

Investors seek class status in suit over Disney+ growth

2026 CORPGDBRF 1348 • By Andrew Allard

Westlaw Corporate Governance Daily Briefing • March 23, 2026

(March 23, 2026) - Five shareholders of the Walt Disney Co. have asked a California federal court to certify a class of investors alleging the company misled them about expected subscriber growth for its Disney+ streaming service.

Local 272 Labor-Management Pension Fund v. Walt Disney Co. et al., No. 23-cv-3661, *motion for class certification filed* (C.D. Cal. Mar. 19, 2026).

The lead plaintiffs — four pension funds and an individual — filed a motion March 19 in the U.S. District Court for the Central District of California, seeking to represent a class of shareholders who purchased Disney stock between Dec. 10, 2020, and May 10, 2023.

The proposed class meets certification requirements under [Federal Rule of Civil Procedure 23\(b\)](#) because common factual and legal questions predominate over issues pertaining to individual class members, the motion says.

Former CEOs Robert Chapek and Robert Iger, former Chief Financial Officer Christine M. McCarthy and former Chairman of Media and Entertainment Distribution Kareem Daniel are also defendants in the suit.

'Unattainable' target

According to the suit, filed in May 2023, Disney announced at its December 2020 Investor Day that it was quadrupling its subscriber target for Disney+ to an "unattainable" 230 million to 260 million by 2024.

The company intended to impress Wall Street and keep its stock price elevated during the pandemic while its theme park and movie businesses were suffering, the complaint says.

A former Disney executive called the subscriber target "batshit crazy," according to the suit.

The defendants chased subscriber growth through aggressive promotions and other "unsustainable" tactics and falsely assured investors that Disney was on track to meet or achieve the 2024 target, the suit says.

But their strategy led to a \$1.47 billion quarterly operating loss in the company's streaming division in 2022 and \$2.4 billion in impairment charges in 2023, the suit says.

The suit brings claims for scheme liability under Section 10(b) of the Securities Exchange Act of 1934, [15 U.S.C.A. § 78j\(b\)](#) and Rules 10b-5(a) and (c), [17 C.F.R. § 240.10b-5\(a\) and \(c\)](#). Iger and McCarthy also violated Section 20A of the Exchange Act, [15 U.S.C.A. § 78t-1](#), which prohibits insider trading, the suit says.

U.S. District Judge Consuelo Bland Marshall mostly denied a motion to dismiss in February 2025 and a motion for judgment on the pleadings in May, but she dismissed the scheme liability claims against Iger.

Certification sought

In their motion, the investors argue that they satisfy all the requirements for class certification under [Federal Rule of Civil Procedure 23](#).

The proposed class meets the numerosity requirement, as millions of shares trade weekly on the New York Stock Exchange, indicating potentially thousands of affected investors, the motion says.

The commonality and typicality requirements are also met because all class members were harmed by the same fraudulent scheme and misleading statements, according to the motion.

The investors also assert that they are entitled to a fraud-on-the-market presumption of reliance laid out by the Supreme Court in [Basic Inc. v. Levinson](#), 485 U.S. 224 (1988).

Under *Basic*, courts presume that in an efficient market, a company's stock price reflects all public information, including misrepresentations.

The investors say their expert conducted an event study that demonstrates market efficiency by showing Disney's share price moved in response to company news during the class period.

The defendants' response to the class certification motion is due April 30.

Daniel S. Drosman of [Robbins Geller Rudman & Dowd LLP](#) represents the investors. Jonathan D. Polkes of [White & Case LLP](#) represents the defendants.

By Andrew Allard

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Article: Disney investors ask court to fix 'manifest error' in discovery fight [2026 SECDBRF 0334](#)

Date: Jan. 23, 2026

Five shareholders of the Walt Disney Co. are urging a California federal judge to reconsider a ruling that partially denied their discovery request in a securities fraud lawsuit related to the Disney + streaming service.

End of Document

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Attorney profiles

[Daniel S. Drosman](#) and Ryan A. Llorens; [Robbins Geller Rudman & Dowd LLP](#) for Plaintiffs
[Jonathan D. Polkes](#) and Stacey Nettleton; [White & Case LLP](#) for Defendants

Companies

The Walt Disney Co.

Securities

Chinese Small-Business Platform Lufax Sued Over Profit Reporting

March 23, 2026, 3:27 PM PDT

Lufax Holding Ltd. overstated its net profit for 2022 and 2023 and misled the public about its financial reporting controls, a US investor in the financial services company says in a proposed class action.

A recently released annual report for 2024 included restated net profit figures for the two years in question following a re-audit, Kam Wai Mau says in a complaint filed March 21 in the US District Court for the Central District of California.

The company, based in Shanghai and incorporated in the Cayman Islands, disclosed more than a year earlier that it was firing PriceWaterhouseCoopers over the auditor's concerns about related-party transactions, according to the complaint.

Following that disclosure, Lufax's American Depositary Share price dropped over three days in late January 2025, closing at \$2.26 per ADS on Jan. 29, 2025. The shares are a way for US residents to invest in companies that trade on foreign exchanges.

Lufax provides financing and technology services to small businesses in China, according to its website.

The proposed class consists of hundreds or thousands of members, the complaint estimates.

The suit seeks damages on securities fraud claims.

Lufax didn't immediately respond to an emailed request for comment.

The Rosen Law Firm PA represents Mau.

The case is Mau v. Lufax Holding Ltd. , C.D. Cal., No. 2:26-cv-03071, complaint 3/21/26 .

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Securities

Auditor Marcum, AI Platform's Leaders Stop Investor Revenue Suit

March 23, 2026, 1:44 PM PDT

iLearningEngines Inc. investors can't proceed with a proposed class action against the now-defunct artificial intelligence company's leadership and auditor Marcum LLP over revenue accounting, a federal court ruled.

The investors' claims of a stock drop due to revelations in a Hindenburg Research short-seller report fail because the information in the report was already public, Judge Deborah K. Chasanow said March 20 for the US District Court for the District of Maryland.

The investors also didn't adequately allege misleading omissions about iLearning's relationship with a partner company, misrepresentations about its revenue, fraudulent intent by its leaders, and other issues, Chasanow said in dismissing the suit with finality.

The investors alleged iLearning characterized the unnamed "technology partner" as unrelated in public filings, but that the Hindenburg report identified it as Experion Technologies FZ LLC, a company partially owned by the brother of an iLearning manager, with other crossover relationships to iLearning leadership.

iLearning engaged in "circular" transactions with Experion, which was both its customer and vendor, and used those transactions to overreport revenue from its Indian market by 99%, the investors said.

But Chasanow said Experion didn't meet the definition of a related party under accounting standards. And the investors didn't show an improper circular, or "round-tripping," revenue scheme, she said. "Given the apparent substance to both legs of these transactions, the happenstance that the values of these services roughly coincided does not mean that they washed each other out," she said.

Claims against the executives, directors, and Marcum over a securities offering after iLearning went public through a merger with a special purpose acquisition company fail because the plaintiffs lack statutory standing to sue, as well as because they failed to adequately plead material omissions or misrepresentations, the judge said.

iLearning filed for Chapter 11 bankruptcy, and later for liquidation under Chapter 7, in the US Bankruptcy Court for the District of Delaware. It's no longer a defendant in the investor suit for that reason.

A parallel derivative suit in the District of Maryland was paused due to the bankruptcy.

Levi & Korinsky LLP was lead counsel for the investors. Jones Day represented Marcum LLP. Counsel for the individual defendants included Miller & Chevalier Chartered, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC, and Paul Hastings LLP.

The case is Leveque v. iLearningEngines, Inc. , 2026 BL 96221, D. Md., No. 8:24-cv-02900, 3/20/26 .

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Securities

Manage Newsletters

Barclays Defeats Investors' Appeal Over Reverse-Split Notes

March 24, 2026, 9:22 AM PDT

Summary by Bloomberg AI

AI Generated



- The US Court of Appeals for the Second Circuit said the investors didn't acquire the volatility-linked ETNs in a "sale" subject to certain securities law provisions.
- The appellate panel said the investors didn't "lose, or gain, anything" when their VXX ETNs underwent a reverse split, as they simply traded in four ETNs for one ETN worth the same amount.
- The Second Circuit agreed with Barclays that the split wasn't a sale, sparing it from claims that it sold unregistered securities under Section 12 of the Securities Act.

Barclays PLC prevailed Tuesday against investors who say they can't sell their exchange-traded notes and appealed to the Second Circuit to get their money back.

The investors didn't acquire the volatility-linked ETNs in a "sale" subject to certain securities law provisions, the US Court of Appeals for the Second Circuit said. At issue was whether the noteholders gave up any value when their VXX ETNs underwent a 4:1 reverse split.

When Barclays exercised its right to split the ETNs, the investors didn't "lose, or gain, anything: they simply traded in four ETNs for one ETN worth the same amount," the appellate panel said in an unsigned opinion addressing issues of first impression. Even "the most skilled verbal manipulation cannot transform such an involuntary and immaterial swap into a 'sale,'" it said.

The suit—like many others—stems from Barclays Bank PLC's 2022 discovery of an over-issuance problem, in which it inadvertently sold about \$17.7 billion in unregistered securities. The over-issuance occurred after Barclays Bank lost its "well-known seasoned issuer" status for shelf registrations with the Securities and Exchange Commission that make offerings less onerous and time consuming.

Barclays made a rescission offer for certain notes, but allegedly withheld the deal from these noteholders because they purchased VXX ETNs in the secondary market and the 2021 reverse split wasn't a securities sale.

Judge Lewis J. Liman of the US District Court for the Southern District of New York dismissed the case, and the noteholders appealed.

The investors said in their brief seeking to revive their suit that Barclays itself had characterized the split as a sale at the time. While not every reverse split is a sale for purposes of securities laws, this particular one—which involved debt instruments rather than common stock—was, they argued.

At oral argument March 16, an attorney for Barclays said the reverse split “merely modified the denomination” of the notes. And even if it “somehow” was a sale, the investors didn’t show damages, he said.

The Second Circuit agreed with Barclays that the split wasn’t a sale, sparing it from claims that it sold unregistered securities under Section 12 of the Securities Act without reaching the damages question. It additionally held the investors lack standing to pursue claims for misrepresentations in a registration statement under Section 11 because they can’t trace their shares to that document.

Judges John M. Walker Jr., Richard J. Sullivan, and Joseph F. Bianco served on the panel.

Sbaiti & Co. PLLC represented the investors. Sullivan & Cromwell LLP represented Barclays.

The case is Knapp v. Barclays PLC, 2d Cir., No. 25-1631, 3/24/26 .

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Musk verdict highlights novel securities fraud theory tied to tweets

DJ [dailyjournal.com/articles/390381-musk-verdict-highlights-novel-securities-fraud-theory-tied-to-tweets](https://www.dailyjournal.com/articles/390381-musk-verdict-highlights-novel-securities-fraud-theory-tied-to-tweets)

The San Francisco federal jury's securities fraud finding against Elon Musk rests on an unusually "creative" theory that could expand how courts view liability tied to public statements during corporate deals.

According to Michael G. Freedman, a Los Angeles attorney who specializes in white-collar defense, the case stands out for stretching traditional fraud concepts beyond typical misrepresentation claims tied to completed transactions.

"A lot of that, I think, is just unique to Elon Musk, but it also raised questions about any time that companies are involved in transactions," Freedman said in a phone interview Monday. "It definitely, under the plaintiffs' theory, is a pretty broad notion of what securities fraud is. It sort of begs the question of what can you say about an ongoing transaction that wouldn't fit this theory?"

On Friday, the jury found Musk liable for securities fraud over two social media posts he made during his 2022 acquisition of Twitter, including one saying the deal was "temporarily on hold" due to the prevalence of fake accounts on the platform. The company's stock fell by nearly 10% that day.

The jury did not, however, find Musk liable under the plaintiffs' claim he made the posts to deliberately tank the stock price. Musk testified that he did not intend his posts to affect the market. *Giuseppe Pampena v. Elon R. Musk*, 3:22-cv-05937 (N.D. Cal., filed Oct. 10, 2022).

Monte L. Mann, a partner at Armstrong Teasdale LLP, commented that the verdict signals that even deal-related commentary could carry legal risk. An amount that could reach \$2.6 billion, based on the plaintiffs' damages expert's calculations, would be distributed on a claim-by-claim basis unless Musk's attorneys succeed in their promised appeal.

"Going forward, this will have a real chilling effect. Executives and dealmakers will need to think carefully about how public statements can be interpreted--not just as disclosure, but as part of the negotiation itself," Mann said in an email.

Freedman added that such cases are rarely pursued by regulators because proving fraud tied to a failed or shifting transaction is typically difficult, underscoring how atypical the theory behind the verdict may be.

"There's always a reason why deals don't go through so trying to get into the intent or the potential falsity of that reason is where I think it gets tricky," Freedman said.

This case, however, had the signature "creativity" of a plaintiffs' firm that isn't typically seen in cases brought by the federal government, Freedman said.

"When it's a plaintiffs' firm as compared to the SEC or the DOJ, it's not surprising to see more novel theories, more creativity," Freedman said.

However, Mann said that the novelty of the case was that it revolved around social media posts, but otherwise, it relied on established securities law.

"The law has always prohibited misleading statements. What's new is the scale and speed. When one person can move billions with a tweet, the consequences of those statements are amplified--and juries are starting to take that seriously."

The verdict represented a step in understanding how the law applies to "modern dealmaking," Mann said.

"We're watching the law try to catch up to how deals actually get done today," Mann said.

The case marked a rare verdict in a private securities case, which typically don't make it to trial. Freedman said that's largely because the amount of front-end litigation involved in securities lawsuits means they settle at a high rate.

"Lots of securities litigation cases, if they survive a motion to dismiss given all the litigation that goes into that on the front end ... that's one reason why it's more rare for them to go to trial," Freedman said.

Freedman said the way plaintiffs calculate damages could also be interesting and potentially bring further litigation. Freedman said arriving at the \$2.6 billion number could prove complicated.

"It's tied to specific statements at specific points in time, and now they're going to have to backdoor in who was damaged based on those particular dates" that the investors sold their stock, Freedman said. "I know the plaintiffs' lawyers were

saying it could be billions of dollars, but it seems a little messy to figure that out."

Freedman said he was surprised the jury found liability on the false statement claim while still siding with Musk against the claim that he carried out a scheme to renegotiate the deal. Freedman expects Musk's team to focus on that in its appeal.

"The other thing that's interesting in the case is he was not found liable for the securities fraud scheme," Freedman said. "I would imagine that's going to be a very interesting issue for appeal, because, which one is it? In a criminal case charging securities fraud or an SEC case, they're sort of inseparable. So, the fact that they didn't really think the whole thing was some pervasive scheme but there were specific statements or conduct that was [fraud] seems a little inconsistent."

A similar class action was brought against Musk over statements he made in connection to his ownership stake in Tesla, but he was found not liable by a jury in 2023.

While many implications of the case were unique to Musk, Freedman said he could picture plaintiffs' firms taking a closer look at executives' social media use going forward and it could potentially lead to copycat lawsuits.

"I could imagine plaintiffs' lawyers starting to look for similar types of people who are tweeting stuff online," Freedman said.

#390381

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Twitter Buyout Jury Decision Could Leave Elon Musk On The Hook For \$2.6B

A abovethelaw.com/2026/03/twitter-buyout-jury-decision-could-leave-elon-musk-on-the-hook-for-2-6b

Chris Williams

March 23, 2026

(Photo by Nathan Laine/Bloomberg via Getty Images)

Elon Musk, [perpetual proof that money can't unlame you](#), took a loss in court last week. Nowadays, it is easy to say that his purchase of the company formerly (and currently) known as Twitter at an above-market cost so he could make a 420 joke [in the hopes that his then girlfriend would find it funny](#) was dumb. It was easy to say so back then too, but I digress. A lawsuit alleging that Musk misled Twitter investors resolved after years of litigation. And while the jury did find that he was not guilty of a greater fraud scheme, the outcome was not entirely in his favor. [CNBC](#) has coverage:

A jury in California found that [Elon Musk](#) defrauded Twitter shareholders during the runup to his \$44 billion acquisition of the social media company, according to a verdict issued on Friday.

Total damages could reach up to \$2.6 billion, attorneys for the plaintiffs said.

The class action lawsuit, Pampena v. Musk, was originally filed in October 2022, after Musk completed his purchase of Twitter for \$54.20 per share.

...

"This is a great example of what you cannot do to the average investor — people that have 401ks, kids, pension funds, teachers, firemen, nurses," Joseph Cotchett, an attorney for the Twitter investors, told CNBC at the San Francisco courthouse.

Considering he was [clocked at over ~\\$800B last month](#), they could round up the damages to a nice \$3B (perhaps to make his ex laugh) and it would still be a rounding error compared to his hoarded wealth. To be frank, daily fluctuations in the market will probably have a bigger outcome than this decision — [Bloomberg's current valuation of him at \\$641B](#) reads less like "This guy lost ~\$160B in a month!" and more like "Hey, we all have rough Mondays." And before any poindexters respond, "Well actually most of the wealth is locked in stock so it isn't liquid," he could just *sell some of his shares*. Plenty of people have had to do

things like sell their homes to pay off legal fees; there's no use in pretending that liquefying your assets becomes some huge burden once you become rich. Further, it would make for a nice full circle moment given that .

Represented by Quinn Emanuel, Musk intends to appeal the verdict. And good on them. If there's a guy you should be cranking billable hours out of, it's this guy.

[Elon Musk Misled Twitter Investors Ahead Of \\$44 Billion acquisition, Jury Says](#)
[CNBC]

[By LexisNexis](#)

Chris Williams became a social media manager and assistant editor for Above the Law in June 2021. Prior to joining the staff, he moonlighted as a minor Memelord™ in the Facebook group Law School Memes for Edgy T14s . He endured Missouri long enough to graduate from Washington University in St. Louis School of Law. He is a former boat builder who is learning to swim and is interested in rhetoric, Spinozists and humor. Getting back in to cycling wouldn't hurt either. You can reach him by email at cwilliams@abovethelaw.com and by tweet at [@WritesForRent](https://twitter.com/WritesForRent).

March 2026 Reincorporation Update | Business Law Prof Blog

 [businesslawprofessors.com/2026/03/march-2026-reincorporation-update](https://www.businesslawprofessors.com/2026/03/march-2026-reincorporation-update)

Benjamin P. Edwards

March 23, 2026



Picking back up after [February's post](#), I've got an updated list looking at movement between states so far this year in preparation for a panel at KPMG's Board Leadership Conference this week. This list has grown with another five

companies announcing attempts to shift their incorporation jurisdiction since the last update. Some thoughts on the announced moves after the list as well, infographics, and quick note about my new [Senior Of Counsel](#) role.

Company Name	Stock Ticker	Origination State	Destination State
1. TruGolf	TRUG	Delaware	Nevada
2. Forian, Inc.	FORA	Delaware	Maryland
3. LQR House	YHC	Nevada	Delaware
4. CBAK Energy	CBAT	Nevada	Cayman Islands
5. Cheetah Net	CTNT	North Carolina	Delaware
6. Galecto	GLTO	Delaware	Cayman Islands
7. Resolute Holdings Management, Inc.	RHLD	Delaware	Nevada
8. Forward Industries, INC	FWDI	New York	Texas
9. EQV Ventures Acquisition	FTW	Cayman Islands	Delaware
10. Datadog, Inc.	DDOG	Delaware	Nevada
11. Haymaker Acquisition Corp 4	HYAC	Cayman Islands	Delaware
12. CDT Equity	CDT	Delaware	Cayman Islands
13. eXp World Holdings	EXPI	Delaware	Texas
14. ArcBest Corp	ARCB	Delaware	Texas
15. Texas Capital Bancshares	TCBI	Delaware	Texas

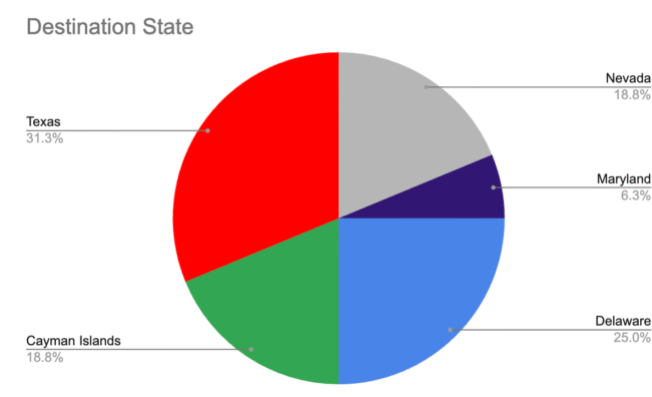
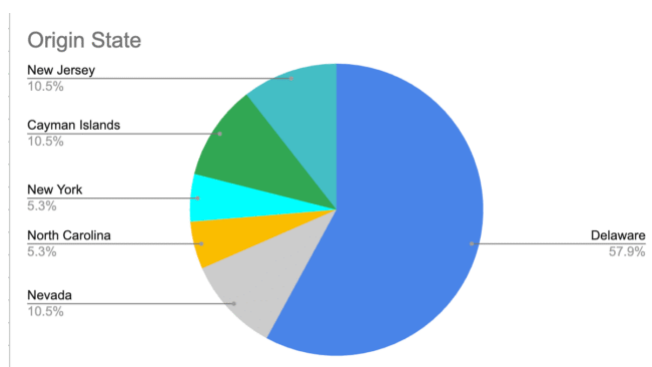
16. ExxonMobil Corp.	XOM	New Jersey	Texas
17. NL Industries	NL	New Jersey	Delaware
18. ClearOne Inc	CLRO	Delaware	Nevada
19. Liberty Media Corporation	FWONA, FWONB, FWONK	Delaware	Nevada

This is the current iteration of the [spreadsheet](#). It's a work in progress but has links to filings and more information that we're tracking.

Infographics

We've got some updated infographics as well.

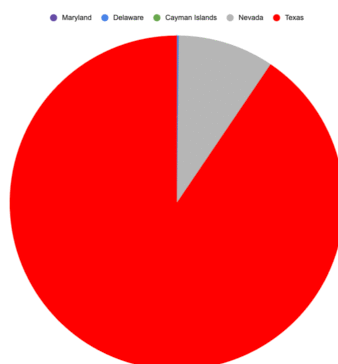
Origin & Destination States



Market Capitalization By State

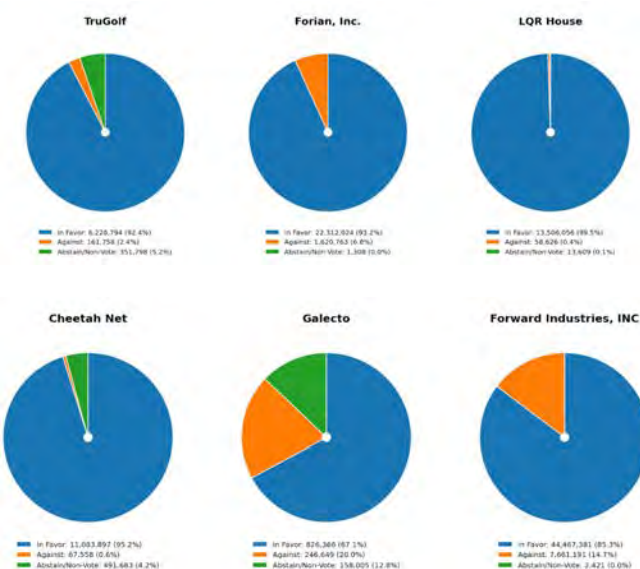
Having Exxon in the mix dramatically shifts the market capitalization picture, but this is the current breakdown.

Market Cap By Destination State

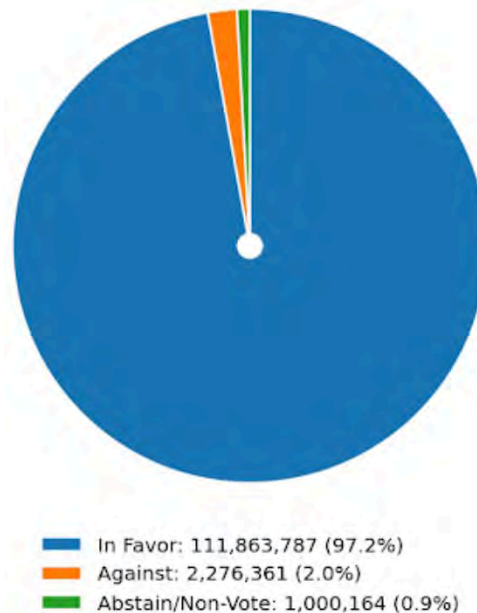


Vote Results

Many thanks again to research assistants Ethan Viator and Hunter Hawkins for giving us charts showing voting results so far at different companies.



EQV Ventures Acquisition



Part of the reason for doing these infographics around vote results is to make it easier to see if there are significant voting differences depending on the destination jurisdiction. Both LQR House and EQV Ventures had Delaware as the target jurisdiction and attracted little opposition. I think that reflects a lot of institutional investor comfort with Delaware as a default still.

LQR House's New Franchise Tax Fees

LQR House winning the vote to shift to Delaware doesn't mean that it's an optimal business decision. This is how [it described](#) the possible fees it might incur in Delaware upon approval of the move:

Delaware imposes annual franchise tax fees on all corporations incorporated in Delaware. The annual fee ranges from a nominal fee to a maximum of \$180,000, based on an equation of the number of shares authorized and outstanding and the net assets of the corporation. Based on our current capital structure and anticipated number of outstanding shares following the effect of one or more Reverse Stock Splits, our annual Delaware franchise tax could be significant, and may be substantially higher than our current Nevada fees.

Golly, this sits in tension with the Delaware's [own guidance](#) that says fees go up to \$200,000 for companies that do not qualify as Large Corporate Filers. For them it caps out at \$250,000. LQR House's shiny new [Delaware charter](#) now authorizes it

to issue "an aggregate of 2,000,000,000 shares of capital stock, which shall consist of: (i) 1,500,000,000 shares of common stock, \$0.0001 par value per share ('Common Stock'); and (ii) 500,000,000 blank check preferred stock \$0.0001 par value per share ('Blank Check Preferred Stock')." I'm not a Delaware lawyer, but my rough calculation is that under either method, LQR House will now pay \$200,000 annually to Delaware.

Hopefully it pays on time because Delaware charges \$200 and 1.5% interest for each month the payment is late.

Exxon

Exxon stands out as significant here, proposing to shift from New Jersey to Texas. It's attracted some commentary already. Ann [covered it](#) for the blog. We also have a recent [Bloomberg](#) OpEd from [Christina Sautter](#). [Tony Rickey](#) also [addressed](#) the move and offered thoughts in response to Sautter's view.

One common discussion point around it is that Exxon has not included a threshold for bringing shareholder derivative claims as part of the proposed move but also has not *committed* to not adopt such a provision in the future. Texas now allows companies to set an ownership threshold of up to 3% of the stock as a requirement for bringing a derivative claim. The Texas provision recently [survived a challenge](#) when Southwest added a 3% threshold via a bylaw amendment after it adopted the provision after receiving a stockholder's demand.

How should stockholders think about the possibility that Exxon will add such a provision in the future? Here, views will vary. Some stockholders might worry that they could lose their ability to bring a claim without assembling a broader coalition. Other stockholders might prefer that Exxon have an easy way to tidily dispose of lawsuits that dissipate corporate assets and that are not supported by a meaningful block of shareholders. They might be glad that Exxon has kept its options open and not committed to *never* adopt such a provision without amending its charter. The business environment changes and Exxon preserved its flexibility. It's not hard to imagine that wars, changing climate conditions, or other developments might create conditions where Exxon could face more stockholder litigation.

My concern is that these issues are often discussed in a one-sided way where any restriction on stockholders' ability to bring claims gets decried as muzzling stockholders or taking away investor protections. But there is another side to the

coin that low-value lawsuits may do more harm than good by distracting management, dissipating corporate funds on attorney fees, and driving insurance premiums up. It's a tradeoff.

The optional up-to-3%-threshold operates as a filtering mechanism. A good filter will screen out low-utility claims and allow stockholders to go to court when there has been a problem that needs to be addressed. I don't know whether the optional Texas filter gets the calibration right, but we can watch it over time and see how it works out.

New Role & Disclaimer

Last week, Wilson Sonsini [announced](#) that I had joined them as Senior Of Counsel in the firm's Corporate Governance practice. I'm looking forward to helping the firm's clients make thoughtful governance decisions. I'm also hopeful that having a presence in both the academic and practicing world will make me a better professor and also help me continue to improve the treatise I write with Lori Johnson on [Nevada Business and Commercial Law](#). It's one thing to view the law from an academic remove watching statutory changes and decisions come out. Seeing how people use the Nevada statute in practice will help me better understand what areas need more development for practical utility.

My full-time role at the William S. Boyd School of Law at the University of Nevada, Las Vegas (UNLV Law) continues. I write these blog posts on my own behalf and not on behalf of UNLV Law or Wilson Sonsini. Neither UNLV Law or Wilson Sonsini approve these posts and they are not responsible for them. Any errors and omissions are mine alone.*

**No really. Do you think Wilson Sonsini wouldn't have fancier and consistently-sized graphics and charts? I'm doing this on my own with some help from law student research assistants.*

Landmark trial in New Mexico to decide whether Meta misled users about children's safety risks

C [courthousenews.com/landmark-trial-in-new-mexico-to-decide-whether-meta-misled-users-about-childrens-safety-risks](https://www.courthousenews.com/landmark-trial-in-new-mexico-to-decide-whether-meta-misled-users-about-childrens-safety-risks)

Associated Press

March 23, 2026



A recording of Meta Founder and CEO Mark Zuckerberg's deposition is played for the jurors on Wednesday, March 4, 2026, in Santa Fe, N.M. (Jim Weber/Santa Fe New Mexican via AP, Pool)

SANTA FE, N.M. (AP) — Closing arguments are scheduled Monday in a landmark trial in New Mexico where social media conglomerate [Meta](#) is accused of misleading its users about how safe its platforms are for children.

Jurors will take up the case after the arguments and six weeks of testimony from scores of witnesses that included teachers, psychiatric experts, state investigators, top Meta officials and whistleblowers that left the company.

The case in New Mexico state court is among the first to reach trial in a wave of litigation involving social media platforms and their impacts on children.

New Mexico prosecutors [have accused Meta](#) — which owns Instagram, Facebook and WhatsApp — of prioritizing profits over safety in violation of state consumer protection laws. They have raised concerns about the safety of complex algorithms, and a variety of messaging features and settings.

Attorneys for Meta dispute the claims and say [the company](#) incorporates protections for teenagers and weeds out [harmful content](#), while also acknowledging that some potentially harmful posts get past its safety nets.

A second phase of the trial will follow with a judge deciding whether Meta created a public nuisance and should be on the hook financially to fund programs to address alleged harms to children.

Attorney General Raúl Torrez filed suit in 2023, accusing Meta of creating a marketplace and "breeding ground" for predators who target children for sexual exploitation and failing to disclose what it knew about those harmful effects. State investigators created social media accounts posing as children to document online sexual solicitations and the response from Meta.

Meta attorneys have said the company is honest with platform users about rigorous but imperfect efforts to enforce bans on child sexual abuse material. They also accuse prosecutors of cherry-picking evidence and conducting a shoddy investigation.

Meta executives emphasized at trial that the company continuously improves safety and addresses compulsive social media use without infringing on free speech or censoring users.

A jury assembled from residents of Santa Fe County, including the politically progressive state capital city, will decide whether Meta violated the state's Unfair Practices Act on three counts, including "unconscionable" trade practices.

A finding of willful violations would open the way for possible fines of up to \$5,000 per violation. Prosecutors say that could add up to billions of dollars given the number of people using Meta platforms in New Mexico, though Meta said it would seek a different calculation.

Tech companies have been protected from liability for material posted on their social media platforms under [Section 230](#), a 30-year-old provision of the U.S. Communications Decency Act, as well as a First Amendment shield.

Prosecutors say New Mexico is not seeking to hold Meta accountable for content on its platforms, but rather its role in pushing out that content through complex algorithms that proliferate material that can be addictive and harmful to children.

In California, a jury already is sequestered in deliberations on [whether Meta and YouTube should be liable](#) for harms caused to children using their platforms. The bellwether case could impact how thousands of similar lawsuits against social media companies are likely to play out.

—

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Meta Jurors Weigh \$2 Billion Fine in New Mexico Kid Safety Trial

March 23, 2026, 4:02 PM PDT

Summary by Bloomberg AI

AI Generated



- Meta Platforms Inc. could face over \$2 billion in civil penalties if a New Mexico jury sides with the state's attorney general in a lawsuit accusing the social media giant of failing to disclose the dangers of child sexual exploitation on its platforms.
- State Attorney General Raúl Torrez is arguing that Meta has violated state consumer protections laws involving deceptive and unconscionable trade practices, while Meta has countered that it has invested heavily in safety tools.
- The state is seeking the maximum penalty of \$5,000 per violation for each user under two separate consumer protection laws, with an alternative calculation based on an estimate that 21% of teenage users experienced harm on Meta's social networks.

Meta Platforms Inc. could face over \$2 billion in civil penalties if a New Mexico jury sides with the state's attorney general in a lawsuit accusing the social media giant of failing to disclose the dangers of child sexual exploitation on its platforms.

The jury in Santa Fe, New Mexico began deliberations Monday afternoon, capping off a six-week trial that saw testimony from top Meta executives and evidence from internal company documents.

Are Social Media Apps Lik...



WATCH: What's behind the lawsuits over social media's impact on teens?

State Attorney General Raúl Torrez (D) is arguing the company, which owns Instagram, Facebook, and WhatsApp, has violated a pair of state consumer protections laws involving deceptive and unconscionable trade practices. Meta has countered at trial that it has never guaranteed absolute safety for teen users, and that it has invested heavily in safety tools.

The trial is one of the first among a wave of litigation targeting Meta and other top social media companies for harm to children. Torrez's lawsuit, filed in 2023 accus Meta of ignoring internal data indicating that its platforms were used to connect children with sexual predators and became a digital marketplace for trading child sexual abuse material.

New Mexico's case stems from an undercover investigation by the attorney general's office that created fake accounts of purported children who received sexually explicit images even when they didn't express interest in that content. In one case, Meta failed to disable a decoy Facebook account of a fictional mother who offered her 13-year-old daughter for trafficking.

The New Mexico case ran concurrently with a landmark social media trial in a Los Angeles state court, where jurors are set to decide whether Meta and YouTube are liable for addicting a teenage girl and causing her mental health harms. Thousands of similar addiction cases are awaiting trial in state and federal courts.

During closing arguments Monday, Linda Singer, an lawyer for Attorney General Raúl Torrez, told the jury the state estimated 208,700 teenage users Instagram and Facebook platforms. She said the state is seeking the maximum penalty of \$5,000 per violation for each user under the two separate consumer protection laws, amounting to \$2 billion.

Singer offered an alternative calculation to the jury based on its estimate that 21% of teenage users experienced harm on Meta's social networks. That award would total \$1.3 billion.

"Believe it or not, and it's hard to stand up and say with numbers like that, that they're conservative numbers," Singer said. "But they are."

In its closing arguments, Meta's attorney Kevin Huff of Kellogg Hansen Todd Figel & Frederick PLLC said Meta's legal team only learned that the state was going to ask the jury for damages over the weekend. He said Singer's closing arguments were the first time he'd seen the state's damages calculation.

"That is a shocking number," Huff said in closing arguments, which were broadcast on Courtroom View Network. "It would be multiple times the biggest judgment in the history of the state of New Mexico."

He argued that the state failed to bring in a damages-specific expert to go over the number, instead dumping a bunch of numbers in the jury's lap.

The case is State of New Mexico v. Meta Platforms Inc., N.M. Dist. Ct., No. D-101-CV-2023-02838, 3/23/26 .

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Potential Impasse in Social Media Addiction Trial? Judge Reads Deadlocked Jury Admonition

Jurors in the social media addiction trial against Meta Platforms and YouTube sent a note Monday to the judge indicating they were “having difficulty coming to a consensus with one defendant.”

March 23, 2026 at 07:00 PM By  **Amanda Bronstad**

What You Need to Know

- Monday's note is the 10th sent by the jury since it began deliberations on March 13.
- The case alleges that Meta Platforms Inc., which owns Instagram, and YouTube, owned by Google, caused the plaintiff, an adolescent user referred to anonymously as Kaley, to become addicted, leading to mental health problems such as depression and body dysmorphia.
- The jury deliberations in Los Angeles Superior Court continue as another jury in New Mexico heard closing arguments today in an addiction case against Meta.



Los Angeles Superior Court at 312 N. Spring St. in downtown Los Angeles. Photo: Amanda Bronstad/ALM

Jurors in the social media addiction trial sent a note Monday to the judge indicating they were “having difficulty coming to a consensus with one defendant.”

Los Angeles Superior Court Judge Carolyn Kuhl, who is overseeing the trial against Meta Platforms Inc. and YouTube, brought in the 12 jurors and four alternates to hear a deadlocked jury admonition.

“If you are unable to reach a verdict,” she told jurors, “the case will have to be tried before another jury selected in the same manner, and from the same community from which you were chosen, at additional cost to everyone. So please consider carefully the opinions of all the jurors, including those with whom you disagree.”

Kuhl added, “Each of you must decide the case for yourself and not merely go along with the conclusions of your fellow jurors.”

The note, on the seventh day of deliberations, comes after the jury, on Friday, sent a note asking whether those who voted for a defendant on liability should vote on damages.

Monday’s note is the [10th sent by the jury](#), which began deliberations on March 13, [one day after closing arguments](#), following a [month of testimony](#) in a case alleging Meta Platforms, which owns Instagram, and YouTube, owned by Google, caused the plaintiff, an adolescent user referred to anonymously as Kaley, to become addicted, leading to mental health problems such as depression and body dysmorphia.

Lanier Law Firm represents Kaley, while Meta's counsel is Covington & Burling, and YouTube's is Wilson Sonsini Goodrich & Rosati.

Jurors have to decide whether the design features of Instagram and YouTube contributed to Kaley’s mental health struggles and, but for those platforms, she would not have had those problems. They must also decide whether YouTube and Meta failed to warn about the dangers their platforms pose to children.

If both companies are found liable on separate verdict forms, jurors could divide comparative fault between the two defendants and, on a third verdict form, award past and future compensatory damages, including noneconomic compensation for emotional distress and other suffering, such as body dysmorphia, depression and addiction. Jurors also could find Meta and YouTube acted with malice, oppression or fraud, which would trigger additional testimony at a later date on the amount of potential punitive damages.

Friday’s note asked, “For verdict form ‘compensatory damages and claim of punitive conduct,’ does the entire group answer the verdict form, irregardless of how individuals voted? Or do only

individuals who answered ‘yes’ to questions 2 or 7 on the verdict form for Meta or YouTube answer the questions of damages?”

Questions two and seven ask jurors to determine whether the alleged negligence of Meta or YouTube was a “substantial factor” in causing harm to Kaley, referred to on the verdict forms as K.G.M., and whether their failure to warn was a “substantial factor” in that harm.

Responding to Monday’s note, Kuhl directed jurors to re-read specific jury instructions on the law protecting Meta and YouTube from liability for decisions involving third-party content, including “bullying,” but not as to a feature in the design of their platforms. She also directed them to jury instructions as to Kaley’s alleged harm and whether it was caused by the negligence of the defendants, the reasonable care standard for adults versus children and the definitions of negligence and failure to warn. Another section instructed jurors that an employer is responsible for the wrongful conduct of its employees when those employees are acting within the scope of their employment.

The jury deliberations continue while another trial about adolescent mental health in a case against Meta by New Mexico Attorney General Raúl Torrez ended in closing arguments today in the 1st Judicial Circuit in Santa Fe, New Mexico.

Page printed from: <https://www.law.com/2026/03/23/potential-impasse-in-social-media-addiction-trial-judge-reads-deadlocked-jury-admonition/print/>

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Jury in social media addiction trial tells judge it's having difficulty coming to consensus

 [reuters.com/world/jury-social-media-addiction-trial-says-it-is-having-difficulty-coming-consensus-2026-03-23](https://www.reuters.com/world/jury-social-media-addiction-trial-says-it-is-having-difficulty-coming-consensus-2026-03-23)

Daniel Fastenberg, Courtney Rozen

March 23, 2026

Item 1 of 3 Instagram app icon is seen on a smartphone in this illustration taken October 27, 2025. REUTERS/Dado Ruvic/Illustration

[1/3] Instagram app icon is seen on a smartphone in this illustration taken October 27, 2025. REUTERS/Dado Ruvic/Illustration [Purchase Licensing Rights, opens new tab](#)

LOS ANGELES, March 23 (Reuters) - The jury in the social media addiction trial in Los Angeles told the judge on Monday it is having difficulty coming to a consensus with one defendant.

The defendants are Google and Meta, but the jury did not specify which one it was referring to.

Judge Carolyn B. Kuhl said the jury should reach a verdict if it can, adding that the case will have to be retried with a new set of jurors if it cannot reach an agreement.

The jury has been deliberating for over a week in a trial that involves a young woman who [said](#) she became addicted to Google's YouTube and Meta's Instagram at a young age. The outcome of her case could influence thousands of similar cases against the tech companies brought by parents, attorneys general and school districts.

Reporting by Dan Fastenberg in Los Angeles, Courtney Rozen in Washington; Editing by Rod Nickel

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[Courtney Rozen](#)

Thomson Reuters

Courtney Rozen reports on the Trump administration's transformation of federal agencies and government spending. She previously worked at Bloomberg.



Attorney fined \$1,100 for courthouse selfie amid social media trial

DJ [dailyjournal.com/articles/390374-attorney-fined-1-100-for-courthouse-selfie-amid-social-media-trial](https://www.dailyjournal.com/articles/390374-attorney-fined-1-100-for-courthouse-selfie-amid-social-media-trial)

Matthew P. Bergman

Matthew P. Bergman, the plaintiffs' lead attorney in the bellwether social media trial in Los Angeles, was sanctioned \$1,100 Monday for taking a selfie and participating in a Zoom broadcast in the courthouse during trial. The judge decided not to find him in contempt.

Last month, Superior Court Judge Carolyn B. Kuhl initiated the contempt proceedings against Bergman after finding the Seattle-based attorney had violated court rules by filming himself in the courthouse lobby for a Zoom interview with the BBC and sending a selfie to his fiancée.

While the judge did not impose monetary sanctions at the time, she removed him from the plaintiffs' steering committee.

"The hearing on the 19th was really the most shameful moment of my legal career," Bergman told Kuhl, calling his actions a "cataclysmic" lapse in judgment.

"Saying, 'I'm sorry,' isn't enough ... it is sincere. I am extremely embarrassed and sorry that this court has to spend one second of time in the midst of this historic trial dealing with my transgression."

Bergman is the founder of Social Media Victims Law Center, which spearheaded the "product defect" legal theory in the coordinated litigation that brought plaintiff Kaley G.M.'s case to trial this year. The novel theory aims to work around Section 230 of the Communications Decency Act, which generally shields social media companies from liability for third-party content.

The sanctions hearing unfolded Monday as jurors began their seventh day of deliberations in the roughly seven-week trial that accuses Meta Platforms and Google of deliberately designing Instagram and YouTube in ways that addict and harm minors.

In the late afternoon, jurors sent a note to Kuhl saying they were having trouble coming to a consensus on one of the defendants and asked the judge for guidance. A verdict was not reached by press deadline. *Social Media Cases*, JCCP5255 (L.A. Super. Ct., filed Oct. 24, 2022).

Kuhl said the court's rules governing photography and broadcasting in and around the courtroom are critical to protecting jurors and maintaining confidence in the judicial process, particularly at a time when "a quarter of the federal judges have experienced physical threats in the last year or two."

"In this case, one of my goals has been to protect the jurors so they feel free and comfortable to do what they're required to do," Kuhl continued. "In order for them to do that, they need to feel safe."

To reinforce those protections, Kuhl enforced a "non-juror contact" rule during trial by barring members of the media and public from using the hallway and a restroom directly outside her first-floor courtroom during breaks and recesses.

She acknowledged Bergman's detailed apology and reflection but said the violations warranted a monetary sanction. She declined to make a formal finding of contempt.

Bergman told the judge he had spent the past month reflecting on his conduct and reported himself to bar associations in Washington, Oregon and Arizona. He also said he sought counseling to address what he described as "vicarious trauma" stemming from his work representing families of children who died by suicide after certain social media exposure.

"This is not an excuse," Bergman told Kuhl, adding that he had come to better understand the seriousness of the rules in an era when images and videos can be disseminated online almost instantly, potentially exposing individuals and other sensitive information unintentionally.

He said the selfie and the Zoom news interview were mistakes that reflected a lapse in judgment during an emotionally charged period of the trial, which included testimony from Meta CEO Mark Zuckerberg.

Bergman said that while he did not intend to violate the court's rules or the judge's orders, he acknowledged his conduct was a "serious violation" that warranted a "serious sanction."

Kuhl said she appreciated Bergman's acknowledgment, emphasizing that lawyers must maintain discipline even when handling difficult subject matter.

"Maintaining professionalism in that context is incredibly important," Kuhl said. "Thank you for reflecting on the profession's responsibilities with respect to the distance and independence that we need to keep ... in order for our lawyers to be

good advocates and our judges to be good decision makers."

In the underlying case, jurors are deliberating whether Kaley's claims that her compulsive use of Instagram and YouTube from age 6 was a substantial factor in her mental health diagnoses, which include anxiety and body dysmorphia.

She was represented at trial by Lanier Law Firm founder Mark Lanier.

Meta and Google, represented by Covington & Burling LLP and Wilson Sonsini Goodrich & Rosati PC, contend Kaley's stressors predated her social media use and stemmed from a troubled home life that they say included physical and emotional abuse by her mother and abandonment by her father at 3.

#390374

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'I Just Completely Lost It': Plaintiffs' Lawyer in Social Media Addiction Trial Sanctioned

Los Angeles Superior Court Judge Carolyn Kuhl ordered Matthew Bergman, of the Social Media Victims Law Center, to pay \$1,100 as a sanction for taking a selfie and conducting a Zoom interview with BBC from inside the courthouse.

March 23, 2026 at 01:55 PM By  **Amanda Bronstad**

What You Need to Know

- Jurors are on their seventh day of deliberations in the trial, which is part of a consolidated proceeding in California state courts before Kuhl.
- The trial opened Feb. 9 against Meta Platforms, which owns Instagram, and YouTube, owned by Google.
- At a hearing last month, Kuhl removed Bergman from the plaintiffs' steering committee.



Los Angeles Superior Court Judge Carolyn Kuhl. Courtesy photo

A Los Angeles judge on Monday ordered Matthew Bergman, a plaintiff's lawyer in the social media addiction trial, to pay \$1,100 as a sanction for taking a selfie and conducting a Zoom interview

with the BBC from inside the courthouse.

“I am extremely embarrassed and sorry this court has to spent one second of its time in the midst of this historic trial dealing with my transgression,” Bergman, founding partner of Social Media Victims Law Center, told Los Angeles Superior Court Judge Carolyn Kuhl, who is overseeing the first trial alleging social media giants Meta Platforms Inc. and YouTube caused addiction in an adolescent user. “It’s shameful, and I’m deeply sorry and terribly ashamed.”

Jurors are on their seventh day of deliberations in the trial, which is part of a consolidated proceeding in California state courts before Kuhl. The trial [opened Feb. 9](#) against Meta Platforms, which owns Instagram, and [YouTube](#), owned by Google. At a hearing last month, Bergman told reporters he had a “lapse from my obligations” when Meta CEO Mark Zuckerberg [testified in court](#) and dozens of members of the public stood in line for designated seats in the packed courtroom.

At that hearing, Kuhl [removed Bergman](#) from the plaintiffs’ steering committee.

On Monday, Bergman reflected on the contrasting priorities of public trials and the privacy rights of individuals, particularly children of abuse, as well as the advancements in technology to duplicate and identify images. For instance, what if a 6-year-old child who was the victim of abuse walked by while he was conducting his Zoom interview in the courthouse?

“The danger is so much greater now, and I’ve really come to understand how serious these rules are,” Bergman told Kuhl.

Calling the incident a “cataclysmic moment in my career,” Bergman said he turned to his religious faith for guidance on repentance—specifically, the concept of Teshuvah, which calls for repentance.

“I just completely lost it,” he told the judge. “How did I lose it so badly?”

Bergman said he had since spoken to psychiatrists at Columbia University Irving Medical Center, where 9/11 victims had been treated, and learned that he may have suffered from “vicarious trauma,” having represented the parents of teenagers who committed suicide after being on social media.

“I’ve come to understand that I, on that day, was experiencing what I now understood through counseling to be vicarious trauma,” he said. “The vicarious trauma I was experiencing on that day I only now have come to appreciate impaired my judgment and caused me to lose focus on my obligations as an officer of this court and as a member of this community.”

Bergman asked the judge not to issue a contempt order but acknowledged a “serious” sanction as appropriate.

“I would respectfully ask that sanction be not held in contempt but serious sanctions and that perhaps the sanction could provide a teaching moment to give to highlight the importance and the clear and present danger of the restriction of photographs in the courtroom in this digital age,” Bergman said, “and also provide that opportunity to help myself and others understand the role that vicarious trauma can play in lawyers and jurists who deal with such difficult things and do a better job of being self-aware of that.”

Bergman, who is in Seattle, said he had self-reported to bar authorities in Washington, Arizona and Oregon.

In the trial, the plaintiff, Kaley, sometimes referred to as K.G.M., alleged she became addicted to YouTube and Instagram, developing depression and body dysmorphia. Bergman’s firm filed K.G.M.’s case, along with the majority of the lawsuits in the consolidated proceedings before Kuhl, but he has not played an active role in the trial itself. At the end of Monday’s hearing, he hugged some of the members of the public seated in the courtroom.

The judge has imposed strict rules in the trial, [ordering juror names remain anonymous](#) to everyone except the lead lawyers in the case, and insisting that journalists gather on the opposite side of the courthouse during breaks to avoid interacting with jurors.

On the day of Zuckerberg’s testimony, before jurors returned to the courtroom, Kuhl warned anyone wearing AI glasses recording the proceedings to delete the material and remove them immediately or face contempt proceedings. Although she did not specify who the target of her remarks was, a team from Meta showed up in court that day [wearing Ray Ban-Meta AI glasses](#), which have a camera.

Kuhl, on Monday, reiterated her concerns about conducting a fair trial and keeping jurors safe.

“Thank you for reflecting on the profession’s responsibilities with respect to the distance and independence we need to keep in order for our lawyers to be good advocates,” Kuhl told Bergman, “and for our judges to be good decision-makers.”

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Federal Circuit OKs \$125M PACER Settlement: 'Clear Majority' of Circuits Uphold Incentive Awards

Friday's ruling by the U.S. Court of Appeals for the Federal Circuit approved the settlement, which reimburses each PACER user up to \$350 for overcharges.

March 24, 2026 at 01:32 PM By  **Amanda Bronstad**

What You Need to Know

- The unanimous panel disagreed with objector Eric Alan Isaacson that \$30,000 in incentive awards were improper under a pair of U.S. Supreme Court decisions from the 1800s.
- in 2020, the same objector won a groundbreaking decision by the U.S. Court of Appeals for the Eleventh Circuit, in *Johnson v. NPAS Solutions*, striking down incentive awards for class representatives.
- The settlement with PACER, which stands for Public Access to Court Electronic Records, resolved claims brought by the three nonprofit groups alleging the federal government illegally used the fees, charged for federal court documents, to fund unrelated expenses.



Beth Labson Freeman.

A federal appeals court affirmed a \$125 million class action settlement over alleged PACER overcharges, including the \$30,000 in incentive fees that an objector challenged.

Friday's ruling by the U.S. Court of Appeals for the Federal Circuit concluded that the settlement, which was approved in 2024 by a federal judge in the District of Columbia, was fair and adequate. The unanimous panel disagreed with objector Eric Alan Isaacson that the \$ 10,000-per-plaintiff incentive award was improper under a pair of U.S. Supreme Court decisions from the 1800s.

"We join the clear majority of our sister circuits in holding that district courts are permitted to approve incentive awards, and we find that the district court did not abuse its discretion in approving the incentive awards here," wrote U.S. District Judge Beth Labson Freeman, of the Northern District of California, sitting by designation.

Deepak Gupta, of Gupta Wessler in Washington D.C., who represents the plaintiffs—the National Veterans Legal Services Program, the National Consumer Law Center and the Alliance for Justice —said in an emailed statement, "Today's decision protects a landmark \$125 million settlement for hundreds of thousands of PACER users who were made to pay more than the law allowed. We're very pleased that the Federal Circuit affirmed the settlement in full after nearly a decade of litigation—a major victory for transparency and equal access to the courts."

A U.S. Department of Justice spokesperson did not respond to Law.com.

Isaacson, of the Law Office of Eric Alan Isaacson in San Diego, did not respond to Law.com.

But, in 2020, Isaacson won a groundbreaking decision by the U.S. Court of Appeals for the Eleventh Circuit, in *Johnson v. NPAS Solutions*, striking down incentive awards for class representatives under the same two Supreme Court decisions: *Trustees v. Greenough*, in 1881, and *Central Railroad & Banking Co. v. Pettus*, in 1885.

Although most circuit courts disagreed with the ruling, the split on incentive awards nearly reached the Supreme Court, with [at least two petitions](#) for writ of certiorari filed. The Supreme Court declined to hear both.

Addressing the circuit split, the Federal Circuit on Friday concluded that an "overwhelming majority" of courts found that those Supreme Court rulings didn't preclude granting incentive awards in class action cases.

As to the two Supreme Court cases on which the Eleventh Circuit's ruling was based, the Federal Circuit said they disallowed salaried class representatives and predated modern class actions. The panel also disagreed with the Eleventh Circuit's characterization of the payments as a "bounty."

“The awards here at issue are so modest that the amount cannot reasonably be likened to a ‘bounty,’” Freeman wrote. “The Supreme Court has never suggested that incentive awards in the context of modern-day class actions are unlawful.”

The PACER Settlement

The settlement with PACER, which stands for Public Access to Court Electronic Records, resolved claims brought by the three nonprofit groups alleging that the federal government illegally used the fees charged for federal court documents to fund unrelated expenses. The Federal Circuit previously heard an interlocutory appeal [on other issues and](#) remanded the case to U.S. District Senior Judge Paul Friedman, who [approved a settlement](#) that provides refunds of up to \$350 per class member over eight years.

In addition to incentive awards, Isaacson challenged subject-matter jurisdiction, the settlement’s alleged preference for large-scale PACER users, such as law firms, and the \$23.8 million in attorney fees.

But the Federal Circuit disagreed with him.

Freeman wrote, “Nothing in the district court’s order suggests that it abused its discretion in approving the settlement agreement.”

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Litigation

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Maryland Top Court Ends County's Opioid Public Nuisance Action

March 24, 2026, 10:17 AM PDT

Summary by Bloomberg AI

AI Generated



- The Maryland Supreme Court said a Maryland county may not sue pharmacies for common-law public nuisance in connection with the opioid epidemic.
- The court declined to expand the cause of action to allow Anne Arundel County's suit for damages because it didn't show that the public has a right to be free from the adverse effects of dispensing lawful products such as opioids.
- The court shut down the suit against Express Scripts Inc. and others, which accused them of conspiring with drugmakers to deceptively market opioids and facilitate opioid use.

A Maryland county may not sue pharmacy benefit managers, mail-order pharmacies, or retail pharmacies for common-law public nuisance in connection with the opioid epidemic, the state's top court said.

Common-law public nuisance actions by a governmental entities in Maryland are limited to criminal prosecutions and suits to stop harmful conduct that affects a public right, the Maryland Supreme Court said Monday. It declined to expand the cause of action to allow Anne Arundel County's suit for damages because it didn't show that the public has a right to be free from the adverse effects of dispensing lawful products such as opioids.

Answering a question certified to it from the US District Court for the District of Maryland, the top court shut down the suit against Express Scripts Inc. and others, which accused them of conspiring with drugmakers to deceptively market opioids, manipulate public opinion about the drugs' safety, and facilitate and encourage opioid use by "flooding the market with opioids through their formulary and benefit management decisions."

Express Scripts—one of the largest pharmacy benefits managers in the county—has denied the accusation, and top courts in Oklahoma, Ohio, and Maine have rejected public nuisance claims in this context. They're part of a national trend in which courts have declined to allow nuisance claims for damages caused by lawful products, including opioids.

It is still facing public nuisance suits in other states, however.

Maryland law defines a public nuisance as an unreasonable interference with a right common to the general public, Justice Brynja M. Booth said. A public nuisance can be punished criminally or subjected to an abatement action, but governmental entities haven't previously sought damages, she said.

Additionally, state laws provide a framework for dealing with public nuisances, while both state and federal laws extensively regulate controlled substances, she said.

The court declined to expand the common-law public nuisance cause of action here because the county didn't satisfy the requirement to show the defendants interfered with a public right. There's no recognized private right to be free from potential injuries associated with a lawful product that's been diverted or misused, Booth said.

"To recognize a general common law 'public right' would permit nuisance liability to be imposed on an endless list of manufacturers, distributors, and retailers of manufactured products that are intended to be used lawfully," she said.

Chief Justice Matthew Fader and Justices Jonathan Biran, Steven B. Gould, and Angela M. Eaves joined the opinion.

Justice Peter K. Killough concurred separately, saying he agreed with the opinion but thought the decision too broad. Justice Shirley M. Watts dissented in part, rejecting the majority's conclusion that the county's complaint failed to allege a violation of a common public right.

The case is *Express Scripts, Inc. v. Anne Arundel Cty., Md.*, Md., Misc. No. 1 Sept. Term, 2025, 3/23/26 No. 1 Sept. Term, 2025, 3/23/26.

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Amazon Seeks Rule to Let Judges Weigh Regulatory Settlements in Class Certification

The e-commerce giant—which has faced intense scrutiny from federal regulators—said U.S. district courts have conflicting views on whether judges can consider government settlements in weighing whether to certify class actions that raise claims similar to those already resolved with regulators.

March 23, 2026 at 03:06 PM By  **Avalon Zoppo**



Amazon logo against sky background

Amazon has asked a federal judicial rules committee to clarify that courts—when deciding whether to certify a proposed class action—can consider whether the plaintiffs have already received relief through a government settlement.

In a March 10 [letter](#) to the Committee on Rules of Practice and Procedure, Amazon zeroed in on Rule 23(b)(3), which establishes that a class action can proceed if it is “superior to other available methods for fairly and efficiently adjudicating the controversy.”

The e-commerce giant—which has faced intense scrutiny from federal regulators—said U.S. district courts have conflicting views on whether judges can consider government settlements in weighing whether to certify class actions that raise claims similar to those already resolved with regulators.

"These contradictions leave trial courts and parties uncertain," Amazon stated in its letter.

In recent years, Amazon has been the target of major litigation spearheaded by the federal government alleging antitrust violations and deceptive practices, some of which has resulted in large settlements to resolve the charges. At the same time, plaintiffs attorneys representing consumers have filed class actions against Amazon involving the same allegations, stated the company, which has denied the claims.

Amazon [pointed](#) to a 2021 deal with the Federal Trade Commission in which the company agreed to pay \$61.7 million to resolve the agency's charges that Amazon failed to pay Amazon Flex drivers the full amount of tips they received from customers.

A class action filed a few weeks later raised the same claims. U.S. District Judge Barbara Rothstein of the Western District of Washington ultimately [denied](#) class certification last year, finding under Rule 23(b)(3) that a class action wasn't the best vehicle to resolve the dispute given the existing FTC settlement.

"While Judge Rothstein's reasoning was sound, litigants should not be subjected to years of costly litigation to achieve that sound result, and there is no guarantee other courts will follow this approach," Amazon stated in its letter. "This judicial uncertainty defeats the very goals the rule was designed to achieve and creates three harmful consequences."

The company said that lack of clarity on the Rule 23 question "discourages corporate voluntary remediation," "reduces consumer compensation" and "wastes judicial resources."

First, Amazon said the lack of clarity "wastes judicial resources."

The company said it defended itself for years against the Flex drivers' proposed class action before Rothstein determined the drivers sought identical relief to the FTC settlement. Amazon said the judge issued multiple opinions in that period "all in a case related to issues the regulatory process had already settled."

The lack of clarity also "discourages corporate voluntary remediation," Amazon wrote.

Companies are less likely to reach government settlements if judges can't consider out-of-circuit remedies when weighing duplicative class litigation over conduct already addressed by regulatory authorities, Amazon added.

"Regulators consider voluntary remediation when making critical decisions around litigation, settlement, and potential customer remedies," the company wrote.

"Rule 23 should work to support that positive policy goal," Amazon added. "Instead, Rule 23 works against it by allowing copycat lawsuits filed in hopes of securing duplicative settlements for the exact same conduct and issues previously resolved by either voluntary action and/or a robust government settlement."

In addition, the lack of clarity "reduces consumer compensation," the company wrote in the letter signed by Amazon vice president and associate general counsel Alexis Collins.

"If class litigation is guaranteed despite prior remedies, companies face incentives to withhold voluntary redress to customers—reserving compensation for negotiated class-action settlements," Amazon added. "This results in *less* total consumer recovery because any class relief will typically subtract attorneys' fees from the settlement fund and these fee awards can be substantial."

Neither Amazon nor the Administrative Office of the U.S. Courts immediately responded Monday to requests for comment about the suggestion.

Under federal judiciary practice, rules suggestions deemed appropriate are forwarded to an advisory committee for consideration. If a suggestion has merit, the committee puts together a draft amendment that is sent to a standing committee for further review and possible public comment.

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Profile | Litigators

How Wilkinson Stekloff Built a Trial Firm Without Timesheets

What can happen when you focus on building a firm around taking cases to trial while eschewing the billable hour.

March 24, 2026 at 06:30 AM By  Ross Todd



Beth Wilkinson, left, and Brian Stekloff, right, with Wilkinson Stekloff. Courtesy photos

This is the first in a two-part series about Wilkinson Stekloff.

Take cases poised to go to trial and avoid billing by the hour.

That was the simple-sounding, yet radical-for-Big-Law philosophy **Beth Wilkinson** set out with when she left **Paul, Weiss, Rifkind, Wharton & Garrison** a little over a decade ago [to found the firm](#) initially known as **Wilkinson Walsh + Eskovitz**, with litigators drawn from **Munger, Tolles & Olson**, **Covington & Burling** and **Kirkland & Ellis**.

Ten years on, the business model remains a constant although the name on the door has changed to **Wilkinson Stekloff**—taking on the name of the last of the six remaining co-founders besides Wilkinson, former Covington special counsel and assistant federal public defender **Brian Stekloff**.

Litigation Daily sat down in recent weeks with Wilkinson, Stekloff and two of the firm's more junior partners **Moir Penza** and **Kosta Stojilkovic** to discuss how the absence of the billable hour has shaped the trial-focused firm, which has grown to nearly 50 lawyers, including 14 partners, and more than 30 staff. The firm's clients have included household names such as the National Football League, Cargill, the NCAA and Microsoft Corp.

Wilkinson noted that the staff headcount does not include a billing department. "We don't ever fight with clients over time entries, which you hear about constantly," she said. "When I was at Paul Weiss, I probably spent 20% of my time on time sheets and interacting with clients over the bills and writing off time."

"Nobody likes doing it. In-house people don't like it and law firm partners don't like doing it," she said. Agreeing to a flat fee structure upfront, at times involving a potential success fee for the firm, Wilkinson said, gives clients and their CFOs a level of certainty that can make the uncertainty of a potential high-stakes trial perhaps a bit easier to stomach. The fee structure has also led to another figure that would be enviable in Big Law: A 100% realization rate.

Stekloff and Wilkinson also said that the model provides them with more opportunities to train the next generation of trial lawyers. Where at their prior Big Law homes, talented associates could be pulled away from trial teams for other time-intensive assignments, here the whole team is aligned and geared toward trying cases.

"Clients, as you know, count heads," said Wilkinson of typical billable arrangements. "They count to see how many people are in the room."

"But because we do these alternative fixed-fees, once they decide what the financial arrangement is, we never discuss that again. And whether there are three people in the room or eight people in the room, all they care about is they have the best and the brightest there who are focused on their trial."

Stekloff added that those arrangements allow the firm to staff cases in a way that gets more junior lawyers and staff a role at trial. That's harder to do, he said, in a setting where billable hours and realization rates are front-and-center. "Even for our associates and paralegals, they're not the ones standing up in court. But that experience that they have just going to trial and knowing how trials work and seeing litigation through to trial is so valuable," he said.

Staying (Relatively) Small While Managing Big Cases

Antitrust and mass torts—two of the areas where Wilkinson Stekloff trial teams have been the busiest over the past decade—are known for being document- and discovery-intensive assignments. They're the sorts of assignments where Big Law often thrives. Part of the firm's

success on these types of assignments, Wilkinson and Stekloff said, is its willingness and ability to effectively team with larger firms. They pointed to examples of assignments they've handled alongside **Arnold & Porter** for Altria, [alongside Covington](#) for the NFL, as well as the firm's trial [representation of Microsoft](#) in the Federal Trade Commission's challenge to the company's \$69 billion acquisition of "Call of Duty" maker Activision Blizzard. The Microsoft case saw **Weil, Gotshal & Manges, Sidley Austin** and **Skadden, Arps, Slate, Meagher & Flom** all handling defense-side roles.

Wilkinson says it's the rare exception when she and her colleagues are acting as the sole counsel for a client in a matter. She thinks that helps clients avoid "ruff[ling] too many feathers" when bringing Wilkinson Stekloff in to work alongside larger firms. "Nobody thinks we're going to steal their long-term counseling, regulatory or corporate work. We don't do that. So. it's easier to partner [with us]," she said.

What Has Changed?

Wilkinson estimated that about 75% of the firm's caseload in the years immediately after its founding involved matters where its lawyers were brought on in the months before a trial. Now, she and Stekloff say, in the majority of cases, the firm is brought in closer to the onset of a dispute.

Part of that shift comes from the firm's experience during the pandemic, where the dearth of trial work forced partners to look for ways to stay involved in clients' strategic priorities. Still, some of that has come from the value clients have placed on trial skills coming out of the pandemic.

"We're at least there more at the outset of cases to be identifying the trial themes and the trial strategies from early on in the case, so that no matter who's executing on discovery, the trial themes are carrying through," Stekloff said. "We think for clients, generally, that's better."

As to the lawyers who were part of the firm's founding who are no longer around, Wilkinson said that part of the changes involved "everybody figuring out what they really wanted to do." Wilkinson pointed out that **Alexandra Walsh**, in particular, who left Paul Weiss alongside her at the firm's founding, realized [during the pandemic](#) she wanted to practice on the plaintiff-side.

"It sounds great to start a boutique, and it has been for us," Wilkinson said. "I think Brian and I feel like we could never go back to Big Law."

Stekloff said that the lack of trials during the pandemic was a test, but that the firm came through with its culture intact. He said the biggest challenges of the first decade were in line with those anyone would face starting a small business. "It wasn't the lawyering, which is always the challenge. That wasn't the thing that was stressing me out," he said. "It was more, 'Where are we

going to have an office?’ and ‘How are we going to get all of our employees’ health care?’ and, “Oh, we need a 401(k).”

Stekloff and Wilkinson say the goal of the second decade is to establish an institutional reputation that will live on in the next generation of trial lawyers at the firm. Still, Stekloff said that the business model has inherent challenges, since repeat business isn’t guaranteed. Bet-the-company cases hopefully only come along every so often.

“People don't want to hire us, and even clients who love us, who are very loyal to us, hope that they don't have a lot of those cases,” he said. “Usually, clients do find ways to come back to us, because they end up having more problems than they wish.”

“We don't wish that upon them, but it happens.”

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March 23, 2026

Judge keeps jury question secret in FirstEnergy bribery trial

Adam Ferrise; cleveland.com

AKRON, Ohio — A Summit County judge on Monday withheld from the public a question the jury posed to her during deliberations in the high-profile trial of two former FirstEnergy executives accused of bribing a state regulator.

Summit County Common Pleas Judge Susan Baker Ross said the question went to the heart of jury deliberations. She said she found that the "interest of justice outweighs any public interest in releasing any further jury information."

The question came on the fourth day of deliberations in the trial of former CEO Chuck Jones and top lobbyist Michael Dowling, who are accused of bribing a state regulator with \$4.3 million.

"I'm just really concerned that the integrity of the jury process is being respected," Baker Ross said. "And they're in there doing their best right now. I'm just really concerned with any outside influence creeping in right now."

Baker Ross said the question would be released after deliberations concluded.

The jury will take a break from deliberations on Tuesday and will return Wednesday.

Prosecutors argued during the trial that Jones and Dowling paid a \$4.3 million bribe to former Public Utilities Commission of Ohio Chairman Sam Randazzo in late 2018, months before Randazzo became part of the commission that holds sway over how much revenue utilities like FirstEnergy can make.

After the bribe, Randazzo made key decisions at FirstEnergy's behest, prosecutors said.

Randazzo in 2019 helped draft the scandal-marred House Bill 6, which gave a \$1.3 billion bailout to two aging nuclear power plants owned by FirstEnergy.

Randazzo also pushed for a provision in the bill that allowed FirstEnergy to make inflated profits and killed a PUCO review of the company's finances, prosecutors said.

Defense attorneys argued that the \$4.3 million payment wasn't a bribe, but a payment for a legal settlement that the company owed to Randazzo's clients when he was a private attorney.

Randazzo in 2015 negotiated a settlement on behalf of IEU-Ohio, a trade group of industrial businesses that use large amounts of energy. The settlement included a multi-million dollar payout to IEU-Ohio over several years in exchange for the trade group not opposing a FirstEnergy surcharge on customers, defense attorneys said. A settlement extension later that year called for \$4.3 million to be paid between 2018 and 2024, according to defense attorneys.

When FirstEnergy had a particularly good year in 2018, officials sought ways to get future payments, such as the \$4.3 million settlement, off the company's books ahead of schedule and Jones signed off on the payment, defense attorneys said.

The jury's first two questions during deliberations were made public, including one earlier on Monday. That question revolved around the testimony of former FirstEnergy chief ethics officer Ebony Yeboah-Amankwah.

The jury asked if Yeboah-Amankwah brought a copy of the settlement agreement with her when she met with Jones on Dec. 18, 2018, the day prosecutors say Jones and Dowling hatched the bribery plan.

Testimony during the trial did not reveal whether she did so. Baker Ross told the jurors they "need to use their collective memory on this matter."

An earlier question posed last week had to do with a finer point of Ohio's bribery law.

Baker Ross said the most recent question caused her to worry about people in the community approaching jurors on their day off.

"I'm really concerned about them having someone come up to them and say, 'So I heard you don't have a decision on this,'" Baker Ross said. "Can you imagine sitting on a jury and not knowing that we're telling [the public] the questions and having someone come up to you and say that?"

---- Index References ----

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISSION

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March 23, 2026

Jury asks 2 more questions in FirstEnergy bribery trial
Deliberations continue in FirstEnergy bribery trial as jurors ask
the court two more questions, including one filed under seal.

Bryce Buyakie, Akron Beacon Journal

Jurors wrapped another day of deliberations on March 23 after asking two more questions, including one sealed from public view, in the FirstEnergy bribery case involving former executives Chuck Jones and Michael Dowling.

Former FirstEnergy CEO Jones and former FirstEnergy Senior Vice President Dowling are accused of giving former Public Utilities Commission of Ohio Sam Randazzo a \$4.3 million bribe in exchange for favorable policy regarding FirstEnergy. They also face charges, including engaging in a pattern of corrupt activity and conspiracy.

The jury, which is now in its eighth week of service on the trial, has a scheduled day off Tuesday, March 24, and will resume deliberations March 25.

In their first question submitted March 23, jurors asked if a witness testified that "she took a copy of the settlement to Chuck's office for a meeting on (Dec. 18, 2018)."

"You need to rely on your collective memories on this matter," Summit County Common Pleas Court Judge Susan Baker Ross replied in writing.

Jurors had previously asked on March 18 for clarification on the bribery statute. The judge's written reply to that query was: "All of the elements and definitions have been provided to you on this question and it is for you to decide as a factual matter."

Jury question: Jury in FirstEnergy trial asks court to clarify meaning of bribery

Ross declined to share the second jury question that was submitted March 24, which she said "goes to the heart of the case."

She sealed the question from public view over concerns about the "integrity of the jury process," Ross told reporters in on-the-record proceedings after jurors were released for the day. The question will be available once the trial ends.

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

This article originally appeared on Akron Beacon Journal: Jury asks 2 more questions in FirstEnergy bribery trial

---- Index References ----

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

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News from Bloomberg Terminal
Private Credit Is Not on Sale
March 24, 2026, 11:16 AM PDT

By Matt Levine

(Bloomberg Opinion) --

Private credit

The simplest model is that the typical private credit fund is worth, say, 80% of what its managers say it is worth. If you are an investor in a private credit fund, and you get a statement saying “the net asset value of this fund is \$100 per share,” that means that the *market* value of the fund – the amount that a willing arm’s-length buyer would pay you for it – is about \$80 per share. Give or take; no science to that number; Boaz Weinstein will pay you \$65. But something less than \$100, anyway.

There are two important caveats to this model. First, this is not a model about fundamental value; it’s a model about market prices. It is quite possible that all the loans in this fund will make high interest payments and pay off at maturity, you will end up getting \$130 worth of value out of your \$100 share in the fund, and the market value of \$80 will turn out to have been too low. That happens.

Second, the “market value” is pretty hypothetical. Most private credit funds do not trade at market prices, or at all. When I say that the market value of a typical private credit fund is 80 cents on the dollar, that is a guess. There is no market. Some people would pay more than 80, others would accept less than 80, and there is no central platform to match them all up.

But this simple model explains some salient facts pretty well. For instance, some private credit funds *do* trade every day, on the stock market, at market prices. They are called “public BDCs,” business development companies. You can look at the market prices, which tend to be below their reported net asset values. For instance, Ares Management Corp. has a public BDC that trades at about an 8% discount to its most recently reported net asset value; Apollo Global Management has one that trades at about a 22% discount; Future Standard and KKR have one that trades at about a 50% discount.¹

It also explains this:

Apollo Global Management Inc. is curbing redemptions from one of its largest non-traded private credit funds for retail investors, becoming the latest alternative asset manager to grapple with a surge in such requests.

The \$25 billion business development company, Apollo Debt Solutions, capped withdrawals at 5% of outstanding shares Monday after clients sought to redeem 11.2%, according to a shareholder letter.

With redeeming investors receiving just 45% of their capital, Apollo Debt Solutions is returning less cash to clients than some of its peers that capped withdrawals. ...

Apollo intends to stick to the same cap next quarter as it balances “the interests of shareholders seeking liquidity with those who choose to remain invested,” it said in the letter, noting that challenging times can benefit investors in the long run. ...

“While the market has repriced risk, the fundamentals of the fund’s underlying borrowers remain strong,” the firm stated.

And this:

Ares is limiting redemptions at its \$10.7 billion private credit fund as alternative asset managers face a surge in such requests.

The Ares Strategic Income Fund capped withdrawals at 5% of shares after clients sought to redeem 11.6%, according to a letter to shareholders. The firm expects the granted redemptions to amount to roughly \$524.5 million.

These funds – Apollo Debt Solutions and Ares Strategic Income Fund – are *not* publicly traded BDCs. They are “non-traded” or “private” BDCs, which means that they do not trade on the stock market at market prices. If investors in these funds want to cash out, they can’t just sell their shares on the market. Instead, they have to go to the fund’s manager – Apollo or Ares – and ask it to buy back their shares. The managers ordinarily offer to buy back 5% of the shares each quarter, and they do the buybacks *at net asset value*. Historically this was no problem; people were piling *in* to private credit. But now they are piling out, and Apollo and Ares – and Blackstone and BlackRock and Blue Owl and Cliffwater and other managers of private credit BDCs – have gotten redemption requests for more than 5% of their shares.

I wrote two weeks ago:

One way to think about it is that those redemption requests are a form of NAV arbitrage. If a BDC says that its loans are worth \$100, but you think their market value is only \$98, you should try to redeem out of that BDC: You’ll get cashed out at \$100, which is more than you think it’s worth. ...

The fact that private credit BDCs are getting historically high levels of redemptions *might* suggest that their investors don’t believe their marks. And BDCs limit redemptions to guard against this: If too many people are cashing out, that suggests that the fund is cashing them out for more than the actual value of their shares.

For “\$98” there you could read “\$80”: If the market value of these BDCs is 80% of net asset value, then getting cashed out at 100% of net asset value is a great trade and you should do it. And so a lot of people do, or at least try to, though they are capped at 5%.

Conversely, if the market value is 80% of NAV, then *cashing people out* at 100% of NAV is a *bad trade for the BDC*: It is paying out 100 cents for something worth 80 cents, leaving less value for everyone else who remains in the fund. Thus the 5% limit, and Apollo's comment about balancing "the interests of shareholders seeking liquidity with those who choose to remain invested."

That is, publicly traded BDCs have a market price that balances supply and demand, and that price is around 80% of net asset value. And private BDCs *don't* have that. Instead, they trade at 100% of net asset value, but they don't trade enough: People want to sell, but they can sell only to the funds, which can pay only 100%.² If a thing with a market value of \$80 can trade only at \$100, there will be a lot of sellers and not a lot of buyers. And so every week now we get stories about private BDCs getting a lot of redemption requests and only meeting some of them.

(This model also explains Boaz Weinstein's offer to buy shares of a Blue Owl private BDC at 65% of net asset value, which we have discussed around here and also with Weinstein on the Money Stuff podcast: If you think that private credit funds are worth 80 cents on the dollar, then paying 65 cents is a good trade. And if people can only get some of their money out at 100 cents, they might be willing to take 65 for the rest.)

But this model is unsatisfying in other ways. The net asset value of a private credit fund is supposed to reflect its actual value. "Private credit funds are worth 80% of their net asset value" suggests that *something is wrong*; the funds should be worth what they say they are worth. We talked a few weeks ago about Apollo "ramping up its efforts to give investors more regular insight into the value of its opaque private credit holdings." The Apollo Debt Solutions shareholder letter says:

Marks are important not only for transparency and credibility but also for fairness. A disciplined valuation process should protect new, redeeming and remaining investors equally by consistently ensuring an appropriate NAV for the vehicle. ...

Mark-to-market is a form of discipline. For Apollo, this means our marks should reflect current market dynamics, even when they do not fully align with our assessment of long-term intrinsic value. When spreads widen in public markets or within a specific sector, we work closely with independent third-party valuation providers to ensure those conditions are appropriately reflected in our marks. When managing for the long-term, we believe it is crucial for valuations to reflect both underlying operating performance and broader market conditions, which includes prevailing credit spreads and the cost of capital.

"Our marks should reflect current market dynamics," but do they? One possibility is that Apollo is right, the fund is worth its net asset value, and the individual investors trying to get out are wrong. Another possibility is that those investors are right, the fund is worth 80% of NAV, and Apollo – "work[ing] closely with independent third-party valuation providers," etc. – is wrong.

There are other possibilities. Traditionally closed-end funds (including BDCs) trade at a discount to NAV to reflect the *fees* that they charge; “\$100 of good loans minus future fees to the manager” is worth less than \$100. Or the discount could be a pure “liquidity premium”: Individual investors, it turns out, really care about being able to get their money out whenever they want to, and “\$100 of good loans but you can’t get your money out all at once” might be worth less than \$100 to them.³ The actual value of the assets in the fund might be \$100, but the fund might nonetheless be worth only \$80 to jumpy individual investors. (And, therefore, institutional private credit funds might still be worth 100 cents on the dollar, if institutions are less worried about liquidity.) So it is logical for them to ask for their money back, and also logical for the funds to give it to them. “The market has repriced risk,” specifically liquidity risk, but “the fundamentals of the fund’s underlying borrowers remain strong,” so paying out a little money at NAV is fine.

I should add that the simple model does not explain some other salient facts.⁴ For instance:

[Apollo Debt Solutions] expects the granted redemptions to amount to roughly \$730 million of gross outflows for the first quarter, offsetting the roughly \$724 million of inflows for the period.

Apollo got about \$1.6 billion of redemption requests,⁵ that is, people asking for their money back at 100 cents on the dollar. But it also got \$724 million of *inflows*, that is, people putting in *new* money at 100 cents on the dollar. In the simple model of “this stuff is worth 80 cents on the dollar,” there would be a lot of sellers at 100 but no buyers. (Except the funds themselves doing their 5% redemptions.) In reality, there are *more* sellers than buyers, sure, but there are still a lot of buyers. And this is true broadly: Private credit BDCs are getting a lot of redemption requests and limiting redemptions, but they are simultaneously getting inflows.

Which is weird? Private credit, broadly speaking, ought to be on sale now. You can buy Apollo’s public BDC at a 22% discount to net asset value. Boaz Weinstein is bidding for Blue Owl’s private BDC at a 35% discount. This is all pretty well-known stuff. If you are paying the full sticker price to get into a private BDC, in March 2026, that is nice for the BDC, but it’s a bit of a strange trade for you. The intuition here might be “if everyone is panicking about private credit, and I think that panic is overblown, then I should buy” – but that intuition doesn’t work if you’re buying at 100 cents on the dollar.

Fundrise, RiverNorth, EchoStar

Elsewhere in funds that do not trade at their net asset value:

A newly-listed closed-end fund has soared more than 1,200% above its net asset value since its debut last week, as investors eager for stakes in IPO-bound companies such as SpaceX and Anthropic PBC push the vehicle’s market capitalization far beyond the estimated worth of its holdings.

Shares in the Fundrise Innovation Fund, listed under the symbol VCX, climbed as much as 36% to \$230 each on Tuesday – just their fourth day of trading – and were halted twice for volatility, in an echo of the meme stock era. With the majority of the fund’s shares subject to a lockup agreement, investors bid the small amount that’s available more than 13 times above its recent net asset value per share of \$18.97. ...

Fundrise Innovation has about \$679 million in assets under management, and more than 10% of the fund is not locked up, according to a spokesperson.

This is the opposite of the private credit problem. A lot of individual investors want exposure to SpaceX and Anthropic and OpenAI and the other hot private companies in this fund. Those companies all have more or less visible stock prices, but normal individual investors can't *buy* those stocks: They are private companies, and their shares are not readily available. You *can* buy shares of the Fundrise fund, sure, but not many of them, just "more than 10%" of a \$679 million fund, or, you know, 0.005% of the value of SpaceX alone. Supply is low, demand is high, and the premium is 1,200%.

I should say that there are a few other ways to get exposure to SpaceX and similar hot private companies. We talked about some of them last week. A simple one is a cash-settled forward: You find someone who wants to bet *against* SpaceX, and you take the other side of the bet. We have talked about Benn Eifert, a hedge fund manager who "has entered into personal wagers with tech professionals and others about OpenAI's eventual valuation, complete with legal contracts," so these bets are out there. But they are not necessarily easy to find, and tweeting at Eifert is maybe not the most convenient investing user experience.

What you want is some sort of product wrapper for these bets. The simplest would be an exchange-traded fund: You could just buy stock, on the stock exchange, representing "I am betting on the price of SpaceX stock when it eventually goes public." And other people could just buy stock, on the stock exchange, representing the opposite bet. And the ETF company could just match them up. This happens with *public* stocks – there are ETFs that bet on and against Strategy Inc. – so why not private stocks too?

As it happens, we talked last year about a pair of proposed closed-end funds from RiverNorth Capital Management LLC that would *sort of* do this. And those funds are going public this week. They are tied, not to SpaceX, but to the "Prime Unicorn Index," an index of 30 hot private tech companies including SpaceX. But there's a long fund that bets on the unicorns, and a short fund that bets against them, and the funds' bets are matched up on the stock exchange. They are closed-end funds, not ETFs, meaning in practice that their day-to-day prices would not necessarily reflect their net asset values. It would be weird if both of them trade at a premium.

There is one more important way to get exposure to SpaceX stock, which is EchoStar Corp. At the Information, Theo Wayt reports:

The satellite telecommunications company last fall struck a series of deals to sell wireless spectrum rights to SpaceX in exchange for \$8.5 billion in cash and \$11.1 billion in SpaceX stock. Once the deal closes next year, EchoStar will own a significant chunk of SpaceX, while SpaceX will use the spectrum for its next generation of Starlink direct-to-cell mobile service. The SpaceX stake will be one of EchoStar's most important assets. ...

Shares of EchoStar have skyrocketed more than 300% since last August, when the company began selling off its spectrum (starting with a deal with AT&T). While the rally may reflect relief that EchoStar would survive – it had looked to be on the verge of bankruptcy before it did the deals with SpaceX and AT&T – some of the enthusiasm almost certainly reflects its newfound exposure to Elon Musk's company.

We talked about this last year: EchoStar is nominally a satellite broadband communication company, but in practice it is largely a collection of wireless spectrum licenses that it is in the process of selling to other companies. Some of those companies are paying cash, but one of those companies is SpaceX and is paying stock. So, loosely speaking, you could analyze EchoStar as “a reasonably determinate amount of cash plus \$11 billion of SpaceX stock at \$212 per share.” (EchoStar’s market capitalization is about \$33 billion.) It’s not quite SpaceX, but it’s more SpaceX than you can get from, for instance, Fundrise.

Sports betting

A thing that has driven me a little bit insane over the last year or so is that the US has legalized sports gambling, nationwide, by accident. From 1991 until 2018, federal law essentially prohibited sports betting, and then the US Supreme Court struck down that law and said that states had to be allowed to make their own decisions on sports betting. So they did. Some states legalized and regulated sports betting, normally for customers who are at least 21 years old. Other states continued to prohibit sports betting. In each case, the state made some choice; laws were debated in state legislatures, and lawmakers considered public opinion and policy arguments.

And then about a year ago, shortly after President Donald Trump was inaugurated, the federal government tossed all of that aside and said: No, online sports gambling is now legal across the US, it has to be open to 18-year-olds, and the state regulatory regimes are invalid. Now sports gambling is federally regulated, though only barely.

Except the federal government never actually said that! Congress never passed a law legalizing sports gambling, and even the Commodity Futures Trading Commission – the federal agency that, bizarrely, has claimed responsibility for sports gambling regulation – hasn’t put out any rules about it. Trump did not run on a platform of legalizing sports gambling for 18-year-olds. Nobody voted for this or discussed it.

Instead, it was a bit of technical regulatory entrepreneurship by the prediction-market firms, mostly Kalshi. Basically the law allows Kalshi to offer “event contracts” subject to CFTC regulation, which preempts state regulation. That law, it seems, was *not* intended to allow sports betting: The CFTC’s rules prohibit “gaming” contracts, and *Kalshi itself* admitted in 2024 that “contracts on ‘sporting events such as the Super Bowl, the Kentucky Derby, and Masters Golf Tournament’ were precisely what Congress had in mind as ‘gaming’ contracts.” But in the friendlier Trump administration, Kalshi just started offering sports betting, and the CFTC didn’t stop it. States tried to stop it, but Kalshi argued that, as a federally regulated futures exchange, it is not subject to state regulation: CFTC regulation preempts state gaming regulation. And because the CFTC hasn’t stopped Kalshi, nobody can.

This argument has not been completely successful – “Nevada on Friday won a temporary restraining order to prevent prediction-market platform Kalshi from offering event-based contracts related to sports, elections and entertainment,” and Arizona brought *criminal* charges last week – but it has been mostly successful, and the CFTC has gotten behind it. But now Congress has noticed:

A bipartisan pair of U.S. senators are introducing legislation Monday to prohibit entities regulated by the Commodity Futures Trading Commission, including prediction-market exchanges Kalshi and Polymarket's U.S. platform, from listing contracts related to sporting events.

"The CFTC is greenlighting these markets and even promoting their growth," Sen. Adam Schiff (D., Calif.) said. "It's time for Congress to step in and eliminate this backdoor which violates state consumer protections, intrudes upon tribal sovereignty and offers no public revenue."

The legislation is the first bipartisan Senate bill seeking to regulate prediction markets. The bill also seeks to prohibit "casino-style games" from being listed on the platforms, such as slot machine games, video poker, blackjack and bingo.

"Too many young people in Utah are getting exposed to addictive sports betting and casino-style gaming contracts that belong under state control, not under federal regulators," said Sen. John Curtis (R., Utah), the proposed bill's co-sponsor.

This does seem obviously right, which I guess means it won't go anywhere?

Oil

If you happen to know in advance that President Donald Trump will or will not bomb Iran on some particular day, and you are not especially ethical, and you want to make a quick buck, one thing you could do is insider trade on that information. Obviously this is not legal advice, or any other sort of advice.

What should you trade? Well, the simplest answer is to go on Polymarket, the prediction market site, and buy the "Yes" or "No" contract for "Will the US bomb Iran on Thursday" or whatever. The advantage of this is that you can directly monetize exactly the information you have. The main disadvantages are:

1. It's illegal, but really any sort of insider trading on war plans is illegal and a bad idea; this is not unique to Polymarket.
2. That said, it is illegal for prediction markets in the US even to *list* war contracts, and Kalshi doesn't, so that is a bit of a constraint on your trading.
3. People will *notice* if you trade on Polymarket: Your trades directly reflect your inside information, and people love to go around accusing people of insider trading on Polymarket. So you might get caught.
4. One reason they'll notice is because prediction markets are, still, relatively *small*. If you want to bet on a bombing contract, you won't be able to bet that *much*, and you will probably move the price in doing so.

The only slightly less simple answer is to go to the *oil futures market* and sell or buy crude oil futures. The advantage of this is that oil is a huge liquid global market, so you can put down a lot of money without moving prices much or attracting all that much attention. The main disadvantage is that you have to do some translation work: You have to turn the datum “Donald Trump won’t bomb Iran this week” into the conclusion “therefore oil futures prices will go down.” This requires some knowledge about the world – beyond just knowing Trump’s bombing plans – and is subject to some risk: Even if you get the general direction right (“no bombs make oil go down”), some outside event might nonetheless make oil prices go up and then you’ll lose your bet.

Still, I get the sense that Polymarket is for hobbyists and oil futures are for people who want to make real money. The Financial Times reports:

Traders made bets worth half a billion dollars in the oil market about 15 minutes before Donald Trump’s post touting “productive” talks with Iran sent the price of crude tumbling and ignited volatility in other assets.

Roughly 6,200 Brent and West Texas Intermediate futures contracts changed hands between 6.49am and 6.50am New York time on Monday, just a quarter of an hour ahead of the US president’s post on Truth Social that there had in recent days been “productive conversations” with Tehran to end the war in Iran. The notional value of those trades was \$580mn, according to FT calculations based on Bloomberg data. ...

The well-timed trades echoed the flurry of large highly profitable bets made on prediction market Polymarket on the timing of the US’s attacks in recent months on Iran and Venezuela.

WTI futures fell about 7% on the post, for a quick profit of about \$40 million. Meanwhile that “flurry of large highly profitable bets” on Polymarket “made a combined profit of \$330,000.” So this would be more than.

Things happen

Japan’s SMFG explores possible takeover of Jefferies. US’s Mysterious \$15 Billion Crypto Haul Faces Questions in Court. SEC questions ratings issued by agency behind private credit boom. How Keeping Private Credit Safe Became Iowa’s Problem. Tripadvisor Adds New Directors as Part of Deal With Activist Starboard. JPMorgan Offers Clients a New Way to Hedge AI Debt Risk. The Silicon Valley Salesman Accused of Helping China Get Nvidia’s Top Chips. Hedge fund Millennium explores shifting Dubai staff to Jersey. NYSE Partners With Securitize to Develop 24/7 Tokenized Securities Platform. Hedge Fund Founder Weiss Loses Defamation Suit Against Jefferies. OpenAI Taps Former Meta Executive to Lead Ad Push. Bank of London fined over faked documents. Why MBA Tuition Keeps Rising. Red Lobster’s Last Gasp. Odey Says Receptionists May Have Thought He Was Just a ‘Creepy Old Man.’

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1. Ares' public BDC is called ARCC; its most recent NAV was \$19.94 per share, and it closed yesterday at \$18.28, about an 8% discount. Apollo's is called MFIC; its most recent NAV was \$14.18 per share, and it closed yesterday at \$11.07, about a 22% discount. The Future Standard/KKR one is FSK; its most recent NAV was \$20.89 per share, and it closed yesterday at \$10.38, a 50% discount. Also Blue Owl Capital Inc. has a public BDC (OBDC); its most recently reported net asset value was \$14.81 per share, and it closed yesterday at \$11.32, about a 24% discount. Etc.; this Financial Times article from a few weeks ago has a longer list.
2. I assume that they only pay 100% in large part for cultural and marketing reasons; it would be weird to *say* your fund is worth \$14.18 and only bid \$11.07 for it. But it is also a legal requirement: The rules say that "A registered closed-end company or a business development company may repurchase common stock of which it is the issuer from the holders of the stock at periodic intervals, pursuant to repurchase offers made to all holders of the stock, provided that ... the company shall repurchase the stock for cash at the net asset value determined on the repurchase pricing date." So bidding 80% doesn't work.
3. Alisa Mall, the chief investment officer of Michael Dell's family office, spoke at a Bloomberg event yesterday, Bloomberg News reports: "'A lot of the concern around the industry is more sentiment-driven than fundamental-driven,' she said, pointing to the mismatch in consumer expectations of liquidity and the products they're actually being offered." And "'liquidity is the first-, second- and third-most important thing,' Blake Nesbitt [of Cliffwater LLC] emphasized at an industry roundtable this month." If you value liquidity separately, perhaps it really is worth 20% of NAV to individual private-credit investors.
4. On the podcast, Weinstein argues that private credit managers should be buying back shares of the *public* BDCs hand over fist: If you have a publicly traded fund that trades at a 50% discount to net asset value, and you believe in the net asset value, the most accretive thing you can do is buy back stock. On the simple model, he's right, and it's a little weird that there aren't more public BDC buybacks.
5. That is: It got 11.2% redemption requests and met 5%, giving everyone 45% of their requested redemption, for a total granted redemption of \$730 million, so \$730 million divided by 45% is about \$1.6 billion.

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Securities

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SEC Must Release Recording of Musk Interview With Investigators

March 24, 2026, 7:28 AM PDT

Summary by Bloomberg AI

AI Generated



- The US Securities and Exchange Commission was ordered to release the recording of a 2018 interview between Elon Musk and investigators.
- The judge said the SEC failed to identify a "substantial privacy interest that would be actually impeded by releasing the recording" because the substance of the interview was already disclosed.
- The SEC must release the recording within 60 days, but can withhold portions redacted in the released transcript or showing any person other than Musk.

The US Securities and Exchange Commission was ordered to release the recording of a 2018 interview between Elon Musk and investigators during the agency's probe into the Tesla CEO and his tweets.

The agency failed to identify a "substantial privacy interest that would be actually impeded by releasing the recording," Judge Tanya S. Chutkan of the US District Court for the District of Columbia said Monday.

Since the SEC already disclosed the substance of the interview when it released a 281-page redacted transcript and brought a "highly public" enforcement action against Musk for alleged securities fraud, the judge said, the usual reasons to withhold law enforcement records don't hold weight here. Musk also publicly spoke about the investigation after he settled with the SEC for \$20 million.

"The cat is out of the bag," Chutkan wrote.

Although individuals generally have a substantial privacy interest in their voice and likeness, "Musk's image, voice, and mannerisms are far more public than that of a private individual who has not held press conferences in the Oval Office and Cabinet Room or gone on national television," the judge said.

The agency also never indicated that Musk became emotional or distressed during questioning, or that the recording "reveals anything different from what is already well known" about Musk's mannerisms and voice, Chutkan said.

The SEC must release the recording within 60 days, but can withhold portions redacted in the released transcript or showing any person other than Musk.

Jigsaw Productions Inc. sued the SEC under the Freedom of Information Act in 2024 after the agency refused to share more than the redacted transcript. Jigsaw is a documentary production company making a film on Musk.

Reporters Committee for Freedom of the Press represents Jigsaw.

The case is Jigsaw Prods. LLC v. SEC , D.D.C., No. 1:24-cv-02358, 3/23/26 .

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

To contact the editor responsible for this story: Patrick L. Gregory at pgregory@bloombergindustry.com

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Mike Lynch's estate refused permission to appeal in UK HP-Autonomy case

 [reuters.com/sustainability/boards-policy-regulation/mike-lynchs-estate-refused-permission-appeal-uk-hp-autonomy-case-2026-03-24](https://www.reuters.com/sustainability/boards-policy-regulation/mike-lynchs-estate-refused-permission-appeal-uk-hp-autonomy-case-2026-03-24)

Sam Tobin

March 24, 2026

Figurines with computers and smartphones are seen in front of Hewlett Packard Enterprise logo in this illustration taken, February 19, 2024. REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights, opens new tab](#)

- HP says ruling awards it \$1.24 bln in damages, interest
- Lynch's estate refused permission, but can still appeal
- Tycoon died in yacht sinking, shortly after 2024 acquittal

LONDON, March 24 (Reuters) - The estate of late British tech tycoon Mike Lynch was on Tuesday refused permission to appeal a ruling by London's High Court that he owed damages to Hewlett Packard Enterprise ([HPE.N](#))  [, opens new tab](#) over its acquisition of his firm Autonomy.

The U.S. technology giant Hewlett Packard is trying to recoup losses arising from its 2011 acquisition of Autonomy for \$11.1 billion from the estate of Lynch, who [died](#) in 2024 when his luxury yacht sank off Sicily.

HP accused Lynch and Autonomy's former chief financial officer, Sushovan Hussain, of inflating the firm's value before the takeover. HP wrote down Autonomy's worth by \$8.8 billion within a year of the purchase.

In 2022, the High Court largely ruled against Lynch and Hussain over the deal, though a judge said HP would get considerably less than the \$5 billion originally sought.

Lawyers for Lynch's estate sought permission to appeal against the High Court's ruling on liability and a later ruling on damages. They were refused permission to appeal in a judgment on Tuesday, though can apply directly to the Court of Appeal.

HP said the ruling awarded it a total of around \$1.24 billion in damages and interest and "brings us another step closer to resolution of the dispute".

The estate's lawyers did not immediately comment. A spokesperson for the Lynch family said they were disappointed with the court's refusal to allow an appeal.

LATEST RULING FOLLOWS LYNCH'S 2024 DEATH

The High Court [ruled last year](#) that HP suffered losses of nearly 698 million pounds – just over \$1 billion at 2011 exchange rates – as it would have paid less for Autonomy had it known its "true financial position".

HP is also entitled to interest on its losses up to May 2023, which the company said took the total to \$1.24 billion, less than the [\\$1.79 billion](#) it had been seeking. Lynch, once hailed as Britain's answer to Bill Gates, always maintained his innocence and blamed HP for failing to integrate Autonomy. He was [cleared](#) of related criminal charges in the United States in June 2024.

That acquittal "exposed the truth", a spokesperson for the Lynch family said on Tuesday, adding: "The damage to Autonomy was the result of HP's own actions and failures, not wrongdoing at Autonomy."

Lynch, 59, died in August 2024 when his yacht sank off Sicily during a trip to celebrate his acquittal. His 18-year-old daughter Hannah also died in the accident.

Reporting by Sam Tobin, Editing by Paul Sandle, Susan Fenton and Tomasz Janowski

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J&J Amici Seek Clarity On Goldman Precedent For Class Cert.

By **Jarek Rutz**

Law360 (March 23, 2026, 7:43 PM EDT) -- Four groups of amici have urged the U.S. Supreme Court to take up Johnson & Johnson's challenge to a Third Circuit decision allowing a securities class action over its talc products to proceed, warning the ruling could reshape how shareholder suits are litigated nationwide.

In briefs filed Friday, the amici — major business organizations, former U.S. Securities and Exchange Commission officials, a public policy institute and a legal advocacy group — argued the Third Circuit's **2-1 decision** improperly lowered the bar for certifying investor classes by weakening a key defense available to companies at the class certification stage: the ability to show that alleged misstatements did not actually affect a company's stock price.

"The Third Circuit's reasoning is a recipe for unwarranted class certifications in contravention of this court's established precedent," the group of business associations, including the U.S. Chamber of Commerce, **said in the brief**.

The filings support Johnson & Johnson's petition for certiorari asking the high court to review a July 2025 ruling that upheld certification of a class of investors claiming the company inflated its stock price by failing to disclose cancer risks tied to its talcum powder products.

The case centers on how courts should apply the Supreme Court's 2021 decision in **Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System** , which requires judges to examine whether there is a meaningful "mismatch" between alleged misstatements and later disclosures that triggered drops in stock prices.

At a high level, the amici contended the Third Circuit diluted that mismatch test by allowing plaintiffs to rely on disclosures that merely relate to the same general subject — here, talc safety — rather than requiring a closer connection showing that the disclosure actually corrected a prior misrepresentation.

The underlying litigation stems from a securities fraud suit brought by the San Diego County Employees Retirement Association and other investors, who alleged Johnson & Johnson misled the market by making statements about the safety of its talc products while failing to disclose potential cancer risks.

A New Jersey federal judge certified a class of investors in 2023, and in July 2025, a divided Third Circuit panel affirmed that decision. The majority found that several disclosures, including news tied to talc-related litigation, could have conveyed new, value-relevant information to investors and contributed to stock price declines. In a dissent, U.S. Circuit Judge Cindy K. Chung argued the lower court had not adequately analyzed whether those disclosures truly revealed anything new or corrective.

Johnson & Johnson has argued the Third Circuit misapplied the Goldman precedent by allowing class certification based on disclosures that did not actually correct earlier statements and instead reflected already-public information or litigation developments.

The amicus briefs echo that concern, warning Friday that the ruling could expand so-called event-driven securities litigation — cases where shareholder claims follow adverse corporate events like

lawsuits, accidents or regulatory actions.

The law professors and former SEC officials said in their **amicus brief** that the decision "eliminated an important guardrail this court established to protect companies from these often meritless piggyback actions," arguing it would allow plaintiffs to tie stock price drops to events that do not meaningfully relate to alleged company misstatements.

Similarly, the conservative think tank Manhattan Institute **cautioned the ruling** could function as a "litigation tax" on public companies by making it easier to certify large classes and pressure defendants into settlements, even in weak cases.

The conservative legal group Washington Legal Foundation **emphasized in its brief** that the decision conflicts with the basic premise of efficient markets underlying securities law, arguing that stock prices should only react to genuinely new information — not the repackaging of facts already known to investors.

Across the filings, the amici repeatedly warned that loosening the standards for class certification risks exposing companies to duplicative liability, particularly where product-related controversies already generate consumer lawsuits.

The law professors and former SEC officials noted in their amicus brief that companies could face "double punishment" from both tort claims and shareholder suits tied to the same underlying events.

The business groups' brief further argued the Third Circuit's approach could have an outsized influence because few appellate courts have interpreted the Goldman ruling, increasing the likelihood that other courts may follow its reasoning.

The amici collectively urged the Supreme Court to intervene and clarify how courts should evaluate price impact at the class certification stage and to restore what they described as critical safeguards against abusive securities litigation.

J&J declined to comment on the amicus briefs filed Friday, and representatives for the other parties did not respond to requests for comment Monday.

Johnson & Johnson is represented by Sidley Austin LLP.

The San Diego County Employees Retirement Association and other investor plaintiffs are represented by Robbins Geller Rudman & Dowd LLP and Carella Byrne Cecchi Olstein Brody & Agnello PC.

The U.S. Chamber of Commerce, National Association of Manufacturers, Securities Industry and Financial Markets Association and Pharmaceutical Research and Manufacturers of America are represented by O'Melveny & Myers LLP and the U.S. Chamber Litigation Center.

The former SEC officials and law professors are represented by Sullivan & Cromwell LLP.

The Manhattan Institute is represented by Torridon Law PLLC.

The Washington Legal Foundation is represented by Allen Overy Shearman Sterling.

The case is Johnson & Johnson et al., Petitioners v. San Diego County Employees Retirement Association et al., case number 25-977, before the Supreme Court of the United States.

The underlying case is San Diego County Employees Retirement Association et al. v. Johnson & Johnson et al., case number 24-1409, in the U.S. Court of Appeals for the Third Circuit.

--Editing by Lakshna Mehta.



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Cosmetics Giant Coty Faces Investor Suit Over Fragrance Biz

By **Emilie Ruscoe**

Law360 (March 23, 2026, 9:54 PM EDT) -- Beauty giant Coty Inc. faces a proposed investor class action alleging the company misled investors when it said it was poised for growth only to reverse course last month and say its earlier forecast was premature.

In a complaint filed Monday in New York federal court, Coty investor Suvega Srinivasan said the company and its executives expressed optimism in November about Coty's prospects for sales and profit gains, but he claimed this concealed the slow growth affecting its fragrance segment and position in the beauty market. When the truth emerged last month, the company's share price fell twice, Srinivasan said.

The November optimism, Srinivasan said, included the company's then-CEO, Sue Nabi, telling investors: "Indeed, we are confirming that we will be back to growth in the second half of this fiscal [year, which starts in February]. So that's the #1 message."

But in February, when the company prepared to announce results for its most recent quarter, it struck a more muted tone as Coty Chief Financial Officer Laurent Mercier told investors that "it will be premature to issue full second half of fiscal year 2026 guidance at this stage," saying at the time that the reason for that decision was the December arrival of an interim CEO.

According to the investor, Coty's trading price fell from about \$3.43 to \$3.15, or about 8%, following that announcement.

The next day, the investor said, Coty's share price fell again when the company announced its earnings numbers and its interim CEO, Markus Strobel, said its "financial performance over the past year and a half has been disappointing, and our current share price reflects that reality."

On that news, the investor said, Coty's share price fell 16%, from \$3.15 to \$2.66.

Srinivasan claimed that Coty representatives' comments in February were in "direct contrast to statements they made during" the November calls.

In addition to the allegedly concealed growth woes, Coty's margins were compressed in November as the company spent more on marketing, Srinivasan said.

On Monday, a representative for Coty said the company doesn't comment on litigation. Counsel for Srinivasan did not immediately respond to a request for comment.

Srinivasan is represented by Adam M. Apton of Levi & Korsinsky LLP.

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

The case is Srinivasan v. Coty Inc. et al., case number 1:26-cv-02343, in the U.S. District Court for the Southern District of New York.

--Editing by Nick Siwek.



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Revance Investors Ink \$17M Deal In Take-Private Offer Suit

By **Sydney Price**

Law360 (March 23, 2026, 7:51 PM EDT) -- Dermal fillers company Revance Therapeutics Inc. and two of its executives have agreed to a \$17 million settlement to end claims the company hurt investors after the value of a take-private tender offer was negotiated down following allegations that Revance had breached a distribution deal with another company.

The proposed settlement represents between 10% and 25% of the estimated recoverable damages, and is an "objectively excellent" result given the 4.9% median recovery in similar cases last year, according to the **settlement notice** filed Friday in Tennessee federal court.

The deal was achieved in the weeks after the parties participated in a full-day mediation session in January, the notice says.

For their work leading the litigation, the plaintiffs' attorneys plan to request 33% of the settlement fund, or about \$5.6 million, in fees and up to \$250,000 in expenses.

If approved, the deal would settle allegations that Revance, its CEO Mark J. Foley and its Chief Financial Officer Tobin C. Schilke concealed that Revance had failed to uphold its end of its distribution agreement with Swiss company Teoxane SA.

The consolidated **litigation** launched last year by investor Cassandra Matney alleges Revance did not publicly address certain details of its performance under the Teoxane distribution deal. The suit points to Revance's disclosure in a U.S. Securities and Exchange Commission filing that Teoxane had accused Revance of holding onto excess levels of Teoxane stock and failing to meet its obligations to promote and sell Teoxane products, which include fillers used for facial enhancements.

According to the suit, Revance and another U.S.-based company, privately held Crown Laboratories Inc., announced plans to merge in August 2024.

The tender offer was put on hold the following month, when Revance acknowledged Teoxane's notices of default, Matney said.

In December 2024, Revance ultimately announced that its merger agreement with Crown had been revised and Crown would now offer only \$3.10 per share in cash for outstanding Revance shares, a drop of over 50% in the purchase price.

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

The investors are represented by Steven B. Singer, David J. Schwartz, Lester R. Hooker and Jonathan D. Lamet of Saxena White PA, Andrew J. Entwistle, Callie Crispin, Vincent R. Cappucci, Robert N. Cappucci and Brendan J. Brodeur of Entwistle & Cappucci LLP and J. Gerard Stranch IV of Stranch Jennings & Garvey PLLC.

Revance is represented by Jordan D. Peterson of Kirkland & Ellis LLP.

Foley and Schilke are represented by Christopher E. Thorsen of Baker Donelson Bearman Caldwell & Berkowitz PC and Susan L. Saltzstein, Jeffrey S. Geier, Christopher R. Fredmonski and Jenness E. Parker of Skadden Arps Slate Meagher & Flom LLP.

The case is In re: Revance Therapeutics Inc. Securities Litigation, case number 3:25-cv-00018, in the U.S. District Court for the Middle District of Tennessee.

--Editing by Michael Watanabe.

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Semiconductor Co. Can't End Suit Over Key Witness's Reversal

By **Katryna Perera**

Law360 (March 23, 2026, 5:50 PM EDT) -- An investor's securities fraud suit accusing STMicroelectronics of failing to acknowledge pandemic-related declines in demand will proceed after a New York federal judge rejected the semiconductor manufacturer's bids for dismissal and reconsideration.

U.S. District Judge Alvin K. Hellerstein issued a two-page **order** last week rejecting the defendants' motion for reconsideration and dismissal, which relied heavily on a new declaration from a former executive who said the allegations attributed to him in the suit **were false**.

The operative complaint relies on statements made by Marco Monti, the former president of STMicroelectronics' automotive & discrete group, including that he warned STM's top brass that the company was not immune to the semiconductor market slowdown, and not to misrepresent STM's prospects to investors.

However, in its motion for reconsideration and dismissal, STM said Monti had signed a new declaration asserting that he did not make the statements attributed to him in the operative complaint and that those statements were false.

But Judge Hellerstein said in his order that STM's "attacks on the credibility" of Monti's claims are "misplaced at this stage."

"Whether 'these former employees will prove to be credible and percipient sources is not at issue at this stage of the litigation,'" the order states. "The declaration submitted by defendants does not provide a basis for reconsideration or dismissal at this stage."

Viewing the complaint holistically, the judge said the investors have adequately pled their claims, including scienter, and he ordered discovery to proceed.

Counsel for the defendants declined to comment Monday, and counsel for the investors did not immediately respond to requests for comment.

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

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

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

In a letter response filed shortly after the defendants' motion, the investors said Monti's recantation is "troubling, raises very serious concerns of intimidation and undue pressure on the witness, and plaintiffs look forward to using the full tools of discovery to ascertain how and why Mr. Monti suddenly came to change his story."

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

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

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

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

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

--Editing by Jay Jackson Jr.

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Wagstaff Law Firm Backs \$7.25B Roundup Deal

By **Emily Field**

Law360 (March 23, 2026, 8:16 PM EDT) -- The founding partner of Wagstaff Law Firm and co-lead counsel in federal multidistrict litigation over claims that weed killer Roundup is a carcinogen announced her support on Monday for a \$7.25 million deal to end current and future claims that the herbicide causes non-Hodgkin lymphoma.

Aimee Wagstaff said in a statement that she has decided not to object to the settlement reached in February, despite her general opposition to using the class action "vehicle" to resolve personal injury claims. Earlier in March, the deal got a preliminary nod of approval from a Missouri state judge.

"I have been in this litigation since its inception 12 years ago, and I know this litigation and defendant better than most anyone," Wagstaff said in a statement. "Under the unique circumstances of this particular litigation, I will be recommending to my clients that they remain in the class resolution."

Roundup, the herbicide at the center of years of mass-tort litigation, has drawn waves of personal injury suits alleging that its active ingredient, glyphosate, causes cancer and other health problems. Bayer AG inherited the portfolio of claims when it acquired Monsanto Co. in 2018, taking on the agrichemical company's liabilities just as plaintiffs began filing tens of thousands of cases over legacy products.

Since then, the litigation has weighed on Bayer, contributing to steep stock declines and pressure from investors who argue that the company should spin off its struggling crop science division. The Roundup docket, along with other Monsanto-related disputes, has become a central factor in calls to restructure the business.

On March 4, Judge Timothy J. Boyer of St. Louis Circuit Court granted preliminary approval of the settlement; there will be a fairness hearing on July 9, when the court will decide whether to give the deal final approval.

Class members will have 90 days to opt out or file objections, and lawsuits in Missouri will be stayed until final approval.

The settlement was announced on Feb. 17, and is a component of a wider strategy that turns on how the U.S. Supreme Court rules on *Durnell v. Monsanto*, which could determine whether state failure-to-warn claims are preempted by federal pesticide-labeling rules, Bayer has said.

A high court ruling in favor of Monsanto would curb future suits, while the class program is intended to resolve claims that would remain no matter what the court decides.

Representatives for Bayer didn't immediately respond to requests for comment on Monday.

The settlement's long-term plan, if given final approval, would provide for declining, capped annual payments, and allow claimants diagnosed before or within 16 years of final approval to seek compensation.

In January, the high court agreed to take up the case brought by John L. Durnell, whose 2019 suit alleges that he developed non-Hodgkin lymphoma after exposure to Roundup.

Monsanto petitioned the high court in April, arguing that Durnell's failure-to-warn claim is preempted

by the Federal Insecticide, Fungicide and Rodenticide Act, which it said includes a provision that preempts all state requirements for labeling and packaging that are "in addition to or different from those required" under the law.

Earlier in March, the federal government, 15 state attorneys general and business groups urged the high court to strike down the \$1.25 million verdict for Durnell, saying that "patchwork" labeling regulations could harm the nation's farmers if the judgment stands.

If the high court finds against Monsanto, the federal government said, the uniform labeling requirements under federal law would be swapped for a "free-for-all," where individual states, courts and juries would compel more, potentially conflicting warnings.

The benefits of glyphosate — the most commonly used herbicide in the country — as a weed killer are immense for farming states, the attorneys general said in their separate brief.

Nebraska, Iowa, Missouri and the other states said glyphosate is easy to administer and works on hundreds of different weeds with minimal residual toxic effects on crops and other vegetation.

About 90% of corn, cotton, soybean and sugar beets are treated with glyphosate, the states said.

If individual states can mandate their own tailored labeling requirements for glyphosate, that would be disastrous for their own farmers and agricultural industries, they said.

The case is King et al. v. Monsanto Co., case number 2622-CC00325, in St. Louis Circuit Court.

--Editing by Karin Roberts.



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Teens Are Meta's 'Collateral Damage,' Jury Hears In Closings

By **Cara Salvatore**

Law360 (March 23, 2026, 11:03 PM EDT) -- New Mexico on Monday closed out its trial against Meta over allegedly undisclosed mental health harms, telling a jury the social media giant openly committed to "move fast and break things" but hid that minors "are the collateral damage, what's broken when Meta moved fast."

The office of New Mexico Attorney General Raúl Torrez and outside counsel from Motley Rice LLC urged the jury to award up to \$2 billion in statutory penalties after a six-week trial in which they claimed Meta's apps, primarily Facebook and Instagram, failed to adequately protect teenagers from sexual predation, harmful content like suicide and self-injury material, and bullying, did nothing to keep under-13s off the platform, and painted a rosier picture for the public than it openly discussed internally in chats and emails that sometimes lamented lack of action or lack of protections.

"The safety issues that you've heard about in this case weren't mistakes; they weren't quirks; they were a product of a corporate philosophy that chose growth and engagement over children's safety. It is a product of features that Meta designed, that it chose, to reach those goals," Linda Singer of Motley Rice told the jury.

And youth "are the collateral damage, what's broken when Meta moved fast to build growth and engagement," Singer said. "It did not move fast on safety."

She reminded the jury of documents in which insiders discussed how highly the company prized younger users because of their trendsetting power, like in an email referencing **founder and CEO Mark Zuckerberg**: "Mark has decided that the top priority for the company in 2017 is teens."

Its public statements laid out that children under 13 were prohibited, but the company knew there were "millions and millions" with accounts, Singer said, and a "total failure to enforce" that policy was known and discussed internally.

"It wasn't even trying," Singer said — at least not the safety team or the growth team. She said things were different on the advertising sales side, also known as the business team.

"And you may recall that Brian Boland, who was head of advertising ... came in and explained to you, 'Our age data on the business side was extremely reliable.'"

"What Meta had on the business side, it did not use on the safety side," Singer said.

The company was less than fully willing to hear reports of issues, she said. An elementary school principal testified she emailed Instagram head Adam Mosseri, **also a later witness**, about all her students being on the network and got no response. Former Facebook senior director of engineering Arturo Béjar **testified** it took a sequence of seven screens to report an under-13 person posing as 13 or older, and required the reporter to give their real name and birth date.

She also reminded the jury about the "black box" of the algorithm. In 2016, Meta changed from showing feed posts in reverse chronological order to letting an algorithm control what posts were shown and in what order for maximum engagement.

This led straight into what the company calls "problematic use" and the attorney general calls

"addiction," Singer said. The company was abundantly aware that users "feel like they're not in control, because the algorithm is designed to make them lose control," she said.

She also offered a reminder that questions had come from the jury box about how much harmful content was simply never being detected — a question they heard no one has an answer to.

"What's the prevalence of what Meta misses, what it doesn't call violating? And you never got an answer to that question. What does that tell you that Meta can't answer that question, that Meta won't answer that question?" Singer said.

The case has one claim of unfair practices and one claim of unconscionable acts.

Singer presented two different proposals for penalty calculations, the first multiplying a maximum \$5,000 statutory penalty by the state-estimated 208,700 Meta platform users in New Mexico — both Facebook and Instagram — for each of the two claims, and coming in around \$2.1 billion total. The second proposal, multiplying 42 alleged misrepresentative statements by the estimated average of 21% of the state's teens actually affected, came in around \$1.2 billion total. Singer called both proposals "conservative."

Meanwhile, Kevin Huff of Kellogg Hansen Todd Figel PLLC delivered closing arguments for Meta, telling the jury that the company has been unceasingly upfront with minor accountholders and with parents, and that it has fully "40,000 people working to make its apps as safe as possible."

"Meta succeeds in removing the vast majority of the bad content. You heard testimony that Meta is the best in the world at doing this," Huff said. The jury heard testimony from Meta's **head of child safety policy, Ravi Sinha**, and its **global head of safety, Antigone Davis**, among many others.

"What else is Meta supposed to do? It puts these disclosures everywhere it possibly could put them," he said. "Most people are already aware of the risks of social media, either because of common sense, because of their own experiences on the Internet."

He told the jury to spend time in the deliberation room with two spreadsheets listing numerous disclosures the company has made and when.

With 3 billion people using its services each day, a small amount of bad content will slip through all of its various machine learning tools built to quickly detect harmful content. And this is something company leaders have referred to over and over in blog posts, Congressional testimony, terms of service that users agree to when creating accounts, and more, he said.

Not only that, federal law makes platform publishers nonliable for content published on their platforms, Huff said, and there is also the First Amendment to consider. Either one of these alone should end the case, he suggested.

The state also did not bring a single witness to testify that their choices about platform use were affected by what the company said or did not say, according to Huff.

"The state has presented zero evidence, literally zero evidence, in the last six weeks about how many teens decided to use Facebook or Instagram because — that's the instruction — because they were not informed of the risks. There is no evidence in the record about that," Huff said.

He said the state also dallied in identifying to Meta or anyone else precisely what statements they were claiming were misrepresentations, eventually coming up with a list of 42. Judge Bryan Biedscheid told the jury in its instructions that he found that the state delayed in identifying the statements to Meta.

Huff urged the jury to scrutinize these 42 statements, including the language before and after the specific state-identified part, because "frequently the full statement gives full context around the quote that the state cherry-picks."

As for penalties based on a 208,700 user figure, he said, "This is more teens than there are in the state."

New Mexico is represented by Donald Migliori, Linda Singer, David Ackerman and Michael Pendell of Motley Rice LLC and Raúl Torrez of the New Mexico Office of the Attorney General.

Meta is represented by Kevin Huff and Alex Parkinson of Kellogg Hansen Todd Figel & Frederick PLLC.

The case is New Mexico v. Meta Platforms Inc. et al., case number D-101-CV-2023-02838, in the First Judicial District Court of New Mexico.

--Editing by Linda Voorhis.

For more of this trial, see Courtroom View Network.

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Bankman-Fried Must Reveal Any Legal Help In Pro Se Motion

By **Lauren Berg**

Law360 (March 23, 2026, 11:09 PM EDT) -- A federal judge in Manhattan on Monday ordered incarcerated FTX founder Sam Bankman-Fried to reveal how much, if any, attorney help he had in drafting his motion for a new trial, saying criminal defendants don't have the right to both represent themselves and be represented by counsel.

Bankman-Fried is represented by attorneys from Shapiro Arato Bach LLP and Seyfarth Shaw LLP in his case that ended in a conviction and sentence of 25 years behind bars, but the defendant last month filed a **pro se motion** for a new trial in which he accused prosecutors of leveraging "intimidation and threats to scare off defense witnesses."

After Bankman-Fried's mother, retired Stanford Law School professor Barbara Fried, asked for a deadline extension on her son's behalf — to which U.S. District Judge Lewis A. Kaplan **responded with a warning** that she is not allowed to make such filings — prosecutors on Sunday **expressed concern** that some of the defendant's filings didn't actually come from him.

In response, Judge Kaplan on Monday **ordered** Bankman-Fried to inform the court, under penalty of perjury, whether his motion and two related filings were "drafted or prepared in whole, or substantial part, by an attorney or attorneys."

"Defendants in criminal cases have the right to represent themselves — i.e., to act pro se — or to be represented by counsel. They do not have the right to do both at the same time," the judge said, adding that he hasn't yet decided whether to consider Bankman-Fried's "purportedly pro se pending motion."

If Bankman-Fried did have attorney help, he must reveal the names of each such attorney, the order states.

Counsel for Bankman-Fried and a representative for the government did not immediately respond to requests for comment late Monday.

In an unusual move, Bankman-Fried — who is serving a **25-year sentence** after being **convicted of defrauding** FTX customers out of billions of dollars — last month filed a motion seeking a new trial from the California prison where he is incarcerated. His request comes while a **separate appeal**, led by appellate heavyweight Alexandra Shapiro of Shapiro Arato Bach LLP, is awaiting a decision from the Second Circuit.

The cryptocurrency exchange founder also asks that Judge Kaplan, who presided over his trial, recuse himself from ruling on the motion "because of the manifest prejudice he has demonstrated" toward Bankman-Fried.

He argues he should be afforded a new trial after alleged intimidation from the government prosecution left him with no defense witnesses at trial. According to Bankman-Fried, three former FTX executives might have been willing to testify in his defense, but declined after they were advised by their own counsel that doing so could expose them to greater prosecution risk.

"The prosecution's reliance on intimidation and threats to scare off defense witnesses and coerce testimony favorable to the government from its own witnesses constitutes a serious due process

violation that independently warrants a new trial," Bankman-Fried argued.

But the government fired back at the motion earlier this month, calling it a "transparent attempt" to further false narratives that Bankman-Fried's collapsed crypto exchange was solvent, and he was a victim of political retribution.

Prosecutors argue that the witnesses Bankman-Fried says he would have called were known to his defense before trial, and none of the evidence he claims they could have shared would have led to a different outcome. They also slam his claim that the collapsed crypto exchange was "solvent" as faulty and misleading.

"The motion's most aggressive claim — that FTX was solvent, that customers have since been made whole, and that the prosecution therefore rested on a lie — is factually wrong, legally irrelevant, and deeply misleading," the government said.

FTX suffered a stunning collapse in November 2022 that revealed it had commingled customer funds with its sister hedge fund Alameda Research before a liquidity crisis forced the exchange to halt withdrawals and file for bankruptcy.

Though Bankman-Fried has repeatedly criticized the bankruptcy process and maintains the exchange was solvent, multiple insiders testified at trial that Bankman-Fried directed a scheme to funnel FTX customer funds to Alameda Research for venture investments, political donations and real estate purchases.

The government is represented by Nicholas Roos, Thane Rehn and Danielle Kudla of the U.S. Attorney's Office for the Southern District of New York.

Bankman-Fried is represented by Alexandra A. E. Shapiro of Shapiro Arato Bach LLP and Marc L. Mukasey and Torrey K. Young of Seyfarth Shaw LLP in the district court matter. He is represented in the appellate matter by Alexandra A.E. Shapiro, Theodore Sampsell-Jones and Jason A. Driscoll of Shapiro Arato Bach LLP.

The case is U.S. v. Samuel Bankman-Fried, case number 1:22-cr-00673, in the U.S. District Court for the Southern District of New York. The appellate case is U.S. v. Bankman-Fried et al., case number 24-961, in the U.S. Court of Appeals for the Second Circuit.

--Additional reporting by Aislinn Keely, Elliot Weld and Pete Brush. Editing by Emily Kokoll.