk in Delaware, which ended with him **agreeing** in October 2022 to close at the original \$54.20-per-share price.

On the witness stand Tuesday, Spiro told jurors that there had been settlement talks between lawyers for Musk and Twitter in September of that year that had been initiated by a lawyer for Twitter's board of directors, Alan Klein of Simpson Thacher & Bartlett LLP.

"Klein said, 'Would you be interested in something like a 5% discount on the purchase price?'" Spiro said.

Spiro told jurors that the multibillion-dollar discount wasn't enough to cover the extra money Musk would have to pay for the deal due to increased interest rates on the portion of the deal that involved debt.

"It means they would erase the multibillion-dollar offer that he made," Spiro said.

In addition, Klein said the board would insist on executive pay packages, the Quinn Emanuel attorney added.

"I call it golden parachutes, I don't remember the words he used," Spiro said. "The executives' pay packages would equal something like \$200 million approximately."

Spiro said he pushed back, saying the original deal fell apart because Twitter executives had refused to give Musk data on account holders that the businessman said he'd use to determine how many accounts were run by bots. Klein then said the executives would need legal waivers saying he'd never pursue legal claims against the Twitter executives over the bot issue.

At that point, Spiro said he couldn't remember if he was talking to Klein or Martin Korman of Wilson

Sonsini Goodrich & Rosati PC, the attorney advising Twitter.

"I said, 'That's just a nonstarter. We're not going to do that,'" Spiro said, adding that when Musk took over Twitter he would have a chance to look through company documents and emails on the issue.

"And you know how fraud works, Marty and Alan, he can pursue them forever," Spiro said he told the Twitter lawyers. "So, no, we're not going to have this waiver issue when you've been hiding this information."

A lawyer for the investors, Mark Molumphy of Cotchett Pitre & McCarthy LLP, told Spiro that Korman had previously told jurors that Spiro said during a phone call on or around Sept. 11, 2022, that Musk wanted to renegotiate the Twitter deal and drop the lawsuit.

Spiro said that's not what happened.

"I think if you said to him, 'Didn't Alan Klein raise that issue?' I bet Marty Korman would go, 'You know what? Maybe Alan Klein did raise that issue.'" Spiro said.

Molumphy asked if Spiro had told Korman that Musk could make trouble for Twitter's "people and their heirs."

Spiro said the daily users numbers and bot calculation that Twitter put out publicly were false.

"What I remember is something like forever, this will go on forever," Spiro said. "I think he's misremembering."

Korman told jurors **on Monday** that Spiro had suggested a way to resolve the matter.

"Mr. Spiro was inviting a renegotiation of the transaction so that the lawsuit could be dropped and that the parties could mutually agree to close the transaction," Korman said.

According to Korman, Spiro had said that if Musk ends up purchasing Twitter, he'd have access to company records, including emails. The Quinn Emanuel lawyer said "something to the effect of" Musk could "dig into whatever he wanted to dig into," and "that might not be comfortable for the Twitter people and their heirs," Korman continued.

The statements at issue in the fraud case include a May 13, 2022, tweet from Musk saying the deal was "temporarily on hold" pending details about data regarding the number of alleged fake Twitter accounts and a May 17, 2022, tweet stating fake and spam accounts make up at least 20% of Twitter's users. Twitter's public filings said that less than 5% of its "monetizable daily active users" are fake accounts.

During **opening** statements on March 2, a lawyer for the investors told jurors Musk "trashed" Twitter "to drive the stock price down," while counsel for Musk said he was airing "legitimate" concerns about bots and fake accounts on the platform.

Musk testified over two days last week, telling jurors Twitter **lied** about the number of bots on the platform, but that he eventually paid the full \$44 billion offer price because a Delaware Chancery judge overseeing litigation over the sale was "**extremely biased**" against him.

The **certified class** are investors who sold the publicly traded stock or call options, or purchased put options of Twitter, from May 13 through Oct. 4, 2022. The **investors claim** if they had been aware the market price was being manipulated by Musk's statements, they would not have sold their Twitter securities at the "artificially depressed prices" they did, or they would not have sold at all.

The high-profile trial has had its heated moments, and on Friday, Judge Breyer urged the two sides to take the weekend to cool down and "**gain composure**." Musk filed a mistrial motion Saturday, which is still pending.

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, Stephanie Kelemen, Michael T. Lifrak and Phillip Jobe 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 Dorothy Atkins and Katryna Perera. Editing by Michael Watanabe.

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Roblox Investors Aim To Preserve Claims As Clock Runs Down

By **Emilie Ruscoe**

Law360 (March 10, 2026, 9:33 PM EDT) -- Funds invested in immersive gaming platform Roblox are asking to intervene in a proposed class action alleging the company understated the likelihood of a post-COVID lockdown user revenue slump, saying the clock was running out for bringing certain claims while the judge weighs dismissing the suit.

In a Monday filing in California federal court, nine investment entities associated with Prudential Financial Inc. and three funds tied to Harbor Capital Advisors Inc. ask U.S. District Judge Richard Seeborg to let them intervene in suit, so they could suspend the running of the Securities Exchange Act's five-year statute of repose for certain individual claims.

The funds say If those individual claims are eliminated by the statute of repose and the funds didn't take action, they "will be left without a remedy in the event that this court ultimately denies class certification."

Even if Judge Seeborg did eventually grant class certification, the funds argue, they couldn't later pursue individual claims if they had opted out of the class action unless they intervene now.

The funds note that the proposed investor class action remains in an early stage of litigation, adding that they couldn't tell if the class remedy would be adequate, or if they would have viable individual claims.

On the other hand, if they filed an individual complaint now and the judge later granted Roblox Corp.'s dismissal bid, "it would waste the resources of the court, the Prudential/Harbor funds, and the parties," the funds say.

The motion to intervene comes on the eve of the five-year anniversary of Roblox's March 2021 direct listing, which is also the beginning of the investors' proposed class period. The direct listing **saw** the company start trading at \$64.50, and Tuesday afternoon, the company was trading just below \$60, market records show.

The investors filed the suit in November 2023, and in the most recent version of the complaint, from April 2025, co-lead plaintiffs DeKalb County Pension Fund and Arkansas Teacher Retirement System contend that the company failed to disclose as it went public that it was poised for a falloff in purchases of Robux, the currency for buying virtual goods and experience on its platform.

Specifically, the amended complaint states, the newly public company hid from investors that Robux purchase growth, which it called its bookings growth, was "overwhelmingly fueled by users under the age of 13 and, as a result, the company's bookings would decline once children under 13 returned to school and Roblox implemented enhanced parental controls."

According to the investors, trading prices for the company's shares were artificially inflated until February 2021, when the company revealed it had fallen short of analyst's growth expectations for the fourth quarter of its 2021 fiscal year, when children returned to school on the heels of pandemic-era social distancing measures.

Following those disclosures, the complaint states, trading prices for the company's shares fell 26.5% and closed trading under \$54.

Roblox's bid to dismiss the second amended complaint has been pending before the court since September 2025, the Monday filing states.

Counsel for Roblox declined to comment Tuesday, and representatives for the investors and the intervening funds did not immediately respond to requests for comment.

Co-lead plaintiffs the DeKalb County Pension Fund and Arkansas Teacher Retirement System are represented by Michael P. Canty, Michael H. Rogers, Nicholas D. Manningham and Stephen C. Boscolo of Labaton Keller Sucharow LLP, and Lucas E. Gilmore of Hagens Berman Sobol Shapiro LLP.

The Prudential/Harbor Funds are represented by Michael J. Hampson of Rolnick Kramer Sadighi LLP and James A. Long of The Long Law Firm PLLC.

Roblox Corp. and individual defendants David Baszucki, Michael Guthrie and Craig Donato are represented by Boris Feldman, Doru Gavril and Elena Hadjimichael of Freshfields LLP.

The case is DeKalb County Pension Fund v. Roblox Corp. et al., case number 3:23-cv-06618, in the U.S. District Court for the Northern District of California.

--Editing by Kristen Becker.

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Semiconductor Co. Says Key Witness Now Disputes Claims

By **Katryna Perera**

Law360 (March 10, 2026, 3:59 PM EDT) -- STMicroelectronics has asked a New York federal judge to reconsider his earlier decision allowing an investor securities fraud suit to move forward, saying the ruling relied on statements from a former executive who now says the allegations attributed to him in the suit are false.

The semiconductor manufacturer filed a **motion** for reconsideration and dismissal on Friday, arguing that the operative complaint's allegations are built on "fabricated evidence."

In September, U.S. District Judge Alvin Hellerstein allowed the suit accusing STM of failing to acknowledge pandemic-related declines in demand **to move forward**, finding that it plausibly alleged the company omitted material facts in its public statements.

The complaint relies on statements made by a confidential witness — now identified as Marco Monti, the former president of STMicroelectronics' Automotive & Discrete Group — including that he warned STM's top brass that the company was not immune to the semiconductor market slowdown, and not to misrepresent STM's prospects to investors.

According to the operative complaint, Monti was fired in 2023 for objecting to STM's channel stuffing, in which STM provided excessive discounts to customers to artificially inflate sales and offload inventory.

However, according to STM's Friday motion, Monti recently signed a declaration stating that he did not make the statements attributed to him in the operative complaint and that those statements are false.

"Mr. Monti attests that he told plaintiffs' counsel that he 'did not want to participate in the lawsuit in any respect,' and that plaintiffs' counsel 'never asked me to review any draft of the complaint, including the allegations that they attributed to me. Had they done so, I would have told them that their allegations about me are untrue or inaccurate,'" the motion states.

Additionally, according to the motion, Monti explains in his declaration that he was not aware of any attempts by STM to mislead investors and that, as far as he was aware, all statements made by STM and its executives were "truthful, accurate and made in good faith based on the available information."

Monti also "expressly denies making any claim that STM engaged in 'channel stuffing' or inflated sales through excessive discounts," the motion states.

Based on Monti's declaration, STM argues that the court should reconsider its September ruling, which relied heavily on Monti's claims.

Additionally, the court should dismiss the operative complaint because, without Monti's allegations, there are no actionable misstatements or omissions, according to STM.

"Removing the 'CW1' allegations, defendants' vague statements that STM's future order pipeline was 'very solid,' 'pretty good,' and 'stable' are textbook inactionable puffery," the motion states. "And absent 'CW1,' defendants' opinions about future customer demand are nothing more than the kind of

'exercise[s] of subjective judgment' that cannot support securities fraud liability unless truly 'baseless' given the 'information in [their] possession at the time.'"

The suit's scienter claims against STM's CEO, Jean-Marc Chery, and Chief Financial Officer, Lorenzo Grandi, also fall flat in the absence of Monti's allegations, according to the motion.

"For example, if the court were to credit plaintiffs' vague theory that Messrs. Chery and Grandi paid attention to STM's performance, 'virtually every company ... that experiences a downturn in stock price could be forced to defend securities fraud actions' past the pleading stage," the motion states.

"Similarly, plaintiffs' assertion that Mr. Chery had a motive to commit fraud because he 'needed to report positive results' to 'keep his position' as CEO fares no better, because that 'executives aim to prolong the benefits of the positions they hold' is 'too generalized to demonstrate scienter,'" the motion further states.

Finally, the defendants argue that the operative complaint fails to plead loss causation.

"According to plaintiffs' own allegations, the supposedly corrective information — declining automotive demand, inventory corrections, reduced guidance, and even plaintiffs' own allegations of securities fraud — was disclosed to the market well before those purported 'partial disclosures' on Oct. 31, 2024 and Jan. 30, 2025," the motion states.

In a **letter** response filed on Monday, plaintiffs' counsel told the court that Monti's recantation is "troubling, raises very serious concerns of intimidation and undue pressure on the witness, and plaintiffs look forward to using the full tools of discovery to ascertain how and why Mr. Monti suddenly came to change his story."

According to the letter, Monti initiated communication with plaintiffs' counsel and voluntarily offered his account and continued to communicate with and cooperate with plaintiffs' counsel through December 2025.

"Plaintiffs continue to believe that Mr. Monti's account was accurately set forth in the operative complaint and remains truthful," the letter states.

Plaintiffs' counsel also argued in the letter that the defendants' arguments for dismissal are "wholly lacking in merit" and fail because they mischaracterize the complaint and the court's September order.

"The complaint relied on seven other CWs, many of whom corroborated Mr. Monti's account of a sustained decline in demand and excess inventory throughout the class period, as well as many other factors to plead a strong inference of scienter," the motion states. The court also found a strong inference of scienter based on the individual defendants' own admissions of actual knowledge."

The suit alleges STM's shares fell 15% in July 2024 when the company released its second-quarter earnings and downwardly revised its revenue guidance for the remainder of the year. Several months later, shares declined by 6% when STM again announced "poor" financial results and "signaled that the deterioration in the business and the industry would continue through the fourth quarter of 2024 and the beginning of 2025," the suit claims.

Counsel for the plaintiffs declined to comment on Tuesday, and counsel for STM did not immediately respond to requests for comment.

The investors are represented by Omar Jafri, Joshua B. Silverman, Brian O'Connell, Jianan Jiang, Jeremy A. Lieberman and J. Alexander Hood II of Pomerantz LLP, Adam M. Apton and Devyn Glass of Levi & Korsinsky LLP, and Eitan Kimelman of Bronstein Gewirtz & Grossman LLC.

STM and the individual defendants are represented by Robert J. Giuffra Jr., David M.J. Rein, Julia A. Malkina and Alexandra Bodo of Sullivan & Cromwell LLP.

The case is In Re STMicroelectronics N.V. Securities Litigation, case number 1:24-cv-06370, in the U.S. District Court for the Southern District of New York.



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Mining Co. Can't Decertify Class In Dam Collapse Suit

By **Katryna Perera**

Law360 (March 10, 2026, 7:36 PM EDT) -- A New York federal judge on Tuesday rejected Vale SA's bid to decertify a class of investors in a suit accusing the Brazilian mining giant and its executives of concealing safety problems at its Brumadinho dam in the lead-up to a deadly collapse there, finding unconvincing Vale's new expert report showing that its securities were traded in inefficient markets.

According to **an order** issued by U.S. District Judge Eric Komitee, Vale moved to decertify the class, saying its new expert's analysis "conclusively establishes that Vale's securities operated in an inefficient market."

The report or event study that Vale relied on was conducted by Sumon Mazumdar, a finance professor and economic consultant, according to the order. Vale said Mazumdar's event study provided "direct and unassailable evidence that the markets for Vale securities were inefficient."

According to the order, the investors pushed back, saying indirect evidence is sufficient to establish market efficiency and Mazumdar's report should be disregarded because he employed a "subjective approach in identifying value-relevant news," among other things.

On Tuesday, Judge Komitee agreed with the investors, saying Vale failed to present conclusive and direct evidence of an inefficient market and, therefore, in the absence of such evidence, class certification must stand.

"Each party levels meaningful criticisms against the other's expert, namely regarding his methodology for selecting the 'news days' used to test the Vale securities' reactions to unexpected material information," the order said. "Even setting aside both experts' event studies, we are still left with persuasive 'indirect' evidence of market efficiency."

In a separate ruling Tuesday, Judge Komitee **trimmed a related class action** brought by eight investment funds against Vale over the dam collapse, finding that the funds failed to plead scheme liability or scienter as to the individual defendants and improperly relied on group pleading. The judge also dismissed the suit's state common law fraud claim.

Counsel for Vale declined to comment Tuesday and counsel for the investors did not immediately respond to request for comment.

A Vale-linked dam in Brumadinho, Brazil, collapsed in 2019, killing 270 people, and the event led to the company's stock prices tumbling.

The suit said Vale failed to tell investors about conflicts of interest among safety inspectors as well as internal reports warning about potential problems with the stability of the Brumadinho dam.

The U.S. Securities and Exchange Commission also brought an enforcement action against Vale in 2021, alleging that the company committed securities fraud by "intentionally concealing the risks that one of its older and more dangerous dams ... might collapse."

According to the SEC, Vale secured stability declarations for the dam undergirded by laboratory data that the company knew was unreliable, hid information from its safety auditors, ignored certain best practices and safety standards and severed ties with auditors "who threatened Vale's ability to obtain dam stability declarations."

In 2023, Vale agreed to pay \$55.9 million to settle the SEC's case.

The investors are represented by Aaron L. Schwartz, Donald R. Hall Jr., Frederic S. Fox, Jeffrey P. Campisi and Melinda Dierre Campbell of Kaplan Fox & Kilsheimer LLP.

Vale and the other defendants are represented by Christopher M. Joralemon, Akiva Shapiro, Mary Beth Maloney, David M. Kusnetz and H. Chase Weidner of Gibson Dunn & Crutcher LLP.

The cases are In re: Vale SA Securities Litigation, case number 1:19-cv-00526; and Orbis Global Equity LE Fund (Australia Registered) et al. v. Vale SA et al., case number 1:21-cv-06590, both in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Emilie Ruscoe and Jessica Corso. Editing by Stephen Berg.

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Insurers Can't Resume Investor Fight In \$220M Coverage Row

By **Emily Lever**

Law360 (March 10, 2026, 6:49 PM EDT) -- A Texas appellate court Tuesday rejected two insurance companies' bid to stop a group of shareholders of now-bankrupt Cobalt International Energy from pursuing claims on behalf of thousands of other investors, stymieing the carriers' attempts to curtail a fight over coverage of a \$220 million securities settlement.

In its two-page **opinion**, a three-judge panel of the Fourteenth Court of Appeals denied a **petition** from Endurance American Insurance Co. and Freedom Specialty Insurance Co. that sought a writ of mandamus to revive their bid to disallow one of Cobalt's former shareholders from serving as a "purported class representative" in the ongoing insurance coverage dispute.

"Mandamus is an extraordinary remedy that is available only when the relator shows both that (1) the trial court clearly abused its discretion; and (2) no adequate remedy by appeal exists," the decision read.

The insurers, the judges concluded, "have not demonstrated entitlement to mandamus relief."

Endurance and Freedom were requesting to have a group of former investors, known as GAMCO, barred from going after Cobalt's insurance carriers on behalf of not only themselves but also other ex-equity holders that did not participate in a securities class action against Cobalt. That class action resulted in a settlement whereby Cobalt and its investors agreed to release each other and go after insurers together for the \$220 million settlement amount.

The dispute stems from class claims brought in 2014 by thousands of investors asserting that they lost over \$1.6 billion because of Cobalt's oil exploration and production efforts in Angola.

The stockholders said Cobalt concealed investigations by the U.S. Securities and Exchange Commission and U.S. Department of Justice concerning what they called bribery by the company of Angolan officials to gain access to local oil wells. The investors also argued the company misrepresented the oil content of certain wells.

Cobalt filed the present action in Texas state court in May 2016, seeking coverage from Endurance, Freedom, AIG affiliate Illinois National Insurance and a number of others for losses arising from the securities class action. A group of investors referred to in filings as GAMCO — led by GAMCO Global Gold, Natural Resources & Income Trust and GAMCO Natural Resources, Gold & Income Trust — was the lead plaintiff in the class action.

Cobalt subsequently filed for bankruptcy in 2017.

The investors and Cobalt reached a settlement valued at \$220 million that was approved by a Texas federal court in February 2019. Recognizing that Cobalt had no resources on its own to compensate the shareholders, the investors released Cobalt from liability and agreed to work with the company to pursue \$220 million in damages from the insurers. GAMCO intervened in the suit as a judgment creditor following the settlement.

The Texas Supreme Court **ruled** in 2024 that GAMCO could assert claims directly against Cobalt's carriers to recover insurance benefits.

The insurers asked the court to find that GAMCO should be disqualified from pursuing claims on behalf of over 8,000 stockholders who purchased Cobalt securities but were not parties to the securities litigation, saying it did not meet Texas state law's requirements for class certification.

On Oct. 9, 2025, the court denied a motion to determine that the class certification was improper and GAMCO lacked standing to represent the nonparty Cobalt investors.

The insurers appealed. That appeal was dismissed Jan. 13, and the insurers filed both a motion for reconsideration and a request with the 14th Court of Appeals for a writ of mandamus reversing the dismissal.

GAMCO has been pursuing what is de facto a class action even though its status in the case stems from its service as lead plaintiff in "a settlement-only federal class — never subjected to adversarial scrutiny," the insurers argued in their petition for a writ of mandamus. "Certifying the class for settlement is not the same as certifying the class for litigation."

GAMCO's right to represent absent or nonparty shareholders is central because it has used those investors' losses to proceed in a manner similar to a class action, according to the insurers' filing.

"GAMCO necessarily seeks class-wide damages because its own losses cannot trigger these policies," the insurance companies said.

The motion for reconsideration is still pending.

None of the parties responded to requests for comment Tuesday.

Chief Justice Tracy Christopher and Justices Ken Wise and Chad Bridges sat on the panel for the Fourteenth Court of Appeals.

Endurance and Freedom are represented by Thomas C. Wright, Wanda McKee Fowler, Anna Fredrickson, Kyle Beckrich, Randall C. Owens and Andrew C. Nelson of Wright Close Barger & Guzman LLP and Manuel Mungia, Chad W. Schreiber and Peter A. Stokes of Norton Rose Fulbright.

Cobalt and its former directors and officers are represented by Robert Scott of Blank Rome LLP, Micah Skidmore and Ben L. Mesches of Haynes and Boone LLP, and Scott Brister of Hunton Andrews Kurth LLP.

GAMCO is represented by Andrew J. Entwistle and Sal H. Lee of Entwistle & Cappucci LLP.

The appellate case is In re: Endurance American Insurance Company and Freedom Specialty Insurance Company, case number 14-26-00088-CV, in the Fourteenth Court of Appeals of the State of Texas.

The underlying case Cobalt International Energy Inc. et al. v. Illinois International Insurance Co. et al., case number, 2016-31648, in the 125th Judicial District of the District Court of Harris County, Texas.

--Additional reporting by Hope Patti. Editing by Covey Son.



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Apple AirTag Plaintiffs Can't Get Class Cert. In Tracking Suit

By **Dorothy Atkins**

Law360 (March 10, 2026, 9:51 PM EDT) -- A California federal judge refused to certify a class of stalking victims suing Apple for designing AirTags that were susceptible to abuse by stalkers, after comparing the case during a hearing last week to mass tort litigation against Uber Technologies Inc. over driver sexual assaults.

In a one-page Monday order, U.S. District Judge Vince Chhabria denied the motion for class certification "for the reasons stated at the March 5, 2026, hearing." In light of his ruling, Judge Chhabria set the next case management conference in the case for April 3, to discuss, "among other things, whether the plaintiffs' individual cases should be severed."

Counsel for the plaintiffs declined to comment Tuesday, and representatives for Apple didn't immediately respond to requests for comment Tuesday.

The judge's short ruling is the latest development in litigation launched in **December 2022**, accusing Apple Inc. of defectively designing its AirTags, which are small enough to be slipped into a purse or hidden in a vehicle, in a way that puts stalking victims at risk of being tracked without their consent.

The plaintiffs argued in their **June motion for class certification** that their negligence and product liability claims rest on the common question of whether the tag's design, which emits signals that can be picked up via Bluetooth and sent to the tag's owner, unreasonably put them at risk of harm.

But during the **hearing last week**, Judge Chhabria repeatedly suggested the case should have been pursued as a mass tort instead of a class action, and he likened the claims to allegations in **multidistrict litigation** seeking to hold the ride-hailing giant Uber liable for its drivers sexually assaulting passengers.

However, the judge acknowledged that he didn't insist that the plaintiffs' claims be severed, or separated, at the outset of litigation. He also acknowledged that he may have influenced the plaintiffs' legal strategy by **suggesting during a hearing** early in the case that injunctive relief may be obtainable classwide.

Judge Chhabria said he realizes now that that isn't feasible, because the named plaintiffs don't have standing to seek the classwide injunctive relief. Apple had argued that the class representatives lack standing because they haven't shown stalkers will use AirTags to track them again.

Plaintiffs' counsel David F. Slade of Wade Kilpela Slade LLP acknowledged that he hadn't initially intended to pursue the case as a class action. However, he said plaintiffs' counsel decided to do so as more clients contacted the firms and sought to pursue claims, and since then, "we sort of sleepwalked into a world that is something of a mass tort."

Slade argued that there could be a clear benefit from the court deciding certain legal issues that are common to all claimants classwide, while leaving damages to be determined individually. But he also emphasized that, even if their class certification motion is unsuccessful, no plaintiffs have been shut out from bringing claims against Apple.

The plaintiffs are represented by Wade Kilpela Slade LLP and Milstein Jackson Fairchild & Wade LLP.

Apple is represented by Morrison Foerster LLP.

The case is Lauren Hughes et al. v. Apple Inc., case number 3:22-cv-07668, in the U.S. District Court for the Northern District of California.

--Additional reporting by Gina Kim and Bonnie Eslinger. Editing by Jay Jackson Jr.

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Iowa Defends 5th Circ. Appeal Of Schwab Antitrust Settlement

By **Sydney Price**

Law360 (March 10, 2026, 7:34 PM EDT) -- Iowa's attorney general told the Fifth Circuit that its appeal of a Texas federal judge's final approval of a settlement ending an antitrust class action over The Charles Schwab Corp.'s merger with TD Ameritrade is proper, arguing the state's duty to protect consumers allows it to challenge the deal.

The Hawkeye state said on Friday that the settlement "impairs the economic well-being of Iowan consumer class members," warranting the state's objection and **appeal**.

While counsel for the class stands to gain almost \$9 million in attorney fees and costs, the majority of the class will not receive any cash benefits from the deal, Iowa said.

"Iowa's interests here turn on the harm to consumers from the settlement, which sends most of the settlement value to class counsel (including all available cash), rewards named plaintiffs with settlement payments for damages claims that are unavailable to absent class members, and leaves the remaining 99% of class members worse off," Friday's response stated.

Last July, Iowa urged the court not to grant final approval of the deal "until it reflects fair and adequate relief to the class," but U.S. District Judge Amos L. Mazzant III **approved** the settlement in November. The court noted at the time that none of the roughly 70 objectors in the case had appeared at an August fairness hearing.

The litigation was launched in June 2022, with plaintiffs Jonathan Corrente, Charles Shaw and Leo Williams claiming Schwab's 2020 merger with TD Ameritrade "has, had, and will have, the effect of substantially lessening the competition and tending to create a monopoly in the relevant market for retail order flow," violating the Clayton Act. The plaintiffs claimed they had to pay increased transaction costs for trades following the merger.

Iowa had argued that the settlement, which requires Schwab to implement an antitrust compliance program, offers class members only "a theoretical injunction and monitoring."

Iowa filed a notice of appeal of the settlement in December, and a group of investors **pushed back** in January, saying Iowa lacks standing to object to the court's approval of the settlement. Iowa said on Friday that the Class Action Fairness Act allows it to bring its appeal.

"CAFA requires that class action settlement notices be sent to State Attorneys General to give States an opportunity to participate in the settlement process," Iowa said. "Here, Iowa timely filed an objection and timely appealed."

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

The investors are represented by Christopher M. Burke of Burke LLP, and Brian J. Dunne, Edward M. Grauman and Yavar Bathaee of Bathaee Dunne LLP.

Iowa is represented by Brenna Bird, Eric Wessan and Breanne A. Stoltze of the Iowa Attorney General's Office.

Charles Schwab Corp. is represented by Jason J. Mendro, Jeffrey Liu, Cynthia Richman and Daniel

Glen Swanson of Gibson Dunn & Crutcher LLP, Alan E. Schoenfeld, Jennifer Milici and David C. Marcus of WilmerHale, Harry Lee Gillam Jr. and Andrew Thompson Gorham of Gillam & Smith LLP, and Veronica Smith Moye of King & Spalding LLP.

The case is *Corrente et al. v. Charles Schwab*, case number 25-40774, in the U.S. Court of Appeals for the Fifth Circuit.

--Editing by Emily Kokoll.

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Social Media Jury Told Of Plaintiff's 'Embarrassing Sexual Act'

By **Craig Clough**

Law360 (March 10, 2026, 11:51 PM EDT) -- A psychiatrist who assessed a bellwether plaintiff alleging a harmful addiction to Instagram and YouTube told a California jury Tuesday that the plaintiff's turbulent home life, genetic factors and even an alleged "embarrassing sexual act" that got her suspended from school supports a conclusion the plaintiff does not have a social media addiction.

If you are experiencing thoughts of suicide, the Suicide and Crisis Lifeline is available 24 hours a day at 988 or online at 988lifeline.org.

Dr. Sonia Krishna, a board certified psychiatrist who received her medical degree and did her psychiatry residency at the University of California Los Angeles but now works in private practice in Texas, told the jury the plaintiff known in court as **Kaley G.M. or Kaley** does not meet the criteria for a social media addiction, and would have the same mental health struggles if she never used social media. She further stated Kaley's "life challenges explain her mental health diagnoses."

The incident that led Kaley to be suspended from school was argued about before the trial by the parties, with court records describing the alleged act in graphic detail before Los Angeles Superior Court Judge Carolyn B. Kuhl severely limited what the jury could be told about it to it being an "embarrassing sexual act" or "participating in a sexual act."

The defendants have argued at trial that Kaley's mental health struggles are likely connected to problems outside social media. They further sought to introduce details about the sexual incident and described it as a "pivotal event" in Kaley's adolescence.

Phyllis Jones of Covington & Burling LLP, who represents Instagram's owner Meta Platforms Inc., asked Krishna if she was familiar with an "embarrassing sexual act" that involved Kaley.

"Without going into the details of the incident itself ... can you talk a little bit about how she reacted to what had happened?" Jones asked.

"What had happened was so specific and significant that it led to the significant disciplinary action that she received during her schooling, and also, I believe, was the only time that she was [hospitalized] for a crisis event," Krishna said.

Krishna agreed with a question from Jones that the incident "did not involve social media" and said the incident was "significant" enough that **Kaley's mother** brought her to an emergency room because Kaley threatened suicide in the aftermath.

Krishna told the jury that diagnoses Kaley received as a child for anxiety, depression and body dysmorphia were more likely related to her combative relationship with her mother, her distant relationship with her father, her older sister's mental health problems, bullying from peers and a genetic predisposition to depression due to her mother's diagnosis for depression.

While Kaley did use social media as a coping mechanism and sometimes overused it, treatment for her underlying issues would likely alleviate her overuse of social media, she said.

When cross-examining Krishna, Kaley's attorney Mark Lanier of The Lanier Firm sought to paint the sexual incident in a different light, and asked Krishna to examine medical records from Kaley's hospital visit for threatening suicide, which did not result in her being put on a psychiatric hold.

"Let's see why she threatened to kill herself," Lanier said, adding that the medical record stated the principal had called her into the office over the incident, which resulted in her suspension and then Kaley's mother taking her phone away as punishment.

Reading from the medical record, Lanier said, "Mom took client's phone, at which point client threatened suicide."

"It was having her phone taken away, her social media outlet, right?" Lanier asked, to which Krishna said that is what the record states Kaley reported.

Lanier then asked if the record also states Kaley's treatment goal and safety plan "is to 'work with my mom through the week to get my phone back.' This was about her losing her phone, wasn't it?"

"I do believe it's in part to get her phone back because I think teenagers want their phones," she said.

Lanier acknowledged to the jury on Monday and Tuesday he is fighting an illness that was impacting his voice. By Tuesday morning his voice was extremely hoarse, and he told Krishna he would be questioning her in a "low register," although that did not last long.

Lanier, who throughout the trial has exhibited a fairly animated personality, was soon raising his voice to a high register that caused it to crack often.

Prior to the trial, attorneys for Kaley through a motion in limine sought to bar the defendants from discussing the incident over the sexual act, arguing it would be prejudicial and would "improperly inject moral judgments" into the trial.

According to court records, Kaley was accused by two classmates in 2019 when she was in the ninth grade of sticking a pencil in her vagina and making them look. She was suspended from school as a result.

In opposing the plaintiff's motion, the defendants — which at the time also included the owners of TikTok and Snapchat — argued the incident was a "defining event" in her high school life that directly impacted her mental health and lead "to her suicidal ideation the very next day."

"While Defendants intend to exercise sensitivity in questioning witnesses about this topic at trial, the mere fact that highly relevant evidence may be embarrassing is not a basis for its exclusion," the defendants argued. "Because this evidence is crucial to understanding Plaintiff's mental health, which she has put squarely at issue in this case, Plaintiff's motion should be denied."

Judge Kuhl, in an order issued on Jan. 21, noted that Kaley and her mother denied she actually did the act she was accused of, and limited how it could be referred to at the trial. The judge barred the defendants from introducing evidence suggesting she actually did engage in the act, and limited discussion of the "pencil incident" to the approved phrases of "participating" in a sexual act, with it also being an "embarrassing" act.

On Friday, the jury was shown two video depositions of school administrators at Kaley's high school discussing the incident and that she was suspended as a result of the allegations.

The bellwether is the first of at least nine trials that are planned out of thousands of cases consolidated in Judge Kuhl's courtroom, with the hope that the parties might reach a settlement in the rest of the cases based on the bellwethers' outcomes.

Meta and YouTube have argued at trial that social media addiction is not real, their platforms are not addictive and Kaley's documented mental health struggles can be attributed to abusive, neglectful parents and peers bullying her.

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

TikTok Inc. and Snap Inc. recently settled with Kaley, although the settlement did not resolve other consolidated personal injury cases in the Judicial Council Coordination Proceedings pending before Judge Kuhl.

Pretrial rulings by Judge Kuhl reduced the litigation to claims that the platforms' features are addictive, not the third-party media posted to the platforms. The companies are facing failure-to-warn claims, alongside negligence and concealment allegations.

The trial is scheduled to resume Wednesday.

The plaintiff is represented by Mariana A. McConnell of Kiesel Law LLP, W. Mark Lanier, Sarah Lanier and Rachel Lanier of The Lanier Law Firm, Rahul Ravipudi of Panish Shea Ravipudi LLP, Adam S. Davis of Wagstaff & Cartmell LLP and Joseph VanZandt of Beasley Allen Law Firm.

Meta is represented by Phyllis Jones, Paul W. Schmidt, Andrew Stanner and Michael Imbroscio of Covington & Burling LLP.

YouTube is represented by Luis Li, Ariel Anaba and Lauren Gallo White of Wilson Sonsini Goodrich & Rosati PC.

The case is Social Media Cases, case number JCCP5255 and lead case number 22STCV21355, in the Superior Court of the State of California, County of Los Angeles.

--Editing by Emily Kokoll.