

Judge certifies Anadarko investor class a second time

2026 CORPGDBRF 1159 • By Nicole Banas

Westlaw Corporate Governance Daily Briefing • March 12, 2026

(March 12, 2026) - Shareholders of Anadarko Petroleum Corp. can proceed with a securities class action alleging the company deceived investors about the viability of an oil field in the Gulf of Mexico, a Texas federal judge has ruled.

In re Anadarko Petroleum Corp. Securities Litigation, No. 20-cv-576, 2026 WL 673470 (S.D. Tex. March 10, 2026).

U.S. District Judge Charles Eskridge of the Southern District of Texas granted the plaintiffs' motion for class certification March 10, nearly two years after the 5th U.S. Circuit Court of Appeals vacated a previous certification order.

Anadarko, owned by Occidental Petroleum Corp., failed to demonstrate a lack of price impact from the company's \$902 million write-down of the oil field project in 2017, the judge said.

'Prolific' oil reservoir

The shareholder lawsuit alleges that Anadarko hailed the Shenandoah deepwater oil field in 2013 and 2014 as a "prolific" reservoir with \$2 billion to \$4 billion in potential resources.

Although the company had internal data showing that the projections were vastly overstated by February 2014, it concealed that information from investors and provided "glowing reports" about appraisal wells at the site, the amended complaint says.

Anadarko and top executives continued to tout Shenandoah until May 2, 2017, when the company took a \$467 million impairment charge and wrote off \$435 million in costs related to the project, the suit says.

Anadarko's share price fell approximately 8% the next day, closing at \$51.95, according to the complaint.

The suit includes securities fraud claims against Anadarko, former CEO R.A. Walker and three other former executives under Section 10(b) of the Securities Exchange Act of 1934, [15 U.S.C.A. § 78j\(b\)](#).

Price impact disputed

After briefing on the plaintiffs' motion for class certification was complete, the defendants filed a motion for leave to file a sur-reply. They asserted that the plaintiffs' expert, chartered financial analyst Bjorn Steinholt, presented new arguments on price impact in a rebuttal report attached to the plaintiffs' reply brief.

Steinholt disputed the defense expert's theory that the share price drop was related to news of Anadarko's involvement in a fatal explosion in Colorado, which broke the same day as the company's disclosures about Shenandoah.

The District Court denied the defendants' motion in March 2022 and certified an investor class that September. But the 5th Circuit vacated the certification order in April 2024, ruling that Anadarko should have been granted leave to file a sur-reply. [Georgia Firefighters' Pension Fund v. Anadarko Petroleum Corp.](#), No. 23-20424, 2024 WL 1787927 (5th Cir. Apr. 25, 2024).

On remand, the District Court held hearings on the motion for class certification and cross-motions to exclude expert testimony in June and July 2025.

'Common sense' decision

Judge Eskridge said the plaintiffs showed that common factual and legal questions in the suit predominate over issues specific to individual class members, as required by [Federal Rule of Civil Procedure 23\(b\)\(3\)](#).

The defendants attempted to rebut the presumption of reliance on the alleged misstatements by connecting the share price drop to news of Anadarko's involvement in the Colorado explosion, the judge said.

But "record evidence and common sense" suggest that the share price decline was not solely attributable to the explosion, when Anadarko also disclosed a \$902 million write-off for Shenandoah the same day, Judge Eskridge said.

He also denied the motions to exclude expert opinions by Steinholt and the defendants' expert, law professor Allen Ferrell, saying both used "sufficiently reliable" methods to analyze price impact and any questions go to the weight of their opinions rather than admissibility.

Michael Albert of [Robbins Geller Rudman & Dowd LLP](#) represents the plaintiffs. Daniel Slifkin of [Cravath, Swaine & Moore LLP](#) represents the defendants.

By Nicole Banas

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Date: April 30, 2024

A federal appeals court has vacated an order certifying a class of shareholders alleging that Anadarko Petroleum Corp. misled investors about the viability of an oil field project before taking more than \$900 million in write-downs in 2017.

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Companies

Anadarko Petroleum Corp.

How 'FirstEnergy' Could Shape Privilege Battles in Post-Breach Litigation, Part 3

In the third part of this series, we turn to what happens when litigation arrives and privilege is challenged.

March 12, 2026 at 10:35 AM By **Sadia Mirza** **Tim St. George** **Kaitlin Clemens** & **Jennifer Brumfield**



L-R: Jennifer Brumfield, Timothy J. St. George, Kaitlin J. Clemens and Sadia Mirza of Troutman Pepper Locke. Courtesy photos

In this third and final article in a three-part series on the *FirstEnergy* decision, we turn to what happens when litigation arrives and privilege is challenged.

Over the past several years, district courts have been skeptical of privilege claims over forensic investigation materials in the cybersecurity context. *FirstEnergy* provides a framework for defending those materials. Every cyber investigation serves two purposes. From a legal perspective, the investigation informs litigation exposure and defense strategy. But the same investigation also identifies compromised systems, drives remediation and supports business operations. After *FirstEnergy*, those dual purposes do not defeat privilege, provided the investigation was initiated because of legal risk and directed by counsel. This article also

examines how the lessons of *FirstEnergy* apply in cases involving multiple defendants that may have both a desire and need—for both business and legal purposes—to work together to understand an incident and share information.

Anticipating How Plaintiffs Will Challenge Privilege After 'FirstEnergy'

Before the *FirstEnergy* decision, federal district courts often ordered production of forensic reports that defense counsel argued were protected by privilege. See, e.g., *In re Premera Blue Cross Customer Data Security Breach Litigation*, 296 F. Supp. 3d 1230 (D. Or. 2017); *Wengui v. Clark Hill*, 2021 WL 106417 (D.D.C. Jan. 12, 2021).

One exception is *In re Target Customer Data Security Breach Litigation*, 2015 WL 6777384 (D. Minn. Oct. 23, 2015), where the court upheld privilege over materials produced through a genuine “two-track” investigation, one for the business response and a separate track directed by counsel to inform legal advice and prepare for litigation.

Despite *FirstEnergy's* protective reasoning and affirmance of privilege, plaintiffs will continue to challenge privilege in post-breach litigation, including by reference to contrary authority. Preparing a defense starts with anticipating how plaintiffs will challenge privilege and constructing a protective regime from the very beginning of an incident.

'The Investigation Was Business-Led, Not Legal Tactic'

Pre-*FirstEnergy*, courts first focused on investigations that serve both legal and business purposes. The decisions principally analyzed whether a forensic report would have been created in substantially similar form, regardless of litigation. *FirstEnergy* addresses this concern by highlighting when and why investigations were commissioned. The court concluded that materials are protected “even if they also serve business or compliance purposes, so long as they would not have been generated in substantially similar form in the absence of the threat of litigation.”

Plaintiffs will attempt to distinguish *FirstEnergy* on the ground that cyber incidents typically begin as business events. Security teams often detect security incidents. IT triages them, and management is generally notified before counsel is called. Plaintiffs will argue the response was business-led, not legal. The strength of the privilege argument credited by *FirstEnergy* will depend on the factual record. If the organization delayed engaging counsel, or if early forensic work was initiated and directed solely by IT or security teams, then the anti-privilege argument gains traction. Organizations that treat the incident as a legal event from the start, engage counsel immediately, and document counsel’s direction of the investigation will be best positioned to rely on *FirstEnergy's* legal framework.

'The Role of Counsel Was Nominal, Not Substantive'

Even when papered appropriately, plaintiffs will argue that counsel's name may have been on the engagement letter, but in practice the forensic vendor reported to the security team that set the scope of work, and that counsel merely received copies of reports. If counsel's involvement was cosmetic rather than substantive, then the investigation may not qualify for protection under *FirstEnergy*.

To assess privilege, courts will analyze the contemporaneous record: engagement letters, statements of work, emails, meeting notes, and counsel declarations. Evidence that counsel played a passive or after-the-fact role will weaken the privilege claim. To invoke the *FirstEnergy* holding, counsel should take active roles in defining the forensic scope, reviewing and shaping deliverables, participating in investigative briefings, and translating forensic findings into legal analysis.

'The Forensic Report Is a Business Record, Not Work Product'

Plaintiffs will argue that the forensic report was created to understand and fix any security issues and restore operations—not because of anticipated litigation—and that a substantially similar report would have been created regardless of any legal proceeding, thereby defeating the claimed privilege.

FirstEnergy's reasoning provides a strong counter to the line of precedent holding that forensic reports are business-related documents and not privileged. But the privilege argument is strongest when the organization can show a clear split between the counsel-led investigation and the subsequent operational response. A *FirstEnergy* approach recognizes that investigations ensuring business continuity operate differently than investigations triggered by litigation threats. The differentiating factor is whether the probe would have taken this form without the prospect of litigation.

'Privilege Was Waived by Disclosure'

The widespread distribution of forensic findings has proven fatal in several district court cases. In *Clark Hill*, sharing the report with IT personnel and the FBI was cited as evidence that it served nonlitigation purposes. But *FirstEnergy* takes a more nuanced view of third-party disclosures, holding that sharing factual findings with nonadverse third parties does not automatically waive privilege over the underlying communications or counsel's mental impressions. And the court emphasized that sharing bare factual conclusions is of a different nature than revealing the mental impressions and thought process behind counsel's litigation strategy.

Plaintiffs will still contend that even if privilege existed, it was waived by the organization's post-incident disclosures. Common targets include disclosures to regulators, insurers, and auditors, or

public statements and SEC filings. Plaintiffs may also point to broad internal distribution of forensic findings as evidence that the materials were not treated as privileged.

FirstEnergy's framework is helpful here. The court distinguished factual conclusions from privileged legal analysis, holding that releasing “ultimate findings” does not waive the privilege protecting the underlying analysis. The court also reaffirmed that work product protection is generally waived only by disclosure to an adversary, and that disclosures to auditors and regulators do not automatically trigger waiver.

FirstEnergy does not eliminate the risk that sharing the details of forensic reports with broad audiences will waive privilege, particularly if the disclosed materials contain counsel’s mental impressions or legal analysis. Post-*FirstEnergy*, litigators must show that disclosures contained only facts, went to non adverse parties bound by confidentiality, and excluded privileged analysis.

Protecting Privilege Across Multiple Parties

Unlike the situation in *FirstEnergy* where the defendant sought privilege of its own internal investigation, cybersecurity incidents increasingly implicate multiple parties, including when the customers of a breached entity are also named as defendants. Co-defendants may form a joint defense group to pool resources and coordinate litigation strategy. The *FirstEnergy* conceptual framework also is helpful for protecting privilege in these multi-party scenarios.

Protecting Privilege in Joint Defense Groups

The common interest doctrine permits parties that share a common legal interest to exchange privileged materials, disclose litigation strategy, and share experts and reports under a joint defense agreement (JDA) without waiving the underlying privilege. *FirstEnergy's* treatment of third-party disclosures support the use of a JDA to share otherwise privileged materials. Under *FirstEnergy*, a shared forensic expert retained by counsel for a joint defense group would qualify for work-product protection, provided the engagement is structured to inform litigation strategy. And because disclosures among co-defendants who share a common legal interest are, by definition, nonadversarial, there would be no privilege waiver under the *FirstEnergy* framework.

That said, the common interest doctrine requires that an underlying privilege exist before any sharing occurs, that the parties share a common legal interest and not merely a commercial one, and that the exchange of information is made in furtherance of that shared legal interest. *FirstEnergy's* emphasis on the contemporaneous record applies with equal force to multi-party arrangements. A written agreement articulating the shared legal interest and the group’s commitment to confidentiality should be in place before materials are exchanged. Counsel, not the business, should retain any shared experts, and the experts’ scope of work should make clear

that the purpose is to inform legal strategy, not just to share in costs. Communications with the expert should be routed through counsel and documented. Reports and documents circulated within the group should be clearly marked as privileged and confidential, and restricted from further distribution where possible. Because the potential exists for members of the group to become adversarial to one another at a later date—for example, if crossclaims get filed or an indemnification dispute arises—the JDA should also address a departing member’s obligation to keep privileged documents confidential.

Sharing Incident Response Reports With Customers

Another multi-party example occurs when the vendor that suffers a breach discloses information it learned from the forensic experts to its affected customers seeking that information. If the vendor and its customers are defending against claims by the same class of plaintiffs, materials exchanged in furtherance of that shared legal interest should remain protected under the common interest doctrine.

But vendor-customer relationships can be trickier than joint defense groups. The customer may blame the vendor for the breach, for instance. Courts have held that parties negotiating or potentially in dispute with each other cannot claim a common legal interest. In one recent example, a district court found that production of a shorter forensic analysis to “third-parties that themselves were potential litigants and adversaries” constituted a waiver of work product protection over the full forensic report, because the shorter document “revealed the goals, scope, methodology, and findings” of the broader investigation. See *In re American Medical Collection Agenc, Customer Data Securities Breach Litigation*, MDL No. 19-MD-2904, 2023 WL 8595741, at *12 (D.N.J. Oct. 16, 2023). Thus, potential indemnification claims and adversity should be considered before materials are shared.

FirstEnergy’s distinction between factual conclusions and privileged analysis provides a workable framework here too. Vendors can share factual findings about what happened, when, and what data was affected, but should withhold the litigation risk assessments or strategies. The shared information should be in a separate, non-privileged summary prepared specifically for customer distribution. A summary that discloses mental impressions related to the potential legal fallout of the incident, however, may be treated as a waiver of the privilege for the underlying report, even if the summary itself is shorter and less detailed.

Conclusion

FirstEnergy is a significant development for organizations seeking to protect post-breach investigations. It strengthens the privilege framework even when materials flow between multiple parties, but whether the privilege holds depends on the same factors as the single party context.

Counsel must lead, the investigation must be structured for litigation, the evidentiary record must be built contemporaneously, and the sharing of privileged materials must be controlled, documented, and confined to parties with a genuine common legal interest.

FirstEnergy's protections depend on active, written, and tested policies (through regular tabletop exercises) being implemented in real time. Organizations that use the structure described across this three-part series—engaging counsel early, directing investigations through counsel, structuring vendor relationships to support privilege, and building the evidentiary record in real time—will be best positioned to defend their privilege claims when those claims are challenged in post-breach litigation. And, those same considerations will extend to multi-party actions where co-defendants will often have both a business and legal need to share information and work together.

Sadia Mirza, *a partner with the Troutman Pepper Locke, leads the firm's incidents + investigations team, advising clients on all aspects of data security and privacy issues. She is the first point of contact when a security incident or data breach is suspected, and plays a central role in her clients' cybersecurity strategies.*

Tim St. George, *a partner with the firm, defends institutions nationwide facing class actions and individual lawsuits. He has particular experience litigating consumer class actions, including industry-leading expertise in cases arising under the Fair Credit Reporting Act and its state law counterparts, as well as litigation arising from data breaches.*

Kaitlin Clemens, *an associate based in the firm's Philadelphia office, handles ransomware and data extortion cases, and advises on compliance with state and federal laws, including HIPAA, FERPA, and GLBA, as well as development of privacy programs and pre-incident response strategies, as well as creating and delivering comprehensive training for attorneys who are new to cybersecurity.*

Jennifer Brumfield, *an associate with the firm, represents clients in complex cybersecurity and privacy class actions that involve emerging legal questions related to statutory interpretation, jurisdiction, and standing. She manages all phases of litigation from case assessment through discovery, dispositive motions, settlement and appeals.*

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Intel Shareholder Complaint Says 'Government Extortion' Led to Unlawful Deal with Commerce Dept.

The shareholder plaintiff, represented by Heyman Enerio Gattuso & Hirzel and Alan Morrison of George Washington University Law School, claims funding granted to Intel through the CHIPS and Science Act didn't entitle the federal government to a stake in the company.

March 11, 2026 at 03:41 PM By  **Ellen Bardash**



Intel headquarters in Santa Clara, California. Credit: JHVEPhoto/Adobe Stock

This report was first published by Delaware Business Court Insider.

An Intel Corp. shareholder has filed a derivative case against the company's board, the U.S. Department of Commerce and Commerce Secretary Howard Lutnick, claiming Intel's board responded to threats from the Trump administration by approving an unlawful deal through which the government became one of Intel's largest investors.

The shareholder plaintiff, represented by Heyman Enerio Gattuso & Hirzel and Alan Morrison of George Washington University Law School, claims funding granted to Intel through the CHIPS and

Science Act didn't entitle the government to a stake in the company.

The complaint was filed under seal in the Court of Chancery on March 5, and a [public version](#) was filed Wednesday. The case has been assigned to Vice Chancellor Paul A. Fioravanti Jr.

Intel struck a deal last year that gave the U.S. government a 9.9% stake in the company, valued at roughly \$11 billion. The deal followed Intel receiving CHIPS Act funds in November 2024. The complaint claims because the government had no right to demand equity in Intel, the agreement is void and unlawful.

The plaintiff has asked the court to invalidate the stock agreement, alleging there's no law that authorizes a federal officer or agency to acquire stock in a public company without congressional approval. The complaint claims in approving the deal, Intel's board members breached their fiduciary duties and wasted corporate assets. In addition to three derivative claims, the case brings a direct breach of fiduciary duty claim against Intel's directors.

The stock deal was reached after Trump, in August 2025, claimed Intel CEO Lip-Bu Tan was conflicted and should be ousted from the company.

"Because of the threats made by the administration to Intel's CEO, and, by implication, to the remainder of the board, the entire board was conflicted by well-founded fears over their personal and professional relationships, rendering them unable to exercise their independent and disinterested business judgment when the unlawful contract came before the board for its approval," the complaint stated.

Because the agreement specifies the 9.9% of shares owned by the government are to be voted however the board directs them, the shareholder plaintiff claims, the board members, receiving a benefit not shared by Intel's other shareholders, weren't able to be disinterested and independent when considering the deal. The complaint states the derivative action is "the only means by which Intel may vindicate its right to be free from government extortion and extricate itself from this unlawful contract."

The complaint states Skadden, Arps, Slate, Meagher & Flom advised the Intel board on the deal, creating a conflict of interest due to the firm's agreement with the Trump administration. Last March, amid the administration's issuance of executive orders targeting law firms, Skadden agreed to provide \$100 million in pro bono work.

Skadden is not named as a party in the case.

The complaint describes the firm's agreement with the administration and instances in which Skadden attorneys attended Intel board members' meetings, though the sections of the complaint

mentioning those meetings are largely redacted.

A spokesperson for Santa Clara, California-based Intel and counsel for the plaintiff declined to comment. Spokespersons for the Department of Commerce and Skadden did not immediately respond for comment.

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Securities

'Extortionary' Intel Deal With US Must Be Voided, Suit Says (1)

March 11, 2026, 8:56 AM PDT; Updated: March 11, 2026, 10:03 AM PDT

Intel Corp.'s sale of a 10% stake to the federal government amounted to little more than an "extortionary" seizure on the orders of President Donald Trump, according to a lawsuit unsealed Wednesday that seeks to void the transaction.

A shareholder suing the chipmaker in Delaware's Chancery Court called the deal illegal, saying CEO Lip-Bu Tan and other board members succumbed to "well-founded fears over their personal and professional relationships" when they signed off on the sale for "no meaningful consideration." The suit names US Commerce Secretary Howard Lutnick and his department as additional defendants.

Intel declined to comment on the lawsuit. The Commerce Department didn't respond to requests for comment Wednesday or when the complaint was originally filed under seal March 5.

The unsealed filing also sharply criticizes Skadden, Arps, Slate, Meagher & Flom LLP, the white-shoe law firm that advised Intel on the transaction after reaching its own \$100 million pro bono deal with the Trump administration in an effort to head off a punitive executive order. Skadden, which isn't named as a defendant, didn't respond to requests for comment.

"In extraordinary and expedited fashion, the board, operating under the shadow of the president's threats, and advised by legal counsel that itself was conflicted due to its pro bono promises to the president, caved to the government's extortion," the suit says. "The resulting contract is therefore void for illegality and must be cancelled."

The unorthodox stock sale in August reflected the increasingly heavy-handed economic approach deployed by President Donald Trump, whose boasts about dealmaking prowess have long formed a centerpiece of his political identity. The US Supreme Court last month rejected his declaration of an economic emergency justifying broad import tariffs, prompting the president to swiftly seek other means of imposing them.

At the time of the Intel transaction, the Trump administration characterized a stake in the beleaguered semiconductor firm—America's largest—as a matter of national security. The Pentagon later moved to designate Anthropic PBC a "supply-chain risk" after the AI giant pushed for some guardrails around military use of its technology.

'I PAID ZERO'

Public filings submitted alongside the sealed complaint last week previewed its allegations. Like the suit itself, they cited Trump's online post stating that "I PAID ZERO FOR INTEL, ITS WORTH APPROXIMATELY 11 BILLION DOLLARS."

The supposed deal price allegedly came from billions the government was already set to pay Intel in connection with preexisting research and development grants. But even if there had been a valid payment, the transaction would have been illegal anyway, according to the partially redacted complaint.

"In a country based on private enterprise, only Congress may authorize the president or a federal agency to become a partial owner of a publicly traded company, and Congress has not done that," the suit says.

It also targets sections of the stock agreement pledging the government's support for Intel's sitting directors in any board election. Those provisions created a further conflict of interest by giving Intel's directors a unique benefit not shared by other shareholders, according to the complaint.

In addition to an order canceling the deal, the lawsuit seeks "damages in an amount to be proved at trial."

The Intel shareholder, Richard Paisner, is represented by Heyman Enerio Gattuso & Hirzel LLP and GM Law.

The case is Paisner v. Tan , Del. Ch., No. 2026-0307, 3/11/26 .

(Updates article with additional details throughout.)

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Intel Derivative Suit Tests Governance Implications of Government Equity Stakes

K [dandodiary.com/2026/03/articles/shareholders-derivative-litigation/intel-derivative-suit-tests-governance-implications-of-government-equity-stakes](https://www.dandodiary.com/2026/03/articles/shareholders-derivative-litigation/intel-derivative-suit-tests-governance-implications-of-government-equity-stakes)

Sarah Abrams

March 12, 2026



During my panel, "Shifting Ground: D&O in a Changing World," at the Professional Underwriting Liability Society (PLUS)'s annual D&O Symposium, I noted the potential for emerging risks stemming from the [U.S. government's recent role as a shareholder](#) in publicly traded companies, including Intel Corp. (Intel).

On March 5, 2026, an Intel investor filed his Verified Stockholder Derivative Complaint in Delaware Court of Chancery under seal against, among others, Intel's CEO Lip-Bu Tan and U.S. Commerce Secretary Howard Lutnick (Intel Derivative). Certain exhibits to the Intel Derivative were made public. The following discusses the Intel Derivative and potential corporate governance challenges that increased government equity ownership may raise for U.S. companies.

The Intel Derivative

The Intel Derivative was filed by [shareholder Richard Paisner](#). The exhibits attached to the complaint include a [November 21, 2025, 220 books-and-records demand \(220 letter\)](#) made by Paisner under Delaware law. In that demand, he sought access to corporate documents in order to investigate potential misconduct related to the government equity transaction.

According to the 220 letter, the U.S. government's equity transaction "raises significant red flags" regarding whether Intel's fiduciaries placed their own interests ahead of those of minority shareholders. The shareholder also suggested that the company may have been pressured into accepting the equity deal by officials at the U.S. Department of Commerce after the company faced criticism regarding its progress under federal semiconductor programs.

Intel allegedly rejected the books-and-records demand, stating that the shareholder had not established a credible basis to infer wrongdoing or mismanagement by the company's directors or officers.

The Government Stake in Intel

The Intel Derivative allegations arise out of a 2025 transaction under which the United States government received approximately a 9.9% stake in Intel. The equity was issued in connection with the release of roughly \$8.9 billion in funding previously awarded to the company under federal semiconductor initiatives, including grants authorized by the [CHIPS and Science Act of 2022](#) (CHIPS Act).

[An Intel Press release from August 22, 2025](#), indicated that the government's equity stake would be funded by \$5.7 billion in grants previously awarded, but not yet paid, to Intel under the CHIPS Act and \$3.2 billion awarded to the company as part of the [Secure Enclave program](#). The \$8.9 billion investment was addition to \$2.2 billion in CHIPS Act grants previously received by Intel, making for a total investment by the U.S. Government of \$11.1 billion. In connection with the funding release, the government received common shares representing roughly ten percent of Intel's outstanding equity.

While the U.S. government has taken equity stakes in companies during financial crises, [including during the 2008 Financial Crisis](#), when the government acquired interests in firms such as General Motors and American International Group, Intel was not facing insolvency or a liquidity crisis. While Intel's market [valuation](#) had been declining and the company faces growing international competition in the semiconductor industry, the government investment was messaged to be part of a broader industrial policy effort to strengthen domestic semiconductor production and supply chains.

Discussion

Although the merits of Intel Derivative remain to be seen, the litigation highlights several governance questions that may result in D&O exposure as the federal government expands its appetite for equity in publicly traded companies. In particular, the Intel transaction may cause the federal government to simultaneously occupy multiple roles with respect to the same company: regulator, grant provider, defense customer, and shareholder.

This overlap may create the potential for perceived conflicts. Corporate boards often balance the interests of shareholders, regulators, employees, and customers. But when a regulator itself becomes a significant shareholder, the lines between these roles may blur. For example, shareholder plaintiffs may argue in derivative litigation that D&Os acted to preserve favorable regulatory relationships rather than to maximize shareholder value. Conversely, D&Os may contend that cooperation with government policy objectives is necessary to secure funding critical to the company's long-term strategy.

Another issue raised by U.S. government's equity stake in Intel and similarly situated companies is share dilution. Intel, by issuing common stock to the government in exchange for releasing previously promised grant funds, expanded its equity base. Derivative plaintiffs could attempt to frame the transaction as one that transferred value from existing shareholders to the government without sufficient justification. In response, Intel's board, or one similarly situated, could argue that the funding enabled strategic investments that ultimately benefit all shareholders by strengthening the company's manufacturing footprint and competitive position.

While derivative disputes are not uncommon in Delaware, the presence of the federal government as the counterparty makes the case somewhat unusual. [Intel's August 2025 press release](#) indicated that the government's stake is intended to remain passive and does not include board representation or control rights. Nonetheless, a shareholder owning roughly ten percent of the company's equity, especially if that shareholder is the federal government, could decide to play a meaningful role in shareholder votes.

If the government's interests align with management on key governance matters, that alignment could influence shareholder voting outcomes in areas such as director elections, compensation approvals, or takeover defenses. Notably, the Intel Derivative comes at a time when [federal policy initiatives](#) are increasingly focused on reshoring critical supply chains and strengthening domestic manufacturing in areas such as semiconductors, energy technology, and artificial intelligence infrastructure.

Thus, additional public companies operating in those sectors may find themselves in a similar relationship to Intel with the federal government. Should that occur, corporate boards may face new fiduciary duty scrutiny over how to balance shareholder interests with the expectations of government partners.

Conclusion

It is early days in the Intel Derivative litigation. The complaint itself remains under seal, and the case may ultimately turn on relatively conventional issues such as the adequacy of a shareholder's books-and-records demand. Nevertheless, the underlying transactions highlight an emerging risk as the government continues to expand its appetite for equity in publicly traded companies. With increased equity, the government's role may increasingly extend beyond that of regulator and policymaker to that of direct investor in publicly traded companies.

If that happens, litigation and D&O exposure may increase, if shareholders look to courts to address how traditional fiduciary duty principles apply when the United States government appears on a corporation's shareholder roster.

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2 suits challenge Meta's AI glasses over alleged secret video collection

DJ [dailyjournal.com/articles/390249-2-suits-challenge-meta-s-ai-glasses-over-alleged-secret-video-collection](https://www.dailyjournal.com/articles/390249-2-suits-challenge-meta-s-ai-glasses-over-alleged-secret-video-collection)

Since reports published in late February by Swedish newspapers claimed Meta's AI-enabled glasses store video without users' consent, the company has been hit with two class actions in the Northern District of California.

However, the two lawsuits differ substantially in where they claim Meta violated the law.

The first, filed March 4 by the Clarkson Law Firm PC, alleges, like the newspaper reports, that Meta sends video captured through the camera embedded in the glasses -- which are designed by Ray-Ban and Oakley to resemble popular designs -- to a third party in Nairobi, Kenya. There, employees are tasked with watching the video, often recorded without the user's knowledge, and labeling it for the purpose of training Meta's AI, according to the lawsuit and the newspapers Svenska Dagbladet and Göteborgs-Posten.

"The consumer data is extremely valuable to Meta. New data input is central to AI production, but as AI labs exhaust publicly available data, proprietary sources of new data can cost hundreds of millions of dollars," the complaint, filed by Ryan J. Clarkson, stated.

The complaint makes claims under false advertising and fraud statutes, alleging Meta misrepresented how little privacy it provided users. "Defendants engaged in a widespread marketing and advertising campaign portraying the Glasses as a product 'designed for privacy, controlled by you,'" the complaint states. *Bartone et al v. Meta Platforms, Inc. et al*, 3:26-cv-01897 (N.D. Cal., filed March 4, 2026).

The other lawsuit came four days later, filed by Ahdoot & Wolfson PC, making similar claims.

However, it includes allegations that the company violated customers' right to privacy. The plaintiffs make claims under the California Invasion of Privacy Act, the privacy provision in the state Constitution, and the common law principle of intrusion on seclusion.

"The video footage captured on Meta AI Glasses are reasonably considered private. Moreover, Defendants engaged in AI and human tracking deceptively and without the informed consent of Plaintiff and Class Members," the complaint, filed by Tina Wolfson, stated. *Tittl v. Meta Platforms Inc. et al*, 3:26-cv-01992 (N.D. Cal., filed March 8, 2026).

In response to the lawsuit, the company said that it takes steps to ensure sensitive data and footage is protected, including the removal of any identifying information, when information is provided to a contractor.

"When people share content with Meta AI, we sometimes use contractors to review this data for the purpose of improving people's experience, as many other companies do," according to a company statement. "We take steps to filter this data to protect people's privacy and to help prevent identifying information from being reviewed."

Cotchett, Pitre & McCarthy LLP partner Zachary N. Zaharoff, who is not connected to the cases, commented Wednesday that the lawsuits are the first he's aware of concerning AI and privacy.

"The frontier of litigation against AI platforms is very new. There has not been a significant amount of litigation on most topics," Zaharoff said, including consumer protection, privacy, publicity and personal injury issues.

But the cases do focus on a few issues that were around long before AI, Zaharoff said. Specifically, he pointed to tech companies' arms race to acquire data on users so they can sell more valuable, targeted ads. That practice is typically legal when the user agrees to have their data collected.

"The race to accumulate user data is one of the most important races in the private sector," Zaharoff said.

The privacy concerns surrounding Meta's AI glasses are like any other wearable technology, according to Zaharoff.

What's new, he said, is that customers might be under the impression that only an AI model can see their data when in reality people are used to label the data points.

"The AI twist to it all is that there are these AI smart glasses ... It's not AI that's processing this data, it's individuals. There's maybe a misrepresentation angle," Zaharoff said.

Privacy concerns regarding the glasses in the legal world go beyond the lawsuits as well. When the company's founder, Mark Zuckerberg, took the stand in a lawsuit against Meta over allegations its platforms are designed in ways that cause children to become addicted, Los Angeles County Judge Carolyn B. Kuhl became concerned that several people in the courtroom appeared to be wearing the glasses. Kuhl worried that they could be used to identify jurors or take unauthorized video of the proceedings and ordered anyone wearing the glasses to take them off.

"It is the order of this court that there must be no facial recognition of the jury. If you have done that, you must delete it," Kuhl reportedly said. "This is very serious."

#390249

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Class Action

Manage Newsletters

Live Nation Can 'Gouge' Fans on Fees, Ticket Directors Brag (1)

March 12, 2026, 6:35 AM PDT

Summary by Bloomberg AI

AI Generated



- Two Live Nation Entertainment Inc. ticketing directors bragged about the high fees the company charges fans, joking that the company is "robbing them blind" and that "these people are so stupid".
- The directors boasted about raising so-called "ancillary fees" – like parking, lawn chair rentals and VIP access – and still getting concertgoers to pay for them.
- Live Nation said in a statement that the messages did not reflect its values, and that its settlement with the Justice Department would cap fees at its amphitheaters at 15%.

Two Live Nation Entertainment Inc. ticketing directors bragged about the high fees the company charges fans at its venues, joking in internal messages that the company is "robbing them blind" and that "these people are so stupid" that "I almost feel bad taking advantage of them."

In a series of chats from 2022, Ben Baker and Jeff Weinhold, two regional directors of ticketing for Live Nation amphitheaters, boasted about their ability to raise so-called "ancillary fees" – like parking, lawn chair rentals and VIP access – and still get concertgoers to pay for them. In one exchange, Weinhold gloated about raising VIP parking costs at a Virginia concert venue to \$250.

"These people are so stupid. I almost feel bad taking advantage of them," Baker wrote, adding later, "I gouge them on ancil prices."

In another exchange, he bragged about charging "\$50 to park in the grass" and "\$60 for closer grass."

"Robbing them blind, baby," he said, "that's how we do it."

The company said in a statement that the messages did not reflect its values.

Baker is now the head of ticketing for the Live Nation unit responsible for its 150 amphitheaters and was expected to testify this week at a federal antitrust trial over claims that the company illegally monopolized the live events industry.

His testimony was postponed after the US Justice Department reached a settlement Monday with Live Nation. A group of state attorneys general are expected to continue litigating the case against the company as soon as next week.

Earlier: [Live Nation Gets to Keep Ticketmaster in Surprise DOJ Settlement](#)

In a court filing last week, Live Nation asked the judge to exclude six sets of Slack messages between the two men, arguing that they would unfairly prejudice the jury. The company redacted the descriptions of the chats in its brief. The Justice Department and state attorneys general opposed the request to exclude the chats, arguing they were evidence of how Live Nation uses its monopoly to degrade the fan experience.

A group of media organizations including Bloomberg petitioned the court to unseal the documents. US District Judge **Arun Subramanian** ruled Wednesday the documents should be unsealed and ordered states suing Live Nation to make them publicly available.

"The Slack exchange from one junior staffer to a friend absolutely doesn't reflect our values or how we operate," Live Nation said in the statement. "Because this was a private Slack message, leadership learned of this when the public did, and will be looking into the matter promptly."

Live Nation said that its settlement with the Justice Department would cap fees at its amphitheaters at 15% and that it has invested \$1 billion over the last 18 months in its venues.

Baker and Weinhold didn't immediately respond to requests for comment sent via social media.

In its filing, the company said that Baker and Weinhold are friends and the messages reflected "off-the-cuff banter, not policy, decision-making, or facts of consequence." Live Nation urged the court to exclude them from being introduced at the trial, arguing that their only purpose was to portray the company in an "unflattering light and inflame the jury."

In their unredacted response released Wednesday, the states argued that ancillary fees like those discussed in the chats are a method Live Nation uses to make more money off its monopoly. The company "is able to degrade the fan experience by charging excessive prices for ancillary services without fear of artists switching away," they said, calling it proof of Live Nation's monopoly power in amphitheaters.

(Updates with background on settlement and Live Nation investments in 12th paragraph.)

--With assistance from **Josh Sisco**.

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Wis. SC approves key defense in class action lawsuits | State AGs & Supreme Courts

 [legalnewsline.com/state-ags-and-supreme-courts/wis-sc-approves-key-defense-in-class-action-lawsuits/article_d337ecc8-af2d-4907-9a0e-7f8396216ac5.html](https://www.legalnewsline.com/state-ags-and-supreme-courts/wis-sc-approves-key-defense-in-class-action-lawsuits/article_d337ecc8-af2d-4907-9a0e-7f8396216ac5.html)

Jay Brown, John O'Brien

March 12, 2026

Hagedorn
<https://www.wicourts.gov/>

MADISON, Wis. - The Wisconsin Supreme Court has dealt a blow to class action lawyers, finding their targets can avoid lengthy and costly litigation if they take a simple preliminary step.

The justices last week ruled in [Gudex v. Franklin Collection Service](#) that class certification under the Wisconsin Consumer Act is not available when a defendant makes an appropriate settlement offer to just the named plaintiff - even though the offered relief does not apply to the entire class.

The case involved allegations that Franklin Collection Service attempted to collect a debt against Heather Gudex by sending her a letter that included statements like, "IF YOU ARE NOT PAYING THIS ACCOUNT, CONTACT YOUR ATTORNEY REGARDING OUR POTENTIAL REMEDIES, AND YOUR DEFENSES" and "[w]hen this letter was mailed no attorney has personally reviewed your account."

Gudex alleged the letter caused her confusion and anxiety as to whether she was about to be sued and led her to bring a class action lawsuit against Franklin under both the WCA and the federal Fair Debt Collection Practices Act on behalf of herself and other recipients of Franklin's letter.

According to Gudex, Franklin was attempting to collect \$51.13 she allegedly owed to AT&T.

The case proceeded under the WCA alone after discovery into Franklin's financial statements revealed that Gudex could sue for greater statutory damages under the WCA rather than the FDCPA. The WCA prohibits plaintiffs from recovering WCA damages if they bring a federal action based on the same claims.

In response to Gudex's demand for damages under the WCA, Franklin offered to settle the claim by paying Gudex actual damages and the WCA statutory damages of \$1,000 in addition to entering a voluntary stipulation that Franklin would stop sending out collection notices using the same language.

Gudex rejected this offer and instead moved for class certification, which the trial court approved based on Franklin's failure to offer settlement to the entire class.

Gudex also claimed that Franklin's offer was not appropriate under the WCA because it failed to offer costs, attorneys fees and punitive damages.

In granting class certification, the trial court reasoned that barring the class would make class actions for damages "unduly difficult" because a defendant could avoid class liability by offering settlement only to the plaintiff and not the potential class. The Court of Appeals agreed.

The Supreme Court disagreed, however, and, in a 6-1 opinion written by Justice Brian Hagedorn that focused on a plain reading of the WCA, reversed the Court of Appeals and sent the case back to the trial court.

The WCA carefully "establishes a series of processes and conditions attendant to a class action," Hagedorn wrote.

Among these are a requirement of notice of claims by the plaintiff to defendant before bringing a class claim. Once received, the WCA provides that an action for damages may not be "maintained... if an appropriate remedy ... is given, or agreed to be given within a reasonable time," by the defendant "to such party" within 30 days of receipt of the required notice.

The "party" to whom the defendant must offer the appropriate remedy "is Gudex, and Gudex alone," not the entire class, the majority held.

In her lone dissent, Justice Susan Crawford argued that the majority's view would defeat the legislative intent of the WCA by allowing "a defendant to avoid a consumer class action for damages by 'picking off' the representative plaintiff."

"With a defendant having at its disposal this powerful, inexpensive, court-created tool for avoiding consumer class actions for damages, it is hard to imagine how any consumer class action for damages will be maintained," Justice Crawford wrote.

That may be so, the majority argued, but a "better view of the statutory policy choice is that the legislature chose to incentivize making an affected customer whole as quickly as possible, while still preserving access to the class action lawsuit if the customer does not receive an appropriate remedy."

Left unaddressed by the Court, as the dissent noted, is whether Gudex's federal class claim is extinguished. "Although the majority doesn't address it, the certification of the class for claims asserted under the FDCPA arguably stands," Justice Crawford stated.

The case was sent back to the trial court to proceed on the remaining claims.

Ford loses again in lawsuit claiming plaintiffs' lawyers ran overbilling scheme

 [reuters.com/legal/government/ford-loses-again-lawsuit-claiming-plaintiffs-lawyers-ran-overbilling-scheme-2026-03-11](https://www.reuters.com/legal/government/ford-loses-again-lawsuit-claiming-plaintiffs-lawyers-ran-overbilling-scheme-2026-03-11)

Mike Scarcella

March 11, 2026

The blue Ford oval logo is displayed on the new Ford World Headquarters in Dearborn, Michigan, U.S. November 16, 2025. REUTERS/Rebecca Cook//File Photo [Purchase Licensing Rights, opens new tab](#)

WASHINGTON, March 11 (Reuters) - A federal judge for the second time has dismissed a lawsuit by Ford Motor [\(E.N\)](#)  [, opens new tab](#) that accused a group of plaintiffs' lawyers of fraudulently extracting more than \$100 million in unearned legal fees from the company and other automakers under a California consumer protection law for vehicle purchases.

U.S. District Judge Michelle Williams Court in Los Angeles [ruled](#)  [, opens new tab](#) on Tuesday that the three plaintiffs' lawyers targeted in Ford's lawsuit cannot be held liable for taking the automaker to court under the state's Lemon Law and then collecting legal fees from the company when they prevailed.

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Court said the lawyers were immune under a legal doctrine known as Noerr-Pennington stemming from the U.S. Constitution's First Amendment protection of the right to petition the government.

The judge had previously dismissed the lawsuit on similar grounds in November but allowed Ford to revise it. This time, she barred Ford from filing an amended complaint. Ford said it will appeal.

Daniel Saunders, a lawyer for Ford, said in a statement that "it cannot possibly be that the First Amendment protects lawyers and only lawyers ... to be uniquely cloaked by the courts with absolute civil immunity and a license to lie, cheat and steal, when they submit fake, fraudulent and made-up bills totaling tens of millions of dollars, based on sworn but perjured declarations to the courts."

Attorney Neal Katyal of law firm Milbank and other lawyers representing the defendants did not immediately respond to requests for comment. Defendants Amy Morse and Roger Kirnos of Knight Law Group also did not immediately respond to requests for comment. The defendants have denied any wrongdoing.

Knight Law in a statement on Wednesday said it welcomed the court's ruling.

"The District Court held that Ford's lawsuit was an impermissible burden on fundamental First Amendment rights, and that even if the unproven allegations in Ford's lawsuit were true, the vast majority of Knight Law's fee requests likely still would have been granted," Knight Law said.

California's Lemon Law, the Song-Beverly Consumer Warranty Act, protects consumers who buy or lease new vehicles that turn out to have serious defects. It allows attorneys to recover fees for time reasonably spent representing vehicle owners.

Ford alleged in its lawsuit that the lawyers oversaw a "Fee Motion Department" that created fraudulent time entries for work never performed and sometimes recorded physically impossible hours, including multiple 24-hour days and one 57.5-hour "workday."

Ford argued its lawsuit targeted a scheme to defraud the company, not protected efforts to petition for redress under the California law.

The plaintiffs' lawyers countered that Ford wanted "to chill and punish its litigation adversaries — law firms, lawyers, and staff who represent consumers harmed by Ford's defective vehicles and fraudulent conduct."

The case is Ford Motor Company v. Mikhov et al., U.S. District Court, Central District of California, No. 2:25-cv-04550-MWC-PVC.

For plaintiff: Daniel Saunders, Matthew Manacek, Edward McNally and Daniel Fetterman of Kasowitz

For defendants: Neal Katyal of Milbank; Dane Butswinkas of Williams & Connolly; and Aaron Dyer of Pillsbury Winthrop Shaw Pittman

Read more:

[Ford takes fresh aim at lawyers in lawsuit claiming overbilling scheme](#)
[Ford accuses law firms of fraudulent overbilling, including a 57-1/2 hour workday](#)

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Ford's RICO Case Against Lemon Law Firm Comes to a Screeching Halt

On Tuesday, U.S. District Judge Michelle Williams Court, in the Central District of California, dismissed Ford's racketeering cases against Knight Law Group, ending the case less than a year after it was filed.

March 11, 2026 at 05:17 PM By  **Amanda Bronstad**

What You Need to Know

- The Ford case is one of several brought by corporations under the U.S. Racketeer Influenced and Corrupt Organizations Act, with others filed by Uber, 3M and J-M Manufacturing.
- On Nov. 14, the judge dismissed many of Ford's claims, prompting an amended complaint focused solely on three lawyers at Knight Law Group.
- On Tuesday, the judge ruled that Ford's case was barred under the Noerr-Pennington doctrine, which protects lawyers under the First Amendment from being sued because they filed lawsuits, unless they are proven to be 'sham' cases.



Michelle Williams Court testifies before the Senate Judiciary Committee during her confirmation hearing to be U.S. District Judge for the Central District of California, on Wednesday, May 22, 2024. Photo: Diego M. Radzinski/ALM

A federal judge dismissed Ford Motor Co.'s racketeering case against a Los Angeles plaintiffs firm, less than a year after the automaker lodged its \$100 million lawsuit.

In a Tuesday order, U.S. District Judge Michelle Williams Court, in the Central District of California, found Ford's case against three current and former attorneys at Knight Law Group was barred under the *Noerr-Pennington* doctrine, which protects lawyers under the First Amendment from being sued because they filed lawsuits, unless they are proven to be "sham" cases. Although the case alleged that the lawyers conspired to bilk Ford out of \$100 million in legal fees, their requests were ultimately tied to the Lemon Law cases they filed, Court wrote.

"Plaintiff's argument incorrectly attempts to reframe the scope of the *Noerr-Pennington* analysis and places the cart before the horse," the judge wrote. "Plaintiff does not argue that defendants' actions so deprived the whole Lemon Law litigation of its validity. Accordingly, the sham exception does not apply because defendants' actions did not so infect the Lemon Law proceedings as to render them illegitimate."

Ford's in-house counsel, Doug Lampe, in a prepared statement, said he would appeal.

"It remains obvious that as alleged in the original complaint the Lemon Law trial lawyers representing consumers exploited and deceived the courts and the judicial system in California with their fake bills enterprise; that they duped their own clients (the consumers) by delaying case settlements so these Lemon Law lawyers could continue to create fake bills on open cases, abusing the California law that requires the automaker to pay the bills of the Lemon Law lawyers suing it; that they created income tax liability for their clients without advising of this risk; and that they defrauded America's auto makers and their workers and other stakeholders out of tens of millions of dollars," he wrote. "Despite all this, the trial court found that even when lawyers perjure themselves and lie to courts about the bills that these Lemon Law trial lawyers submitted to hundreds of California courts, that such activity is protected by the First Amendment."

Ford's lawyer, Daniel Saunders, of Los Angeles-based Kasowitz LLP, added, "The court's decision protects lawyers and only lawyers—who are already among the most disparaged and least-trusted professionals in America today— and effectively grants them absolute civil immunity and a license to lie, cheat, and steal when they create fake bills totaling tens of millions of dollars and submitting perjured declarations to the courts. Ford is confident that this ruling will be reversed on appeal."

Lawyers for two of the individual defendants—Steve Mikhov, the former managing partner, now at Rusk LLC in San Juan, Puerto Rico, described in the complaint as the "ringleader," and Managing Partner Roger Kirnos—did not respond to requests for comment. Those lawyers are former U.S. Acting Solicitor General Neal Katyal at Milbank in Washington D.C.; Aaron Dyer of Pillsbury

Winthrop Shaw Pittman in Los Angeles; and Zachary Warren of Washington D.C.'s Williams & Connolly.

A request for comment was also not immediately answered by Pamela Johnston, a Los Angeles partner at Foley & Lardner who represents a third individual defendant, partner Amy Morse.

A spokesperson for Knight Law Group emailed a statement to Law.com that said: "We are deeply pleased that the district court dismissed Ford's retaliatory RICO lawsuit with prejudice. Although Ford allegedly audited thousands of Knight Law's fee invoices before filing this case, the district court observed that the allegations in Ford's third complaint consisted of alleged billing issues 'so insignificant that they were undetectable.'"

The statement continued, "The district court held that Ford's lawsuit was an impermissible burden on fundamental First Amendment rights, and that even if the unproven allegations in Ford's lawsuit were true, the vast majority of Knight Law's fee requests likely still would have been granted. Ford will never distract Knight Law from its mission to protect American consumers, and California's leading Auto Lemon Law firm will never be deterred by attempts to chill its advocacy."

'Reputationally Devastating RICO Litigation'

The Ford case is [one of several](#) brought by corporations under the U.S. Racketeer Influenced and Corrupt Organizations Act: Uber Technologies Inc., 3M Co. and J-M Manufacturing Co. Inc. all have lawsuits against plaintiffs' firms suing them. Uber has brought at least four cases against personal injury lawyers in California, [New York](#), Florida and [Pennsylvania](#). Many of them have [moved to dismiss](#). In the California case brought by Uber, the defendants include Downtown LA Law Group, a Los Angeles-based firm that was [accused of paying cash to individuals](#) to sign up as claimants in a \$4 billion sex abuse settlement with Los Angeles County. On Monday, the State Bar of California [charged one of its lawyers](#), Salar Hendizadeh, with running a personal injury law practice in eight other states where he was not licensed.

Judges in Illinois and New York [have dismissed RICO cases](#) brought by J-M Manufacturing and insurers Roosevelt Road Re and Tradesman Program Managers.

Ford's case, [filed on May 21](#) of last year, alleged that the defendant lawyers since 2015 billed "phantom legal fees" and "hoodwinked all of the judges" in thousands of lawsuits brought under California's Lemon Law, called the Song-Beverly Consumer Warranty Act. The complaint originally named Knight Law Group and the three individual defendants, as well as a former paralegal and two other firms, Los Angeles-based Altman Law Group and San Diego's Wirtz Law, and two individual attorneys associated with them.



Daniel A. Saunders, Kasowitz Benson

On Nov. 24, Court [dismissed most of the claims](#), citing the *Noerr-Pennington* doctrine. She ruled that the attorneys didn't bring "baseless" lawsuits and that most of the fee awards tied to them were proper. She also concluded that Ford failed to establish that there was a racketeering enterprise, rather than an "ordinary business relationship."

On Jan. 5, Ford amended its complaint, limiting the defendants to the three Knight Law Group individuals, who moved to dismiss again.

"Ford was willing to drag other law firms, lawyers, and a paralegal through reputationally devastating RICO litigation, only to drop them as defendants and delete all allegations about them in order to plead a fundamentally inconsistent RICO theory, apparently because Ford thought doing so might save its case," they wrote. "Ford's opportunistic pleading strategy reveals this litigation for what it is: a brazen effort to destroy the reputation and business of its primary Lemon Law adversary."

Court heard oral arguments on March 6. In addition to the *Noerr-Pennington* doctrine, she found Ford failed to allege claims under RICO.

"Though plaintiff has dropped its claims against counsel outside of Knight Law Group, it still fails to plead that the defendants came together for the common purpose of creating fictitious billing records," she wrote.

As to amending the complaint again, the judge wrote, "Plaintiff here has not requested leave to amend, and the court already granted leave to amend in its previous dismissal order. In light of these two considerations, in addition to the extensive time and resources that plaintiff has already dedicated to drafting its complaints, leave to amend is inappropriate."

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Ted Frank's turnaround: Driving a class action for motorists 'imprisoned' by a protest

 [reuters.com/legal/litigation/ted-franks-turnaround-driving-class-action-motorists-imprisoned-by-protest-2026-03-12](https://www.reuters.com/legal/litigation/ted-franks-turnaround-driving-class-action-motorists-imprisoned-by-protest-2026-03-12)

Jenna Greene

March 12, 2026

Item 1 of 2 A view of cars on the road during rush hour traffic jam in Chicago, Illinois, U.S. November 20, 2018. REUTERS/Kamil Krzaczynski/File Photo

[1/2]A view of cars on the road during rush hour traffic jam in Chicago, Illinois, U.S. November 20, 2018. REUTERS/Kamil Krzaczynski/File Photo [Purchase Licensing Rights, opens new tab](#)

March 12 (Reuters) - Ted Frank, a conservative public interest lawyer in Washington, D.C., has built a reputation objecting to the terms of class action settlements that he says provide scant benefits to plaintiffs but richly reward their lawyers.

In a twist, Frank and colleagues at the non-profit Hamilton Lincoln Law Institute are pressing a [class action](#)  [, opens new tab](#) of their own, appealing after a federal judge last year blasted their arguments as "baseless," [dismissed the case](#)  [, opens new tab](#) with prejudice, and hit them with to-be-determined monetary sanctions.

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Frank and his team brought the case in 2024 on behalf of drivers stuck for hours in a traffic jam while pro-Palestinian protesters blocked a highway near Chicago's O'Hare airport. On its [website](#)  [, opens new tab](#), Hamilton Lincoln says they sued to hold the activists accountable and "prevent further politically-motivated attacks in the future."

The filing made the novel argument that the motorists were falsely imprisoned in their cars and sought \$36 million in damages for thousands of drivers.

The defendants — which include alleged protest organizers and supporters — frame the complaint in [court papers](#)  [, opens new tab](#) as a legally-deficient attempt to attack their political movement.

"Being stuck in traffic does not amount to false imprisonment," said Joshua Colangelo-Bryan, a lawyer for defendant Wespac Foundation, which describes itself as a "peace and justice action network." The plaintiffs "experienced an utterly routine inconvenience and are trying to turn it into a federal case," he said, adding

that the suit appears to be "motivated, at least in part, by a desire to silence advocacy." Outside counsel Jenner & Block, which represents co-defendant the Tides Center, did not respond to a request for comment.

The case is now [on appeal](#)  [,opens new tab](#) to the 7th U.S. Circuit Court of Appeals, with oral arguments set for next month.

The litigation raises a recurring question in the law: Where is the line between asserting an innovative legal theory and a frivolous one?

"I've never been sanctioned before. It's not pleasant," Frank told me. If the penalty stands, Frank added, he fears he'll be forced to drain his retirement account to pay the defendants' legal fees. The judge's sanctions order is not yet final and thus not directly before the appellate panel.

Frank has some powerful allies in his corner — 11 Republican attorneys general, who filed an [amicus brief](#)  [,opens new tab](#) in the appeal backing the merits of the suit and calling the sanctions "out of line."

Hamilton Lincoln lawyers also filed a [similar class action](#)  [,opens new tab](#) in 2025 on behalf of drivers caught up in the Washington, D.C.-area protest. The judge in that case has yet to rule on the defendants' motion to dismiss.

Frank doesn't share the protesters' political views, though he acknowledges their right to express them. What he finds unacceptable, he said, is illegally blocking traffic and trapping ordinary people in the process.

He's also clear that he doesn't look askance at class actions as a whole -- only those where "attorneys have put their own interests ahead of the class's," he said.

As a non-profit public interest firm, Hamilton Lincoln can't bring cases for the payday, Frank said, and tax law limits its proceeds from court-awarded attorneys' fees.

In dismissing the case, U.S. District Judge Mary Rowland in Chicago saw an ulterior motive for the suit. The court "believes that Plaintiff's filings were presented for the improper purpose of harassment," she wrote in August, with allegations that "are only a hair's breadth away from calling Defendants terrorists."

On closer inspection, though, some of her criticism of the legal claims strikes me as eyebrow-raising. For example, in rejecting allegations of false imprisonment — which Illinois case law has defined as "the unlawful restraint of an individual's

liberty or freedom of locomotion” — Rowland found that the lead plaintiff, who was unable to move his car for more than an hour and missed his flight as a result, was not confined to his vehicle against his will.

He could have exited the car and left it parked on the highway for a week “without facing legal penalties,” she wrote, citing the statutory definition of an abandoned vehicle. But as Frank’s team pointed out, under the Illinois Vehicle Code, a deserted car on the shoulder of the interstate would have been promptly towed.

The judge also said that while protesters may have prevented the man from driving forward, they didn’t personally obstruct him from going backwards. “Defendants did not place any obstacles [in] Plaintiff’s way of leaving,” she wrote.

Frank’s team protested that it’s not legal to turn around and drive the wrong way on a freeway, and even if it was, the cars behind their client were blocking the way for the same reason — the protest.

While Rowland said she appreciated Frank’s personal concern with the protesters’ alleged conduct, she said that did not give him “carte blanche to make frivolous legal arguments, ignore controlling precedent, and misrepresent existing law in support of his case.”

The litigation is [Frank’s brainchild](#), he told me, and he bristles against the judge’s conclusion that his argument is frivolous.

In the weeks leading up to filing the complaint in September 2024, Frank, who is 57, suffered heart failure and had a heart transplant soon after. In a [declaration filed with the court](#) , [opens new tab](#) last year, he said that given his now “substantially” shortened life expectancy, he has “absolutely zero desire or interest or incentive to spend a single moment of my dwindling time on this planet on a losing case, much less a frivolous one.”

Should the 7th Circuit reverse and remand the case, many questions remain, including whether some defendants can be held liable, given their seemingly tenuous connections to the protestors. But the Hamilton Lincoln lawyers have another request too: Reassign the case to another judge, arguing that in this politically-loaded case, Rowland has already made up her mind.

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Jenna Greene writes about legal business and culture, taking a broad look at trends in the profession, faces behind the cases, and quirky courtroom dramas. A longtime chronicler of the legal industry and high-profile litigation, she lives in Northern California. Reach Greene at jenna.greene@thomsonreuters.com

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Leon Black deposition in Epstein accusers' lawsuit against Bank of America delayed

 [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 delays Black's deposition in civil lawsuit over Epstein to March 26
- Black's lawyers says Bank of America, Epstein accusers are close to settling
- Trial currently scheduled for May 11

NEW YORK, March 11 (Reuters) - A U.S. judge on Wednesday pushed back Leon Black's scheduled deposition 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, after a lawyer for the billionaire Apollo Global Management co-founder said the bank and the accusers may settle. "The parties are very close to resolving this dispute," Black's lawyer Michael Carlinsky said in a telephone hearing before Manhattan-based U.S. District Judge Jed Rakoff.

Sign up [here](#).

The judge rescheduled the deposition for March 26. It had initially been scheduled for March 16.

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.

Lawyers for the accusers and Bank of America did not confirm Carlinsky's assertion about settlement talks.

Sigrid McCawley, a lawyer for the accusers, said, "I take issue with the appropriateness of raising parties' discussions in this context."

"We also take issue with Mr. Carlinsky's characterization of the discussions, if any, as to the parties," said Bethany Biesenthal, a lawyer for Bank of America.

A trial in the case is currently scheduled for May 11.

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.

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, Rosalba O'Brien and Mark Porter

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

- X

Analysis | Law Firm Marketing and Business Development

'They Had Years to Prepare...': How Epstein Files Turned Into a PR Nightmare for Big Law

PR experts say major law firms were caught flat-footed when fresh disclosures linked to Jeffrey Epstein resurfaced, exposing how poorly Big Law prepares for reputational crises.

March 11, 2026 at 03:38 PM By  Alfred Olufemi



Credit: Adobe Stock / ardasavasciogullari

When the latest batches of documents tied to Jeffrey Epstein entered the public domain, several major law firms were forced into damage-control mode, confronting scrutiny over their relationships with the convicted sex offender and their roles in his controversial plea deal.

For Paul, Weiss, Rifkind, Wharton & Garrison—whose former chairman Brad Karp had a [personal relationship](#) with Epstein—and Kirkland & Ellis, whose partners secured a [controversially favourable plea deal](#) for the convicted paedophile, the disclosures became a test of reputation, raising broader questions about how Big Law prepares for predictable crises and manages sensitive client relationships.

“You have the fact that they've had years to prepare for this, and then you have the fact that they almost said nothing for a few days at all when all the files first came out. If you have got an unexploded bomb such as the Epstein files, you need to have a fully worked plan across various scenarios for if or when that bomb does go off,” said a legal PR firm leader who sought anonymity to speak candidly.

But several PR professionals have criticized law firms’ response to the revelations about their involvement with the sex offender.

Rich Klein, a communications crisis management consultant based in Pennsylvania, said Karp’s statement did not go far enough. “Karp didn’t address the core issues, and that was not fair to victims,” he said, adding that a stronger statement would likely have been the better approach.

He also said Kirkland’s decision not to comment on its involvement is not a good idea, particularly in this situation where multiple attorneys connected to the firm over decades helped Epstein escape justice.

“It’s a huge mistake to think this will not hurt the firm’s reputation over the long term, especially as new and possibly more detailed information continues to emerge about its ties to Epstein and how its partners’ initial work and continued personal and professional relationships with Epstein further traumatized his victims.”

When Law.com first [reported](#) Karp's involvement with Epstein in December, he said his contact with Epstein was limited to negotiating fee disputes. But after additional emails [surfaced](#) in late January, a Paul Weiss spokesperson acknowledged he [had](#) a “small number of social interactions” with Epstein that he now regrets. Days later, the firm [announced](#) Karp’s resignation and named Scott Barshay chairman. Karp has since returned to his practice.

Kirkland has still not made any comments on the matter. [Latham & Watkins](#), [Kobre & Kim](#) and [Clifford Chance](#) mentioned in relation to email interactions between their former lawyers and Epstein have either declined to comment or emphasized that the lawyers referenced no longer work there.

Beth Huffman, managing director at Florida-based Poston Communications, believes that even though some of the law firms’ actions were not well received, they ultimately did what they believed was best. “And the fact that many of them did it as soon as the news was out, the recovery will be easier because they did the right thing,” she said.

Different reputational stakes

Several large law firms had some connection to Epstein. A recent Law.com [analysis](#) found that

several partners at eight Big Law firms exchanged more than a handful of messages with Epstein, with the correspondence spanning business matters as well as invitations and discussions around social occasions.

But some firms have created bigger headlines than others. Paul Weiss and Kirkland's ties with Epstein's legal history have come under particular scrutiny, but the reputational consequences have differed because of how each firm is positioned in the market, one consultant said.

"Kirkland is a high-performance execution firm, and its brand is really built around outcomes, speed, commercial aggression, more than that kind of institutional relationship-driven stewardship," the consultant added.

"Paul Weiss, on the other hand, has always cultivated this sort of values-driven establishment firm with deep relationships across the corporate, regulatory and political ecosystem. I think that positioning makes it more exposed when controversies raise questions."

They said the scrutiny surrounding a Texas bankruptcy judge who had an undisclosed romantic relationship with a lawyer at a firm connected to a Kirkland matter and cartel allegations brought by a former client could prove to be more damaging to the firm than the Epstein disclosures.

The truth, silence or a "sorry"?

Public relations advisers say the first rule in managing a reputational crisis is to avoid speculation and communicate clearly about known facts. "For instance, like a cyberbreach and you don't know all the answers, you don't speculate. You say what you know and give regular updates," said Huffman.

She also suggested that firms consider establishing client advisory boards to gauge how their biggest clients perceive a crisis.

However, they should not underestimate the internal impact of reputational controversies, Michael Evans, managing director at London-based PR consultancy firm Byfield warned, referencing the exodus of lawyers from law firms who cut deals with the Trump administration last year.

Even though a response is important, Evans said silence can sometimes be the right approach and only offer factual clarifications where required.

But once a firm moves beyond the initial response and into recovery mode, experts say the focus should shift to demonstrating how governance or oversight will improve. "It's not about the statement but the action they take," Klein said. "You have to show that you have an organization that cares about people, and planning is important for the future situation."

In some cases, the recovery process may also include an apology. “We did this wrong, we admit this, and here's what we've done to make sure it doesn't happen in the future,” Huffman suggested.

But Evans cautioned that apologies must be carefully timed and measured, else they risk apologizing too much or too early, which can expose them to litigation

While scandals can linger for years, elite firms are often structurally resilient, and the threshold for serious business damage remains high. But reputational crises rarely disappear entirely. The question, Evans said, “is when it genuinely starts to have an impact if firms don’t take it seriously?”

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US Sen. Jon Husted testifies remotely in ex-FirstEnergy executives' corruption trial

 [courthousenews.com/us-sen-jon-husted-testifies-remotely-in-ex-firstenergy-executives-corruption-trial](https://www.courthousenews.com/us-sen-jon-husted-testifies-remotely-in-ex-firstenergy-executives-corruption-trial)

Associated Press

March 11, 2026



Sen. Jon Husted, R-Ohio, testifies via Zoom during the trial of ex-FirstEnergy Senior Vice President Michael Dowling and former FirstEnergy CEO Chuck Jones resumes in Summit County Common Pleas Judge Susan Baker Ross's courtroom in Akron, Ohio on Wednesday, March 11, 2026. (Mike Cardew /Akron Beacon Journal via AP, Pool)

COLUMBUS, Ohio (AP) — Republican U.S. Sen. Jon Husted [testified Wednesday](#) that he was present at a 2018 dinner with Ohio's then-Gov.-elect Mike DeWine and two former FirstEnergy Corp. executives who are [accused of bribing](#) a top utility regulator, whom DeWine appointed shortly thereafter.

But Husted, who testified remotely, said he recalled little of what was discussed that night and that he was not aware that former CEO Chuck Jones and former lobbyist Michael Dowling planned to meet with DeWine's ultimate choice to lead the Public Utilities Commission of Ohio, [Sam Randazzo](#), right afterward. Husted said Randazzo was not FirstEnergy's preferred candidate for the job.

Neither DeWine nor Husted has been accused of wrongdoing. Husted's testimony in the high-profile corruption trial comes as he faces a hot-button retention bid this fall to keep the Senate seat to which he was [appointed last year](#) as a successor to JD Vance. He is expected to face Democrat Sherrod Brown, a three-term former senator who [lost a reelection bid](#) in 2024.

Husted was Ohio's lieutenant governor-elect in early 2019, when prosecutors allege Jones and Dowling bribed the late [Randazzo](#) in exchange for legislative and regulatory favors. That included championing a \$1 billion bailout of two FirstEnergy-associated nuclear plants at the heart of the [\\$60 million bribery scandal](#) from which the executives' prosecutions arose. Former Ohio House Speaker [Larry Householder](#) is [serving 20 years](#) in prison for masterminding the scheme.

Asked Wednesday about the purpose of the 2018 dinner, Husted told jurors, "I don't precisely know. I did not organize it. But it was, I think basically, it was that FirstEnergy was going to be in town and they wanted to say 'hi' and congratulate us on winning." He said he did not recall anything discussed during the meal, only that DeWine wasn't feeling well.

Husted confirmed the general theme of discussions he'd had with Jones and Dowling — which the latter two texted about, sometimes with [Householder](#) — surrounding progress on House Bill 6, the state bailout bill.

Special Assistant Attorney General Matthew Meyer asked whether Husted knew Laurel Dawson, DeWine's then-chief of staff, and her husband, Mike Dawson. Husted said yes and described Mike Dawson as a friend. In response to questioning, Husted said he wasn't aware that Mike Dawson had been a consultant to FirstEnergy and once shared an office with Randazzo, nor had he ever heard that Mike Dawson shared information about the happenings inside the DeWine-Husted administration with Dowling.

Laurel Dawson was the person who vetted a [dossier on Randazzo](#) put together by DeWine's fellow Republicans, which urged the governor not to choose him because he was too close to FirstEnergy. The document was reviewed and dismissed without being shown to the governor. Husted said Wednesday that the only opposition to Randazzo's nomination that he could recall came from American Electric Power.

The Dec. 18, 2018, dinner, held at the storied Athletic Club of Columbus, is pivotal to Jones' and Dowling's cases. Evidence has shown that DeWine, Husted, Jones and Dowling were joined at the meal by Josh Rubin. Earlier in the day, Rubin — a FirstEnergy lobbyist and adviser to the 2018 DeWine-Husted campaign — had provided advice to the executives on how to lobby DeWine, then the governor-elect, in favor of the company's preferences to chair the Public Utilities Commission of Ohio, according to a text contained in the criminal complaint.

Husted said he did not recall them doing that.

Rubin cautioned the executives not to mention to DeWine that they would be meeting Randazzo at his residence after the dinner. Later in the day, Randazzo texted Dowling a list of figures for the years 2019 through 2024: "Total 4,333,333." "Got it, Sam," Dowling replied. "Good seeing you as well. Thanks for the hospitality. Cool condo."

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

Randazzo replied, "Made me laugh — you guys are welcome anytime and anywhere I can open the door. Let me know how you want me to structure the invoices. Thanks."

Randazzo faced [state](#) and [federal](#) charges for his role in the scheme before [dying by suicide](#) in April 2024.

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Categories / [Criminal](#), [Energy](#), [Politics](#), [Trials](#)

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March 11, 2026

**HUSTED TRIAL TRACKER: JON HUSTED FORCED TO ANSWER
FOR CENTRAL ROLE IN OHIO'S LARGEST CORRUPTION SCANDAL**

COLUMBUS, OH

The following information was released by the Ohio Democratic Party:

Husted has been mentioned more than 200 times in the ongoing criminal trial regarding the largest bribery scandal in Ohio history

Husted led the charge for massive utility bailout scheme

Ohio families paying \$663 more a year on electric bills thanks to Husted

COLUMBUS, OHIO Today, FirstEnergy "golden boy" Jon Husted was forced to take the stand to answer for his role in the largest public corruption scandal in Ohio history. Husted's testimony made clear he was at the center of the massive bribery scheme that delivered a billion dollar bailout to utilities and contributed to electricity costs for Ohioans increasing by \$663 a year.

Here are the biggest takeaways from Jon Husted's testimony on his central role in Ohio's largest corruption scandal:

Husted played a key role in passing the billion dollar FirstEnergy bailout, which has contributed to Ohioans paying \$663 a year more in energy costs.

New emails between Husted and Sam Randazzo, the disgraced former Public Utilities Commission chair, show the two had an even deeper relationship than previously reported.

Husted tried to downplay his extensive relationship with Chuck Jones and Mike Dowling, the former FirstEnergy executives who helped mastermind the corrupt bailout scheme despite Chuck Jones calling Husted a "good friend of FirstEnergy" and phone records showing an established line of communication between Husted and the defendants.

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

"Jon Husted's testimony today confirmed what Ohioans already knew: he was at the center of the largest bribery scandal in Ohio history and it's costing families hundreds of dollars more a year. Husted didn't just sell Ohioans out to a big utility company he set the entire bribery scheme in motion, and voters will hold him accountable in November."

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

Jon Husted played a central role "running the show" in the largest bribery scandal in Ohio history that is costing Ohioans \$663 more a year.

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

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

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

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

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

A dinner between Jon Husted, Mike DeWine, and the indicted FirstEnergy executives at the Athletic Club of Columbus has become a focal point of the current criminal trial.

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

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

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISSION

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Financial Fraud (1FI18); Fraud (1FR30); Social Issues (1SO05))

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

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

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Anadarko Investors Get Class Cert. In Suit Over Oilfield Project

By **Jared Foretek**

Law360 (March 11, 2026, 7:32 PM EDT) -- A Texas federal judge certified a class of potentially thousands of Anadarko Petroleum Corp. investors who claim the company misled them for years about the viability of the Shenandoah oil field in the Gulf of Mexico before abandoning the project in 2017 and sending the company's stock falling.

In an order issued Tuesday, U.S. District Judge Charles Eskridge said he wasn't buying Anadarko's argument that the stock slide was actually the result of another story on the same day, when news broke that Anadarko was involved in a fatal natural gas pipeline explosion in Colorado. The judge said the write-off from abandoning the oil field project dwarfed the potential costs to the company stemming from the explosion, meaning it couldn't have been the main driver of the stock price dropping by nearly 8% the following day.

In his opinion, Judge Eskridge quoted from the U.S. Supreme Court's 2021 ruling in [Goldman Sachs Group Inc. v. Arkansas Teacher Retirement](#) . In the high court opinion, Justice Amy Coney Barrett said that when courts assess price impacts in class certification fights, they should "be open to all probative evidence on that question — qualitative as well as quantitative — aided by a good dose of common sense."

In Anadarko's case, Judge Eskridge said Tuesday that common sense pointed to the plaintiffs' explanation of the stock's collapse.

"Common sense suggests here that, when news broke on the same day of both an actual \$900 million write-off and a potential \$140 million in new regulatory costs, an eight percent decline in the company's stock price the following day isn't solely attributable to the latter, lesser regulatory costs," he stated.

And common sense wasn't the only basis for rejecting the Texas-based petroleum company's argument, the judge said. The company — which was bought by Occidental Petroleum Corp. in 2019 — saw its stock price drop in after-hours trading by more than 4% between 4:16 p.m. on May 2, 2017, when the announcement about the Shenandoah oil field was made, and 4:51 p.m., when The Denver Post reported that the company was involved in the gas pipeline explosion.

Anadarko also tried to argue that ConocoPhillips — Anadarko's development partner in the "Shen" project — offered a similar disclosure regarding the oil field before markets opened that day, but neither company's stock price immediately fell.

But the judge said the ConocoPhillips disclosure was "quite limited" and only one sentence long. As for Anadarko's argument that ConocoPhillips' stock also didn't fall after the broader disclosure at the end of the day, Judge Eskridge said Anadarko had much more at stake in the project.

"ConocoPhillips isn't a proper comparator, given that the Shen project was a minor expenditure relative to its massive market cap," Judge Eskridge said. "What's more, its \$101 million stake paled in comparison to the \$902 million stake held by Anadarko. ... And notably, other Shen development partners with high Shen-stake-to-market-cap ratios suffered major price drops on May 3rd."

The plaintiffs brought their lawsuit in 2020, claiming that the company duped investors about the value of the oil field project. Their class was certified in 2022, but a Fifth Circuit panel later ruled that

Judge Eskridge should have let Anadarko respond to a report from the investors' expert witness that was first shared in a reply brief.

Anadarko got its chance to respond when the issue returned on remand, but Tuesday, Judge Eskridge said he was still unswayed by the company's arguments, certifying the class of all individuals who purchased common Anadarko stock between February 2015, when the investors say Anadarko began making its misleading statements about the project, and May 2, 2017, when it disclosed that it would take the \$902 million write-off.

Neither sides' attorneys immediately responded to Law360's requests for comment Wednesday.

The shareholders are represented by Hillary B. Stakem, Mark Solomon, Daniel Drosman, Luke O. Brooks, Francisco J. Mejia and Nicole Q. Gilliland of Robbins Geller Rudman & Dowd LLP.

Anadarko is represented by Kevin J. Orsini and Lauren M. Rosenberg of Cravath Swaine & Moore LLP, and George T. Shipley of Shipley Snell Montgomery LLP.

The case is In Re: Anadarko Petroleum Corporation Securities Litigation, case number 4:20-cv-00576, in the U.S. District Court for the Southern District of Texas.

--Additional reporting by Catherine Marfin. Editing by Kristen Becker.

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Intel Caved To Feds' 'Extortionary' Stock Demand, Suit Says

By **Lauren Berg**

Law360 (March 11, 2026, 11:37 PM EDT) -- Intel Corp.'s board gave the federal government \$11 billion worth of stock in response to the Trump administration's "extortionary threats," according to a newly unsealed lawsuit brought by a shareholder who says the board lacked authority to issue the U.S. Department of Commerce a 9.9% company stake.

Shareholder Richard Paisner's **derivative suit**, unsealed Wednesday in Delaware Chancery Court, alleges that Intel CEO Lip-Bu Tan and the company's board of directors breached their fiduciary duties with the "approval of an unlawful contract that gives the U.S. government \$11 billion worth of Intel stock for no meaningful consideration in response to extortionary threats by the government."

Paisner, who **initially filed the suit** on March 5, is seeking the cancellation of the contract issuing 9.9% of Intel's equity to the Commerce Department, which in August **agreed to invest** \$8.9 billion in the company in exchange for releasing previously awarded grant money.

Of that money, \$5.7 billion was awarded to the company under the 2022 bipartisan CHIPS and Science Act in exchange for the company building up its semiconductor manufacturing capabilities in four U.S. states. The rest of the money released was the \$3.2 billion awarded to the company by the Biden administration for the supply of secure tech to the U.S. Department of Defense, according to Intel.

"The government had no right to demand shares of Intel stock for any purpose, including through the pretextual advancement of disbursements Intel has already earned or had a right to receive," Paisner said, adding that "the resulting contract is therefore void for illegality and must be cancelled."

What's more, Paisner pointed out, Intel was advised on the stock agreement by Skadden Arps Slate Meagher & Flom LLP, which had previously **agreed to provide \$100 million** of pro bono legal services to the Trump administration to avert an impending executive order that could have prevented the firm from taking on work connected to the federal government and its contractors.

That was a conflict of interest that was not discussed by Intel's board in its decision-making process to approve the stock agreement with the government, the suit states. Skadden is not named as a defendant in Paisner's suit.

"In sum, Intel was being advised in a transaction with the [Commerce Department] by a law firm that simultaneously represented the [Commerce Department] as a result of a similar shakedown by the administration," Paisner said.

Intel's deal with the government stems from early August, when President Donald Trump tweeted for Tan's termination as CEO, according to the complaint. The president called Tan "highly conflicted" following allegations by Sen. Tom Cotton, R-Ark., that the CEO had "control of dozens of Chinese companies" and stakes in "hundreds of Chinese advanced-manufacturing and chip firms."

Following that demand, Tan met with the president privately at the White House just four days later and emerged with a plan to give the government a nearly 10% stake in the company, the suit states.

Then "in extraordinary and expedited fashion, the board, operating under the shadow of the president's threats, and advised by legal counsel that itself was conflicted due to its pro bono

promises to the president, caved to the government's extortion," Paisner said, noting that the "unlawful contract" was approved on Aug. 22.

"The board's failures to be properly informed and explore potential options in response to the government's coercive demands are a further breach of their duties of care and good faith," he said.

Paisner said his derivative lawsuit "is the only means by which Intel may vindicate its right to be free from government extortion and extricate itself from this unlawful contract through cancellation of the shares issued to the [Commerce Department] and obtain related declaratory and injunctive relief."

The suit, which also names Commerce Secretary Howard Lutnick as a defendant, includes claims for derivative breach of fiduciary duty, derivative waste and derivative claim to invalidate stock agreement.

It seeks cancellation of the stock agreement, as well as damages, litigation costs, attorney fees and other relief.

Counsel for Paisner and representatives for Intel, the Commerce Department and Skadden could not be immediately reached for comment late Wednesday.

Paisner is represented by Kurt Heyman and Gillian Andrews of Heyman Enerio Gattuso & Hirzel LLP and Alan B. Morrison of the George Washington University Law School.

Counsel information for the defendants was not immediately available.

The case is Richard D. Paisner v. Lip-Bu Tan et al., case number 2026-0307, in the Court of Chancery of the State of Delaware.

--Additional reporting by Jessica Corso and Aebera Coe. Editing by Michael Watanabe.

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Investor Urges Revival Of Armistice Insider Trading Claims

By **Jarek Rutz**

Law360 (March 11, 2026, 3:13 PM EDT) -- The Delaware Supreme Court has heard arguments over whether a hedge fund that traded tens of millions of dollars' worth of stock can face insider trading liability under state law after its board designee allegedly received confidential company information, with an Aytu BioPharma shareholder urging the court to revive claims against healthcare investor Armistice Capital.

During the Tuesday hearing, Andrew W. Robertson of Morris Kandinov LLP, representing stockholder Paul Witmer, argued that the Delaware Chancery Court wrongly dismissed the derivative suit by concluding that Armistice, a minority investor, owed no fiduciary duties to the company under Delaware's insider trading doctrine established in *Brophy v. Cities Service Co.* in 1949. Robertson said the ruling effectively allows investment funds with board representatives to trade on confidential information without consequence.

"That ruling undermines the strong public policy of this state against insider trading," Robertson told the justices.

Robertson contended that Armistice should still face liability because it received material nonpublic information through its board designee and used that information to sell large blocks of Aytu stock at advantageous times. He also stressed that the hedge fund, not its director, executed the trades and received the proceeds.

The dispute stems from a derivative lawsuit filed in Delaware Chancery Court accusing the healthcare-focused hedge fund of insider trading involving Aytu BioPharma Inc., a publicly traded pharmaceutical company.

According to Witmer's complaint, Armistice began building a large stake in Aytu around 2017, eventually holding roughly 41% of the company's shares. Steven Boyd, Armistice's chief investment officer, joined Aytu's board in April 2019 as the fund's designee.

Witmer alleges that in March 2020, Boyd learned confidential information during board discussions about a planned COVID-19 test distribution agreement expected to boost the company's stock price, along with financing transactions that would dilute shareholders and drive the price back down.

Armistice allegedly sold more than \$31 million in Aytu stock on March 10, 2020, after the announcement caused the share price to surge, and later liquidated its remaining holdings. The sales generated about \$61.2 million in proceeds, according to the allegations.

The Chancery Court dismissed the suit in August 2025, finding that Armistice was neither a controlling stockholder nor a fiduciary and therefore could not be liable under the *Brophy* doctrine.

Robertson told the justices that the doctrine should still apply because Armistice obtained confidential information through Boyd's fiduciary role and then traded the company's stock for its own benefit.

Robertson was asked why Witmer voluntarily dismissed claims against Boyd, the actual board member who allegedly possessed the information. Robertson responded that the case focuses on the entity that executed the trades and received the profits.

"Armistice itself is in a relationship of trust and confidence with Aytu," Robertson argued, adding that liability is necessary to enforce Brophy's disgorgement remedy by targeting the party that realized the trading gains.

Z.W. Julius Chen of Akin Gump Strauss Hauer & Feld LLP, arguing for Armistice, said Witmer is asking the court to create a new category of fiduciary liability that Delaware law has never recognized.

"Otherwise, every stockholder with a director designee would be a fiduciary," Chen told the court.

Chen argued that Delaware law has long limited fiduciary status for investors to situations involving majority ownership or actual control of a company. Simply receiving confidential information through a director designee, he said, does not transform an investor into a fiduciary.

He also suggested that if the alleged conduct amounted to insider trading, federal securities law would provide the proper avenue for pursuing those claims rather than expanding Delaware fiduciary doctrine.

The justices also heard arguments over Witmer's alternative unjust enrichment claim, which the Chancery dismissed as duplicative of the insider trading allegations.

Robertson argued that the claim should proceed even if Armistice is not deemed a fiduciary because shareholders were harmed when the hedge fund allegedly exercised convertible securities and flooded the market with shares while trading on confidential information.

Chen countered that the unjust enrichment claim relies on the same alleged misconduct as the insider trading theory and therefore rises and falls with the Brophy claim.

After hearing from both sides, the justices concluded the session by taking the appeal under advisement.

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

Appellant Paul Witmer is represented by Thomas Uebler and Terisa Shoremount of McCollom D'Emilio Smith Uebler LLC and Andrew Robertson of Morris Kandinov LLP.

Appellees Armistice Capital LLC and Armistice Capital Master Fund Ltd. are represented by Matthew Davis and Adriane M. Kappauf of Potter Anderson & Corroon LLP and Kristen E. Loveland, Z.W. Julius Chen and Douglas A. Rappaport of Akin Gump Strauss Hauer & Feld LLP.

Individual appellees are represented by Alessandra Glorioso and Eric Lopez Schnabel of Dorsey & Whitney LLP.

The case is Paul Witmer v. Armistice Capital LLC et al., case number 381,2025, in the Delaware Supreme Court.

--Editing by Rich Mills.



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Del. High Court Upholds Pioneer Win In \$60B Exxon Deal Fight

By Jarek Rutz

Law360 (March 11, 2026, 6:24 PM EDT) -- The Delaware Supreme Court on Wednesday affirmed a lower court ruling denying a union pension fund's request for additional internal communications related to the roughly \$60 billion merger between Pioneer Natural Resources Co. and ExxonMobil Corp., concluding that the Delaware Chancery Court correctly rejected the stockholder's bid to obtain more emails and text messages from the company's former chief executive.

The three-judge panel's **order** leaves intact a July 2025 decision by Chancellor Kathaleen St. J. McCormick, who held that although the stockholder had established a credible basis to investigate potential wrongdoing, it had not shown that the additional communications were "necessary and essential" beyond the extensive board-level materials the company had already produced.

"It is ordered that the judgment of the Court of Chancery be and the same hereby is affirmed," Justice Karen L. Valihura wrote for the panel.

The high court issued the ruling after considering briefs and oral arguments presented Feb. 25 by the parties in the dispute, which stems from a books-and-records action filed by the Operating Engineers Construction Industry and Miscellaneous Pension Fund under Section 220 of the Delaware General Corporation Law. The justices affirmed the lower court's reasoning without additional analysis, relying on the explanation set out in the Chancery Court's July 28, 2025, letter opinion.

The litigation centers on Pioneer's October 2023 agreement to merge with ExxonMobil in an all-stock transaction valued at roughly \$59.5 billion, one of the largest energy-sector deals in recent years. Pioneer stockholders approved the transaction in February 2024, and ExxonMobil completed the acquisition on May 3, 2024.

Before the merger closed, the pension fund, a Pioneer stockholder, sought to investigate whether former CEO Scott Sheffield steered the company toward a change-in-control transaction that would trigger lucrative retirement benefits for him. The fund served a Section 220 demand seeking company records, arguing that Sheffield may have engaged in undisclosed communications with ExxonMobil CEO Darren Woods during the negotiations.

Pioneer produced hundreds of pages of board minutes, banker presentations, memoranda and other formal board materials in response to the demand. But the company declined to produce additional text messages and emails between Sheffield and Woods that were not included in board packages.

A senior magistrate in January 2025 ruled in Pioneer's favor, concluding that the pension fund had not established a credible basis to suspect wrongdoing or demonstrated that the requested communications were necessary to its investigation. The fund challenged that ruling before the Chancery.

In the July 2025 opinion, Chancellor McCormick partially disagreed with the magistrate's analysis, finding that the pension fund had in fact met the "credible basis" standard, a threshold that serves as the lowest possible burden of proof for stockholder inspections. Nonetheless, she upheld the ultimate denial of the request, concluding that the fund failed to identify a concrete reason to expand the inspection beyond the formal board materials Pioneer had already produced.

The pension fund appealed that ruling to the Delaware Supreme Court, arguing that the Chancery

effectively imposed an impossible burden by requiring the stockholder to identify specific wrongdoing in communications it had never seen.

Pioneer countered that the stockholder was attempting to convert a limited Section 220 books-and-records action into full discovery despite the company's extensive document production and the absence of any clear gap in the board materials.

With Wednesday's order, the Delaware Supreme Court affirmed the Chancery Court's judgment, leaving the pension fund without access to the additional emails and text messages it sought as part of its investigation into the multibillion-dollar merger.

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

Justices Karen L. Valihura, Collins J. Seitz, Jr. and N. Christopher Griffiths sat on the panel for the Delaware Supreme Court.

The union pension fund is represented by Michael J. Barry, Christine M. Mackintosh, Rebecca A. Musarra, William G. Passannante II and Demetrius M. Davis of Grant & Eisenhofer PA.

Pioneer Natural Resources Co. is represented by David J. Teklits of Morris Nichols Arsht & Tunnell LLP and Andrew Ditchfield, Joseph Taglienti and Allison Siesser of Davis Polk & Wardwell LLP.

The case is Operating Engineers Construction Industry and Miscellaneous Pension Fund v. Pioneer Natural Resources Co., case number 368,2025, in the Delaware Supreme Court.

The case under appeal is Operating Engineers Construction Industry and Miscellaneous Pension Fund v. Pioneer Natural Resources Co., case number 2024-0101, in the Court of Chancery of the State of Delaware.

--Editing by Rich Mills.

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Meta, Google Rest In Bellwether Social Media Harm Trial

By **Craig Clough**

Law360 (March 11, 2026, 9:20 PM EDT) -- Meta Platforms and Google rested their defense Wednesday in a landmark California bellwether trial accusing their social media platforms of harming children, with the cases-in-chief ending in a somewhat anticlimactic manner as jurors were shown videotaped depositions after weeks of dramatic live testimony and attorney theatrics.

The final day of evidence consisted of portions of several video depositions presented by Meta, which included two company executives and two mental health professionals who treated the plaintiff known in court as **Kaley G.M.** or Kaley.

Overall, it was a low-key ending to the presentation of the evidence in a trial that has included several high-profile moments, none more so than the live testimony from Meta co-founder and CEO Mark Zuckerberg, one of richest people in the world.

On Wednesday, Dr. Thomas Suberman, a psychiatrist who treated Kaley through telehealth appointments, was the final witness presented to the jury though a video deposition. When asked by an attorney off-camera if social media contributed to Kaley's mental health struggles, he said social media was "mentioned" by Kaley "a couple of times" but "that was not the through line of what I recall being her main issues."

The topics covered in the video depositions played on Wednesday were familiar to the jurors, as they have previously heard through other witnesses that none of Kaley's therapists or psychiatrists who **treated her** as a child diagnosed her with a **social media addiction** or identified it as a major contributing factor at the time in her diagnoses for anxiety, depression and body dysmorphia.

Suberman did say he identified difficult family dynamics between Kaley and **her mother**, sister and father as being possible major contributors, along with bullying she went through and her own reactions to these stressors. This was also a familiar topic that has been covered through previous witnesses during the monthlong trial.

Suberman said that in his experience, social media can be a contributor to mental health struggles in kids. It "played some part" in Kaley's struggles, he said, "but it is not the part that I felt was the majority of the issue."

The jury also saw portions of video depositions from a psychologist who does research for Meta, Elena Goetz Davis, and a former president of global affairs for the company, Nick Clegg, who also served as deputy prime minister for the United Kingdom from 2010 through 2015.

Each spoke about steps the company took that they said made Instagram safer for kids in reaction to research showing some of Instagram's users shows signs of "**problematic**" use, which the jury was already familiar with through other witnesses. Plaintiffs attorneys challenged them on whether those steps were aggressive enough.

The jury was sent home early Wednesday. Los Angeles County Superior Court Judge Carolyn B. Kuhl told jurors to expect to hear closing arguments Thursday and to begin deliberations Friday morning.

The plaintiff's lead attorney, Mark Lanier of The Lanier Firm, has been nursing an illness this week that caused him to **lose part of his voice** Tuesday, but he sounded healthier Wednesday. Lanier,

who leans into an animated, folksy style and likes to highlight his arguments and questions with **theatrical props** and **objects**, may have been significantly hamstrung in his closing argument without his voice recovering.

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 Google 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 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.



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Bayer Sees 'Light At The End Of The Tunnel' In Roundup Suits

By **Chris Villani**

Law360 (March 11, 2026, 5:24 PM EDT) -- After more than a decade and tens of thousands of cases, a recent settlement announcement and a high-stakes high court hearing may finally give the makers of the weedkiller Roundup an off-ramp in seemingly never-ending litigation.

Monsanto began facing lawsuits claiming that Roundup causes non-Hodgkin lymphoma in 2015 and has since settled more than 100,000 cases and faced numerous big-dollar jury verdicts.

The company has already paid several billion dollars related to Roundup litigation, and some 65,000 cases remain. But Bayer AG, which acquired Monsanto in 2018, is betting heavily on a \$7.25 billion settlement and a U.S. Supreme Court case that could undercut the argument that the company failed to warn consumers about the alleged cancer risk.

"If they get both of those, and frankly, even if they only get one of those, I think you do see the light at the end of the tunnel," said Sean Fahey, chair of the health care and life sciences department at Troutman Pepper Locke LLP.

Lessons Learned From a Failed Deal

Cases began to flood state and federal court dockets after the World Health Organization in 2015 said glyphosate, the primary ingredient in Roundup, was "probably carcinogenic to humans."

Last week, a Missouri state court gave **a preliminary nod of approval** for a settlement that could pay up to \$7.25 billion over 21 years to resolve current and future Roundup claims across the country.

Christopher Seeger of Seeger Weiss LLP, one of the attorneys for the proposed class covered by the settlement, said Bayer's financial position was a key driver behind wanting to make a deal and achieve some certainty for plaintiffs affected by non-Hodgkin lymphoma.

"When they announced the settlement, you'd have expected for any company for the stock to go through the roof," Seeger said. "But, the next day after the settlement was announced, the stock went down. Bayer is in bad financial condition."

Seeger cited the risk of a bankruptcy that would leave plaintiffs with nothing.

"I want to see my clients paid, and I want to see other clients paid," he said. "I think the deal we got is a very good deal."

In comments made the day of the settlement announcement in February, Bayer CEO Bill Anderson also touted the deal as an "important milestone for the company" and a step toward "significantly containing litigation."

Bayer already tried — and failed — to come to terms on a settlement to resolve all future claims in 2020 after a series of plaintiff verdicts the previous year. The deal was ultimately rejected by a California federal judge.

Bill Dodero, Bayer's general counsel, said when the new deal was announced that there are

significant differences between the prior attempted settlement and the new one.

The new settlement includes funding for up to 21 years in an attempt to cover future claimants, Dodero said, contrasting it with the four-year program spelled out in the failed deal. There is also no panel of scientists involved in the new agreement, something the California judge who struck down the first settlement said could benefit the company after it had lost the "battle of experts" during three straight trials leading up to the deal.

Troutman's Fahey said the deal works in part because it provides an opportunity for certainty for plaintiffs but still gives them the right to opt out if they choose.

"If for some reason you think your chances are better at trial, then you still have that option," he said.

An Assist From the High Court

The deal can still fall apart if too many plaintiffs opt out, but the Supreme Court's decision to hear Monsanto's appeal in a Missouri Roundup case could keep plaintiffs from taking their chances at a future trial. The company is attacking a key claim in the tens of thousands of cases: that it failed to warn consumers of the potential health risks on the product's label.

Monsanto **will argue** that federal environmental regulators — and not "lay juries" — must be the ones who determine what is on herbicide labels.

Kristin Larson, a former White House counsel, currently with Stradling Yocca Carlson & Rauth LLP, who focuses on environmental law, said there "could be a major sea change" if the Supreme Court agrees with the company.

"If the court rules in favor of Monsanto, it will essentially foreclose the ability of these plaintiffs to bring state failure-to-warn cases forward," Larson said. "Then we will be beholden to the more glacial rate of progress that agencies often employ to regulate labeling requirements."

Seeger of Seeger Weiss said the plaintiffs bar has generally done well on preemption cases at the high court but suggested the justices may have agreed to hear the case involving plaintiff John Durnell with an eye toward knocking down failure-to-warn claims.

"I think this one is different," he said. "The Supreme Court has done so much work on preemption, you have to scratch your head and say, 'Why are they taking this case?'"

Bayer sees Durnell as a way to effectively gut cases that are not part of the global settlement. Its general counsel, Dodero, also spoke on the wide-ranging implications of the case the Supreme Court will hear in April.

"The outcome can have broader impact because other federal statutes that govern medical devices, poultry products, meat and motor vehicles, among others, contain the same or very similar federal preemption language," he said.

Roundup Cases May Still Live On

Some plaintiffs' lawyers see a path forward, even if the justices rule in favor of Bayer when the opinion comes out later this year.

"Admittedly, it is a big part of these cases, but it doesn't end the entire litigation," said James Ferraro Jr. of Ferraro Law, who represents Roundup plaintiffs in Florida.

Ferraro said plaintiffs could pursue other claims, such as strict liability for design defects or negligence in manufacturing and marketing the product. But the process could depend on the state where the case is filed.

In states like Texas without a so-called consumer expectations test — which says a product is defective if it does not perform as safely as an ordinary consumer would expect — Roundup cases

would be "in trouble," he said.

Tens of thousands of cases around the country are on hold pending the result of the settlement. Others, like a Massachusetts Supreme Judicial Court appeal over preemption, are stalled as they wait for top court guidance in Durnell.

But Ferraro said he is still planning to take several cases to trial this year in Florida.

"You're closing a very powerful claim [if the Supreme Court rules for Bayer], but the case by no means is gone and, in some instances, you could argue it's a more streamlined case," he said. "Folks are not that afraid of a bad Durnell decision."

--Additional reporting by Emily Field, Jonathan Capriel and Dorothy Atkins. Editing by Kelly Duncan and Dave Trumbore.

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Black To Be Deposed In Suit Alleging BofA Enabled Epstein

By **Pete Brush**

Law360, New York (March 11, 2026, 5:38 PM EDT) -- U.S. District Judge Jed S. Rakoff said Wednesday that billionaire Leon Black must sit for questioning from both Bank of America and a plaintiff who says the bank facilitated Jeffrey Epstein's sex crimes, but put off the deposition for 10 days.

The Manhattan federal judge delayed a scheduled Monday quizzing by plaintiff Jane Doe until March 26, giving the bank time to get in the queue to ask questions of its own for three hours during a total eight-hour sitdown.

"It's always fun hondeling with you folks," Judge Rakoff said as the parties haggled over how to divide up the deposition and when to reschedule it. "And if you don't know what that means, consult the Yiddish dictionary."

Black, formerly the CEO of Apollo Global Management, is a "critical witness" in Doe's **case claiming** BofA "turned a blind eye" to a trove of information that the deceased financier Epstein was a serial sexual abuser, the plaintiff's lawyer Sigrid McCawley said during the afternoon telephone conference.

In February, Judge Rakoff declined BofA's motion to dismiss claims by Doe — an Epstein survivor from Russia who now lives in Florida — and is currently handling her request for class certification.

Black has denied wrongdoing related to his reported business relationship with Epstein. He **faces** damages claims in separate litigation brought by Apollo shareholders who say they were kept in the dark about those alleged ties.

A 2023 letter from U.S. Sen. Ron Wyden of Oregon to Black, docketed in the BofA case, claims that Black "paid Epstein \$158 million between 2012 and 2017 for his advice on several tax and estate planning matters."

During Wednesday's conference, Black's lawyer Michael Carlinsky asked if the deposition was necessary and said Doe and BofA "are very close to resolving this dispute."

But both McCawley and BofA's lawyer Bethany Biesenthal said they "take issue" with that statement and said any third-party talk of a settlement would be improper.

Judge Rakoff agreed, calling the settlement talk irrelevant, but agreeing to put off the Black deposition for 10 days amid an absence of any prejudice from a short delay.

Also on Wednesday, Judge Rakoff issued an order declining the bank's request to stay the case in light of the criminal investigation of Epstein's crimes being pursued by the Manhattan U.S. Attorney's office.

Prosecutors in a letter said the bank was not asking for proper relief. A stay would be "designed to shield the government's efforts to criminally enforce" the Trafficking Victims Protection Act, "not to force the government to disclose non-public investigations," their letter said.

After the hearing, counsel declined comment.

Doe is represented by David Boies and Sigrid McCawley of Boies Schiller Flexner LLP and Bradley Edwards and Brittany Henderson of Edwards Henderson LLC.

Black is represented by Michael Carlinsky, Ryan Rakower and Jacquelin Stykes of Quinn Emanuel Urquhart & Sullivan LLP.

BofA is represented by Bethany Biesenthal, Charlotte Taylor and Paula Quist Jones Day.

The case is Doe v. BofA, case number 1:25-cv-08520, in the U.S. District Court for the Southern District of New York.

--Editing by Michael Watanabe.

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Costco Owes Shoppers Refunds For Voided Tariffs, Suit Says

By **Ben Adlin**

Law360 (March 11, 2026, 11:28 PM EDT) -- Costco shoppers are owed back the higher costs they paid as a result of President Donald Trump's global tariffs that the nation's highest court has since declared unlawful, according to a putative consumer class action filed Wednesday in Illinois federal court.

Issaquah, Washington-based Costco is one of thousands of companies that have **sought to recoup duties** paid while the tariffs imposed early in Trump's second term were still in effect, according to the suit. But the retail giant has made "no commitment to return any portion of anticipated tariff refunds to the consumers," plaintiff Matthew Stockov claimed.

While importers can seek to claw back tariffs they paid through the U.S. Court of International Trade, the companies have no legal obligation to return any recovered money to customers, according to the complaint. And the shoppers themselves lack a cause of action to bring claims in the Court of International Trade, Stockov said.

"Even when the [U.S.] Supreme Court strikes down an unlawful tariff, the truly injured parties possess no direct avenue for redress," he claimed.

Trump began putting tariffs on imports from countries around the world in February 2025, citing his power under the International Emergency Economic Powers Act. But the U.S. Supreme Court said in a Feb. 20 opinion that the broad duties **exceeded the president's authority** under the emergency statute.

The president quickly imposed 15% tariffs under a different authority, the Trade Act of 1974. Two dozen states have since **sued the administration** in an effort to halt them.

Arguing that consumers are the ones who ultimately shoulder most tariff costs, Stockov said the putative Costco class action is aimed at stopping the company from profiting twice: once through the higher prices it charged consumers and again through any proceeds from its effort to recover the now-voided tariffs.

The Illinois resident is asking the court to declare that Costco is obligated to return to class members "all IEEPA duties passed on to customers in the form of higher prices on products, with interest." The tariffs in question ranged from 10% to as much as 145%, he said.

According to the complaint, Costco CEO Ron Vachris said on a March 5 investor call that any tariffs refunded to the company would go toward "lower prices and better values."

That's insufficient to make customers whole, Stockov claimed. "It is a commitment to benefit future purchasers at the expense of past ones, and it is not a legally cognizable substitute for the relief sought herein," he said.

The plaintiff's proposed class, estimated at "tens of millions of people," would comprise all individuals in the U.S. who purchased goods subject to the IEEPA tariffs from Feb. 1, 2025, to Feb. 24, 2026.

"The money belongs to plaintiff and the classes," Stockov said, "and Costco is obligated to return it."

A proposed subclass would include class members in Illinois, California, Florida, Michigan, Missouri, New Jersey, New York, Ohio, Washington and Wisconsin. The lawsuit brings additional claims under consumer protection laws in those states.

In a separate proposed class action filed in Illinois state court March 6, consumers are seeking to **recover tariff costs from Fabletics LLC**, an activewear brand co-founded by actress Kate Hudson.

On March 4, a Court of International Trade judge ordered that the government **must refund any of Trump's now-rescinded IEEPA tariffs**.

Costco representatives did not immediately respond to a request for comment Wednesday. Counsel for Stockov declined to comment.

Stockov is represented by George A. Zelcs and Ryan Z. Cortazar of Korein Tillery LLC.

Counsel information for Costco was not immediately available.

The case is Stockov et al. v. Costco Wholesale Corp., case number 1:26-cv-02734, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Lauren Berg, Dylan Moroses, Natalie Olivo and Jack McLoone. Editing by Jay Jackson Jr.

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Pa. Justices Doubtful Law Unclear In AG-DA Opioid Deal Row

By **Matthew Santoni**

Law360 (March 11, 2026, 5:22 PM EDT) -- Multiple Pennsylvania Supreme Court justices on Wednesday doubted a state law was ambiguous about whether the attorney general could step in and settle claims brought by county-level district attorneys, as he had in a multistate settlement with opioid companies.

Pennsylvania's Unfair Trade Practices and Consumer Protection Law says either the attorney general or a district attorney can bring claims in the name of the state, but was silent — not ambiguous — about who has the ultimate authority to resolve those claims, according to at least three justices suggesting that undermined the AG's argument that his office was the only one with power to settle statewide disputes.

"I don't find ambiguity in the statutory authority," said Chief Justice Debra Todd. "There's a gap, but not ambiguity."

The justices heard arguments for about two hours Wednesday from representatives of two district attorneys, the attorney general and the drug companies who were part of the settlement.

Philadelphia District Attorney Larry Krasner and Allegheny County District Attorney Stephen Zappala were appealing **a January 2024 Commonwealth Court ruling** that said the attorney general's office, then led by now-Governor Josh Shapiro, had the authority to join a **\$26 billion settlement** with multiple opioid makers and distributors in 2021 that ended cases the district attorneys had brought, despite their objections.

While the district attorneys had filed suits in their local courts and had them consolidated in Delaware County, the AG got the drug companies' agreement and filed suit in the statewide Commonwealth Court for the purposes of settling with them. Almost all the counties and municipal governments in the state signed on, **including Philadelphia and Allegheny County**.

Michael Scarinci, arguing for Attorney General Dave Sunday's office, said the ambiguity was "implicit" due to the conflict between the language in the consumer protection law giving both the AG and DAs authority to sue, and the state constitution's language establishing the AG as the state's top law enforcement official.

But Justice David Wecht seemed to agree with Chief Justice Todd that the law giving authority to the AG or the DA was not unclear.

"You can't take an unambiguous statute and make it ambiguous with the 'spirit' of the constitution," he said. "What part of 'or' don't you understand?"

Scarinci insisted the law was ambiguous, since it also did not say what to do in instances like this where the two offices disagreed over how to handle a case.

Justice P. Kevin Brobson sought to reframe the issue, saying that the attorney general's claimed power to "supercede" the district attorneys was nowhere in the law, but was more a question of whether the AG's settlement with the drug companies could be taken to the lower courts and enforced there to throw out the county prosecutors' claims.

"The question is not whether the AG can settle your case; the question is whether the AG's settlement can be enforced in your case," he told counsel for Zappala. "My concern about supercession is that you get into a power dynamic, you get into a constitutional issue, and we try to avoid constitutional issues if we can... This could just be an issue of capacity, and contract."

Several on the court noted that the AG never intervened in the DAs' cases to have them stopped, nor did the DAs seek to join the Commonwealth Court case. Justice Christine Donohue said there was no official "supercession" by the AG in the DAs' cases, he just declared them over. They remained pending but on hold during the appeals process, the attorneys said.

"The AG ignored the actions in the Courts of Common Pleas," Justice Donohue said. "There's a 'bulldozer' aspect to what was brought here, instead of trying to pry the door open."

But the justices' questioning also suggested that the powers of the AG and the DAs weren't the only ones they were considering. Some also turned to whether the city and county officials could go against the wishes of their local prosecutors to sign on to the AG's settlement, and which elected officials represented their constituents' interests.

"Claims belong to the Commonwealth, they don't belong to the law firm," said Justice Brobson, though he later seemed to think about the other side of the coin.

"'In the name of the Commonwealth' is pretty ancient language," he said. "The legal plaintiff is not the Commonwealth, it's the person who brings the action."

Catherine Dorsey of Baron Budd PC, representing Krasner, said that while both the AG and the DA bring consumer protection suits "in the name of the Commonwealth," other laws made clear that was not the same as the state itself being a party to the suit, or suing on its own behalf.

Justice Sallie Updyke Mundy grilled both Dorsey and Lawrence McMichael of Dilworth Paxson, representing Zappala, over whether the district attorneys could keep pursuing claims on behalf of their counties when other branches of their respective governments had joined the settlement. McMichael said that only the district attorneys had the authority to sue for civil penalties, which had not been waived by the settlement and should keep their suits alive.

"I'm having a hard time wrapping my head around the concept that the 'client' doesn't control the litigation," Justice Mundy said.

Justice Daniel D. McCaffery tried to compare the situation to other civil litigation.

"If two law firms represent the same client, who gets to say if they settle? Is it the law firms, or the client?" he asked.

John Hare of Marshall Dennehey, representing the drug companies, said the elected representatives of Philadelphia and Allegheny County had agreed to join the settlement and they should also be considered as representatives of the constituency. Justice Brobson said a county sheriff was also elected by the county yet might not be considered able to release claims on the electorate's behalf.

The justices took Wednesday's arguments under advisement.

Krasner is represented by Russell W. Budd, Catherine H. Dorsey, Christine Mansour and Brian L. Williams of Baron Budd PC, Gregory B. Heller of Feldman Shepher Wohlgerlerner Tanner Weinstock Dodig LLP, Andrew Sacks and John Weston of Sacks Weston LLC, Stephen A. Sheller of Sheller PC, and David Kairys.

Zappala is represented by Lawrence McMichael, Jerry R. DeSiderato, Timothy J. Ford, Silvio A. Trentalage and Stanford B. Ponson of Dilworth Paxson LLP, and William G. Brucker, Charles J. Porter Jr. and Joseph G. Heminger of Brucker and Porter.

The Attorney General of Pennsylvania is represented in-house by Michael Scarinci.

The drug companies are represented by John J. Hare of Marshall Dennehey PC.

The case is Commonwealth of Pennsylvania By and Through the Philadelphia District Attorney et al. v. Attorney General, case number 8 EAP 2024, in the Supreme Court of Pennsylvania.

--Editing by Alex Hubbard.

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DNA Testing Co. Can't Shake Suit Over Genetic Data Sharing

By **Allison Grande**

Law360 (March 11, 2026, 10:56 PM EDT) -- A Massachusetts federal judge refused to release Nebula Genomics Inc. from a proposed class action accusing it of illegally sharing its customers' genetic information with Meta and other third parties through online tracking tools, finding that the parties' choice-of-law agreement didn't extend to the plaintiff's genetic privacy allegation.

In a ruling issued Tuesday, U.S. District Judge Brian E. Murphy denied Nebula's motion to dismiss plaintiff Antoniette Portillo's lawsuit accusing the commercial DNA testing and analysis provider of violating the Illinois Genetic Information Privacy Act by divulging users' personal information to Meta Platforms Inc., Microsoft Corp. and Google LLC through analytics and advertising tools enabled on Nebula's website, despite its public commitments to protect customers' privacy.

Nebula argues that because its terms of use contain a Massachusetts choice of law provision that prompted an Illinois federal judge to transfer the dispute to the Bay State in July 2025, Portillo couldn't sustain her sole remaining claim under Illinois' genetic privacy law.

But Judge Murphy concluded that Portillo wasn't precluded from pressing her GIPA claim because the Massachusetts choice of law provision didn't apply to the genetic privacy allegation at the center of the dispute.

"The Terms of Use states that '[t]his agreement shall be construed according to the laws of the state of Massachusetts,'" the judge noted. "The First Circuit and Massachusetts Supreme Judicial Court have construed comparable provisions narrowly, such that the provision governs only the agreement itself, but does not preclude pursuing contract-adjacent claims under the law of another state."

Because Nebula's disputed choice of law provision "does not purport to govern the parties' rights or obligations more broadly," Judge Murphy similarly concluded that this restriction didn't block Portillo from bringing a GIPA claim under Illinois law in his court.

Nebula also fell short in its bid to shut down the suit on the alternative grounds that Portillo fails to allege the type of concrete injury required to establish the Article III standing necessary to move forward with her genetic privacy claim.

The testing provider contends that while Portillo "discusses at length" Nebula's alleged current practice of sharing information derived from genetic testing with Meta, Microsoft and Google through tracking technologies, the plaintiff lacks standing because she doesn't describe how these website tools purportedly functioned when she used the service between 2021 and 2023.

The company specifically points to Portillo's inability to pinpoint when the Facebook Pixel, Microsoft conversion tracking, Microsoft Clarity, Google Analytics, and Google Tag Manager tools through which website visitors' personal information was shared were installed on the Nebula website or to detail how they worked while she was on the website.

However, in allowing the suit to move forward, Judge Murphy held that the conclusion that "the technology in use in October 2024" when the complaint was filed "was also in use for some period of time between 2021 and 2023 [was] a reasonable inference the court is permitted to make at this stage, before Portillo has had the benefit of discovery."

The judge also rejected Nebula's assertion that Portillo fails to allege that protected "genetic information," as defined by GIPA, was transmitted by Nebula's website to its third-party partners.

The Illinois statute, which was enacted in 1998, aims to protect "genetic information" that includes individuals' genetic tests and "any request for, or receipt of, generic services" such as genetic tests, counseling or education.

Nebula contends that Portillo fails to state an adequate claim because she only alleges the unauthorized disclosure of information related to her creation of an account and purchase of a genetic testing kit and not information about the test results themselves.

But Judge Murphy found that the operative complaint does claim that information about customers' genetic tests results was shared with Microsoft through its Clarity tool when they move to access a complementary report offered by Nebula on different genetic traits associated with their genome sequence and that Portillo's pleadings also contain "additional factual allegations" regarding how she requested a report on Nebula's analysis of her genetic test that she subsequently reviewed.

"As discussed above, the court is permitted to make the reasonable inference that the 'report on Nebula's analysis of [Portillo's] genetic test' is the same 'report on different genetic traits associated with their genome sequence' alleged to be transmitted Microsoft via the 'Traits' webpage on the Nebula website," the judge held. "Because the information contained in the report doubtless constitutes 'genetic information' as defined by GIPA, the Court need not consider whether information about creating an account or registering for and purchasing a kit is itself 'genetic information' protected by the statute."

Counsel for the parties couldn't be reached for comment Wednesday.

The parties' dispute dates back to October 2024 when Portillo sued Nebula, Meta, Microsoft and Google in Illinois federal court. The suit accuses Nebula of surreptitiously sharing without permission its customers' genetic test results with third parties, including Meta, Microsoft and Google, giving the tech companies access to the customers' genetic predisposition to medical conditions, their ethnicity and their physical characteristics.

The companies then use that data to make money by selling targeted advertisements, according to the complaint. This data enhances the profile that each tech company has compiled for the Nebula customers, making their targeted ads more valuable, the suit states.

Portillo, who's seeking to represent a class of potentially thousands of "current and former Illinois residents who either obtained a DNA test from Nebula's website or who obtained an analysis from Nebula's website of a DNA test performed by another genetic testing provider, and whose genetic information was disclosed to Meta, Microsoft or Google," asserts a claim for violation of GIPA against Nebula and for unjust enrichment against the other three defendants.

All the companies **moved to dismiss** the suit in January 2025, arguing that Portillo had failed to provide details backing up her accusation that Nebula shared DNA data with third parties or specify how Meta, Microsoft and Google profit from such genetic information.

The Illinois federal judge overseeing the case responded by dismissing Meta, Facebook and Google from the dispute in July 2025 while simultaneously granting Nebula's motion to transfer the suit to Massachusetts federal court due to the parties' choice-of-law agreement.

Portillo is represented by Mark Loevy-Reyes, Jonathan Loevy, Michael Kanovitz and Thomas M. Hanson of Loevy & Loevy.

Nebula is represented by Thomas E. Lent of Barrow Lent LLP and Wallace Neel of Wallace Neel PLLC.

The case is Portillo v. Nebula Genomics Inc. et al., case number 1:25-cv-12288, in the U.S. District Court for the District of Massachusetts.

--Additional reporting by Lauren Berg. Editing by Kristen Becker.



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Fidelity Gets Initial OK On \$2.5 Million Data Breach Deal

By **Bonnie Eslinger**

Law360 (March 11, 2026, 9:25 PM EDT) -- A Massachusetts federal judge on Wednesday granted preliminary approval to Fidelity Investments' \$2.5 million deal to end a putative class action claiming the financial services giant didn't protect the personal information of more than 155,000 account holders during a "preventable" 2024 data breach.

In his order, U.S. District Judge Leo T. Sorokin said based on the information provided, there are common questions of law and fact, including whether Fidelity's data security incident compromised the settlement class members' personal information.

In addition, a nationwide class for settlement purposes "is superior to other available methods for fair and efficient adjudication of this controversy," the judge said.

The nationwide class and California subclass will be made up of people to whom Fidelity sent a notice that their financial account numbers and routing numbers were exposed in the data security incident, according to Wednesday's order.

A motion for preliminary approval filed by the parties on Monday said that the plaintiffs would apply to the court for a one-third cut of the settlement fund — \$833,333 — for attorney fees and reimbursement of litigation costs and expenses not to exceed \$45,000.

Class members who submit valid claims will be reimbursed for certain documented monetary losses resulting from the data security incident, up to \$5,000 a claim. Class members will also receive two years of credit monitoring and identity theft protection services that include \$1 million in fraud and identity theft insurance and a pro rata cash payment estimated at \$100.

Golden State subclass members can also expect an additional \$50 under the California Consumer Privacy Act, according to Wednesday's order.

The suit, filed in October 2024, claims that the data breach was preventable and resulted from Fidelity's "inadequately protected computer network."

In addition, while the data breach occurred on August 17, 2024, and Fidelity knew about it by at least August 19, 2024, it held off for nearly two months before telling account holders on October 10, 2024, the suit said.

"Between August 17, 2024, and August 19, 2024, Fidelity detected suspicious activity on its computer network, indicating a data breach," the operative complaint said. "Based on a subsequent forensic investigation, Fidelity determined that cybercriminals launched a targeted cybersecurity attack, infiltrated defendant's inadequately secured computer systems, and thereby gained access to defendant's data files."

The cyber criminals possess the means to target account holders for identity theft; that would "wreak havoc" on their financial and personal lives, the complaint said.

Months after the suit was filed, Fidelity filed a motion to dismiss. The plaintiffs responded in June, and Fidelity replied on July 1, according to the motion for preliminary approval.

Shortly after completing that briefing, the parties began settlement negotiations, and in August the court stayed the case while the two sides sat with a mediator.

"The proposed settlement terms, which are the result of good faith and arm's length negotiations by experienced and capable counsel," the motion for preliminary approval said. "This settlement provides meaningful relief for the settlement class and resolves all claims."

Representatives for the parties did not immediately respond Wednesday to requests for comment about the deal.

The plaintiffs are represented by co-lead counsel Amanda Brooke Murphy of the Murphy Law Firm and Lori Feldman of Hecht Partners LLP.

FMR LLC and Fidelity Brokerage Services LLC are represented by Jack W. Pirozzolo, Eamon P. Joyce, Richard K. Chung and Kathryn L. Alessi of Sidley Austin LLP.

The case is Gluck et al. v. Fidelity Investments, case number 1:24-cv-12601, in the U.S. District Court for the District of Massachusetts.

--Editing by Nick Siwek.

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Grammarly Hit With Class Action Over 'Expert Review' AI Tool

By **Dorothy Atkins**

Law360 (March 11, 2026, 10:28 PM EDT) -- An investigative journalist hit Grammarly's owner with a proposed class action in New York federal court Wednesday, alleging its AI-powered "Expert Review" writing tool misappropriates the names, likenesses and identities of well-known writers and public figures and "involuntarily conscripted" them into serving as Grammarly's unpaid experts.

In an **18-page complaint**, Julia Angwin, a contributing opinion editor for The New York Times, alleges that Grammarly launched its "Expert Review" artificial intelligence tool in August that purportedly offers writing feedback from well-known journalists, authors, lawyers and other public figures, including novelist Stephen King and former Federal Trade Commissioner Julie Brill.

However, Grammarly, which provides AI tools for tasks such as proofreading, paraphrasing and tone suggestion, never asked the experts for permission to use their names and never compensated them, the suit alleges.

"Contrary to the apparent belief of some tech companies, it is unlawful to appropriate peoples' names and identities for commercial purposes, whether those people are famous or not," the suit says.

Grammarly, which is owned by Superhuman Platform Inc., charges customers \$12 per month in subscription fees so that they can upload their writing and receive real-time comments on how to improve their prose from purported experts, like Angwin, King and other acclaimed public figures, according to the complaint.

Those experts include astrophysicist Neil deGrasse Tyson, New York Times tech reporter Kashmir Hill and journalist Kara Swisher, the suit says.

However, the suit alleges that not only has Grammarly never compensated those experts nor sought permission to use their names or to offer feedback on their behalf, but it also is using their publicly available work to train the company's large language models and craft writing advice that the experts did not give.

"Grammarly is analyzing Ms. Angwin's work and, based on that work, is drawing conclusions about what advice she would give to Grammarly's users," the suit says. "But in many cases Ms. Angwin may not agree with that advice."

Angwin says in her complaint that she was "shocked and horrified" to learn of Grammarly's practices, which she argues not only violates her privacy rights but also trades off of her commercial success and reputation as a journalist, which she's spent decades building.

The four-count complaint asserts an unjust enrichment claim and violations of the New York Civil Rights Law, as well as violations of the California Civil Code and the state's common law right to publicity and likeness.

Angwin seeks to represent a nationwide class of individuals in the U.S. who did not consent to their names being used for Expert Review on any platform owned by Superhuman, including Grammarly Enterprise, Grammarly Business, Grammarly for Education and Superhuman Go.

Angwin estimates that "there are at least hundreds of people" in the proposed class. The lawsuit

seeks an injunction blocking the alleged misappropriation and an order awarding the putative class's actual and statutory damages, plus interest, attorneys' fees and costs.

Grammarly has publicly stated that it brings in \$700 million per year, and last year, the company raised \$1 billion in financing to expand its offerings, according to the suit. The complaint also notes that Angwin's counsel are not aware of any other litigation by the putative class members against Superhuman regarding the alleged misconduct.

Angwin's attorney, Peter Romer-Friedman of Peter Romer-Friedman Law PLLC, told Law360 on Wednesday that he believes the case presents "a pretty straight-forward violation of New York and California law," and he and his client were "frankly shocked" by the tool's misappropriation.

Romer-Friedman noted that he's litigated many cases involving technology companies, and those companies have done a far better job than Grammarly at vetting their AI tools before launching it in the marketplace.

Superhuman Platform didn't respond to a request for comment on Wednesday.

Superhuman CEO Shishir Mehrotra wrote in a post on LinkedIn early Wednesday that the company has disabled its Expert Review feature after receiving "valid critical feedback" in the past week from experts who are concerned that the new tool misrepresented their voices.

"After careful consideration, we have decided to disable Expert Review while we reimagine the feature to make it more useful for users, while giving experts real control over how they want to be represented — or not represented at all," Mehrotra wrote.

In response to Mehrotra's statement, Romer-Friedman said disabling the problematic tool is a "positive development," and it's always better when companies address the concerns from the outset, rather than doubling down on the misconduct.

In addition to her position as a contributing opinion editor for The New York Times, Angwin founded the nonprofits Proof News, in 2024, and The Markup, which investigates the impacts of technology on society. From 2014 to 2018, she was a senior reporter at the independent news organization ProPublica, where she was a finalist for a Pulitzer Prize in explanatory reporting in 2016 and won a Gerald Loeb Award in 2018, according to the complaint.

Prior to joining ProPublica, she was a reporter at the Wall Street Journal for over a decade, and she was a member of a team that won the Pulitzer Prize in explanatory reporting in 2003, the suit says.

In 2014, Angwin wrote a New York Times bestseller, "Dragnet Nation: A Quest for Privacy, Security and Freedom in a World of Relentless Surveillance," which detailed her year-long experiment to escape from pervasive corporate and government surveillance by using privacy-enhancing tools like burner phones and encrypted services.

Julia Angwin is represented by Peter Romer-Friedman and David Berman of Peter Romer-Friedman Law PLLC.

Counsel information for Superhuman Platform wasn't immediately available on Wednesday.

The case is Julia Angwin v. Superhuman Platform Inc., case number 1:26-cv-02005, in the U.S. District Court for the Southern District of New York.

--Editing by Dave Trumbore.



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Mitsubishi Calls Engine Emissions Class Action A Nonstarter

By **Ben Adlin**

Law360 (March 11, 2026, 10:11 PM EDT) -- Mitsubishi wants to flush a Washington resident's putative class action accusing the business of dodging federal emissions regulations for marine engines, telling a Seattle federal judge Tuesday the suit is founded on federal Clean Air Act claims that only the U.S. Environmental Protection Agency can enforce.

The manufacturing giant is aiming to dismiss accusations by commercial fisher Lawrence Goodell Jr. that a number of Mitsubishi companies schemed to import and sell engines that failed to comply with EPA regulations. Goodell says in his September 2025 complaint that a Seattle repair shop wrongly used one of the noncompliant engines in place of a cleaner alternative when it serviced his vessel, the Pacific Rooster.

The fisher says he and members of the proposed class "now have engines that are not compliant with federal law, pollute more, consume more fuel, and are worth less."

Goodell sued four Mitsubishi companies — Mitsubishi Heavy Industries Ltd., Mitsubishi Heavy Industries America Inc., Mitsubishi Heavy Industries Engine & Turbocharger Ltd. and Mitsubishi Turbocharger & Engine America — as well as authorized Mitsubishi parts dealer Hatton Marine & Industrial Repair Inc.

Engine manufacturers and distributors are required to conduct individualized "good engineering judgment" analyses to determine whether it's appropriate to use dirtier engines in vessels, according to the complaint. Mitsubishi saw an opportunity to bypass that step and instead sell cheaper, noncompliant engines to customers, Goodell contends.

"For the Mitsubishi defendants the conclusion was simple: circumvent the regulatory process, skip any legitimate 'engineering judgment,' sell noncompliant engines, and then, after the fact, document a phony justification for selling a lower-tier replacement engine for submission to U.S. regulators," **Goodell claims.**

The companies maintain that the suit is meritless. According to Tuesday's motion to dismiss, the two lead defendants, Japan-based Mitsubishi Heavy Industries and U.S.-based Mitsubishi Heavy Industries America, should be dropped because they're "parent companies with no involvement in the manufacture, marketing, or sale of marine engines."

Mitsubishi also takes aim at Goodell's claims under the Clean Air Act and the Racketeer Influenced and Corrupt Organizations Act as well as for violation of state consumer protection and warranty laws, among others.

The fisher's citizen action under the Clean Air Act is impermissible, the defendants say, because the statute allows individuals to sue only to enforce an "emission standard or limitation." Goodell's claims around good engineering judgment, by contrast, deal with "documentation standards — not substantive emission standards — and cannot serve as the basis for a citizen suit," Mitsubishi argues.

The plaintiff's RICO claim against Mitsubishi also falls short, the defendants assert, because Goodell bought his engine from retailer Hatton, making him an indirect purchaser under the law. RICO grants standing in only to direct buyers, the company adds.

While the company acknowledges the Ninth Circuit "has not determined whether the indirect purchaser rule applies here," it points out that some district courts have found it does.

Citing a 2024 Sixth Circuit decision in **Fenner v. General Motors LLC** , Mitsubishi argues that "'consumers at the bottom of a vertical distribution chain' do not have standing under RICO 'to sue manufacturers at the top of the chain.'"

The RICO claim further fails to include sufficient detail about the alleged racketeering activity, the defendants say. They contend that Goodell "plagiarized" his RICO claim by copying it "from a complaint in an entirely unrelated case (involving 'emissions testing fraud' for RAM pick-up trucks)."

As for Goodell's claims under state law, Mitsubishi says the federal Clean Air Act precludes those actions because they're all based on the same allegation that the defendants violated the Clean Air Act by falsely representing their compliance with environmental rules.

"Because plaintiff's claims would require a jury to step into the shoes of regulators to enforce federal emissions standards — a field Congress left no room for private litigants to supplement — such claims are preempted," the defendants argue.

Counsel for the parties did not immediately respond to requests for comment Wednesday.

Goodell is represented by Edward A. Wallace, Mark R. Miller, Matthew J. Goldstein and Jacob M. Podell of Wallace Miller, and Carson Phillips-Spotts of Schroeter Goldmark & Bender.

The Mitsubishi companies are represented by J. Matthew Donohue, Austin Rainwater and Abigail Gore of Holland & Knight LLP.

The case is Goodell et al. v. Mitsubishi Heavy Industries Ltd. et al., case number 2:25-cv-01728, in the U.S. District Court for the Western District of Washington.

--Additional reporting by Gina Kim. Editing by Kristen Becker.

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PacifiCorp Owes More Than \$53M In Latest Wildfire Verdict

By **Cara Salvatore**

Law360 (March 11, 2026, 9:58 PM EDT) -- An Oregon state jury has awarded \$53.4 million in noneconomic damages in the latest trial over wildfires PacifiCorp was found liable for starting around the state on Labor Day 2020, including awards to a couple who owned an excavation company.

The awards of \$2 million to \$5.7 million to each of 12 plaintiffs in the 17th such trial came Tuesday as PacifiCorp appeals a 2023 jury's finding that it was liable on a class-wide basis to thousands of property owners for four clusters of fires around the state. Subsequent juries have awarded well over \$800 million in damages.

The Berkshire Hathaway-owned utility chose not to shut down power lines during Labor Day weekend in 2020, even as forecasts showed a dangerous windstorm bearing down, the class-wide jury heard in 2023.

That jury also said punitive damages should be awarded at 25% of compensatory damages for all future trials. PacifiCorp reached agreements with the plaintiffs before trial on their economic damages.

One of the \$5.7 million awards went to Deanna Daniel, whose house was a gathering place for family and who was displaced along with her husband Gary, the jury heard. They also owned an excavation company.

Before the fires, "Deanna's home is the best home; it's the gathering place," lawyer Adele Daniel of Keller Rohrback told the jury in opening arguments March 3. The jury saw a short video Deanna took as the Daniels were choosing possessions from their home to evacuate with, in which Deanna shows a shelf of handmade keepsakes and says mournfully, "OK, kids, I can't take everything, all the things you made me."

The jury also heard that Gary Daniels, formerly an avid fisher, has not fished again since the fires.

The Danielses returned to find their home burned to the ground.

A lawyer for PacifiCorp, Harry Wilson of Markowitz Herbold PC, said in opening arguments that the utility would not dispute the terrible experience each plaintiff went through.

"We're not going to try to undermine the plaintiffs' testimony. There won't be any Perry Mason moment in this trial," he said. Rather, he said he would "fill out" each person's story and get closer to the truth of what amount would be reasonable to compensate them.

In closing arguments, Wilson then suggested noneconomic award amounts for each plaintiff ranging from \$400,000 to \$950,000, saying those were what was supported by the actual testimony, the lengths of time they'd been displaced, the emotional importance of what they lost, and similar factors.

The company is now seeking a ruling by an Oregon appeals court that the 2023 verdict **cannot stand**, saying at oral arguments in February that broad trial evidence and class certification issues require overturning it.

Representatives for the parties were not available for comment Wednesday.

The plaintiffs are represented by Keller Rohrback LLP.

PacifiCorp is represented by Markowitz Herbold PC, Hueston Hennigan LLP, and Stoel Rives LLP.

The case is In re: PacifiCorp, case number unavailable, in the 4th Judicial District Court of Oregon.

--Editing by Adam LoBelia.

For more of this trial, see Courtroom View Network.

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Theory Nixed But Not Claims Against Triumph In Pork Case

By **Bryan Koenig**

Law360 (March 11, 2026, 4:29 PM EDT) -- A Minnesota federal judge refused to rethink forcing Triumph Foods to face trial alongside other pork producers accused of price-fixing, concluding that even though one key theory was "inadequately pled," there remains enough of a dispute on another theory to go to a jury.

U.S. District Judge John R. Tunheim on Tuesday stood by his decision refusing to grant Triumph Foods LLC summary judgment against the claims in the sprawling case from a range of pork buyers, including **three certified classes**.

While the judge's order scrapped allegations pegged to the conduct of the LLC's five independent hog producer members, he preserved them on the alleged "agency relationship" between Triumph and fellow defendant Seaboard Foods LLC, which markets Triumph's processed pork products on its behalf.

"Even excluding evidence of collective conduct of Triumph and its members, when weighing all the evidence, the court still finds there is enough in the record for a reasonable jury to find by a preponderance of the evidence that Triumph knowingly joined the conspiracy," **Judge Tunheim** said. "Thus, the court concludes that it properly denied Triumph's motion for summary judgment. The court will, therefore, deny Triumph's **motion for reconsideration**."

Judge Tunheim is currently eyeing a September trial after his decision last year to **mostly deny** a slew of summary judgment motions from Triumph and other pork producers, including Clemens Food Group LLC, JBS USA Food Co., Seaboard Foods LLC, Smithfield Foods Inc. and Tyson Foods Inc.

Also denied was a summary judgment motion from Agri Stats Inc., whose reports on the pork, chicken and turkey industries have put it at the center of multiple price-fixing lawsuits and made it a target of a U.S. Department of Justice lawsuit now **bound for trial** in early May.

Triumph, like virtually all the other major pork producers, has cut **deals** with at least some plaintiffs. But claims from other plaintiffs remain pending. The company had tried again to duck those allegations in part by arguing Judge Tunheim improperly relied on a "single enterprise theory" tying the LLC with its hog producer members.

"As further outlined below, the court finds that the single enterprise theory was inadequately pled, and it will not consider evidence that Triumph is liable for its LLC members' sow operations," Judge Tunheim said Tuesday.

According to Judge Tunheim, the plaintiffs never "explicitly pled a single enterprise theory despite amending their complaints multiple times. The court is particularly concerned with this omission because only two circuit courts have allowed the theory to be used offensively — and then, the theory was applied to sister subsidiaries or commonly owned affiliates."

It's not enough, according to the decision, that the various buyers generally alleged that Triumph was vertically integrated and that they included allegations about the LLC members. Instead, Judge Tunheim said "it would be unreasonable to expect Triumph to have intuited plaintiffs' offensive single enterprise theory of liability from the allegations made in plaintiffs' complaints."

Under Eighth Circuit precedent, Judge Tunheim said, the buyers would have needed to assert that Triumph's members lined up with the company in how they pursued their interests.

"But plaintiffs did not plead that Triumph and its members always have the same interests and have always worked together for a common cause," Judge Tunheim said, while pointing to Triumph assertions that it didn't always line up with the LLC members, which sell a substantial number of their hogs to other processors.

That left the agency theory, in which Judge Tunheim said there remains a factual dispute, requiring trial, on whether a marketing agreement and sales relationship with Seaboard created an agency relationship that could establish liability for Triumph, which does not sell pork products itself.

"As with single enterprise theory, plaintiffs did not explicitly plead an agency theory. But unlike the offensive use of single enterprise theory, agency and its application are common," Judge Tunheim said. "The court finds that plaintiffs' allegations in their complaints — including their requests for relief from Triumph's agents or those acting on Triumph's behalf — were sufficient to put Triumph on notice of plaintiffs' intent to hold Triumph liable for the consequences arising from the sales of its products, even if those sales were made by an agent."

It doesn't matter that the agreement between the companies tries to disavow any agency relationship, Judge Tunheim said. Instead, he said determining whether that relationship exists "is a question for the finder of fact."

"Seaboard had control over marketing and pricing, but Triumph had control over production and retained ownership of the product until it was sold to a customer," he said.

Counsel for Triumph and the plaintiffs did not immediately respond Wednesday to requests for comment.

The consumer indirect purchasers are represented by Shana E. Scarlett, Steve W. Berman, Breanna Van Engelen, Elaine T. Byszewski and Abigail D. Pershing of Hagens Berman Sobol Shapiro LLP, and Daniel E. Gustafson, Daniel C. Hedlund, Michelle J. Looby, Joshua J. Rissman and Abou B. Amara Jr. of Gustafson Gluek PLLC.

The institutional indirect purchasers are represented by Shawn M. Raiter of Larson & King LLP, Michael J. Flannery, Cody McCracken and Lissa Morgans of Cuneo Gilbert & LaDuca LLP, Don Barrett, Katherine Barrett Riley and Sterling Aldridge of Barrett Law Group PA, Jon Tostrud and Anthony Carter of Tostrud Law Group PC, David M. Cialkowski and Ian F. McFarland of Zimmerman Reed LLP, and Marcus Bozeman of Bozeman Law Firm PA.

Action Meat Distributors Inc., Topco Associates LLC, Alex Lee Inc./Merchants Distributors LLC, Associated Food Stores Inc., Brookshire Grocery Company, Colorado Boxed Beef Co., Certco Inc., The Golub Corporation, Nicholas & Co., PFD Enterprises Inc., SpartanNash Company, Springfield Grocer Company, The Distribution Group dba Van Eerden Foodservice Co., URM Stores Inc., Giant Eagle Inc. and UniPro Foodservice Inc. are represented by Robert N. Kaplan, Matthew P. McCahill and Jason A. Uris of Kaplan Fox & Kilsheimer LLP, Eric R. Lifvendahl of Lifvendahl Law LLC, Bernard D. Marcus, Moira Cain-Mannix and Brian C. Hill of Marcus & Shapira LLP, and Richard L. Coffman of The Coffman Law Firm.

Conagra Brands Inc., Nestlé USA Inc., Nestlé Purina PetCare Co., Compass Group USA Inc. and Gregg Szilagyi, solely as Chapter 7 Trustee of the estate of Central Grocers Inc., are represented by David C. Eddy, Dennis J. Lynch and Travis C. Wheeler of Maynard Nexsen PC.

Sysco Corp. is represented by Marc D. Walkow of Greenspoon Marder LLP.

The Kroger Co., Albertsons Cos. Inc., Hy-Vee Inc., Save Mart Supermarkets and US Foods Inc. are represented by Samuel J. Randall, William J. Blechman, Richard Alan Arnold, Kevin J. Murray, Douglas H. Patton and Michael A. Ponzoli of Sperling Kenny Nachwalter.

Associated Grocers of the South Inc., Dollar General Corporation, Dolgencorp LLC, Meijer Inc., Meijer Distribution Inc., Publix Super Markets Inc., Raley's, United Natural Foods Inc., Supervalu Inc.,

Associated Grocers of Florida Inc., Unified Grocers Inc., Tony's Fine Foods and Wakefern Food Co. are represented by Paul E. Slater, Joseph M. Vanek, David P. Germaine, Phillip F. Cramer, Alberto Rodriguez and Jeffrey H. Bergman of Sperling Kenny Nachwalter.

ALDI Inc., Sodexo Inc. and Sodexo Operations LLC are represented by Christopher P. Wilson, Edward W. Duffy, Andrew L. Lucarelli, Wyatt M. Carlock, Ariel D. House and Matthew Hilderbrand of Baker Botts LLP.

Cracker Barrel Old Country Store Inc. and CBOCS Distribution Inc., Domino's Pizza LLC and Domino's Pizza Distribution LLC, Golden Corral Corporation, and Shamrock Foods Company and United Food Service Inc. are represented by Robert W. Turken, Lori P. Lustrin and Scott N. Wagner of Bilzin Sumberg Baena Price & Axelrod LLP.

Quirch is represented by Jay B. Shapiro, Carlos J. Canino and Sam O. Patmore of Stearns Weaver Miller Weissler Alhadeff & Sitterson PA.

Amory Investments LLC is represented by Derek T. Ho, Andrew M. Hetherington and Collin R. White of Kellogg Hansen Todd Figel & Frederick PLLC.

McDonald's Corp., PJ Food Service Inc., Aramark Food and Support Services Group Inc., Target Corp., Gordon Food Service Inc., Glazier Foods Co., Quality Supply Chain Co-Op Inc., Sherwood Food Distributors LLC, Harvest Meat Co. Inc., Western Boxed Meat Distributors Inc., Hamilton Meat LLC, Jetro Holdings LLC, Maximum Quality Foods Inc., BJ's Wholesale Club Inc., Kraft Heinz Foods Co., Winn-Dixie Stores Inc. and Bi-Lo Holdings LLC are represented by Lawrence S. Brandman, Jack G. Stern, Gillian Groarke Burns, Mark A. Singer and Elizabeth R. Moore of Cadwalader Wickersham & Taft LLP. Winn-Dixie Stores Inc., BiLo Holdings LLC, Troyer Foods Inc. and Kraft Heinz Foods Company are also represented by Patrick J. Ahern of Ahern & Associates PC.

Cheney Brothers Inc., Subway Protein Litigation Corp., as Litigation Trustee of the Subway Protein Litigation Trust, Buffalo Wild Wings Inc., Jimmy John's Buying Group SPV LLC, Sonic Industries Services Inc., CKE Restaurants Holdings Inc., Wawa Inc., Restaurant Services Inc. and McLane Company Inc. et al. are represented by David B. Esau, Kristin A. Gore, Garth T. Yearick, Aaron A. Holman and Scott L. Menger of Carlton Fields LLP

Triumph is represented by Aaron Chapin, Christopher A. Smith, Jason Husgen, Sarah L. Zimmerman, Kate Ledden, Tanner Cook and A. James Spung of Husch Blackwell LLP.

The case is In re: Pork Antitrust Litigation, case number 0:18-cv-01776, in the U.S. District Court for the District of Minnesota.

--Additional reporting by Matthew Perlman, Dorothy Atkins, Lauren Berg and Jared Foretek. Editing by Robert Rudinger.