

Gemini Accused of Misleading Investors Ahead of 2025 IPO

Investors accused Gemini Space Station of hiding a major business shift before its 2025 initial public offering—a move they said erased billions of dollars in market value.

March 19, 2026 at 01:22 PM By  **Michael A. Mora**



Tyler Winklevoss, chief executive officer and co-founder of Gemini Space Station Inc., left, and Cameron Winklevoss, president and co-founder of Gemini Space Station Inc., right, during the company's initial public offering (IPO) at the Nasdaq MarketSite in New York, US, on Friday, Sept. 12, 2025. Gemini Space Station Inc. raised \$425 million in an initial public offering, pricing its stock above a marketed range and shrinking the number of shares. Photo: Michael Nagle/Bloomberg

Investors sued Gemini Space Station Inc. and its top executives Wednesday in Manhattan federal court, alleging the company misled the market ahead of its 2025 IPO by concealing a looming shift in its business strategy that later wiped out billions of dollars in market value.

The plaintiff, Marc A. Methvin, filed the complaint in the U.S. District Court for the Southern District of New York and alleged that the defendants, Gemini and its top leadership, including co-founders Tyler and Cameron Winklevoss, violated federal securities laws by overstating the strength and

durability of the company's core exchange business while downplaying the risks that it would soon undergo a costly restructuring.

Jeremy A. Lieberman, a partner at [Pomerantz](#) in New York who represents the plaintiff, and Gemini did not respond to a request for comment.

Gemini went public on Sept. 12, 2025, raising roughly \$398 million by selling more than 15 million shares at \$28 apiece. In its offering documents, the company emphasized a growth strategy that was centered on expanding its exchange platform, increasing trading activity and adding users globally, particularly through international expansion.

But the plaintiff alleged in the complaint that those disclosures omitted a critical shift already underway, a move toward a prediction-market business model focused on event-based trading contracts. Investors were given little indication that such products would become central to Gemini's strategy, rather than a peripheral offering, according to the filing.

The plaintiff claimed the company's registration statement and subsequent public statements were materially misleading because they portrayed a stable, growth-oriented crypto exchange while failing to disclose that Gemini's core business was faltering and that a "disruptive restructuring" was likely.

The alleged truth began to surface in February 2026. On Feb. 5, Gemini revealed a sweeping strategic overhaul dubbed "Gemini 2.0," announcing it would elevate its prediction market to a central role, cut roughly 25% of its workforce and exit key international markets, including the European Union, the United Kingdom and Australia.

Shares fell nearly 9% that day, closing at \$6.70, according to the complaint.

Less than two weeks later, the company disclosed further turmoil, including the departures of its chief financial officer, chief operating officer and chief legal officer, alongside preliminary financial results showing operating expenses that far outpaced revenue. Following that announcement, the stock dropped another 12.9%.

Analysts responded with a wave of downgrades and price-target cuts, citing concerns about the company's strategic direction, rising costs and leadership instability.

The plaintiff alleged in the complaint that these disclosures corrected prior misstatements and omissions that had artificially inflated Gemini's share price during the class period, which spans from the IPO through Feb. 17, 2026. Investors who purchased shares during that window suffered losses as the company's valuation declined, the filing states.

Methvin seeks to represent a class of similarly situated investors and is pursuing claims under Sections 11 and 15 of the Securities Act, as well as Sections 10(b) and 20(a) of the Exchange Act. The plaintiff seeks damages, interest and attorney fees.

Page printed from: <https://www.law.com/newyorklawjournal/2026/03/19/gemini-accused-of-misleading-investors-ahead-of-2025-ipo/print/>

NOT FOR REPRINT

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

Litigation

Manage Newsletters

Winklevoss Twins Sued Over Gemini Prediction Market Pivot

March 19, 2026, 11:25 AM PDT

Summary by Bloomberg AI

AI Generated



- A Gemini Space Station Inc. investor sued the company and its executives for allegedly misleading shareholders about its business strategy and financial prospects around its initial public offering.
- The investor, Marc Methvin, claims Gemini's initial public offering documents falsely portrayed the company as focused on expanding its cryptocurrency exchange platform internationally while failing to disclose plans for a major business pivot to prediction markets.
- Methvin seeks to represent a class of investors who acquired Gemini stock between its IPO and Feb. 17, 2026, and alleges that Gemini's offering documents did not suggest the company would withdraw from international markets or reinvent itself as a prediction market.

A Gemini Space Station Inc. investor sued the cryptocurrency platform and its executives for allegedly misleading shareholders about the company's business strategy and financial prospects around its initial public offering in September.

Gemini's initial public offering documents falsely portrayed the company as focused on expanding its cryptocurrency exchange platform internationally while failing to disclose plans for a major business pivot to prediction markets, investor Marc Methvin asserted in a complaint filed Wednesday in the US District Court for the Southern District of New York.

Methvin seeks to represent a class of investors who acquired Gemini stock between its IPO on Sept 12, 2025 and Feb. 17, 2026.

Gemini, owned by the Winklevoss brothers, has faced lawsuits from New York and federal authorities. The US Securities and Exchange Commission accused Gemini in 2023 of violating investor protection laws by raising billions from consumers through offerings of unregistered securities; it dropped the suit in January.

Its stock was trading at nearly \$46 per share just after its IPO in September, but has steadily fallen since. Shares fell to just over \$6 in February when Gemini said it was cutting up to a quarter of its workforce and shuttering operations in Europe and Australia, after announcing last December that it plans to launch a prediction market.

The complaint alleges that none of Gemini's offering documents "would have suggested to investors that Gemini was just months away from withdrawing from the international markets that it repeatedly described as essential to its future growth as a crypto platform, slashing its headcount by 25%, seeing the departure of three top executives, and reinventing itself as a prediction market."

The platform's offering documents also disclosed that the Winklevoss brothers and several of the company's executives would be provided "substantial compensation" if they resigned for good reason or were terminated without cause in the year following the IPO, the complaint says.

Gemini didn't immediately respond to a request for comment.

Pomerantz LLP represents Methvin and the proposed class.

The case is *Methvin v. Gemini Space Station Inc.*, S.D.N.Y., No. 1:26-cv-02261, complaint filed 3/18/26 .

This story was produced with assistance from Bloomberg Law Automation.

Bloomberg Law Automation also contributed to this story.

To contact Bloomberg Law Automation: automation@bloombergindustry.com

To contact the reporter on this story: Mallory Culhane in Washington at mculhane@bloombergindustry.com

To contact the editor responsible for this story: Alex Clearfield at aclearfield@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Securities

Elon Musk Is on Trial, But Another Case Draws Lawyers' Tears

March 18, 2026, 3:18 PM PDT

It was a tale of two cases in Judge Charles R. Breyer's Wednesday morning court session in San Francisco.

One involves the world's richest man, Elon Musk, and his turbulent, headline-grabbing purchase of Twitter Inc. four years ago. The other involves the escalating mental health crisis of a man imprisoned for supplying the fentanyl that killed a father and his 13-month-old son.

As jurors entered their second day of deliberations to decide whether Musk defrauded Twitter investors when he tweeted the \$44 billion purchase deal was "temporarily on hold," Breyer, a 28-year veteran of the US District Court for the Northern District of California, charged forward with his other duties as a district court judge. They run the gambit of complex civil disputes to criminal offenses.

The day began with dozens of attorneys before him to discuss a written jury question in Musk's securities fraud trial concerning a grammatical detail in the jury instructions—an "and" versus "or" distinction.

For a few minutes, Musk's attorneys fought hard for what their view of the best answer to return to the jury, unwilling to concede any ground to Breyer's proposed answer—"and." They asked for a mistrial when he denied their requests.

The exchange encapsulates the sometimes flaring tensions between the judge and Musk's legal team through the three-week trial. Breyer on a number of occasions expressed annoyance with the way the attorneys, from the Big Law firm Quinn Emanuel Urquhart & Sullivan LLP, were handling disputes during the trial. In one especially heated exchange last week, he told one Quinn Emanuel lawyer to sit down for failing to provide a straight answer to his questions. "I'm not listening to you any more!" he said.

But on Wednesday as the attorneys for Musk and the investors began to pack their bags and exit the courtroom, Breyer asked that they remain seated. He wanted them to listen the next case scheduled for a hearing.

Shane Cratty, a man from Santa Rosa, Calif., was convicted for his involvement in helping deliver fentanyl to a drug-addicted father in 2019. The father ingested the drug, as did his infant son. Both died from an overdose.

Breyer had sentenced Cratty to eight years in prison in 2021 after prosecutors struck a plea agreement with him. Five years into the sentence, Cratty's attorneys were seeking a compassionate release. In an emergency motion, Cratty's attorneys detailed his deteriorating mental health and "an escalating threat to his life" while in custody with the federal Bureau of Prisons in Pennsylvania.

They said Cratty has repeatedly expressed suicidal thoughts and exhibited extreme psychological distress after facing violence from other inmates and prison guards. But the Bureau of Prisons has disciplined him in response, sending him to more isolating or harsher environments, the motion said.

"It is Dickensian," Breyer said of the conditions described in the report.

Breyer read aloud a letter he received from the mother of the victim, who was writing to support Cratty's compassionate release. She said she was just beginning to heal from the tragedy of losing her son and grandchild.

"I want Shane to heal as well," the letter said. "Holding on to anger only keeps me chained to tragedy."

"I see my own son's history repeating itself here," she wrote in the letter, noting that her son had been imprisoned as well. "The system failed him, I see the system failing Shane in the exact same way."

Breyer said he would grant the motion. "I've gotten many letters in my time," he said. "This one is unique in its profundity."

Both Cratty's defense attorney, Mary McNamara, and the government attorney, Sailaja Paidipaty, broke down in tears as they discussed the logistics of ensuring Cratty could be released and receive treatment.

Many of the lawyers representing Musk and the investors were crying as well.

Breyer, a San Francisco native and younger brother of former US Supreme Court Justice Stephen Breyer, is overseeing a number of high-profile civil trials this year involving Big Tech companies. Just last month he oversaw the first civil trial against Uber Technologies Inc. over its failure to prevent drivers from assaulting passengers.

But criminal justice has always been one of his passions. Breyer served as the chair of the US Sentencing Commission, responsible for setting federal sentencing guidelines, from 2018 until 2022. He drew controversy at the time in 2003 when he sentenced a convicted marijuana grower to a single day in prison, when he could have faced a possible 100 year sentence.

"Her letter encapsulates the horror, the tragedy, and the hope that is so much a part of our criminal justice system," Breyer said. "It's an amazing thing that, here after 28 years, I'm still learning so much about life."

To contact the reporter on this story: Isaiah Poritz in San Francisco at iporitz@bloombergindustry.com

To contact the editor responsible for this story: Stephanie Gleason at sgleason@bloombergindustry.com

Securities

The Trade Desk Must Battle Investor Suit Over AI Platform Pickup

March 18, 2026, 12:10 PM PDT

The Trade Desk Inc. and top executives must defend against investor allegations the advertising-technology company knowingly misrepresented the adoption and capability of its artificial-intelligence powered platform Kokai.

The public pension funds adequately alleged executives had access to adverse adoption data and knew as early as 2023 clients were unhappy with Kokai's interface while touting the tool's adoption and performance, Judge Christina A. Snyder said, denying The Trade Desk's bid to dismiss the proposed class action.

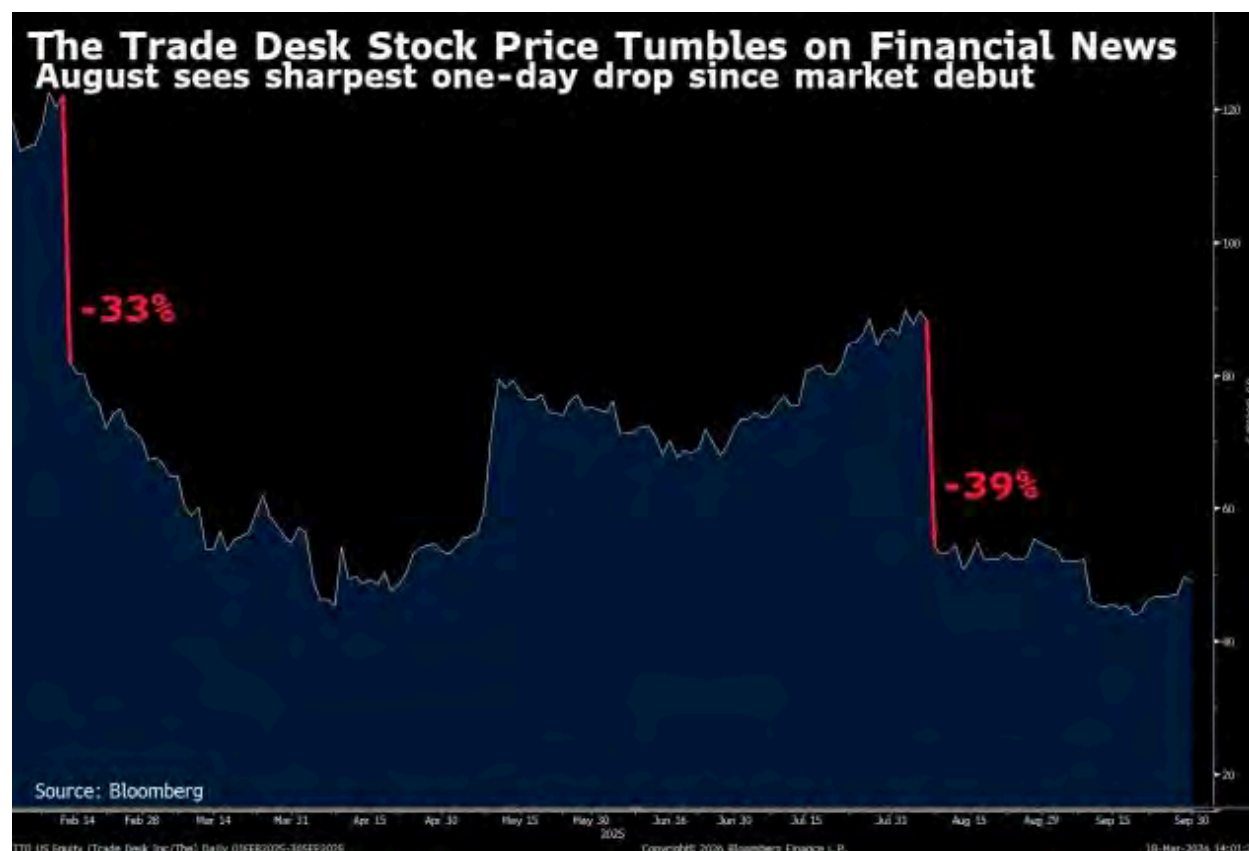
Multiple allegations in the pension funds' complaint bolstered an inference of executives' intent or recklessness to defraud, according to the in-chambers order entered into the US District Court for the Central District of California docket Tuesday. Executives had access to data and reports about lagging adoption, and CEO Jeff Green sold about \$48 million worth of The Trade Desk shares one day before a February disclosure highlighted issues of Kokai's lag in being taken up by clients, the funds said. They also pointed to executives attending weekly meetings that included discussions about the digital ad-buying company's clients finding Kokai hard to use.

Taken together, "the pleaded facts give rise to a strong inference that defendants knew their alleged positive statements touting Kokai's performance and capabilities were misleading," Snyder said.

The Arkansas Public Employees Retirement System and Public Employees' Retirement System of Mississippi plausibly pleaded The Trade Desk and executives misled investors by rosily discussing the pace of Kokai's adoption while omitting related data, Snyder said. And for this stage of litigation, shareholders sufficiently alleged loss causation, a required pleading for securities fraud.

Green's Feb. 12, 2025, disclosure revealed Kokai adoption was slow and that The Trade Desk missed a revenue target due to execution missteps, the shareholders said. The Trade Desk's share price plummeted nearly 33% to close at \$81.92 on Feb. 13.

On Aug. 7, The Trade Desk disclosed slower-than-expected revenue growth, which the investors alleged was derived from the slower-than-told adoption of Kokai. The stock price plummeted by almost 39% the next day—its biggest one-day drop since its 2016 market debut, according to Bloomberg data.



The proposed class would include those who acquired The Trade Desk stock from Nov. 15, 2023, through Aug. 8, 2025.

Bernstein Litowitz Berger & Grossmann LLP and Cohen Milstein Sellers & Toll PLLC, lead counsel for the pension funds, declined to comment. Wilson Sonsini Goodrich & Rosati PC represents the company, Green, former chief financial officer Laura Schenkein, and chief strategy officer Samantha Jacobson. Neither The Trade Desk nor attorneys representing it immediately responded to emails seeking comment.

The case is In re The Trade Desk, Inc. Sec. Litig. , C.D. Cal., No. 2:25-cv-01396, order entered 3/17/26 .

To contact the reporter on this story: Gillian R. Brassil in Washington at gbrassil@bloombergindustry.com

To contact the editor responsible for this story: Alicia Cohn at acohn@bloombergindustry.com

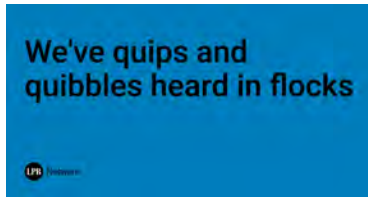
© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

We've quips and quibbles heard in flocks

LPB [businesslawprofessors.com/2026/03/weve-quips-and-quibbles-heard-in-flocks](https://www.businesslawprofessors.com/2026/03/weve-quips-and-quibbles-heard-in-flocks)

Ann Lipton

March 19, 2026



Southwest is (and has long been) a Texas-incorporated company.

After Texas reformed its governance laws, Southwest adopted a bylaw requiring that derivative actions only be brought by shareholders with a minimum 3% stake.

Subsequently, an investor holding only 100 shares filed a derivative action in federal court, alleging that Southwest's directors breached their fiduciary duties to the company when they abandoned Southwest's "Bags Fly Free" policy in the wake of an activist intervention by Elliott Investment Management. (It's a silly lawsuit, whatever). Southwest invoked the bylaw in its motion to dismiss.

The plaintiff offered a number of challenges to the Texas law, including that it was inapplicable to him because he served a demand before the law passed, and that the law was impermissibly retroactive as applied to his claim. In [Gusinsky v. Reynolds](#), 3:25-cv-01816, the court rejected these.

The plaintiff also, however, alleged that Southwest's directors breached their fiduciary obligations by adopting such a limit on derivative lawsuits in the first place, a claim that the court rejected because ... the plaintiff did not have the 3% stake necessary to advance it.



[Watch on YouTube](#)

More seriously, it's worth noting that when plaintiffs in Delaware brought a facial challenge to a litigation-limiting bylaw in [Boilermakers Local 154 v. Chevron](#), then-Chancellor Strine noted that if the bylaw were invoked to dismiss a specific claim, the plaintiff could at that point "sue" to establish that applying the bylaw to that particular case breached the directors' fiduciary obligations. (Though Strine may have envisioned a second lawsuit that would be brought in compliance with the bylaw, which itself merely declared Delaware an exclusive forum).

Strine also, however, suggested that, in a specific case, plaintiffs could make an argument that the bylaw was unreasonable as applied under contract law principles, which was something the Southwest plaintiff tried, as well. However, he argued that the bylaw was unfair because it was adopted in response to his written demand, which the court rejected as a factual matter, finding it more plausible that the bylaw was adopted in response to the new Texas law authorizing it.

Which means the contract argument might not be ... off the table entirely ... if the facts warrant it in the future. As for the fiduciary argument, well, all things considered, I'd have preferred to see it advanced in a case where the underlying claims inspired a little more sympathy.

And another thing. New [Shareholder Primacy](#) podcast! This week, me and Mike Levin talk about Exxon's proposed move to Texas, and about pending proxy contests in 2026. [Here at Apple](#); [here at Spotify](#); and [here at YouTube](#). [Subscribe Now](#)

Copyright © 2026, Law Professor Blogs, LLC. All Rights Reserved.

Bankruptcy

Fed Up With ‘Endless Litigation,’ SDNY Judge Urges Progress in Puerto Rican Utility’s Bankruptcy

Chief Judge Laura Taylor Swain of the Southern District of New York expressed discontent that years of litigation resulted in “nothing” after being informed that the board overseeing Puerto Rico’s bankruptcy has yet to craft a debt restructuring plan agreeable to creditors holding \$8.5 billion worth of bonds in the commonwealth’s utility.

March 18, 2026 at 03:56 PM By **Alyssa Aquino**



Laura Taylor Swain, chief judge for the U.S. District Court for the Southern District of New York, presided over a naturalization ceremony at Federal Hall in lower Manhattan on July 3, 2025. Photo: Rick Kopstein

A New York federal judge chastised attorneys for failing to come up with a plan allowing Puerto Rico’s utility to exit bankruptcy, saying Wednesday that the bankruptcy wasn’t intended to serve as an “engine for endless litigation.”

Chief Judge Laura Taylor Swain of the Southern District of New York expressed discontent that years of litigation resulted in “nothing” after being informed that the board overseeing Puerto Rico’s bankruptcy has yet to craft a debt restructuring plan agreeable to creditors holding \$8.5 billion worth of bonds in the commonwealth’s utility, the Puerto Rico Electric Power Authority.

"[The Puerto Rico Oversight, Management, and Economic Stability Act] did not come into being on an assumption that it would be an engine for endless litigation," said Swain.

That law, regularly referred to as PROMESA, created the Financial Oversight and Management Board, which has been attempting to clear the debts of the commonwealth and its utility. The board is represented by Proskauer Rose LLP. The court has approved a restructuring plan for Puerto Rico, but a plan for PREPA remains elusive.

Those latter proceedings have been delayed by a group of bondholders who have been trying to collect on multibillion-dollar obligations for years. Significantly, the U.S. Court of Appeals for the First Circuit has upheld the liens and the bondholders' claims to PREPA's past, current and future revenues.

During the Wednesday hearing, Swain anticipated that another appellate fight was on the horizon, if a deal wasn't on the table. On Monday, Swain rejected bondholders' \$3.7 billion administrative expense claim.

"See if you can come up with a collective legacy for Puerto Rico," said Swain. "I'll tell you flat out, I need to see progress towards a consensual plan in the near future."

Swain is sitting by designation in the U.S. District Court for the District of Puerto Rico for the bankruptcy proceedings.

A Proskauer Rose attorney told Swain that the board believes a plan can be confirmed before the board's current term ends in October 2027. But he cautioned that a shake-up could occur beforehand. In August 2025, President Donald Trump fired three board members. A Puerto Rican federal judge temporarily blocked that order.

After receiving the status update, Swain turned her attention to a suit filed in Puerto Rico by Raúl Mariani Franco on behalf of a proposed class of PREPA consumers. The suit seeks to void a fee that's been added to Puerto Ricans' electricity bills to pay PREPA retirees' pensions. The charge amounts to \$307 million for fiscal year 2026, according to court records.

The case had been stayed due to the bankruptcy, but Mariani Franco urged the court to lift the stay, arguing that the rider concerned a pre-petition debt that preceded the bankruptcy. He further argued that the collected fee shouldn't be considered an asset of PREPA.

The board and the PREPA Retirement System both objected to letting the consumer case proceed. Jordan Sazant, an associate at Proskauer Rose, argued that the money generated by the rider flowed through PREPA. The retirement system's attorney, Rafael Ortiz Mendoza, stressed that the ride paid people's pensions.

Swain sided with the board and retirement system, saying the movants “have not satisfied their burden of substantiating their contention that PREPA has no interest in revenues derived from the pension charge.”

Page printed from: <https://www.law.com/newyorklawjournal/2026/03/18/fed-up-with-endless-litigation-sdny-judge-urges-progress-in-puerto-rican-utilitys-bankruptcy/print/>

NOT FOR REPRINT

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

Judge to instruct jury daily on content limits in social media addiction trial

DJ [dailyjournal.com/articles/390327-judge-to-instruct-jury-daily-on-content-limits-in-social-media-addiction-trial](https://www.dailyjournal.com/articles/390327-judge-to-instruct-jury-daily-on-content-limits-in-social-media-addiction-trial)

U.S. District Judge Yvonne Gonzalez

OAKLAND -- When the first federal bellwether case begins over allegations four social media giants designed their platforms to get children addicted, U.S. District Judge Yvonne Gonzalez Rogers plans to remind the jury daily that they can't find the companies liable based on the content posted to their platforms.

"I haven't had a case where I've ever considered giving the kind of instruction that I'm thinking of giving on a daily basis," Gonzalez Rogers said Wednesday at a pretrial conference. *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, 4:22-md-03047 (N.D. Cal., filed Oct. 6, 2022).

Throughout the litigation, defendants -- Meta, YouTube, TikTok and Snapchat -- have argued that 47 U.S. Code Section 230 protects them from the claims because it's the content posted to their platforms that caused the alleged harm. Gonzalez Rogers allowed the lawsuit to go forward but took out claims based on content.

The case, filed by states and school districts, is separate from a similar bellwether lawsuit filed by a single plaintiff in state court in Los Angeles.

Ahead of June's bellwether trial, with Kentucky's Breathitt County schools serving as the first plaintiff, the defendants moved to bar any evidence related to the content that the judge said couldn't form a basis for liability. Gonzalez Rogers said she plans to deny the motion but will consider each piece of content-based evidence as it comes up in trial and will instruct the jury that the evidence can't be a basis for liability.

"I'm beginning to lean towards significant instructions until the jury begins to understand" the content issue, Gonzalez Rogers said.

The defense was represented primarily by King & Spaulding LLP, Williams & Connolly LLP, Covington & Burling LLP and Munger, Tolles & Olson LLP, while the plaintiffs were represented by Gibbs Mura LLP, Lieff Cabraser and Hendy Johnson Vaughn Emery PSC.

Gonzalez Rogers tentatively denied most of the motions in limine the parties presented at the hearing, with a few exceptions.

"We're going to talk about it but most of it's going to be denied," the judge said before hearing the plaintiffs' first motion.

But after quickly scanning the first motion in front of her, she added, "except for No. 1."

The motion asked the judge to prevent the defense from presenting evidence of Breathitt County schools' involvement in two other lawsuits, one against Juul over alleged targeting of minors for cigarette sales and the other over opioid use in schools.

The defense argued the school district's involvement in the other litigation is important because the plaintiffs allege social media addiction caused mental health issues that, in the two other cases, school officials attributed to other causes.

The plaintiffs agreed it could be allowed for that limited purpose but didn't want the defense to use their or their lawyers' involvement in the lawsuits to question their credibility.

Gonzalez Rogers criticized the parties for not sorting through the issue outside of court, but said she agreed with the framework they'd outlined.

"What I'm not going to do is relitigate other cases," Gonzalez Rogers said.

The judge applied the same logic to a motion from the defense aiming to preclude evidence of European authorities' investigations into the social media companies. But she carved out an exception for evidence being used to show that the companies were aware of potential defects and didn't act or warn customers.

"Notice of the fact of a problem on a specific day, that's fair game," Gonzalez Rogers said.

The judge said she's also leaning toward throwing out evidence related to reports of mismanagement at Breathitt County schools and an FBI investigation that led to the district superintendent's arrest in 2010 for allegedly bribing voters.

The defense, represented by L. Ashley Aull of Munger Tolles, argued that if some of the issues the plaintiffs allege are caused by social media addiction were made worse by mismanagement at the district, then the evidence is relevant to damages calculations.

Aull also said that the judge had allowed the plaintiffs to present evidence from around the same time.

"That's when you were developing a product. ... That argument does not persuade," Gonzalez Rogers said.

On the defense side, the judge denied motions to prevent witnesses from using terms like "addiction" and "compulsion," which have both a plain and technical meaning.

"I'm not going to stop witnesses from using common words in the English language," Gonzalez Rogers said.

The judge needed more time to think about a motion from the defense to throw out evidence related to beauty filters and lack of notice for edited photos on the platforms, as well as explicit images sent through Snapchat, because the plaintiffs failed to show how they caused the school district harm.

Following the motions in limine and a preliminary discussion about jury instructions, Gonzalez Rogers addressed the defense's request to have Meta CEO Mark Zuckerberg and Snapchat founder Evan Spiegel removed from the plaintiffs' witness list as apex witnesses.

The judge seemed skeptical of the request and said that, even if they don't have to testify at each trial in the litigation, they should appear at the first one.

"It seems to me the first is an appropriate benchmark," Gonzalez Rogers said.

When they do appear, she said earlier in the hearing, they'll have to walk through the front door of the courthouse like everyone else in attendance.

(Zuckerberg testified in the Los Angeles state court case and walked through the courthouse front door.)

The judge also said she's committed to having an advisory jury even with the defense waiving its right to a jury trial. She called the process more efficient, citing a recent bench trial she held where her chambers went dark for nearly two months.

"The pain of that other decision is still fresh," Gonzalez Rogers said.

Given the strain on the court and Gonzalez Rogers' packed schedule in the coming months, which includes the Breathitt County schools trial, Elon Musk's fraud lawsuit against OpenAI and the first bellwether trial in the states' portion of the MDL, the judge said she could decide to hear certain claims in the case alongside the jury if they're better suited for a bench trial.

#390327

Daniel Schrager

Daily Journal Staff Writer

daniel_schrager@dailyjournal.com

Oakland judge sets stage for bellwether social media addiction trial

 [courthousenews.com/oakland-judge-sets-stage-for-bellwether-social-media-addiction-trial](https://www.courthousenews.com/oakland-judge-sets-stage-for-bellwether-social-media-addiction-trial)

Carly Nairn

March 18, 2026

OAKLAND, Calif. (CN) — A federal judge firmly questioned both parties Wednesday ahead of a looming [jury trial](#) for a bellwether case brought by school districts claiming social media companies are responsible for compulsive use and addiction.

U.S. District Judge Yvonne Gonzalez Rogers heard several motions to exclude witness testimony, define certain terms and seal documents from both parties, while also discussing pretrial instructions, including possible edits on jury instructions.

Attorneys for social media companies Meta — which owns Facebook and Instagram — Snap, TikTok and Bytedance said daily jury instructions from Rogers may be necessary to avoid prejudicing the jurors through some of the content evidence that will be presented by the plaintiffs.

Snap attorney Jonathan Blavin argued the companies are shielded by Section 230 of the Communications Decency Act of 1996, which generally provides platforms immunity for their third-party content. However, school districts, including the Breathitt County Board of Education in Kentucky, contend design features made to keep kids' eyes scrolling and interacting with the content are also a part of the case.

The companies are aware their design features may cause addictive behavior, the districts claim, leading to mental health harms and disruptions to classroom learning.

Rogers, a Barack Obama appointee, denied to seal any documents or exhibits, and made clear, in emphatic terms, that the trial was going to be a reasonable, truth-seeking function.

"I do not tolerate gamesmanship," she said. "There will be no Perry Masons here. No grandstanding."

She said it was unclear how many jurors will ultimately be needed for the six-week trial but that the parties should be ready to start early in the morning each day, and she doesn't like sidebars, and will likely deny any sought by the attorneys.

Rogers noted, especially considering the [bellwether trial](#) in Los Angeles that also litigated social media addiction claims, some high-profile witnesses like Meta CEO Mark Zuckerberg may be called to the stand, but they will be treated the same as any other witness.

"This will be a public trial, I am assuming you are going to have some witnesses with high profile," she said. "There are no special privileges — they have to walk through that front door."

The defendants questioned whether some apex witnesses, such as Snap CEO Evan Spiegel or Zuckerberg are needed to testify, especially since Zuckerberg testified [last month](#) at the LA trial. The jury in that case has not yet reached a verdict.

Rogers did not decide on the matter, other than to say, their testimony may be necessary during the trial.

Arguments over whether to exclude certain expert witnesses took the bulk of Wednesday's hearing, with the school districts saying they want to bring in evidence showing similar addictive behavior with vaping or opioids.

The districts' attorneys assured Rogers they wouldn't namedrop recent litigation, as Rogers said she was uninterested in "relitigating cases," and it was "irrelevant" to the social media case.

"Let me be clear about something," said Rogers. "Experts are not conduits for hearsay."

The initial multidistrict litigation consolidated hundreds of personal injury lawsuits on behalf of children and adolescents by school districts, local governments and state attorneys general. These plaintiffs claim Meta's Facebook and Instagram, Google's YouTube, ByteDance's TikTok and Snap's Snapchat are designed to foster compulsive use by minors.

In a [joint lawsuit](#) filed in late 2023, 33 states claimed that Meta built a business model that maximizes young users' time on its platforms and employs psychologically manipulative platform features. They accused the tech behemoth of publishing misleading reports on user harm and continuing to downplay the negative consequences of its products.

Jury selection is scheduled to begin June 12.

Categories / [Courts](#), [Education](#), [Media](#), [Technology](#)

xAI Sued Over Alleged Child Exploitation Content Generated on Grok Platform

The case, which appears to be the first of its kind to target the sexual exploitation of minors on an AI large language model, was filed on behalf of three anonymous teenage plaintiffs who allege their photographs were used to generate and proliferate sexually explicit deepfakes, or AI-manipulated images.

March 18, 2026 at 08:51 AM By  **Kat Black**

What You Need to Know

- Elon Musk's x.AI, which developed the AI chatbot Grok, has been hit with a novel class action claiming it enabled the generation and distribution of exploitative images featuring minors.
- According to the complaint, x.AI is the only developer of AI video and image generators that allows the creation of sexually explicit material, inevitably facilitating predatory behavior on the platform.
- Plaintiffs are seeking a statutory damages award of \$150,000 per victim under Masha's Law.



Credit: PhotoGranary/Adobe Stock

xAI, the artificial intelligence firm founded by billionaire Elon Musk, was hit Monday with a novel class action in California federal court that claims it purposely neglected to implement guardrails against child sex predators on its generative AI chatbot, Grok, in order to drive profits.

The case, which appears to be the first of its kind to target the sexual exploitation of minors on an AI large language model, was filed on behalf of three anonymous teenage plaintiffs who allege their photographs were used to generate and proliferate sexually explicit deepfakes or AI-manipulated images.

Lieff Cabraser Heimann & Bernstein and Baehr-Jones Law filed the [suit](#) against X.AI Corp. and X.AI LLC on March 16 in the U.S. District Court for the Northern District of California in San Jose. Lieff Cabraser is also representing the Authors Guild in copyright infringement litigation against ChatGPT-maker and xAI rival OpenAI.

The plaintiffs alleged that xAI—unlike competing AI image and video generators, including Google’s Imagen and Veo and OpenAI’s ChatGPT and Sora—deliberately failed to incorporate industry-standard safety features preventing the distribution of child sexual abuse material (listed as "CSAM" in the complaint) into the design of Grok, which was launched in November 2023.

According to the complaint, the plaintiffs discovered that a perpetrator, who has now been arrested, had used their real photos—some downloaded from social media and others solicited from a plaintiff online—to produce sexually explicit content that was later distributed and traded with other content featuring minors on the messaging platforms Discord and Telegram and the file-sharing platform Mega. The plaintiffs have sustained lasting psychological damage from the incident and continue to struggle with symptoms such as recurring nightmares, anxiety and insomnia.

"Watching my daughter have a panic attack after realizing that these images were created and distributed without any hope of recalling them was heartbreaking," said the mother of one of the plaintiffs, listed as "Jane Doe 2," in a news release sent to The Recorder. "Her excitement about all that she would experience over her senior year—her spring formal, her graduation, and her senior trip—now comes with the fear anything she shares will be used and manipulated again. What should be the most exciting time in her life is now completely tainted."

In July 2025, xAI debuted Grok Imagine, an AI image and video generator featuring a "Spicy Mode" that allows users to produce sexually explicit material—a tool that, the complaint alleged, enables predatory conduct and runs counter to most AI firms' design protocols, since video and image generators, unlike text generators, are not engineered to block large language models from extrapolating content containing minors.

"Thus, the only way to ensure that CSAM is not generated through an AI image- and video-producing platform is to prohibit all sexually explicit images and videos," it said. "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."

Annika Martin, a partner at Lieff Cabraser in its New York office and co-lead plaintiffs counsel in the case, said in an interview that, based on [research](#) conducted by the nonprofit Center for Countering Digital Hate, the plaintiff class could potentially include "thousands" or "tens of thousands" of minors.

According to the CCDH's study, which is referenced in the complaint against xAI, Grok generated an estimated 3 million "sexualized images"—including 23,000 of children—during an 11-day period shortly after the Dec. 2025 roll-out of a Grok-powered image-editing feature on X, the Musk-owned social media platform formerly known as Twitter.

"So sadly, this is just the beginning of who will find out that there is now CSAM of their real image that's been created and disseminated online," Martin said. Plaintiffs counsel decided to file the complaint as a class action, she said, to bring about "institutional change, industry-wide change."

"And one of the things that's really important to our clients is that this never ... be allowed to happen again ... and that this is something that is never going to be possible to happen to kids anywhere else in the United States after this."

Vanessa Baehr-Jones of Baehr-Jones Law, also co-lead plaintiffs counsel, noted in an interview that the complaint brings novel claims against an AI firm under Masha's Law, which affords federal civil remedies to victims of child pornography, and the federal Trafficking Victims Protection Act.

"We are alleging that ... the way [xAI's] Grok model created these images and videos amounts to production of CSAM," she said. "And that's because all of the generation of the sexually explicit content happened in their servers with their product, with their tool. None of that was available to the perpetrator before the image went to Grok."

She added, "We're also alleging distribution, which means that Grok then distributed those images, sent those images back out to their users and their customers. ... This is different from some of the other cases where third-party users are posting content themselves on a website or an online forum, and they're doing all of the generation of the CSAM, they're the ones who possessed it, they're the ones who posted it. This is the opposite. This is a platform that was producing it and then sending it out with, obviously, incredibly harmful results."

Plaintiffs are seeking a statutory damages award of \$150,000 per victim under Masha's Law. Baehr-Jones added that actual damages could amount to "millions of dollars of damages per

victim" because "the dissemination of CSAM on the internet will follow them the rest of their lives."

xAI did not respond to an emailed request for comment.

Page printed from: <https://www.law.com/therecorder/2026/03/18/xai-sued-over-alleged-child-exploitation-content-generated-on-grok-platform-/print/>

NOT FOR REPRINT

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

Judge vacates \$950M in punitive damages in Johnson & Johnson talc verdict

DJ [dailyjournal.com/articles/390330-judge-vacates-950m-in-punitive-damages-in-johnson-johnson-talc-verdict](https://www.dailyjournal.com/articles/390330-judge-vacates-950m-in-punitive-damages-in-johnson-johnson-talc-verdict)

Superior Court Judge Ruth Ann Kwan

A Los Angeles County judge vacated most of a nearly \$1 billion talc verdict against Johnson & Johnson, striking punitive damages while leaving intact the jury's causation determination in a mesothelioma case tied to decades of baby powder use.

In a March 13 post-trial ruling, Superior Court Judge Ruth Ann Kwan granted judgment notwithstanding the verdict on punitive damages and concealment, eliminating the \$950 million punitive award that was part of the jury's \$966 million verdict. The decision marks a significant victory for Johnson & Johnson in what plaintiffs' attorneys had called the largest mesothelioma verdict against the company. *Mae K. Moore v. Johnson & Johnson, et al.*, 21STCV05513 (L.A. Super. Ct., filed Feb. 9, 2021),

Johnson & Johnson was represented at trial by Sabrina H. Strong and Esteban Rodriguez of O'Melveny & Myers LLP and John L. Ewald of Kirkland & Ellis LLP. They referred requests for comment to the company. Erik Haas, worldwide vice president of litigation for Johnson & Johnson, said the company will appeal all remaining claims.

"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," Haas responded in an email Wednesday. "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."

The case originally named several companies as defendants including Avon, Chanel, Colgate-Palmolive, Dana Classic Fragrances, and Lucky Stores. Settlements and dismissals left Johnson & Johnson as the sole remaining defendant by the time it reached the jury.

A jury in October awarded the Moore family \$966 million after two days of deliberations, including \$6 million for emotional distress, \$10 million in non-economic damages and \$950 million in punitive damages, finding unanimously that the company acted with malice or oppression.

Kwan granted judgment notwithstanding the verdict on punitive damages, finding plaintiffs "did not establish -- by clear and convincing evidence -- that J&J acted with malice." She also granted JNOV on concealment, concluding "there is no substantial evidence of a preexisting relationship giving rise to a duty to disclose, which is an essential element of a concealment cause of action." She denied JNOV on causation.

The court also set a constitutional maximum for punitive damages at a 1:1 ratio to compensatory damages.

The U.S. Supreme Court has held that a ratio exceeding a "single digit multiplier" would rarely be considered constitutional. *State Farm v. Campbell*, 538 U.S. 408 (2003). The California Supreme Court made a similar holding. *Brandt v. Superior Court* (1985) 37 Cal.3d 813.

"On very large putative damages awards the trend these days has been for the courts to uphold only a 1:1 ratio. The courts logic seems to be that punitive damages awards of hundreds of millions of dollars or billions of dollars are inherently excessive and unconstitutional as a matter of law," explained Gary A. Dordick of Dordick Law, who was not involved in the case.

"The court considers such things as the reprehensibility of the defendants conduct, the harm caused, and the wealth of the party," Dordick said. "The punitive damages must bear a reasonable relationship to the amount of the compensatory damages."

In a separate motion for a new trial, Kwan found relief would have been warranted on punitive damages, concealment and attorney misconduct, but said that analysis was moot in light of her JNOV rulings.

Mae Moore, the wife of a pastor and mother of three, regularly used Johnson & Johnson's baby powder, which the lawsuit alleged contained asbestos-contaminated talc. She was diagnosed with mesothelioma in December 2020 and died a year later at age 88.

Kwan wrote that hundreds of tests showed Johnson & Johnson's talc products contained no asbestos and that the trial evidence did not establish the company knew otherwise or acted with malice.

The family filed suit in 2021, alleging wrongful death and survivorship claims including negligence, breach of implied warranty, strict liability, fraud and concealment, conspiracy to defraud and failure to warn.

Dordick noted that courts have sometimes upheld punitive damages awards exceeding established case law guidelines.

"For example, some of the tobacco verdicts that had relatively low compensatory damages combined with very reprehensible conduct have permitted ratios over 10:1," Dordick said. "The trial judges' determination on post-trial motion to reduce the damages award is rarely disturbed on appeal. Determinations of this nature are often within the trial judges' sole discretion."

Dean Omar Branham Shirley LLP partner Trey Branham, who represents the Moore family, said he disagreed with the ruling and is preparing an appeal.

Johnson & Johnson has long since denied its talc contains asbestos or causes cancer and has prevailed in most baby powder cases.

#390330

Douglas Saunders Sr.

Law firm business and community news

douglas_saunders@dailyjournal.com

Biz groups cry foul over CA Dems' bid to boost climate lawsuits | Northern California Record

 [legalnewsline.com/northern-california-record/biz-groups-cry-foul-over-ca-dems-bid-to-boost-climate-lawsuits/article_802e46d1-3cb8-4ce2-8156-4fc5e130e98e.html](https://www.legalnewsline.com/northern-california-record/biz-groups-cry-foul-over-ca-dems-bid-to-boost-climate-lawsuits/article_802e46d1-3cb8-4ce2-8156-4fc5e130e98e.html)

Michael Carroll, Jonathan Bilyk

March 19, 2026

Jamie Huff

Civil Justice Association of California

SACRAMENTO — Business groups are crying foul over an attempt by California Democratic lawmakers to open the door to potentially massive lawsuits against energy companies whenever extreme weather strikes the state, through a new law, which the business groups described as a “unconstitutional stunt” disguised as a measure to supposedly reduce insurance costs.

More than two dozen groups have stepped forward to oppose proposed California state legislation that supporters claim would make property insurance more affordable by authorizing the California state attorney general to sue energy companies, allegedly for damages related to extreme weather events.

SB 982, titled as the Affordable Insurance and Recovery (AIR) Act, was introduced last month by Sen. Scott Wiener (D-San Francisco.) Wiener asserts the measure would stabilize the state’s insurance market in the wake of disastrous floods and fires. The bill would create a new civil action allowing the attorney general to sue oil and gas companies on the basis that the burning of gasoline and other fuels exacerbates climate change and makes weather disasters more frequent.

The measure’s supporters say damages awards secured from litigation against energy companies could help to compensate those affected by insurance premium spikes that occur in the wake of events such as the 2025 Palisades Fire and Eaton Fire.

“The AIR Act takes an innovative approach to this (insurance affordability) problem by shifting the cost of wildfires and other climate-driven disasters from the survivors who are suffering to the fossil-fuel giants most responsible,” [Wiener said](#) when the measure was introduced. “No one should be pushed out of their home by insurance costs, and the AIR Act will take an important step to ensuring they won’t be.”

But the coalition of business, taxpayer and legal-reform groups say SB 982 would drive up the price of gas and electricity rates for California consumers, leading to declining wages, reduced tax revenues and weaker job creation.

"SB 982 is a costly and unconstitutional legislative stunt that does nothing to help Californians and everything to generate headlines for its author," Jaime Huff, president and CEO of the Civil Justice Association of California, said in a prepared statement. "At a time when our state is already struggling with affordability, lawmakers should be focused on stabilizing the insurance market and lowering costs – not advancing a legally flawed proposal that will leave consumers footing the bill."

[Opponents argue](#) the measure would allow civil lawsuits without the needed proof that energy companies caused climate-related disasters and that it violates constitutional provisions dealing with due process and equal protection.

Victor Gomez, executive director of California Citizens Against Lawsuit Abuse (CALA), stressed that the causes of climate change and extreme weather are complex.

"Climate change and the severe weather events associated with it are global, multi-factor phenomena involving countless actors over many decades," Gomez told the *Southern California Record* in an email. "Attempting to assign legal liability to a handful of companies for such broad societal issues raises significant legal and practical concerns."

Adding another opportunity for costly lawsuits whose outcome is undetermined will do little to stabilize the state's property insurance market, he said.

"Lawsuit-driven approaches often benefit attorneys and litigation funders while producing uncertain outcomes for consumers," Gomez said. "The potential for massive damages claims could also create economic ripple effects, including higher energy costs or reduced investment in California."

Supporters of the bill, including California Environmental Voters and the Center for Climate Integrity, however, cite economic studies showing Wiener's approach could result in \$3,800 in per-household benefits and generate 340,000 jobs.

But Gomez said lawmakers should focus on more practical efforts, such as wildfire mitigation and removing regulatory barriers within the insurance market.

"... CALA is concerned that SB 982 represents a troubling expansion of lawsuit-driven policymaking, and we believe the Legislature should pursue more direct and durable solutions to the state's insurance challenges," he said.

Enforcement of 'Made in America' Claims Likely to Intensify, Lawyers Say

President Donald Trump's March 13 executive order directs the Federal Trade Commission to “consider” writing regulations requiring online retailers to verify products that claim to be made in the United States.

March 18, 2026 at 05:51 PM By  **Dan Novak**



Federal Trade Commission building in Washington, D.C, on January 12, 2022. Photo: Diego M. Radzinski/ALM

Manufacturers that label their products as “Made in America” should expect increased scrutiny after President Donald Trump signed an executive order last week targeting such claims, regulatory attorneys said.

The order, signed March 13, directs the Federal Trade Commission to “consider” writing regulations requiring online retailers to verify products that claim to be made in the United States. Under FTC rules finalized in 2021, a product labeled as “Made in America” must be “all or virtually all” made in the United States.

It would be quite difficult for an online third-party retailer to verify that a product sold on their websites is truly made in the United States, said Cozen O'Connor member Richard Fama. Manufacturers themselves already struggle with whether to label their products "Made in America," he added.

In addition, the FTC rule requiring that "virtually all" of a product must be made in the U.S. is vague, and it can get tricky when a product is manufactured in the United States but its parts are sourced internationally, Fama said. Often, companies are totally unaware of the FTC's regulations, he added.

There are likely many cases of Chinese manufacturers making false Made in USA claims for products sold by online retailers, said Frankfurt Kurnit Klein & Selz partner Holly Melton. It's difficult for the FTC to target the Chinese companies directly, so a rule could force retailers to help snuff them out, she added.

But a rule requiring sellers to verify the origin of products sold on their sites is "unwieldy and how that would ever work in practice is completely unclear," Melton said. "I don't think it's something that an Amazon or a Walmart can do,"

Fama said the executive order strongly suggests a ramp-up of enforcement surrounding country-of-origin claims.

"I think it's important to get the word out that this is a priority in the administration and compliance is going to be expected," he said. "And if there's not compliance, there's probably going to be ramifications for that."

The order also directs federal agencies to review and verify products marketed as made in America sold to the U.S. government under the Buy American Act—a 1933 law that requires the federal government to prioritize procuring American-made products. If a company is found to have made a false country-of-origin claim, the agencies should remove the products from government procurement availability and refer the company to the Department of Justice, "which may pursue actions under the False Claims Act," the order states.

Melton said the executive order grouped together different legal standards for advertising and government procurement without distinguishing between the two. Some manufacturers sell products that may satisfy the Buy American Act but not the FTC's requirements, which are far stricter, she added.

"The fact that they're addressing them all in one place just kind of conflates the standards in some ways and can really confuse companies, particularly if they sell to consumers and want to sell to the government," Melton said.

Clock ticking for Exxon to show Massachusetts is hiding something | State AGs & Supreme Courts

 [legalnewsline.com/state-ags-and-supreme-courts/clock-ticking-for-exxon-to-show-massachusetts-is-hiding-something/article_daf0c284-69e8-4e0a-b34d-ac2e3c92b72a.html](https://www.legalnewsline.com/state-ags-and-supreme-courts/clock-ticking-for-exxon-to-show-massachusetts-is-hiding-something/article_daf0c284-69e8-4e0a-b34d-ac2e3c92b72a.html)

John O'Brien, John O'Brien

March 19, 2026

Exxon station
<https://www.exxon.com/>

BOSTON – Exxon has a small chance to show Massachusetts is withholding information related to alleged hypocrisy – that the State sued oil companies over climate change but ignored its own emissions rules.

The case in Boston state court sought public records that were eventually turned over. They showed regulators failed to report the annual greenhouse gas emissions of state vehicle fleets, even as Massachusetts was one of dozens of local and state governments to sue companies like Exxon and Chevron over global warming.

The documents revealed Massachusetts never complied with regulations the Department of Environmental Protection was charged with enforcing under a 2008 law. Those regulations, [detailed in a report](#) by the *CommonWealth Beacon*, require Massachusetts agencies that operate more than 30 vehicles to compile a variety of statistics including CO2 emissions and post the results on a public website.

Turning over those records should have ended the case, Massachusetts argued. But Exxon insists there is more to find, and last week Associate Justice David Deakin allowed limited discovery over 60 days to show there is a reason to think that.

It is necessary to “develop a factual record on the narrow question whether the Department has established that it has made the thorough and diligent search necessary to satisfy the requirements of the public records law,” Deakin wrote.

If Exxon fails, that will end the case, as Deakin dismissed equal-protection claims and found the request for an injunction was mooted by the State turning over its records.

Documents and depositions of state officials show no emissions reports were compiled between 2017, when the regulations went into effect, and 2024, and DEP officials never demanded them. Massachusetts fought the release of the records,

arguing a judge had barred the company from getting evidence from the DEP in a separate, long-running climate lawsuit against Exxon Mobil that is part of nationwide litigation that will be [decided by the U.S. Supreme Court](#).

Then-Attorney General and now-Gov. Maura Healy [sued Exxon Mobil](#) in 2019, claiming the company misled investors and the public by downplaying the risks of global warming and the role its products play in it. Exxon Mobil failed in its bid to dismiss the case on First Amendment grounds and has fought to obtain information from the state including its analysis of how Exxon Mobil's advertising and investor communications compare with other companies.

A fundamental claim in this and other climate suits is that Exxon Mobil misled consumers into burning more gasoline, diesel and natural gas than they otherwise would have, had they known the truth. Exxon Mobil's "deceptive statements and omissions" have "distorted the market for energy products," the lawsuit said.

Massachusetts agencies are one of the biggest consumers of those fuels in the state, and the law requires it to report consumption and greenhouse gas emissions as well as how it is progressing toward a 50% reduction from 1990 levels by 2030. The state's response to Exxon Mobil's public records request suggests no such data exist.

Tesla added to lawsuit over deadly Cybertruck crash, alleged door failures

DJ [dailyjournal.com/articles/390326-tesla-added-to-lawsuit-over-deadly-cybertruck-crash-alleged-door-failures](https://www.dailyjournal.com/articles/390326-tesla-added-to-lawsuit-over-deadly-cybertruck-crash-alleged-door-failures)

Anthony Label, partner at The Veen Firm, LLP, is representing the plaintiff in the lawsuit against Tesla. Credit: Julio Duffoo / Courtesy of The Veen Firm LLP
An attorney for the sole survivor of a fatal Cybertruck crash in Piedmont has added Tesla to a negligence lawsuit, alleging the vehicle's electronic door system failed after impact and trapped occupants inside as the truck caught fire.

"Tesla knew of the serious risk of trapping ... drivers and passengers ... for over a decade," the amended complaint states.

Filed Tuesday in Alameda County Superior Court, the complaint points to federal safety principles emphasizing that vehicles should allow occupants to escape after a crash and alleges the Cybertruck's manual release system falls short when electrical power is lost in collisions. *Miller v. The Estate of Soren Mangseth Dixon, et al.* 25CV135984 (Alameda Super. Ct. Filed Aug. 7, 2025).

The complaint also cites prior incidents involving Tesla vehicles, saying the occupants were unable to escape burning cars, as well as alleged safety complaints and recalls related to the Cybertruck since its 2023 launch.

The Nov. 27, 2024 crash occurred when a Cybertruck struck a tree in Piedmont in the early morning hours. Plaintiff Jordan Miller, who was in the front passenger seat, alleges the vehicle's electronic release buttons failed after impact, trapping him inside as it caught fire.

Miller suffered "catastrophic injuries" as a result, his attorney, Anthony Label, said. He said the firm undertook an investigation and determined that it was "far too difficult for the occupants to figure out how to open the doors in an emergency."

Attorneys for Tesla, Kevin Papay and David Schrader of Morgan, Lewis & Bockius LLP were contacted for comment but did not respond by press time.

Label, a partner at The Veen Firm, LLP, said in a phone interview Wednesday, that Tesla "could remedy this problem now."

"In a crash with a fire the battery shuts down," Label said. "The electrical system goes down, and the doors are primarily operated with buttons with an electrical system. So, when the electrical system goes down there needs to be a way to either for the occupants to escape or the rescuers to get in."

Label claimed that a lack of a physical door handle prevented rescuers from retrieving those trapped in the car and said if there had been one, the responders would have "saved the lives of the kids in the car" and prevented serious injuries for his client.

Tesla's manual for the Cybertruck warns that electronic door buttons may not function if the vehicle loses power, instructing occupants to rely on manual releases instead. But the complaint called the procedure of using the manual release "overly complicated."

Tesla did not respond to a request for comment by press time.

The original complaint named the estates of 19-year-old driver Soren Dixon, who died in the crash, and Charles Patterson -- Dixon's grandfather and the Cybertruck's owner, who died of unrelated causes.

According to the amended complaint, the driver lost control before the vehicle struck a tree and quickly caught fire. Flames rose as high as 10 feet within seconds, the lawsuit alleges, while a friend traveling behind the vehicle rushed to help but could not open the doors.

Miller was ultimately pulled from the wreckage after a bystander smashed a window with a tree branch, the filing states.

The complaint describes extensive injuries, including severe burns, spinal fractures requiring fusion surgery, organ damage requiring partial removal of his colon, and prolonged hospitalization with ventilator support.

The lawsuit seeks unspecified damages and a jury trial.

There are two other pending lawsuits against Dixon's and Patterson's estates and Tesla brought by the families of the two other passengers who died in the crash -- Krysta Tsukahara, 19, and Jack Nelson, aged 20.

Label confirmed that all cases would be consolidated into one case going forward.

james.twomey@dailyjournal.com

California Brief

Tesla Faces Escalated Safety Probe Over 'Full-Self Driving' (1)

March 19, 2026, 6:38 AM PDT

US auto safety regulators escalated an investigation of Tesla Inc.'s partially automated driving system marketed as "Full-Self Driving," citing additional crashes pointing to potential flaws in the technology's ability to handle driving conditions with reduced visibility.

A review of the incidents raised concern that the system fails to detect and warn drivers appropriately when the visibility of the vehicle's cameras is degraded, the National Highway Traffic Safety Administration said in a memo posted to its website. The agency this week upgraded its probe, started in 2024, to what it calls an engineering analysis.

[Read More: Fatal Tesla Crash Shows Dangers of Full Self-Driving](#)

Tesla didn't immediately respond to a request for comment from Bloomberg News.

The move, which could provide the basis for NHTSA to eventually seek a recall, heightens scrutiny of technology that underpins Tesla's future ambitions around autonomous driving and robotaxi operations. Chief Executive Officer Elon Musk has said the automaker's ability to develop autonomous-vehicle technology ultimately will determine whether the company is worth lots of money, or " basically zero."

Tesla's shares fell 2.5% at 9:31 a.m. Thursday in New York. The stock declined 13% this year through Wednesday's close.

The new NHTSA memo disclosing the probe identified nine crashes involving the automated system, up from four when it first began investigating in 2024. In crashes the agency reviewed, "the FSD system did not detect common roadway conditions that impaired its visibility and/or provide alerts when camera performance had deteriorated until immediately before the crash occurred."

NHTSA said Tesla cited company "data and labeling limitations" when seeking to identify additional similar incidents, which the agency said could have led to an under-reporting of crashes during some time periods.

[See Also: Tesla Probed by US Agency Over Reporting Crashes Months Late](#)

The probe also raises questions about the effectiveness of an update Tesla developed to detect and address reduced visibility conditions that Musk cited on a quarterly earnings call last year. NHTSA said its defect investigations office has no information about when the system update was deployed and on which vehicles.

A Tesla review of the nine incidents found that had that update been installed, it would have affected three of those crashes, NHTSA said. The agency also said Tesla's responses revealed additional crashes in which the system "either did not detect a degraded state" or failed to alert the driver with enough time to react.

NHTSA has a number of other ongoing safety investigations involving Tesla vehicles, including probes of the automaker's door handles and incidents in which Tesla vehicles drove through red lights while using Full Self-Driving.

(Updates with opening shares, NHTSA probe details starting in the fifth paragraph.)

To contact the reporter on this story:

Ryan Beene in Washington at rbeene@bloomberg.net

To contact the editor responsible for this story:

Richard Clough at rclough9@bloomberg.net

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

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Why Tesla "Robotaxis" Won't Be Driverless For a Long Time

 bradmunchen.substack.com/p/why-tesla-robotaxis-wont-be-driverless

Motorhead

March 6, 2026



Many Tesla bulls are scratching their heads these days over why Tesla hasn't increased the number of driverless robotaxi rides in Austin, where Musk promised to remove the safety drivers by the end of 2025.

While it's been widely reported that the Austin robotaxi fleet has logged 14 crashes since July over only 820,000 miles traveled (4x less safe than human drivers), little is known about FSD crashes among Tesla owners.

This is because Tesla redacts this data from crash reports, as it's unsavory and would likely put Musk's promises of robotaxis for "half the population by the end of the year" further into question.

This report sifts through the data by using filters from what isn't redacted and finds that FSD used by Tesla owners is becoming increasingly dangerous, not safer than human drivers, as Tesla claims in its safety reports. These are some of the key points:

- **Tesla robotaxi crash data shows that humans are 4x safer:** Data published by the US safety regulator in January showed that human drivers are 3.9x safer than a Tesla "robotaxis" —which have safety drivers in the front seat—while Waymo *driverless* cabs are 4.7x safer than Tesla's robotaxis.
- **FSD crash data is almost as bad and quickly deteriorating:** While Tesla forces US regulators to redact most details in their FSD crash reports, isolating FSD-specific situations shows that Tesla owners—and innocent bystanders—are in even greater danger. **Since July 2021, there've been 28 fatalities and 555 serious injuries related**

to FSD, making it 1.9x more dangerous than human drivers. Ford's Pinto was recalled in 1978 after having 28 deaths from its misplaced gas tank, causing the car to catch fire after getting rear-ended.

- **Musk continues to insist that driverless paid rides have launched:** In most US states, robotaxi permits require data proving that the automated driving system (ADS) meets Level 4 autonomy standards. Tesla has yet to submit such data anywhere, yet Musk and his executives at Tesla keep promoting Tesla's driverless rides in Austin (which are rarely available). Given its track record of being sanctioned for FSD consumer fraud in California last year and its horrible track record of crashes in Austin, it's highly *unlikely* that Tesla can expand paid driverless rides any time soon.
- **Cybercab's start of production in April will be faked:** Since the Cybercab has only 2 seats, and no steering wheel or gas/brake pedals, it must have FSD in order to be functional. Without FSD, Cybercab is useless, but even if FSD were fully autonomous, the Cybercab still can't drive on US roads: its lack of a steering wheel and pedals violates US safety standards. **Many investors are betting that the Cybercab not only launches in April, but that it starts delivering driverless, paid rides. This is close to impossible unless Congress changes the federal safety standards, **and** FSD makes a 20x improvement in reliability.**
- **Regulatory probe weighs heavily on FSD:** Section 5 below has details on how much trouble Tesla is in with the US safety regulator. It began with Tesla stalling crucial FSD crash reports, and is now in a situation where Tesla is being forced to explain 8,313 extra FSD crash incidents that they didn't know existed. If even 25% of these newly discovered 8,313 incidents become verified FSD crashes, it would further skew its safety as being less safe than human drivers. **The probe is poking at the heart of FSD, not the crashes, which could be devastating for Tesla. If Tesla can't prove that its AI *isn't* purposely violating traffic laws, a recall of FSD is unavoidable.**
- **Current valuations can't hold up without driverless robotaxis:** On a sum-of-the-parts basis, Tesla should only be worth \$27 per share, yet its current stock price is \$397. The difference is worth \$1.2 trillion dollars, and it's largely attributed to high hopes of Tesla disrupting the global ride-hailing markets with its low-cost robotaxis. **If there are no signs of increased paid, driverless rides by Q2 results, it's more than likely that the oxygen in this epic bubble begins to seep. Tesla currently trades at an EV/sales ratio of 16x and a negative P/E multiple, versus the auto sector average of 0.47x and 11x, respectively.**
- *This is a data-heavy report with 9 tables, as well as 8 video clips of Teslas on FSD in action.*

Introduction—The \$1.2 Trillion Robotaxi Illusion

Many Wall Street analysts are forecasting Tesla's launch of robotaxis by the end of this year and that they'll gradually scale to high levels by the end of next year. This implies that they're assuming FSD is capable of Level 4 autonomous driving, which public data from NHTSA fully negates.

I've queried one Wall Street analyst about his claims of Tesla being able to scale its robotaxi fleet, and it quickly became clear that he wasn't analyzing the monthly crash data published by the National Highway Traffic Safety Administration (NHTSA). Moreover, he had no knowledge about the complex regulatory landscape, which makes it impossible for Tesla to operate a driverless ride-hailing service without proof of FSD being a Level 4 automated driving system (ADS).

This report is a product of weeks of sifting through reams of (mostly redacted) crash data reported by Tesla to NHTSA. Aside from showing why Tesla's self-driving capabilities are still not safe enough for fully autonomous robotaxis, or for use by Tesla owners, this report also has 8 video clips of dangerous near misses.

Musk knows that Tesla's Full Self-Driving (FSD) technology is a long way off from achieving his endless promises of providing driverless rides for "half the US population". As detailed below, Tesla cars on FSD have led to 28 fatalities and 585 serious injuries. This is why Tesla has yet to scale its driverless robotaxis in Austin, which has 8 "unsupervised" variants, but only 1 is truly in service, and it hasn't been seen for over 2 weeks.

Musk nevertheless continues to inflate the illusion of Tesla's imminent robotaxi launch, promising—for the second straight year—driverless rides for "half the population of the US by the end of the year".

These empty promises are the key reason why Tesla trades at a \$1.4 trillion market cap, when its sum-of-the-parts valuation is only \$94.3 billion, or \$27 per share. Tesla's auto business should only be worth \$14 per share, based on the average 2026 EV/sales multiple of 0.47x in the auto sector, while its Energy division is only worth \$13 per share based on its rivals' 2029 average PER of 15x.

The robotaxi illusion that Musk has created is, therefore, being awarded a \$1.2 trillion valuation, or \$350 per share, *for something that doesn't exist*. This is both preposterous and stupendous, at the same time, and it explains why Musk has gone to such great lengths to keep the dream going (e.g., 2024's Cybercab unveiling on a Hollywood set, 2025's video of a self-delivering Model Y to an Austin customer, and orchestrated "driverless" robotaxi rides in the past 2 months).

But it seems like few investors or blue-chip investment banks like Morgan Stanley have done the research on FSD's crash rate, which shows how half-baked FSD is as an ADS, and how dangerous it would be to allow FSD-driven robotaxis to scale (Tesla only has one operating

driverless robotaxi in Austin, likely only available for Tesla employees or influencers who signed NDAs).

This report shows the unsavory truth behind Musk's highly orchestrated "self-driving" illusion, and is 100% backed-up by data reported by Tesla to NHTSA. This data is the result of a rigorous multi-layered audit of NHTSA's SGO Level 2 ADAS crash reports.

For a complete breakdown of the filtering process used to isolate FSD-specific crashes, see the Appendix at the end of this report, which is divided into the following sections:

Section 1: Musk's "Robotaxi" Dog and Pony Show

Section 2: Behind the Hype: Mounting Robotaxi & FSD Crashes

Section 3: Tesla's Robotaxi Crashes Highlight the Dangers of FSD

Section 4: FSD Crashes Were 70% More Dangerous in 2025

Section 5: The Mounting Regulatory Squeeze on FSD

Section 6: Tesla is 3 to 4 Years Away From Going Driverless

Appendix: Isolating FSD Crashes Among Tesla's Redactions

SECTION 1

Musk's "Robotaxi" Dog and Pony Show

Tesla's stock hit its all-time high of \$492 last December after a couple of its employees uploaded videos of themselves in the back seat of a Tesla robotaxi, with no one driving the car (see Videos 1 and 2 below). Tesla's Head of AI Software, Ashok Alluswamy, tweeted "And so it begins!" which helped pump the stock.

However, aside from some very well-orchestrated PR stunts with Tesla influencers in late January (see Videos 3 and 4 below), there have been few other signs of any "unsupervised" robotaxi rides for the general public in Austin. This is highly odd, given what Musk said on the Q4 2025 earnings call in late January:

"And we're able to do our first rides with no safety monitor in the car in Austin. **These are paid rides.** So these are just sort of randomly selected paid rides with no safety monitor. And I think maybe, as of maybe yesterday or so, we actually don't—we **don't even have a chase car or anything like that.** So these are just cars with no people in them, and no one is following the car in Austin".

Elon Musk on Tesla's Q4 2025 Earnings Call, January 28, 2026

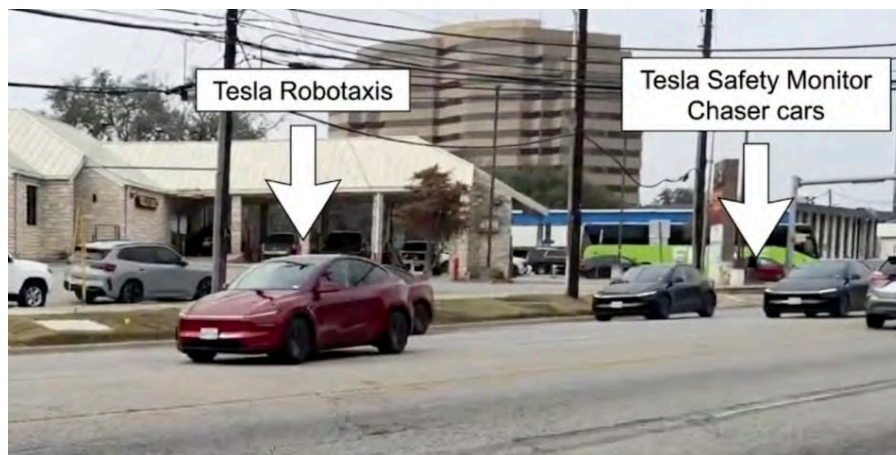
Note that he said these driverless rides were "*paid rides*", which is key, as most states, including Texas, prohibit paid driverless rides unless the robotaxi operator has an automated driving system (ADS) that meets Level 4 self-driving capabilities.

Because Texas is in a transition phase with its new autonomous vehicle (AV) laws, Musk is capitalizing on this grace period with dangerous PR stunts before May 28, when the Texas Department of Motor Vehicles (DMV) can issue AV permits and start enforcing the new laws (see details [here](#)). The first test of whether Tesla's Full Self-Driving (FSD) technology is an actual Level 4 ADS will therefore be around June, when Tesla should have obtained its AV permit from the Texas DMV.

Also note that Musk said Tesla stopped using a "*chase car*" behind its driverless robotaxis as of late January. This is because he sensed that retail investors didn't get that excited after the January videos of a few influencers getting driverless rides because they were followed by chase cars (see Figure 1 below), which isn't exactly "driverless".

Instead of reaching a new all-time high as it did in December after Tesla employees posted their driverless rides on Twitter, Tesla's stock rose only 4% for a day, before dropping by 12% over the following 11 trading days.

Figure 1: Chase Cars With Safety Drivers Gone as of Late January



Source: *Electrek*.

Video 1: A Tesla Model Y in Austin Without a Driver (Dec-14)

Source: *Twitter*.

Video 2: Tesla's AI Chief Rides in a Tesla Robotaxi (Dec-24)

Source: *Twitter*.

And despite Musk's claim that the January driverless rides were "paid rides"—accepting money for unsupervised rides is effectively against new AV laws in Texas—one of the influencers all but admitted that he was tapped by Tesla to participate in the "paid driverless ride" event (see Figure 2).

Figure 2: Tesla Influencers Likely Didn't Pay For Their Rides



Source: Twitter.

Video 3: Tesla Fanboy In a Driverless Robotaxi (Jan-22)

Source: Twitter.

Video 4: Tesla Influencer In a Driverless Robotaxi (Jan-22)

Source: Twitter.

Tesla's "Robotaxi Show" Becomes More Elaborate and Costly

Musk's "robotaxi" dog and pony show started wholeheartedly in October 2024, when Tesla unveiled the Cybercab at an event they called "We Robot" (horrible wordplay on an Asimov classic). From this one-time event at Warner Bros. studios, Tesla launched its much more expensive "robotaxi" production in Austin last June and in the Bay Area last September—all with safety drivers in front.

Currently, there are only 45 robotaxis in Austin, while the Bay Area has a full-fledged Uber-type ride-sharing fleet of 315 Model Ys. At an estimated annual cost of \$150,000 per "robotaxi" (drivers' salaries, data processing, insurance, cleaning, etc.), Musk's dog and pony show is now at a \$55 million annual run rate.

Given that this keeps the stock elevated at excessively rich valuations, this is money well spent. The question is how long the market will award a carmaker in decline such nose-bleed valuations for a "robotaxi" business that doesn't drive itself. Especially if FSD is deteriorating.

Stark Difference Between FSD Perception and Reality

The sections below explain just how severe the recent surge in crashes has been, both among the Austin robotaxi fleet and the Tesla consumer FSD fleet in the US.

The key points, which are based on a deep dive into crash data reported by Tesla to NHTSA, are in stark contrast to what Musk is trying to portray FSD's capabilities as in Videos 1 and 2 above:

- Austin robotaxis are statistically less safe than human drivers:** In last month's ADS crash report from NHTSA, Tesla's Austin robotaxi fleet racked up 4 extra crashes in just 4 weeks since mid-December, 3 of which were in the first 2 weeks of January. *Despite having safety monitors in front, Tesla's robotaxis now have a track record of 1 crash per 58,571 miles (94,261 km), making human drivers 4x safer (see Figure 3 below).*
- FSD crashes have become more dangerous:** The estimated number of crashes by Tesla drivers using FSD only rose by 5% to 398 in 2025, while, adjusted for fleet miles traveled, the figure showed a 47% improvement from 0.17 incidents per million miles (IPMM) in 2024 to 0.09 in 2025. While the blended IPMM is 0.09, this figure is heavily diluted by low-risk highway driving and does not reflect the much higher failure rate in urban environments. *What the regulators are up in arms about, however, is the ratio of fatalities: FSD had 1 death per 36 crashes reported in 2022, which deteriorated to 1 death per 33 crashes in 2025.* This spurred a major NHTSA probe of nearly 3 million Teslas last year, and is likely what's keeping Tesla from doing more driverless robotaxi rides in Texas.
- Heavy regulatory scrutiny of FSD:** While Musk and his fans insist that Tesla has "solved" FSD, an in-depth probe by NHTSA is unearthing more flaws in the system. After forcing Tesla to search their databases with keywords like "Ran Red," "Wrong Way," "Double Yellow", etc., a whopping 8,313 potential incidents turned up (cumulative FSD crashes are only 1,181).
- How Musk's data manipulation got Tesla into hot water:** Tesla is notorious for fudging its Autopilot and FSD "safety" data (famous example [here](#)), and hiding whatever shows that its self-driving software is actually dangerous. This finally caught up to Musk last

August, as NHTSA launched an investigation into Tesla's crash reporting methods, which have been as late as 5 months in reporting FSD crashes involving fatalities. All of this looks bad if you're trying to launch a driverless ride-hailing service.

- **The Cybercab launch is meaningless without FSD:** Musk has hyped the Cybercab—which is so optimized for self-driving that it has no steering wheel or gas/brake pedals—and investors are waiting with bated breath for its scheduled launch next month. But, without FSD, the Cybercab is useless, and even if it had a steering wheel and pedals, few would buy the car, as only sports car connoisseurs buy cars with 2 seats. Moreover, the Texas DMV won't be issuing AV permits until May, so there's a lot of upcoming disappointments for Tesla bulls.

Keep reading with a 7-day free trial

Subscribe to Motorhead to keep reading this post and get 7 days of free access to the full post archives.

[Already a paid subscriber? Sign in](#)

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.

<https://www.wsj.com/business/autos/tesla-faces-expanded-u-s-probe-over-self-driving-performance-in-poor-weather-f3378bb6>

BUSINESS • AUTOS

Tesla Faces Expanded U.S. Probe Over Self-Driving Performance in Poor Weather

The probe covers about 3.2 million Tesla vehicles

By Ryan Felton [Follow](#)

Updated March 19, 2026 7:36 am ET



A Tesla Model 3 with self-driving supervised software. MIKE BLAKE/REUTERS

Quick Summary

- The National Highway Traffic Safety Administration escalated its probe into Tesla's Full Self-Driving system, citing concerns about its ability to handle poor visibility conditions.
- [View more](#)

Federal safety regulators are sharpening their focus on Tesla's

TSLA **-2.96%** ▼ automated driving-assistance system, after raising concerns about the technology's ability to handle poor roadway conditions.

The National Highway Traffic Safety Administration said Thursday that it was escalating a probe of the system, known as Full Self-Driving (Supervised), which controls driving and steering functions but requires drivers to continuously monitor the road.

NHTSA identified several crashes, including one fatal, where Full Self-Driving failed to alert drivers appropriately about reduced-visibility conditions, such as sun glare, fog or airborne dust. The probe originally began in 2024 to examine whether the system can appropriately respond in those scenarios.

NHTSA said Thursday it was escalating the investigation to an “engineering analysis,” a more involved examination of a potential safety defect that could result in a recall campaign or other enforcement action.

Tesla didn’t immediately respond to a request for comment.

The probe represents the latest effort by NHTSA to examine Full Self-Driving. It also comes one month before Tesla is expected to launch production of a driverless robotaxi called the Cybercab, without traditional controls like a steering wheel or pedals. The vehicle is designed to be driven autonomously by the Full Self-Driving system. Tesla has said the Cybercab would be used as an autonomous taxi and sold to the general public, and it has described the growth of fully autonomous vehicles as key to its shift beyond being a traditional carmaker into an artificial-intelligence and robotics powerhouse.

NHTSA, the top U.S. auto-safety regulator, has spent years examining Tesla’s automated-driving technology. The agency is also scrutinizing similar systems from Tesla’s competitors.

So-called automated driver-assistance systems like Full Self-Driving require drivers to remain attentive to the road at all times and resume control of the

vehicle if prompted. NHTSA has spent years examining whether drivers are sufficiently warned if the system disengages.

For Tesla, NHTSA is particularly focused on the company's unique design of Full Self-Driving, which relies on cameras and a "vision-based" setup.

Unlike fully autonomous robotaxis from companies like Alphabet-owned Waymo, or similar driver-assistance systems from burgeoning competitors, Tesla doesn't use radar or lidar, a light-based system that allows cars to "see" a fuller picture of the world around them.

When Tesla transitioned away from using both cameras and radars to the vision-based system in mid-2021, the automaker developed and implemented a "degradation detection system" that it deployed through a software update to existing and new vehicles, NHTSA said.

Tesla began developing an update to that system in June 2024, the regulator said, but as of now, NHTSA doesn't know whether the vehicles received the system.

In the filing Thursday, NHTSA said that incident data the agency reviewed raises concerns that the degradation detection system, both as originally deployed and later updated, fails to detect poor visibility conditions and warn the driver appropriately.

In crashes that NHTSA reviewed, the system didn't detect "common" roadway conditions that impaired visibility and didn't provide alerts to the driver until immediately before a collision occurred. In each of these cases, Full Self-Driving "also lost track of or never detected" a vehicle in front of the system's path.

NHTSA's probe covers about 3.2 million vehicles and includes all models equipped with Full Self-Driving, such as certain versions of Model 3, Y, X and S, as well as the Cybertruck. NHTSA said it would gather additional

information about the degradation detection system and analyze a half-dozen potentially related incidents.

Watch: 2024 WSJ Investigation on Autopilot Data That Show Why Teslas Crash

Ryan Felton is a reporter for The Wall Street Journal covering the automotive industry from the newspaper's Detroit bureau. His reporting focuses on auto safety, the National Highway Traffic Safety Administration and the global carmaker Stellantis....

Follow



Videos

Analysis | **Judges**

Judges Discuss Using Neutrals to Drive Litigation Forward at Berkeley Gathering

At the Academy of Court-Appointed Neutrals annual meeting in Berkeley, California, last week, judges described a variety of ways they employed neutrals that went well beyond mediated settlement discussions.

March 18, 2026 at 03:44 PM By  **Ross Todd**



Judge Yvonne Gonzalez Rogers, (L) and Judge James Donato, (R) U.S. District Court for the Northern District of California. Photos: ALM

*We hope you enjoy this excerpt from **Litigation Daily**, the exclusive source for sharp commentary on mega court battles, winning strategies and the issues that obsess elite litigators. [Law.com](#) subscribers can sign up for The AmLaw Litigation Daily newsletter [here](#).*

Before attending [the annual meeting](#) of the Academy of Court-Appointed Neutrals, or ACA, on the UC Berkeley campus last week, I primarily associated the words “court-appointed neutral” with settlement masters and mediators. But sitting in on a handful of panel discussions over the course of Thursday and Friday, I was able to hear a variety of creative ways judges are employing neutrals to drive the cases in front of them toward more just solutions.

U.S. District **Judge James Donato** of the Northern District of California described how he appointed an independent expert under Rule 706 in [*Epic Games v. Google*](#), the antitrust case where the maker of Fortnite accused Google of monopolizing the Android app store through anti-competitive and exclusionary conduct. After a jury sided with Epic, Donato entered a sweeping injunction aimed at Google's anticompetitive conduct. That injunction survived intact after appeal. But the parties cut their own deal modifying the terms in a deal that still required sign-off from Donato.

"So, two mortal enemies who had spent five years ripping each other's guts out of my court were now coming in arm in arm, saying, 'Okay, here's our deal,'" Donato said. In his view, the new deal proposal undercut a lot of what he had determined was necessary to save the marketplace from Google's anticompetitive conduct. And the parties, now coming to court together as a team, put forward one expert to testify backing the proposal.

"I was left with no opposing side, nobody to challenge, nobody to critique, nobody to give me some alternative views," Donato said. "So, I hired my own. And that's what Rule 706 lets the courts do."

"It is a grossly underutilized, super powerful tool," Donato said.

U.S. District **Judge Yvonne Gonzalez Rogers**, Donato's colleague on the Northern District bench who oversaw Epic's parallel challenge to the Apple App store model, spoke alongside him. She pointed out that the situation Donato faced in the Google case—formerly adverse parties putting forward one joint expert—was somewhat unique. She said she generally thinks that any court-appointed expert, especially one in economics, comes to the court with a certain perspective, ideology or school of thought. "You have yet just one more expert who isn't really helping you tease out what the two experts for each side or the experts for each side are arguing about," she said. While she tends not to lean on independent experts, she will have the experts come in together to try to get them in dialogue to find their points of agreement and disagreement.

Instead, Rogers said she has used special masters to hash out attorney-client privilege disputes and to decide evidentiary issues in complex commercial disputes where the parties are itching to get to trial quickly. "Lawyers like to fight about everything," Rogers said. In one particular case, she said she forced the parties to hire a retired judge to deal with all evidentiary issues in the months leading up to trial and to agree to be bound by that judge's decisions. "I'm happy to live with that decision, and you're happy to live with it, and we get to the actual trial," she said.

U.S. District **Judge Robin Rosenberg**, the current director of the Federal Judicial Center, the educational and research arm of the federal judiciary, spoke in conversation with the agency's former director **Jeremey Fogel**, who himself is a retired judge with experience on the Northern California state and federal bench. Although they spent a good portion of their conversation

discussing opportunities the center might have to inform new and mid-career judges about potential roles for neutrals in court proceedings, Rosenberg also detailed her own use of a special master while on the bench in the Southern District of Florida.

In [the multidistrict litigation](#) formed in the wake of the involuntary recall of heartburn medication ranitidine, including the Zantac brand, Rosenberg used a special master for a series of assignments. She received the case in early February, and by March 2020, she had appointed the special master, who was initially tasked with establishing a registry to keep track of parties with potential claims who had not yet filed claims of their own in the MDL. The special master initially worked with an outside vendor to host the census data and was the primary point of contact for the parties for everything pertaining to it. The master would regularly report to the court on information from the census, including average age, types of alleged injuries and state-by-state summaries. The special master also managed the public Zoom video stream during hearings, which largely took part during COVID-related restrictions to public access.

Later in the process, with the agreement of the parties, Rosenberg had the special master play a role in discovery disputes, with the parties bringing the special master disputes they couldn't resolve themselves. "Only if the special master was unable to facilitate an amicable resolution of the dispute would the parties bring the dispute before the court," Rosenberg said. "For the first year of the two-year case, I actually never had a discovery dispute. So, it was rather effective."

But as the case progressed toward potential trials, Rosenberg loosened those requirements so that disputes could be surfaced to her more quickly.

"Everybody agrees that how you begin an MDL is so important: how you educate the judge, how you get the lawyers to come together, how you inform the judge so he or she can make the right decision whether to appoint a neutral and when to appoint a neutral," she said. "From the very beginning of the case, the parties are going to have to talk about it. It doesn't mean they lock themselves into a position ... but it means it's on the table to discuss."

Contributing editor Kat Black [wrote earlier this month](#) about how Los Angeles Superior Court Presiding **Judge Sergio Tapia II** has embraced mediation to help manage backlogs at the nation's largest state trial court. Tapia spoke at the ACAN meeting last week about a couple of ways the court is planning to tap neutrals to help with the court's large docket of cases involving self-represented litigants, including a collaboration with the Mayor's Fund for Los Angeles to use neutrals in eviction proceedings, where the court sees about 40,000 cases per year. Tapia is set to sign a general order that will in essence stay all eviction proceedings in downtown Los Angeles for a 60-day period, so that the parties can go through a process where neutrals will try to settle the matter prior to the matter proceeding to trial. The Mayor's Fund is paying for neutrals, many of

them former judges, to act as mediators. “We think this will save time. It could potentially allow individuals to remain housed,” said Tapia, noting that the average case involves less than \$6,000.

“The neutrals are basically helping find resolution, which will, on the one hand, keep people housed, but at the same time, make landlords whole,” Tapia said. He noted that one of the biggest issues faced by landlords in LA County is that they have to wait to get their eviction served and heard, spend a lot of money, but ultimately don’t receive any back rent. “Our program is actually intended to do two things—to keep people housed under this fund, but at the same time make sure that payments get to landlords quickly.”

U.S. District Judge **Judith Levy** of the Eastern District of Michigan also spoke about using neutrals to provide better access to justice. She discussed the work **Deborah Greenspan** of **Blank Rome** has done as a special master in the litigation over lead contamination in the water supply in Flint to help ensure procedural fairness. Greenspan, who moderated the panel that Tapia and Levy spoke on, has overseen more than a thousand hearings with claimants in the Flint case, with many concerning the documentation they need to provide to show they have valid claims.

Levy said the hearings that play out in front of Greenspan as special master, often with litigants representing themselves, end up sounding much more like “conversations” than they would if held in her courtroom. “Having several neutrals in the case has given me communication that I just couldn’t have because of the prohibition on ex parte communication with the parties,” Levy said.

“As much as I love the Rules of Evidence and the Rules of Civil Procedure, they don’t really allow for a free exchange to take place very easily,” Levy said. She said that the hearings that Greenspan holds in the community get the word out that the process itself is fair.

Added Greenspan: “One of the good things that happens in the hearings is we explain what you need to submit. If there’s something that we really do need, and they say, ‘I never understood that. I can get that to you tomorrow’ ... that happens frequently.”

Page printed from: <https://www.law.com/therecorder/2026/03/18/judges-discuss-using-neutrals-to-drive-litigation-forward-at-berkeley-gathering/print/>

NOT FOR REPRINT

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

Securities

Column

Paul Weiss Deal With Trump Haunts Legal Industry One Year Later

March 19, 2026, 2:04 AM PDT

Welcome back to the Big Law Business column . I'm Roy Strom, and today we look at the fallout from Paul Weiss' deal with the Trump administration one year after it was reached. Sign up for Business & Practice , a free morning newsletter from Bloomberg Law. Programming Note: Big Law Business will be off next week.

A year after Paul Weiss Chairman Brad Karp shuttled to the White House to strike a deal with President Donald Trump, the fallout is still shaking the law firm, the legal profession, and the president's agenda in court.

The Paul Weiss deal announced March 20, 2025 offered \$40 million in legal services to the administration and served as a blueprint for eight other firms who would later pledge \$900 million.

The agreement weakened Paul Weiss' reputation in the market in the year since. The legal profession is struggling to backfill pro bono work that the largest law firms used to take on. And the Trump administration losses against four law firms that challenged the orders have proven to be a bellwether of how judges can curtail the president's retribution streak.

Trump has insisted that his Justice Department continue to fight the four rulings against his law firm orders. Still, he has moved on in the sense that he has not targeted a law firm since the judges acted.

"Even without further executive orders, if what already occurred is enough to cause the biggest firms to be afraid to do what they used to do, that is not a good thing for our country," said Shira Scheindlin, a former Manhattan federal judge who's now at Boies Schiller. Scheindlin is part of a group advocating that lawyers sign an ethics pledge preventing them from entering into deals with the administration.

Paul Weiss' reputation arguably has been the hardest hit of any of the nine law firms that struck accords with the administration, partly because of the notoriety of being the first to settle.

The agreement also sat discordantly with the profession's elevated view of the firm and Karp—providing a greater height from which to fall.

Karp had previously positioned his firm and himself as a bulwark against Trump. He rallied more than 30 Big Law leaders in 2018 to the cause of reuniting immigrant children who had been separated from their families under Trump's border policy.

"Paul Weiss had a reputation as a firm that stood up for civil liberties and took on tough cases and had principles, and that reputation is really tarnished," said Elliot Peters, a partner at San Francisco-based Keker Van Nest & Peters. "A lot of good lawyers left some of those firms, they certainly left Paul Weiss. And I hope they feel shame for not standing up for the most basic tenets of our profession."

Karp stepped down from his chair role in February after details emerged about his relationship with sex offender Jeffrey Epstein. The firm did not respond to a request for comment.

Lawyer Moves

Damian Williams, the former US Attorney for the Southern District of New York, left Paul Weiss a little more than two months after the firm struck its deal. Williams joined Jenner & Block, one of the four firms that took Trump to court over executive orders.

Jenner secured a ruling blocking the Trump action. Williams noted at the time that his new firm "doesn't shy away from hard fights—and delivers results that matter."

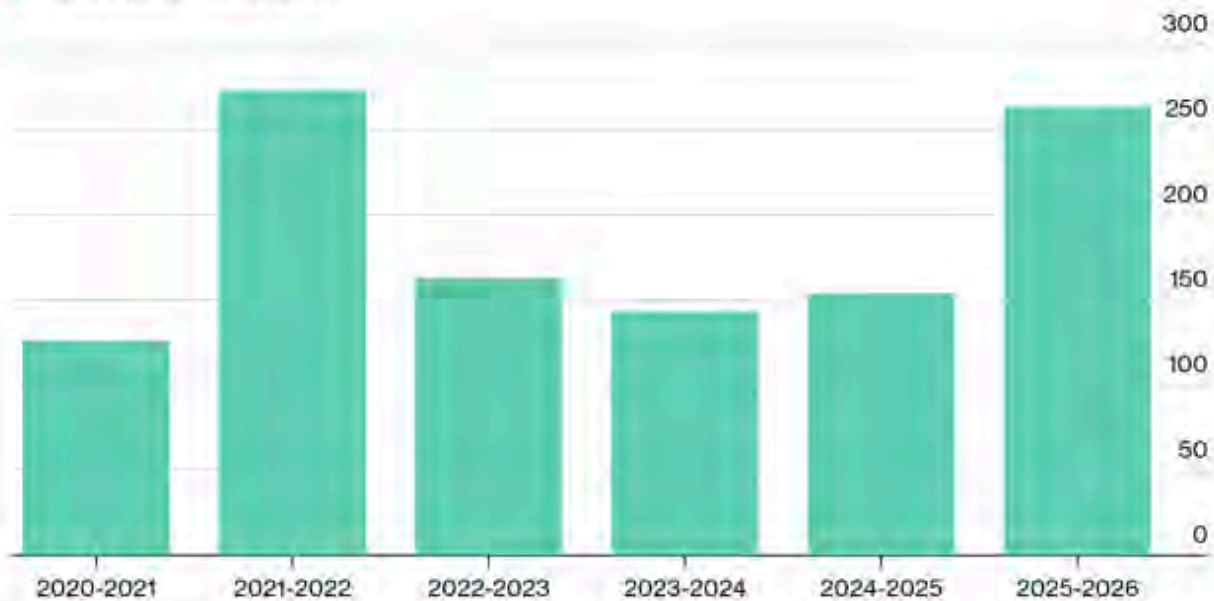
A group of litigators departed to join their own firm in a move widely seen as responsive to the Trump deal—even though those lawyers didn't publicly say so. Less heralded is a surge in associate departures from Paul Weiss, which rose to 224 in the 12 months through this week. That's up from 128 in the previous 12-month period, according to data from SurePoint Legal Insights.

In total, more than 260 lawyers left Paul Weiss over the last year. That's a 70% rise from the previous 12-month period. The firm's total lawyer hires shrunk by roughly a quarter, the data show.

Paul Weiss Lawyer Departures Spike

The law firm saw a 70% spike in lawyer departures in the year after it signed a deal with the Trump administration.

● Total Lawyer Departures



Note: 12-month figures from mid-March each year.

Source: Leopard Solutions

Bloomberg Law

Pro Bono Backfilling

Many Big Law firms have shied away from pro bono causes, particularly involving immigration issues.

A staff lawyer at the National Immigrant Justice Center told a court shortly after the Trump issued the executive orders that large law firms the agency typically partnered with had suspended accepting new matters "due to messaging from the White House."

Others have tried to pick up the slack. Lawyers for Good Government launched the Pro Bono Corps as a direct response to the president's pressure campaign on large firms. About 600 small-firm and solo lawyers have volunteered to take on pro bono cases.

Some large firms are working with the group, but mostly behind the scenes, said Amy Powell, who joined Lawyers for Good Government in August after leaving a 20-year career at the Justice Department.

That support, she said, is even more limited in immigration cases, the context where there is arguably the greatest need. Powell recently visited an immigrant detention center in El Paso, Texas, meeting with people who she said often didn't know why they were there or what was happening in court related to their immigration status.

The group has been working to train lawyers to file habeas petitions challenging an unlawful detention but needs attorneys willing to travel to court in West Texas.

Law firms' collective response "is very different" from how they acted in the wake of Trump's travel ban in his first term, Powell said.

Not all firms have avoided the work. Gibson Dunn has represented a group of immigration legal service providers challenging the government's termination of funding for legal services for unaccompanied minors. Quinn Emanuel represented Kilmar Abrego, the Maryland man wrongly deported to El Salvador.

Retribution Limits

Trump's executive orders against law firms served as an early, obvious example of the president's retribution streak.

While the campaign against Big Law succeeded in chilling many large firms from challenging the administration, it also exposed a weakness that courts have since seized upon.

The executive orders targeting specific law firms were strikingly upfront about why the firms were chosen, expressing personal animus against lawyers who had crossed the president. As a result, judges made straightforward calls that the orders violated First Amendment protections.

Other efforts by the president haven't been as explicitly telegraphed, such as subpoenas issued to Federal Reserve Chair Jerome Powell by the Justice Department, which said it was investigating him for possibly lying under oath to Congress regarding renovation of the Fed's Washington office.

Still, a judge this month quashed the subpoenas, holding they were a pretext to punish Powell for not fulfilling the president's desire to lower interest rates. The judge cited Trump's own language and his previous dismissal of a US Attorney for not carrying out his orders, saying judges are not limited by "naivete from which ordinary citizens are free."

"The executive orders against law firms stated in their text that there was a retaliatory purpose," said Dave McGowan, a professor at the University of San Diego School of Law. "They aren't independently causing judges to rule in different ways in different cases. But because the retaliatory purpose was so transparently declared in each of the orders, they do stand as a strong example that this is the kind of thing the administration is willing to do."

The Road Ahead

The fallout from the Paul Weiss deal and those agreements that followed is not over.

One risk is whether the firms will take a hit in law school recruiting. The Association of American Law Schools this month is starting a six-week "teach-in" to discuss the ethics of the law firm deals. The effort will reach students at schools including Georgetown, Harvard, and Indiana—pipelines for Big Law recruiting.

The firms are likely to fill their classes, McGowan said. Students have debt, and the firms pay good wages. "The fact they can still hire people doesn't mean it wasn't a mistake," he said.

Meanwhile, Democratic lawmakers have been sending letters to firms seeking more information on the deals. While firms have largely ignored those inquiries, the lawmakers could bring subpoena power if Democrats gain the US House majority in November.

Should Paul Weiss require another emissary to Washington, that job may fall to Karp's successor as chairman, Scott Barshay.

Worth Your Time

On Litigation Funding: Big Law is backing away from investor-funded lawsuits, Emily Siegel reports. The 200 largest US law firms accounted for just under a quarter of investors' new case commitments as of June 30 2025, down from 37% in the same period in the previous year, according to a Westfleet Advisors report.

On Vereins: DLA Piper's decision to ditch its Swiss verein structure solves a nagging issue about how partners at the global law firm are compensated for sending work to colleagues elsewhere, Meghan Tribe and I report.

On Law Firm Leaders: Weil Gotshal & Manges' Barry Wolf will hand over the reins to private equity partner Ramona Nee next year, Justin Henry reports. Nee, who has served as a co-managing partner for more than a year, will take over for Wolf as executive partner in January. Meanwhile, I spoke with Mayer Brown leader Jon Van Gorp for Bloomberg Law's On The Merits podcast.

That's it for this week! Thanks for reading and please send me your thoughts, critiques, and tips.

To contact the reporter on this story: Roy Strom in Chicago at rstrom@bloombergindustry.com

To contact the editors responsible for this story: Chris Opfer at copfer@bloombergindustry.com; John Hughes at jhughes@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Securities

Exxon CFO Calls for Safe Harbors to Ease Risk Factor Disclosures

March 18, 2026, 3:09 PM PDT

The SEC should put better safeguards in place for companies facing lawsuits to give corporations the confidence to stop over-disclosing risk factors, Exxon Mobil Corp.'s chief financial officer told the agency Wednesday.

Cutting disclosure requirements is a key part of SEC Chairman Paul Atkins's rulemaking agenda. Exxon highlights a hurdle to that mission: Even if companies were allowed to cut certain disclosures, the threat of litigation still may force the status quo.

Exxon's letter asked the SEC to consider new litigation safe harbors—something Atkins has supported—and change what constitutes “public disclosure.” Since many investors get their company news from websites and interviews, for instance, the agency should consider those methods akin to 10-K annual disclosures, which would reduce the need for longer filings, Chief Financial Officer Neil Hansen said in his letter.

The “risk factors” section of annual financial reports, where companies list concerns that could hurt their business, has become bloated because companies are trying to protect themselves in the face of lawsuits, Hansen said. Fraud class actions often home in on risk factors when alleging companies have hidden hazards from investors.

“Risk factors currently present a clear avenue for registrants to avoid accusations of omitting a fact or statement that could end up part of future litigation even if that risk is not material,” according to Hansen's comments. “It is unsurprising that risk factors would expand over time as real or perceived litigation risks to public companies increase.”

The corporate risk factors section was intended to be a concise discussion of material risks, but now it's “less what keeps managers up at night and more what puts investors to sleep at night,” Stephen Berger, managing director at Citadel, said at the SEC's Investor Advisory Committee meeting March 12.

Instead of company-to-investor communication, risk factors have evolved into disclosures written “by lawyers for other lawyers” as a liability defense tool, he said.

"Many of the suits are not meritorious, but nonetheless you have to deal with the issues," Rick Werner, partner at Haynes and Boone LLP, said at the same SEC committee meeting.

Companies are in a tough spot under the current system, Berger said.

"They don't have the right to remain silent, but anything they say can and will be used against them in court."

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

To contact the editors responsible for this story: Michelle M. Stein at mstein1@bloombergindustry.com; Jeff Harrington at jharrington@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

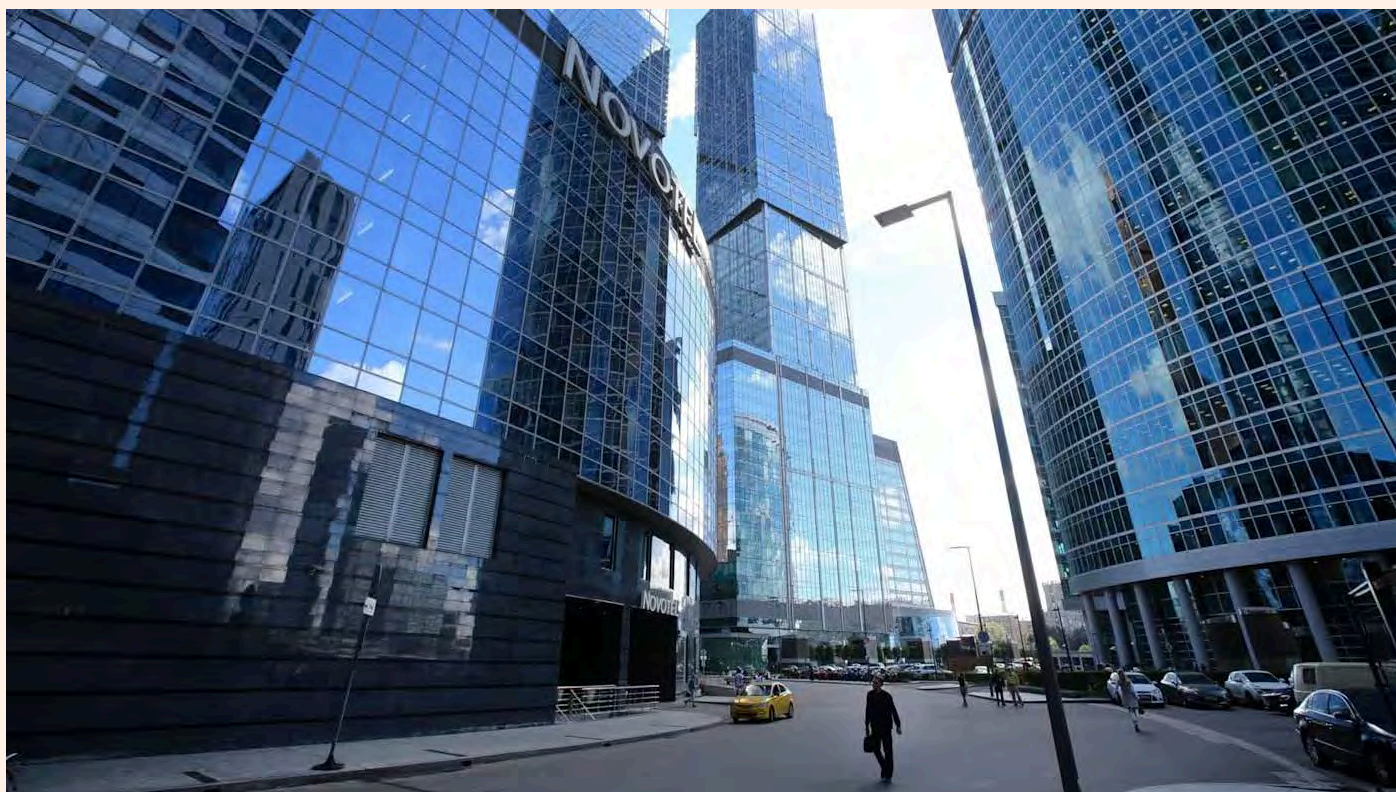
THE BANKERSecure full access for multiple
users in your organisation[Find out more](#)

A service from the Financial Times

FT PROFESSIONAL

Travel & leisure industry**Accor investigates human trafficking claims after short seller attack**

Grizzly Research alleges that dozens of the group's hotels failed to guard against crimes including child sex exploitation



Novotel's Moscow city hotel is part of the Accor group. More than 20 of its hotels are said to have agreed to host Ukraine orphans en route to adoption by Russians © Andrey Rudakov/Bloomberg

Stephanie Stacey in London

Published AN HOUR AGO



French hotel group Accor is investigating claims made by short seller Grizzly Research that it failed to adequately safeguard against potential human trafficking and child sex exploitation.

Grizzly, which holds a short position in Accor shares, claimed in a report published on Thursday that more than 20 Accor hotels agreed to requests to host Ukrainian orphans en route to adoption by Russians.

Additionally the short seller, which said it emailed booking requests to more than 200 Accor hotels since the start of February, said that hotels in 20 countries agreed to take bookings where the request had “heavily” implied child sexual exploitation and abuse.

Shares in Accor — which operates brands including Sofitel, Raffles, Novotel and Mercure — fell 5.9 per cent after the report was published.

The French company said in a statement that it “firmly denies involvement in the alleged systemic exploitation of human or child trafficking.” The hotel group added that it was conducting a “detailed internal investigation” and had hired an external firm to examine the claims.

Accor promised to publish the conclusions of its investigation and said it would “take all appropriate measures and reserve the right to prosecute parties involved in such practices” if any of Grizzly’s allegations were confirmed.

Grizzly said its reservation requests were “engineered to trigger as many human trafficking red flags as possible”. The short seller claimed that around 40 hotels complied with the requests without raising safeguarding concerns — even after it requested champagne, condoms and lubricants for the rooms in some cases.

The report claimed that several Russian hotels which agreed to host Ukrainian orphans assured Grizzly’s investigators that they would not share sensitive information with Accor’s headquarters in France.

Ukraine believes that almost 20,000 Ukrainian children have been illegally taken to Russia and Belarus, which the United Nations considers to be both a crime against humanity and a war crime.

Accor said on Thursday that it trains its staff to detect and combat human trafficking and child exploitation. The company added that it conducts regular audits.

The French group’s policies state that it “does not in any way encourage, organise or profit from human trafficking and is committed to bringing any information related to reprehensible acts in this regard to the attention of the competent authorities.”

Short sellers such as Grizzly profit by borrowing shares and then selling them in the hope that the price will drop so they can buy them back at a cheaper price and then return them to their owner.

In December, the US firm published a report alleging that the online customer review site Trustpilot ran a [‘mafia-style’ operation](#) that pressured businesses into buying subscriptions to boost their ratings.

The report caused Trustpilot’s shares to plummet by nearly a third, but they have since recovered and now trade about 28 per cent higher than before the report was published. Trustpilot rejected Grizzly’s allegations, saying it had fundamentally misunderstood its business model.

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

Follow the topics in this article

Retail & Consumer industry

Travel & leisure industry

Accor SA

Stephanie Stacey

California Brief

States Sue to Stop Nexstar's \$3.5 Billion Deal for Tegna (1)

March 19, 2026, 10:36 AM PDT

A group of state attorneys general are suing to block the \$3.5 billion deal by Nexstar Media Group Inc. for rival Tegna Inc., which would create the largest operator of local broadcasters in the country.

In the lawsuit filed late Wednesday in federal court in Sacramento, California, a group of Democratic law enforcers from states including California, New York and Colorado, argue the deal would give the combined company too much control over television in dozens of markets around the US. The combination would impact the delivery of local news, raise cable prices, and lead to job cuts, they argue.

"This illegal merger threatens local news and could raise fees for consumers by combining hundreds of TV stations under the same owner," said New York Attorney General Letitia James in a statement.

Attorneys general in Connecticut, Illinois, North Carolina, Oregon and Virginia also joined the lawsuit. Satellite television company DirecTV also filed its own lawsuit challenging the deal, saying it will lead to prolonged programming blackouts as the newly enlarged company fights with distributors over fees.

Nexstar and Tegna didn't respond to requests for comment. The shares were down 3.1% and 1.1%, respectively, as of 1:15 p.m. New York time.

If the deal goes through, the combined companies would own 265 full-power TV stations, reaching 80% of US households, according to the states' lawsuit. Federal law bars a local station owner from serving more than 39% of the country. Both Nexstar and Tegna operate stations affiliated with ABC, CBS, NBC and Fox. Nexstar also owns the CW network and NewsNation.

The deal requires approval from US telecom regulator, the Federal Communications Commission, and the Justice Department. The FCC would either have to grant the companies a waiver from the media ownership cap, or lift the cap altogether. President Donald Trump said in a social media post in February that he supports the deal, and FCC Chairman **Brendan Carr** seconded the president's opinion.

In a statement, California Attorney General Rob Bonta expressed concern that Trump and Carr had already decided that the deal should be approved. Anna Gomez, the FCC's lone Democratic member, said in a separate statement that "the FCC must not rubber stamp this unlawful merger behind closed doors."

The White House, the FCC and the Justice Department didn't immediately respond to requests for comment.

Read More: How a Deep State Bureaucrat Became Trump's 'Fake News' Enforcer

Since Trump took office, the FCC has decided to rethink the limits on how large station owners can become. And last July, an appeals court overturned the so-called "top four" rule, which bars a station owner from running two of the four top stations in a single market.

(Updates with Dish lawsuit details, stock prices and FCC commissioner comments.)

--With assistance from Kelcee Griffis.

To contact the reporter on this story:

Josh Sisco in San Francisco at jsisco6@bloomberg.net

To contact the editors responsible for this story:

Sara Forden at sforden@bloomberg.net

Christopher Palmeri

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

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

California Brief

Deep Dive

Dark Money Critics Wield Corporate Law Against Citizens United

March 19, 2026, 2:00 AM PDT

Organizers of a novel movement to banish political dark money using state authority over corporations are making strides toward putting their plan in front of voters for the first time in this year's midterm elections.

Supporters in 23 states are working to advance campaign finance limits rooted in a foundational but overlooked fact of corporate law: Businesses owe their powers to chartering statutes that reserve the right to alter them. The idea is to remove the ability to spend on politics from the law authorizing corporations, trade associations, nonprofits, and other business entities to operate in the first place.

One of the country's least populous places is emerging as a critical test after Montana's top elections official last week gave organizers a green light to start gathering signatures for a voter referendum backed by former Sen. Jon Tester (D) and other state political heavyweights. To the former FEC lawyer behind the initiative, taking the issue directly to the public is a way to bypass a legislative process that can be plagued by inertia and special interest bartering.

"Montana is the main play because you don't have to appeal to labor or the Chamber of Commerce or party leadership," said Tom Moore, now a senior fellow at the Center for American Progress. "People don't like when you take money out of their pockets."

If the "Montana Plan" is successful, Moore and other supporters see it as a model for other states, given the public's generally sour view of the US Supreme Court's 2010 *Citizens United* ruling, which effectively ended campaign finance regulation. It would also trigger immediate legal challenges from opponents who view the strategy as an unconstitutional gambit to limit political speech.

A coalition of industry groups led by the Montana Mining Association has already filed an emergency petition asking the state supreme court to block the measure, offering a potential dry run of the legal battle that will inevitably play out at the nation's highest court if any of the proposals become law.

"Montana cannot condition the privilege of doing business in Montana on the loss of First Amendment rights," the filing said.

State-by-State Approach

Montana voters are being asked to effectively ban organizations from contributing “anything of value” to candidates, political parties, and state or local ballot issues. Any violation of the law, the proposed ballot question says, means “forfeiting all privileges to do business in Montana.”

Lawmakers in 10 other states have introduced bills mirroring the Montana plan since December. The legislation stalled in Virginia this session, but proposals are active in California, Georgia, Maryland, Minnesota, Missouri, New York, Rhode Island, Washington state, and Hawaii, where a version has already cleared one chamber.

There are also about a dozen states where supporters have taken other preliminary steps, unveiling draft bills or starting to organize ballot drives.

Each state’s proposal takes a two-pronged approach: Businesses chartered there would be unable to spend on elections at all, while those chartered elsewhere would be unable to spend in the state. The dynamic means organizers don’t need to win over Delaware, where nearly 70% of the Fortune 500 are incorporated, to have a major impact on campaign finance.

Curbing corporate giving wouldn’t stop ultra-wealthy donors like Elon Musk from throwing their financial weight behind the candidates and ballot measures they support. But, Moore said, blocking them from going through shadowy shell companies would unmask their influence.

“One miracle at a time,” he said.

Citizens United general counsel Michael Boos assailed the plan as a move “to gut free speech rights.”

“Attacks on the freedom of speech have become a top priority for Democrats ever since the *Citizens United* case was decided and will continue as long as the left is losing ground in the marketplace of ideas,” Boos said.

That’s a preview of the attack wave ready to greet the first state proposal across the finish line.

Constitutional scholar Ilya Shapiro predicted the Montana Plan would fare poorly in court, describing it as “too cute” and “a solution in search of a problem.” Shapiro, who has repeatedly defended the *Citizens United* ruling over the years, said the many elections over the last decade and a half that were lost by the better-resourced candidate prove money “is not the be-all, end-all” critics make it out to be.

He cited the “unconstitutional conditions” doctrine—the argument already being made by the trade groups challenging Montana’s referendum—as a promising attack point.

“To enjoy one right that you’re entitled to, the ability to form corporations, you have to give up another, the right to free speech,” he said. “I don’t think this would survive contact with the federal courts.”

The unconstitutional-conditions concept is relatively incoherent in the corporate law context, said Hofstra University law professor Daniel Greenwood. That might make it an attractive option for a Supreme Court where “doctrine doesn’t seem to have the power it once had,” he acknowledged.

“Doing business in a state is a privilege, and usually the court says privileges are not rights,” Greenwood said. “Occasionally they discover some privilege is an unconstitutional condition, and nobody I know understands where that line is.”

Powers vs. Rights

Or the courts could skip that analysis and just determine the initiative directly infringes corporate speech.

That’s the tack suggested by Floyd Abrams, the prominent First Amendment attorney at Cahill Gordon & Reindel LLP who helped win the *Citizens United* case. Abrams said in an email that he views the measure as an unconstitutional end run around the Supreme Court.

There’s “no reason to think that the *Citizens United* ruling would not bar states from imposing the very limits on speech that limit the federal government,” he wrote.

But the distinction between corporate rights and powers is more than a technicality, said University of Pennsylvania law professor Jill Fisch.

The general-purpose corporation we take for granted would have been unrecognizable until the early 20th century, when New Jersey loosened the limits that always defined corporate purpose and power. Other states followed, for competitive rather than legal reasons.

“None of those original limits was viewed as impermissible,” Fisch said.

The principle is embodied in an 1819 opinion by Chief Justice John Marshall declaring that a corporation “possesses only those properties which the charter of its creation confers upon it.”

The ruling prompted every state to pass laws or constitutional amendments—all effectively still on the books—clarifying that chartering statutes can be changed at will.

Those laws would be thrown into doubt by a decision rejecting the Montana plan, according to Greenwood, who said the measure’s best chance is if it’s “very clearly about regulating Montana corporations.”

“A court that wants to intervene has doctrines they can pull on if they want to stretch,” Greenwood said. “But I think even this Supreme Court would have some qualms about saying the First Amendment constitutionalizes corporate law. That’s a big imperial jump.”

Montana Politics

The Montana ground game is being quarterbacked by Jeff Mangan, a former lawmaker and state elections regulator.

The initiative has the backing of several local political VIPs, including ex-governors of both parties and Tester, who lost a close election to a well-funded opponent in 2024. Mangan and Moore are trying to add the measure to a midterm ballot that recently gained an open Senate seat with the last-second withdrawal by Republican incumbent Steve Daines.

Mangan thinks the measure will garner broad support in a state that has a long history of acting against corporate political spending. He cited the passage of 1980s-era lobbying restrictions, the state's Corrupt Practices Act of 1912, and a largely symbolic 2012 referendum directing Montana's officials to oppose *Citizens United*.

First the measure has to win a place on the ballot, which requires roughly 30,000 signatures by June 19. Mangan has also been pushing a parallel initiative that would amend the state's constitution, but that version—which needs twice as many signatures—is currently before Montana's Supreme Court after the state's Republican attorney general rejected it.

Mangan's team is now coordinating across other states, an expansion that dovetails with Moore's hope of using a court win to build momentum.

"The politics is going to shift pretty quickly," Moore said. "This is a strong enough issue to elect people on."

If the campaign moves from the ballot box to the courts, supporters are betting the Supreme Court might think twice about rejecting a popular effort to rein in one of its least-loved precedents, especially if it risked what Moore called a "huge systemic disruption" to corporate law.

"I'm not going to convince this Supreme Court they'd enjoy eating a spider, but I think we can convince them it's better than drinking a glass of cyanide," he said. "That's the day it starts rolling in every other state."

To contact the reporter on this story: Mike Leonard in Washington at mleonard@bloomberglaw.com

To contact the editors responsible for this story: Patrick Ambrosio at PAmbrosio@bloombergindustry.com; Carmen Castro-Pagán at ccastro-pagan@bloomberglaw.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved



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

Investors Backed Off Accounting Suits In 2025, Report Says

By **Jessica Corso**

Law360 (March 18, 2026, 5:53 PM EDT) -- The number of new lawsuits alleging that publicly traded companies committed accounting errors fell to a 20-year low last year, according to a report released by Cornerstone Research on Wednesday.

Cornerstone found that only 34 shareholder class action lawsuits accusing companies of accounting violations were filed in 2025, down from 57 in 2024, and the lowest number of new accounting suits it has counted since the consulting firm began tracking them in 2004.

"In 2025, we saw a shift toward fewer cases but against larger issuer defendants," report co-author and Cornerstone Research principal Sally Bai said in a statement.

The median predislosure market capitalization of the companies sued last year surpassed \$1 billion for the first time since 2022, according to the report.

"This was driven, in part, by accounting case filings involving [artificial intelligence] issues where the median firm size was roughly four times larger than the rest of the accounting case filings," Bai said.

Cases related to AI, cryptocurrency and special purpose acquisition companies made up 24% of all new filings last year, compared with 14% in 2024, according to the report.

Though the report doesn't list individual cases, it said accounting cases can include those that allege a failure to comply with accounting standards, auditing violations or weaknesses in internal controls over financial reporting.

In addition to tracking new complaints, Wednesday's report laid out statistics for settlements in shareholder accounting class actions in 2025. Cornerstone Research found that the number of settlements remained steady at 35 compared with 2024, but that the amount won increased by 40% to total around \$1.5 billion.

That may have had something to do with the amount of time that passed between when the cases were filed and when they were settled, according to report co-author and Cornerstone senior manager Kelly Lancer.

The average time to settle in 2025 was 4.1 years, the longest since 2015.

"Both the total and median settlement values for accounting cases surged in 2025 even as settlement activity held steady, reinforcing the long-standing relationship between litigation duration and settlement size," she said in a statement posted to Cornerstone's website.

"In other words, the longer accounting cases take to settle, the larger the eventual settlement value."

--Editing by Karin Roberts.



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

Kyndryl Hid Cash Management Malpractice, Investor Claims

By **Sydney Price**

Law360 (March 18, 2026, 8:19 PM EDT) -- Information technology services company Kyndryl Holdings Inc. and a current and former executive were hit with a proposed shareholder class action accusing them of misleading investors with representations that the company had sufficient control over its cash management practices.

Since Kyndryl was spun off from IBM in 2021, it has told investors that free cash flow is a "key measure" of the company's financial health, according to the complaint filed on Tuesday by Westchester Putnam Counties Heavy & Highway Laborers Local 60 Benefit Funds. Knowing the importance of the measurement, Kyndryl still concealed that some of its executives were manipulating the free cash flow metric by deferring vendor payments, the suit alleges.

The market learned the extent of the company's alleged mismanagement when Kyndryl announced its now-former Chief Financial Officer David B. Wyshner's **"abrupt" departure** last month, the suit claims. The investor says that after the announcement, Kyndryl's stock price fell by more than half, the second such drop during the proposed class period.

"Kyndryl misleadingly portrayed its reported free cash flow metrics as evidence of the quality and sustainability of its earnings and revenue growth, when in fact the cash generation was dependent on undisclosed and unsustainable cash management practices," the complaint states.

The suit's proposed class period begins Aug. 1, 2024, the day Kyndryl held an earnings call and told investors that it was "committed to delivering significant margin expansion in generating free cash flow growth," according to the complaint.

For the next several months, Kyndryl emphasized its commitment to free cash flow growth and said it was on track to meet its growth goals. For example, on May 7, 2025, Kyndryl announced fiscal year 2026 guidance for adjusted free cash flow of approximately \$550 million, the complaint states. Kyndryl also told investors that day that its 2025 financial results prove the company is on a strong growth trajectory, according to the complaint.

Then, on Aug. 4, 2025, Kyndryl announced free cash flow use of \$222 million in the previous quarter, missing analysts' estimates by \$3 million, according to the suit.

Wyshner downplayed the "significant use of cash" during the period, attributing it to "annual software and incentive compensation payments," the complaint states.

Following the announcement, shares of Kyndryl declined \$7.76 each, or about 21%, to close at \$28.94 on Aug. 5, 2025, according to the suit.

Last month, the truth "fully emerged," the suit alleges, when Kyndryl announced it was unable to file its quarterly financial statement with the U.S. Securities and Exchange Commission. The same day, Kyndryl cut its full-year fiscal 2026 free cash flow guidance to a range between \$325 million and \$375 million and announced the departure of Wyshner and general counsel Edward Sebold.

The suit alleges that analysts were "stunned" by the disclosures, and shares of Kyndryl declined \$12.90 each, or about 54%, to close at \$10.59 on Feb. 9, according to the suit.

On Feb. 17, Kyndryl confirmed to the SEC that its internal financial controls were deficient and that, regarding cash management decisions, there was "a lack of transparency with the Company's Chief Executive Officer, the Audit Committee of the Board of Directors and the Board."

In addition to Wyshner, Kyndryl CEO Martin J. Schroeter is also an individual defendant in the suit. The complaint accuses the defendants of violating the Exchange Act and accuses them of acting with scienter.

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

Westchester Putnam Counties Heavy & Highway Laborers Local 60 Benefit Funds is represented by Marco A. Dueñas, Maya Saxena, Lester R. Hooker and Nicholas Corso of Saxena White PA.

Counsel information for Kyndryl and the individual defendants was not immediately available on Wednesday.

The case is Westchester Putnam Counties Heavy & Highway Laborers Local 60 Benefit Funds v. Kyndryl Holdings Inc. et al., case number 1:26-cv-02211, in the U.S. District Court for the Southern District of New York.

--Editing by Vaqas Asghar.

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



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

Abbott Investors Ink \$40M Deal Over Infant Formula Crisis

By **Emily Field**

Law360 (March 18, 2026, 6:27 PM EDT) -- Shareholders who brought a derivative suit over Abbott Laboratories' management of the 2022 infant formula crisis asked an Illinois judge on Tuesday to approve a settlement that includes \$40 million in investments in food safety and corporate reforms, and \$15.85 million in attorney fees.

The International Brotherhood of Teamsters Local No. 710 Pension Fund and Southeastern Pennsylvania Transportation Authority said that the proposed reforms would address the alleged failures behind the formula recall and the shutdown of the Sturgis, Michigan, plant that produced the powdered formula.

The \$40 million in capital expenditures at the plant would be directed to improving food safety and quality control over the next five years, according to the filing.

"Abbott will commit to enhanced infant formula testing across Abbott's factories," the plaintiffs said. "Consistent with the finished product testing in place at Sturgis, which already exceeds federal regulations, Abbott will commit to the same procedure for all powdered infant formula facilities in the United States."

The case dates to 2019, when the U.S. Food and Drug Administration found a potentially fatal bacterium called *Cronobacter sakazakii* at the plant, according to the investors' complaint. They said other serious violations were uncovered in September 2021, when the FDA said in an inspection form that Abbott failed to keep the building in a sanitary condition and that personnel working directly with the infant formula weren't thoroughly washing their hands.

Another FDA probe in early 2022 found the bacterium at different sites, including on tools placed directly inside infant formula containers, the investors said. They said that in light of the investigation, a related whistleblower complaint with the FDA in October 2021 and reports of infant deaths allegedly linked to the formula, the FDA urged Abbott to conduct a voluntary recall of infant formula products made at the plant.

The recall partly spurred a national shortage, and Abbott entered into a consent decree with the FDA and the U.S. Department of Justice over the plant's operations, according to the filing.

Abbott also agreed in mediation to the \$15.85 million in fees for the lead counsel and expenses, according to the filing.

"Importantly, discussions regarding the payment of attorneys' fees or expenses occurred only after reaching an agreement on the substantive terms of the settlement," the plaintiffs said.

The proposed settlement would strengthen the board of directors' and management's oversight over the company's infant formula manufacturing and is meant to reduce the likelihood that Abbott infant formula will be contaminated with bacteria, according to the filing.

Any infant powdered formula made by Abbott that tests positive for *Cronobacter sakazakii* would be reported to the company's quality and regulatory teams within 48 hours, according to the filing.

Third parties would review any changes to the monitoring plan for the Sturgis plant, according to the

filing, and an external law firm would review the company's procedures for handling complaints.

Last month, U.S. District Judge Sunil R. Harjani granted a request by Abbott Laboratories to pause the suit, allowing written discovery to go on while staying depositions until May.

The judge's order noted that a one-member Special Litigation Committee of Abbott's board of directors wanted to stay proceedings for six months to investigate remaining claims, while the plaintiffs said that the stay should be denied because the lone committee member didn't have independence. The committee argued its request was not just a delay tactic, according to the order.

Representatives for the parties didn't immediately respond to requests for comment on Wednesday.

The investors are represented by Justin O. Reliford, Elizabeth K. Dragovich, Karen Kam, Maxwell R. Huffman, Jing-Li Yu, Melissa May and Geoffrey M. Johnson of Scott + Scott Attorneys at Law LLP, Carol V. Gilden, Richard Speirs, Amy Miller, Steven J. Toll and Molly Bowen of Cohen Milstein Sellers & Toll PLLC, and John A. Kehoe of Kehoe Law Firm PC.

Abbott is represented by Sean Berkowitz and Eric R. Swibel of Latham & Watkins LLP.

The case is In re Abbott Laboratories Infant Formula Shareholder Derivative Litigation, case number 1:22-cv-05513, in the U.S. District Court for the Northern District of Illinois.

--Editing by Nick Siwek.

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



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

Bath & Body Works Suits Consolidated, But No Lead Attys Yet

By **Gina Kim**

Law360 (March 18, 2026, 8:13 PM EDT) -- An Ohio federal judge on Wednesday consolidated two shareholder derivative actions alleging Bath & Body Works Inc.'s current and former top brass downplayed certain growth strategy flops, but he stopped short of handing out lead counsel roles, finding it premature to do so.

In an eight-page order, U.S. District Judge Michael H. Watson granted and denied in part a joint motion to consolidate a pair of related shareholder derivative actions filed by Edward Smith and Jyothiswaroop Jayaprakash.

The investors allege the personal care retail giant's leaders breached their fiduciary duties after Bath & Body Works slashed its financial projections for the year in August 2025 and then acknowledged later that certain strategies to grow its business, like the addition of men's products, hadn't paid off.

Smith filed his derivative action Jan. 30, and Jayaprakash's suit was filed on Feb. 27. Last week, they moved to consolidate their actions and asked the court to appoint Rowley Law PLLC and the Brown Law Firm PC as co-lead counsel. They also wanted the court to appoint Markovits Stock & Demarco LLC and Bronstein Gewirtz & Grossman LLC as co-liaison counsel.

On Wednesday, Judge Watson said he'd hold off on designating co-lead and co-liaison counsel for now, considering there are only two shareholder derivative suits that have been filed thus far.

"Here, the court does not disagree that Rowley Law, MSD Law, and BGG Law have the qualifications and experience to represent plaintiffs litigating on behalf of nominal defendant," the judge said. "Nevertheless, the parties' request for such designation of counsel is premature."

The judge added: "As it stands, there are only two active shareholder derivative cases arising from the individual defendants' conduct — the Smith Action and the Jayaprakash Action — such that the court is not convinced that lead or liaison counsel is necessary to litigate these proceedings."

A third, related action was **filed in January** against Bath & Body Works by investor Muralidhar Reddy Lingam, but that is a securities class action, whereas the instant actions are shareholder derivative complaints, according to a footnote in Judge Watson's order.

"Therefore, insofar as they seek appointment of co-lead and co-liaison counsel, the parties' joint motion ... is denied without prejudice," the order said. "If, in the future, additional related shareholder derivative suits are filed, the parties may renew their appointment request accordingly."

Judge Watson however, agreed to consolidate the Smith and Jayaprakash actions, finding substantial overlap in law and fact between them. Both challenge similar conduct allegedly committed by many of the same company leaders, the judge wrote.

Smith and Jayaprakash's suits also allege nearly the same causes of action against the individual defendants, including for those alleging violations of the Securities Exchange Act of 1934, unjust enrichment, fiduciary duty breaches, gross mismanagement and waste of assets, the order says.

Consolidating both actions is the most efficient manner of resolving the issues and handling discovery in a single case, the judge added. Also, the same counsel seek to represent the shareholders in both

cases, and the same attorneys want to represent the individual and nominal defendants in both cases.

"Both cases were filed within a month of each other, and a case schedule has yet to be entered in either action, so discovery has yet to begin," the judge wrote. "The joint nature of the motion to consolidate further negates any prejudice against the parties."

But Judge Watson declined to sign off on a request by the parties to consolidate any future shareholder derivative suits that will be brought based on the same or substantially the same transactions and events as the ones alleged in the consolidated action.

The parties' joint motion had provided a proposed order for consolidation for each shareholder derivative suit that might be subsequently filed in or removed, reassigned or transferred to the Southern District of Ohio.

"The court will not approve these statements and requirements," Judge Watson's order says. "Should any such similar shareholder derivative action be filed, removed, or transferred in or to the Southern District of Ohio, any party seeking consolidation with the consolidated action shall file an appropriate motion asking that the court do so. To be clear, the subsequent action will not be consolidated automatically by reason of this opinion and order."

According to Jayaprakash's suit, starting in 2024, Bath & Body Works touted its forays into certain "adjacencies" to its core business such as hair, lip and laundry products in addition to men's products. Bath & Body Works said that year it anticipated reaching new customers with the product line expansion and reiterated this in February 2025, saying its growth strategy, including its adjacency products, was "working," according to the suit.

But the company lowered its financial projections in August, including by reducing expected earnings per diluted share for its 2025 fiscal year from \$3.53 to \$3.28, Jayaprakash's suit says. Following that news, Bath & Body Works' share price dropped nearly 7%, from nearly \$32 to just above \$29.

Trading prices dove again in November after company CEO Daniel Heaf said Bath & Body Works would drop its men's grooming products and hair products, telling investors that "we pursued adjacencies to attract new consumers, but that strategy has not delivered the growth we expected, and it reduced focus in investing in our core categories," according to Jayaprakash's suit.

Following those remarks, according to the suit, share prices plunged almost 25%, from over \$21 to under \$16. Jayaprakash also alleges that, during the relevant period, former CEO Gina Boswell, Chief Financial Officer Eva Boratto and board Chair Sarah Nash made improper insider sales of their Bath & Body Works shares that totaled \$3.7 million.

Jayaprakash further claims Bath & Body Works overpaid by over \$321 million as it bought back over 19.5 million shares of its own stock between June 2024 and October 2025 while its shares were artificially inflated in connection with the alleged misrepresentations.

Jayaprakash separately referenced Lingam's suit, which alleges Bath & Body Works investors were hurt by the company's alleged misrepresentation about its growth strategies. Lingam alleges the company revealed late last year that the strategy faltered and was unable to meet previously projected guidance.

Representatives for the defendants did not immediately respond to inquiries seeking comment.

Timothy Brown of The Brown Law Firm PC, one of the attorneys for the plaintiffs investors, said he had no comment on the judge's order.

The plaintiffs are represented by Shane T. Rowley and Danielle Rowland Lindahl of Rowley Law PLLC, Timothy Brown of The Brown Law Firm PC, Terence R. Coates of Markovits Stock & Demarco LLC, Michael J. Boyle of Bronstein Gewirtz & Grossman LLC, and Brian Murray of Brian Murray Law PLLC.

The defendants are represented by Elizabeth L. Moyo, David S. Bloomfield Jr. and Helen M. Fite of Porter Wright Morris & Arthur LLP, and William Savitt and Cynthia Fernandez Lumermann of Wachtell

Lipton Rosen & Katz.

The cases are Edward Smith v. Daniel Heaf et al. and Jyothiswaroop Jayaprakash v. Daniel Heaf et al., case numbers 2:26-cv-00112 and 2:26-cv-00245 respectively, in the U.S. District Court for the Southern District of Ohio.

-Additional reporting by Emilie Ruscoe and Sydney Price. Editing by Amy French.

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



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

SelectQuote Looks To Escape Investors' Kickback Probe Suit

By **Sydney Price**

Law360 (March 18, 2026, 9:28 PM EDT) -- SelectQuote has asked a New York federal judge to dismiss a proposed class action accusing it of harming investors by concealing a kickback scheme, which is currently the subject of a suit by the U.S. Department of Justice, arguing the existence of the government's suit is not enough to show the shareholders were damaged.

In its motion to dismiss, filed Tuesday, SelectQuote says the **investor's complaint** "parrots" the DOJ's action, but doesn't show that the company misled its investors, which, according to SelectQuote, is fatal to the securities litigation. The suit's allegations that SelectQuote did not sufficiently disclose risks are invalid, the company says.

"SelectQuote made repeated and robust disclosures to its investors that explained, in detail, the various mechanisms by which insurance carriers paid SelectQuote and how it marketed to consumers," the motion said.

The shareholder's suit filed last August alleges that for several years, SelectQuote furthered its kickback scheme by, among other things, using "suppression tools" to remove competing insurers from its internal quoting tool for agents to favor insurers that paid kickbacks "without regard for the best interests of beneficiaries."

The investor also points to the government's False Claims Act allegations that the scheme spanned from 2016 through at least 2021, and the government's estimate that SelectQuote had received "tens of millions of dollars" in exchange for its alleged misconduct.

But SelectQuote says its sales practices — which it says involved "pods" to match customers to certain insurance carrier partners — actually "deepened" relationships with its partners and allowed SelectQuote to sell more policies, and that the practices were publicly disclosed.

"SelectQuote described to investors the circumstances when consumers would be sent to a pod, rather than its comparison shopping platform ... explanations of SelectQuote's two business models, and the differences between the two, have been openly disclosed to investors in [U.S. Securities and Exchange Commission] filings since the company went public in 2020 and throughout the class period," the motion said.

According to the government's ongoing complaint, the kickback payments took the form of contracts and invoices for purported marketing or administrative services. The investor suit also alleges the scheme involved discrimination against certain Medicare beneficiaries, such as those who were under 65 and eligible for Medicare based on a disability.

SelectQuote says in its Tuesday motion that the suit does not plead that any defendant, including its CEO Timothy Danker, had motive to commit fraud or knew about the alleged wrongdoing.

"Instead, plaintiff engages in classic group-pleading, generically referring to 'individual defendants' collectively and suggesting that defendants must have known their statements were false by virtue of their executive-level positions and the centrality of the alleged fraud to SelectQuote's core operations," the motion said.

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

The shareholders are represented by Rebecca Dawson, Robert V. Prongay and Charles H. Linehan of Glancy Prongay & Murray LLP and Frank R. Cruz of the Law Offices Of Frank R. Cruz.

SelectQuote and the individual defendants are represented by David B. Anders, Julia M. Bruce and Tala A. Doumani of Wachtell Lipton Rosen & Katz.

The case is Pahlkotter v. SelectQuote Inc. et al., case number 1:25-cv-06620, in the U.S. District Court for the Southern District of New York.

--Editing by Drashti Mehta.

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



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

Southwest Board Beats Suit In First Texas Corporate Law Test

By **Spencer Brewer**

Law360 (March 18, 2026, 10:20 PM EDT) -- A Texas federal judge on Tuesday dismissed a derivative suit claiming that Southwest Airlines Co.'s board of directors breached their fiduciary duties by abandoning the airline's famous "Bags Fly Free" policy, ending a significant challenge to the state's new corporate reform law.

U.S. District Judge Ed Kinkeade wrote that Senate Bill 29, passed into law last year, "serves a significant public interest" to the state and does not violate the Texas Constitution's prohibition against retroactive application of law. The case represented the first significant as-applied challenge to the law's constitutionality in federal court, an expert who backed Southwest as amicus told Law360 in a Wednesday interview.

The law, among other provisions, gave companies the option to set up to a **3% minimum threshold** of ownership before a shareholder can bring a derivative claim. In this case, Judge Kinkeade wrote, Southwest's directors adopted this threshold into its bylaws before shareholder Vladimir Gusinsky brought his suit, and Gusinsky only owns 100 shares, far below the threshold.

"The court finds that SB 29 and the Amended Bylaws do not violate the Texas Constitution's prohibition against retroactivity," Judge Kinkeade wrote. "Plaintiff's as-applied constitutional challenge fails."

Judge Kinkeade granted the directors' motion to dismiss the suit. The Texas Constitution bars laws from applying retroactively, but here, Gusinsky failed to clear that hurdle of proving that the statute is retroactive, Judge Kinkeade wrote.

Gusinsky brought the suit after Southwest's board of directors did away with the free luggage policy, which allowed passengers to check up to two bags without fees. Southwest ended the policy after activist investor Elliott Investment Management LP purchased 11% ownership in the company in 2024 and subsequently **used its newfound weight** to get the company to appoint six new directors, five of whom Elliott selected, according to the opinion.

Gusinsky alleged that Southwest's board breached its fiduciary duty to shareholders by ending the policy and entrenching themselves. In May, the company amended its bylaws to incorporate S.B. 29's 3% ownership threshold to bring derivative suits.

Before filing the suit, Gusinsky sent a demand letter to the board, as required under Texas law. In June, the board refused to act on it, and Gusinsky filed suit.

"Because a derivative proceeding is a lawsuit filed in court, a written demand cannot 'institute' a derivative proceeding," Judge Kinkeade wrote. "Rather, the filing of the derivative lawsuit institutes such proceeding."

A Southwest spokesperson told Law360 in a statement that the court reached the right decision.

"The court's decision affirms legislation passed with overwhelming bipartisan support in both chambers of the Texas Legislature and strongly supports the state's efforts to provide greater certainty for businesses operating in Texas," the company said.

The case validates the constitutionality of S.B. 29, said Christopher Babcock, partner at Foley & Lardner and president of the Alliance for Corporate Excellence. The Alliance for Corporate Excellence is a trade organization that pushed for the law's passage and filed an amicus brief asking the court to uphold the law.

To date, Gusinsky's suit represented the only as-applied challenge to S.B. 29's constitutionality, he said. The law is "pretty clearly constitutional" he said, and he doesn't anticipate that many additional challenges to the law will be filed.

"That's what makes this case so significant, as it really does validate the constitutionality of the law," he said.

A representative for Gusinsky didn't immediately respond to a request for comment Wednesday.

Gusinsky is represented by Benjamin I. Sachs-Michaels, Philip C. Babler and Pavithra Rajesh of Glancy Prongay & Murray LLP and Joe Kendall of Kendall Law Group LLP.

The directors are represented by Michael A. Swartzendruber, Peter A. Stokes and Madison W. Johnson of Norton Rose Fulbright.

The case is Gusinsky v. Reynolds et al, case number 3:25-cv-01816, in the U.S. District Court for the Northern District of Texas.

--Additional reporting by Catherine Marfin and Jade Martinez-Pogue. Editing by Brian Baresch.

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



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

Zuckerberg, Snap CEO Likely Must Testify In School MDL Trial

By **Dorothy Atkins**

Law360 (March 18, 2026, 10:47 PM EDT) -- A California federal judge indicated Wednesday that Meta and Snap's CEOs will likely need to testify in an upcoming school district bellwether trial in the social media addiction multidistrict litigation, and declined Meta's bid to block arbitration demands, saying, "Meta's got plenty of money, go file a motion with the arbitration panel."

U.S. District Judge Yvonne Gonzalez Rogers' comments came during a four-hour hearing on numerous evidentiary motions and pretrial issues ahead of the MDL's first **bellwether trial** over Breathitt County School District's claims, which is to begin with jury selection on June 12 and last six weeks.

The **consolidated** MDL includes personal injury plaintiffs, as well as over 1,000 school districts, **attorneys general** and Native American **tribes** that claim they were forced to spend their limited resources combating kids' mental health crises allegedly caused by the addictive platforms.

During the hearing Wednesday, Meta's counsel, Ashley M. Simonsen of Covington & Burling LLP, said Meta plans to file a motion to exclude Meta CEO Mark Zuckerberg and Snap CEO Evan Spiegel from testifying in part because Zuckerberg recently **testified** in the **first bellwether trial** in parallel state court litigation. However, Judge Gonzalez Rogers doubted that she would grant the request.

"It seems to me, in the first bellwether of a federal MDL, it's appropriate for their testimony," the judge said. "We've got six [bellwether trials] on tap and I don't know that it would be appropriate for [the CEOs to testify] in all six, but to me, the first trial is an appropriate benchmark."

Judge Gonzalez Rogers also refused Meta's request to bar arbitration demands from being filed in light of a recent **wave of filings**.

"In terms of telling the arbitration panel what to do, that's denied," Judge Gonzalez Rogers said. "Meta's got plenty of money, go file a motion with the arbitration panel. You've got tons of private judges working over there, I don't have jurisdiction over anything."

Simonsen replied that Meta merely wants the court to order plaintiffs to withdraw their arbitration demands until a process is established to resolve conflicting representations, but the judge said bluntly, "I'm not going to do that."

"People have the right to arbitrate if they want to arbitrate," Judge Gonzalez Rogers said.

The judge added that if the arbitration panel wants to address Meta's concerns it can issue a ruling, but the arbitration demands are "purely a function of the fact that you have an arbitration provision in your terms."

With regard to the evidentiary disputes, the judge mostly denied the motions, although she granted some requests under narrow conditions.

Among the motions that were denied, Judge Gonzalez Rogers refused the defendants' request to bar witnesses from using "addiction" and "compulsive use" during trial. The judge said those are common words in the English language that people use on a daily basis, and even if they have technical definitions, it's up to counsel to "flesh that out" during trial.

Judge Gonzalez Rogers also **denied** the defendants' request to exclude evidence protected under Section 230 of the Communications Decency Act and the First Amendment, which has been a key defense argument throughout the litigation.

"I just can't grant this motion, it's way too overbroad," the judge said. "But I do understand you have to preserve [the argument]."

Judge Gonzalez Rogers also said defendants cannot hold "mini trials" and "re-litigate" unrelated issues from MDLs over opioid addiction and Juul Labs Inc. e-cigarettes. Defense counsel clarified that they don't plan on mentioning the MDLs, and they only want to argue e-cigarettes and opioid addiction are alternative sources that plaintiffs' counsel have claimed harmed students.

Similarly, the judge said she won't allow "mini trials" over European investigations. However, she said, that doesn't mean that the defendants can exclude evidence that shows those investigations notified them of specific problems with their platforms at a specific time and then failed to address them.

Judge Gonzalez Rogers also said she'll likely bar the defendants from mentioning certain criminal misconduct by school teachers and administrators, since the misconduct at issue occurred over a decade ago and is "too attenuated" from the claims at issue.

Aside from the motions, Judge Gonzalez Rogers told counsel she won't yet decide plaintiffs' **anticipated request for sanctions** against Meta for downgrading 73,841 documents off privilege logs months after fact discovery. The parties need to take their dispute to the magistrate judge first, the judge said.

Meta and the plaintiffs also argued over whether Meta disclosed a new witness too late to replace a Meta employee who is testifying in multiple other cases this year. The judge suggested Meta could decide whether the initial witness is available since Meta is her employer, but Meta's counsel argued that requiring her to testify would impose a burden. The argument didn't sway the judge.

"There are lots of burdens on all of us," the judge replied. "After these trials you're welcome to settle all of [the cases], and then you won't have a problem."

Judge Gonzalez Rogers added that she plans to impanel an advisory jury to decide the attorneys' general claims in the second bellwether expected to begin in August, even though Meta **withdrew** its request for a jury. The judge noted that circuit courts are less likely to overturn jury findings, and she panned a suggestion from Meta's counsel that a bench trial would be more efficient.

"Not for me," the judge said. "That's the problem ... [Bench trials] create huge issues for everybody else."

Judge Gonzalez Rogers said after she presided over the **Epic v. Apple**  **bench trial**, hundreds of other cases on her docket were stalled for months so she could issue a **decision**. Throughout the hearing, the judge repeatedly warned counsel not to waste her time and she noted that she's presiding over the  **Musk v. OpenAI**  trial that **begins in April**.

When plaintiffs' counsel suggested that Musk's case could settle, which may allow them to push up their trial date, the judge replied plainly, "it won't."

The states were represented during the hearing by Megan O'Neill of the California Department of Justice and Krista Batchelder of the Colorado Department of Law.

The other personal injury plaintiffs and school district plaintiffs were represented during the hearing by Khaldoun A. Baghdadi of Walkup Melodia Kelly & Schoenberger, by Lexi J. Hazam, Kelly K. McNabb and Nicholas W. Lee of Lieff Cabraser Heimann & Bernstein LLP, by Previn Warren and Abigail Burman of Motley Rice LLC, by Andre Michel Mura and Hanne Jensen of Gibbs Mura LLP, by Sarah Nicole Emery of Hendy Johnson Vaughn Emery PSC and by Michael M. Weinkowitz of Levin Sedran & Berman LLP.

Meta was represented during the hearing by Ashley M. Simonsen of Covington & Burling LLP and by James P. Rouhandeh of Davis Polk & Wardwell LLP.

TikTok was represented during the hearing by Geoffrey M. Drake and David P. Mattern of King & Spalding LLP.

Snap was represented during the hearing by Jonathan H. Blavin, L. Ashley Aull and Victoria A. Degtyareva of Munger Tolles & Olson LLP.

YouTube LLC and Google LLC were represented during the hearing by Ashley W. Hardin of Williams & Connolly LLP.

The federal bellwether case is *Breathitt County School District by and through the Breathitt County Board of Education v. Meta Platforms Inc. et al.*, case number 4:23-cv-01804, and the MDL is *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, case number 4:22-md-03047, both in the U.S. District Court for the Northern District of California.

The state bellwether case is *P.F. et al. v. Meta Platforms Inc. et al.*, case number 23SMCV03371, and the Judicial Council Coordination Proceedings case is *Social Media Cases*, case number JCCP5255 and lead case number 22STCV21355, all in the Superior Court of the State of California, County of Los Angeles.

--Editing by Leah Bennett.

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



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

Meta Coverage Ruling Could Erode Broad Duty To Defend

By **Cort Malone and Jamie O'Neill** (March 19, 2026, 1:21 PM EDT)

The Delaware Superior Court's Feb. 27 **ruling** in Hartford Casualty Insurance Co. v. Instagram LLC represents a significant and potentially troubling decision for policyholders. The court determined that a group of insurance companies have no duty to defend Meta Platforms Inc., the company behind Facebook and Instagram, against thousands of lawsuits alleging that its platforms were designed to be addictive to children.

In the underlying actions, the complaints allege that Meta designed its platforms to maximize user engagement by purposefully exploiting the psychological vulnerabilities of children and teenagers. Specifically, the plaintiffs allege that Meta built addictive features into its platforms with the goal of attracting and addicting young people. This was allegedly done through the engineering of the platform's algorithm in the delivery of content.

Most of the complaints were filed on behalf of children who used Meta's platforms, alleging that those design choices cause physical or emotional harm, such as depression, eating disorders, and/or self-harm. Another large portion of the complaints were filed by local governments and school districts seeking recovery for the resources that they have had to expend to combat the mental health crisis currently facing young people due to social media.

The court, applying California law, concluded that the allegations in the underlying complaints described "strictly deliberate" business decisions rather than a covered accident or occurrence. The decision seemingly reinforces a narrow interpretation of coverage that leaves policyholders vulnerable even when facing claims explicitly labeled as negligence.

To reach this conclusion, the court applied California's established two-step test to determine if an event qualifies as an accident: (1) whether the underlying complaints allege anything other than strictly deliberate conduct; and (2) if not, whether the complaints nonetheless identify some additional, unexpected, independent and unforeseen happening that may have produced the damage.

As to the first element, the court found that Meta's intentional design and implementation of features to maximize engagement were deliberate acts. The court rejected the argument that the presence of negligence causes of action in the underlying actions triggered a duty to defend. By looking past the literal legal "labels" to the factual conduct alleged, the court held that when a negligence claim arises from intentional conduct, such as voluntary business decisions, the conduct remains strictly deliberate.

The court thus found no accident in the intentional design of the social media platform.

In coming to this decision, the court relied on California cases — like the U.S. Court of Appeals for the Ninth Circuit's 2024 ruling in AIU Insurance Co. v. McKesson Corp. and the California Court of Appeal, Fourth Appellate District's 2017 decision in Travelers Property Casualty Co. of America v. Actavis Inc. — where courts ruled that pharmaceutical companies intentionally "flooding the market" with opioids were engaging in strictly deliberate conduct. In those cases, the courts found that widespread



Cort Malone



Jamie O'Neill

addiction and death were direct, foreseeable results of the marketing campaigns, not "accidents" (regardless of any negligence theories).

Similarly, the court drew parallels to last year's U.S. District Court for the Central District of California decision in *James River Insurance Co. v. SureFire*, a case where a gun accessory manufacturer faced negligence claims following a mass shooting. There, the court found the manufacturer's marketing decisions were deliberate, meaning the shooting was not an "unforeseen happening" that could restore coverage.

Turning to the second analytical step, the court addressed whether an "unforeseen happening" occurred that could restore coverage for Meta's deliberate design choices. Meta argued that because its platforms host user-generated content, the harmful nature of that content constituted an independent, intervening event outside its control.

The court rejected this third-party content argument, determining that the creation and consumption of such content was the "functional and intended result" of Meta's platforms. Because the platforms were engineered to maximize engagement through the algorithmic delivery of this content, the court found the resulting exposure was a "predictable result" rather than a fortuitous or unforeseen happening.

Ultimately, the court concluded that the alleged injuries, including addiction and self-harm, were not the result of "mere fortuity" but were instead consequences of Meta's business model.

This decision is potentially problematic for policyholders because it erodes the otherwise typically broad interpretation of insurance companies' duty to defend. However, the Meta decision ultimately may be limited to its unique facts, which led to the court's atypical decision.

The court decided to ignore negligence claims and allegations in the complaints when such allegations are tied to business decisions and objectives including maximizing user engagement. By disregarding the specific negligence allegations, the court suggested that even if a policyholder builds a product negligently with no intent to cause harm, the deliberate nature of the design process itself may bar coverage.

This implies that unintended results (the core of insurance) may be excluded in certain situations if the business decisions leading to them were intentional. But it is uncertain whether this decision will apply to business decisions outside the context of products that encourage online user engagement.

The unique nature of the Meta decision is demonstrated further by the court's reasoning that since Meta engineered its platforms specifically to "maximize engagement" through its algorithm, it was not "mere fortuity" that those same platforms caused the alleged harms — self-harm and addiction. But this reasoning is also problematic because if a product achieves its intended business goal — such as keeping users engaged — any negative side effect directly tied to that goal potentially can be characterized as a foreseeable outcome of a deliberate business plan.

In the court's view, Meta's "functional and intended result" was the consumption of content, making any injury arising from that consumption a direct causal consequence of Meta's business model rather than a fortuitous event. By focusing on this aspect, the court was able to bypass Meta's subjective intent to avoid harm, holding that an "accident" refers to the nature of the act itself (the design choices) rather than the intent to cause injury.

On March 6, Meta filed a motion for reargument that has since been opposed by the insurance company plaintiffs. The court has not yet ruled on the motion.

While the actual precedential value of the decision remains to be seen, the ruling serves as a warning that a policyholder's own business decisions — such as efforts to maximize online user engagement — can be weaponized by insurance companies to deny a duty to defend under the "deliberate act" framework.

Cort T. Malone is a shareholder and co-chair of the biometric liability insurance recovery group at

Anderson Kill.

Jamie O'Neill is an attorney at the firm.

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

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