

Policyholders accuse Nassau Financial of 'looting,' charging \$76.3M in fees to former subsidiary after state takeover

 hartfordbusiness.com/article/policyholders-accuse-nassau-financial-of-looting-charging-76-3m-in-fees-to-former-subsidiary-after-state-takeover

Andrew Larson

March 16, 2026

[InsuranceLegal & Courts](#)

The Connecticut Insurance Department's offices are in this building at 153 Market St. in Hartford. CoStar Photo

As a state regulator prepares to liquidate PHL Variable Insurance Co., a group of policyholders is accusing Nassau Financial Group and its private equity backer, Golden Gate Capital, of systematically "looting" the Hartford-based insurer.

In a flurry of court filings dated March 10, attorneys representing certain policyholders filed a motion to intervene in the rehabilitation proceeding, alleging Nassau and Golden Gate engaged in self-dealing, breach of fiduciary duty, fraudulent and negligent misrepresentation, violations of Connecticut's Unfair Trade Practices Act, and civil racketeering under a federal statute.

Nassau Financial Group, headquartered in downtown Hartford, is a financial services company backed by private equity firm Golden Gate Capital. Nassau acquired PHL Variable, a subsidiary of the former Phoenix Cos., in 2016 for \$217 million.

Nassau divested its direct ownership of PHL in 2021, while continuing to manage PHL's operations through a series of administrative and investment services agreements. The state took control of PHL in May 2024 after it became insolvent.

The allegations came as a separate report filed by Connecticut's acting insurance commissioner, Joshua Hershman, disclosed that Nassau charged PHL \$76.3 million in management fees between May 2024 and December 2025 — while PHL was under state oversight.

The report says the fees "have been and continue to be materially above market." Nassau disputes that characterization, according to the filing.

The policyholders' memorandum describes the alleged conduct by Nassau and Golden Gate as "looting PHL at the expense of the claimants."

A spokesperson for Nassau said in a statement: "The investors' claims are without merit. We continue to cooperate fully with the Rehabilitator in its efforts to protect and serve PHL policyholders."

The state placed PHL into rehabilitation in May 2024 — a court-supervised process under Connecticut's insurer insolvency law in which the insurance commissioner takes control of a failing company and attempts to sell it, restructure it or, if those efforts fail, liquidate it.

Reached for comment, a spokesperson for the Connecticut Insurance Department said the rehabilitator has raised concerns about the fee structure in court filings, but has continued to pay Nassau under a "reservation of rights" while working with Nassau to address the issues.

The insurance department said the administrative services agreement supports critical operational functions during the rehabilitation.

The department said it considered moving the administrative services to another provider, but decided against it because of the associated cost and complexity, noting that a buyer of PHL or guaranty associations will ultimately move the services anyway.

At the start of the rehabilitation process in May 2024, a judge appointed the state's then-insurance commissioner — Andrew Mais — as the rehabilitator.

Mais resigned in November 2025 and was replaced by Hershman, who became interim rehabilitator.

On Dec. 31, 2025, Hershman issued a report that concluded the planned sale of PHL had failed and liquidation was the only viable path forward — a reversal from Mais' previous assurances that the company's assets would be sold.

PHL's uncertain future has left policyholders, especially those with benefits exceeding the \$300,000 guaranty association limits — at risk of losing millions of dollars.

The policyholders' March 10 memorandum alleges Nassau's fee arrangements are part of a broader scheme that began almost immediately after it acquired PHL. The filing describes a web of what it calls sham affiliated-party reinsurance transactions that stripped PHL of real assets.

The memorandum also targets Mais, the former insurance commissioner, who served as both the regulator overseeing Nassau's management of PHL and, after the state took control of the company in 2024, as its rehabilitator.

The filing says he approved or failed to stop the affiliated-party transactions that allegedly gutted the company.

Policyholders' lawyers further argue that Hershman, the current rehabilitator, is reluctant to pursue what he has acknowledged are viable legal claims against Nassau and Golden Gate, because doing so would expose the insurance department's own regulatory failures.

"Close to two years have gone by and rather than file suit, the rehabilitator appears content to simply preserve statutes of limitations while it overpays for policy servicing and allows bad actors to distance themselves from their looting, fraudulent transfers and self-dealing," the memorandum states.

The insurance department pushed back on the conflict-of-interest allegations. The department said the receivership process is established by law and designates the insurance commissioner as the receiver for all insolvent insurance companies — a structure that was designed with the understanding that the commissioner also oversaw the company before receivership.

"A receiver is not barred from pursuing claims related to transactions previously reviewed by the Insurance Department," the department said. "To the contrary, a receiver is expected to pursue all claims on behalf of policyholders, creditors, and the company — and is doing so in this case."

The insurance department reiterated that the rehabilitator has viable claims against third parties, including Nassau and Golden Gate, and has taken steps to preserve those claims while negotiations continue.

Any settlement of those claims must be in the best interests of policyholders and will be subject to court approval after a hearing and notice to policyholders and creditors, the department said.

A representative for Golden Gate Capital declined to comment.

Edward Stone, a Stamford attorney who represents PHL policyholders and has experience in insurance insolvency cases — including the Executive Life Insurance Co. of New York liquidation — is among the lawyers seeking to intervene on behalf of policyholders

He is working with prominent plaintiff-side firm Robbins Geller Rudman & Dowd — one of the largest class action litigation firms in the country — seeking court permission to pursue tort claims independently.

The case is pending before Judge Daniel J. Klau in Waterbury Superior Court.
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Securities

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Shoals, Investors Settle Suit Alleging Hidden Solar Wire Defect

March 17, 2026, 10:28 AM PDT

Shoals Technologies Group Inc., current and former leaders, and entities that facilitated a 2022 public stock offering reached a deal to resolve proposed class allegations they concealed a product defect and related warranty costs from investors.

The investors expect to finalize and seek preliminary approval of the agreement within 37 days, they told the US District Court for the Middle District of Tennessee on Monday. The deal would end a lawsuit against the electrical parts maker, executives and board members, and bank underwriters of that offering—among them JP Morgan Securities LLC, Goldman Sachs & Co. LLC, and Morgan Stanley & Co. LLC.

The investors sufficiently alleged securities fraud, misleading registration statements tied to the offering, and insider trading against various defendants, Judge Waverly D. Crenshaw Jr. said last year

Shoals touted the quality and reliability of its solar energy infrastructure parts before disclosing wire insulation issues and associated warranty liability exposure, investors said

In January, the investors leading the case moved to certify a class of those who acquired Shoals stock from May 16, 2022, through May 7, 2024, including those who bought shares pursuant to the December 2022 offering

Motley Rice LLC and Robbins Geller Rudman & Dowd LLP are lead counsel for the investors. Latham & Watkins LLP and Bass, Berry & Sims PLC represent Shoals and leadership. A&O Shearman and Polsinelli PC represent the underwriters.

The case is In re Shoals Techs. Grp., Inc. Sec. Litig. , M.D. Tenn., No. 3:24-cv-00334, notice 3/16/26 .

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9th Circ. Revives Securities Suit Against Consumer Products Company

K [dandodiary.com/2026/03/articles/securities-litigation/9th-circ-revives-securities-suit-against-consumer-products-company](https://www.dandodiary.com/2026/03/articles/securities-litigation/9th-circ-revives-securities-suit-against-consumer-products-company)

Sarah Abrams

March 16, 2026



A recent [Ninth Circuit decision](#) reviving securities claims against a consumer products company and its executives highlights disclosure-related risks tied to consumer products companies' distribution and execution capabilities that may warrant D&O underwriter consideration, particularly in light of [recently revived IPO activity](#) involving consumer products and services companies.

On February 4, 2026, the [appellate court issued its](#) opinion reversing [the Washington District Court's dismissal](#) of a [securities class action](#) brought against pop culture product company [Funko](#) and its CEO and CFO on October 19, 2023 (Funko SCA). Funko investors filed their complaint following a 50% decline in Funko's share price after the company disclosed that tens of millions of dollars of inventory would be written off due to problems associated with bringing a new distribution center online and a failed Enterprise Resource Planning (ERP) implementation. The Ninth Circuit affirmed dismissal of Funko investor claims tied to optimistic operational statements, but revived claims against the company and executives stemming from disclosures that allegedly treated existing operational failures as hypothetical future risks, as well as the related [Section 20\(a\) control-person claims](#).

The Funko SCA ruling coincided with the recent public debuts of the consumer products companies [Once Upon a Farm and Bob's Discount Furniture](#), amid expectations that other consumer product and services companies may also pursue IPOs in 2026. The discussion below examines the Funko securities class action, including the appellate court's decision to allow certain claims to proceed and the resulting considerations for D&O underwriters of consumer product companies.

Funko SCA

The Funko SCA plaintiffs alleged that during the March 2022–March 2023 class period, Funko and its then-CEO and CFO repeatedly assured investors that inventory was “healthy” and “high quality,” that a consolidated distribution center was operational, and that infrastructure investments were proceeding as planned, while internally the company was experiencing severe inventory disorganization, fulfillment delays, and mounting levels of obsolete and unsalable products. The complaint alleges that, on November 4, 2022, the day after Funko ultimately disclosed tens of millions of dollars in inventory write-downs, abandoned the ERP implementation, and sharply reduced earnings guidance, its stock price declined precipitously.

In May 2024, the district court dismissed Funko SCA with prejudice, concluding that Funko’s executive statements were either non-actionable puffery, forward-looking statements protected by the [PSLRA safe harbor](#), or insufficient to support a strong inference of scienter. The plaintiffs filed their [appeal](#) on October 21, 2024, on the ground that certain risk factor disclosures in Funko’s periodic reports were misleading because they described already-occurring inventory mismanagement and distribution failures as hypothetical future risks, meaning the risk disclosures themselves were false or misleading. They also argued that those allegations, together with Funko’s executive knowledge of the underlying problems, sufficiently pleaded scienter and thus supported both the Section 10(b) claims and the related Section 20(a) control-person claims.

On February 4, 2026, the Ninth Circuit issued its [opinion](#), allowing certain securities claims to proceed. The appellate panel agreed that generalized statements about inventory quality, distribution progress, and operational momentum were not demonstrably false and therefore not actionable. However, the court held that plaintiffs plausibly alleged falsity with respect to risk factor disclosures that warned excess inventory and technology failures *could* occur, where the complaint alleged those risks had already materialized. The court emphasized that risk disclosures may be misleading when they present existing problems as hypothetical future contingencies, and that such statements are not shielded by the PSLRA safe harbor when the misleading aspect concerns present facts rather than future projections.

The Ninth Circuit further held that scienter was adequately pleaded as to those risk disclosures, reasoning that given the scale and centrality of the inventory and systems failures, a factfinder could reasonably conclude it would be “absurd” to

believe senior executives were unaware that the disclosures were misleading when made. Because the court reinstated the underlying Section 10(b) claims tied to risk disclosures, it also revived the related Section 20(a) control-person claims and remanded the case for further proceedings.

Discussion

As investor interest in consumer IPOs begins to reemerge, the appellate court's decision to revive the Funko SCA highlights how disclosure practices around inventory, logistics, and systems challenges can create meaningful D&O exposure for consumer companies entering the public markets.

By way of example, on February 6, 2026, both [Once Upon a Farm](#) and [Bob's Discount Furniture](#) went public, trading on the New York Stock Exchange. Both are consumer products companies with different business models and target demographics. Once Upon a Farm, a premium children's food company co-founded by Jennifer Garner, saw its shares rise approximately 18% on the first day of trading, notwithstanding its lack of profitability and its reliance on brand positioning, consumer loyalty, and celebrity cachet. By contrast, Bob's Discount Furniture, a profitable Bain Capital-backed retailer serving a budget-conscious consumer base, raised approximately \$331 million in IPO proceeds and traded flat following its listing. These offerings stand out against a broader backdrop in which only 15 PE-backed consumer and retail companies went public in 2025, the fewest in over a decade.

In light of recent renewed consumer product IPO activity, the Ninth Circuit's decision in the Funko securities class action highlights the disclosure risks that can arise when execution challenges accompany rapid growth and public-market scrutiny. As alleged by investors, Funko's business model depended on the rapid production and distribution of licensed consumer products with limited shelf lives, making inventory management, fulfillment capacity, and enterprise systems critical to performance. In 2022, Funko undertook two major infrastructure initiatives, a new ERP system and the consolidation of multiple warehouses into a single distribution center, that plaintiffs allege faltered almost immediately, resulting in mounting levels of unsalable inventory, fulfillment delays, and escalating costs.

Despite these developments, Funko's periodic filings continued to warn that excess inventory and distribution disruptions could occur, language the Ninth Circuit held plausibly misleading if, as alleged, those risks had already materialized. The court's analysis underscores that risk disclosures may be

actionable when they characterize existing logistics and systems failures as hypothetical contingencies, highlighting a key source of disclosure-related D&O exposure for consumer companies scaling their operations.

Taken together, the Ninth Circuit's decision to allow certain securities claims to proceed underscores disclosure risks that may be salient for D&O underwriters of consumer companies entering the public markets, whether growth-driven brands like Once Upon a Farm or scale-based retailers like Bob's Discount Furniture. Although their business models differ, both rely on effective inventory planning, fulfillment capacity, and distribution infrastructure to support public-market expectations. Funko illustrates how breakdowns in these areas, especially during periods of rapid growth or transition, may give rise to securities exposure when disclosures frame known execution challenges as hypothetical risks.

For D&O underwriters, the Funko SCA decision highlights the possible need to scrutinize consumer product company disclosures concerning warehouse readiness, logistics capacity, inventory visibility, and enterprise systems, particularly where companies emphasize brand strength or growth narratives while simultaneously working to modernize back-end operations.

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Securities

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Boeing Investors Gain Class Status in 737 MAX Safety Suit (1)

March 17, 2026, 6:34 AM PDT; Updated: March 17, 2026, 8:26 AM PDT

Summary by Bloomberg AI

AI Generated



- A federal judge ruled that Boeing Co. investors can proceed as a class in their suit alleging the company and its former CEO misled them about the safety of its 737 MAX airplanes.
- The class certification includes those who acquired Boeing stock, or bought call options or sold put options, from Nov. 7, 2018, through Oct. 18, 2019.
- The judge allowed the case to move forward, saying the investors adequately alleged Boeing and its former CEO knowingly or recklessly made material misstatements related to the 737 MAX's safety after two deadly crashes.

Boeing Co. investors can proceed as a class in their suit alleging the company and its former chief executive officer misled them about the safety of its 737 MAX airplanes in the wake of two deadly crashes that killed 346 people, a federal judge ruled.

Judge Franklin U. Valderrama certified a class of those who acquired Boeing stock, or bought call options or sold put options, from Nov. 7, 2018, through Oct. 18, 2019, Monday. The event study conducted by the investors' expert with an out-of-pocket damages methodology was sufficient to measure stock price inflation from alleged misrepresentations, the US District Court for the Northern District of Illinois judge said.

The investors had sought certification of a class extending into December 2019, when Boeing said it was pausing production on the troubled 737 MAX, which drew safety concerns after the 2018 crash of a Lion Air jet and an Ethiopian Airlines crash the following year.

But Boeing and ex-CEO Dennis Muilenburg successfully argued that the alleged misrepresentations would not have impacted the stock price then, as the market had already received information that the 737 MAX wasn't returning to service in 2019, and there weren't big stock drops tied to statements that November and December, Valderrama said.

The judge allowed the case to move forward in 2024 ruling rejecting a defense motion to dismiss. The investors adequately alleged Boeing and Muilenburg knowingly or recklessly made material misstatements related to the 737 MAX's safety after the crashes, Valderrama said then, letting some securities fraud claims proceed. This was in part because the investors alleged Muilenburg knew of messages involving 737 Chief Technical Pilot Mark Forkner about important safety information tied to an automated system not being shared with regulators during the aircraft model's certification process.

The New York Times on October 18, 2019, published a story about safety issues including certain of Forkner's text messages. Boeing's stock price fell 6.8%, or by about \$25 a share, that day.

The planemaker's faced a slew of lawsuits and settled cases tied to the two crashes. Boeing avoided a US criminal conspiracy charge over them last year, with a Texas federal judge making way for a \$1.1 billion settlement after approving the US Justice Department's request to drop the case.

Boeing is challenging investor class certification in another lawsuit filed after a 737 MAX 9 door panel blew out on an Alaska Airlines flight in 2024. The US Court of Appeals for the Fourth Circuit is scheduled to hear oral arguments in that dispute, which centers around the adequacy of the damages methodology, in May.

Bernstein Litowitz Berger & Grossmann LLP was appointed class counsel for the investors in the Illinois federal court. Kirkland & Ellis LLP represents Boeing and Muilenburg. Neither of these law firms nor Boeing immediately responded to emails seeking comment.

The case is *In re Boeing Co. Aircraft Sec. Litig.*, N.D. Ill., No. 19-cv-02394, 3/16/26 .

(Updates with additional reporting about the case throughout.)

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Boeing shareholders can pursue class action over 737 MAX safety

 [reuters.com/sustainability/boards-policy-regulation/boeing-shareholders-can-pursue-class-action-over-737-max-safety-2026-03-17](https://www.reuters.com/sustainability/boards-policy-regulation/boeing-shareholders-can-pursue-class-action-over-737-max-safety-2026-03-17)

Jonathan Stempel

March 17, 2026

Boeing 737 MAX aircraft are assembled at the company's plant in Renton, Washington, U.S. June 25, 2024. Jennifer Buchanan/Pool via REUTERS/File Photo [Purchase Licensing Rights](#)  , [opens new tab](#)

- Shareholders accused Boeing of concealing safety warnings
- Judge finds common means to measure damages
- Boeing paid \$2.5 billion to settle with US government
- Boeing not available for comment

March 17 (Reuters) - A federal judge certified a shareholder class action accusing Boeing ([BA.N](#))  , [opens new tab](#) of concealing safety deficiencies in its 737 MAX planes before two crashes that killed 346 people in 2018 and 2019.

In a decision on Monday, U.S. District Judge Franklin Valderrama in Chicago said shareholders who owned Boeing stock between November 7, 2018 and October 18, 2019 may sue as a group because they demonstrated a common means to measure damages. The class period ended two months earlier than shareholders wanted.

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Class actions can allow greater recoveries at lower cost than individual lawsuits. The shareholders are led by a group of pension funds and private investors.

Boeing faces a [separate class action](#) in the Alexandria, Virginia federal court, claiming it overstated its commitment to safe aircraft prior to the January 2024 [mid-air cabin panel blowout](#) on an Alaska Airlines 737 MAX 9.

Neither Boeing nor its lawyers immediately responded to requests for comment on Tuesday. Salvatore Graziano, a lawyer for the shareholders, declined to comment.

Shareholders accused Boeing of rushing development of the 737 MAX, ignoring safety warnings from employees, and misleading the Federal Aviation Administration about the plane's safety because it feared losing market share to

Airbus ([AIR.PA](#))  , [opens new tab](#), whose A320 series is the 737's main competitor.

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They sued the Arlington, Virginia-based company following the deaths of 189 people in a Lion Air crash in October 2018, and 157 people in an Ethiopian Airlines crash in March 2019.

Shareholders wanted the class period to end on December 16, 2019, saying Boeing's temporary suspension of MAX production that day exposed the company's "unrealistic" timeline to resume flights. Boeing objected, saying it was already known the plane would be out of service until 2020.

The class period ends on a day the market learned that the MAX's chief technical pilot Mark Forkner expressed concern in 2016 that an automated system on the plane was "running rampant."

In January 2021, Boeing agreed to [pay](#) more than \$2.5 billion to resolve a U.S. Department of Justice criminal charge it conspired to defraud the FAA about the MAX's safety.

Reporting by Jonathan Stempel in New York, Editing by Franklin Paul

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Securities

Stellantis Beats Investor Suit Over Alleged Channel Stuffing (1)

March 16, 2026, 8:14 AM PDT; Updated: March 16, 2026, 10:34 AM PDT

Stellantis NV and two former executives defeated shareholder allegations the car maker over-sent inventory to US dealers to inflate profit margins.

Most of the challenged statements weren't actionable for a securities fraud claim because they were mere corporate puffery, forward-looking, or irrelevant to the allegations, Judge Valerie Caproni said. Regardless, the public pension fund leading the proposed class action failed to adequately allege the requisite level of intent or recklessness to defraud by then-CEO Carlos Tavares and then-chief financial officer Natalie Knight.

Even if the inventory structure was unusual and intended to jack up the company's margins, "all that would mean is that Defendants engaged in channel stuffing." Channel stuffing isn't necessarily fraudulent, the US District Court for the Southern District of New York judge said, ordering the case be closed March 13.

Former employees and dealerships told Stellantis' management about inventory and pricing issues while they carried out this channel stuffing scheme, the Boston Retirement System alleged.

"Although these allegations suggest that Defendants were aware that their pricing and inventory strategies were controversial and even risky, there is no reason to believe that Defendants' decision not to heed the dealers' and former employees' warnings or otherwise adjust prices or inventory was rooted in anything more than strategic miscalculation," Caproni said.

The pension fund didn't allege Knight or Tavares were motivated to defraud investors, such as by attempting to boost the stock price to sell shares at more lucrative levels, Caproni said. The complaint merely said Tavares' 2023 compensation package was closely tied to the company's share price, but that's insufficient to support an inference of motive. And paradoxically, she said, the complaint said Stellantis engaged in significant stock buybacks during this time period.

"Presumably, if Defendants knew that they had temporarily inflated Stellantis's share price to artificially high levels, the last thing they would want to do is buy *more* of the overpriced stock," Caproni said.

Only a few statements attributing Stellantis' profitability to factors excluding channel stuffing were "even arguably actionable," but without a sufficient pleading of intent or recklessness, Caproni didn't need to address whether they were misleading, she said.

Inflated inventory and pricing grew unsustainable, with the stock price taking hits following disappointing financial news in 2024, the suit said. Both executives left their roles that year.

"We are pleased with the Court's decision and will continue to focus on executing our business strategy and delivering value for our stakeholders," a Stellantis spokesperson said in an emailed statement.

Bernstein Litowitz Berger & Grossmann LLP, which represents the pension fund, didn't immediately respond to an email seeking comment. Freshfields US LLP represents Stellantis and the executives.

The case is Long v. Stellantis N.V. , S.D.N.Y., No. 1:24-cv-06196, dismissed 3/13/26 .

(Updates with Stellantis' comment in the 10th paragraph.)

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Jury instructions clash centers on Musk tweet's impact on Twitter stock

DJ [dailyjournal.com/articles/390298-jury-instructions-clash-centers-on-musk-tweet-s-impact-on-twitter-stock](https://www.dailyjournal.com/articles/390298-jury-instructions-clash-centers-on-musk-tweet-s-impact-on-twitter-stock)

What would have happened to Twitter's stock price if Elon Musk's May 13, 2022, social media post had stated that his deal to buy the company hit a roadblock instead of saying the acquisition was "temporarily on hold?"

The question might seem like a matter of semantics or a pointless hypothetical, but it could swing the outcome of the securities lawsuit against the Tesla CEO over his handling of the 2022 acquisition by millions of dollars. *Giuseppe Pampena v. Elon R. Musk*, 3:22-cv-05937 (N.D. Cal., filed Oct. 10, 2022).

Musk's defense team from Quinn Emanuel Urquhart & Sullivan LLP met with plaintiffs' attorneys from Bottini & Bottini Inc. and Cotchett, Pitre & McCarthy LLP and Senior U.S. District Judge Charles R. Breyer on Monday to finalize the instructions that will be given to the jury after Tuesday's closing arguments.

At one point in the hearing, the judge accused one of Musk's attorneys of not answering his question and made her sit down, then ordered her colleague to replace her at the lectern.

The plaintiffs claim Musk knowingly sought to lower Twitter's value during the process of acquiring the company by tweeting a false statement.

Musk argues the tweet was not meant to move the market and that it reflected the reality of negotiations when he found reason to suspect the number of bot accounts was much higher than Twitter's owners and executives stated.

Jesse A. Bernstein for the defense objected to Breyer's tentative instructions on loss causation, asking the judge to specify that plaintiffs have the burden to isolate Musk's alleged wrongdoing from other factors.

Their damages expert testified Thursday that the steep drop in Twitter's stock price on May 13, 2022, was caused by Musk's post, even after considering other market forces. But the loss caused by the allegedly misleading statement, Bernstein argued, must be measured against the effect that a true statement would have had on the market in order to determine the losses attributable to Musk's alleged misdeeds.

"The true value [of Twitter's stock price] is not with silence. It's with a true statement," Bernstein said.

Musk's team has spent the two-week trial presenting the case that Twitter executives had dodged answering his question about how they determined the number of fake accounts on the platform -- less than 5% of users -- to the point that he couldn't go through with the deal. Had he posted on May 13 that, while he'd already signed the merger agreement, he was hesitant to close the deal voluntarily because he was unhappy with Twitter's methodology behind the calculation, the stock price likely still would have fallen significantly, Bernstein said.

The difference between that hypothetical number and the stock price after Musk's tweet -- not the nearly 10% difference between Twitter's stock price before and after Musk's post -- would be the proper amount to assess in damages if the jury finds liability, Bernstein said.

Breyer called it an interesting question and said he'd take it into account before issuing his final jury instructions.

"I'm going to think about this," the judge said.

Frank A. Bottini for the plaintiffs countered that Bernstein was implying the only way to show causation in a securities case was a corrective disclosure. Plaintiffs, he said, had demonstrated a "direct and statistically significant" impact on the stock price.

But Breyer seemed to side with Bernstein, who outlined a scenario where Musk hadn't posted about the roadblocks with the deal but proceeded to terminate it.

"Is there a case against him," Breyer asked, for failing to disclose that there were issues preventing the deal from closing?

That was one of just a few wins Breyer gave Musk's team at the occasionally tense 2 1/2-hour hearing where -- as has been the case for much of the trial -- the defense made far more requests than the plaintiffs.

At one point, Breyer took issue with Musk's attorney Ellyde R. Thompson's claim that plaintiffs had improperly implied Musk violated the law by not notifying the SEC of a significant purchase of Twitter stock in early 2022. Breyer told her he was sick of the defense accusing plaintiffs of "improper" conduct at every small disagreement.

"That's a leitmotif in this entire litigation," Breyer said.

The standoff escalated when Thompson presented an argument that the jury should be instructed to disregard Musk's conduct leading up to Twitter's lawsuit attempting to enforce the deal since the ensuing litigation should be considered petitioning protected by the Noerr-Pennington doctrine. Breyer pointed out that Twitter filed the lawsuit, so Musk's actions ahead of it shouldn't be considered part of his broader approach to the litigation.

"Did he instigate the lawsuit?" Breyer asked repeatedly.

Thompson ignored the question and continued presenting her argument when Breyer interrupted.

"Do you want to answer the question?" Breyer asked, before telling Thompson to sit down and asking her colleague, Stephen A. Broome, to take her place.

#390298

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Securities

Hawaiian Electric Says Court Granted Approval of Settlement

March 16, 2026, 12:24 PM PDT

Hawaiian Electric said the US District Court for the District of Hawaii grated preliminary approval for the Derivative Settlement Agreement between the company and its shareholders.

Settlement resolves all suits

Provides for a complete resolution of the claims asserted in the Derivative Actions in exchange for a payment of \$100 million

Set May 28 as the hearing date for final approval of the settlement

To view the source of this information, click [here](#)

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Securities

AmTrust Wins Early Ruling Against Its Insurer on Securities Case

March 16, 2026, 10:50 AM PDT

Forge Underwriting Ltd. failed to knock out a suit by AmTrust Financial Services Inc. seeking coverage for a securities class action alleging AmTrust misled investors about preferred stock delisting.

Forge couldn't show that the securities suit arose out of a "wrongful act" committed after the cutoff date for coverage in an excess run-off directors and officers insurance policy issued to AmTrust, the US District Court for the Southern District of New York said in a March 13 order.

The underlying class action was brought by preferred stockholders who claimed AmTrust misrepresented that their shares would remain publicly listed after a 2018 transaction that took the company private. That suit was settled for \$13 million in 2022.

AmTrust sued Forge in December 2025 seeking coverage for the suit under the excess run-off policy, which was meant to cover claims over alleged conduct prior to or in connection with AmTrust's take-private transaction.

Forge asked the court to toss the complaint, arguing that a "subsequent acts" exclusion barring coverage for claims arising out of alleged wrongful acts by AmTrust after a set cutoff date should apply because the delisting of preferred stock was announced and occurred after that date.

AmTrust, however, argued that the delisting itself was a lawful act, and that the wrongful conduct alleged in the underlying case consisted of knowing misrepresentations made prior to the cutoff date.

Forge failed to establish that the delisting or its announcement was actually a "wrongful act" as defined in the policy, and as a result the insurer couldn't show that the subsequent acts exclusion unambiguously applied, Judge Jed S. Rakoff said.

Pillsbury Winthrop Shaw Pittman LLP represents AmTrust. Clyde & Co LLP represents Forge.

The case is AmTrust Financial Services Inc. v. Forge Underwriting Ltd. , S.D.N.Y., No. 1:25-cv-10170, 3/13/26

Litigation

Bank of America, Epstein Survivor Reach Settlement in Lawsuit Over Allegations of Abuse

Bank of America and one of Jeffrey Epstein's survivors have reached "a settlement in principle" that would settle a lawsuit aiming to hold the bank accountable for Epstein's abuse.

March 16, 2026 at 04:20 PM By **Alyssa Aquino**



Bank of America Sign.

Bank of America and one of Jeffrey Epstein's survivors have reached "a settlement in principle" that would settle a lawsuit attempting to hold the big bank accountable for Epstein's abuse, according to a Monday court filing.

The deal was confirmed in an entry in the court's electronic docket, which remarked that U.S. District Judge Jed Rakoff for the Southern District of New York had been informed of a tentative deal during a March 12 telephone conference.

After learning of the deal, Rakoff stayed the lawsuit for the settlement to be finalized, according to the entry.

Jones Day represents Bank of America and Boies Schiller Flexner represents the survivor, who filed the case under the pseudonym "Jane Doe."

Sigrid McCawley, a managing partner at Boies Schiller, said the deal represents “one more step on the road” to justice.

“The women entrapped and abused by Jeffrey Epstein and Ghislaine Maxwell started a monumental reckoning with their brave voices and fearlessness. The road to justice for these women has been long and trying,” McCawley said in an emailed statement.

Representatives for Bank of America did not respond to a Monday request for comment.

Details of the settlement are not yet public. According to the entry, the lawyers have until March 27 to submit information on the deal. Rakoff will hold a hearing on April 2 to consider the proposal.

News of the deal comes only a few days after Rakoff, on March 11, set a March 26 date for the deposition of Leon Black, the billionaire co-founder of Apollo Global Management and a key witness in the case.

Black isn't named as a co-defendant in the case, but his banking relationship with Bank of America supports much of the case. Doe alleges that Bank of America ignored suspicious activity involving Black's account.

With a final settlement on the horizon, Black will likely not undergo that deposition.

The case against Bank of America is one of two filed by Doe seeking to hold big banks accountable for Epstein's abuse, with her lodging a virtually identical case against The Bank of New York Mellon Corp. Rakoff [dismissed](#) the claims against BNY in January, but advanced the suit against Bank of America.

Boies Schiller has previously filed similar cases against Deutsche Bank AG and JPMorgan Chase & Co., which resulted in the banks paying a collective \$365 million to Epstein's victims. Both Deutsche Bank and JPMorgan had Epstein as a client.

Editors' Note: This story has been updated to include a comment from Boies Schiller.

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Securities

BofA Agrees to Settle Claims It Aided Epstein Sex Crimes (3)

March 16, 2026, 9:49 AM PDT

Bank of America Corp. has agreed to settle a proposed class action lawsuit on behalf of **Jeffrey Epstein** victims who accused the bank of aiding in the deceased financier's sex-trafficking, according to a court record.

The agreement in principle was noted Monday in the court docket in the case. Terms of the deal were not immediately available. Any settlement must be approved by US District Judge Jed Rakoff in Manhattan.

A representative for Bank of America declined to comment. The bank has denied wrongdoing.

The same lawyers who previously secured settlements with JPMorgan Chase & Co. and Deutsche Bank AG over Epstein ties sued Bank of America in October. While the earlier cases were over Epstein's own banking relationships, the Bank of America suit mainly focused on accounts allegedly used by "his co-conspirators, associates and victims."

The timing of the agreement will likely allow Apollo Global Management Inc. co-founder Leon Black to avoid a scheduled March 26 deposition in which he was to sit for eight hours of closed-door testimony in the case. Details of the settlement are set to be filed with the court on March 27.

According to the suit, Black transferred \$170 million to Epstein from Bank of America accounts. Lawyers for the victims alleged those transfers were "the primary means by which the sex-trafficking venture was funded and for which there was no apparent business or lawful purpose."

A spokesman for Black declined to comment. Black has consistently denied wrongdoing and was not named as a defendant in the case.

The suit also alleged Epstein's former girlfriend **Ghislaine Maxwell** used accounts at Bank of America. Maxwell was convicted of sex-trafficking in 2021 and is currently serving a 20-year prison sentence.

"The women entrapped and abused by Jeffrey Epstein and Ghislaine Maxwell started a monumental reckoning with their brave voices and fearlessness," **Sigrid McCawley**, a lawyer for the victims, said in a statement. "The road to justice for these women has been long and trying. Today's resolution of the case against Bank of America is one more step on the road to much deserved justice."

In June 2023, JPMorgan agreed to pay \$290 million to settle Epstein-related suits. Deutsche Bank reached a \$75 million pact earlier that year.

The suit accused Bank of America of actively concealing "details and evidence concerning its assisting and facilitating Epstein's sex trafficking." Epstein's scheme would not have been possible without the help of powerful individuals and institutions, said the lead plaintiff, referred to in the case as Jane Doe.

Rakoff in January dismissed several of the claims against Bank of America, but permitted the victims to move ahead with claims that it knowingly benefited from Epstein's conduct and obstructed enforcement of the federal sex-trafficking statute.

Bank of New York Mellon Corp. was also sued late last year, but Rakoff threw out that case entirely in January, finding that the complaint didn't sufficiently allege BNY was aware of Epstein's activities.

The first public hint that a settlement was in the works came in a March 11 phone hearing at which Black's lawyer requested a delay to his deposition because the parties were close to resolving the case. The following day, the judge abruptly canceled a previously scheduled hearing.

The case is Doe v. Bank of America, 25-cv-08520, US District Court, Southern District of New York (Manhattan).

(Updates with Leon Black spokesman declining comment, scheduling details.)

--With assistance from Katherine Doherty.

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Litigation

Manage Newsletters

Argument Preview

J&J Unit to Fight Historic \$1.6 Billion False Claims Act Award

March 17, 2026, 7:00 AM PDT

Summary by Bloomberg AI

AI Generated



- Janssen Products LP is seeking to overturn a \$1.6 billion verdict tied to its marketing of HIV drugs, with the US Court of Appeals for the Third Circuit set to hear the company's appeal.
- The company argues that the whistleblowers failed to demonstrate that any alleged fraud was material because the government didn't stop paying for the drugs despite knowledge of the whistleblowers' claims.
- Janssen also argues that the award is excessive under the Eighth Amendment and that the suit is not allowed under Article II, while legal observers say the company has a better shot at reversing the award based on other arguments.

Janssen Products LP is prepared to throw everything it can at the largest False Claims Act judgment in history, a \$1.6 billion award tied to its marketing of HIV drugs.

The J&J unit is seeking to overturn a verdict holding it responsible for the submission of nearly 160,000 false claims to the government through the unlawful promotion of the antiviral drugs Prezista and Intelence.

A federal judge in New Jersey backed that jury verdict in 2025 and ordered the company to pay \$1.28 billion in penalties and \$360 million in treble damages.

The US Court of Appeals for the Third Circuit on Wednesday will hear Janssen's appeal of that verdict, potentially forcing the Philadelphia-based appeals court to consider whether whistleblowers filing lawsuits against alleged fraudsters on the government's behalf is constitutional.

But legal observers say Janssen has a better shot at reversing the award based on other arguments. The company says the whistleblowers that brought the suit failed to demonstrate that any alleged fraud was material because the government didn't stop paying for the drugs despite knowledge of the whistleblowers' claims.

Janssen—now called Johnson & Johnson Innovative Medicine—also argues the award is excessive under the Eighth Amendment, and that Article II doesn't allow the suit in the first place.

The Third Circuit "faces significant institutional pressure not to be the first circuit to strike down the qui tam provision," of the FCA, "particularly where every other circuit that has addressed the issue has upheld it," said Nadia Patel of ArentFox Schiff LLP. "As such, the Third Circuit is likely to resolve the appeal on other grounds."

At stake is one of the signature wins for combating fraud: the award currently on the books constituted almost one-fourth of the US Justice Department's more than \$6.8 billion recovery from FCA suits in 2025, which was a record-breaking year.

Materiality Issue

Whistleblowers Jessica Penelow and Christine Brancaccio, who sued in 2012, alleged that Janssen's tactics caused federal health-care programs to improperly pay claims seeking reimbursement for the HIV drugs.

A federal district judge said in 2021 the case could advance, finding the whistleblowers sufficiently argued that Janssen's off-label drug promotion misled doctors about their appropriateness for patients with lipid conditions, and therefore claims seeking reimbursement from the government were false.

Patel said Janssen should lead on appeal with its "strongest argument," that the whistleblowers can't satisfy the FCA materiality requirement.

"The undisputed evidence that the government has continued to pay Prezista and Intelence claims with full knowledge of the allegations is a significant challenge to the relators' materiality case," she said.

Penelow and Brancaccio responded to Janssen's materiality arguments by saying they demonstrated the government wouldn't have paid claims had it known about the misleading drug promotion.

Calling the \$1.6 billion award "astronomical," Janssen also says the lower court violated the Eighth Amendment's prohibition on excessive fines by failing to assess the disparity between the penalties and the benefits of the company's investment in lifesaving drugs.

But the gravity of the misconduct, and the fact the US views the award as proportionate, makes it unlikely the Third Circuit will be sympathetic to that argument, said James Miller of Miller Shah LLP, which represents FCA whistleblowers.

The penalties are "within the bounds of reasonableness, as well as the statutory structure designed by Congress," he said.

Jury Instruction

In its brief, the government agreed with Janssen that the lower court got it wrong on the element of falsity.

The district court incorrectly suggested to the jury that US Food and Drug Administration approval of a drug for a given usage is necessary for a health-care program like Medicare to reimburse a claim for payment, the government said.

"The jury instruction claim could be promising" for Janssen, said Martin Weinstein of Cadwalader, Wickersham & Taft LLP, who represents FCA defendants.

"If the Third Circuit agrees that the district court gave an incorrect jury instruction by inserting the 'on the label' concept, that could be a strong basis for the court to question the verdict," he said.

Reese Marketos LLP; Kellogg, Hansen, Todd, Figel & Frederick PLLC; and Berger Montague PC represent the whistleblowers. Covington & Burling LLP represents Janssen.

The case is United States ex rel. Penelow v. Janssen Prods. LP, 3d Cir., No. 25-1818, oral argument scheduled 3/18/26 .

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LA Judge Tosses \$950M in Punitive Damages in Talc Verdict

Los Angeles Superior Court Judge Ruth Kwan concluded that the punitive damages in a \$966 million verdict on Oct. 6 were unwarranted, given that the evidence failed to show that Johnson & Johnson acted in malice or concealed knowledge that its talc contained asbestos.

March 17, 2026 at 08:39 AM By  **Amanda Bronstad**

What You Need to Know

- The case produced one of the largest talc verdicts to date, and the second largest in 2025 for a plaintiff who alleged Johnson & Johnson's baby powder caused mesothelioma.
- Danny Kraft, the Dean Omar partner who represented the children of plaintiff Mae Moore, who died of mesothelioma in 2021, said he planned to appeal.
- Johnson & Johnson's Worldwide Vice President of Litigation Erik Haas called the verdict 'devoid of evidentiary support and patently unconstitutional.'



Sabrina Strong, with O'Melveny & Myers. October 2021. Photo: Andrew Zinn

A Los Angeles judge threw out \$950 million in punitive damages in one of the largest talcum powder verdicts against Johnson & Johnson in the past year.

Los Angeles Superior Court Judge Ruth Kwan concluded that the punitive damages in a [\\$966 million verdict on Oct. 6](#) were unwarranted, given that the evidence failed to show that Johnson & Johnson acted in malice or concealed knowledge that its talc contained asbestos.

“A review of the entire record read in context and even in a light most favorable to plaintiffs reveal little, if anything, to suggest that J&J actually knew asbestos existed in its products,” she wrote in Friday’s decision. “Without having clearly and convincingly established that J&J had such knowledge (and failed to act), malice cannot be found.”

“In sum,” she continued, “despite plaintiffs’ attempt at showing J&J knew asbestos existed in its products, the record does not support a high probability that J&J actually knew, believed, and willfully and deliberately disregarded the presence of asbestos in its products.”

The case produced one of the largest talc verdicts to date, and the second-largest in 2025, for a plaintiff who alleged that Johnson & Johnson’s baby powder caused mesothelioma, followed months later by a Baltimore City Circuit Court jury’s [\\$1.5 billion award](#). Dallas-based Dean Omar Branham Shirley, who has handled numerous trials against Johnson & Johnson, won both verdicts.

“We respect the jury and the court but respectfully disagree with the trial court’s opinion and intend to appeal,” Danny Kraft, the Dean Omar partner who handled the trial, wrote in an email to Law.com. He represented the children of plaintiff Mae Moore, who died of mesothelioma in 2021.

“The trial court appropriately threw out the \$950 million punitive damages award secured by the plaintiff lawyers’ misleading presentation, as it was devoid of evidentiary support and patently unconstitutional,” Johnson & Johnson’s Worldwide Vice President of Litigation Erik Haas wrote in an emailed statement. “After reviewing the full trial record, the trial court correctly concluded that decades of extensive testing showing Johnson & Johnson’s cosmetic talc products did not contain—and the company had no reason to believe they contained—any asbestos. As matter of law, therefore, the punitive damages cannot stand, which is the same reasoning and conclusion that applies to any punitive award rendered against the company.”

O’Melveny & Myers partner Sabrina Strong, in Los Angeles, and John Ewald, of Kirkland & Ellis in Chicago, represented Johnson & Johnson.

'Tainted by Attorney and Juror Misconduct'

In a motion for a new trial, Strong argued that the “jaw-dropping award” was “tainted by attorney

and juror misconduct” and “defies evidence.” Johnson & Johnson cited the California 2nd District Court of Appeals’ [2019 decision](#) to affirm dismissal of a \$417 million talc verdict.

Johnson & Johnson’s motion also cited misconduct on the part of the plaintiff’s attorney and the jury.

“As this court will remember all too well, he violated court orders, fought with the court, and managed in the process to launder in highly prejudicial evidence that this court had barred the jury from hearing,” the motion says about the plaintiff’s attorney. “And to finish, when the jury went to deliberate, their passions inflamed, they engaged in serious misconduct, which itself is grounds for a new trial.”



Danny Kraft, of counsel with Dean Omar Branham Shirley. Courtesy photo

The motion cites an exchange on the 15th day of testimony in which the judge admonished Kraft for disrespectful remarks: “You have been raising your voice to the court the entire trial, and you’ve been pointing your arms and fingers at the court the entire time. I have been extremely tolerant of you.”

“This disregard for judicial authority was more than just disrespectful,” the motion

says. “It was calculated to undermine the integrity of the proceedings.”

As to jury misconduct, Strong cited a misleading note sent during deliberations that prompted the dismissal of a juror who was leaning toward a defense verdict.

In a motion for judgment notwithstanding the verdict, Johnson & Johnson added that plaintiff’s experts hadn’t proven asbestos in its baby powder caused Moore’s mesothelioma or, to justify punitive damages, that it concealed such information.

Opposing those motions, Dean Omar partner Venus Burns, in Los Angeles, insisted there was no misconduct by either attorney or juror. And she noted that punitive damages were 1.2% of Johnson & Johnson’s net worth of \$78.5 billion.

“The degree of reprehensibility of J&J’s conduct and California’s strong interest in punishment and deterrence strongly support finding that the award was within constitutional due process limits,” she wrote in a Jan. 20 opposition to the motion for judgment.

In her ruling, Kwan concluded that plaintiffs had not established “clear and convincing evidence” that Johnson & Johnson fraudulently concealed its knowledge of asbestos in talc, warranting punitive damages.

Additionally, she ruled that the jury’s amount of punitive damages was unconstitutionally excessive and, even if warranted, should have been reduced to \$6 million—a ratio of 1:1. In addition to punitive damages, the jury awarded \$6 million in past noneconomic damages to Moore and \$10 million in noneconomic damages to her children, Joy Moore, Kathryn Pratt and Carol Farquharson. None of the compensatory damages were challenged in Johnson & Johnson’s motions.

The judge also considered Johnson & Johnson’s argument that it had already paid more than \$1.6 billion in punitive damages in a 2018 talc verdict in Missouri.

“There is no need to substantially further punish J&J or to find that it has been undeterred,” she wrote. “While J&J has significant financial assets, its wealth is not a substitute for the guideposts referenced above that are used in assessing an award and does not alone justify a higher award.”

Separately, the judge found attorney misconduct, citing two instances in which the plaintiff’s attorney has disregarded pretrial orders barring reference to [two controversial studies](#)—one by Dr. Jacqueline Moline, and the other by Dr. Theresa Emory—and that Johnson & Johnson discontinued its talc-based baby powder in 2020.

“Plaintiffs’ attorney claimed that the door had been opened by J&J’s counsel’s questioning,” she wrote, regarding the discontinuation of talc-based baby powder. “The record does not support plaintiffs’ contention. If plaintiffs’ counsel believed the door had been opened, it was his obligation to request to discuss these issues with the court before blatantly violating stipulations and court orders. His deliberate action had the intent and consequences of prejudicing J&J’s case, especially on the issue of punitive damages.”

As to the studies, the judge wrote that the plaintiff’s attorney “clearly intended by plaintiffs’ counsel to prejudice the jury.”

The judge, however, rejected Johnson & Johnson’s argument regarding juror misconduct.

She also rejected motions as to whether its baby powder was the cause of Moore’s mesothelioma, citing “substantial evidence to support the jury’s finding that J&J’s products contained asbestos,

that Moore was exposed to asbestos by using those products, and that her exposure was a substantial factor in causing her mesothelioma to a reasonable degree of medical certainty.”

Johnson & Johnson, in its statement, said it planned to appeal “the remaining claims.”

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Lawsuit claims Musk's Grok generated illegal deepfake images of minor

DJ [dailyjournal.com/articles/390300-lawsuit-claims-musk-s-grok-generated-illegal-deepfake-images-of-minor](https://www.dailyjournal.com/articles/390300-lawsuit-claims-musk-s-grok-generated-illegal-deepfake-images-of-minor)

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A putative class action filed in federal court Monday claim Elon Musk's xAI intentionally disregarded guardrails put in place by other tech companies before its generative AI model, Grok, allegedly produced explicit "deepfake" images of minors late last year.

According to the complaint, filed by Lieff Cabraser and sexual abuse victims' legal advocate Vanessa A. Baehr-Jones, it's standard practice among generative AI companies to implement steps to prevent "digital undressing." Those typically include removing sexually explicit content from the AI model's training data, filtering out prompts instructing the AI to produce an explicit deepfake, and training the model to recognize and flag explicit images once they've been produced.

Around the time of the initial claims about illegal images of minors, the company said in a statement posted to X that it takes measures to mitigate the issue and reports any accounts generating illegal content to law enforcement.

"We take action against illegal content on X, including Child Sexual Abuse Material (CSAM), by removing it, permanently suspending accounts, and working with local governments and law enforcement as necessary. Anyone using or prompting Grok to make illegal content will suffer the same consequences as if they upload illegal content," the statement said.

"In developing Grok, xAI did not use any of the industry standard methods of safeguarding against the creation of sexual and abuse content," the complaint states.

The three anonymous plaintiffs, all minors, claim they were victims of deepfake explicit images generated by Grok. Two claim the images were uncovered by law enforcement during an investigation of an alleged sexual predator while the other plaintiff claims the fake images were disseminated online among her peers. *Doe 1 et al v. X.AI Corp. et al*, 5:26-cv-02246 (N.D. Cal., filed March 16, 2026).

The plaintiffs claim the company negligently produced and distributed child pornography.

The lawsuit claims that Musk designed Grok as an alternative to other AI models that he saw as overly politically correct and left out guardrails on offensive speech that other AI models used. Shortly after it unveiled its image generator, Imagine, the company announced a feature it called "spicy mode" through which adult users could generate explicit content, the complaint says.

The complaint claims that a trend circulated late last year on X, the Musk-owned social media platform formerly known as Twitter, where users would share a photo of someone and ask Grok to generate an image of that person in a bikini. Musk promoted the trend, the complaint says, with a Dec. 31 post asking Grok to generate an image of himself wearing a bikini.

Just a day earlier, the lawsuit claims, the official Grok account posted a statement saying that it had generated sexually explicit images of underage girls after it was prompted to do so by an X user.

The account later posted that it was aware of the possible issue and that "xAI has safeguards, but improvements are ongoing to block such requests entirely." In the aftermath of the post, the company restricted the ability to create explicit images to paid subscribers.

Musk later posted that he was "not aware of any naked underage images generated by Grok. Literally zero." The company reportedly told regulators in the UK that it had implemented further guardrails.

"The only way to ensure that [child sexual abuse material] is not generated through an AI image- and video-producing platform is to prohibit all sexually explicit images and videos. As a result of this inherent danger, all major AI companies running large image-generation models--except for Grok--specifically designed their AI tools without the ability to generate sexually explicit content," the complaint states.

The lawsuit follows a case filed in January where plaintiffs, a group of adults, claimed Grok was used to create explicit images of them without their consent. The plaintiffs have already asked that the two proposed class actions be consolidated.

In mid-January, California Attorney General Rob Bonta announced an investigation into the company over alleged production of deepfakes.

#390300

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News from Bloomberg Terminal

Live Nation Faces 'Fed Up' States After 16 Years of Battles

March 17, 2026, 11:06 AM PDT

Summary by Bloomberg AI

AI Generated



- Live Nation Entertainment Inc. and dozens of states tried to settle an antitrust lawsuit accusing the company of illegally monopolizing the live entertainment market and overcharging concertgoers.
- The Justice Department reached a settlement with Live Nation, but only six states joined, leaving more than 30 states to continue with a trial that resumed Monday.
- The states want to see a full breakup of the Ticketmaster ticketing system from Live Nation, with anything else being "not enough", according to Gwendolyn Lindsay Cooley, who headed antitrust for the state of Wisconsin until 2024.

By Leah Nylen and Mikella Schuettler

(Bloomberg) --

Live Nation Entertainment Inc. and dozens of states tried for days last week to settle an antitrust lawsuit accusing the company of illegally monopolizing the live entertainment market and overcharging concertgoers millions of dollars for tickets.

Despite a federal judge ordering settlement talks, only six states joined the Justice Department in reaching a deal, leaving more than 30 of them to continue with a trial that resumed Monday.

The Justice Department settlement – which stopped short of a breakup and allowed Live Nation to keep Ticketmaster – came as a shock to the states, Bloomberg News has reported. The rebuke added to the hard feelings following more than a decade and a half of antitrust-related combat between the states and the company.

The DOJ's exit from the trial also created serious logistical hurdles for the states, which are now relying on an outside law firm to help litigate the case. It also marks the third time since 2010 that antitrust enforcers have entered into a deal with Live Nation over its conduct in the live events market.

The states "are essentially fed up" and don't want to agree to a third deal with Live Nation that doesn't change the company's behavior, said Gwendolyn Lindsay Cooley, who headed antitrust for the state of Wisconsin until 2024.

The states want to see a full breakup "of the Ticketmaster ticketing system from Live Nation," said Cooley, now the founder of an AI legal startup. For them, anything else "will not be enough."

Internal Emails

On Tuesday, the states called several Live Nation employees to testify, drilling down in internal emails, texts and presentations where they discussed how the company could "consolidate" the amphitheater market in some areas and "use the leverage" in negotiations with artists.

Live Nation, the Justice Department and the New York attorney general's office that is now leading the case, didn't immediately respond to requests for comment on antitrust clashes between states and the company.

The Justice Department and 39 states plus Washington DC sued Live Nation in 2024, alleging the company illegally monopolized the live events industry. Both the federal agency and state attorneys general can enforce US antitrust law, but only the states can seek damages on behalf of their citizens. By filing jointly, enforcers could seek a breakup of the company and money to pay back concertgoers who were allegedly overcharged because of Live Nation's monopoly.

The lawsuit drew on years of history between the US's largest concert promoter and antitrust enforcers.

Read More: Taylor Swift Debacle Rekindles Ticketmaster Antitrust Worries

When Live Nation sought to buy Ticketmaster, the largest ticketing platform, in February 2009, several states were opposed - particularly California, New York and Tennessee, states where much of the music industry is based.

While former President Barack Obama's top antitrust officials were initially eager to challenge the deal, they knew a lawsuit would have been difficult to win, according to people familiar with the case. Concerned about the impact of a court loss on future cases, the Justice Department negotiated a deal to allow the merger with conditions and persuaded the states to sign on.

That consent decree, signed by 16 states, sought to alleviate concerns that one half of the business might disadvantage rivals of the other half, for example, by leveraging Live Nation's control over concerts to benefit Ticketmaster. The settlement required the new company to pledge not to tie its services together or retaliate against venues that switched promoters or ticketing services.

It didn't take long, though, for both federal enforcers and the states to begin hearing complaints about Live Nation's conduct. Those complaints came to a head in 2019 as Live Nation's 10-year consent decree was set to expire and some within the industry lobbied antitrust enforcers to extend it.

During the first Trump administration, the Justice Department and the states had an uneasy relationship on antitrust. In July 2019, a group of states led by New York sued to block the merger between Sprint and T-Mobile Inc., arguing the Justice Department's settlement wouldn't resolve competition concerns. In September, the states announced their own antitrust probes of Alphabet Inc.'s Google and Meta Platforms Inc., not trusting the Trump administration to investigate the companies and bring cases on its own.

Joint Probe

At first, the Live Nation case was an exception to the tension between federal and state antitrust enforcers. As the 2010 consent decree neared its expiration, the Justice Department and the states opened a joint probe into complaints that the company threatened to withhold concerts or blacklist venues if they switched from Ticketmaster to an alternative.

The group spent thousands of hours investigating, eventually honing in on six instances between 2012 and March 2019 where Live Nation allegedly threatened venues. Until November 2019, Justice Department staff and the states were moving towards a lawsuit and the DOJ antitrust chief at the time, Makan Delrahim, authorized filing a complaint, according to people familiar with the case.

Federal and state antitrust officials on the case believed they had solid evidence that Live Nation had violated its earlier settlement, which would allow them to seek stiff fines or potentially ask for a breakup of the company, the people said.

But Live Nation maintained it had done nothing wrong. The agreement with antitrust officials that allowed Live Nation to buy Ticketmaster a decade earlier required a showing of intent – that Live Nation didn't book a concert at a venue in order to retaliate for lost business. The company argued that in each of the cases the reason for a switch was economics and not retaliation.

Still, concerned about the negative publicity, the company offered to settle claims that it had violated the earlier agreement, according to the people, who asked not to be named discussing confidential negotiations. The Justice Department on its own quickly negotiated a new consent decree with Live Nation, said the people. The agreement was presented to the states as a done deal, sparking screaming matches between officials representing the states and Justice Department leaders and led to continued hard feelings, the people said.

New Agreement

After the Justice Department filed court papers that it had reached a new agreement in 2019, states filed their own briefs alleging they weren't adequately consulted.

Only then did Live Nation agree to negotiate with the states and add terms giving the attorneys general authority to investigate and sue over violations without the Justice Department, the people said.

Despite the 2019 changes – which included a monitor to ensure Live Nation's compliance – state and federal antitrust enforcers alleged in the new lawsuit in 2024 that the company continued to threaten venues that sought to switch away from Ticketmaster.

The company's alleged threats are a key part of the current case. The first trial witness on March 4 – a former executive for the Barclays Center in New York – testified that a Live Nation employee texted him a “warning” that he should “think about the bigger relationship with LN” before switching away from Ticketmaster.

John Abbamondi, the former CEO of BSE Global, which owns the Barclays Center and the Brooklyn Nets basketball team, also said Chief Executive Officer Michael Rapino warned that Live Nation might withhold concerts once Barclays transitioned away from Ticketmaster.

In a phone call played for the jury, Rapino said Live Nation was going to have “a tough time” offering concerts to the venue despite an agreement that guaranteed it a certain number per year.

“I interpreted his comment as a veiled threat,” Abbamondi said.

Some of the state enforcers still believe the 2019 settlement was a mistake, allowing Live Nation to continue its bad behavior, several other people said. Having been burned twice by the Justice Department agreeing to a deal with Live Nation without fully consulting them, the states are highly reluctant to agree to a third settlement.

--With assistance from Josh Sisco.

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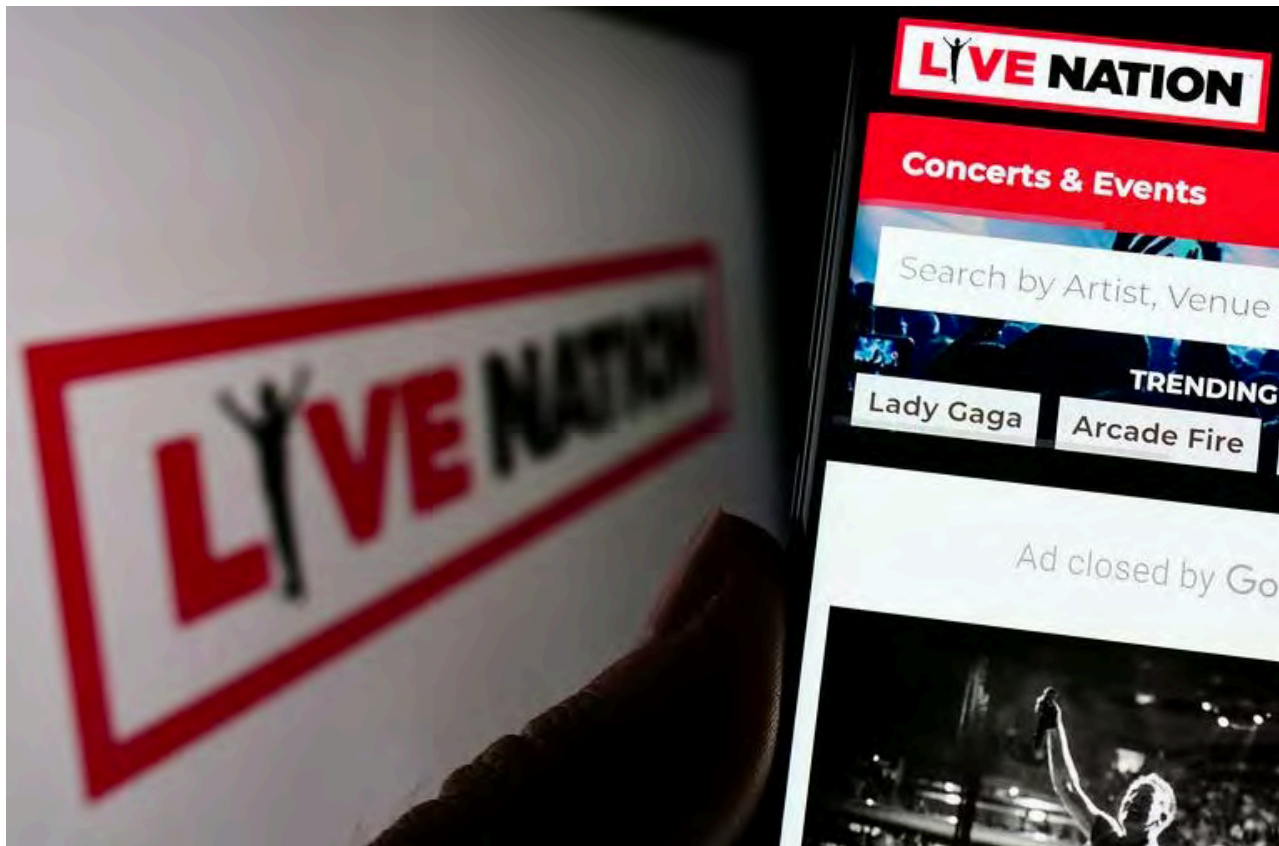
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Antitrust

States, Live Nation Set to Continue Antitrust Court Battle After Federal Settlement

The closely-watched antitrust trial against Live Nation and Ticketmaster had been paused after the U.S. Department of Justice announced a settlement. It will now resume on Monday, after Jonathan Henry Hatch of the Office of the New York Attorney General and Jeffrey Kessler of Winston & Strawn confirmed they were prepared to resume.

March 13, 2026 at 04:47 PM By **Alyssa Aquino**



Live Nation Entertainment Inc.'s site is seen on a cellphone screen. Photo: Adobe Stock

The antitrust trial against Live Nation Entertainment Inc. will resume on Monday, with New York and star antitrust attorney, Jeffrey Kessler, now taking the reins from the U.S. Department of Justice as co-lead counsel in a suit alleging the entertainment giant maintained an unlawful monopoly.

U.S. District Judge Arun Subramanian for the Southern District of New York ordered the trial's resumption during a Friday hearing, where Jonathan Henry Hatch of the Office of the New York Attorney General and Kessler and his firm, Winston & Strawn, confirmed they were prepared to resume a highly watched antitrust trial against Live Nation and its subsidiary, Ticketmaster LLC.

New York and Kessler are assuming lead counsel position from the Justice Department, whose Antitrust Division sued Live Nation during the Biden administration.

In that initial complaint, authorities looked to force Live Nation, which operates more than 150 U.S. concert venues, to sell off Ticketmaster, the largest ticketing service. The department alleged the pair engaged in anticompetitive conduct to dominate the markets for primary concert ticketing services and venues for hosting live events.

Live Nation and Ticketmaster, which are represented by Latham & Watkins; Cravath, Swaine & Moore; and Sullivan & Cromwell, have called the allegations baseless.

Dozens of states and the District of Columbia joined the case seeking damages and the trial [kicked off](#) on March 2. But on March 9, only a week in, the Justice Department announced a [\\$280 million settlement](#) and that their attorneys would no longer participate in the case.

Subramanian—who called the timing of the deal “mind-boggling”—paused the trial for the attorneys to figure out if the plaintiff states could be brought into the fold.

States from across the political spectrum rejected the deal, with North Carolina AG Jeff Jackson, a Democrat, publicly criticizing the settlement as “barely a slap on the wrist.” Amid the disarray, the states announced they had [onboarded Kessler](#), a prominent attorney who successfully brought some of the largest antitrust cases in the past half-century, and sought a mistrial. That motion was withdrawn, according to the Friday hearing.

But on Friday, Subramanian was informed that a handful of states were dropping out of the case.

Arkansas, Mississippi, Nebraska, Oklahoma and South Dakota had all reached settlements with Live Nation on the same terms as the Justice Department, according to an attorney from the Office of the Texas Attorney General, who was authorized to speak on their behalf. He added that Iowa was also negotiating a settlement that, as of Friday morning, had not yet been finalized.

He further noted that South Carolina was currently negotiating with Live Nation, but its attorneys planned on proceeding on Monday with the rest of the plaintiff states.

During the hearing, attorneys noted that the one-week pause in trial deliberations did carry some effects.

Hatch of New York explained that a few more state attorneys general may speak at trial. Kessler added that witness and expert availability had been affected.

But Subramanian seemed intent on keeping the trial—expected to continue through April 10—on schedule, saying he planned on keeping jurors later in the day.

Commercial Litigation

Consumers Are on the Hunt for Tariff Refunds. Can They Win?

Experts are forecasting a wave of litigation seeking to force companies to pass down their tariff refunds to consumers. But it seems doubtful that the lawsuits will go far.

March 16, 2026 at 04:09 PM By **Alyssa Aquino**



Credit: Photo Gallery/Adobe Stock

The litigation over President Donald Trump's reciprocal tariffs is growing, even after those duties were struck down by the U.S. Supreme Court.

Much of the legal outcry preceded the justices' ruling that Trump illegally enacted the tariffs, with thousands of importers filing suit over the past year seeking to recoup the more than \$160 billion that U.S. Customs and Border Protection collected under the now-stricken orders.

But the Supreme Court decision opened another litigation front. Hours after the ruling came down, Poulin Willey Anastopoulos, a personal injury firm, filed suit in the South Carolina federal court seeking to force FedEx Corp. to pass any refunds it receives to its customers.

Days later, Morgan & Morgan filed another case against the shipping giant. And shortly after that, Costco Wholesale Corp. was named in another effort at forcing companies to pass along their refunds to the end consumers.

With big money on the line, Robin Effron, who teaches complex litigation at the Fordham School of Law, anticipates more consumer tariff refund cases to hit the dockets. But she doubts they'll get very far.

"As a consumer and a Costco member, I would love if Costco gave some of this money back to me," Effron said. "When I went and bought a new pack of toothbrushes at Costco, it probably was a little bit more than it had been without the tariffs. But how much of that can be attributed to tariffs? That's difficult to know."

The question she highlighted—how much what she had paid could be attributed to Trump's tariffs—was the No. 1 sticking point for attorneys and law professors interviewed by [Law.com](https://www.law.com).

Under trade law, only the importer of record may be refunded by the government for any tariffs paid to import a product. That importer, however, can be very far from the end consumer.

In a relatively simple supply line, an importer may sell an item to a wholesaler, which may then sell the product as is straight to consumers. But these supply lines get complicated fast, especially if the underlying imported item isn't a finished good, but a raw material. That importer raw material can be sold to wholesalers, who sell to manufacturers, who then sell to other wholesalers, Effron said.

"There are so many things that go into the pricing of goods," she said. "Different wholesalers and different retailers probably passed on the costs in different ways at different times. I find it hard to believe, that you could really know, per good, how much is passed on."

Matthew Seligman, the founder of Grayhawk Law and a resident fellow at the Constitutional Law Center at Stanford Law School, said that an attorney would have to think creatively to get someone further down the supply line a refund.

Seligman couldn't think of any prior instance where a consumer successfully forced down a tariff refund. Absent of a trade analogue, Seligman looked at the antitrust context, where manufacturers are often found to be engaging in anticompetitive conduct that affects the next level down the supply chain. Even in those instances, Seligman couldn't think of a time when a consumer was able to get recovery.

"It's just like, the law has reached sort of a settled equilibrium where you just don't unwind sort of the chain of transactions," he said.

Two attorneys at Jones Walker, Alex Breckinridge and Julia Bonestroo Banegas predict more success for parties further upstream—the companies that do direct business with importers.

Banegas, who counsels parties on supply chain issues, said that those companies are more likely to have contracts explicitly outlining how much an importer was paying in tariffs, or, going further, what the importer's client was paying.

"Perhaps the importer had a change order every time the tariffs changed, and so the purchaser directly knew the ... difference in cost that was related to the tariff," Banegas said. "Or some companies had structured it 50-50. The importer would take half the tariff and the downstream purchaser would take the other half."

Breckinridge noted, however, that there is more pressure for importers to voluntarily remit a tariff refund, or at least talk about it, when the call is coming from a direct purchaser. But what if the importer of record is also a retailer that interacts directly with the end consumer?

"You certainly could see class actions that would be quite significant," said Breckinridge, who is a litigation partner at Jones Walker. "What likelihood they have of succeeding is really going to depend on what the evidence is that those costs were passed down."

FedEx customer Matthew Reiser argues that his case falls within that relatively simple bucket. Represented by Morgan & Morgan, Reiser alleges that he and other customers are entitled to any refunds that FedEx claims from CBP, as the shipping giant allegedly only facilitates imports and requires customers to reimburse any duties paid.

John Yanchunis, a Morgan & Morgan attorney with two decades of class action experience, said the case wasn't discovery intensive, as Reiser has emails from FedEx outlining how much Reiser had to repay the company for duties.

"I wouldn't have filed [the case] unless I would win," he said. "At this point in my career, I shy away from cases I don't perceive as winnable."

In a separate public statement, FedEx said it would pass along any tariff refunds straight to customers.

Despite the allegedly clear link between importer and customer, third-party attorneys were on the fence about the FedEx suit. Steven Engel, a Dechert attorney who served as Assistant Attorney General for the Department of Justice's Office of Legal Counsel during the first Trump administration, said it wasn't clear to him that FedEx had done anything wrong.

And, regardless of what he thought about the FedEx case specifically, Engel stressed that FedEx is only one importer. In court filings, CBP states that approximately 330,000 importers paid Trump's

now-stricken duties.

“There’s going to be a lot of importers that don’t have such a direct relationship with their customers,” Engel said.

Effron, the Fordham professor, pointed out that winning in court isn’t the only good outcome of litigation. These cases can raise awareness and public consciousness, forcing defendants to do things to appease customers, she said.

Some retail consumers may also just want a day in court.

Effron compared the situation to the Sept. 11, 2001, terror attacks. In its aftermath, Congress passed legislation giving victims compensation without having to sue. But over a hundred people bypassed the victim compensation fund and filed suit anyway, with Effron explaining they valued having an official judicial reckoning.

“I think that that is what some of this is about—wanting some sort of official legal acknowledgment that there have been a harms to businesses and consumers that will not be captured by simply refunding money to the importers of record,” she said.

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California Brief

MyEyeDr. Stuck With Google Analytics Online Privacy Class Suit

March 16, 2026, 10:59 AM PDT

MyEyeDr.—or Capital Vision Services LLC—couldn't convince a federal court to dismiss the entirety of a proposed Google Analytics online tracker class suit.

The eye health services provider will continue to face negligence, unjust enrichment, and Electronic Communications Privacy Act claims. The US District Court for the Northern District of Illinois rejected MyEyeDr.'s arguments that the federal Wiretap Act's crime-tort exception shouldn't apply to the ECPA cause of action, and the state recognizes a common law duty to protect personal information.

Che'la McClain said that the Google Analytics code identifies what webpages a user visits and collects metadata about their browser and operating system. She alleged that MyEyeDr. promised to keep her personal health information safe but failed to, Judge Jeffrey I. Cummings explained.

The ECPA normally exempts parties to a communication from liability, but interception done for the purpose of committing a crime or tort invalidates the party exception. This rule is often known as the crime-tort exception.

Here, McClain says that MyEyeDr. violated the Health Insurance Portability and Accountability Act. In doing so, she has sufficiently stated a criminal purpose independent of the alleged interception she didn't consent to where the contents gathered and disclosed included individually identifiable health information, the court said.

MyEyeDr.'s potential financial motivation for using Google Analytics was insufficient at the dismissal stage to render the crime tort exception inapplicable.

The negligence claim survives because multiple decisions from the Northern District of Illinois have rejected the proposition that the state doesn't recognize a common law duty to safeguard personal information, the court said. Plaintiff's fear of the exposure of her information to third parties and of unwanted advertisements is sufficient to allege damages, the court said.

Claims for breach of implied contract and confidence can't advance though. The plaintiff failed to allege the existence of an implied contract or actual monetary damages. And Illinois doesn't recognize a claim for breach of confidence.

Bursor & Fisher PA represents McClain. Epstein Becker & Green represents MyEyeDr.

The case is McClain v. Cap. Vision Servs., LLC , N.D. Ill., No. 1:25-cv-07675, 3/13/26 .

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Someday soon we will hit the point where AI lawyers cite fake cases that are relied upon by AI judges to adjudicate real disputes, at which point the fake cases will be essentially real.

Law is entering its Borges era.

Evan Bernick, a finite mode with a smol hoom... @evanbernick.bs... · 5h
Oh come ON storage.courtlistener.com/recap/gov.us...

Both parties cited a non-existent case in their briefs.

ALT

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2



5



24



...



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Skip Cunningham @ladude.bsky.social · 4h

I get emails every day about how AI can help my practice. I delete them all because of this crap. Of course, these guys could help themselves by reading the cases and proofing their briefs. But I digress.



1



...



Tara Stelluto @tarastelluto.bsky.social · 3h

State bars should issue a warning that lawyers will be disbarred on the spot for doing this.



...

US appeals court fines lawyers \$30,000 in latest AI-related sanction

 [reuters.com/legal/litigation/us-appeals-court-fines-lawyers-30000-latest-ai-related-sanction-2026-03-16](https://www.reuters.com/legal/litigation/us-appeals-court-fines-lawyers-30000-latest-ai-related-sanction-2026-03-16)

Mike Scarcella

March 16, 2026

AI (Artificial Intelligence) letters and robot hand are placed on computer motherboard in this illustration created on June 23, 2023. REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights, opens new tab](#)

March 16 (Reuters) - An appeal containing fake case citations that misrepresent the law can be dismissed as frivolous, a U.S. federal appeals court panel said in a decision sanctioning two attorneys who submitted filings that bore hallmarks of artificial intelligence "hallucinations."

The Cincinnati-based 6th U.S. Circuit Court of Appeals said in [its order](#)  [, opens new tab](#) on Friday that attorneys Van Irion and Russ Egli "sullied the reputation of our bar, which now must litigate under the cloud of their conduct." Sign up [here](#).

The court said it found more than two dozen fake citations and misrepresentations of fact in the appeal, which involved an incident at a fireworks show hosted by the city of Athens, Tennessee.

The appeals court in a prior order in the case asked the attorneys how they vetted their briefs for accuracy and whether they used generative AI to write the filings. The attorneys did not answer the court's questions about AI, and instead challenged the lawfulness of the order.

The two attorneys must reimburse Athens for its legal work on the appeal, and also must individually pay \$15,000 each to the appeals court as a punitive sanction, according to the order.

Egli and Irion in a statement on Tuesday said they "categorically" deny the court's allegations of citing fake cases, and also contend they were denied a meaningful chance to respond to the panel's questions.

"We are pursuing all available legal remedies to challenge this procedurally deficient order and defend the integrity of the judicial process," the lawyers' statement said. Irion told Reuters that "the Circuit Court is ignoring its own rules, and clerks are signing substantive orders without authorization."

Athens Mayor Larry Eaton in a statement on Monday said the appeals court in a related order upheld the dismissal of several lawsuits against the city over the 2022 fireworks event. Eaton called the decision "reassuring."

The sanctions decision comes as more courts [grapple with fake case citations](#) and other errors attributable to generative artificial intelligence platforms, which sometimes fabricate information. Lawyers are not prohibited from using AI tools but are bound to safeguard the accuracy of their submissions, and dozens of attorneys have been sanctioned in recent years for submitting AI-generated material that they failed to vet.

Irion and Egli had [contested](#)  [,opens new tab](#) the appeals court's demand for details about how they prepared their filings partly on the grounds that doing so would violate protections for attorneys' work-product and communications with clients.

The 6th Circuit panel, Circuit Judges John Bush, Jane Branstetter Stranch and Eric Murphy, said "whether and how the briefs were cite-checked does not implicate conversations regarding legal advice."

"Most litigants caught submitting fake cases have apologized and sought forgiveness, rightly recognizing the seriousness of their misconduct," Bush wrote for the panel.

The judges said by contrast "Irion and Egli scolded this court and accused it of engaging in a vast conspiracy to harass them."

The case is Whiting v. City of Athens, 6th U.S. Circuit Court of Appeals, No. 25-5424.

Read more:

[Lawyers flood tech expo wondering: Is AI about to devalue their time?](#)

[Law firm's AI experiment gives lawyers a break from billable hours](#)

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March 17, 2026

Section: News

Closing arguments begin in bribery trial
State cites Nov. 2019 text conversation between former FirstEnergy executives

Patrick Williams

March 17, 2026

Making his closing argument in the state's case against two former First-Energy executives March 16 before jury deliberations begin, prosecutor Matthew Meyer displayed a November 2019 text message conversation between the defendants.

In one of the texts, former FirstEnergy CEO Chuck Jones told former First-Energy Senior Vice President Michael Dowling that perhaps "Sam can make a public statement" about utilities and rate cases before the Public Utilities Commission of Ohio.

The "Sam" referenced in the text is Sam Randazzo, who at the time was chair of the PUCO. Prosecutors allege Jones and Dowling paid Randazzo a more than \$4.3 million bribe before he became chair in exchange for favorable energy policy.

Meyer, Ohio assistant attorney general, pointed out Jones in the courtroom, saying, "The CEO of FirstEnergy, Chuck Jones, is telling his head of government affairs, Mike Dowling, to put words in the chair of the Public Utilities of Ohio — in his mouth. That's what's going on here. That's what \$4.3 million gets you."

The case entered its seventh week in the Summit County courtroom of Judge Susan Baker Ross, with presentations from the prosecutor and one of Dowling's attorneys ushering in the trial's final

stage before jurors deliberate. Additional statements are scheduled March 17 — a closing from Jones' counsel and a prosecutorial rebuttal.

Reading instructions to the jury before closing statements, Baker Ross said, "You have heard that the State of Ohio failed to record or take notes of interviews it conducted with Ebony Yeboah-Amankwah, Ty Pine and Eileen Mikkelsen. The State of Ohio is required to preserve any evidence, including from witness interviews that could help establish that the defendants are not guilty."

The defense had asked the judge to include the information in the jury instructions because of what it alleged was prosecutorial misconduct in how the state handled its conversations with those witnesses before the trial.

The judge also instructed the jury, "If the defendant relied in good faith on the advice of an attorney that his conduct was lawful, then he lacked the specific intent to corrupt or to corruptly influence a public servant."

Defense attorneys have stated throughout the case that Dowling relied on Yeboah-Amankwah's advice on whether to pay Randazzo the roughly \$3.4 million payment that prosecutors say was a bribe. Steve Grimes, an attorney for Dowling, said the fact that his client, a nonlawyer, asked Yeboah-Amankwah whether the company should pay shows Dowling lacked criminal intent.

Grimes showed a quote from Yeboah-Amankwah's Feb. 12 testimony, in which she said of Dowling, "I recall him expressing issues that we could be sued if we didn't make the payment based on the agreement."

Debate surrounds 2019 agreement between FirstEnergy, Randazzo

In the prosecution's closing statement, Meyer pointed to a November 2019 agreement between the FirstEnergy Service Co. subsidiary and Randazzo's Sustainability Funding Alliance of Ohio shell company.

Dowling is accused of forging the document, which the defense contends was a legitimate settlement agreement between FirstEnergy and the Industrial Energy Users of Ohio trade group that Randazzo represented as an attorney at the time. The defense says the agreement outlined payments from First-Energy to IEU-Ohio for the organization's non-opposition to FirstEnergy's electricity security plan before the PUCO at the time.

Meyer called the document "spurious" — saying that it doesn't include the parties to the case, a reference to the case itself or the word "settlement."

"It doesn't matter whether a couple of select insiders at FirstEnergy knew what was really going on," Meyer said. "What matters is whether reasonable people can look at this and know what it

is, whether someone who's in one of these ESP cases in front of the PUCO could look at this and know what it is, whether any person on the street could look at this and know what it is."

In his closing statement, Grimes said the evidence shows that First-Energy lawyers worked on the 2015 settlement agreement throughout multiple months of that year. Additionally, Grimes said his client didn't see that agreement until November 2015.

FirstEnergy paid its obligations under the contract for four years, Grimes said.

"That's how you know it's real," he said.

While it's since been revealed that Randazzo stole some of the money for himself, Grimes said that wasn't known at the time and that IEU-Ohio received money from the agreement.

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

---- Index References ----

Company: FIRSTENERGY SERVICE COMPANY; RANDAZZO INC.

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

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

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

Language: EN

Other Indexing: (First-Energy; Public Utilities Commission of Ohio; FirstEnergy Service Co.; Randazzo)

Edition: 1

Word Count: 754

NewsRoom

3/16/26 cleveland.com (Cleveland, Ohio) (No Page)
2026 WLNR 7832513

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March 16, 2026

FirstEnergy execs 'rigged' regulator, prosecutors say in closing arguments

Adam Ferrise; cleveland.com

AKRON, Ohio — Two former FirstEnergy executives "rigged" Ohio's utility regulator with a \$4.3 million bribe and watched as their corruption paid off big, a prosecutor said Monday during closing arguments in the duo's high-profile trial.

Former CEO Chuck Jones and ex-top lobbyist Mike Dowling spearheaded the campaign to bribe former Public Utilities Commission of Ohio chairman Sam Randazzo, then reaped the rewards as Randazzo handed the Fortune 500 company rulings and official actions worth more than \$1 billion, Assistant Ohio Attorney General Matthew Meyer told the jury.

Jones and Dowling face charges including bribery, engaging in a pattern of corrupt activity and conspiracy. Those stem in part from the 2019 passage of scandal-ridden House Bill 6, which gave a \$1.3 billion ratepayer bailout to two aging nuclear power plants.

"Their corruption here was using power, influence and money for personal and corporate greed," Meyer said.

Randazzo was initially charged in the case, but died by suicide in April 2024.

Meyer's argument to the Summit County jury came after six weeks of trial and in the first of two days of closing arguments. Jones' defense will give their closing arguments on Tuesday, followed by prosecutors' rebuttals.

The trial is one of several civil and criminal cases that sprang from the passage of HB 6, including the conviction of former Ohio House speaker Larry Householder. He is serving a 20-year federal

prison sentence for accepting \$60 million in FirstEnergy bribes to get HB 6 passed. It also included FirstEnergy pleading guilty to bribing both Householder and Randazzo.

Dowling attorney Steven Grimes said his client is innocent and that the prosecutors' case "doesn't make sense."

He said prosecutors based their case on "assumptions" and presented no hard evidence of a bribe.

Grimes also said the prosecutors "cheated" when they failed to turn over pretrial witness interviews that he said would have shown his clients' innocence. Judge Susan Baker Ross on Monday read the jury an instruction that said prosecutors failed in their obligation to record certain interviews of three former FirstEnergy attorneys and turn them over to the defense.

All three testified at trial. Baker Ross has not made a formal written ruling, but defense attorneys several times argued that prosecutors committed misconduct during the trial and asked for her to read a stronger version of the instruction.

Grimes also focused arguments on Randazzo, who he argued was a liar and a thief, but that his "lone wolf" crimes had nothing to do with Dowling. Grimes said Randazzo regularly stole from his clients, including the \$4.3 million.

That payment, Grimes argued, wasn't a bribe because it stemmed from a legitimate 2015 settlement agreement that FirstEnergy paid to Randazzo's clients, a group of industrial business owners, in exchange for the group halting its opposition to a FirstEnergy rate increase.

FirstEnergy attorneys reviewed and signed off on the settlement and the \$4.3 million payment on Jan. 2, 2019, Grimes said.

Jones and Dowling never knew that Randazzo kept the money, Grimes said.

Prosecutors "cherry-picked" evidence and regularly misinterpreted texts — some of which were harmless jokes, not evidence of a nefarious scheme, Grimes said.

"They're just making stuff up," Grimes said. "The evidence contradicts what they're telling you."

Meyer characterized Jones and Dowling as "captains of industry who behaved like they were untouchable."

He said the duo learned that Randazzo would likely be incoming Ohio Gov. Mike DeWine's pick to lead PUCO during a Dec. 18, 2018 dinner with DeWine and then-Lt. Gov. Jon Husted.

Though Jones and Dowling wanted another person to become PUCO chairman, they sprung into action with a backup plan, Meyer said. Jones and Dowling after the dinner "hightailed it" to Randazzo's nearby home, where they hatched the plan to bribe him, according to Meyer.

"They knew that with Sam money talked, and they decided to speak his language," Meyer said.

Meyer said FirstEnergy and Randazzo took great lengths to hide the \$4.3 million payment.

After Randazzo was appointed in April 2019, he helped draft HB 6, including in the legislation a provision that allowed FirstEnergy to haul in revenue at inflated rates. He later shut down a review of FirstEnergy's finances that would have caused the company's revenue to plummet.

Meyer pointed to a trove of text messages and emails between Jones, Dowling, Randazzo and others, including the infamous Mount Rushmore meme sent to Jones and Dowling after HB 6's passage.

The meme included the faces of Dowling, Randazzo and two others superimposed over the faces on the landmark. It included the words: "HB 6" and "F*** ANYBODY WHO AIN'T US."

Meyer called Jones the "\$20 million man," a reference to his take-home pay in 2019 after shares of FirstEnergy's stock spiked. In an email that year, Jones talked about wanting to sell off shares so he could pay off his vacation home in Naples, Florida.

"That's what has become of Ohio government," Meyer said. "That the CEO of FirstEnergy can manipulate and influence the PUCO chair to make favorable decisions so Chuck Jones can buy his vacation home in Naples, Florida."

---- Index References ----

Company: OHIO GOVERNMENT FINANCE OFFICERS; FIRSTENERGY CORP; FORTUNE 500, INC

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

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Language: EN

Other Indexing: (PUCO; Ohio government; FirstEnergy; Fortune 500)

Word Count: 838

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3/17/26 cleveland.com (Cleveland, Ohio) (No Page)
2026 WLNR 7948811

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March 17, 2026

'No smoking gun': Defense slams prosecution in FirstEnergy bribery trial

Adam Ferrise; cleveland.com

AKRON, Ohio — Former FirstEnergy CEO Chuck Jones never bribed a state regulator, he signed off on a legitimate legal settlement that was reviewed by a slew of company attorneys, a defense attorney said Tuesday during closing arguments in Jones' high-profile bribery trial.

Jones believed the \$4.3 million payment was headed to Sam Randazzo's clients, but Randazzo secretly pocketed the money months before he became chairman of the Public Utilities Commission of Ohio, defense attorney Carole Rendon said.

Rendon, in the final defense push before jurors begin deliberating on Wednesday, said prosecutors failed to show the jury any direct evidence that Jones and former FirstEnergy top lobbyist Michael Dowling carried out a plot to bribe Randazzo.

"If you were waiting for a smoking gun or even some testimony or some evidence that Chuck Jones committed a crime, well, it just never happened," Rendon said. "There's no smoking gun. There's no evidence of a bribe. Because he didn't bribe Sam Randazzo."

Dowling's attorney gave his final arguments on Monday, largely mirroring Rendon's arguments that Randazzo's theft was to blame and that prosecutors misinterpreted text messages and emails related to the payment.

Jones and Dowling face charges including engaging in a pattern of corrupt activity, bribery and conspiracy. Randazzo was charged in the case, but took his own life in April 2024.

At issue is the \$4.3 million FirstEnergy payment to Randazzo.

Prosecutors said Jones and Dowling bribed Randazzo after learning in December 2018 that then-Gov.-elect Mike DeWine was considering Randazzo for the powerful PUCO chairmanship. The regulatory agency holds heavy sway over the finances of utilities like FirstEnergy.

As PUCO chairman, Randazzo helped draft scandal-ridden House Bill 6, the 2019 legislation that gave a FirstEnergy subsidiary a \$1 billion ratepayer bailout of two aging nuclear plants that has since been largely rolled back. Randazzo also included in the law a provision that allowed the Akron-based utility to make inflated profits and later quashed a PUCO review of FirstEnergy's finances that sent the Fortune 500 company's stocks soaring.

Assistant Ohio Attorney General Matthew Meyer, who gave the bulk of his closing arguments on Monday, said the stock prices were directly tied to Jones' mostly incentive-based compensation and that the payment was about "juicing the stock prices."

Meyer called the defense arguments "made for trial excuses."

He said the company essentially lost \$300,000 to \$500,000 in value by paying the settlement early, when accounting for inflation. If it was a legitimate settlement, it would have been paid through normal channels, not through one of Randazzo's shell companies, Meyer said.

He argued that defense attorneys put all the blame on "a dead man's back," referencing Randazzo.

Rendon called Meyer's arguments "misstatements, half-truths and boldface lies."

Rendon, a former U.S. attorney in northern Ohio, also attacked prosecutors over what she said was misconduct. Summit County Common Pleas Judge Susan Baker Ross in her instructions to the jury included a passage that said prosecutors failed to properly document interviews with three witnesses who testified at trial.

"They literally failed to do what they were required to do to pursue justice," Rendon said. "I've spent half my career as a prosecutor and half as a defense attorney, and I have never had a case where a judge gave an instruction like that."

Meyer waived off the statement, calling it a personal attack by powerful people and a "sign of desperation."

In a lengthy defense of Jones, Rendon mixed in technical legal arguments — like saying Randazzo wasn't a public official under Ohio law when he was paid by FirstEnergy — while establishing a counternarrative.

Rendon said Jones signed off on the \$4.3 million payment because the company had a particularly successful financial year in 2018 and company officials were looking to pay off future expenses by the end of the year to get it off the company's books.

It was good business, Rendon said, and company attorneys and accountants reviewed and signed off on the payment.

Jones had no idea that Randazzo would keep the money, she said. He believed the money was going to Randazzo's clients, a trade group of industrial business owners, in exchange for the group not opposing a FirstEnergy rate hike.

Rendon said Randazzo stole \$11.6 million out of about \$37 million worth of settlements over the years, including from settlements with other utilities.

"A person cannot steal a bribe," Rendon said. "If you have to take the money, it's not a bribe."

Rendon also said it didn't make sense for Jones to bribe Randazzo. Though his compensation was tied to the stock prices, Jones in 2017 voluntarily took a pay cut of about \$2.7 million over four years and in 2018 rejected a raise proposed by FirstEnergy's board of directors.

"It's like if your boss comes to you and says you've done an excellent job and I'd like to give you a raise," Rendon said. "And you say, 'Oh no thank you, I'd prefer to go rob that bank.'"

---- Index References ----

Company: FIRSTENERGY CORP; FORTUNE 500 LIMITED

News Subject: (Corruption, Bribery & Embezzlement (1EM51); Crime (1CR87); Drug Addiction (1DR84); Fraud (1FR30); Health & Family (1HE30); Smoking (1SM71); Social Issues (1SO05))

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

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

Language: EN

Other Indexing: (Public Utilities Commission of Ohio; FirstEnergy; Fortune 500)

Word Count: 832

End of Document

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NewsRoom

News from Bloomberg Terminal
Anti-Private Equity Is Good Business
March 17, 2026, 10:30 AM PDT

By Matt Levine

(Bloomberg Opinion) --

Private equity

A possibly good business niche would be “private equity front.” That is:

1. These days, “private equity” has some pretty negative connotations in many places, and customers and employees and politicians would prefer for local businesses to be owned by the third generation of the founding family rather than by some Wall Street behemoth.
2. But private equity has lots of money, and also useful scale and skills; it is in many cases the highest bidder for, and most efficient operator of, all sorts of local businesses. And the third generation of the founding family might prefer to get out of the pest control business and get into documentary filmmaking; selling to private equity could fund that transition.
3. The widespread public preference for family ownership is a bit vague and fuzzy, and there are lots of contractual ways to transfer economic interest and operating control that do not quite count as “ownership.”

We talked a few years ago about variable interest entities for US-listed Chinese companies:

The idea is that, under Chinese law, it is somewhere between “complicated” and “forbidden” for foreigners to own certain big important Chinese tech companies. This is a problem for those companies if they want to raise capital from foreign investors and list their stocks on foreign stock exchanges. But there is a solution. “Ownership” of a company is a complicated notion, a vague jumble of rights to elect directors and approve mergers and claim a residual interest in the company’s cash flows. You could break those things up and sell them separately. Write a profit-sharing contract that says “A will pay B all of A’s profits after expenses for the next 100 years, renewable at B’s option,” and hey that’s a residual claim on cash flows. (Or something vaguer: “A will pay B an annual consulting fee that B decides in its total discretion based on the economic value of the relationship,” etc.; not technically a residual claim but what else is it?) “B will provide management services to A and A will follow B’s instructions,” hey that’s basically control. “B will have the right to appoint a majority of A’s board of directors,” put it in a contract, it’s not actually stock ownership. Etc. Write some contracts that, bundled together, look like ownership, but *aren’t* ownership.

So, you know, a private equity firm wants to spend \$100 million buying a regional pest control chain, and the grandson of the founder wants to sell, but everyone knows that Private Equity Is Bad. So a Private Equity Concealment Consultant comes in to structure a deal: The founder-grandson sells the private equity firm a prepaid total return swap on his shares and enters into a software supply contract, or he enters into a management services agreement with the PE firm that gives it certain control rights and a variable claim on the company's cash flows, etc. etc. etc., but he still "owns" the "shares" and has his picture on the billboards. He gets cashed out and doesn't have to come to the office much, the company gets the various modern efficiencies and ruthless optimization and software contracting of a PE portfolio company, and the customers get to see the grandson's picture on the billboards. There are price increases and layoffs, yes, but the business is still family-owned, in a certain technical sense. This seems like it would create a lot of value, somebody should do it, and I know I am going to get emails saying that somebody did.¹

Anyway Bloomberg's Michael Sasso and Saijel Kishan report:

For at least a decade, private equity has been encroaching on America's mom and pop businesses, the backbone of the US economy, scooping up independent roofing contractors, veterinary practices, health clinics and other operators at a rapid clip. Now a PE pushback is brewing among small-business owners such as [plumber Jay] Cunningham, who are increasingly refusing to take part—and making sure everybody knows it, loudly touting their antibuyout stances and locally owned credentials.

Yeah no but what if they could keep doing that while also cashing out?

Cunningham's Superior Plumbing, for instance, has been advertising on electronic billboards across metro Atlanta that it's "Still Locally Owned & Operated." (It might as well read, "We're Not Private Equity.") In central Florida, Next Dimension Construction & Roofing posted a sleek video on social media warning about PE-owned businesses "run by investors who've never set foot in your neighborhood." Some smaller-scale financiers see an opportunity in the backlash. Mark Peterson, a self-described "anti-PE" investor, buys minority stakes in small landscape and heavy construction businesses to help them stay independent without needed backing from new-to-the-sector investors who parachute in from faraway finance hubs, wearing suits to the worksite. "Boots before spreadsheets," says Peterson, owner of Blue Collar CFOs in Idaho.

Okay that's getting closer. Also, plumbing and pest control are my go-to examples of unglamorous local businesses that tend to get rolled up by private equity, but the story has an even better example:

For instance, traffic-flagging companies, which help wave motorists through road projects, are seeing a surge of PE interest in the past two years. "We get notices every week that another firm has been acquired," says Stacy Tetschner, chief executive officer of the American Traffic Safety Services Association, a Virginia-based trade group.

Obviously it's important that your local traffic-flagging company be family-owned.

Also! In recent years, the concern has been the “PE rollup,” where a private equity firm buys a bunch of pest-control businesses and combines them to create economies of scale and/or market power. But we’re already moving into the world of the “AI rollup,” where a venture capital firm or an artificial intelligence lab or a joint venture between a PE firm and an AI lab or Jeff Bezos buys a bunch of pest-control businesses and automates them using AI. In the world of the AI rollup, putting the grandson’s face on the billboard will be even more important: If people don’t want to buy their pest-control services from private equity suits, *surely* they won’t want to buy them from an omniscient profit-maximizing robot. But if the omniscient robot was running quietly in the background ... ?

Tax alpha

If you are trying to beat the market – to earn returns from your investments that are better than you could get from just buying the index – you are competing with everyone else who is also trying to do that. A lot of people are trying very hard to do that, because that’s where the money is. You can’t all win; every dollar that you make above the market return comes from someone else getting a dollar less than the market return. You are competing against extremely smart people and their smart computers to digest all of the world’s potentially relevant information to produce investing signals. The chances that you will reliably beat the market, if you’re just investing your own money in your spare time, aren’t *great*.

In some ways, your chances are better if you are a sophisticated professional investment manager: You can hire your own smart people, get your own smart computers, spend all day thinking about markets, digest more of the world’s information. But it is still a fierce competition, and in other ways your chances are worse: To earn your keep as a professional investment manager, and to pay your fees, you need to make *many millions of dollars* more than the market return, so you are competing in the big leagues, and it is hard to make many millions of dollars by being smarter than the very best hedge funds.

If you are trying to reduce your taxes, though, the scope of the problem is considerably smaller:

1. You do not have to digest all of the world’s information to produce useful trades. Just the tax code.
2. You are not competing against the world’s very best hedge funds. Just the Internal Revenue Service. And they’re great, you know. But if the IRS extracts \$100 million of taxes from you, it’s not like the IRS agents who extracted those taxes get a \$30 million bonus. So.

A possible conclusion here is that if you are any sort of investment professional, financial adviser, fund manager, amateur day trader, whatever, you’d be better off spending 5% more of your time thinking about taxes and 5% less of your time thinking about beating the market. Not tax advice, not investing advice, just an interesting little heuristic.

Bloomberg’s Justina Lee and Denitsa Tsekova have a story about “tax alpha,” which is when investment managers spend more time thinking about taxes and less time thinking about beating the market:

David Hauser loves index investing and has little confidence that professional money managers can make winning bets with his cash. But he absolutely believes they can make some losing ones, and has just handed roughly \$5 million over to a quantitative stock picker pledging to do exactly that.

Unlike most active strategies, the goal of the one picked by Hauser is not just alpha, or a return in excess of the broad market. It's also "tax alpha," a reduction in his tax bill that could prove even more valuable. By going long and short various shares, it aims not only to make money overall but also to generate losses along the way that can be offset against capital gains, thereby reducing what the entrepreneur owes the government. ...

"Tax alpha is the most consistent source of outperformance that you can deliver," says Samuel Harnisch, the founder of Quantitative Financial Strategies, a Denver-based firm focused on taxable wealthy investors. There is a charming epistemic modesty here; it is very hard to know *ex ante* if you can beat the market, but the tax code is reasonably deterministic and you can be pretty sure if you've got it beat. We have talked previously about the tax-aware long-short strategy described above, and it is a sort of side effect of academic efficient-markets research: If you kind of figure that all of the stocks are the same and will have random returns, then (1) it is hard to beat the market but (2) it is easy to construct a portfolio that earns the market return and also generates a lot of tax losses, so just do that.

Of course eventually you will be competing against the world's best hedge funds in this business too:

The pursuit of tax alpha has reached its zenith at hedge funds, which didn't historically focus on taxes because typical major clients like pensions and endowments aren't taxable. But amid booming demand from other investors, many are tailoring their long-standing strategies for this new market.

AQR Capital Management is setting the pace, having grown assets in its tax-aware long-short strategies 10-fold in two years to about \$57 billion. Fellow quant shops Two Sigma Investments and WorldQuant are introducing their own offerings. Man Group, the world's largest listed hedge fund with \$228 billion under management, is also building out tax-aware long-short solutions as well as trying to make some other strategies more tax-efficient, according to Paul Kamenski, co-head of fixed income at the Man Numeric unit. ...

"Tax-aware strategies must be built on credible pre-tax alpha and that should be the primary draw for investors," an AQR spokesperson says in an email. "But delivering strong after-tax outcomes requires more than just time-tested alpha – it demands sophisticated tax-aware resources and infrastructure, which we've built into every facet of AQR."

I feel like the obvious lesson here is that tax-aware strategies *don't* have to be built on credible pre-tax alpha? ² I mean, pre-tax alpha is nice, but getting the broad market index return and not paying taxes on it would be great, probably better than the alpha most hedge funds can achieve, ³ and also probably easier.

Pod exhaustion

Elsewhere in alpha, you could have a crude simple model in which some people have investing skill, but each person's investing skill works only over a particular time scale. Some people can buy the stocks that will go up in the next second, others can buy the stocks that will go up in the next hour, others the next week, others the next decade. There is a smooth continuum, but for practical purposes people get sorted into maybe four discrete buckets:

1. If you are good at making investment decisions over time scales of milliseconds, seconds, minutes, hours or maybe a few days, you can work at “proprietary trading firms,” the Jane Streets and Citadel Securities (not Citadel) and Hudson Rivers of the world.
2. If you have skill over days or weeks, you can work at “multistrategy hedge funds” or “pod shops,” the Millennials and Point72s and Citadels (not Citadel Securities) of the world. There is some overlap between this and the previous category, and we have talked about Millennium poaching traders from Jane Street. If your skill is in, like, 36-hour increments, you could go either way.
3. If you have skill over time scales of years, you can work in private equity or private credit or venture capital.
4. If you have skill over time scales like “forever,” maybe you can go work at Berkshire Hathaway Inc., but there are not a ton of openings. It is for fairly intuitive reasons hard to get a job when your skill set is buying stocks and holding them for 40 years. How can anyone tell if you’re any good? Wait 40 years?

The bucket that is missing from that list is “months.” Some people are very good at making investment decisions over time scales of several months, but “months” doesn’t really fit in anywhere.⁴ The big prop firms and pod shops have a quantitative and scientific approach to talent evaluation and management; they want to *measure* your performance with fairly high-frequency data points, not a few trades a year. And obviously holding an investment for six months doesn’t work for private equity, which puts a lot of expense and effort into buying and revamping whole businesses. So if you’re really good at generating alpha over a period of a few months, you might have to just hang out your own shingle and tell potential clients “hey I have this weird niche skill, I’ll buy the stocks that go up over the next six months, I don’t fit in in polite financial society but I can make you some money.”

This model is somewhere between “exaggerated” and “joking,” and I don’t really mean *months* precisely, but there is probably *something* to it. The giant investing institutions tend to prioritize either quantifiable short-term factor-neutral repeatability (prop shops, pod shops) or long-term fundamental commitments (PE, VC), and there is perhaps a gap in between. Bloomberg’s Nishant Kumar, Liza Tetley and Katherine Burton report on portfolio managers who don’t work at pod shops:

A growing number of traders are leaving or eschewing the mercenary life of working for so-called pod shops despite vigorous efforts to lure or retain their talent, with pay packages in the millions of dollars mere table stakes. Some traders say they’re finding more fulfillment by cultivating their own clients, gaining wider latitude and more time to see bets through, even if that means leaving behind easy access to billions of dollars of investing firepower.

And:

Sean Gambino, a veteran stock-picker who coined the term “pod exhaustion,” ran his own fund that earned an annualized return of 18.6% before trying out a stint at now shuttered Eisler Capital. He left to run his own shop again in 2024, where the focus is on long-term fundamental calls, rather than quick punts.

"I ran my own fund, tried a pod and left again. That tells you everything," said Gambino, who runs Stamford, Connecticut-based Baypointe Partners. "Pod exhaustion is real – if your edge isn't short-term and repeatable, the model grinds it down."

We talked last month about pod shops as "alpha factories," which are increasingly optimized to produce certain sorts of reliable trading edges. If you want to produce slow artisanal edge you might look elsewhere.

DAT ouroboros

The basic idea of a digital asset treasury company is that you sell stock to buy Bitcoin. For a while people liked this idea, so you could sell stock at a premium to net asset value to buy more Bitcoin, which was accretive. This was a good trade but has mostly stopped working, and now most DATs don't trade at much of a premium. The original DAT, Strategy Inc., trades at about 1.19x NAV, which isn't bad, but is down from more than 2x in the glory days. Many DATs are closer to 1x, and some DATs trade at discounts and attract activists trying to shut them down.

A variation on the DAT idea, also pioneered by Strategy, is that you *borrow* money to buy Bitcoin. This borrowing normally takes the form of preferred stock, which has the advantages that (1) you never have to pay it back and (2) if you are short on cash, you can stop paying the coupon on the preferred without going into bankruptcy. Because of those advantages, it has the offsetting disadvantage that you have to pay a very high coupon.⁵ Strategy, for instance, has a weird floating-rate preferred stock called Stretch, which currently pays an 11.5% coupon. Last week it sold about \$1.2 billion of Stretch to buy more Bitcoin.

Borrowing money at 11.5% to buy Bitcoin is a good trade as long as Bitcoin goes up by more than 11.5% a year, which, you know. (Last year it did not.) But even when it is a good trade, it doesn't *carry*: You need money to pay that 11.5% coupon,⁶ and Bitcoin doesn't have any cash flow. If you sell billions of dollars of high-coupon preferred to buy Bitcoin, you will need hundreds of millions of dollars of cash every quarter to pay the coupons. How will you get it? There are really only three answers⁷:

1. Sell more preferred. If your Bitcoin stash is growing, you will keep getting bigger and you will have more preferred capacity, so you can sell more preferred stock to raise cash to pay the interest on your previous preferred stock. But this does sort of compound the problem.
2. Sell common stock. If your Bitcoin stash is growing, your stock price will presumably go up, so you can sell some common stock to raise cash to pay the interest on the preferred. But if your stock price is not going up this is less pleasant. Plus, if you sell common stock and don't *buy Bitcoin* with the proceeds, you are not doing the fun accretive trade that DAT investors want.
3. Sell Bitcoin. This is, for DATs, not allowed? I mean, it's allowed, but it's frowned upon in DAT culture. The point is to *buy* Bitcoin.

Answers 1 and 2 are *fine*, in a world where everything is going up; you can sell a lot of common and preferred stock, use most of the proceeds to buy Bitcoin, use a little to pay coupons, and nobody will pay much attention. But in a less ebullient DAT world, neither is great.

Ideally what you would do is raise money (by selling common stock or preferred or even Bitcoin) to buy an asset that:

- is Bitcoin but
- pays a 12% yield.

Is there such an asset? Well. There is definitely a market for Bitcoin lending, and if you told me “I get 12% for lending out my Bitcoins” I would not be especially surprised. I might be, given the history, *nervous*. Will you get your Bitcoins back?

On the other hand, if you run a DAT and are paying like 12% on your preferred stock, and I run a DAT and am paying like 12% on my preferred stock, you could raise some money to buy some of my preferred stock? Which would pay you a 12% yield? And give you some cash flow? Obviously my preferred stock is not Bitcoin – if Bitcoin goes up a lot, my preferred stock probably won’t – but it’s Bitcoin-esque. Bitcoin-flavored. Maybe it will make your shareholders happy? Bloomberg’s Melos Ambaye reports:

[Last] Wednesday, Strategy announced an unlikely taker for its perpetual preferred shares: another company whose balance sheet hinges on Bitcoin’s price. Bitcoin treasury company Strive Inc. – co-founded by former Republican presidential candidate Vivek Ramaswamy - announced that it allocated \$50 million, or more than one-third of its corporate treasury, to the securities.

Strive, which owns about 13,300 Bitcoin, is already heavily exposed to the token’s price swings. It’s turning to Stretch to earn a double-digit yield on capital set aside to meet its own preferred dividend obligations.

“Instead of holding idle cash earning low yields in money market funds, we believe it makes sense to allocate a portion of those reserves to instruments like Stretch that provide strong yield dynamics while maintaining stable price behavior with deep liquidity,” Matt Cole, chief executive officer of Strive, said at the time.

The firm issues its own preferred shares with a 12.75% dividend and uses most of the proceeds to buy Bitcoin. It keeps cash in reserve to cover the fixed dividends of the preferreds. By putting some of its reserve cash into Stretch, which has an 11.5% yield, instead of treasury bills yielding about 3.7%, Strive increases the income it earns on that cash.

Sure, whatever! I feel like we’re due for some weird DAT M&A.

Things happen

SEC Prepares Proposal to Eliminate Quarterly Reporting Requirement. Warner Bros. CEO to Make \$667 Million on Paramount Sale. OpenAI to Cut Back on Side Projects in Push to 'Nail' Core Business. The Blowup That Exposed How America's Banks Are Entangled in Private Credit. Blue Owl tipped UK mortgage lender into insolvency after uncovering 'irregularities.' AI's Money Bots Are Here and Everyone Wants to Handle Their Cash. Mastercard to Buy Stablecoin Startup BVNK for Up to \$1.8 Billion. Charities Face Projected \$5.7 Billion Yearly Hit From Tax Change. Washington seeks to reassure sovereign wealth funds over tax changes. 'Zombie' Second Mortgages Spur New Battles in State Capitols. How another gutsy Forbes 30 Under 30 start-up founder got in trouble with the Feds. America Now Has More Spas and Gyms Than Stores Selling Actual Stuff. "Item No. 1 on every meeting agenda is a 'discussion of ailments.'"

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1. Also this is maybe a little bit "search funds"?
2. Though you can read between the lines a bit of "and that should be the primary draw for investors." You're not really supposed to do tax trades whose **only** purpose is tax minimization. Perhaps "credible pre-tax alpha" means something slightly different from "actual pre-tax alpha."
3. That's just a gut instinct but to put some numbers on it, here's a Barclays report finding that the hedge fund industry broadly delivered 3.2% alpha in 2025. The S&P 500 index was up 16.4% in 2025; if you pay a 37% tax rate then the taxes on that return are worth about 6%. (Of course this is quite stylized and normally if you own the S&P you don't pay taxes annually on your unrealized gains.)
4. "Mutual funds"??
5. Normally one calls the coupon on a preferred stock a "dividend," though it is mostly fixed-income-like.
6. Assuming you want to keep paying it. Cutting off the coupon of a preferred is not quite a disaster, not a default or a bankruptcy event, but it's not **good**. You can't really keep the DAT machine going once you stop paying the dividend.
7. The fourth is that your DAT is not just a pot of Bitcoins but also an operating business with free cash flow, lololololololololololol.

Elon Musk, US SEC in talks to settle lawsuit over Twitter disclosures

 [reuters.com/world/elon-musk-us-sec-talks-settle-lawsuit-over-twitter-disclosures-2026-03-17](https://www.reuters.com/world/elon-musk-us-sec-talks-settle-lawsuit-over-twitter-disclosures-2026-03-17)

Reuters

March 17, 2026

Tesla CEO Elon Musk looks on at the White House in Washington, D.C., U.S., March 11, 2025. REUTERS/Kevin Lamarque/File Photo [Purchase Licensing Rights, opens new tab](#)

March 17 (Reuters) - Elon Musk and the U.S. Securities and Exchange Commission are in talks to settle the regulator's lawsuit accusing the world's richest person of waiting too long to disclose his purchases of Twitter shares in 2022.

In a court filing, the SEC and Musk said they are "engaged in discussions of a potential resolution that would mean further proceedings might not be necessary."

Sign up [here](#).

Both sides asked the presiding judge to extend until April 1 from March 18 a deadline to propose a schedule for further proceedings.

Neither the SEC nor lawyers for Musk could immediately be reached for comment.

The SEC sued Musk in January 2025, saying his 11-day delay in revealing his initial 5% Twitter stake in late March and early April 2022 let him buy more than \$500 million of shares at artificially low prices.

It has argued that Musk should pay a civil fine and repay the \$150 million he allegedly saved at the expense of unsuspecting investors. Musk has called [the delay](#) inadvertent.

Reporting by Jonathan Stempel and Chris Prentice in New York; Editing by Alison Williams

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Securities

SEC Enforcement Chief Resigns After Six Months in Key Job (1)

March 16, 2026, 1:03 PM PDT

Margaret “Meg” Ryan resigned from the top enforcement job at the US Securities and Exchange Commission, a key watchdog role she had held for just over six months.

Ryan sent a farewell message to agency employees on Monday, saying she had been privileged to work with SEC staffers on important cases that made a difference for the investing public and the markets.

She didn’t give a reason for her departure and said the resignation was effective immediately, according to the email seen by Bloomberg. Ryan was scheduled to headline a panel on SEC enforcement at a conference in Washington on Friday.

SEC Chairman **Paul Atkins** said in a statement Ryan served with “honor and distinction.”

“Under her leadership, the division reprioritized enforcing the nation’s securities laws, with a focus on pursuing fraud. I thank Meg for her many contributions and wish her very well,” Atkins said.

Principal Deputy Director Sam Waldon has been named acting director of the division, effective Monday.

Ryan, who joined the agency on Sept. 2, had been an unusual pick for enforcement chief. Previous enforcement directors’ resumes have included stints in the securities law practices of white-shoe law firms, federal prosecutors offices or past experience at the SEC.

Ryan had previously served as a military judge and clerked for Supreme Court Justice Clarence Thomas.

“As I recently said, I did not seek the role of Director of the SEC’s Division of Enforcement. Rather, this role found me,” Ryan said in a statement. “And for that, I am grateful.”

(Updates with additional details throughout)

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Securities

Small Investors Fear SEC Will Drive Gadflies to Extinction (Correct)

March 16, 2026, 9:06 AM PDT

America's small investors have one main route for influencing corporate boards and it's poised to get a lot narrower.

Federal regulators are looking at new rules that could rein in shareholders who hold as little as \$2,000 in stock to get their proposals on proxy ballots. Business groups are pressing for higher ownership thresholds like the one adopted last year in Texas, where investors are now required to own at least \$1 million in stock or a 3% stake to file a proposal with companies incorporated there.

Governance watchdogs warn the most extreme options under consideration stand to muzzle small shareholders, including individual holders, networks of climate activists and faith-based groups on either side of the political spectrum.



Atkins on the floor of the New York Stock Exchange on Dec. 2, 2025.

Photographer: Michael Nagle/Bloomberg

"There's certainly a chilling effect," said Sister Ann Scholz, a nun who has filed environmental and socially minded shareholder proposals on behalf of the School Sisters of Notre Dame Collective Investment Fund in St Louis. "And you do wonder how much of this is designed to intimidate, and how much of it is real and has lasting impact on how shareholders and companies interact."

The power of small investors is largely predicated on their ability to get proposals on the corporate ballot. That's typically an uphill battle. Companies can reject any proposal that isn't focused on a proper business question, arrives too late or otherwise fails to meet standards for inclusion on the proxy. (The definition of a proper business question is another area that could get more restrictive, with US Securities and Exchange Commission Chair Paul Atkins having argued the current scope is overly broad.)

Once an investor proposal is cleared for a formal vote, it's still difficult for small shareholders to effect change. Usually they fail to win enough support from fellow shareholders to form a majority. And when they win, the non-binding nature of their resolutions means companies don't have to meet their demands. But gadflies can pressure companies into adopting stronger governance measures. In recent years, gadfly campaigns led FedEx Corp. to review its policies for executive severance packages and helped persuade Netflix Inc. to force its directors to stand for re-election annually.

'Out of Control'

This proxy season, the gadflies face an extra obstacle: the SEC won't weigh in on which proposals should be allowed to reach a full shareholder vote.

Typically, companies receiving shareholder proposals submit any objections to the SEC, which then has a choice. Either it issues a so-called no-action letter in which it sides with the company and the proposal doesn't go forward — which happened about half the time in the 2023, 2024 and 2025 proxy seasons — or it disagrees with the corporate objection, in which case the opinion of the agency is almost always honored.

In November, citing a backlog created by the record US government shutdown, the SEC said it would stop evaluating company objections in the 2026 proxy season. Instead, the agency is simply acknowledging when it has received a communication from a company that intends to exclude a proposal from the ballot, without taking a position on the decision.

Small shareholders said the move effectively allows corporations to exclude resolutions unilaterally. Their concerns about proxy access were compounded in December, when President Donald Trump signed an executive order directing federal scrutiny of firms that advise on shareholder voting, particularly those that have recommended yes votes meant to further environmental, social or governance aims that the White House opposes.

Meanwhile, the Business Roundtable, National Association of Manufacturers and US Chamber of Commerce all have called for restricting access to proxy ballots by raising ownership thresholds or limiting the allowable topics of shareholder proposals, among other measures, and the manufacturers group backed a lawsuit that questioned whether the SEC should have an arbitrating role at all.

"I see it as an orchestrated attempt to dismantle capitalism," said Andrew Behar of As You Sow, one of the shareholder activist groups that regularly brings forward resolutions representing small investors. "Capitalism requires that shareholders hold conversations with each other to help determine what is best for the companies in their portfolios."

Companies and their lobbyists, however, say that not all shareholder conversations are worth having. Many investor resolutions fail to get even 10% support when put to a broader shareholder vote, said Elizabeth Bieber, a lawyer at Freshfields, one of the largest corporate law firms. For companies fielding multiple proposals each year, each of which takes up staff time and money, the process has "gotten out of control," she said.

In the 2025 proxy season, from January to June, companies submitted 363 requests for no-action letters from the SEC, and the SEC agreed with about 194 of those requests, according to data from Freshfields.

This year the agency has received more than 150 letters so far. That includes seven from Amazon.com Inc., which said it's rejecting a wide range of proposals from both conservative and liberal shareholder activists.

"In most cases, we believe the costs of implementing the proposals significantly outweigh the benefits, and that the proposals do not enhance or create shareholder value, or we disagree with how a proposal seeks to dictate how we approach or report on the issue in prescriptive or unrealistic detail," Amazon spokesperson Angie Quennell said.



Protestors, including Amazon workers and community allies, demonstrate against Amazon's working conditions and company policies at the offices of the investment firm Blackrock, one of the company's largest shareholders, in Washington, DC, May 24, 2021.

Photographer: Saul Loeb/AFP/Getty Images

Amazon is one of the companies most frequently targeted by small investors seeking proxy-ballot access. It received 40 proposals in the 2023 to 2025 proxy seasons, the most of any company, according to Bloomberg Intelligence. Google parent Alphabet Inc. received 39.

The resolutions Amazon has rejected so far this year involved requests for disclosures relating to transgender care for employees, the impact of plastic packaging, protection of human rights, AI due diligence, immigration and the online sale of the abortion pill. In its letters to the SEC, the company said some proposals were attempting to micromanage the business, while others were not significant to its business operations or were too similar to proposals already rejected repeatedly by shareholders.

Investor John Chevedden, who according to Bloomberg data has filed more than 1,100 shareholder proposals since 2015, said the SEC's decision to stay on the sidelines this year is "the worst attack ever" on small investors.

The reality has been more mixed. On a website the SEC set up for this proxy season to track proposals that are denied a full shareholder vote, the regulator has posted around 150 letters acknowledging company decisions to exclude proposals from their ballots. At the same time, there are more than 30 communications in which companies including McDonald's Corp., Starbucks Corp. and Apple Inc. either reversed a decision to exclude a proposal or said the investor had opted to withdraw it.

In February, Bloomberg Law reported that AT&T Inc. agreed to include a shareholder proposal to disclose employee demographic data in order to resolve a lawsuit brought by New York City retirement plans. As You Sow's Behar said his group sued to get a shareholder proposal on the ballot at insurance company Chubb Ltd and predicted that without the SEC's explicit blessing of proxy exclusions, more activists will use lawsuits to test company decisions to reject proposals.

Long Tradition

The prototype for the modern gadflies were Manhattan brothers John and Lewis Gilbert, whose boardroom activism in the 1930s and 1940s is credited with ensuring that companies had to allow for shareholder proposal votes.

Successive shareholder activists such as Wilma Soss and Evelyn Y. Davis kept pressure on corporations over the decades, whether demanding changes to boardroom bylaws or boycotts in apartheid South Africa. They were known mainly for being loud, and larger than life, but in many cases these colorful characters achieved small wins that were cumulative toward modifying corporate behavior, according to business historian Brian Sarginger, who also works as a research analyst at proxy advisory firm Institutional Shareholder Services Inc.

"The gadfly is a rare breed," Sarginger said. "It's a difficult job. It's not so much about winning this one fight. It is about continually being in the room, continually being a nuisance of yourself, continually talking to management. And oftentimes, after years of resolutions, after negotiations, after being in these annual meetings and having communications back and forth, oftentimes, you know, boards would change their mind."



Ford shareholder Evelyn Y. Davis speaks to board members during the Ford annual meeting at the Hotel DuPont on May 13, 2010, in Wilmington, Delaware.

Photographer: William Thomas Cain/Getty Images

Boards sometimes push back hard. Exxon Mobil Corp. in 2024 sued shareholders to block their climate proposals from going to vote, arguing that the investors sought to interfere with the normal course of business, and that their repeated filings exploited weaknesses in the proxy-voting process. The claims were dismissed after the shareholders withdrew their resolutions and said they wouldn't file similar ones again.

Last week Exxon asked shareholders to back a plan to shift its legal home to Texas after being incorporated in New Jersey for 144 years. Chief Executive Officer Darren Woods said in a recent interview about the move that some interest groups have “weaponized” the proxy-voting shareholder system, pursuing agendas not focused on shareholder value.

Playing Politics

In Trump's second term, the battle for proxy access has become more overtly political. The president's December executive order targeting the big proxy advisors accused them of using their influence “to advance and prioritize radical politically-motivated agendas — like ‘diversity, equity, and inclusion’ and ‘environmental, social, and governance’ — even though investor returns should be the only priority.”

If the impetus from the White House is to limit the influence of progressive activists, the effort is ill-timed, said Stefan Padfield, a senior legal fellow at the conservative Heritage Foundation and principal at the Free Enterprise Initiative.

"If we go back to a Democratic president, and you've taken away the proposal system as it's currently constituted, where we now have a real vibrant and effective conservative voice, where is that pressure going to come from if you get rid of the shareholder proponents?" Padfield said.

He predicts that if small investors are prevented from getting their proposals included on proxies, they will likely signal their dissatisfaction, for instance by voting against the re-election of board members.

Jerry Bowyer, who advises conservative, faith-based investors on stockholder proposals, said companies are by and large showing restraint this year in rejecting proposals. (Amazon, for one, said it sought to exclude more proposals last year, when the SEC was still reviewing decisions to keep resolutions off the ballot, than it has this year.)

Still, Bowyer is worried that attempts to silence small investors will weaken the influence of conservative activists just as they are gaining traction with boards.

"There are so many unintended consequences going on with the attempt to fix proxy voting, it's unbelievable," he said. "I think there's gonna be a little bit of a MAGA civil war over this, the populists versus the more corporate-aligned people."

The battle has made for rare alignment between right- and left-leaning activist shareholders, who are united in their opposition to efforts to limit proxy-ballot access.

"Honestly, I stand shoulder to shoulder with Jerry," said As You Sow's Behar, whose progressive views normally put him at odds with Bowyer and other conservative activists.

(Corrects job title of Stefan Padfield in 28th paragraph.)

--With assistance from Matt Day and Lydia Beyoud.

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Securities

Bankman-Fried's Mom Told to Not Call Court on Son's Behalf (1)

March 16, 2026, 6:10 PM PDT

FTX co-founder Sam Bankman-Fried's mother may have been a law professor at Stanford University. But the judge who sentenced her son to 25 years in prison said she can't act on his behalf in his bid for a new trial.

On Monday, the judge made clear he won't consider letters, or a phone message to his chambers, from the former crypto king's mother, Barbara Fried. The notice said that she had contacted the court to request additional time for her son to file papers.

"The court of course understands that Ms. Fried is the defendant's mother, was trained and practiced as a lawyer, and has taught at Stanford Law School," US District Judge Lewis Kaplan wrote. "Nevertheless, with no disrespect, she lacks standing to file papers or seek relief in this case."

Fried, who retired from Stanford in 2022, doesn't serve on her son's legal team. But she has been involved in his legal proceedings, sending the court the motion for a new trial and separately explored how to secure him a pardon from President Donald Trump, Bloomberg previously reported.

Contacted for a response, Fried sent the text of a letter she said she had sent the judge on Monday. Fried told Kaplan that she believed he had "mischaracterized" her role and that she was simply transmitting Bankman-Fried's request, not acting in a legal capacity.

[Read More: Sam Bankman-Fried Asks for New Trial on FTX Fraud Charges](#)

Bankman-Fried, 34, is serving time in a federal prison near Los Angeles after his conviction in 2023 on multiple criminal counts connected to the collapse of his cryptocurrency exchange the previous year. The conviction is on appeal, but Bankman-Fried filed a motion last month on his own — without help from his legal team — claiming there's new evidence in the case and asking Kaplan for a new trial.

In his new-trial bid, Bankman-Fried claims he's a victim of a "weaponized" Biden-era Justice Department — an argument that prosecutors have called "incoherent." Bankman-Fried has also asked for a new judge, saying Kaplan has demonstrated "manifest prejudice" toward him. The judge issued a number of rulings restricting Bankman-Fried's defense arguments at trial.

Fried asked for an extension until April 1 for Bankman-Fried to reply to the government's arguments. She said he lacks word processing and access to his files in prison, and will be out of contact while being moved to a different prison in the next few weeks.

In her letter Monday, Fried said she was acting on the instructions of a clerk in Kaplan's chambers and the court office that advises unrepresented litigants. She said her son didn't have sufficient time to respond, between receiving the government's court filing at the prison and his upcoming transfer.

In his own memo Monday, Kaplan said the court received a call from Bankman-Fried's mom, or someone identifying themselves as her. Kaplan said the court "does not accept telephone calls from litigants or from members of their families."

The judge said he's extending the deadline until March 23, on his own initiative, for Bankman-Fried or his lawyers to seek additional time, if desired.

The case is US v. Bankman-Fried, 22-cr-00673, US District Court, Southern District of New York (Manhattan).

(Updates with Barbara Fried letter starting in fifth paragraph.)

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10th Circ. Mulls Palantir Stock Sales In Investors' Revival Bid

By **Rachel Konieczny**

Law360 (March 16, 2026, 9:08 PM EDT) -- The Tenth Circuit considered Palantir Technologies Inc. shareholders' bid for the court to revive their proposed securities class action alleging the software and data company deceived investors about its growth potential when it went public, focusing on the company's stock sales and its accompanying conduct during arguments Monday.

The three-judge panel asked Palantir shareholders' counsel what the court should take away from investors' argument that Palantir executives initiated an "unprecedented insider cashout" and sold more than \$2.2 billion of their stock holdings in a "coordinated course of conduct."

Judge Richard Federico asked shareholders' counsel what other inferences can be drawn from the stock sales.

Luke Brooks of Robbins Geller Rudman & Dowd LLP, counsel for lead plaintiff California Public Employees' Retirement System and the proposed class, said restricted stock units and unvested options couldn't be sold during the class period, and the question of liquidity "doesn't answer why they sold all of these shares."

The real answer, Brooks said, is Palantir came up against a deadline, took the company public, made false statements and inflated its stock. All the sales occurred before a corrective disclosure was published, Brooks added.

Judge Federico asked Brooks how the facts support investors' argument that Palantir executives knew of the alleged stock scheme before they sold their stock.

Brooks said the shareholders' complaint identified executives, and the Palantir defendants had said they had "strong visibility" into future revenues and the company's financial growth. The Palantir defendants also knew about all the publicly traded shell companies that raised cash in the company's initial public offering to take the company public, Brooks said.

In their opening brief, filed at the end of July, the investors contended the Colorado federal district court erred in tossing their case and ignoring the Tenth Circuit's 2022 decision in [Indiana Public Retirement System v. Pluralsight Inc.](#) In that securities case, the court revived investors' claims and found investors' allegations — including that a Pluralsight executive misled shareholders about the number of the company's sales representatives — support a strong inference of scienter, or the intent or knowledge of wrongdoing.

Boris Feldman of Freshfields, counsel for Palantir and its executives, pushed back on Brooks' characterization of Palantir's financial health and outlook. Palantir achieved more growth than the company said it would, including a 694% return to the California Public Employees' Retirement System on its Palantir stock as of October 2025, Feldman told the judges Monday.

"In 2024, Palantir, which replaced American Airlines in the S&P 500, was the No. 1 performer," Feldman said. "It doesn't really sound like a company that was running out of steam after 17 years, so the people had to pump and dump."

Feldman said the shareholders' complaint lacks confidential witnesses or former employees, a restatement and internal documents supporting their claims.

Further, the shareholders rely on the Pluralsight case, but it is a "very rare reversal" of a dismissal of a securities case, Feldman said. And there, he added, the CEO admitted that he lied about the number of the company's sales representatives; in contrast, Palantir didn't retract anything it said.

Judge David Ebel questioned Feldman on his characterization of Palantir's disclosure about using shell companies to help take the company public. Ebel said that saying the investment is high risk and high reward isn't the same as identifying the shell companies as entities who have no interest "whatsoever" in Palantir's products.

Feldman said the allegations don't support the notion that the shell companies had no interest in Palantir's products.

On rebuttal, Brooks told the judges that Palantir had a deadline by which to sell the securities, and while the company could have sold them based on the company's performance and actions at the time, it chose to "pump" up its stock.

The proposed class of Palantir investors filed suit in 2022, alleging the company knew that growth projections were overhyped and that company expansion tied to the coronavirus pandemic would come to an end. The investors alleged that following the company's public debut on the New York Stock Exchange in 2020, Palantir's stock price tumbled as the company's scheme to keep its stock price artificially high fell apart.

A Colorado federal judge **tossed the case** in April 2025, holding that under the U.S. Supreme Court's 2023 decision in **Slack Technologies v. Pirani**,  Palantir shareholders lacked standing because they could not trace the shares they purchased to the registration statement that the company filed before going public.

Counsel for the shareholders and the Palantir parties declined to comment Monday.

U.S. Circuit Judges David Ebel, Allison Eid and Richard Federico sat on the panel for the Tenth Circuit.

The shareholders are represented by Luke Brooks, Joseph Daley, Marco Janoski, Erika Limpin Oliver, Harini Raghupathi and Darren Robbins of Robbins Geller Rudman & Dowd LLP and Jeffrey Berens of Johnson Fistel LLP.

Palantir and the executives are represented by Boris Feldman, Nicholas Caselli and David Livshiz of Freshfields LLP.

The case is California Public Employees' Retirement System et al. v. Palantir Technologies Inc. et al., case number 25-1178, in the U.S. Court of Appeals for the Tenth Circuit.

--Additional reporting by Jessica Corso and Kellie Mejdrich. Editing by Marygrace Anderson.

Correction: A previous version of this article incorrectly described Palantir's economic performance as reported by Feldman, counsel for the company. The error has been corrected.



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Alight, Former Execs Accused Of Misleading Growth Claims

By **Sydney Price**

Law360 (March 16, 2026, 9:52 PM EDT) -- Employee benefits solutions company Alight Inc. and its former executives were hit with a proposed class action Monday accusing them of making misleading claims about the company's ability to meet its financial forecast and issue a dividend.

According to the **complaint** filed by shareholder Jeremy McCarty, Alight's sales team was not prepared to carry out the former management's growth expectations. The suit alleges the company "revealed" to investors in August that its annual recurring revenue bookings were slowing and its project revenue decline was worse than predicted.

Even after the disclosure, Alight continued to mislead investors for several months, the suit alleges. Then, on Feb. 19, Alight's new CEO Rohit Verma announced a significant earnings shortfall and said Alight failed to meet its forecast, according to the complaint.

The suit's proposed class period begins Nov. 12, 2024, the day then-CEO David D. Guilmette highlighted the progress he had made in his first 60 days in the role during an earnings call. On the call, Guilmette announced Alight's new dividend program, which began with a quarterly dividend of four cents per share, according to the suit.

The complaint alleges that for the next several months, Alight frequently highlighted that it was in a strong financial position and prepared to meet its growth goals, but did not disclose internal and external factors that would eventually prevent the company from meeting them.

"Defendants continually praised the execution potential of its sales team, its scaling ARR growth, and the anticipated uptick in project revenue, while continually minimizing risks associated with project revenue's eroding growth rate, seasonality, and the impacts of the macro environment on Alight's ability to recognize growth," the suit said.

When the company cut its revenue guidance for the year last August, Alight's executives blamed macroeconomic uncertainty in part, but had downplayed its impact in the previous quarter, the suit alleges.

Following the announcement, shares of Alight fell 94 cents, or about 18%, to close at \$4.19 per share on Aug. 5, 2025, according to the complaint.

Months later, Alight announced in its earnings call on Feb. 19 that it missed its forecast and failed to meet its financial targets, and that new bookings and renewals fell below expectations, according to the suit.

The suit alleges Verma, who has served as Alight's CEO since Jan. 1, blamed Guilmette and former Chief Financial Officer Jeremy J. Heaton, who departed the company on Jan. 9, for the results.

"The new management further cancelled the dividend, noting there are 'more efficient capital allocation activities,' and triggered an earnings shortfall due to 'an increase in compensation expense' in order to 'promote service quality,' and overall improve sales execution," the suit said.

Following the announcement, shares of Alight fell 50 cents each, or about 38%, to close at 81 cents on Feb. 19, according to the complaint.

In addition to Alight, Guilmette and Heaton are individual defendants in the suit. The complaint accuses the defendants of violating the Exchange Act and acting with scienter.

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

McCarty is represented by Peter Lubin of Ditommaso Lubin PC and Adam M. Apton of Levi & Korsinsky LLP.

Counsel information for Alight and the individual defendants was not immediately available Monday.

The case is McCarty v. Alight Inc. et al., case number 1:26-cv-02924, in the U.S. District Court for the Northern District of Illinois.

--Editing by Linda Voorhis.

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Boeing Investors Secure Class Cert. In 737 Max Fraud Suit

By **Rae Ann Varona**

Law360 (March 16, 2026, 11:34 PM EDT) -- An Illinois federal judge on Monday granted class certification to investors who allege Boeing harmed them by misrepresenting the safety of its 737 Max aircraft, finding that the investors established a common method for measuring damages that could apply class-wide.

Boeing had argued that the investors couldn't meet the class action requirement that common questions of law or fact predominate over individual ones, taking aim at their securities expert, David Tabak, who, it said, provided no details about the methodology he intended to use to calculate class-wide damages in this particular case.

U.S. District Judge Franklin U. Valderrama disagreed Monday, finding that Tabak's proposed methodology "is capable of measuring class-wide damages and is consistent with plaintiffs' theory of liability."

"All in all, the court agrees with plaintiffs that Dr. Tabak's event study including the out-of-pocket damages methodology is an adequate method for measuring stock price inflation caused by defendants' alleged misrepresentations," Judge Valderrama wrote in a 62-page opinion and order. "At this stage, plaintiffs' task is to present a viable, internally consistent, and truly classwide approach to damages, and they have done so."

Judge Valderrama, however, trimmed roughly two months off the proposed class period from Dec. 16, 2019, to Oct. 18, 2019.

Courts, he explained, are required to cut off the class period on the date of a statement or event that cures the market.

Boeing had argued that the "truth" the 737 MAX — the aircraft model involved in two fatal crashes in 2018 and 2019 — was not returning to service in 2019 had been "disseminated to the market" before Dec. 16, 2019, when Boeing announced it was suspending production on the aircraft.

"Defendants point to several articles disclosing that the 737 MAX would not be returning to service in 2019 and at least two discuss the disconnect between Boeing and the [Federal Aviation Administration], countered only by a 'bland' public statement from Boeing," Judge Valderrama said Monday.

Judge Valderrama also agreed with Boeing that publications from Dec. 11 and 12, 2019, "had already made the market aware of the 737 MAX's 2020 return-to-service and Boeing's disconnect with the FAA, with no price drop on those dates..."

He said that a fall in Boeing's stock on Dec. 16, 2019, on its own, thus "does not demonstrate that the price decline was in response to new corrective information (rather than, as defendants posit, the fact of the production halt in itself)."

Investors have accused Boeing and former CEO Dennis A. Muilenburg of making "**audaciously misleading**" public statements about the integrity of the certification process for the 737 Max 8, as well as pilots' ability to safely fly the 737 Max 8 by concealing the true nature of an automated flight-control software feature known as the Maneuvering Characteristics Augmentation System.

The 737 Max 8 was **grounded** globally for 20 months after being involved in the October 2018 crash of Lion Air Flight 610 in the Java Sea that killed 189 people and the March 2019 crash of Ethiopian Airlines Flight 302 that killed 157 people.

Accident investigators and other official review panels have since determined that the MCAS was vulnerable to faulty sensor readings that could inadvertently trigger the system and push the plane to nosedive. The FAA in November 2020 **lifted its grounding order** for the 737 Max after Boeing developed a software fix and enhanced pilot training.

In September 2024, Judge Valderrama **pared down the suit**, keeping alive claims concerning various alleged misstatements from Boeing and Muilenburg.

The investors sought to **certify a class** of "all persons or entities who purchased or otherwise acquired Boeing common stock and/or call options or sold put options between November 7, 2018 and December 16, 2019" and were damaged as a result.

According to their motion for class certification, after Boeing announced on Dec. 16, 2019, that it was suspending production on the 737 Max, shares dropped \$14.67 per share the next day, representing a 4.3% decline.

Boeing has **fought back**, challenging the investors' ability to meet the predominance requirement for class certification.

Boeing had also argued that if the court were to certify the class, option traders should not be included. It argued that the investors failed to prove that Boeing options traded in an efficient market and failed to present a method capable of measuring damages for options on a class-wide basis consistent with their liability theory.

Judge Valderrama, on Monday, disagreed.

He ultimately certified a class comprising "all persons or entities who purchased or otherwise acquired Boeing common stock and/or call options or sold put options between November 7, 2018, and October 18, 2019, inclusive, and were damaged thereby."

Judge Valderrama also approved attorneys at Bernstein Litowitz Berger & Grossmann LLP to be class counsel, with additional counsel from Kessler Topaz Meltzer & Check LLP.

Counsel for the investors and Boeing did not immediately respond to requests for comment late Monday.

The investors are represented by Salvatore J. Graziano, Katie M. Sinderson and Avi Josefson of Bernstein Litowitz Berger & Grossmann LLP, John L. Davidson of Davidson Bowie PLLC, and Andrew L. Zivitz and Joshua A. Materese of Kessler Topaz Meltzer & Check LLP.

Boeing is represented by John F. Hartmann, Craig S. Primis, Katherine R. Katz, Kenneth Monroe and Brad Masters of Kirkland & Ellis LLP, and Richard C. Pepperman II of Sullivan & Cromwell LLP.

The case is In re: The Boeing Co. Aircraft Securities Litigation, case number 1:19-cv-02394, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Katryna Perera and Linda Chiem. Editing by Emily Kokoll.



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Stellantis Escapes Vehicle Inventory 'Channel Stuffing' Suit

By **Katryna Perera**

Law360 (March 16, 2026, 9:43 PM EDT) -- Automaker Stellantis and former executives beat a proposed securities class action accusing them of so-called channel-stuffing, after a New York federal judge found none of the suit's alleged misstatements were material, and the investors failed to plead the executives had a motive to defraud or knowingly committed the alleged wrongdoings.

U.S. District Judge Valerie Caproni issued an **opinion and order** Friday dismissing the suit led by the Boston Retirement System against Stellantis NV, its former CEO Carlos Tavares and former Chief Financial Officer Natalie Knight.

The judge found the suit failed to plead any material misrepresentations or omissions made by the defendants. She also said several of the challenged statements in the operative complaint are "clearly irrelevant" to the retirement system's claims, and others are statements of optimism or corporate puffery.

"For example, Knight's Oct. 31, 2023, assertion that the company's pricing was 'healthy' and 'carefully calibrated,' as well as Tavares's assessment that Stellantis's approach to pricing 'so far ... has been working,' amount to little more than assertions that management was optimistic about its pricing strategy, not statements of fact," the order stated.

The lawsuit, which was amended in March 2025, accuses the defendants of engaging in a "channel stuffing" scheme, in which the company overloaded retailers with excessive, overpriced inventory, leading to short-term sales increases but long-term sales declines. The suit further accuses Tavares and Knight of making related false and misleading statements.

The truth began to come to light in 2024 when Stellantis began reporting declining adjusted operating income margins and surplus inventory, and its share price fell.

The complaint also says that in September 2024, the U.S. Stellantis National Dealer Council sharply criticized the company's pricing and inventory strategies in a letter to Tavares, calling the situation a "disaster" and noting it "had been sounding this alarm to [Stellantis's] US executive team" for more than two years.

In her Friday order, Judge Caproni said that other challenged statements in the complaint are forward-looking and accompanied by meaningful cautionary language, and the last few, although "arguably actionable," fail because the suit fails to plead scienter.

Judge Caproni said the operative complaint does not plausibly plead that the individual defendants had a motive and opportunity to commit fraud.

"With respect to Knight, the amended complaint does not allege, and plaintiff does not argue in the opposition, that she had any specific personal motivation to commit fraud, such as a desire to increase stock prices in advance of a personal sale of stock," the order stated. "The amended complaint alleges no facts from which the court can infer that Tavares's motive to maintain a high share price would have been any more pronounced in 2023 than in 2024, such that he would have been motivated to pursue a strategy that prioritized short-term profits over long-term ones."

Additionally, while the circumstantial evidence of scienter alleged in the complaint "undoubtedly

suggests that defendants' strategy when it came to pricing and inventory was ill-advised," it does not support a claim of recklessness or intent to defraud, the judge said.

"Although these allegations suggest that defendants were aware that their pricing and inventory strategies were controversial and even risky, there is no reason to believe that defendants' decision not to heed the dealers' and former employees' warnings or otherwise adjust prices or inventory was rooted in anything more than strategic miscalculation," the order stated.

"Given the lack of motive for any of the defendants to prioritize short-term profits over long-term financial health, the most plausible explanation for why they ended up doing precisely that is that they simply misread the market, believing erroneously that demand would eventually catch up to supply," the order added.

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

The Boston Retirement System is represented by Salvatore J. Graziano, Rebecca E. Boon, Alec T. Coquin and Rebecca S. Temkin of Bernstein Litowitz Berger & Grossmann LLP.

The defendants are represented by Mary Eaton and Meredith Kotler of Freshfields LLP.

The case is Long v. Stellantis NV et al., case number 1:24-cv-06196, in the U.S. District Court for the Southern District of New York.

--Editing by Kristen Becker.

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Lannett Investors Seek Final OK Of \$5.8M Price-Fix Probe Suit

By **Sydney Price**

Law360 (March 16, 2026, 7:40 PM EDT) -- Former executives of pharmaceutical company Lannett Inc. and a class of investors have asked a Pennsylvania federal court to grant final approval to their \$5.8 million deal to end claims the company and its leadership misled about Lannett's links to allegations of industrywide price-fixing in the market for generic drugs.

The settlement fund represents about 4% of the maximum recoverable damages, which the motion filed on Thursday by lead plaintiff University of Puerto Rico Retirement System and others states is lower than the median of similar suits. The lower-than-typical payout is due to Lannett's dismissal from the action in 2023 following its bankruptcy filing, the parties say.

Though Lannett has emerged from bankruptcy, the suit's remaining defendants include only its former CEO Arthur P. Bedrosian and former Chief Financial Officer Martin P. Galvan.

"[I]t is recognized that settlements are lower if the issuer was distressed," the motion states.

Still, the settlement, which was preliminarily approved in December, is "fair, reasonable and adequate," according to the motion.

"[T]he 'certainty' of the settlement is better than the 'gamble' of a trial," the motion states.

If finally approved, the deal would end over nine years of litigation alleging Lannett's stock price was artificially boosted by the company's failure to disclose the extent to which its financial success was a product of alleged price-fixing in the generic drugs market.

In 2018, a previous version of the investors' suit was dismissed without prejudice. After the investors filed a third amended complaint, the defendants filed a motion to dismiss the suit, which was subsequently denied. In 2019, the court also rejected the defendants' motion to reconsider the order denying the motion to dismiss, and a class of investors was certified two years later.

The suit alleged that despite informing investors that it received a subpoena from Connecticut's attorney general in July 2014 regarding its alleged role in price-fixing, Lannett continued to reassure investors that its financial results were due to natural market forces and not any potentially anticompetitive behavior.

But as information about potential price-fixing in the generic drug market continued to trickle out over subsequent years, the investors said that Lannett's price slowly began to tumble.

After first disclosing subpoenas it received for federal grand jury proceedings in December 2014, for example, the complaint said that the company's stock fell by 13%. It took another 26% hit in November 2016 following the publication of a news article about the possibility of criminal charges being filed against pharmaceutical companies, including Lannett, for alleged price-fixing.

Lannett, along with a slew of other companies, was later **charged** by state authorities in Connecticut for allegedly conspiring with other generic drugmakers to fix prices.

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

The investors are represented by Mitchell M.Z. Twersky, Atara Twersky, Lawrence D. Levit and Patrice Bishop of Abraham Fruchter & Twersky LLP, David Promisloff of Promisloff Law PC, and Jeremy Lieberman and Tamar Weinrib of Pomerantz LLP.

Bedrosian and Galvan are represented by Ian M. Comisky, Patrick J. Egan, Nathan Huddell and Matthew David Lee of Fox Rothschild LLP and Jay D. Lefkowitz and Byron Pacheco of Kirkland & Ellis LLP.

The case is John Utesch et al. v. Lannett Co. Inc. et al., case number 2:16-cv-05932, before the U.S. District Court for the Eastern District of Pennsylvania.

--Editing by Emily Kokoll.

Correction: A previous version of the article listed outdated counsel information for the defendants. The error has been corrected.

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Don't 'Grimace, Nod, Laugh': Judge Breyer Slams Musk's Attys

By **Bonnie Eslinger**

Law360 (March 16, 2026, 10:43 PM EDT) -- U.S. District Judge Charles Breyer scolded Elon Musk's Quinn Emanuel counsel during a hearing Monday ahead of closing arguments in California litigation alleging that Musk tanked Twitter's stock to get out of his \$44 billion acquisition deal, saying he wouldn't "sit here and watch lawyers grimace, nod, laugh in court."

With closing arguments in the securities fraud case scheduled for Tuesday, the parties met with Judge Breyer on Monday to discuss their proposed modifications to the court's tentative jury instructions.

Musk lawyer Ellyde Thompson of Quinn Emanuel Urquhart & Sullivan LLP began her arguments by asking the judge to remove his instruction to jurors that "a statement may be misleading even if it is literally true if the context in which the statement was made caused the listener or reader to remain unaware of the actual state of affairs." And if the court did plan on giving that instruction, she asked that the phrase "to remain unaware" be changed to "to be misled." Judge Breyer denied the request.

There are several statements at issue in the case that investors say were false or misleading. One is a May 13, 2022, tweet from Musk saying the \$44 billion deal was "temporarily on hold" pending details about data regarding the number of alleged fake Twitter accounts, and another is a May 17, 2022, tweet stating that fake and spam accounts make up at least 20% of Twitter's users.

On Monday, Judge Breyer wondered about the meaning of the May 13 tweet

"The question is, did somebody who looked, listened or hear that think that the deal, in some manner, was placed on hold?" the judge asked.

During the trial, in the U.S. District Court for the Northern District of California, Musk's legal team provided evidence that showed that the acquisition team was still working on the deal at the time of the May 13 tweet, the judge noted.

"Except for, I guess, Mr. Musk," Judge Breyer said. "So you say it's a true statement, he didn't mislead anybody."

The investors, however, have argued that Musk didn't have the legal right to put the agreement on hold.

"If their view is correct, the statement's misleading," the judge said.

Thompson later argued for instructions that a factual misrepresentation can be untrue but not material and that a "material fact is not rendered false or misleading when made merely because subsequent events prove it to have been erroneous."

A lawyer for the investors, Gia Jung of Cotchett Pitre & McCarthy LLP, urged the court to deny the requests, saying the proposals "add argument disguised as instruction."

Judge Breyer said he wouldn't make the changes.

Thompson also argued for an instruction that it's not enough to show that a statement turns out to be false or misleading.

"A plaintiff must show that a defendant did not believe in the truth or accuracy of the statement at the time it was made," she told the court.

Judge Breyer agreed that a securities fraud finding needed to show that Musk knowingly made an untrue statement at the time he made it.

"In other words, at the time he uttered the statement, he must know it to be untrue or with deliberate recklessness as to whether it's true or not," Judge Breyer added.

Jung argued that the instruction injects Musk's "subjective" belief into an objective standard used to determine the falsity of a statement.

The judge said he'd go back and work on the wording of the instruction.

Later, Thompson asked the court for an instruction telling the jury that Musk isn't alleged to have committed any wrongdoing by quietly buying up 9% of Twitter's stock on the open market between January and April 2022 — before the class period and the alleged misconduct.

The judge pushed back, saying the plaintiffs could argue that those stock purchases could be the basis of liability for the overall securities fraud "scheme" plaintiffs have alleged.

Thompson said the investors had suggested that Musk violated U.S. Securities and Exchange disclosure rules because he didn't publicly disclose those earlier stock purchases. Judge Breyer said he didn't hear the plaintiffs say Musk violated an SEC rule.

Thompson said the investors "clearly" suggested that there was a violation of SEC rules.

Judge Breyer then turned his attention to Quinn Emanuel's Jesse Bernstein. He asked the lawyer to provide the trial transcript excerpt showing that the investors said Musk had violated SEC rules.

"Come on, Mr. Bernstein, rather than watching you nod at your table, come up and give me the citation," the judge said with a raised voice. "We're going to stop everything so we can have a civil discussion. ... Because I'm not going to sit here and watch lawyers grimace, nod, laugh in court."

Bernstein pointed out that when the plaintiffs called former Twitter general counsel Vijaya Gadde to the stand, their lawyer asked if Musk had disclosed his Twitter ownership to the SEC.

Gadde, Bernstein told the court, said an investor who buys more than "some percentage" of a public company is required to file a Schedule 13-G report with the SEC "within a certain time period,"

The judge said he didn't believe that the plaintiffs had crossed any line with respect to the SEC question.

Later, when Thompson was arguing that Musk's July 8, 2022, letter terminating the deal was protected from liability because it preceded the suit, Judge Breyer asked her which party initiated the litigation.

Thompson said Twitter filed its lawsuit in response to Musk's termination of the agreement. That meant the litigation was initiated by Twitter, the judge said. Thompson said Musk filed counterclaims. Judge Breyer asked Thompson if Musk filed a lawsuit and she repeated her previous statement.

"Sit down. I'm not listening to you anymore," the judge said after another round of questioning with a similar response, "since you refuse to answer my question directly."

Quinn Emanuel lawyer Stephen Broome confirmed for the court that Twitter filed the first lawsuit.

"The implication of what you're saying, there are literally millions of letters that are written by lawyers or by parties saying, 'I don't think you fulfilled this. I don't think you've done this,'" Judge Breyer said, adding that if none of those letters and positions taken by parties pre litigation were allowed to come in "that would be a sea change in the law."

This is not the first time Judge Breyer took issue with something Thompson said. During her cross-examination of Gadde, the judge told Thompson that she'd created a **"false impression"** with the jury by questioning the witness' right to speak with plaintiffs' counsel while under oath.

It's also not the first time things have gotten testy during the two-week trial. On March 6, **a heated verbal dispute** took place outside the presence of the jury. The next day Musk's lawyers asked the judge to declare a mistrial, asserting "repeated, improper conduct" from counsel for the investors, "that the court has refused to correct and to which, in some instances, the court has contributed."

On Monday, Judge Breyer denied the motion.

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

The trial **kicked off** on March 2 and Musk took the stand over two days that first week, telling jurors that the company **had lied** about the amount of spam and fake accounts on the platform but that he eventually paid the full \$44 billion offer price because a Delaware Chancery Court judge overseeing litigation about the sale was **"extremely biased"** against him.

On Friday, jurors were presented with recorded deposition testimony from Twitter co-founder and former CEO Jack Dorsey, who **stood by** 2022 company statements that bots made up less than 5% of accounts on the platform.

Closing arguments are scheduled for Tuesday.

The investors are represented by Joseph W. Cotchett, Mark C. Molumphy, Tyson C. Redenbarger, Gia Jung, Elle D. Lewis and Caroline A. Yuen of Cotchett Pitre & McCarthy LLP, and by Frank Bottini Jr. and Aaron P. Arnzen of Bottini & Bottini Inc.

Musk is represented by Alex Spiro, Ellyde R. Thompson, Jesse A. Bernstein, Stephen Broome, Matthew Alex Bergjans, Stephanie Kelemen, Michael T. Lifrak and Phillip Jobe of Quinn Emanuel Urquhart & Sullivan LLP.

The case is Pampena v. Musk, case number 3:22-cv-05937, in the U.S. District Court for the Northern District of California.

--Editing by Karin Roberts.



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Encyclopedia Britannica Latest To Lob IP Claims At OpenAI

By **Hailey Konnath**

Law360 (March 16, 2026, 9:29 PM EDT) -- Encyclopedia Britannica and its American subsidiary Merriam-Webster on Friday became the latest to accuse ChatGPT maker OpenAI Inc. of copyright infringement, claiming that the artificial intelligence products infringe their copyrights in multiple ways, according to a complaint filed in New York federal court.

For one, OpenAI engages in "mass-scale copying" of the companies' copyrighted content to train its large language models, or LLMs, to provide outputs mimicking Encyclopedia Britannica and Merriam-Webster's content, they said.

"ChatGPT's outputs to users contain full or partial verbatim reproductions of plaintiffs' copyrighted articles; text that resembles, paraphrases or summarizes plaintiffs' copyrighted works; and/or text that mimics the selection and curation of content and lists in Britannica's copyrighted articles," they said.

ChatGPT also generates responses to users' queries that don't route users to Encyclopedia Britannica and Merriam-Webster like a traditional search engine would and instead directly competes with the plaintiffs, they said. This starves web publishers of revenue generated from users clicking on search result links and visiting publishers' websites, the companies said.

"Defendants' ChatGPT-based AI products free ride on plaintiffs' trusted, high-quality content — made possible through the diligent work of human researchers, writers, editors and creators — by cannibalizing traffic to defendants' websites with AI-generated summaries of plaintiffs' own content," they said.

OpenAI infringes the companies' copyrights again when it retrieves, copies and uses their content through its use of "retrieval-augmented generation" systems to supplement the existing knowledge base of the LLMs, they said. On top of that, OpenAI violates the companies' trademarks when ChatGPT generates "made-up content," also known as hallucinations, and falsely attributes them to Encyclopedia Britannica or Merriam-Webster, according to the complaint.

"Defendants likewise violate plaintiffs' trademarks under the Lanham Act when ChatGPT misleadingly omits portions of plaintiffs' content without disclosing those omissions and displays the incomplete and inaccurate reproductions alongside plaintiffs' famous trademarks," the companies said. "In addition, defendants' use of plaintiffs' trademarks constitutes false designations of origin and confuses and deceives users into believing that the hallucinations and/or undisclosed omissions are associated with, sponsored by or approved by plaintiffs."

Encyclopedia Britannica and Merriam-Webster are seeking unspecified damages, restitution, court costs and attorney fees, as well as an injunction blocking OpenAI from continuing the alleged infringement.

"The law does not permit OpenAI's systematic disregard for the rights and intellectual property of Britannica and Merriam-Webster," the complaint reads.

A spokesperson for OpenAI said in a statement Monday that ChatGPT "helps enhance human creativity, advance scientific discovery and medical research, and enable hundreds of millions of people to improve their daily lives."

"Our models empower innovation, and are trained on publicly available data and grounded in fair use," the spokesperson said.

Encyclopedia Britannica and Merriam-Webster didn't immediately respond to requests for comment late Monday.

According to the docket, the case was referred to U.S. District Judge Sidney H. Stein, who is overseeing sprawling multidistrict litigation accusing OpenAI of using copyrighted material from newspaper articles, books and other works to train ChatGPT.

Last week, U.S. Magistrate Judge Ona T. Wang **ordered OpenAI** to furnish an executive's personal journal along with tens of millions of ChatGPT logs in response to requests by news organizations and authors in the MDL. Judge Wang has **previously ordered** the production of a different set of 20 million ChatGPT outputs.

The MDL plaintiffs have accused OpenAI of delaying access to relevant documents and data and falsely saying that searching the training data and outputs would be unduly burdensome. The news organizations and authors are "severely prejudiced by OpenAI's misrepresentations and belated disclosures."

Encyclopedia Britannica and Merriam-Webster are represented by Y. Gloria Park, Sarah Hannigan, Ian Crosby and Davida Brook of Susman Godfrey LLP.

Counsel information for the defendants wasn't immediately available Monday.

The new case is Encyclopedia Britannica Inc. et al. v. OpenAI Inc. et al., case number 1:26-cv-02097, in the U.S. District Court for the Southern District of New York. The MDL is In re: OpenAI Inc. Copyright Infringement Litigation, case number 1:25-md-03143, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Theresa Schliep. Editing by Alanna Weissman.