

Commercial Litigation

Magistrate Judge Proposes Sanctions for Claims Filer that Misled Merchants on \$5.6B Visa, Mastercard Deal

A federal magistrate recommended reopening the claims filing period for merchants who had filed claims through Betz & Baril PLLC, finding that the personal injury firm and a referral partner "repeatedly" gave false information on the scope of a \$5.6 billion antitrust deal concerning credit card swipe fees.

April 01, 2026 at 04:03 PM By **Alyssa Aquino**



Credit: Visual Content/Adobe Stock

A federal magistrate in Brooklyn recommended giving thousands of merchants eligible for Visa and Mastercard's \$5.6 billion swipe fees settlement a chance to refile their claims, finding they were misled by a third-party claims filer and its referral partner about the scope of the deal.

U.S. Magistrate Judge Joseph Marutollo for the Eastern District of New York suggested reopening the claims filing period for those who filed claims through the personal injury firm, Betz & Baril

PLLC. Betz & Baril and a referral partner, ClickFunds LLC, had given clients false information on how much they could receive from the deal, Marutollo said.

“Such statements were made knowingly and repeatedly, here,” Marutollo wrote in [a report](#) released Wednesday. “Respondents’ attempt to diminish the gravity of the false or misleading statements—rather than attempting or offering to correct their statements—supports the need for sanctions here.”

The underlying settlement arises from more than two-decade-old litigation alleging an antitrust conspiracy between Visa, Mastercard and their affiliate banks concerning interchange fees, the fees charged to merchants to process transactions.

In 2019, Robbins, Geller, Rudman & Dowd LLP; Robins Kaplan LLP; and Berger Montague negotiated a \$5.6 billion deal providing damages to 12 million merchants harmed by the alleged misconduct. The firms have since been stewarding that settlement, as the Eastern District reviews a related, proposed settlement that would lower the fees.

The claims-filing period for the \$5.6 billion deal ended in early 2025, but in February of this year, the plaintiffs firms [moved to sanction](#) Betz & Baril and ClickFunds. The firms argued the pair had given merchants false information on their potential payouts and mistakenly told class members that they couldn’t seek reimbursement for credit card transactions processed through Square.

In [a response](#), Betz & Baril and ClickFunds argued through their counsel—James DeCristofaro—that their communications simply contained “imprecise phrasing.” Betz & Baril further argued that the issues came from ClickFunds’ side.

But Marutollo rejected the arguments, pointing out that Betz & Baril continued working with ClickFunds after it was aware of the false information.

Marutollo recommended that Betz & Baril be ordered to notify every merchant who used its claims-filing services about the false information and offer them the chance to end their contracts with Betz & Baril. Merchants who take up the offer may then refile their claims with another settlement administrator, Epiq, Marutollo proposed.

Under Marutollo’s proposal, Betz & Baril and ClickFunds would cover the costs for Epiq to refile the claims.

The sanctions recommended by Marutollo fall short of what the plaintiffs’ firms envisioned—an order blocking Betz & Baril and ClickFunds from receiving any settlement proceeds from any of their clients.

Marutollo explained he would still let Betz & Baril and ClickFunds remain in the deal, as there wasn't enough evidence that they misled "all of their approximately 9,000 associated class members."

"Terminating those contracts more than a year after the claims-filing deadline would also unduly burden the class members, as they would be forced to refile their claims in a compressed timeframe when they may not wish to do so," Marutollo said.

The recommendation goes up to U.S. District Judge Brian Cogan for review.

Counsel for Betz & Baril, ClickFunds and the merchant settlement class didn't immediately respond to Wednesday's requests for comment.

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Syneos Health Investors Advance Claims of Inflated Backlog (1)

April 1, 2026, 12:40 PM PDT; Updated: April 1, 2026, 1:34 PM PDT

Summary by Bloomberg AI

AI Generated



- Syneos Health Inc. and four former executives must contend with investor allegations the biopharmaceutical solutions company misrepresented its backlog methodology and inflated its calculations in financial reports.
- Investment funds alleged executives sold their stock during the proposed class period in quantities that far exceeded their previous trading to reap profits that far exceeded their annual salaries, supporting an inference of motive for securities fraud claims.
- The US District Court for the Southern District of New York judge let proposed class claims proceed on these backlog statements, finding that investors sufficiently alleged the level of intent or recklessness by leaders to defraud shareholders.

Syneos Health Inc. and four former executives must contend with investor allegations the biopharmaceutical solutions company misrepresented its backlog methodology and inflated its calculations in financial reports.

Investment funds leading the case sufficiently alleged the level of intent or recklessness by leaders to defraud shareholders, Judge Arun Subramanian said Tuesday, letting proposed class claims proceed on these backlog statements. The funds alleged executives sold “the lion’s share” of their stock during the proposed class period, and that “they did so in quantities that far exceeded their previous trading to reap profits that far exceeded their annual salaries,” supporting an inference of motive for securities fraud claims.

The US District Court for the Southern District of New York judge batted away Syneos and executives’ counterpoints that the stock sales weren’t suspicious or unusual. Among other points, executives said the stock was sold pursuant to prearranged trading plans. But three executives were alleged to have changed their trading plans at this time to allow them to sell more stock, the judge said.

"Zooming out, defendants nitpick each aspect of plaintiffs' allegations regarding motive, conscious disregard, and recklessness, but they don't tie together a convincing alternative narrative of these allegations," Subramanian said.

Meanwhile, three executives signed onto financial reports that investors sufficiently alleged misrepresented the company's backlog, or how much business was reportedly in the pipeline, he said. Syneos added \$70 million in connection to a multiyear GSK plc contract to the backlog quarterly during the class period, even though the collection of those funds was improbable every time and the company was keeping that money in its stated backlog beyond the max of one year in contradiction of its stated methodology, investors alleged.

Some of the details of more alleged backlog inflations were hazy, but the funds may be able to boost their claims through discovery, the judge said.

Still, Subramanian shed some claims, finding alleged misstatements "too general to be relied on, classic puffery, vague expressions of corporate optimism, or protected forward-looking statements. Or they still aren't false or misleading even after accepting plaintiffs' allegations as true."

Loss Causation

This was the funds' third attempt at surviving a motion to dismiss, with prior complaints tossed as "puzzle pleadings."

The funds adequately pleaded four shareholder loss-causing events at this stage of litigation, Subramanian said Tuesday.

"Defendants say that the alleged corrective disclosures "'merely reported on new events' and didn't reveal any prior misstatement," he said. "That's possible. But it's also plausible that Syneos inflated its backlog in violation of its stated methodology, which inflated its book-to-bill ratio, misstated its new business awards, and caused Syneos stock to trade at artificially inflated levels, which the disclosures corrected."

DiCello Levitt LLP is lead counsel for the proposed class, which targets investors who acquired Syneos stock from Sept. 9, 2020, through Nov. 3, 2022. Attorneys didn't immediately respond to an email seeking comment.

Sullivan & Cromwell LLP represents Syneos and four former executives. Syneos said it doesn't comment on pending litigation in an email.

The case is *Kempen Int'l Funds v. Syneos Health, Inc.*, S.D.N.Y., No. 1:23-cv-8848, 3/31/26 .

(Updates to reflect Syneos declined to comment in the 12th paragraph.)

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Bloomberg Law

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Celsius, Executives Shed Investor Lawsuit Over Pepsi Partnership

April 1, 2026, 10:52 AM PDT

Celsius Holdings Inc. and top executives defeated investor allegations of misrepresenting inventory levels and demand for the company's energy drinks after a distribution deal with PepsiCo Inc.

There weren't sufficient individual allegations about how each executive would've been intentionally or recklessly defrauding investors, Judge Melissa Damian said, adopting a magistrate judge's dismissal recommendation Tuesday. There weren't claims each executive personally monitored Pepsi's inventory levels or was aware of a buildup of Celsius products to bolster an inference of intent or recklessness, the US District Court for the Southern District of Florida judge said.

Many alleged misstatements were nonactionable, Magistrate Judge Bruce E. Reinhart said in his report, with Damian concurring and dismissing the proposed class action with the ability to replead

Certain statements that were a "closer call" weren't materially misleading given the total mix of information available to investors, Reinhart said, as shareholders were aware Celsius recognized revenue upon delivering products to Pepsi among other other points

The suit alleged Celsius and executives defrauded investors by conflating Pepsi front-loading a lot of inventory with sell-through rates to customers, misrepresenting demand

Grant & Eisenhofer PA is lead counsel for the proposed investor class. Alston & Bird LLP and Jones Foster PA represent Celsius. None of these law firms nor Celsius immediately responded to emails seeking comment.

The case is In re Celsius Holdings, Inc. Sec. Litig. , S.D. Fla., No. 9:24-cv-81472, 3/31/26 .

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Securities

Manage Newsletters

Southwest Sheds Investor Lawsuit Over Tech, Flight Cancellations

April 2, 2026, 10:54 AM PDT

Summary by Bloomberg AI

AI Generated



- Southwest Airlines Co. and current and former executives defeated investor allegations that the company misrepresented its technological infrastructure before 2022 holiday flight disruptions.
- Investors failed to plausibly plead executives intentionally or recklessly defrauded the market about the airlines' preparedness or reasons for other widespread flight cancellations, according to Judge Drew B. Tipton.
- The investors can replead by April 24, according to Tipton, after he dismissed the investors' complaint for not meeting the heightened pleading standards under the Private Securities Litigation Reform Act.

Southwest Airlines Co. and current and former executives defeated investor allegations that the company misrepresented its technological infrastructure before 2022 holiday flight disruptions.

Investors failed to plausibly plead executives intentionally or recklessly defrauded the market about the airlines' preparedness or reasons for other widespread flight cancellations, Judge Drew B. Tipton said, dismissing the investors' complaint. Group pleadings about previously less severe flight disruptions and public criticisms by Southwest employee unions weren't sufficient to allege securities fraud, the US District Court for the Southern District of Texas judge said in an order entered Wednesday.

And the complaint "facially acknowledges that risk of disruption events and the unions' criticisms were publicly disclosed, which negates" an inference of intent or recklessness, Tipton said. That and executives' "relative transparency negates any claim that they intended to defraud the market."

Between 2020 and 2023, Southwest misrepresented the capabilities of its tech systems—exposed as deficient when the company scrambled to recover from mass flight cancellations during 2022's Winter Storm Elliott—investors alleged. The company came under congressional and regulatory scrutiny over its operational resiliency in the wake of the mass winter disruptions.

The investors sufficiently alleged six misstatements, but not that they were made with intent to deceive investors, Tipton said. Ex-CEO Gary Kelly's July 2021 statement about Southwest's ability to manage adverse scenarios was adequately alleged to be misleading, as were statements by him and former president Thomas Nealon attributing flight disruptions that June to human error. The investors sufficiently pleaded that technology played a role in those disruptions. And they plausibly alleged statements indicating June and October 2021 flight cancellations were misleading to reasonable investors.

But most challenged statements about the company's technological investments, prowess, ability to recover from December 2022 disruptions, and more weren't adequately alleged as misleading. Southwest's risk disclosures weren't misleading when released for allegedly presenting software problems as a hypothetical, Tipton said. "The fact that the software later failed under extreme stress does not mean the earlier disclosures were not true."

And Southwest "explicitly warned that 'extreme or severe weather' and factors beyond the Company's control would significantly impact air travel. Those risks materialized exactly as described—*significantly*," he said.

The dismissal order entered Wednesday comes after Southwest and the executives asked Tipton to reconsider letting the case proceed in a one-page order. That 2024 order didn't adhere to heightened pleading standards under a federal statute, the Private Securities Litigation Reform Act, which requires investors to clear a high bar for securities fraud cases to get to discovery, Southwest said.

The Southwest investors can replead by April 24, Tipton said.

Attorneys at Bernstein Liebhard LLP, lead counsel for the proposed investor class, didn't immediately respond to an email seeking comment. Norton Rose Fulbright US LLP represents Southwest and the executives. Southwest declined to comment.

The case is *Teroganesian v. SW. Airlines Co.*, 2026 BL 115214, S.D. Tex., No. 4:23-CV-00115, entered 4/1/26 .

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Boeing Must Defend Against Institutional Investors' 737 MAX Suit

April 1, 2026, 1:29 PM PDT

Summary by Bloomberg AI

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- Boeing Co. and former CEO Dennis Muilenburg must defend against allegations tied to statements about the 737 MAX, which drew safety concerns after crashes.
- A judge allowed part of a lawsuit brought by investment funds to proceed, saying new allegations "raise a strong inference" that Boeing and Muilenburg knowingly or recklessly told flight crews to follow existing procedures.
- The lawsuit is over statements concerning the jet's safety, with the judge saying many alleged misstatements weren't actionable for a securities fraud claim.

Boeing Co. and former CEO Dennis Muilenburg must defend against institutional investor allegations tied to statements about the planemakers' troubled 737 MAX, which drew safety concerns after the 2018 crash of a Lion Air jet and an Ethiopian Airlines crash the following year.

New allegations "raise a strong inference that Boeing and Muilenburg knowingly, or at least recklessly, told flight crews to follow existing procedures when they knew the procedures did not sufficiently address" a software component's activation, Judge Manish S. Shah said. Shah allowed part of the lawsuit brought by investment funds associated with the Teachers Insurance and Annuity Association of America to proceed Tuesday.

Still, the investor funds weren't able to add hundreds of additional challenged statements tied to a 2024 Alaska Airlines incident, and many other alleged misstatements concerning the jet's safety weren't actionable for a securities fraud claim, the US District Court for the Northern District of Illinois judge said.

The order came the same day a federal appeals court denied a bid to reopen a criminal case against Boeing over the two fatal crashes, rejecting a claim by victims' families that the US government reached an improper settlement with the planemaker.

Last month, another Northern District of Illinois judge certified a class of Boeing investors over similar allegations in the wake of the two deadly Lion Air and Ethiopian Airlines crashes that killed 346 people.

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

Rolnick Kramer Sadighi LLP and Patzik, Frank & Samotny Ltd. represent the investment funds. Kirkland & Ellis LLP represents Boeing. None of these law firms nor Boeing immediately responded to emails seeking comment.

The case is Coll. Ret. Equities Fund v. Boeing Co. , N.D. Ill., No. 22 CV 3845, 3/31/26 .

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Twitter Investors Can Sue Elon Musk as a Class in NY Securities Fraud Case

U.S. District Judge Andrew Carter Jr. of the Southern District of New York certified the class over arguments from Musk's Quinn Emanuel Urquhart & Sullivan legal team that the investor class wasn't cohesive.

April 01, 2026 at 12:52 PM By **Alyssa Aquino**



Credit: Koshiro/Adobe Stock

Elon Musk's legal woes over his 2022 purchase of Twitter have intensified in New York, where a federal judge certified a class of investors alleging that the billionaire artificially deflated Twitter's stock value to buy the social media platform at a discount.

U.S. District Judge Andrew Carter Jr. of the Southern District of New York [certified the class](#) on March 31, over arguments from Musk's Quinn Emanuel Urquhart & Sullivan legal team that the proposed investor class wasn't cohesive.

The judge highlighted the investors' claims that Musk covered up his increasing stake in Twitter, as well his own March 2025 decision finding that the investors adequately pleaded that Musk engaged in separate acts allegedly perpetuating his scheme.

"There are common questions of law and fact that predominate over individual ones," the judge said.

He appointed the Oklahoma Firefighters Pension and Retirement System and Bernstein Litowitz Berger & Grossmann lead plaintiff and counsel, respectively, of the investor class.

The class covers "all persons or entities" who sold or purchased Twitter shares between March 25, 2022, and April 4, 2022. The class is composed of thousands of investors, according to Carter's order.

Counsel for the pension fund declined to comment Wednesday. Counsel for Musk didn't immediately respond to a request for comment.

The class certification decision comes in just one of the many lawsuits against Musk over his \$44 billion acquisition of Twitter, which he has since rebranded as X. The billionaire notably faces litigation in California and Washington, D.C., with the California case resulting in a [rare securities trial](#) in which jurors found Musk [liable for fraud](#).

That California case concerned Musk's attempts to walk away from his Twitter deal. But the cases in New York and Washington, D.C., center on a federal rule requiring parties that acquire more than 5% of a public company's stock to publicly disclose the purchase and whether the transaction was meant to help them obtain a controlling stake in the company.

The D.C. case was brought by the U.S. Securities and Exchange Commission in the final days of the Biden administration.

Both sets of plaintiffs allege that after hitting the 5% reporting threshold, Musk delayed disclosing his interests in Twitter, but continued purchasing stock. By the time he disclosed his ownership—news of which increased Twitter's stock by over 27%—he owned more than 9% of Twitter.

The Oklahoma Firefighters Pension and Retirement System claims this late disclosure saved Musk \$200 million.

In February, U.S. District Judge Sparkle Sooknanan of the District of Columbia [rejected Musk's effort to dismiss](#) the SEC's suit.

Securities

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Musk, SEC Say Fight Over Twitter Share Stockpile May Go to Trial

April 1, 2026, 4:18 PM PDT

Summary by Bloomberg AI

AI Generated



- Elon Musk and the US Securities Exchange Commission are heading toward a trial over allegations that Musk cheated Twitter Inc. investors before his 2022 buyout of the social media platform.
- The parties do not believe that the case would benefit from alternative dispute resolution options at this time, according to a joint status report filed in Washington federal court.
- Lawyers on both sides said they're ready to move ahead with pre-trial information sharing, known as discovery, with Musk's lawyers asking for 12 months to complete discovery.

Elon Musk and the US Securities Exchange Commission told a judge they are heading toward a trial over the regulator's allegations that the billionaire cheated Twitter Inc. investors before his 2022 buyout of the social media platform.

The joint status report filed Wednesday in Washington federal court comes just two weeks after lawyers said they were engaged in talks about "potential resolution" of the lawsuit the SEC filed in January 2025. The attorneys said in the new filing that they and their clients discussed alternative dispute resolution options.

"The parties do not believe that this case would benefit at this time from the court's ADR procedures or any other form of ADR," according to the filing.

Read More: [Musk Faces New Setback in Lawsuits Over 2022 Twitter Buyout](#)

Musk has faced recent setbacks in other legal cases related to his purchase of Twitter four years ago.

A San Francisco jury in March found Musk misled investors when he tweeted that Twitter – now called X – had too many fake accounts and then tried to back out of his \$44 billion offer to buy the company. This week, a Manhattan federal judge granted class-action status to investors who claim he manipulated the company's share price in the runup to the buyout.

The SEC declined to comment beyond Wednesday's filing. An attorney for Musk didn't immediately respond to a request for comment.

The SEC sued Musk days before President Donald Trump took office last year, alleging the serial entrepreneur missed a deadline to file a special form disclosing he accumulated at least a 5% ownership stake in Twitter. That delay cost Twitter shareholders more than \$150 million, the regulator said.

Elon Musk's 2022 Twitter Share Stockpile Timeline

SEC alleges billionaire secretly amassed shares cheaply before takeover bid

Date	Event
March 14	Trips 5% ownership threshold with purchase of 2.8 million Twitter shares
March 24	Deadline to file SEC form revealing ownership stake
March 25	Buys almost 3.5 million more shares of social media platform
March 28	Buys additional 2.6 million shares
March 29	Buys 2.9 million more shares
March 31	Privately tells Twitter CEO he's considering acquiring the company
April 4	Files report 11 days late revealing 9% stake; Twitter stock jumps 27%
April 13	Makes offer to buy company

Source: SEC lawsuit against Elon Musk filed Jan. 14, 2025

Bloomberg

Musk [sought to dismiss](#) the SEC's case in August, calling it "a waste of this court's time and taxpayer resources." US District Judge **Sparkle Sooknanan** rejected the request in February.

The SEC called on the judge to find Musk liable without a trial and said there is "absolutely no dispute" the billionaire missed the deadline to disclose he was stockpiling shares in the then-public company. Sooknanan denied that request as well.

In the joint filing, lawyers on both sides said they're ready to move ahead with pre-trial information sharing, known as discovery. Musk's lawyers asked for 12 months to complete discovery, saying they're waiting for the SEC to turn over an investigative file that includes testimony and transcripts from about 40 people.

"The process of reviewing the SEC's voluminous investigative file alone – the product of a nearly three-year investigation – will take considerable time and will directly inform what discovery Mr. Musk will pursue in this action from both the SEC and third-parties," according to the filing.

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Bloomberg Law

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Astellas Headed to Trial in Deal Case Worth Up to \$115 Million

April 1, 2026, 8:56 AM PDT

Summary by Bloomberg AI

AI Generated



- Astellas Pharma Inc. lost its bid to avoid a potential trial over its acquisition of an oncology company, with former Potenza Therapeutics Inc. investors' legal claims narrowed to a single theory.
- A judge in Delaware's Chancery Court let the case advance, finding that although contract claims were submitted too late, it's possible Astellas used misleading terminology to trick the former Potenza investors out of bringing their lawsuit before the filing window closed.
- The lawsuit alleges Astellas breached the sale agreement and its duty of fair dealing by dodging post-deal payments tied to clinical trial milestones, with the judge saying the timing question "remains an issue for trial".

Astellas Pharma Inc. lost its bid to avoid a potential \$115 million trial over its acquisition of an oncology company, although former Potenza Therapeutics Inc. investors saw their legal claims winnowed to a single theory.

A judge let the case advance—narrowly—in Delaware's Chancery Court, where the ex-shareholders have argued Astellas breached the sale agreement and its duty of fair dealing by dodging post-deal payments tied to clinical trial milestones. Although the contract claims were clearly submitted too late, it's possible Astellas used misleading terminology to trick the former Potenza investors out of bringing their lawsuit before the filing window closed, the judge found late Tuesday.

That timing question "remains an issue for trial," wrote Delaware Superior Court Judge Sheldon K. Rennie, who's crossed-assigned to the litigation from the state's trial-level court of general jurisdiction.

The allegations reflect a running theme for Delaware's main business tribunal, which regularly presides over M&A battles centering on deferred transaction payments known as "earnouts" that are sometimes used to close sales and mergers involving companies with uncertain valuations. The device is especially popular in tech and biotech deals that center on untested products with moonshot potential.

Because the transactions put the fate of those post-deal payments in the hands of the party responsible for making them, they often spawn legal disputes that hinge on the meaning of contract provisions pledging “commercially reasonable efforts” toward revenue or regulatory milestones. Founders typically accuse acquirers of sabotaging sales or shelving promising products.

The lawsuit against Astellas alleged something slightly different, saying the Japanese multinational failed to make payments that had in fact been triggered by cancer drug trials. The contract adopted a bespoke definition of the clinical studies rather than relying on traditional Food and Drug Administration categories, according to Monday’s court ruling.

Rennie threw out those breach-of-contract claims, finding that the Potenza ex-shareholders brought them well outside the three-year statute of limitations under even the most generous interpretation of their case.

But he said the lawsuit could move forward over a separate issue raised by the unusual clinical testing terminology: whether Astellas had used verbal gamesmanship to dupe them into delaying their legal claims.

The former Potenza investors, who sued through a shareholder services firm, are represented by Cooch & Taylor PA and Schneider Wallace Cottrell Kim LLC. Astellas is represented by McCarter & English LLP.

The case is S’holder Rep. Servs. LLC v. Astellas Pharma Inc. , Del. Ch., No. 2023-0952, 3/31/26 .

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Extreme board says investors failed to clear derivative suit bar

DJ [dailyjournal.com/articles/390587-extreme-board-says-investors-failed-to-clear-derivative-suit-bar](https://www.dailyjournal.com/articles/390587-extreme-board-says-investors-failed-to-clear-derivative-suit-bar)

U.S. District Judge Trina L. Thompson

Plaintiffs in a derivative lawsuit against the board of Extreme Networks Inc. failed to meet the heightened standard required for shareholders to sue on behalf of a company against its own board, attorneys for the company's board argued before U.S. District Judge Trina L. Thompson on Tuesday.

Latham & Watkins partner Morgan E. Whitworth urged Thompson to dismiss a derivative lawsuit brought by investors in the cloud infrastructure company over allegations its board members committed fraud, failed their fiduciary duty and sold stock on insider information.

The plaintiffs, represented at the hearing by Benjamin I. Sachs-Michaels of Glancy Prongay Wolke & Rotter LLP, allege that Extreme misrepresented the cause of a backlog in its products. The company claimed it was due to an increase in demand, the lawsuit says, when it was really caused by COVID-19-related supply chain issues, and the company's stock plummeted when the truth emerged.

But in order for shareholders to sue the board of directors on behalf of the company, they can't simply claim that directors' names were on the documents in question, Whitworth argued. *In re: Extreme Networks, Inc. Stockholder Derivative Litigation*, 3:25-cv-02101 (N.D. Cal., filed Feb. 27, 2025).

"Delaware law does not look kindly on derivative plaintiffs," Whitworth said. Extreme, like many public companies, is incorporated in Delaware.

Whitworth argued that the plaintiffs had to plead, with particularity, that the majority of the board members participated in the alleged fraud. They also must show why any attempt to settle the dispute internally would have been "futile," he said.

Instead, Whitworth claimed, the plaintiffs took "a ready, fire, aim approach."

All plaintiffs are able to show, he argued, is that the board members' signatures were on the allegedly false SEC filings. They didn't even make a demand under 8 Delaware Code, Chapter 1, Section 220, which entitles shareholders to inspect company records.

Sachs-Michaels disagreed. The plaintiffs' allegations, he said, hinge on an active decision that the company's board made -- to authorize the repurchasing of stock, which signals to the market that the stock is undervalued. The plaintiffs meet the particularity standard because "that decision, that all the directors participated in," concealed the alleged fraud and harmed the company, Sachs-Michaels said.

He argued that the plaintiffs didn't need to make a Section 220 request since they have company disclosures showing the actions of the board. A separate securities class action, also before Thompson, brought by investors who lost money when the stock fell, established the facts of the case, he said. That case, he argued, survived a motion to dismiss earlier this week, showing plaintiffs could plausibly plead fraud.

Whitworth pointed out that the share repurchase program started before the class period and that regardless, plaintiffs in a derivative lawsuit must meet the particularity standard "on a director-by-director basis." SEC filings alone aren't enough to meet that standard, he said.

"I'm not aware of any case saying that by itself is sufficient," Whitworth said.

Whitworth argued that the plaintiffs' insider trading claims fail on similar grounds. All the plaintiffs show, he said, is that the board members sold stock before the company's share price fell, but they fail to show "that inside information motivated the trades."

Thompson asked Whitworth what he would say to the argument that the timing of the directors' sales of company stock is suspicious.

Whitworth pointed out that the directors named in the suit only sold small fractions of their stock, likely not enough to meet the relevant standard -- that the trades net a "material personal benefit."

In cases where someone is found liable for insider trading just based on the quantity and timing of their sales, "it tends to be a lot higher than what we see here," he said.

Sachs-Michaels argued that the shares sold by the directors lost nearly half their value after the alleged fraud was uncovered, which should be considered material.

"A majority of the board did sell during the fraud," Sachs-Michaels said.

Thompson said she'd likely need three or four weeks to decide on the motion.

"Both arguments were very well thought out," Thompson said, but if plaintiffs want to preempt her decision and file an amended complaint that covers any potential factual deficiencies, she'd welcome it.

#390587

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Magic Johnson Dodges Investor Suit Alleging He Pushed NFT Scam

April 1, 2026, 10:23 AM PDT

Summary by Bloomberg AI

AI Generated



- A company that spent \$250,000 on a nonfungible token project promoted by Earvin “Magic” Johnson opted to walk away from its suit against Johnson and the project’s creator.
- DoneRight & Co. had sued Johnson and Carrie Lyn Henman, alleging the tokens never materialized and that Henman disappeared with the invested funds.
- The parties filed a joint stipulation to dismiss the investor suit, with each party bearing their respective costs and attorneys’ fees, according to the joint filing.

A company that spent \$250,000 on a nonfungible token project promoted by Earvin “Magic” Johnson opted to walk away from its suit against the basketball legend and the project’s creator.

DoneRight & Co., Johnson, and Carrie Lyn Henman—who offered the Magicverse Genesis NFT collection—filed a joint stipulation Tuesday in the US District Court for the Central District of California to dismiss the investor suit.

The jewelry and watch company in February sued Johnson and Henman, alleging the tokens never materialized and that Henman disappeared with the invested funds.

DoneRight also claimed Henman and her Global Management Group business solicited its investments by offering “exclusive rights to operate ‘the only jewelry store in the Magic metaverse,’” promising a percentage of revenue and royalties.

The token issuer also touted Johnson’s personal involvement as a celebrity promoter, DoneRight alleged in its complaint.

The status of NFTs is the subject of legal and regulatory debate.

A federal court in Florida in 2024 held that another basketball legend and entrepreneur, Shaquille O'Neal, could face securities law claims for his unregistered NFTs because token holders were led to believe they could expect profits. A California federal judge, however, ruled last year that holders of tokens issued by Yuga Labs Inc. and promoted by celebrities including Madonna and Paris Hilton didn't adequately allege Bored Ape NFTs were securities.

Meanwhile, the Securities and Exchange Commission and the Commodity Futures Trading Commission last month issued guidance stating that "digital collectibles" and most other crypto assets and transactions generally don't count as securities regulated by the SEC.

The latest dismissal came the same day as Johnson's extended deadline to respond to the complaint, and the parties will each bear their respective costs and attorneys' fees, according to the parties' joint filing.

"Once the facts became clear to both parties, we worked cooperatively to bring the issue to a close," a Willkie Farr and Gallagher LLP attorney representing Johnson and a Cochran Firm attorney representing DoneRight said in an email.

DoneRight was also represented by Ivie McNeill Wyatt Purcell & Diggs. Henman didn't name outside counsel in the case.

The case is DoneRight & Co. LLC v. Henman , C.D. Cal., No. 2:26-cv-01430, stipulation of dismissal 3/31/26 .

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D&O Insurance: Not a "Securities Claim" if No Securities of the "Company" Involved

K [dandodiary.com/2026/04/articles/d-o-insurance/do-insurance-not-a-securities-claim-if-no-securities-of-the-company-involved](https://www.dandodiary.com/2026/04/articles/d-o-insurance/do-insurance-not-a-securities-claim-if-no-securities-of-the-company-involved)

Kevin LaCroix

April 2, 2026



Public company D&O insurance policies restrict "entity coverage" (that is, coverage for claims directly against the corporate entity, as opposed to those against individual directors and officers) to "Securities Claims." If a claim against the company is not Securities Claim then there is no coverage for the company's defense fees, settlements, and judgments. This obviously creates a huge incentive for the companies to try to show that the claims against them are Securities Claims – which, in turn, has spawned a great deal of coverage litigation addressing the question whether or not a particular corporate lawsuit is or not a Securities Claim.

In the latest example of these kinds of coverage disputes, last week the District of Maryland, applying Maryland law, held that an antitrust claim filed against a corporate entity was not a securities claim within the meaning of the applicable policy – not because the antitrust claim was not "Securities Claims," but rather because the dispute did not involve alleged transactions in the securities of the company or its subsidiaries. The Maryland court's March 24, 2026, opinion can be found [here](#).

Background

Supernus Pharmaceuticals is a pharmaceutical company based in Maryland. In 2020, as a way to acquire the rights to distribute Apokyn, a prescription medication for the treatment of Parkinson's disease, Supernus acquired USWM Enterprises ("Enterprises").

In 2022, Sage Chemical and TruPharma, two competitors of Supernus, sued Supernus, alleging that Supernus's acquisition of Enterprises, and specifically its acquisition of the rights to distribute Apokyn, violated the antitrust laws, and that Supernus otherwise engaged in uncompetitive behavior.

Supernus submitted the antitrust lawsuit to its D&O insurer as a claim under its policy. The insurer denied coverage for the claim, on the grounds that the underlying action is not a "Securities Claim" within the meaning of the policy.

Supernus sued the insurer, seeking a declaratory judgment that the insurer improperly denied coverage for the claim, and alleging that the insurer breached its contract and the implied covenant of good faith and fair dealing. The insurer filed a motion to dismiss the coverage lawsuit.

Relevant Policy Terms

The policy defines the term "Securities Claim" as "any claim ... which in whole or in part is: ... 2. based upon, arising out of or attributable to the purchase or sale of, or offer to purchase or sell, any securities issued by the Company...."

The policy defines "Company" to be Supernus and its "Subsidiaries." The term "Subsidiaries" is defined as (1) "any organization in which" Supernus (or one of its subsidiaries) owns "more than 50% of the outstanding voting securities representing the present right to vote" for directors or managers; (2) "any organization in which one or more Companies, in any combination" have the right to elect a majority of directors or managers; or (3) "charitable foundations or trusts controlled by a Company."

The March 24, 2026, Opinion

On March 24, 2026, District of Maryland Judge [Adam B. Abelson](#), applying Maryland law, granted the insurer's motion to dismiss on the ground that the underlying action does not trigger the Securities Claim coverage.

In finding that the underlying action was not a Securities Claim, Judge Abelson noted that the acquisition in dispute in the underlying action was a cash transaction and did not involve "securities issued by the Company." To the extent the acquisition involved any securities, the securities were issued by Enterprises prior to its acquisition by Supernus, not by Supernus or by Enterprises at a time when Enterprises was a subsidiary of Supernus. The relevant policy provisions,

Judge Abelson said, "are plain and unambiguous" – "because the claims in the Underlying Action do not arise from securities issue by the Company, Supernus is not entitled to Securities Claim coverage."

Supernus had tried to argue that it nevertheless was entitled to coverage because Enterprises was a subsidiary of Supernus by the time the insurance claim was made. Judge Abelson rejected this argument, saying that "accepting all of Supernus's allegations as true there is no reasonable way to conceive of [the underlying] claims as arising out of securities 'issued by the company.'" The relevant question is not whether Enterprises was a subsidiary at the time the underlying claim was made; the relevant question, the court said, "is whether Enterprises was a subsidiary of Supernus when it issued securities." It was not, the court said, and so "under the plain language of the policy," the underlying claims do not give rise to coverage.

The court did briefly acknowledge the question whether or not the fact that the underlying action was an antitrust claim rather than a claim for violation of the securities laws should or should not bar coverage. Judge Abelson did not address this issue on the merits, noting simply that the insurer did not deny coverage because the underlying antitrust action was not a Securities Claim. Rather, the insurer based its coverage denial on the fact that the underlying action did not arise out of the issuance of securities by Supernus or its subsidiaries, so, the court found, it did not need to address whether the underlying claims arose out of alleged antitrust law violations rather than claims alleging violations of the securities laws.

Discussion

The starting point for any analysis of this decision – as indeed for any insurance coverage related decision – is the policy language at issue. Here, the relevant portion of the definition of Securities Claim specifically referenced the purchase or sale, or offer to purchase or sell, and securities "issued by the Company," with the definition of Company including any company Subsidiaries. The "issued by the Company" language was, in the end, outcome determinative here, as the court concluded that the underlying acquisition did not involve any securities issued by the company.

I emphasize this point that the phrase "issued by the Company" was critical to the outcome because it is not found in all public company D&O insurance policies' definitions of the term "Securities Claim." Or, to put it another way, the specific

policy wording matters. I make this point because it is absolutely indispensable in reviewing the many court decision interpreting the meaning of the term "Securities Claim" to focus on the specific policy language at issue in any particular case. In many of the cases, the specific policy language at issue explains the outcome in any particular case, which can make it difficult to differentiate among the various coverage case decisions.

I will say this, it is interesting to me that the court felt it did not need to reach the issue whether or not the underlying antitrust claim came within the meaning of the phrase "Securities Claim." The court felt it did not need to reach this issue because it was not the basis of the insurer's coverage denial.

Though the court did not reach the issue, the question whether or not the underlying antitrust claim could fairly be characterized as a Securities Claim within the meaning of the policy presents an interesting question. It is worth noting that while the the court not reach the issue, it did quote authority on which Suprenus sought to rely to the effect that "courts interpreting materially identical definitions of 'Securities Claim' have consistently confirmed that coverage does not require an express allegation of a securities law violation."

Certainly, in prior cases, other policyholder have tried to argue that a wide variety of other kinds of disputes can be brought within the definition of the term "Securities Claim."

Disputes of this kind, seeking an expansive definition of the term securities claim, have required courts to find, for example, that a bankruptcy trustee's fraudulent transfer claim is not a Securities Claim, as discussed [here](#). Indeed, the Delaware Supreme Court has in fact twice been called in to rule that a fraudulent transfer claim is not a Securities Claim, both times in cases involving bankrupt companies that had previously spun out of Verizon, as discussed [here](#). The Delaware Supreme Court has also separately held that an appraisal action is not a "Securities Claim," as discussed [here](#).

Other court have held that a tolling agreement is a "Claim" but not a "Securities claim," as discussed [here](#); that a breach of fiduciary duty claim is not a "Securities Claim, as discussed [here](#); and that a formal SEC investigation is not a "Securities Claim," as discussed [here](#).

In a separate proceeding the Ninth Circuit [held](#) that the claims against a mortgage originator and securitizer involving the company's issuance of mortgage-backed securities were not "Securities Claims" on ground similar to those involved here,

in that the mortgage backed securities the company issued as part of its ongoing business were not securities "of the Company" within the meaning of the policy.

These cases arise because of the incentives the public company D&O policy creates. Because the entity coverage is limited to "Securities Claim," companies have an incentive to try to argue that they claims that have been filed against them are, in fact, Securities Claims. Indeed, there undoubtedly will be another case another day involving allegations that underlying antitrust claims come within the policy's definition of the term "Securities Claim." When that day comes, it will worth remembering that even though the court here granted the insurer's motion to dismiss, the court did not hold that the antitrust claims asserted here were not Securities Claims.

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Class Action

Manage Newsletters

Bank of America-Epstein Victims Deal Gets Preliminary Nod (1)

April 2, 2026, 9:58 AM PDT

Summary by Bloomberg AI

AI Generated



- A federal judge gave preliminary approval for Bank of America Corp.'s \$72.5 million settlement of a lawsuit with a group of Jeffrey Epstein victims.
- US District Judge Jed Rakoff said victims are entitled to receive just compensation from any person or entity that facilitated Epstein's sexual trafficking.
- The settlement is subject to a final hearing scheduled for Aug. 27, where victims will have the opportunity to object.

A federal judge gave preliminary approval for Bank of America Corp.'s \$72.5 million settlement of a lawsuit with a group of **Jeffrey Epstein** victims who had accused the bank of aiding the disgraced financier's sex trafficking.

US District Judge Jed Rakoff made the decision Thursday following a hearing in New York federal court. Victims will have the opportunity to object at a final hearing scheduled for Aug. 27. **David Boies**, a lawyer for a woman who filed the class-action suit, said 60 to 75 people would be eligible to share the payout.

"While victims of Jeffrey Epstein's monstrous acts can never be fully compensated, the victims are entitled to receive just compensation from any person or entity that knowingly, recklessly or otherwise unlawfully facilitated his sexual trafficking," Rakoff said. "On the other hand, it's not fair to penalize those persons or entities that were drawn into his orbit but had no role in assisting or benefiting from his egregious misconduct."

The lawsuit was filed in November against Bank of America and Bank of New York Mellon Corp, accusing them of aiding in the deceased financier's abuse. The complaint was filed by same lawyers who previously secured settlements in similar suits against JPMorgan Chase & Co. and Deutsche Bank AG over their Epstein ties.

Read More: [BofA to Pay \\$72.5 Million to Settle Epstein Victim Lawsuit](#)

Rakoff dismissed the claims against Bank of New York Mellon in January, and threw out four of six claims in the case against Bank of America. However, he allowed the victims to move ahead with claims that Bank of America knowingly benefited from Epstein's conduct and obstructed enforcement of the sex-trafficking statute.

The judge put the case on hold March 16, disclosing only that the parties had reached a "settlement in principle." Terms of the agreement were revealed last week.

Bank of America's proposed settlement is less than the the \$290 million JPMorgan agreed to pay Epstein victims in 2023. While the case against JPMorgan focused on the bank's client relationship with Epstein, the one against Bank of America mainly alleged that it was used by "his co-conspirators, associates and victims." Deutsche Bank reached a \$75 million deal in 2023.

"The difference between his facilitators and those who simply chose to try to ingratiate themselves with him is a difference drawn by statute by law and of course it is the duty of the court to rigorously apply that law and that is not forgotten even in the case of the settlement," Rakoff said.

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

(Updates with judge's comments and background.)

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Bank of America's \$72.5 million settlement with Epstein accusers wins preliminary approval

 [reuters.com/legal/government/bank-americas-725-million-settlement-with-epstein-accusers-wins-preliminary-2026-04-02](https://www.reuters.com/legal/government/bank-americas-725-million-settlement-with-epstein-accusers-wins-preliminary-2026-04-02)

Luc Cohen

April 2, 2026

A Bank of America logo is seen on the entrance to a Bank of America financial center in New York City, U.S., July 11, 2023. REUTERS/Brendan McDermid [Purchase Licensing Rights, opens new tab](#)

- Second-largest US bank accused of facilitating Epstein's trafficking
- Bank of America denies claims but says accusers deserve closure
- Lawyers have also won settlements from JPMorgan, Deutsche

NEW YORK, April 2 (Reuters) - A U.S. judge granted preliminary approval on Thursday to Bank of America's [\(BAC.N\), opens new tab](#) \$72.5 million settlement with women who [accused the bank](#) of facilitating their sexual abuse by Jeffrey Epstein.

U.S. District Judge [Jed Rakoff](#) in Manhattan scheduled an August 27 hearing to consider final approval.

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David Boies, a lawyer for the plaintiffs, said he expected between 60 and 75 victims to submit claims. The victims are mainly based in the United States or Eastern Europe, he said.

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The plaintiffs' lawyers may seek up to 30% of the settlement, or about \$21.8 million, for legal fees.

Rakoff said it was important for Epstein's victims to be compensated by anyone that unlawfully facilitated his sex trafficking, but that not everyone associated with him should be held liable.

"It's not fair to penalize those persons or entities that were drawn into his wide orbit but had no role in assisting or benefiting from his egregious misconduct," Rakoff said, without referring to specific people or entities.

"I do want to just keep everyone on notice that I continue to scrutinize this until the moment of final settlement," the judge said.

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SETTLEMENT AGREED IN MARCH

Epstein died in a Manhattan jail cell in August 2019 while awaiting trial on sex trafficking charges. His death was ruled a suicide by New York City's medical examiner.

The proposed class action, filed in October by a woman using the pseudonym Jane Doe, accused the second-largest U.S. bank of ignoring suspicious financial transactions related to Epstein despite a "plethora" of information about his crimes because it valued profit over protecting victims.

Rakoff ruled in January that Bank of America must face Doe's claims that it knowingly benefited from Epstein's sex trafficking and obstructed enforcement of the federal Trafficking Victims Protection Act.

In agreeing to settle the civil lawsuit in March, Bank of America said it did not facilitate sex trafficking crimes. It said the resolution would allow it to move on and provide closure for the accusers.

JPMORGAN, DEUTSCHE BANK ALSO SETTLED

Boies and Bradley Edwards, another lawyer for the plaintiffs, said the settlement was the best option for their clients because they suffered harm many years ago and need financial relief now.

Doe's lawyers have also sued other alleged enablers of Epstein's sex trafficking, and in 2023 reached settlements of \$290 million with JPMorgan Chase ([JPM.N](#)), [opens new tab](#) and \$75 million with Deutsche Bank ([DBKGn.DE](#)), [opens new tab](#) on behalf of his accusers.

The lawyers are also appealing Rakoff's dismissal in January of a similar lawsuit they brought against Bank of New York Mellon ([BK.N](#)), [opens new tab](#).

Reporting by Luc Cohen in New York; Editing by Bill Berkrot

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Commentary | **Artificial Intelligence**

‘Seminal Cases’? Appeals Courts Confront Fake Cites in Wave of AI-Related Sanctions Orders

For court watchers, the recent rulings raise questions about whether sanctions alone can deter the problem—and offer an early glimpse of the case law that may develop around artificial intelligence use in brief writing.

April 02, 2026 at 12:56 PM By  **Avalon Zoppo**



Credit: AntonKhrupinArt/Adobe Stock

What You Need to Know

- The 3rd, 4th, 5th, 6th and 7th Circuits have issued AI-related sanctions over the past several weeks.
- Sanctions orders hint at emerging case law around AI hallucinations in briefs, prof says.
- Experts ask if sanctions are enough to deter misuse of AI in briefs.

Frustration over artificial intelligence-generated fake case citations is hitting U.S. circuit courts of appeal.

Over the last several weeks, the [Third](#), [Fourth](#), [Fifth](#), [Sixth](#) and [Seventh](#) Circuits have issued stern orders sanctioning or reprimanding attorneys who submitted briefs that contained fabricated case law potentially due to AI use.

For court watchers, the recent rulings raise questions about whether sanctions alone can deter the problem—and offer an early glimpse of the case law that may develop around AI use in brief writing.

“It might be that these circuit cases that are coming right out of the gate, dealing with this first, turn into the seminal cases,” said Christina Frohock, a University of Miami law professor. “Even if they don't have binding authority in other jurisdictions... they can still have this tremendous de facto power and be cited as the seminal cases.”

Maura Grossman, research professor in the David R. Cheriton School of Computer Science at the University of Waterloo, said there could be a ramping up of sanctions in the appellate courts, as seen already in the trial courts.

“I'm not sure how we're going to solve this problem quickly, other than education, education, education,” Grossman said.

‘Whole Area of Questions’

These first few decisions from circuit courts might also mark the early development of case law around the use of artificial intelligence in brief writing, said Stetson College of Law professor Kirsten Davis. She noted that at least the Third and Sixth Circuits’ orders were labeled precedential, or for publication.

The Sixth Circuit last month, in punishing two attorneys who submitted a brief that contained fake citations, rejected the lawyers’ argument that they did not need to comply with the court’s prior show cause order asking whether AI was used to write the filings. The attorneys said the order was improper because it implicated work-product privilege.

The panel, however, stated that “whether and how the briefs were cite-checked does not implicate conversations regarding legal advice” or trigger work-product protections.

“This is really fascinating because it may open up a whole area of questions that we might think about,” Davis said.

“I think I can agree with that [Sixth Circuit conclusion], but what questions might implicate work-product doctrine protection?” Davis asked. “We might see things emerging around that.”

And Third Circuit judges this week disagreed over which professional conduct rules a Pennsylvania attorney violated when he submitted a brief with incorrect and hallucinated case law.

The panel found that Daniel Pallen violated the Pennsylvania Rules of Professional Conduct Rule 1.1. and the circuit's Disciplinary Rule 2.1(d) by failing to provide competent representation. In an opening brief, Pallen included summaries of eight Drug Enforcement Administration adjudications generated by AI and supplied to him by a nonattorney.

However, the majority declined to say he violated an additional rule that bars "knowingly[] ... mak[ing] a false statement of material fact or law to a tribunal or fail[ing] to correct a false statement of material fact or law previously made to the tribunal by the lawyer." The majority said it wasn't clear Pallen knew the AI-generated case summaries and analyses were false.

Judge Jane Roth, in a separate opinion, said her colleagues used the wrong standard and that Pallen had violated the additional rule. Roth said the real issue was whether Pallen believed the case summaries were true "based on a reasonably diligent inquiry."

Davis said the Third Circuit's disagreement illustrates how early rulings on AI in briefs could help guide the law as it develops.

"The court is having a little bit different point of view about what you have to know in order to be found to have violated your duties of candor with respect to false information being provided to the court, and how that relates to artificial intelligence," Davis said.

"The next time something comes up, it might inspire a lawyer to say, 'Wait a minute. You're talking about my level of knowledge here as a reason for sanctioning me. Well, let me point you to these opinions where there's a dispute about what knowledge is required,'" Davis continued. "It just points to the idea that we have an issue here that may not be resolved."

Disclosure, Sanctions, Education?

As a basis for penalties, circuits have relied on federal rules that require counsel to present nonfrivolous arguments grounded in fact, as well as their inherent authority to sanction for abuse of judicial process. Local rules also permit panels to discipline lawyers for violating professional conduct rules in the jurisdiction where the individual practices.

The courts have doled out punishments without needing to make affirmative findings that attorneys used AI.

Davis believes the orders so far have shown that the appellate courts don't need AI-certification rules or bans. Overall, Davis said more education about how to properly use AI is likely key to cutting down the hallucination problems in briefs.

“At least the cases I’ve read from the appellate courts, they have plenty of levers to pull to handle situations where lawyers have not lived up to that standard, so I don’t anticipate them coming up with bans,” Davis said. “Simply ensuring that we’re educating lawyers on the strengths and weaknesses of these tools, the limitations of the tools, their ethical duties of competence with technology, and their duty of diligence and their duty of candor—it ought to be enough.”

Grossman, of the University of Waterloo, said lawyers who are forthcoming in their responses to inquiries about AI use or fabricated cites seem to receive less harsh punishment.

The Seventh Circuit [issued](#) only a public admonishment to an immigration lawyer who included fabricated citations in a brief, noting the lawyer’s “sincere apology.” Contrast that with the Fifth Circuit [ordering](#) a lawyer to pay \$2,500, and stressing the attorney “misled [and] evaded” when pressed for an explanation on why her brief contained fake quotes.

The attorneys sanctioned by the Sixth Circuit have separately asked for en banc rehearing. The court ordered them to pay \$15,000 each to the appeals court as a punitive sanction.

One of the [petitions](#), by attorney Russell Egli, contends that the “challenged material was not intentional nor made in bad faith.” He also argues the panel didn’t offer a meaningful response to his show cause order objections and that “due process was cut-off by the court moving directly to sanctions.”

Circuit judges have stressed that AI hallucinations eat up judicial resources. Seventh Circuit Chief Judge Michael Brennan, writing for a panel, said courts must “track down the false citations, seek explanations from counsel, and evaluate the magnitude of the violations,” which ultimately creates “unnecessary work on a case within a case.”

Frohock, of the University of Miami, said one solution being discussed—having dedicated circuit court staff focused on AI issues—has drawbacks.

“The con with dedicating a staff member is courts are strapped for time and resources. The opportunity cost of dedicating a clerk to AI issues means that the judges lose that clerk for other issues,” Frohock said. “So I don’t know where this is going, but it’s going to demand a lot of creativity on our part.”

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Monetary Sanctions May Be on the Rise as 'Frustrated' Courts Grapple With AI Hallucinations

"I would assume that they'll keep ramping up the sanctions until this gets resolved. Again, this is an error that there might have been an excuse for previously, but as we go further and further along, there'll be less and less of an excuse for," one litigator told Law.com.

April 02, 2026 at 04:00 AM By  Riley Brennan



Credit: InfiniteFlow/Adobe Stock

Across the country, lawyers are discovering just how quickly artificial intelligence tools can land them in hot water with a hefty charge.

Over the past year, judges have issued everything from sharply worded rebukes and monetary sanctions to referrals for professional discipline as they try to rein in attorneys whose briefs contain AI-generated hallucinations, or fabricated or inaccurate case citations produced by AI systems. As courts continue to navigate one of the legal profession's mounting technological and ethical rifts, the use and amount of monetary sanctions also seem to be increasing.

John Browning, a retired Texas Fifth Court of Appeals judge and professor at Faulkner University's Thomas Goode Jones School of Law, told Law.com that there are increasing signs that courts are losing their patience with the continuing issue. He noted that there appears to be a growing frustration among courts as AI misuse cases continue to mount, pointing to a recent decision from the U.S. Court of Appeals for the Fifth Circuit.

[Last month](#), the federal appellate court issued a \$2,500 sanction against an attorney who claimed she used several legal databases, including the generative AI products vLex and Thomas Reuter's CoCounsel, to help organize and structure her arguments. The Fifth Circuit determined that the attorney failed to check her brief for accuracy and wasn't forthcoming when pressed for an explanation of the mistakes—noting it would have likely imposed a lesser sanction had the attorney accepted responsibility.



Browning noted that, while the financial sanction was relatively light, the Fifth Circuit made clear it wouldn't shy away from imposing more serious penalties. Other courts across the country have already been taking more serious action, like taking the steps to affect an attorney's right to practice, especially when it comes to repeat offenders.

"I'm seeing some real frustration," Browning said. "Courts are really starting to take these, I think, more seriously because of the frustration that these kinds of cases are increasing around the country. And they're frustrated with it."

Recently, a federal judge in Ohio not only sanctioned two attorneys with fines, but he also referred them both to Ohio's Office of Disciplinary Counsel for "the most egregious violations of Rule 11" that he's seen in his more than 45 years on the federal bench.

On Feb. 25, Senior Judge Walter H. Rice of the U.S. District Court for the Southern District of Ohio [found the two attorneys](#) in contempt for AI hallucinations in briefs and imposed a collective sanction of \$7,500—or \$100 per hour for the 75 hours the court spent addressing the issues. Rice noted that the two attorneys had been put on notice by opposing counsel that some of the cases cited in their motion to dismiss did not state what the attorneys claimed. However, they still cited those same cases for the same propositions of law in their reply.

One of the attorneys claimed she used AI tools in her case research, and that she "mistakenly believed those tools were sufficiently reliable for that limited purpose." She acknowledged that she failed to verify the citations, even after she was made aware of the inaccurate citations. The second attorney also conceded that he failed to verify the presented case citations before signing his name to the documents. However, despite promising days prior that they would take affirmative steps to ensure that

all citations in future filings were accurate, the attorneys submitted mediation statements that were once again rife with "patent misstatements and mischaracterizations of the law," Rice's order said.

Over the past year, the financial implications have also been growing in size.

In July, the [Georgia Court of Appeals](#) issued a \$2,500 sanction against an attorney who allegedly submitted a trial court brief with two nonexistent case citations and later filed an appellate brief with 11 more hallucinated cases.

However, a sharp increase was seen [earlier this year](#) in Georgia when Clayton County Judge Tammi Long Hayward issued a roughly \$25,000 financial sanction—and a state bar referral—against an attorney who was accused of using upwards of seven fictitious cases across three briefs. While the attorney admitted he used ChatGPT, he had argued he didn't know the citations were fabricated because the generative AI model failed to tell him they were.

Michael Ott, a partner at Ice Miller in Chicago, said it makes sense for sanctions to grow in severity as the newness of generative AI fades away.

"There's been a lot of publication about hallucinated cases, and people should be aware that, the same way you needed to be aware a few years back during COVID that you shouldn't have a cat filter on while you're on your Zoom meeting, people should be aware they need to check the cases in their briefs," Ott said. "I would assume that they'll keep ramping up the sanctions until this gets resolved. Again, this is an error that there might have been an excuse for previously, but as we go further and further along, there'll be less and less of an excuse for."

Eugene Volokh, a professor at UCLA School of Law, said that other courts have opted sanctions that affect the progression of a case, resulting in their client losing and potentially exposing the attorney to malpractice claims.

On March 13, the U.S. Court of Appeals for the Sixth Circuit [fined](#) two attorneys \$30,000 total over an appeal containing over two-dozen fake case citations and dismissed the case after concluding that "the pervasive misconduct" rendered it "almost entirely frivolous." The court noted that the attorneys failed to comply with its order instructing them to explain themselves and provide documentation of the cited cases, and instead refused to provide the required materials, argued the order was void and accused the court of harassing them.

"I think many judges believe for plausible reason that that kind of public explanation of what the lawyer did is itself punishment because lawyers survive on their reputations, their reputations with clients, their reputations with colleagues, their reputations with judges. And I think many a lawyer would much rather have a secret admonition for which he has to pay \$10,000 than a public one, which doesn't have any formal fine associated with it," Volokh said. "So I do think that, by and large, at least many courts have indeed taken pretty substantial steps to punish people."

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Atlanta Prosecutor Repeatedly Cites Non-Existent Cases To Avoid Murder Retrial

A abovethelaw.com/2026/04/atlanta-prosecutor-repeatedly-cites-non-existent-cases-to-avoid-murder-retrial

Chris Williams

April 2, 2026

"AI Hallucinations" in legal work product have aged like macaroni art. At first it was cute enough that you ignored the childish errors and inattention to detail. But once your refrigerator runs out of room for macaroni glued to printer paper you start to realize the severity of this shit popping up everywhere. The silver lining used to be that the underlying cases tended to be some contract dispute that doesn't mean much in the scheme of things. Now we see [judges](#) and [assistant US Attorneys](#) caught red-handed outsourcing legal writing to blackbox LLMs. And as the ubiquity of AI enabling bad lawyering goes up, it's only a matter of time before this conversation happens:

Inmate 1: So what are you in for?

Inmate 2: AI Hallucinations.

And while that conversation could happen anywhere, Georgia wouldn't be a bad state to bet on. [Atlanta News First](#) has coverage:

Calling her efforts to oppose a new trial for a convicted murderer "expanded legal research," a metro Atlanta attorney has admitted using AI to cite nonexistent cases in a recent appearance before the Supreme Court of Georgia.

In a signed affidavit, Deborah Leslie – who is listed as an attorney for the appellate and assets forfeitures unit in the Clayton County District Attorney's Office – has apologized for citing some cases that don't exist.

On March 18, Payne appeared before the state Supreme Court as it was hearing arguments in Hannah Payne's attorneys' request for a new trial.

"Expanded Legal Research?" That's what we're calling it now? At least "[This was one revealed to me in a dream](#)" was earnest and quasi-poetic. That said, I admit "I went to the make-shit-up machine to help me with my job and submitted the made-up shit without bothering to check its veracity" doesn't roll as cleanly off the tongue.

Dealing with prosecutors is rough enough without having to worry if they're just throwing spaghetti at the wall to see what sticks. [Georgia's public defender office has been facing a staffing shortage for years](#) — to be overburdened with work and know that the other side isn't even bothering to check their work must be maddening. Thankfully Payne's lawyers had the time to call out the prosecutorial misconduct. One of them, Brian Steel, has built a reputation for putting belt to ass when prosecutors step out of line. At least it wasn't a [secret ex parte meeting](#) this time!

Payne's lawyers argue that that the underlying murder case relied on a botched jury instructions. Hopefully she gets a second chance at justice.

[Attorney With Clayton County DA's Office Apologizes For Using AI, Citing Fake Cases In Court Brief](#) [Atlanta News First]

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 christopherrashadwilliams@gmail.com and by Tweet/Bluesky at [@WritesForRent](#).

Lawfully distributed opioids are not a public nuisance in MD | Newsletter

 [legalnewsline.com/newsletter/lawfully-distributed-opioids-are-not-a-public- nuisance-in-md/article_66499af1-047c-4412-a3bc-0261f2512625.html](https://www.legalnewsline.com/newsletter/lawfully-distributed-opioids-are-not-a-public- nuisance-in-md/article_66499af1-047c-4412-a3bc-0261f2512625.html)

Jay Brown, John O'Brien

April 2, 2026

Robert C. Murphy Courts of Appeal Building in Annapolis, Md.
<https://msa.maryland.gov/msa/mdmanual/29ap/html/ap.html>

ANNAPOLIS, Md. - The lawful distribution of opioids is not an actionable public nuisance under Maryland law, says the Maryland Supreme Court, which declined "to recognize a public right to be free from the adverse effects associated with a lawful product being diverted, misused, or abused."

The Maryland high court's recent ruling answered a certified question from Maryland federal court in a public nuisance suit brought by Anne Arundel County, which is one of many local governments attempting to hold the country's largest mail order pharmacies and pharmacy benefits managers responsible for the opioid epidemic.

The case, *Express Scripts, Inc. v. Anne Arundel County, Maryland*, [completes a pair of losses](#) in as many days for the County, whose attempt to use public nuisance law to hold the oil industry liable for climate change in a separate lawsuit was described by the Court as "so far afield from any area of traditional state or local responsibility that it cannot be seriously contemplated."

In November 2023, two years after launching its effort to hold oil companies liable for the alleged effects of climate change, Anne Arundel County, like other municipalities across the country, turned its sights on making the country's largest pharmacies pay to clean up what the County described as "the worst human-made epidemic in modern medical history – an epidemic of addiction, overdose and death caused by an oversupply of opioids flooding communities from powerful corporations who sought to profit at the expense of the public."

The County's single count complaint claimed that the pharmacies acted "intentionally, recklessly, or negligently" by making legal and federally approved opioids available to the residents of Anne Arundel County and "endanger[ed] or injure[d] the property, health, safety or comfort of the public in Anne Arundel County," and, in addition to injunctive relief, sought compensatory damages and costs for abating the asserted public nuisance.

The Maryland high court refused to go along with the County's attempt to expand the law of public nuisance in Maryland, which the defendants argued: Involves a novel public nuisance claim that does not involve real property, is nothing more than a pooling of individual injuries and seeks "monetary relief in the form of an abatement order reimbursing past and future costs of public services."

Writing for the court, justice Brynja Booth, who also penned the Court's opinion in the climate change case, reviewed the history of public nuisance law tracing back to the English common law and its adoption in early America and Maryland.

"Public nuisance involves an unreasonable interference with the rights of the community at large and was historically punishable as a crime," she wrote. "[W]e have rejected claims that have attempted to expand the boundaries of nuisance beyond the traditional common law parameters."

This included, the Court stated, attempts to adopt notions of public nuisance advanced by the Restatement (Second) of Torts § 821B, which broadly defines a public nuisance as "an unreasonable interference with a right common to the general public."

"To recognize a general common law 'public right' to be free from any potentially injurious harm associated with a lawfully licensed product being diverted, abused, or misused," the Court reasoned, "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, when such products are misused and cause injury."

Ultimately, the Court skirted the issue of whether Maryland public nuisance law should be expanded consistent with the Restatement, finding that the County failed to allege that the pharmacy defendants' distribution of opioids affected a public right.

"No case of this Court has recognized a broad public right to be free from all potential harms associated with the prescribing and dispensing of opioids," the court found.

And that the distribution and sale of opioids is highly regulated on both the state and federal level added to the court's hesitation to find a public nuisance.

"To the extent that the County seeks to impose tort liability for the Defendants' lawful conduct undertaken pursuant to the federal and state regulatory schemes that authorize the lawful dispensing of opioids and the administration of benefit plans for licensed opioids, Congress and the General Assembly have determined that the social utility of the licensed dispensing of opioids outweighs the gravity of the harm in permitting their lawful dispensing," the court wrote.

"Complex societal problems are best suited for the Legislature," the court concluded, "and judicial restraint is the appropriate principle to apply here."

Justice Peter Killough filed a concurrence to note that he viewed the majority's opinion as unnecessarily closing the door to the potential expansion of Maryland's public nuisance law. In doing so, he alluded approvingly to claims of air pollution as a public nuisance, "which directly affects everyone in the state of Maryland," and admitted that claims related to the mental health effects of social media for adolescents is "a potentially harder case."

Solicitor General, Lead MDL Counsel, Want Argument Time at Roundup Case Before SCOTUS

The case, called *Durnell v. Monsanto*, could resolve thousands of lawsuits alleging the pesticide Roundup causes non-Hodgkin lymphoma.

April 01, 2026 at 05:34 PM By  **Amanda Bronstad**



Credit: steheap/Adobe Stock.

What You Need to Know

- On Tuesday, David Frederick filed a brief asking for 10 minutes or argument time for lead counsel in multidistrict litigation over Roundup and paraquat, an herbicide made and sold by Syngenta AG and Chevron USA Inc. and linked to Parkinson's disease.
- Syngenta and Chevron last month moved to preempt claims in the paraquat multidistrict litigation, citing the *Durnell* case.

- Sauer already has filed briefs urging Supreme Court review of Monsanto's petition and, in a March 2 brief, supported its position that federal law preempted state law claims that it failed to warn of Roundup's health risks.

U.S. Solicitor General D. John Sauer and lawyers for lead plaintiffs' counsel in multidistrict litigation over Roundup and paraquat want to participate in oral arguments later this month in a closely watched U.S. Supreme Court case.

The case, called *Durnell v. Monsanto*, could resolve thousands of lawsuits alleging the pesticide Roundup causes non-Hodgkin lymphoma. Bayer, which owns Monsanto, has won and lost numerous verdicts over Roundup, including the 2023 jury award of \$1.25 million for plaintiff John Durnell at issue in the case before the Supreme Court, which hears oral arguments on April 27.

Sauer already has filed briefs [urging Supreme Court review](#) of Monsanto's petition and, in a March 2 brief, supported its position that federal law—specifically, the Federal Insecticide, Fungicide, and Rodenticide Act—preempted state law claims that it failed to warn of Roundup's health risks. But, on March 26, he asked for 10 minutes of the 30 minutes allocated for Monsanto attorney Paul Clement, former U.S. solicitor general now at Washington, D.C.'s Clement & Murphy, at oral arguments.

"The United States, through EPA, implements and enforces FIFRA and generally must register all pesticides sold or distributed in the United States," Sauer wrote. "Through its registration process, EPA previously reviewed and approved the specific labeling at issue here."

Bayer has noted that regulators, including the Environmental Protection Agency, have found Roundup's key ingredient, glyphosate, is safe, and that a uniform, nationwide regulation was preferential to conflicting state requirements. Eliminating Roundup from the agricultural community—and, in particular, its key ingredient, glyphosate—could devastate farmers, Clement [wrote in Monsanto's opening brief](#).

But Durnell attorney Ashley Keller, of Chicago's Keller Postman, on March 25, countered that the EPA doesn't have "sweeping powers" over all claims, particularly misbranding, which a judge or jury must decide. Concerns over conflicting state regulations, he wrote, were "overblown."

"Perhaps the political branches will be swayed by Monsanto's policy arguments and enact the express preemption clause the company so desperately seeks," he wrote. "The executive branch, at least seems receptive to Monsanto's entreaties," citing President Trump's [Feb. 18 executive order](#) ensuring a nationwide supply of glyphosate.

On Tuesday, David Frederick filed a brief asking for 10 minutes or argument time for lead counsel in multidistrict litigation over Roundup and paraquat, an herbicide made and sold by Syngenta AG

and Chevron USA Inc. and linked to Parkinson's disease. The brief was signed by Robin Greenwald, a partner at Weitz & Luxenberg in New York who was co-lead plaintiffs' counsel in the Roundup multidistrict litigation, and Khaldoun Baghdadi, of San Francisco's Walkup, Melodia, Kelly & Schoenberger. Baghdadi is co-lead plaintiffs' counsel in the paraquat multidistrict litigation, where Syngenta and Chevron last month [moved to preempt claims](#), citing the *Durnell* case. U.S. District Judge Nancy Rosenstengel, of the Southern District of Illinois, who is overseeing the paraquat multidistrict litigation, ordered supplemental briefs after the Supreme Court's ruling.



David Frederick

Frederick, of Kellogg, Hansen, Todd, Figel & Frederick in Washington, D.C., sought an additional 10 minutes of time at oral argument, noting that both multidistrict litigation dockets represent 11,500 individuals who could be impacted by the Supreme Court's decision.

"Those individuals are differently situated from Durnell: They hale from all 50 states, not just Missouri, so they can offer this court a broader perspective on how failure-to-warn claims related to FIFRA's requirements" he wrote.

In a Tuesday amicus brief supporting Durnell, he flagged evidence that Monsanto and Syngenta suppressed studies and withheld data from the EPA.

"Accepting Monsanto's position would allow manufacturers to invoke EPA's silence as a defense, even when the manufacturer failed to disclose material safety information to the agency," he wrote.

Frederick declined to comment, and Greenwald and Baghdadi did not respond to Law.com.

'State Law Claims are Essential Tools'

The Supreme Court case, [accepted for review](#) earlier this year, is one of several legal strategies Bayer has put forth to resolve the Roundup litigation. On Feb. 17, Bayer announced [a \\$725 billion class action nationwide settlement](#) in Missouri's 22nd Judicial Circuit Court, which a St. Louis judge preliminary approved last month.

Objections and opt-outs to the settlement [are due June 4](#), with a final approval hearing set for July 9.

Bayer CEO Bill Anderson has said both the agreement and the Supreme Court are necessary, noting that the Supreme Court decision, if in Monsanto's favor, could resolve the opt-out cases.

Both Bayer and co-lead class counsel Chris Seeger, of Seeger Weiss in Ridgefield Park, New Jersey, have cited the *Durnell* case as a catalyst for reaching the nationwide deal.

More than 100 agricultural and business groups, such as the U.S. Chamber of Commerce and the American Farm Bureau Foundation, filed amicus briefs supporting Monsanto in the Supreme Court case. Attorneys general from 15 states, including Georgia and Pennsylvania, also filed amicus briefs supporting Monsanto before the Supreme Court.

On Wednesday, the American Association for Justice, Public Justice and more than a dozen amici representing farm workers and health officials filed in support of Durnell. Also, attorneys general from the states of Florida, Texas and Ohio filed an amicus brief suggesting the issue should be a matter of state, not federal law, and those from 18 states, including California, New York and New Jersey, supported Durnell in a separate filing.

“Federal law does not—and should not—stand in the way of state failure-to-warn claims,” California Attorney General Rob Bonta said in a statement on Wednesday. “State law claims are essential tools, filling the gaps when federal regulations do not, to keep companies accountable and ensure that every person can make informed decisions and seek relief when harmed by the products they use. I, alongside my fellow attorneys general, urge the Court to continue upholding these important protections for consumers and public health.”

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Litigation

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Insight

Trial Lawyers Must Tune Into New Media Trends to Read Courtroom

April 2, 2026, 1:30 AM PDT

Summary by Bloomberg AI

AI Generated



- Trial attorneys must account for how every courtroom participant receives and processes extrajudicial information about their client due to the rapid expansion of the true crime ecosystem.
- Trial attorneys have an obligation to manage their client's public narrative, not just their legal strategy, as the "court of public opinion" is now inextricably linked to trial preparation.
- Trial counsel should approach jury selection as both a legal exercise and a communications strategy, using tools like comprehensive jury questionnaires and social media research to address pretrial publicity and potential juror bias.

Intense public scrutiny is nothing new for American courtrooms. But the speed and scale of today's media environment have fundamentally changed the game for trial attorneys.

The rapid expansion of the true crime ecosystem has been supercharged by social media and artificial intelligence, forcing trial counsel to abandon the comfortable separation between courtroom tactics and public narrative.

In all phases of a high-profile case, trial lawyers must account for how every courtroom participant receives and processes extrajudicial information about their client.

I served as a US Attorney, federal prosecutor, and most recently as special prosecutor in 2025 in *State v. Kohberger*, where Bryan Kohberger was sentenced to life in prison without parole for the murder of four University of Idaho students after pleading guilty just weeks before trial. I've seen firsthand how online misinformation, influencer commentary, and the 24-hour news cycle can shape jury pools, distort witness memories, and ultimately threaten the trial process.

Trial attorneys can no longer afford to compartmentalize the "court of public opinion" from the nuts and bolts of trial preparation—the two are now inextricably linked.

Managing Messaging

Trial attorneys have an obligation to manage their client's public narrative, not just their legal strategy. Preserving a client's right to a fair trial isn't a passive endeavor. Gone are the days when trial lawyers could rely on a client's public relations team to craft external messaging.

Those messages will ultimately reverberate in the courtroom. Trial lawyers must engage with their clients to help design accurate and consistent messages and then revisit them as the case develops or as misinformation spreads.

Motion practice is an underused communications tool. In a high-profile case, the media will scour even the most mundane procedural motions for hints of case strategy or previews of witness testimony.

Trial attorneys shouldn't file motions for PR purposes, but every motion is an opportunity to establish case themes and correct the record before a jury is ever seated. In the *Kohberger* case, even our scheduling hearings previewed relevant evidence at trial, presenting risks and opportunities as we sought to educate the court about our jury selection concerns.

The press also covered every procedural move in detail. This level of scrutiny demands that trial counsel think several moves ahead, not just in terms of the law, but in terms of how publicity will affect the jury pool.

Social Media Contamination

Misinformation is unavoidable and can corrupt witness memories, perceptions, and willingness to cooperate. When preparing witnesses—including friendly ones—trial attorneys must go beyond the “who, what, when, where, and why” of anticipated testimony to understand how each witness has been shaped by media coverage of the case.

Has the witness been covered in reporting on the case? Has the witness actively posted on social media regarding the case? Who in the witness's circle is feeding them misinformation about the case?

Answering these questions takes both resources—constantly monitoring a witness's public social media—and the emotional intelligence to uncover their preconceptions when meeting with them. Ignore any of this and opposing counsel will exploit witness bias on cross-examination.

Jury Selection

Today's jury pool doesn't arrive neutral. In high-profile cases, jurors may already have consumed YouTube breakdowns of the evidence, podcasts theorizing about guilt or liability, and influencer commentary—some of it wildly inaccurate. This reality demands that trial counsel approach jury selection as both a legal exercise and a communications strategy.

Trial counsel should push hard for a process that addresses pretrial publicity with every individual juror. This starts with a comprehensive jury questionnaire. The questionnaire should cover potential jurors' sources of news and their exposure to information about the case, among other topics.

Skilled trial lawyers can also carefully seek to preview case themes by, including questions that call for potential jurors to share their views on such topics as corporate responsibility or regulatory oversight, the reliability of digital forensic evidence, or media bias in criminal coverage.

Questionnaires should go out well before trial—the more time the trial team has to analyze responses, the better. Given the ubiquity of social media, failing to research jurors' public social media profiles—which courts typically allow—might border on malpractice. Because each online search will be only a snapshot of a potential juror's profile, constant monitoring throughout jury selection and trial is essential.

The ideal setup involves parallel teams: Trial lawyers conducting voir dire in the courtroom and a research team outside filtering real-time social media intelligence and feeding questions to counsel as jurors are called. This takes immense resources, and the logistics and costs should be built into the trial budget from day one.

Trial attorneys who treat voir dire as a purely legal exercise—rather than a communications and intelligence operation—will be outmaneuvered.

Using the Spotlight

When voir dire begins, the courtroom doors will not shut out all the influences of outside publicity. In fact, tactfully embracing public sentiment about the case can build rapport and credibility with the jury. In questioning potential jurors about their ability to impartially assess the evidence, defense lawyers can and should admit concerns about the media's coverage of their client.

Plaintiff's counsel similarly can address the public narrative about their client's motivations. On either side, it is often possible to directly confront misinformation when questioning jurors about what they expect to see at trial.

Key Takeaways

Trial attorneys can no longer treat the public narrative about a case as someone else's problem. The media, the influencers, and self-appointed legal commentators flooding social media not only shape the "court of public opinion." They are, in effect, in the courtroom.

The lawyers who win high-profile cases will be those who build a strategy for both courtrooms: the one in front of the judge, and the one unfolding on every screen.

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

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Bloomberg Law

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Column

John Quinn Sees Big Law Investor Deals as States Ponder Bans

April 2, 2026, 2:00 AM PDT

Welcome back to the Big Law Business column . I'm Roy Strom, and today we look at whether Big Law firms will take investment from private equity funds. Sign up for Business & Practice , a free morning newsletter from Bloomberg Law.

Quinn Emanuel's John Quinn told me outside investors will ultimately own a slice of Big Law firms, but legislation winding through state courthouses could snuff out the ability for founders like him to cash in.

Law firm founders traditionally get profit draws but can't sell the business as those in other industries can. Instead, the founders retire and leave the value of the business to the next generation.

But there's a lot of money on the table for trailblazing founders if they manage to capitalize law firms in the mold of non-legal industries.

For Quinn's part, it's hard to envision someone better positioned to benefit from outside investors buying into Big Law firms. He started Quinn Emanuel 40 years ago and has built it into a business pulling in nearly \$3 billion in annual revenue.

To be clear, it is against professional ethics rules in the vast majority of states for non-lawyers to own law firms. But that hasn't stopped the idea from making its way to Quinn.

"They'll say, you know, you've created this enterprise," Quinn told me in a recent episode of our On The Merits podcast. "You do \$2.5 to \$3 billion in revenue at very healthy margins. If you could capitalize that and get even a conservative multiple, it's worth \$10 billion-plus as an enterprise. They try to paint the picture of, you know, dollar signs raining from the sky."

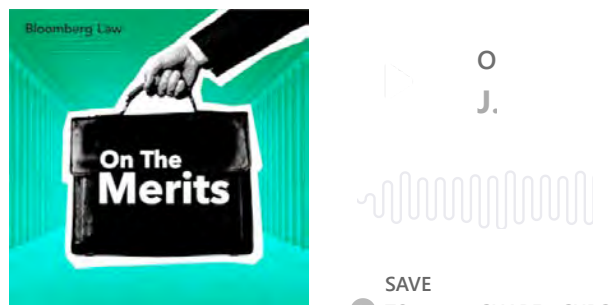
Quinn's timing may position him to be among the first Big Law founders to do something different: Sell equity (or something like it) in the firm to outside investors.

The concept he thinks will ultimately work out is called a management services organization, or MSO. That vehicle would be owned by outside investors and contract with a law firm to receive revenue for its back-office services. The law firm would get a chunk of cash to invest in growth and technology, or to compensate longstanding partners. Proponents of the structure say it can be done without changes to professional ethics rules for lawyers.

Quinn didn't rule out his firm doing such a deal, while noting that there hasn't been a fulsome discussion of it among his partners. He said he didn't know how that hypothetical discussion would go. But, more broadly, he said the rules ultimately will change to allow more creative ownership structures.

At the moment, though, the legislative tide is beginning to turn against the idea.

Lawmakers in states including Illinois and California have introduced bills that would severely limit the creativity of MSOs. The Illinois proposal, introduced last month, would prohibit private equity funds or hedge funds from charging any amount to a law firm that is based on the fees, revenues, or profits of the legal operation.



The bill is widely seen as a reaction by trial lawyers to restrict personal injury law firms from using the investor model to pay for advertisements that generate cases.

Trisha Rich, a partner at Holland & Knight who represents clients on these types of deals, said the Illinois legislation is troublesome as currently drafted. If it becomes law, she said it will be challenged on the basis that the Illinois judiciary, not its legislature, regulates attorneys. Lawmakers may amend the bill to limit some of the problems, she said.

Regardless, she is confident that one of the 200 largest law firms by revenue will complete an MSO deal within the next 12 months.

"Mr. Quinn's view that it is coming I think is accurate," Rich told me.

Quinn also raised the concern that doing a deal could be seen by partners as allowing senior lawyers to "cash out." Rich also notes that similar deals done by personal injury firms have been a way for law firm founders to do just that.

Big Law firms can mitigate such concerns by how they use the cash, she said. Rather than paying large sums to existing partners, big firms are likely to use the money to pursue growth strategies.

"When those Big Law firms start to transact, it's just going to be a different thesis than what you're seeing in the personal injury space where founding personal injury attorneys are using these as liquidity events," Rich said.

Still, there are plenty of doubters. I've reported before on a litany of Big Law managing partners who were cool to the idea when large litigation funder Burford Capital publicly proposed it. A personal injury lawyer who drafted the Illinois bill said he did so after hearing what he described as a "chilling" presentation on law firm MSOs by an executive at Burford.

Dai Wai Chin Feman, a managing director at litigation funder Parabellum Capital, said he is skeptical that deals with large law firms will happen.

"You would have to change the rules for it to work," said Feman, who also serves as US chapter chair of the International Legal Finance Association. "And in response to all this PR, the rules may change to prevent it."

Worth Your Time

On Deals: Sullivan & Cromwell and Gibson Dunn & Crutcher catapulted to the top of Bloomberg Law's league tables, thanks in large part to their work on Elon Musk's combination of SpaceX and xAI, Mahira Dayal reports.

On Kirkland: The law firm is hiring 10 lawyers from Latham & Watkins, led by energy partners Christopher Peponis of Houston and New York-based Hamad Al-Hoshan, Eric Killelea reports.

On Wachtell: Wachtell Lipton Rosen & Katz is advising OpenAI on its latest fundraising round ahead of the artificial intelligence giant's potential IPO later this year, Meghan Tribe reports.

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

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Former Trump White House Lawyer: He's 'Insane.' Current Cabinet: [Crickets]

A abovethelaw.com/2026/04/former-trump-white-house-lawyer-hes-insane-current-cabinet-crickets

Kathryn Rubino

April 2, 2026

Ty Cobb

[Ty Cobb](#) is back on his bullshit. And by that, I mean back on a talk show calling out his former boss, Donald Trump.

The former Hogan & Lovells partner turned [White House](#) special counsel (in the Trump I regime) has taken to the [cable news circuit](#) to make some [biting comments](#) about Trump. Cobb left the hallowed halls of Biglaw to join the first Trump administration, but he [quickly left](#). Since then, he's taken to the airwave with his signature facial hair with a [folksy](#) way of [cutting through](#) the [right-wing BS](#).

His latest appearance, this time on *The Jim Acosta Show*, keeps that streak alive, and then some.

Cobb didn't hedge. He didn't soften. He didn't even do that lawyerly thing where you bury the lede under a pile of qualifiers. Instead, he went straight for the jugular:

"It's not a surprise that we're in this much trouble. It's not a surprise given the fact that the cabinet will not invoke the 25th Amendment for a man who's clearly insane."

That's... not exactly subtle. But then again, subtlety has never really been Cobb's brand in [this phase of his post-White House life](#).

And he wasn't done.

Cobb pointed to Trump's late-night posting habits that read less like presidential communications and more like someone lost a fight with their group chat, as evidence of something deeper. "And this war highlights that. And these screeds that come out nightly, at 2 a.m. or 4 a.m. or whatever time Trump decides to vent without oversight, it highlights the level of his insanity and depravity," Cobb said.

Acosta, perhaps channeling the audience at home, asked the obvious follow-up, "You think he's just gone?"

Cobb's answer, "I think he's gone. And he makes it obvious every day."

The former Biglaw partner turned White House lawyer turned media critic, is making increasingly dire pronouncements into the void, while the people with actual authority pretend not to hear it.

At some point, you have to wonder who this is for. The cabinet? The public? Himself?

Or maybe it's simpler than that. Maybe this is just what accountability looks like in 2026. No formal consequences, no institutional checks, but a series of increasingly blunt TV hits where former insiders say the quiet part very, very loud.

You can watch Cobb's appearance below.

[Watch on YouTube](#)

Kathryn Rubino is a Senior Editor at Above the Law, host of [The Jabot podcast](#), and co-host of [Thinking Like A Lawyer](#). AtL tipsters are the best, so please connect with her. Feel free to email [her](#) with any tips, questions, or comments and follow her on Twitter [@Kathryn1](#) or Mastodon [@Kathryn1@mastodon.social](#).

NewsRoom

4/1/26 Akron Beacon J. (Ohio) (No Page)
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Akron Beacon Journal (Ohio)
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April 1, 2026

Ex-FirstEnergy execs set for a new round in court following mistrial
The judge in a bribery case against two ex-FirstEnergy executives formally
declares mistrial following a hung jury and plans to set a new trial date.

Patrick Williams, Akron Beacon Journal

Former FirstEnergy executives Charles "Chuck" Jones and Michael Dowling will tentatively be retried on bribery and other charges.

Judge Susan Baker Ross, who presided over two-month trial in Summit County Common Pleas Court that wrapped with a hung jury March 31, denied the defendants' motion for acquittal on all charges in an order posted to the case docket April 1.

In the order, Baker Ross also formally declared a mistrial and requested that expected new motions for acquittal from defense attorneys be filed within two weeks.

The judge set a pretrial for 1:30 p.m. on April 8 over Zoom.

"All counsel shall be prepared to discuss their availability in order for the Court to set a new trial date," she wrote.

The Ohio Attorney General's Office and Summit County Prosecutor's Office accuse Jones and Dowling of paying a \$4.3 million bribe to Sam Randazzo before he became chair of the Public Utilities Commission of Ohio. Randazzo died by suicide in 2024.

Steve Grimes and John McCaffrey, attorneys for Dowling, provided written statements after the March 31 hung jury announcement.

"The state had years to prepare for this case and seven weeks to argue it, it's time for Mike to be a free man," Grimes said. "The facts are clear that Mike didn't do anything wrong. We shouldn't let egos get in the way of commonsense and due process, if the State were interested in doing justice, the State would drop all of its charges and let Mike Dowling get on with his life."

McCaffrey said the defense is grateful to the judge for overseeing the "complex" case with "great attention and temperament" and said the team appreciates "the jury's attention to the evidence and their service as jurors on this complicated case."

FirstEnergy fired Jones and Dowling in 2020, stating at the time that they "violated certain FirstEnergy policies and its code of conduct."

FirstEnergy spokesperson Jennifer Young, who previously declined to comment on the case during the active trial, said via email April 1, "Today's FirstEnergy is a different company."

"We have taken responsibility for past issues, strengthened our internal controls and created a more transparent and accountable way of operating," Young said. "

Young said FirstEnergy has "reshaped" its culture.

"Our new leadership team is putting customers at the center of every action, moving decision-making closer to the communities we serve, and has made expectations for ethical conduct clear and consistent across the company," Young said.

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

This article originally appeared on Akron Beacon Journal: Ex-FirstEnergy execs set for a new round in court following mistrial

---- Index References ----

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Matt Levine's Money Stuff: OpenAI Is Almost Public

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Private markets are the new public markets

Today Bloomberg's Bailey Lipschultz and Edward Ludlow report that SpaceX [filed for the largest initial public offering ever](#) :

SpaceX has filed confidentially for an initial public offering, according to people familiar with the matter, bringing billionaire Elon Musk's rocket, satellite and AI company closer to delivering the biggest-ever listing. ...

The filing puts it on track for a June listing, which would make SpaceX the first of what could be a trio of mega-IPOs, ahead of OpenAI and Anthropic PBC. ...

A listing for SpaceX would raise as much as \$75 billion, Bloomberg News has reported. At that size, it would dwarf the current record holder, Saudi Aramco's \$29 billion debut in 2019.

But Bloomberg's Shirin Ghaffary reports that OpenAI [did an even bigger deal](#) :

OpenAI has completed a deal to raise \$122 billion from investors at an \$852 billion valuation, marking the company's largest funding round to date by far and bolstering its costly push for more chips, data centers and talent. ...

In a first for the company, OpenAI raised more than \$3 billion from individual investors through bank channels. The startup also said it will be included in several exchange-traded funds managed by Cathie Wood's Ark Invest, with the goal of offering more people exposure to the AI firm.

OpenAI Chief Financial Officer Sarah Friar said the financing "blows out of the water even the largest IPO that's ever been done." The deal, she said, is meant to give the company "a lot of flexibility" to invest in computing resources and its AI roadmap at a time of broader uncertainty for the public markets, including from the Iran war.

Private markets, I often say around here, are the new public markets: You can raise *more* money for your AI company in a private round than you could in the still-hypothetical largest IPO ever. You can sell \$3 billion of stock to retail investors, or quasi-retail investors anyway. (Bank private wealth channels, ARK ETFs.) Going public still has some benefits, but if your goal is just to raise \$122 billion to build data centers, sure, the private markets can handle that.

Of course everyone assumes that OpenAI is *also* a near-term IPO candidate. Presumably it would raise more money in that deal, too. The appetite for data centers is insatiable.

Another thing that we have [talked](#) about a [lot](#) around here is the amount of demand from individual investors for stock in giant private companies like SpaceX and OpenAI. Broadly speaking, if you are a wealthy individual investor, there are a lot of people who will sell you SpaceX or OpenAI stock, in some form, at a 100% or 1,000% markup. Why do people pay those markups? One possibility is confusion. Another possibility is that, when you buy a hot private stock, you are not paying exclusively for future cash flows. There is a certain cachet in owning a stock that most people can't own, in being on the inside; you can go to parties and say "oh yes I am an early investor in OpenAI." That is, apparently, worth something, and I guess OpenAI might as well monetize it itself.

The traditional simple arithmetic is that a lot of people want to buy shares of a big company, but when the company is private, not that many people can. When the company goes public, many more people can buy its stock, so it should be worth more: All the retail investors and public-market funds and non-ARK ETFs will finally be able to buy it, and they will, so its stock will go up. Therefore, if you buy shares while the company is still private, you can get a high return when the company is finally able to tap into that demand.

It is possible to over-learn that lesson, though. "Boy I'm going to make a fortune when everyone is finally able to invest in OpenAI," you say, when your banker sends you the exclusive invitation to invest in OpenAI's \$122 billion funding round. And then you go to parties and brag about being an early investor in OpenAI and find out that everyone else is too. Who are you going to sell to when the company goes public?

We have [talked](#) a few [times recently](#) about the push to put more private assets in ordinary investors' retirement plans and, you know, this. "Private assets have higher returns than public stocks, so we should let everyone own them" has a certain appeal, but if you act on it it stops being true: Arguably the private assets have higher returns *because* not everyone can own them. If everyone gets access to the exclusive investments, they are no longer exclusive.

Meanwhile, a traditional advantage of staying private is that, if your stock doesn't trade publicly, it can't go down. Having a falling stock price is distracting for employees and annoying for executives, and being private mostly [lets you avoid that](#): Your stock doesn't trade every day, and its price only moves when you do a new fundraising round, which you should try to do only when there's good news. But when you're an \$852 billion household-name private company, sorry, private markets are the new public markets, and Bloomberg's [Hema Parmar reports](#):

OpenAI shares have fallen out of favor on the secondary market – in some cases becoming almost impossible to unload – as investors pivot quickly to Anthropic, its biggest competitor.

Even as OpenAI raced in recent months to raise tens of billions of dollars, Next Round Capital founder Ken Smythe said his secondary marketplace was seeing a drop in demand for the artificial intelligence giant's shares. About a half-dozen institutional investors – including hedge funds and venture capital firms that hold large stakes – approached his company in recent weeks looking to sell about \$600 million of OpenAI shares.

Last year, they would have been snatched up within days. But now, no one's biting.

"We literally couldn't find anyone in our pool of hundreds of institutional investors to take these shares," said Smythe, whose firm has handled \$2.5 billion of transactions. Meanwhile, "buyers have indicated they have \$2 billion of cash ready to deploy into Anthropic."

Other marketplaces are also seeing record demand for Anthropic, including Augment and Hiive. The large gap between OpenAI's \$852 billion valuation and Anthropic's \$380 billion has investors rushing to grab equity in the latter before it rises, according to Augment co-founder Adam Crawley.

"It's just better risk-reward right now," he said. "People are betting that Anthropic's valuation will catch up with OpenAI's. But if you buy OpenAI shares, it's less clear what the return will be in the near term."

See, OpenAI is practically already public, and if you're a sophisticated institutional investor in private markets you might be better off putting your money in earlier-stage \$380 billion companies.

Who controls Snap?

One model of shareholder activism is that shareholders control the company, they elect the directors, and if they don't like what the directors are doing they can vote them out. In practice this is pretty hard: To vote out the directors, an activist shareholder has to launch a proxy fight and convince a majority of shareholders to vote for her slate, and the board has tools to delay or impede this. But at least in theory, and sometimes in practice, shareholders really can vote out the board and install new management, and this possibility gives them leverage. And so the directors and executives are responsive to shareholder demands, because they operate in the shadow of binding shareholder votes.

Another model of shareholder activism is that directors and executives are responsive to shareholder demands not because of the threat of a proxy fight but because, come on, we are all professionals here and we all want the same thing. It is good for everyone – the executives, the directors, the activist shareholders – if the stock goes up. The executives and directors have fiduciary duties to the company; they are supposed to make the stock go up. They are chosen for their skills and experience and energy, and they are compensated with stock and options to give them the right incentives. If an activist shows up, the board will thoughtfully engage with her, take her ideas seriously, and either implement them or provide some rational explanation, grounded in shareholder value, for why not.

And if the shareholder doesn't like the explanation, her main tool to push back is not a *proxy fight* but *embarrassment*. Directors want to do the right thing for shareholders, and they want to be seen to do the right thing for shareholders. Being a successful director – one who presides over a rising stock price and is beloved by shareholders – is good for your career; doing good work on a good board can get you more board seats and other business opportunities. Plus you're probably in a golf club with other public-company directors and executives, and you want to be respected at the golf club. If an activist is out publishing nasty letters about how you're destroying shareholder value, that is motivating on its own. The proxy fight – the theoretical possibility that you will actually be kicked out of your directorship – is a minor footnote.

These theories have a great deal of overlap in most companies: If a board is doing the wrong thing for shareholders, that might *both* embarrass them at the country club *and* lead to a proxy fight. But there is an important area of non-overlap: Lots of companies have dual-class shares that concentrate voting power in the hands of controlling shareholders (generally founders, etc.), so that the public shareholders really *can't* vote out the board. If the managers and directors are doing a bad job, the shareholders have no formal power to change things. But they can still write letters. They can still try to persuade the board to make changes, and the board still has some fiduciary duty to listen, and if the board ignores the shareholders and the stock keeps sliding, that will be embarrassing at the club.

Snap Inc. is an unusually extreme case of this in that (1) it went public in 2018 with [non-voting public stock](#), so public shareholders have no voting rights at all and (2) uh, it's Snap; it has not been on a great run over the last few years. Still, worth a shot. The Wall Street Journal reports:

Activist investor Irenic Capital Management has built a roughly 2.5% stake in Snapchat and is asking the company's leadership to make a series of changes to boost the company's valuation, including laying off employees and closing or spinning off its Specs business. ...

The activist investor said Snapchat has underperformed the Nasdaq by 444 percentage points since its initial public offering, adding that a dollar invested in Snapchat at the time of the IPO would be worth 23 cents today.

"We are taking the unusual step of writing you a public letter because Snap isn't a typical public company," Irenic said. "Shareholders like us do not vote for Snap directors and we can't tell you what to do," Irenic added.

"We can only attempt to persuade you to do the right things for your shareholder-partners," the activist investor said in its letter.

Shares of Snapchat jumped following the release of Irenic's letter, and were trading up 13%, to \$4.55, as of midday Tuesday. The stock has fallen 48% over the past year.

The stock jump suggests that, even without any voting rights, shareholders might have some influence at Snap. Underperforming the Nasdaq by 444 percentage points since IPO might suggest that they don't.

Algorhythm

In the 2020s, meme stocks were invented: Some smallish US public companies' stocks went up a lot, for no particular fundamental reason, because online retail investors got really into them. This was arguably something new in corporate finance, a new sort of asset that a company could have. If a company became a meme stock, it could go sell a lot of stock at very high prices and use the proceeds to pay down debt or [hire executives](#) or do acquisitions. Becoming a meme stock had a real dollar value to the company, and as the meme-stock concept became more entrenched and better understood, companies took advantage of it. AMC [bought a gold mine](#).

If you are a creative financial engineer, though, you might not stop there. That's just the low-hanging fruit. The deep analysis is that the discovery of meme stocks gave every smallish US public company a valuable new asset. Every company has some *probability* of becoming a meme stock: There's always a chance that some small random company will catch fire with online retail investors and its stock will zoom up. And so the trick, if you are a small public company that is *not* currently a meme stock, is converting that probability into cash now. You have some asset – your chance of becoming a meme stock – that has a real but uncertain value. Surely some hedge fund would pay you something for it. But how do you structure that deal, and what is the going rate for it?

There's actually a longstanding, though somewhat disreputable, financial instrument that fits the bill. It's what you might call a "floating-strike convertible." Schematically the trade is:

1. A hedge fund gives a company \$100 now.
2. In return, the company promises to give the hedge fund \$100 worth of stock, whenever the hedge fund asks for it over the next few months or years. (And the hedge fund can split it up: Get \$10 today, \$20 in a week, \$30 more in a month, etc.)
3. But "\$100 worth of stock" is calculated in a weird way. For instance, it might be calculated as "\$100 divided by the lowest daily stock price over the last 10 trading days." So if the company's stock trades at about \$2 per share for a week, and then the next week it becomes a meme stock and trades at \$5, \$10, \$15, \$69 and \$420, then the hedge fund will exercise its option and say "okay I'd like \$100 worth of stock, at \$2 per share that's 50 shares." And then it will sell those 50 shares for \$420 each, or \$21,000 total.

Usually there are other bells and whistles, but here I want to focus on that lookback. Because it can convert its \$100 into stock at the lowest price over some previous period, the hedge fund has a valuable option. In particular that option pays off if the stock goes up a lot, even briefly. The hedge fund hands over its \$100, it waits to see if there's a meme moment, and if there is it cashes out.

If there is not a meme moment, the hedge fund just converts its \$100 into stock at the market prices and sells it down over time. This tends to have the effect of depressing the stock price: The hedge fund gets some stock at \$2 per share, it sells that stock, the stock goes down to \$1.50, the hedge fund gets more stock at \$1.50, it sells that, the stock goes down to \$1, the hedge fund gets more at \$1, etc. These deals are sometimes rudely called "[death spiral convertibles](#)." The bad outcome is a death spiral. The good outcome is that the hedge fund sells the stock into a meme rally.

Again, this technology has [existed for a long time](#), mostly for distressed companies, but in theory you would think that the meme moment would make it better. There is more upside now: If you are a small distressed public company, there is always a chance that your stock will moon and the hedge fund will make a fortune. So in theory a hedge fund should want to assemble a portfolio of these trades, on reasonably fair terms for the companies, and hope that a few of them return 1,000%.

In practice the terms of these things still seem to be pretty unfriendly to the companies, oh well.

In 2023, Bed Bath & Beyond Corp. did this trade with Hudson Bay Capital. [I wrote at the time](#) : “What Bed Bath has done here, I think, is that it has sold the right to do meme-stock offerings to some institutional investors.” And in fact Hudson Bay seems to have [made an enormous profit](#) on the trade. But Bed Bath’s meme days were mostly behind it, and the stock [pretty much death spiraled](#) .

The Financial Times has a story this week about Algorhythm Holdings, a tiny publicly listed former karaoke company that last month made some bold claims about artificial intelligence for trucking (???), causing (1) trucking stocks to briefly lose about \$17 billion of market value and (2) its own stock to briefly go up 450%. (We [talked about this at the time](#) , but it didn’t really make any more sense than that.) Conveniently Algorhythm had previously sold some floating-strike convertibles to a guy:

One shareholder well positioned for that surge was Chicago-based John M Fife. The 65-year-old investor and philanthropist has made a habit of backing tiny stocks in hot sectors in a career spanning decades, tens of millions of dollars in profits and multiple brushes with regulators.

Fife’s firm, Streeterville Capital, invested in Algorhythm last summer, in a deal that let it purchase several times the company’s market cap in newly issued shares at a discounted price, over a period of time. As the share price surged, Streeterville offloaded millions of shares, according to Algorhythm’s head of investor relations, in trades that could have earned Fife millions of dollars in profits.

“Clearly, now in hindsight, it’s worked out really well for him,” Atkinson, Algorhythm’s chief executive, told the FT regarding Streeterville’s investment in the firm.

One problem with this sort of thing is that these convertible deals do have a bad reputation, and Fife has irritated regulators a lot over the years. (“In 2020, the SEC charged Fife and five of his companies with unregistered securities dealing, calling him a ‘recidivist violator of the federal securities laws,’” after he “and his companies had purchased such notes from around 135 different microcaps over five years, with the investor targeting hyped sectors such as ‘the marijuana, blockchain, bitcoin, vapour, lithium and gold mining industries.’”)

Another problem is that the trade works best if the company becomes a meme stock, which creates incentives to, you know, make that happen.

Pivot to AI

Algorhythm is a karaoke company that pivoted to artificial intelligence for trucking. These days, pretty much every sort of company wants to be an AI company, and if a company manifestly *isn’t* an AI company it might pivot anyway. If I told you “a food science company famous for making monosodium glutamate is pivoting to AI,” you’d be like “sure right whatever, just like the karaoke one.”

But here is a pretty amazing activist presentation that Palliser Capital released this week, arguing that Ajinomoto Corp., which discovered umami and invented MSG, also controls a bottleneck in the AI supply chain:

Ajinomoto's mastery of complex polymer chemistry – developed in food science – uniquely positioned the company to solve the most difficult materials problem in advanced semiconductor packaging. ...

Ajinomoto Build-up Film (ABF) – a high-performance insulating polymer film used in semiconductor substrates, enabling ultra-fine wiring and multi-layer interconnects between chips and circuit boards ... has become the industry standard insulating film for high-end package substrates, ... with no qualified substitutes at the high end.

It has been making this stuff since 1999. But, says Palliser, the market doesn't appreciate it because, you know, food seasoning company:

Despite owning one of the most critical materials technologies underpinning global AI infrastructure, Ajinomoto currently trades at a significant valuation discount to its ABF substrate customers. Resolving the drivers of this valuation disconnect could unlock well over 70% upside to the current share price and support sustained long-term value creation in the interests of all stakeholders.

"The rapidly expanding and lucrative Functional Materials (ABF) business is hidden under the Healthcare & Others business segment," notes the presentation. You don't even have to pivot! Just talk about the AI more. (Also raise prices: "The fund is calling for a more than 30% increase in prices for Ajinomoto Build-Up Film," notes [Bloomberg's Alice French](#) .) The world is complicated, and why *wouldn't* inventing MSG set you up to build AI chips?

Sentiment analysis

On the [Money Stuff podcast](#) last year, Cliff Asness talked a bit about the evolution of sentiment analysis. In the olden days, you could have a computer scan a document – say, an earnings-call transcript – and try to pick out good words ("profit") and bad words ("loss"). If there were a lot of good words, the news was good and you'd buy the stock; if there were a lot of bad words, you'd sell. This might work at some rough statistical level, and if you have no better ideas you could give it a try, but it is obviously pretty crude. Sometimes "profit" will be in a sentence like "we had no profit," and is actually bad. A human, reading the transcript, would be able to pick up on subtleties of sentiment that are not reflected in mere counts of bad words.

Modern machine learning tools are much better at holistically analyzing a document and telling you if the sentiment is good or bad. Pop the transcript into ChatGPT, ask it "how do the executives feel," and it will give you a nuanced answer. Or you can probably automate that and quickly get a pretty precise sentiment score that can inform your trading decisions. Still, at least some crude rules of thumb work pretty well. If you count 73 swear words in an earnings-call transcript, something has probably gone wrong. You don't need to read the rest to get a nuanced understanding of sentiment.

Anyway Anthropic [accidentally posted some source code](#) of its Claude coding agent, and here is a very funny post from Alex Kim about, among other things, how Claude does sentiment analysis on its users:

userPromptKeywords.ts contains a regex pattern that detects user frustration:

"^b(wtf | wth | ffs | omfg | ... (ty | tiest) | dumbass | horrible | awful | piss(ed | ing)? off | piece of (...) | what the ... (broken | useless | terrible | awful | horrible) | ... you | screw (this | you) | so frustrating | this sucks | damn it)\b/"

An LLM company using regexes for sentiment analysis is peak irony, but also: a regex is faster and cheaper than an LLM inference call just to check if someone is swearing at your tool.

The ellipses there are my edits, not the actual regular expression, but you probably get the idea even without the words I deleted. You don't need that much nuance!

Things happen

Freed From US Punishment, Wells Fargo [Bolsters the Repo Market](#) . Goldman Tells Clients Eager to [Short Loans](#) Its Tool Isn't Ready. Foreign central banks sell US Treasuries in wake of Iran war. KPMG Faces Allegations of [Blown Audit](#) in Private Credit Collapse. Blackstone, Ares, Rivals [Grilled by Congress](#) Over Private Credit. Record number of megadeals agreed in first quarter of the year. Spice Maker McCormick's Rise From a Baltimore Cellar to a Global Food Power. Franklin Templeton Agrees to Buy Crypto Spinoff in Digital-Asset Expansion. Modeling Prediction Markets As Exotic Options. Heirs to [Bic Pen Fortune](#) Seek Painting They Say Chauffeur Stole.

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1. The normal measurement is the daily volume weighted-average price. Here is Algorhythm's disclosure of its deal with Streeterville, which describes the mechanics.
2. There is probably not a ton of Black-Scholes dynamic hedging of these options in microcap companies, both because the stocks are usually hard to borrow and trade and because the hedge funds are not in it for volatility arbitrage.
3. I also inserted spaces around the pipe characters for readability in this font.

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Matt Levine's Money Stuff: Prediction Market Structured Notes

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Binary bonds

Yessss here's a trade:

1. You give me \$100.
2. I spend \$96.90 buying a US Treasury bill that will mature at \$100 in February 2027.
3. I spend \$2 buying Kalshi event-market contracts (that is, sports bets) on the Los Angeles Rams winning the pro football championship in February 2027. (The "pro football championship" [is the Super Bowl](#) .) The Rams have the best odds on Polymarket right now, but there are 31 other teams, and the Rams' probability of winning is only 10%. I can buy 20 contracts for my \$2. If the Rams win the Super Bowl, those contracts will pay out \$20; if not, they will pay out \$0.
4. I keep the other \$1.10 for myself; I've earned it.
5. In February 2027, I will pay you back \$120 if the Rams win the Super Bowl, or \$100 if they don't: I will hand you the payoff of the Treasury bill plus the payoff of the Kalshi contracts.

What is this trade, from your perspective? Well, I mean, it's sort of like you have bought a bond from me, and the bond pays interest, and you have wagered all of your interest on the outcome of the Super Bowl. It's a bond plus a football bet.

But of course the financial industry is full of trades with the form "a bond plus an unrelated derivatives bet." They are traditionally called "structured notes," or "structured products." They are sold, often by financial advisers, as a single package, a bond issued by a bank or broker with a payoff that varies based on some index or fact. The point is that the derivatives bet is fully embedded in the bond. The structured note is not a bond plus a separate derivatives bet; the derivatives bet is *in* the bond.

This product thus has the following potentially interesting features:

1. Your financial adviser could sell it to you. (As opposed to your bookie.) "I have a cool new structured product," she tells you. "It offers 100% principal protection and high potential upside. The upside is risky but uncorrelated."

2. She's *right*: Your returns on this trade depend on the Rams winning the Super Bowl, which is probably uncorrelated to the rest of your investment portfolio. (It might be correlated to the rest of your sports gambling portfolio!) Investors [love](#) uncorrelated returns.
3. If you are a Rams fan, you might find this structured note more appealing than some other structured note with a higher expected value but no embedded football bet.
4. If you are a Seahawks fan, you might find this structured note appealing as a hedge against the risk that the Rams win the Super Bowl. (Or you might want a similar note that pays 20% if the Seahawks win.)
5. If your spouse, or your accountant, or your boss at the mutual fund where you work, asks you about this note, you can be like "oh yes, that's a structured note that I purchased from a reputable broker-dealer. It has a lot of embedded optionality. Uncorrelated returns! Convexity!" To your spouse or accountant, this looks like a securities trade, because it is a securities trade. You have bought a bond. It sits in a securities custody account at your broker, it has a CUSIP, its cash flows work like all of your other bonds. The [tax treatment](#) is favorable. No one is going to be like "honey I think you might have a problem" about your structured notes portfolio.
6. I keep saying "structured note," but we have [talked a lot around here](#) about the ETF-ization of structured notes. Trades of this form – bond plus embedded derivative – have traditionally been marketed as structured notes, but the modern trend is to put them into exchange-traded funds. (The ETF just buys Treasury bills plus the relevant derivative.) In ETF form, this might be easier for some financial advisers to sell to their customers. And it's a *lot* easier for self-directed retail investors to buy. Go on Robinhood and buy the Rams 2027 Principal Protection ETF, why not.

Of course these days you can go on Robinhood and bet *directly* on football games, but it is possible that principal-protected sports bets would attract a different audience. "Bet on the Rams, but you can't lose money," it's a decent pitch!

Obviously Kalshi and Polymarket offer contracts on all sorts of events; sports are most popular, but you can substitute freely. A bond that pays you \$100 if Democrats win the Senate and \$108 if Republicans do, or vice versa. A bond that pays you \$110 if xAI has a top-ranked artificial intelligence model this year, and \$100 if it doesn't. A bond that pays \$107 as long as Taylor Swift gets married this year, but \$100 if she doesn't.

Or something economic, even! A bond that pays \$110 if the economy is in stagflation at the end of 2026 and \$100 if it isn't. A bond that pays \$100 plus \$3 for every Fed rate cut this year. A four-year bond that pays back \$100 in 2030, plus \$3 of interest each year, with a \$20 one-time bonus payment if unemployment ever touches 9% in that time. It is not especially hard to tell a story about why investors – even institutional investors – would want a thing like that. You might have some thesis about stagflation or unemployment or the number of rate cuts, and rather than translating that thesis into some prediction of asset prices (for Treasuries, stocks, whatever), you can just buy an asset whose payoff directly reflects the number that you care about.

Of course, again, you can do that directly on Kalshi – you can bet on rate cuts or stagflation or unemployment or Taylor Swift's wedding date – but you might not want to. "Bet on unemployment, but you can't lose money" might be a better pitch than an all-or-nothing binary bet. Or, you know, you might want to have all your trades in a securities custody account with your broker, and bond-plus-unemployment-bet works better for that than the pure unemployment bet.

Anyway Bloomberg's [Bernard Goyder reports](#) that there are prediction-market structured notes now:

Investors who like the binary bets on Kalshi and Polymarket but without the all-or-nothing risk are being offered an unlikely new asset: a bond-like note tied to prediction market outcomes.

London-based Marex Group Plc created and sold the first instance of this new kind of security, which will pay out a 7% coupon if Nvidia Corp. is still the world's largest company in a year.

The issuance is the latest sign of how Wall Street firms are trying to harness the fast-evolving energy of prediction markets, which have so far attracted interest primarily from small retail traders. ...

Marex was able to create the note because prediction markets like Kalshi offer it a place to hedge its risks as the odds move over time. As a non-bank structured notes provider, Marex doesn't take market risk with its issuance and fully hedges itself using derivatives.

"Marex is going to effectively build our own prediction market structured products, and then leverage Kalshi and other exchanges to replicate that," said Nilesh Jethwa, chief executive of Marex Solutions, a unit of Marex.

Yessss. A year ago, [I wrote](#) : "I kind of think we are about two years away from a sports gambling ETF." We are perfectly on schedule.

More BDC redemptions

I [think a lot](#) about this 2018 Wall Street Journal article about David Einhorn's hedge fund, Greenlight Capital. Greenlight had had a run of bad performance, and some investors complained to the Journal that performance was bad and they couldn't get their money back, because they had agreed to strict long-term lockups. One said:

The liquidity terms are onerous and out of the norm today. ... Investors would be more comfortable with those terms if the returns were better.

As I [wrote at the time](#) :

Well but the returns aren't better! And the investors would no doubt be quite comfortable withdrawing their money if the liquidity terms were less onerous! The downside of strict liquidity terms, for a hedge fund manager, is that when your performance is bad your investors complain to the press about your liquidity terms. The upside is that they can't take their money out.

The correct sequence, for a money manager, is roughly:

1. Have good performance.
2. Now everyone wants to get into your fund.
3. Let them in, but demand a long strict lockup: The only way they can get access to your hot in-demand fund is by agreeing not to take their money out for a long time.
4. Raise as much money as you can on those strict terms.
5. Now you can have bad performance!

Obviously Step 5 is not necessary and is, in fact, bad; better to keep having good performance. The point is that, if you execute Steps 1 through 4 correctly, Step 5 is an option. If you don't, it isn't. Your job is to keep managing money. Having good performance is a necessary element of that job, but it is not a *permanently* necessary element.

Really you can replace "performance" there with, like, "marketing," or really anything that makes people want to get into your fund. The core sequence is: People want to get into your fund, you demand a lockup to let them in, and then later, when they want to get out, you say no.

Non-traded business development companies – private credit funds marketed to individual investors – seem to have gone through this cycle. I mean, performance was good (high yields with low defaults) for a while, and the *marketing* was very good, with financial advisers putting a lot of clients into a lot of non-traded BDCs, and with a big and [successful](#) push to allow more private credit in retirement plans.

And now we talk every week about individual investors who want to take their money out – because of worries about credit, because yields are under pressure, or just because the branding has kind of soured – but who can't. Those BDCs typically offer to redeem up to 5% of their shares each quarter, and if more people want their money back, tough. Today Bloomberg's [Olivia Fishlow reports](#) :

Blue Owl Capital Inc. will limit redemptions from two of its private credit funds after facing a surge in withdrawal requests that is unprecedented among major firms in the \$1.8 trillion market.

Investors in its \$36 billion Blue Owl Credit Income Corp. fund, one of the industry's largest, asked to pull 21.9% of shares in the three months ended March 31, according to an investor letter, up from 5.2% in the prior period. The smaller Blue Owl Technology Income Corp. saw shareholders ask for 40.7% back, compared with 15.4% three months earlier, according to a separate letter.

Both funds had previously met the requests in excess of its 5% tender offer. This time, though, Blue Owl said it would join industry peers in capping redemptions at that level, "in accordance with the fund structure, reflecting our commitment to balancing the interests of both tendering and remaining shareholders."

Blue Owl Technology Income Corp. (OTIC) [got 15.4% redemptions in January](#), and paid them out, but January was a long time ago. In making these decisions as a fund manager, you have to balance between marketing to new investors and keeping the money of your existing investors. Paying out big redemptions is *good marketing*, and if you think that the big redemptions are caused by temporary volatility or nerves, and that you have huge tailwinds coming when everyone puts private credit in their 401(k)s, then you should prioritize marketing: The important thing is to show confidence and get a good reputation, and the money will come flowing back.

When everyone is constantly getting 10+% redemption requests for their private BDCs, and [saying no](#), you chuck the marketing and focus on keeping the money. The Financial Times reports:

Craig Packer, Blue Owl's co-president, said in an investor update that he believed the uptick in redemptions reflected a "period of heightened negative sentiment toward the asset class that has intensified as peers have reported tender results".

"While we believe market perception has driven elevated tender activity, underlying credit fundamentals across our portfolio have remained resilient," he added. "We continue to observe a meaningful disconnect between the public dialogue on private credit and the underlying trends in our portfolio."

When market perception gets bad, that's when you're glad to have the gates.

(Disclosure: Through a financial adviser, I have some money in Blue Owl Credit Income Corp.)

Elsewhere, Bloomberg's [Alison McNeely reports](#) that "KKR & Co.'s non-traded business development company KKR FS Income Trust ... curbed redemptions after receiving an increase in such requests," though only to a relatively tame 6.3%.

Private credit bid/ask

One [simple theory](#) of [private markets](#) is that investors like it when prices don't go down. If you can buy a thing for \$100 that pays you \$10 a year, pays \$100 at maturity and is always valued at \$100 on your balance sheet, that is better than a thing with a similar expected payoff but a more volatile price. High returns with low volatility are best. If you pay \$100 for a thing that trades in a liquid public market, the next day it might trade at \$99 or \$101. If you pay \$100 for a thing that never trades, you know it will never trade at \$99 or \$101. You have completely solved volatility.

I mean, not completely. There are two problems with this theory:

1. The lesser problem is that, like, Cliff Asness will make fun of you. Everyone is aware of these dynamics. "Volatility laundering" is Asness's phrase for it.
2. The greater problem is that sometimes a \$100 thing becomes worth \$90 because of a genuine increase in the probability that it will pay back \$0. Oh, you can ignore that! But every so often that probability comes

true and you can't. "BlackRock Slashed Private Loan Value From 100 to Zero," is a [good Bloomberg headline](#) from a few weeks ago. If you take this stuff very literally, then there are only two possible states for a private loan: Either it is worth 100 cents on the dollar, or it is in default. You mark it at 100 until you are absolutely sure it is worth zero. Most of the time it never gets to zero, and you have no volatility. Occasionally it gets to zero, and then you have "BlackRock Slashed Private Loan Value From 100 to Zero," whoops.

Anyway here are three stories about that. First, at Pitchbook, Sami Vukelj reports:

More private credit loans are up for sale than ever before on a nascent secondary market, driven by elevated investor redemptions in BDCs that are pushing credit managers to seek ways of boosting liquidity in a skittish market.

However, the elevated inventory of loans for sale does not necessarily mean that secondary trading has increased significantly, market participants say. Instead, the supply of loans is outpacing demand for them, and aftermarket liquidity for private credit loans is thin.

Most offers for the loans are at or very near par, limiting investor appetite for them, market sources say.

"If BDCs are able to sell close to par, they absolutely are considering it. But buyers are not really there in a systematic way to buy these loans at par, and the bid/ask spread remains very wide in reality," one direct lender said.

Uh, right. The [simplest way](#) to interpret private BDC redemption requests is that the redeeming investors don't think that the BDCs' loans are worth what the managers [say they are worth](#) : If the managers mark the loans at 100 cents on the dollar, and you think they're worth 80, then you should redeem and get back 100 cents on the dollar while you still can.

If you redeem, the BDC will probably look to sell some loans to balance out your redemption. But if the BDC marks the loans at 100 cents on the dollar, it will try to sell the loans at 100 cents on the dollar. If everyone else thinks they're worth 80, well, hmm.

Second, at the Wall Street Journal, Jonathan Weil has a story about Blue Owl's loan sales from a few weeks ago. In response to a previous round of redemptions at private BDCs, Blue Owl [sold some loans](#) . It sold the loans for 99.7 cents on the dollar, which is pretty good. But Weil points out that "some of these purchasers, particularly Calpers, already owned stakes in the same assets they were buying, giving them an interest in avoiding a markdown of their existing holdings":

If a buyer already owns a large amount of the same assets through its existing funds, it has a natural incentive to protect those valuations. Buying at a discount could force a write-down of the existing book, while buying near par validates it.

It's not clear how big a deal this is – “people familiar with the matter ... said Calpers liked the terms and rejected some assets, and that supporting valuations wasn't a consideration,” and the other buyers did *not* have much overlap – but in a situation where (1) current owners of private credit loans really think they're worth 100 and (2) everyone else thinks they're worth 80, you'd expect the main buyers at 100 to be the current owners.

Third, the Financial Times reports:

Investors who specialise in scooping up distressed assets at bargain prices have identified a downturn in private credit as their best opportunity since the 2008 financial crisis.

These funds, which typically invest in companies with bad balance sheets but viable underlying businesses, have been largely sidelined for a decade as markets surged but are now betting on making money from strains in private credit.

“Biggest opportunity since 2008,” said Victor Khosla, founder of Strategic Value Partners, which manages \$22bn in assets.

I ... kind of don't even know what that means? If you enjoy scooping up distressed assets at bargain prices, private credit is not currently offering you a *ton* of opportunities; all those loans are for sale at 100 cents on the dollar. But I suppose the bet is that they will be at 100 for a while, and then they'll be at zero, and at zero there will be some bargains.

Nature of the firm

Here is a New York Times story about a guy named Matthew Gallagher, who runs a business called Medvi that sells GLP-1 weight-loss drugs online. The workflow is roughly that a customer comes to Medvi's website, the customer fills out some forms, a doctor reviews the forms, the doctor prescribes the drugs, the drugs are shipped to the customer, and Medvi charges the customer's credit card. The Times story is about how Medvi is “on track to do \$1.8 billion in sales” this year and is *this close* to being a one-person company:

Sam Altman, the chief executive of OpenAI, predicted the rise of a new breed of superefficient company in 2024. A one-person business worth \$1 billion “would have been unimaginable without A.I.,” he said on a podcast, “and now it will happen.” ...

In an email, Mr. Altman said that it appeared he had won a bet with his tech C.E.O. friends over when such a company would appear, and that he “would like to meet the guy” who had done it.

Medvi is technically not a one-person \$1 billion company, since Mr. Gallagher hired his brother and has some contractors. The start-up, which has not raised outside funding, also has no official valuation. But many highly valued tech companies can only dream of hitting \$1 billion in revenue with so few workers. Medvi is also profitable, Mr. Gallagher said.

Okay but. Gallagher and his brother do not have a factory that makes the drugs; they get them from established drug makers who employ lots of people. Also, they are not doctors. Who is prescribing the drugs? Well, a different company:

CareValidate offers what is essentially a telehealth-in-a-box kit. Companies, employers or retailers that want to sell customers prescription drugs can use CareValidate's technology and network of online doctors to set up a business. The company's software connects patients with doctors and pharmacies, which write, fulfill and ship the prescriptions. CareValidate charges fees for its software.

Mr. Gallagher saw an opportunity for his own telehealth business. He could use A.I. to do the branding and marketing and let CareValidate and a similar platform, OpenLoop Health, handle the doctors, pharmacies, shipping and compliance.

CareValidate has the doctors and pharmacists and ships the drugs, which it gets from other companies that have factories. Presumably some humans work at the factories, and the doctors and pharmacists are also humans. And then there is Medvi, which as far as I can tell does some customer service (via chatbot but also humans) and a lot of online marketing.

You could imagine a world in which the companies that make the drugs also had a fully integrated sales and customer service channel, and they did all this. You could imagine a world in which the doctors, or the telehealth-in-a-box companies, also had good marketing and search-engine-optimization and checkout functions, and they sold all the drugs. Or you could imagine a world in which the drug companies said "you know what, we're going to outsource some of our consumer sales and marketing to this guy Matthew Gallagher," and paid him a cut of the sales he generated. And then if he generated \$1.8 billion of sales, his cut would be, you know, some percentage of that number.

But in the world we actually live in, lots of companies exist to provide essentially APIs to other companies. There is a generation of US-based direct-to-consumer online retailers that do design and branding and checkout and advertising for products that are made on contract by factories in China. There are people who have gotten rich on dropshipping, just interposing themselves as online middlemen between companies that make stuff and consumers who want to buy it. If you buy fully finished products online for \$98 and sell them for \$100, your revenue is \$100, even though in some obvious sense \$98 of the economic value was created and captured by the company that made the products.

That is interesting! You can run a one-person dropshipping business, and have a lot of revenue in the strict accounting sense, and also have nice profit margins for yourself. But that is result of the increasing modularity of companies and the fact that capturing consumer attention online is a specialized business that a lot of, like, even drug manufacturers aren't good at. Is it also about AI? I dunno, maybe.

Jamie Dimon wants to start a media company

Sure:

JPMorgan Chase CEO Jamie Dimon teased to Axios' Jim VandeHei in an interview for "The Axios Show" that he may look to start a media venture after he's done leading one of the world's most influential banks. ...

Dimon said he's also considering teaching, in addition to writing a book once he's done with his role.

He should start a podcast? Elsewhere: "OpenAI acquires TBPB."

Things happen

Coinbase, Cloudflare, Stripe Push to Shape [Future of AI Money](#) . Feud between Two Sigma founders continues to plague fund. World's top energy traders wrongfooted in early days of Iran war. The Investors Moving Early Into Venezuela Are Bullish and Ready for Risk. Intel to Buy Apollo's Stake in Joint Ireland Chip Manufacturing Facility for \$14.2 Billion. Maine Is About to Become the First State to Ban New Data Centers. Goldman and Citi tell Paris staff to work from home after thwarted BofA attack. Starbucks Dangles \$1,200 Bonuses for [Friendlier, Faster Baristas](#) . The New Museum-Heist Playbook: In and Out in Three Minutes Flat.

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1. You get some unpleasantness in that the payoff profile – put in \$100 today, get back \$100 or \$120 at maturity – is only perfect if you invest on Day One. If you buy the thing in the market in October after the Rams win a few games, maybe you're paying \$105 and risk getting back \$100.
2. Every number in this paragraph and the next is just casually eyeballed and not financial structuring advice. Loosely speaking a one-year bond should pay, like, 4% interest, and then you gamble the interest. So if you gamble it on a 50/50 proposition the payoff should be \$108 or \$100. Note that in my hypothetical trade I generate the \$100 payoff by buying Treasury bills, but that's not really a requirement of the structured-note form; really the issuer can invest most of the proceeds in its business, so the right interest rate is something like its own unsecured debt rate.
3. To be clear, it *shouldn't* be: You can get to the same place yourself with proper bet sizing. The whole point of this product is that it splits your \$100 into (1) a large safe bet on Treasuries and (2) a small fun bet on Kalshi/Polymarket. You could just do the small fun bet yourself. But there's a reason that people buy structured notes, and presumably a lot of it is the psychological appeal of that pitch.
4. You'd hope that most private loans would have recoveries in default considerably above zero?

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Super Micro Co-Founder Pleads Not Guilty in China Smuggling Case

April 1, 2026, 10:16 AM PDT

Summary by Bloomberg AI

AI Generated



- Yih-Shyan “Wally” Liaw pleaded not guilty to charges that he helped illegally divert Nvidia Corp.-powered servers to China.
- Liaw was charged in a scheme to send US-assembled servers containing Nvidia’s cutting-edge chips to Chinese customers in violation of US export controls.
- A trial in the case is set for Nov. 2 before US District Judge Edgardo Ramos.

Super Micro Computer Inc. co-founder **Yih-Shyan “Wally” Liaw** pleaded not guilty Wednesday in New York to charges that he helped illegally divert billions of dollars in Nvidia Corp.-powered servers to China in a hearing in Manhattan.

Liaw was charged by federal prosecutors in a scheme to send US-assembled servers containing Nvidia’s cutting-edge chips to Chinese customers in violation of US export controls. The case represents the highest-profile crackdown on alleged smuggling of restricted AI technology to China.

The US claims Liaw and two others associated with Super Micro sold the hardware to an unidentified Southeast Asian pass-through company and coordinated its shipment to the true customers in China. Also charged were Ruei-Tsang “Steven” Chang, who served as a general manager in Super Micro’s Taiwan office, and Ting-Wei “Willy” Sun, an outside contractor described by US authorities as a “fixer” who allegedly aided in the diversion.

Sun, wearing a bright yellow prison jumpsuit, also pleaded not guilty in the hearing before US District Judge Edgardo Ramos. Sun’s lawyer told the judge he is working with prosecutors on a bail package for his client. Liaw is free on \$5 million bond. Chang is not in custody.

The smuggling charges sent Super Micro plummeting when they were made public on March 19, quickly erasing more than \$6 billion from the company’s market value. Liaw has [resigned from the board](#) .

Read More: [Super Micro Co-Founder Charged With Smuggling, Departs Board](#)

Ramos set a Nov. 2 trial in the case.

The case is US v. Liaw, 26-cr-00100, US District Court, Southern District of New York (Manhattan).

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Tesla's Former President Shares Lessons From Managing Elon Musk's Chaos

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David Welch

April 2, 2026



Jon McNeill, CEO and co-founder of venture capital firm DVx Ventures, has spent a lot of time thinking about cars.

Photographer: Timothy Fadek for Bloomberg Businessweek

is walking through Manhattan's Clement Clarke Moore Park, recalling the exact day when he'd had enough of working for Elon Musk. It was the end of a bruising 2017, in which Tesla Inc. was stumbling over its effort to release the Model 3 and, in particular, [failing to get robots to build them](#). McNeill, who was the company's president, and his deputies stood side by side with Musk on the assembly line figuring out how to reconstruct it. The whole process took eight months, and the car was late, but they eventually [got it done](#). Tesla's revenue soared; the stock price did too.

To celebrate and unwind, McNeill took his wife and two kids on vacation to Vermont, expecting a relaxing week of skiing. Instead he walked into an intervention: His family sat him down and told him he'd been a jerk. Dealing with Musk's extreme mood swings, McNeill says, had ground him down. When he wasn't trying to shield managers from the billionaire's tirades, he recalls, he'd be peeling his boss off the floor of a dark conference room in a near-catatonic state. (Musk, who has [self-reported symptoms of bipolar disorder](#), famously slept on the factory floor at times while pushing Tesla through what he called "production hell.") "I choked up," McNeill says, unfailingly polite and with the bearing of a college professor. "Mean is the last thing that I ever want to be."

When he got back to work after the winter break, he told Musk he was done. "I said, 'Look, I love you, and I love this business, and I love this job.'" He recalls they were both in tears. "I said, 'I can't do this anymore. You gotta get help.'" (Musk didn't respond to a request for comment.)



McNeill in New York.

Photographer: Timothy Fadek for Bloomberg Businessweek

Managing the chaos of Musk, who McNeill still considers a friend and mentor, established his reputation as a corporate fixer. It also helped propel him on a journey that makes him something of a Forrest Gump of American business. Strolling through the early spring chill, McNeill, 58, discusses his trajectory, including his start working under the future presidential candidate at . That's where he befriended a colleague, the future husband of former Facebook executive , who introduced him to Musk. "People don't ascribe enough credit in their careers to luck," McNeill says. "My career has had a hell of a lot of luck."

McNeill, who grew up in Nebraska, inherited his entrepreneurial streak from his grandfather, who ran a fuel station and garage at the front of the family's farm for repairing tractors and other equipment. That got McNeill interested in business, especially when it involved machines on wheels. After Bain, McNeill started several companies, including , at the time the US's only national chain of auto body shops, which was later acquired by Allstate Corp. Post Tesla, McNeill joined as chief operating officer, where he guided the ride-hailing company to double its sales in 2018 and helped it prepare for its initial public offering. He now runs venture capital firm and sits on the boards of and (whose stores he sometimes visits incognito to see how they're operating).



McNeill in New York.

Photographer: Timothy Fadek for Bloomberg Businessweek

McNeill has recently attempted to codify the myriad lessons from his career into a book, [*The Algorithm: The Hypergrowth Formula That Transformed Tesla, Lululemon, General Motors, and SpaceX*](#), published in late March. Even though Tesla stock has had a [rough 2026](#) so far amid slowing EV sales, McNeill says the algorithm is what

made it a growth company. Same for , which is said to have confidentially filed for an IPO that values the company [at as much as \\$1.75 trillion](#). The so-called algorithm for developing products quickly, which he credits Musk with deploying, breaks down into five steps:

1. Question every requirement
2. Eliminate every possible step in the process
3. Simplify and optimize
4. Accelerate cycle time
5. Automate last

And most important, do it all safely and without costing the company millions of dollars. Sometimes, McNeill found, doing so was a matter of knowing which questions to ask. For instance, at Tesla, Musk tasked him with solving a problem with the falcon wing doors on the Model X. The company's installers couldn't get them to work consistently. McNeill observed many problems on the assembly line, with a key issue being that the doors were installed while the cars were suspended in midair. That minor detail introduced unforeseen problems, and when they recalibrated weight distribution measurements with the vehicles on the ground, the issue was solved.

There were more difficult problems too, sometimes the result of Musk pushing too hard to move fast and break things. When Tesla was working on Autopilot, its assisted driving mode, McNeill drove home one night after a long day and fell asleep at the wheel. He woke up shocked to find his Model S was still cruising along on its own, he says. The next day he told , who oversaw the feature's development, about the ghost ride, and they decided the system needed a way to monitor whether the driver was paying attention and send warnings. Musk refused, and Anderson quit in part over the dispute, McNeill says. (A GM spokeswoman said Anderson, who works there now, declined to comment.)

Eventually, Musk relented, and Tesla instituted a warning system. But there have been accidents involving the hands-free feature, as well as federal investigations into both Autopilot and Tesla's newer supervised mode, Full Self-Driving. The company was recently ordered to pay a [\\$243 million settlement over a fatal Autopilot crash](#). Its vehicles have had other safety issues too. The doors on some Tesla cars, which release electronically with the touch of a button, can freeze shut after an accident, and some passengers have struggled to find the mechanical release in an emergency. The system, which Musk insisted on, has been linked to 15 deaths; Tesla said last year it's [redesigning the doors](#).

Still, McNeill says, Musk's questioning of conventional wisdom was often right. That's how he turned both SpaceX and Tesla into powerhouse companies. While at Tesla, Musk sent McNeill to China to negotiate the building of an automotive plant in Shanghai. International companies had always done this through joint ventures with locally owned businesses and had to share technology and profits. Although this was the custom, Musk pointed out that there was no law mandating that be the case. McNeill spent 14 months negotiating there, he writes in the book. By offering some concessions to Beijing—and guaranteeing jobs—he landed the first Western-owned car plant on Chinese soil.



McNeill, CEO and co-founder of venture capital firm DVx Ventures, has spent a lot of time thinking about cars.

Photographer: Timothy Fadek for Bloomberg Businessweek

In 2022, [GM Chief Executive Officer Mary Barra](#) called on McNeill when the automaker was having trouble producing batteries for its electric vehicles, say people familiar with the matter. He declined her offer to join the company as an executive, the people say, so she made him a director instead. From that post, he gave engineers tips on how to fix the existing batteries and suggested Barra hire one of his former Tesla colleagues, , to overhaul the company's future battery-making infrastructure. She took his advice, and Kelty is making rapid-fire changes.

Barra also asked McNeill to give his assessment of GM's self-driving car unit, Cruise, in 2023, he says. The two of them went to San Francisco together for a ride in a Cruise robotaxi. Starting in the Presidio neighborhood, McNeill says, he noticed the car was taking a route that made no sense and was going out of its way. Crucially, the car avoided making left turns. "My spidey senses were up," McNeill says. "I think they can't make a left turn, or they're very scared of it."

McNeill says he asked Cruise CEO for performance and safety data and was left unsatisfied. When one of Cruise's cars dragged a woman later that year, leaving her with substantial injuries, and [Vogt and Cruise's team didn't share their entire video of the incident](#) with regulators, he says he pressed again. "I said to Mary: 'We have a problem, because we have a CEO who's covered up an incident with the regulator, and the CEO is not giving me data to assess whether or not we've got tech that's worth continuing to invest in,'" McNeill says. GM grounded the fleet as US and California regulators probed the incident and replaced Vogt and most of his management. The board took a year reviewing the technology and cost estimates and decided to shutter Cruise. Vogt didn't respond to a request for comment.

Getting a coffee in nearby SoHo, McNeill says that even though he's been out of Tesla for close to a decade, he's been following with interest Musk's effort to transform the EV company into a [humanoid and robotaxi](#) maker. Musk's insistence on using only cameras to let Tesla's machines navigate the world—[instead of laser-based lidar](#) (light detection and ranging) sensors, as GM's current models and 's [Waymo use](#)—may not compute in McNeill's algorithm. "There's a lot more risk with what he's doing," he says. During his years at Tesla, he always appreciated Musk's ambitious goals and his push to question orthodoxy, but he stresses that the algorithm's guardrails have to be observed. "We needed to balance these targets," he says, "with some real moral grounding."

Read next: [The Princess President of a Major VC Firm Wants a European AI Renaissance](#)

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Tesla Inc**Tesla reports weaker than expected 6% rise in global deliveries**

Slow first-quarter demand left carmaker with more than 50,000 unsold units at start of year



Tesla's sales in Europe have started to rebound, with new registrations rising 12% in February, according to European car industry body Acea © Brandon Bell/Getty Images

Kana Inagaki in London

Published 6 HOURS AGO | Updated 07:31



Tesla reported a weaker than expected rebound in global deliveries in the first three months of the year, saddling the carmaker with an inventory of more than 50,000 vehicles amid sliding EV sales in the US.

The US carmaker delivered 358,023 vehicles in the three months to the end of March, up 6 per cent from 336,681 vehicles in the same period last year and below analysts' forecasts of 369,000.

[Tesla](#) shares were down almost 4 per cent in early trading on Thursday.

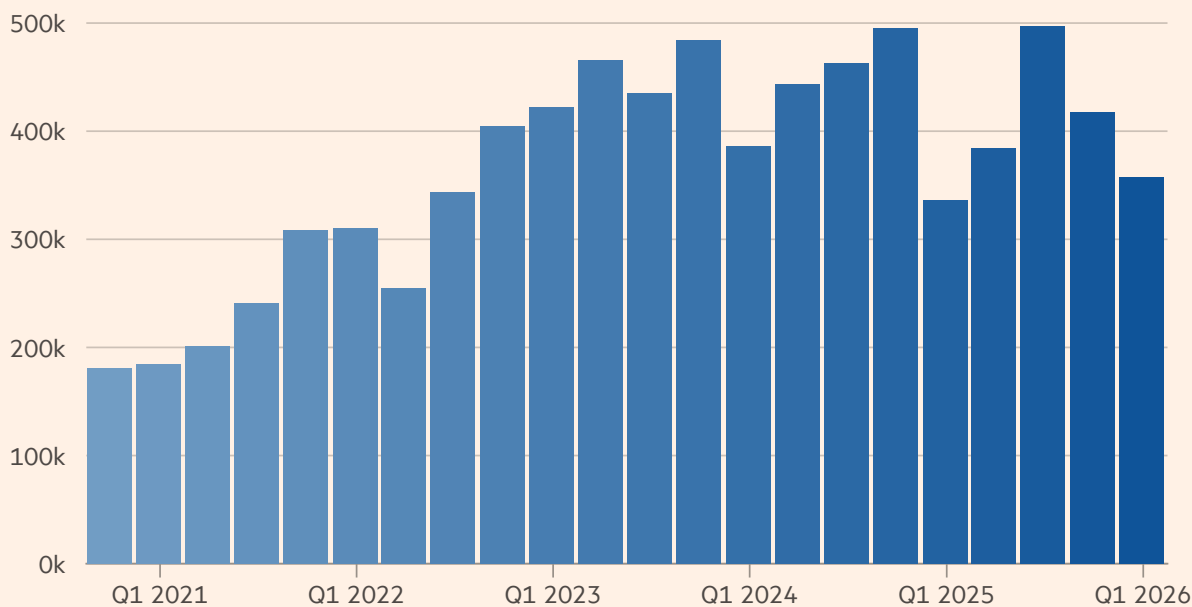
With Tesla producing 408,386 vehicles in the first quarter, the sluggish demand left it with more than 50,000 unsold units at the start of the year, almost double that of the same time last year.

The group's battery storage business, which has been a steady source of revenue for Tesla, also declined, deploying 8.8 GWh compared with analyst expectations of 14.4 GWh and below 10.4 GWh in the same period a year earlier.

Tesla [lost its crown](#) as the world's biggest electric-car maker in 2025 to BYD. But its Chinese rival has also struggled with sales of electric vehicles tumbling 25 per cent in the first quarter amid intensifying competition from local rivals and the ending of many Chinese government subsidies last year.

Tesla EV sales miss analysts' forecasts

Vehicle deliveries



FINANCIAL TIMES

Source: Bloomberg, company filings

Tesla lost market share to BYD and other Chinese rivals last year following a consumer backlash against chief executive Elon Musk's political activism. But Tesla's sales in Europe have started to rebound, with new registrations rising 12 per cent in February, according to European car industry body Acea. Sales in March were even stronger in some countries such as France.

The demand was driven partly by cheaper versions of its Model Y and Model 3, but some of the recovery was also fuelled by cash discounts in some countries, according to HSBC.

Meanwhile, Tesla's sales in the US have been hit by the end of EV tax credits and President Donald Trump's rollback in regulations to cut vehicle emissions. Tesla will also [end production](#) of its premium S and X models next quarter.

"Global EV demand ex-China remains under pressure, and Tesla is actively sacrificing its EV business in favour of a fully autonomous future," said William Blair analyst Jed Dorsheimer.

Analysts expect only a modest increase in sales of Tesla's EVs this year to 1.69mn, compared with 1.64mn in 2025, as Musk pivots the company's focus to self-driving robotaxis and AI.

Before the delivery figure was announced on Thursday, Tom Narayan, an analyst at RBC Capital Markets, said that rising fuel costs as a result of the Middle East conflict could "bolster near-term EV demand" for Tesla.

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FT PROFESSIONAL

Private credit

Blue Owl struck by \$5.4bn of redemption requests

Private credit firm caps withdrawals after investors attempted to pull more than 40% from one fund



The attempted exodus at Blue Owl eclipsed redemption requests experienced by its largest peers, underscoring investor concerns about its vehicles © Reuters

Eric Platt in New York

Published 7 HOURS AGO | Updated 09:33



Private credit investment firm Blue Owl Capital was struck with a mammoth increase in redemption requests in the first quarter, with investors seeking to withdraw roughly \$5.4bn from two of its flagship funds as questions intensify about the health of the asset class and the firm at its nexus.

The company on Thursday disclosed that withdrawal requests at its tech-lending fund, known as Blue Owl Technology Income Corp, had surged to 40.7 per cent of the fund's \$3bn value. Requests to exit the New York-headquartered firm's marquee \$20bn direct-lending fund, called Blue Owl Credit Income Corp, shot to 21.9 per cent of the fund's value.

[Blue Owl](#) said it had limited withdrawals to 5 per cent at both vehicles, a threshold embedded in many private credit funds that once crossed allows a manager to close the door to redemptions.

The limitation on outflows highlights the risks to [individual investors who had flocked](#) to so-called non-traded private credit funds over the past three years in periods of stress. Those wealthy individuals had been promised access to higher-yielding investments in exchange for limited liquidity.

The decision to cap redemptions also underscores the pain being felt at Blue Owl, the relative newcomer to the private investment world, and which now manages more than \$300bn.

Shares of the company fell more than 7 per cent in trading in New York on Thursday, taking its stock price decline to more than 47 per cent this year.

The sell-off had accelerated on Wednesday, the day after investors had to decide whether to submit requests to redeem from the two funds. The market had braced for double-digit withdrawals at both vehicles, according to people briefed on the matter.

Blue Owl's two vehicles, which use leverage to amplify returns and multiply their ability to invest, managed portfolios worth more than \$42bn at the end of 2025.

The attempted exodus by investors eclipsed redemption requests experienced by Blue Owl's largest peers, many of which have already limited withdrawals, underscoring investor concerns with its vehicles.

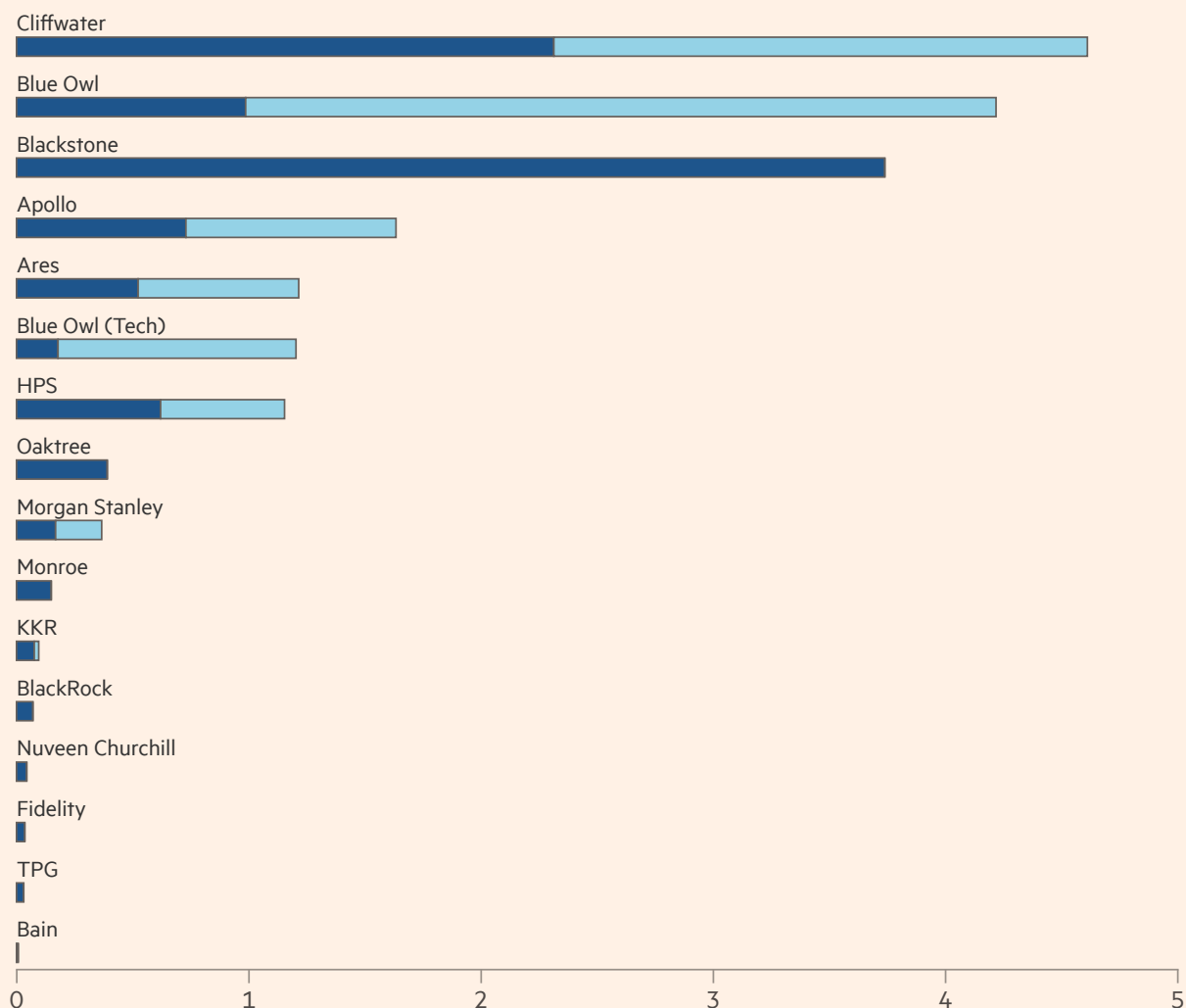
KKR on Wednesday said it had capped redemptions from one of its non-traded funds, following similar moves by rivals at Ares Management, Apollo Global and BlackRock's HPS Investment Partners.

In the first quarter, investors have attempted to pull roughly \$19bn from direct lending funds, the popular private credit vehicles that provide loans directly to companies and private equity firms, without a bank as an intermediary.

Investors have sought to pull \$19bn from private credit funds

Quarterly redemptions fulfilled and left unmet (\$bn)

☐ Redemptions honoured
☐ Unmet redemptions

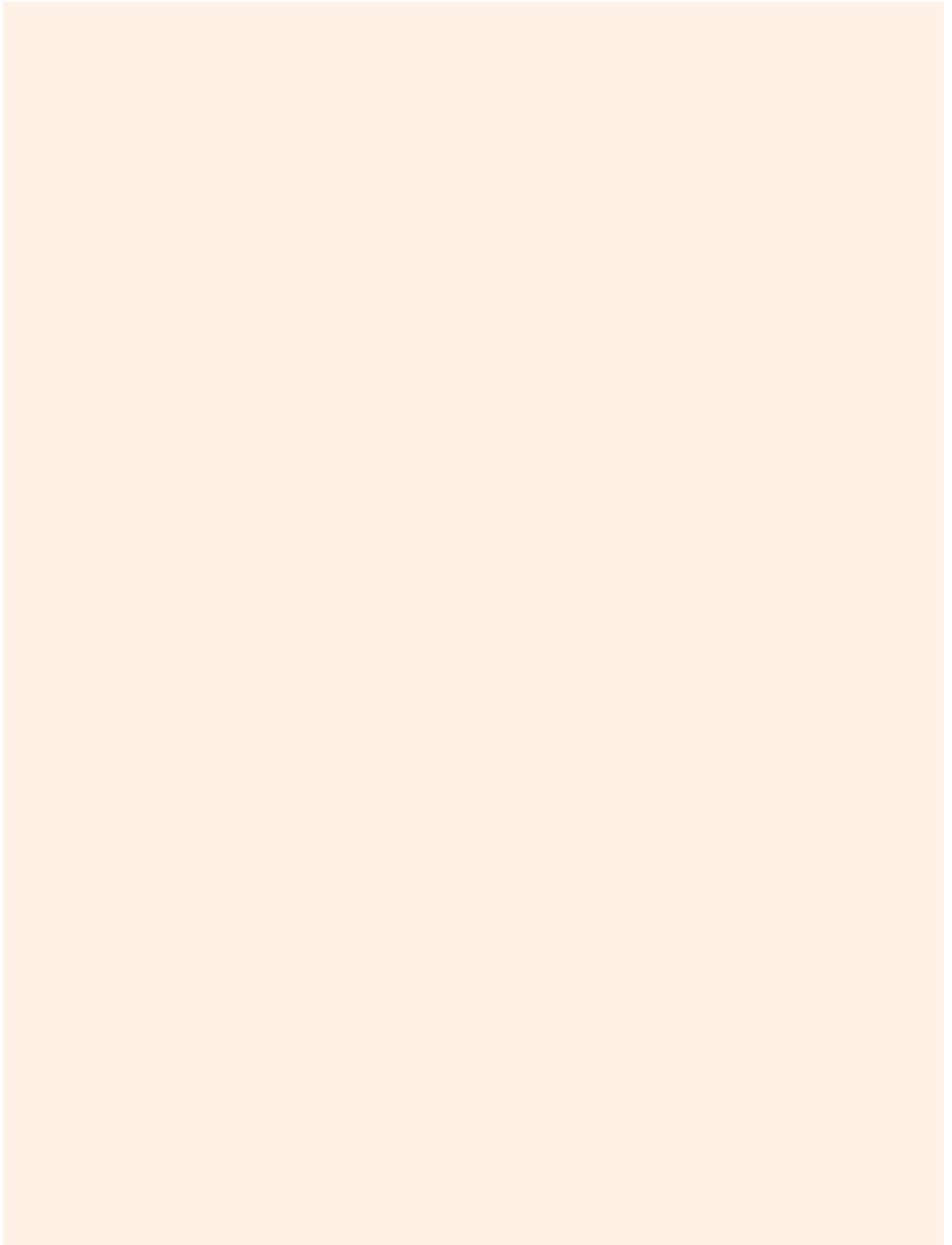


Source: Company filings, FT research

FINANCIAL TIMES

The funds, which hold investments worth roughly \$275bn, have in aggregate honoured just over half of the withdrawal requests they have received, according to FT calculations.

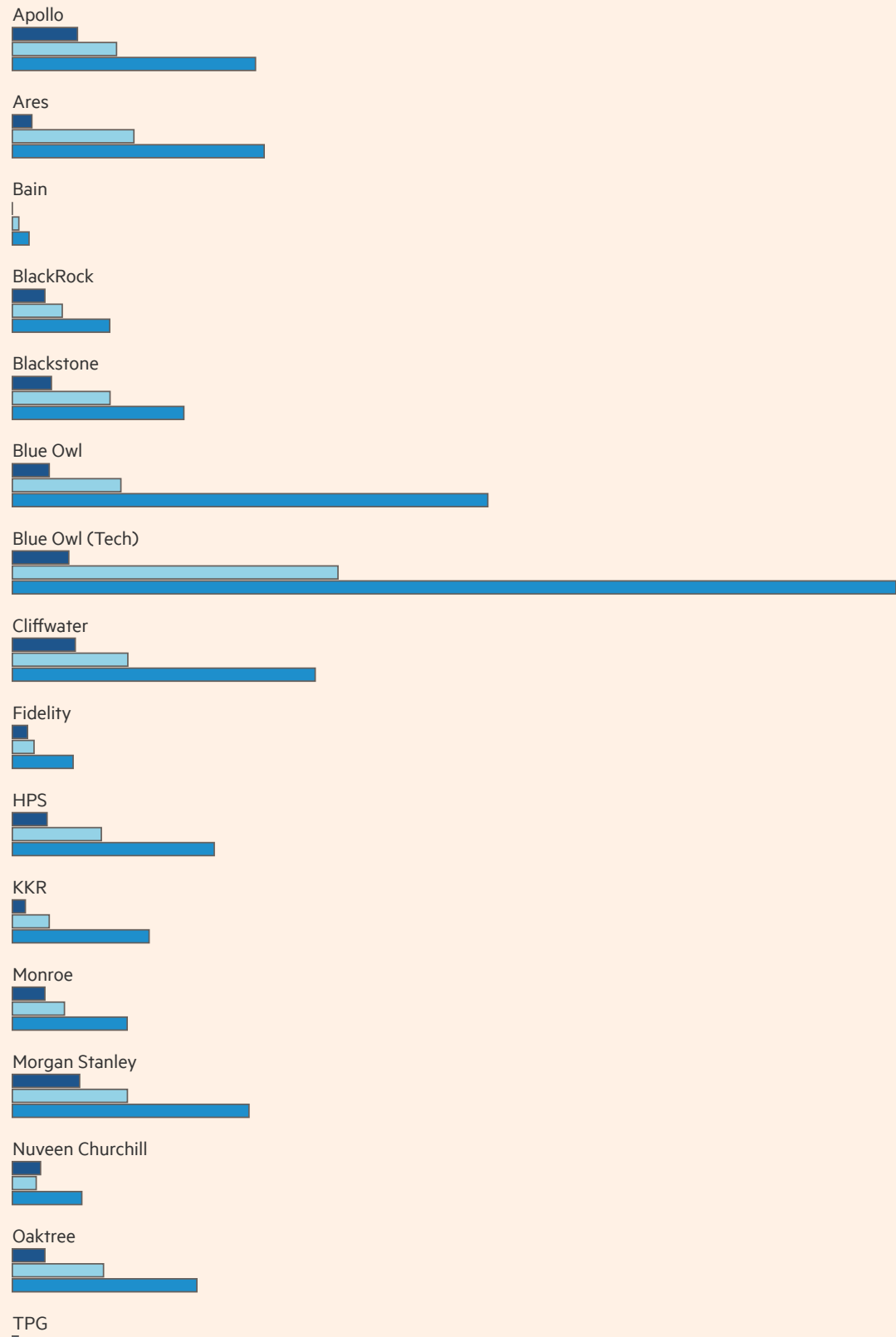
The redemptions will complicate the pitch that private investment managers plan to make as they target the more-than \$10tn US retirement system, which the industry views as its next big engine of growth. The Trump administration this week said it would [provide new rules](#) to help open popular tax-deferred 401k savings accounts to private investments.



Redemptions surge at private credit funds

Quarterly withdrawal requests (% of NAV)

- Q3 2025
- Q4 2025
- Q1 2026



The US Treasury [separately on Wednesday](#) said it would seek to meet with regulators that oversee the insurance industry to understand the risks stemming from private credit, a catch-all moniker for an asset class that has ballooned to include far more than corporate loans such as those provided by the Blue Owl funds that limited redemptions.

Source: Company filings, FT research

FINANCIAL TIMES

Craig Packer, Blue Owl's co-president, said in an investor update that he believed the uptick in redemptions reflected a "period of heightened negative sentiment toward the asset class that has intensified as peers have reported tender results".

"While we believe market perception has driven elevated tender activity, underlying credit fundamentals across our portfolio have remained resilient," he added. "We continue to observe a meaningful disconnect between the public dialogue on private credit and the underlying trends in our portfolio."

Blue Owl earlier this year permanently halted redemptions from one of its older funds as executives moved to wind down the vehicle.

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Late-Week Trading Has Crushed S&P 500

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Natalia Kniazhevich

April 1, 2026

Summary by Bloomberg AI

AI Generated



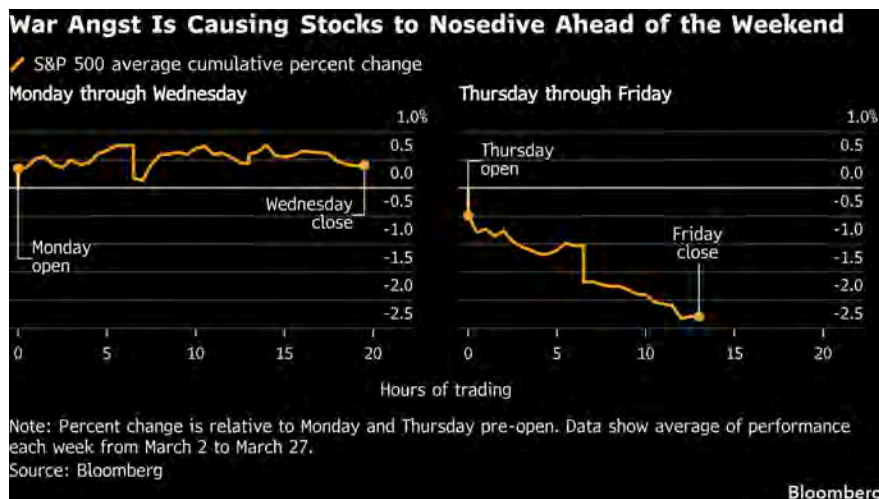
- The US stock market has settled into a pattern where it starts the week strong, drifts sideways, and then collapses on Thursdays and Fridays due to uncertainty about the war.
- Investors prefer to trim their stock holdings late in the week because they can't trade over the weekend and are unsure what will happen in the war during that time.
- Despite bullish sentiment at the start of the week, experts are skeptical that the gains are sustainable due to ongoing uncertainty and the lack of a ceasefire in the war.

Five weeks into a Middle East war that's sending shockwaves through the global economy, the US stock market has settled into a predictable pattern. It starts the week on a strong note, drifts sideways toward the middle of the week and then, like clockwork every Thursday and Friday, collapses.

A similar dynamic, to one degree or another, has been playing out in European and even some US Treasury bonds. But it's been particularly stark in the . Since the Iran war began, it's posted cumulative gains over the first three days of the week but cratered 9%, all told, on Thursdays and Fridays.

The rationale, experts say, is simple. The weekend represents a two-day period — or three-day period this holiday weekend — where investors can't trade. And a lot can happen in the war in two days — especially given President 's affinity for making some of his major gambits [when markets are closed](#) — that would further throttle the global economy. So many investors prefer to trim their stock holdings late in the week.

"Going into a trading blackout with unknowable risks" is an unsettling thought, says , portfolio manager at Integrity Asset Management. "It has become easier to de-risk going into weekends than to hold positions."



The bullish sentiment at the start of this week has been especially acute, with the S&P 500 climbing over 3% on optimism that Trump is eager to extricate the US from the conflict he unleashed.

The day-by-day trading pattern established during the war, though, serves as a cautionary note to those who are hopeful that this marks an end to the selloff. Optimism is typically replaced by risk aversion “as the week goes on,” says , chief strategist at Interactive Brokers.

Read More:

[Traders Brace as Trump Weekend Gambits Land Outside Market Hours](#)

[Trump’s Wild, 5-Minute Rally Sends Clear Message to Wall Street](#)

[Market Cracks Widen as War, AI and Credit Fears Collide at Once](#)

Trump is scheduled to address the nation Wednesday night on the status of the war, and it’s possible that his comments, if reassuring, could trigger a continuation of the rebound tomorrow that breaks the trend.

But his recent rhetoric has fit the pattern he’s followed since the US and Israel began the bombing campaign, oscillating between claims of imminent victory and threats to significantly escalate his attacks on Iran.

Both sides have continued exchanging missile strikes. And after staging the strongest rally since May on Tuesday, the stock-market advance slowed on Wednesday, when Trump [said](#) he will continue “blasting Iran into oblivion” until

the Strait of Hormuz, a key transit point for Middle East oil exports, is re-opened. Iranian officials dismissed the threat, saying they won't be cowed by Trump's ["absurd displays."](#)

With oil prices still elevated, and no imminent signs of a ceasefire, Sosnick is skeptical that this week's gains are any more sustainable than those seen at the start of other weeks. "I think the downtrend continues," he said, "until there is a verifiable return to something resembling normalcy."

(Updates with closing index change in fifth paragraph.)

--With assistance from .

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Amazon Shakes Bulk Of Alexa Users' Secret Recordings Suit

By **Allison Grande**

Law360 (April 2, 2026, 12:00 AM EDT) -- A Washington federal judge significantly narrowed a lawsuit accusing Amazon of surreptitiously recording Alexa device users' personal conversations, finding that the company had clearly disclosed the possibility of accidental device activations and that only some unregistered users had adequately asserted individual wiretap claims.

In a mixed ruling issued Tuesday on Amazon.com Inc.'s **motion for summary judgment**, U.S. District Judge Robert S. Lasnik preserved some nonregistered users' individual state and federal wiretap claims while completely disposing of the plaintiffs' class allegation that Amazon engaged in unfair or deceptive conduct in violation of the Washington Consumer Protection Act by misrepresenting how it collects, uses and stores recordings from Alexa devices.

The plaintiffs argue Amazon ran afoul of the state's consumer protection law through its failure to disclose that Alexa-enabled devices are susceptible to "false wakes" that occur when devices mistakenly identify another sound as the activation word or that these devices record a "split second of audio" just before the wake word is spoken.

However, in tossing this claim, Judge Lasnik found that this alleged conduct couldn't be considered unfair or deceptive because users were informed during the registration process about the existence of "false wakes" and the plaintiffs hadn't pointed to any misrepresentations Amazon made about the frequency of this phenomenon.

"Instead, plaintiffs point to evidence suggesting that there have been hundreds of millions of false wakes since Alexa was introduced, averaging 1-3 false wakes per device per month," the judge said. "It is still not clear where the deception lies."

While Amazon disclosed "how and why false wakes occur" and acknowledged that these instances may happen more frequently "if a member of the household happens to be named Alexa or to drive a Lexus," there "is no indication" Amazon ever publicly described the frequency of "false wakes," according to Judge Lasnik, who also found that Amazon had "clearly disclosed" in its FAQs that recordings would include a "few seconds of audio before the wake word."

"Again, there can be no deception when the applicable disclosures do not conceal but instead contemplate the very practice of which plaintiffs complain," the judge held.

Judge Lasnik also rejected the plaintiffs' contention that consumers weren't put on adequate notice that Amazon indefinitely retains and reviews data generated from unintentional as well as intentional interactions with Alexa and that it holds onto transcripts of "false wakes" even if a user requests that these recordings be deleted.

"Amazon clearly and repeatedly disclosed that it retained audio, interactions, and other Alexa data and that it used the data to improve its services," the judge held. "The 'services' that might benefit from use of the retained Alexa data were not limited in any way other than that they belong to or are offered by Amazon. Plaintiffs offer no theory or explanation for their bald assertion that Amazon's disclosures regarding what it did with the Alexa data was deceptive."

While Judge Lasnik acknowledged that Amazon's deletion promises could be considered misleading "to the extent that the transcripts of the audio recordings are kept regardless of a deletion request"

and that its disclosures regarding its retention, review and use of data related to accidental recordings might have deceived consumers "for some period of time," the judge concluded there was "no evidence from which a reasonable jury could conclude that plaintiffs were injured" by this conduct.

"Amazon has produced undisputed evidence that none of the false wake recordings associated with plaintiffs' accounts were subjected to human review, and none of the plaintiffs claim to have attempted to delete their Alexa recordings," Judge Lasnik found.

When it came to the federal and state wiretap claims being asserted by unregistered Alexa users who remained in the dispute after Judge Lasnik declined to certify their class **last July**, the judge found that two of the plaintiffs couldn't move forward with their wiretap claims because they had registered an Alexa-enabled device and had therefore agreed to the same terms as the registrants whose wiretap claims were previously axed, while a third plaintiff similarly couldn't sustain her claim because there was "ample evidence" he had authorized his wife to register the device and be bound by these terms on his behalf.

The remaining three individual plaintiffs, who are asserting wiretap claims under Washington, Maryland and Florida laws, were permitted to move forward with their allegations.

Amazon argues that the plaintiff pressing the Washington wiretap claim, Lorlie Tesoriero, had consented to being recorded through her longstanding use of an Alexa-enabled device in her home and her knowledge of how the Alexa technology worked. In pressing this point, the company is relying on the Washington Supreme Court's 2002 decision in *State v. Townsend* that an individual had impliedly consented to the recording of his communications when he used email and a chat network to host those communications.

While Judge Lasnik agreed that the *Townsend* ruling "compels a finding that [Tesoriero] impliedly consented to such recording" by continuing to use the Alexa-enabled device in her home after initiating the litigation, the judge said there was no evidence the plaintiff understood prior to bringing the lawsuit that communications in Alexa's presence would be recorded and allowed Tesoriero to move forward with respect to only "false wake" recordings made prior to the initiation of the lawsuit.

The three unregistered users were also allowed to proceed with their individual federal wiretap claims for now, with Judge Lasnik ruling that whether "false wake" recordings were intentional and "whether non-registrants should have known prior to filing this lawsuit that having an Alexa device in their homes meant their conversations were subject to interception will have to be determined on a case-by-case basis by the fact finder."

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

The consumers first filed the proposed class action in June 2021, claiming Amazon collected, stored and shared voice recordings captured by Alexa devices from users who had not used an activation word to "wake" the device.

In May the following year, Judge Lasnik **trimmed** wiretapping claims from those plaintiffs who had registered their devices while allowing users who had not registered their devices to proceed, finding both sets of users could pursue claims under the Washington Consumer Protection Act.

The judge ruled on the plaintiffs' bid for class certification in July 2025, granting this request to plaintiffs with registered Amazon Alexa devices while denying class status to those plaintiffs who did not have registered devices, finding that those claims involved too much individual inquiry,

The Alexa users are represented by Bradley S. Keller of Byrnes Keller Cromwell LLP, Michael P. Canty, Carol C. Villegas, Guillaume Buell, David Saldamando, Danielle Izzo Mazzeo and Gloria J. Medina of Labaton Keller Sucharow LLP, and Paul J. Geller, Stuart A. Davidson, Mark J. Dearman, Nicolle Brito and Alexander C. Cohen of Robbins Geller Rudman & Dowd LLP.

Amazon is represented by Y. Monica Chan, Jedediah Wakefield, Tyler G. Newby, Garner F. Kropp, Jonathan T. McMichael, Janie Yoo-Scott and Esther D. Galan of Fenwick & West LLP.

The case is Kaeli Garner et al. v. Amazon.com Inc. et al., case number 2:21-cv-00750, in the U.S. District Court for the Western District of Washington.

--Editing by Kristen Becker.

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When AI Puffery Becomes Actionable Securities Fraud

By **Christine Polek** (April 2, 2026, 10:20 AM EDT)

Since the launch of ChatGPT in 2022, references to artificial intelligence in public company disclosures have surged.[1] By 2025, roughly 90% of large U.S. companies referenced AI in their annual reports,[2] and more than 40% of S&P 500 companies discussed AI during earnings calls.[3]

Across industries, companies now routinely frame their growth strategies around AI integration and AI-enhanced efficiencies.

Some companies are fundamentally repositioning their business for an AI-driven economy, while others are layering AI into their existing business operations.

For example, public safety technology company Axon Enterprise Inc. has begun repositioning its business from a hardware-focused model toward a software-and data-driven platform built around AI-enabled services, telling investors in February that "we are positioned to be a winner in this AI-driven environment and we intend to lap the field".[4]

Similarly, document-management service company Adobe Inc. has emphasized a shift toward an AI-enabled platform, stating in September 2023 that "we're bringing generative AI to life across our portfolio of apps and services to deliver magic and productivity gains."[5]

By contrast, other companies emphasize AI as an enhancement to existing offerings rather than a fundamental transformation. Home improvement retailer Lowe's Cos. Inc. told investors in February 2025 that is "leaning into emerging technology to enhance the customer experience, saving them both time and money,"[6] while traditional service firm Accenture PLC told investors in September 2025 that it had "worked on more than 6,000 advanced AI projects just this year" and "we are now delivering differently for our clients."[7]

Research suggests that, overall, the tone of these disclosures is systematically optimistic. In a November 2024 working paper from the National Bureau of Economic Research, sentiment analysis of transcripts of earnings calls showed that AI-related commentary skewed strongly positive.[8] Words such as "efficiently," "tremendous" and "advantageous" appear far more frequently than negative descriptors. Since 2017, when AI references began appearing with regularity in corporate disclosures, more than 30% of AI mentions in earnings calls have carried positive sentiment, compared with roughly 10% that were negative.[9]

Does this consistent optimism pose legal risks? Under the traditional doctrine of the U.S. Securities and Exchange Commission's Rule 10b-5, courts often throw out securities fraud claims when the challenged statements at issue are simply too vague or puffery to be actionable. Broad, feel-good assertions that cannot readily be proven true or false are usually considered immaterial as a matter of law.

For example, when Align Technology Inc., the maker of Invisalign clear aligners, described China as a "great growth market" and characterized its performance there as "tremendous," the U.S. Court of Appeals for the Ninth Circuit's 2022 opinion in *Macomb County Employees' Retirement System v. Align*, **affirming** the U.S. District Court for the Northern District of California's previous dismissal, treated those comments as ordinary corporate optimism rather than specific, factual claims capable of misleading a reasonable investor.[10]

Yet with respect to optimistic AI disclosures, empirical evidence suggests that investors may in fact treat such statements as economically meaningful.

In late February, AI-related developments drove sharp swings in major indices and individual equities. Salesforce.com Inc., one of the world's largest technology companies, reported strong fourth-quarter and full-year results, but its stock fell in after-hours trading amid broader market concerns about AI-driven disruption.[11]

Like Salesforce, other software-as-a-service, or SaaS, companies were, per Business Insider on Feb. 23, "pummeled by renewed fears of AI disruption,"[12] losing billions in market value in what commentators dubbed a "SaaS apocalypse." The following day, however, the market recovered a substantial portion of those losses after getting what the Associated Press described as "a reminder that the artificial-intelligence boom may also have an



Christine Polek

upside."[13]

Notably, these movements were driven primarily by forward-looking concerns about competitive positioning in an AI-enabled SaaS landscape, rather than contemporaneous changes in fundamentals.

Event study research examining AI-related disclosures in Form 10-K filings provides additional context. A September 2025 paper in the *International Review of Financial Analysis* showed that firms issuing initial, substantive AI disclosures experience statistically significant positive abnormal returns, suggesting that investors reward credible signals of AI adoption and strategic positioning.[14] These findings suggest that investors are not merely reacting to the presence of AI-related language, but are actively assessing whether the statements are economically meaningful.

At the same time, the rise in AI-related securities litigation appears to reflect the ambiguity often embedded in corporate statements about AI. In 2025, approximately 16 AI-related securities class actions were filed, representing about 8% of all federal securities class actions that year.[15] Many of these cases center on allegations that companies overstated their AI capabilities or the financial impact of AI initiatives, a practice sometimes described as AI washing.

These cases test the boundary between nonactionable puffery and materially misleading statements. Describing a company as "AI-driven" or "AI-enabled" may constitute the kind of generalized optimism courts routinely dismiss as immaterial. However, when a company ties those characterizations to specific representations, such as customer adoption or projected AI-related revenue, the analysis shifts. What might initially sound like marketing language can become a concrete, verifiable claim.

The Northern District of California's August 2025 decision in *Dolly v. GitLab Inc.* illustrates the difficulty of drawing this line. Investors alleged that GitLab overhyped the AI capabilities of its software and misled the market about customer demand, citing statements such as "we already have 14 AI features available to our customers." [16]

After the stock price fell, the plaintiffs alleged that those representations had artificially inflated market expectations. The court **dismissed** the complaint, concluding that the statements were either forward-looking or nonactionable puffery, and that the plaintiff failed to show falsity or intent.[17]

The ruling is consistent with the economic intuition that markets tend to discount generalized or promotional statements and instead prize verifiable, economically meaningful information. At the same time, market experience and academic research suggest that disclosures about AI features, integration or competitive positioning can influence expectations about future cash flows, even when framed in high-level terms.

So, when does an AI-related statement cross the line from optimistic framing to actionable misrepresentation? As AI becomes increasingly central to valuation across industries, the materiality inquiry may increasingly focus less on tone and more on economic substance. Distinguishing technological transformation from strategic spin requires careful, data-driven analysis of whether and how AI initiatives translate into sustainable competitive advantage.

In the AI context, that inquiry may require technical understanding of the claimed AI capabilities. Ultimately, the key economic question is whether the statement provides information that a rational investor would use to update a valuation model, which may depend, in part, on a rigorous assessment of the technology itself.

Christine Polek is a senior principal at Keystone AI.

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Boeing Must Face Trimmed 737 Max Securities Fraud Suit

By **Linda Chiem**

Law360 (April 1, 2026, 7:35 PM EDT) -- An Illinois federal judge said equity funds alleging Boeing defrauded investors by downplaying the 737 Max jets' safety flaws can pursue claims related to certain statements made after two deadly crashes in 2018 and 2019, but not claims tied to a separate door-plug blowout in 2024.

U.S. District Judge Manish S. Shah on Tuesday partly granted Boeing's **motion to dismiss** a second amended securities fraud suit from College Retirement Equities Fund, TIAA-CREF Funds, Nuveen Investment Funds Inc. and other affiliate funds. The funds accused Boeing and its former top executives of **repeatedly misrepresenting** the 737 Max jets' safety and reliability, regulatory compliance, production rate and backlog, among other things.

The 737 Max 8 jets were **grounded globally** for nearly two years in the wake of two deadly crashes: the October 2018 crash of Lion Air Flight 610 in the Java Sea that killed 189 people and the March 2019 crash of Ethiopian Airlines Flight 302 that killed 157 people.

Judge Shah said the funds' revised complaint includes more fleshed-out allegations that some of Boeing's and then-CEO Dennis Muilenburg's public statements were reckless and deceptive, even in the weeks after the first Lion Air crash and what pilots needed to know in order to safely fly the 737 Max 8.

The 737 Max 8 jets were outfitted with an automated feature called the Maneuvering Characteristics Augmentation System that affected the planes' flight control system. Accident investigators and other official review panels have since determined that the MCAS was vulnerable to faulty sensor readings that could inadvertently trigger the system and push the plane to nosedive. But Boeing never gave pilots the full picture of the flight conditions that might activate MCAS or how to address MCAS malfunctions.

After the Lion Air accident, Boeing issued a Nov. 6, 2018, operations manual bulletin instructing pilots to follow "existing flight crew procedures to address circumstances where there is an erroneous input from an AOA [angle-of-attack] sensor."

The equity funds allege Muilenburg helped prepare that bulletin and had daily calls and briefings with Boeing engineers and internal investigations teams, so he "knew in real time" that MCAS could overpower pilot controls, that MCAS could not successfully be countered using existing procedures, that Boeing failed to perform certain safety testing relating to repeated MCAS activation, and that the Federal Aviation Administration had directed Boeing to make significant software updates to the 737 Max jets, according to the opinion.

"It is reasonable to infer that Muilenburg also knew on November 6, 2018, that there was no way for pilots to combat MCAS. Plaintiffs also allege that by mid-November, Muilenburg knew that MCAS would need to be redesigned and reinstalled because it was an airplane safety issue," Judge Shah said.

"These new allegations raise a strong inference that Boeing and Muilenburg knowingly, or at least recklessly, told flight crews to follow existing procedures when they knew the procedures did not sufficiently address MCAS activation," Judge Shah explained. "The amended complaint sufficiently states a strong inference of scienter by Boeing and Muilenburg in making the existing procedure

statements after the Lion Air crash."

Muilenburg was president, CEO and chairman of the board at the time of the two accidents, and was later ousted in late 2019. He was succeeded by David Calhoun, who was president and CEO from early 2020 until his retirement in August 2024.

While certain claims tied to Boeing's and Muilenburg's statements can advance, Judge Shah slashed most of the other claims in the revised suit.

Judge Shah agreed with the plaintiffs that some of Boeing's and Calhoun's statements about overhauling internal safety reporting processes, and not retaliating against employees who flagged safety issues, were "materially misleading to the extent that Boeing's safety and reporting structures were implemented in name only and did not substantively change the safety and reporting culture at Boeing." But the equity funds still failed to adequately plead scienter for these statements, so they're also not actionable, Judge Shah said.

The same goes for Boeing's and Calhoun's statements regarding the 737 Max's recertification process and bringing the 737 Max planes back into service after the global grounding, according to the opinion.

"A reasonable investor would want to ensure the process by which airplanes were certified and built was methodical, systematic and disciplined, to ensure there were no further problems with Boeing airplanes. But though these statements were materially misleading, plaintiffs have failed to adequately allege scienter," the judge determined.

Judge Shah also tossed claims alleging Boeing made more than 250 allegedly false or misleading statements related to an entirely different accident involving a different jet model: January 2024's midair **door-plug blowout** aboard a 737 Max 9 operated by Alaska Airlines.

None of those are actionable, according to Judge Shah, who determined that Boeing's commitments to safety, quality and production stability were vague, aspirational and amounted to puffery.

The equity funds first filed suit in Chicago federal court in July 2022 alleging the company's overall mishandling of the 737 Max crisis led to significant investment losses. The suit was **pared down** in 2023. The statements that survived the earlier dismissal largely related to the estimated timetable for the 737 Max jets' return to service following the FAA's grounding order, as well as the jets' certification and information provided to pilots about existing flight procedures, according to court documents.

But the equity funds in December 2024 filed their second amended complaint pointing to more than 340 allegedly false or misleading statements, adding on claims related to the Alaska Airlines incident. The second amended suit names as defendants Boeing, former CEOs Calhoun and Muilenburg, and former CFOs Gregory D. Smith and Brian J. West. The Boeing defendants then moved for dismissal in August.

Counsel or representatives for the parties could not be immediately reached for comment Wednesday.

The equity fund plaintiffs are represented by Lawrence M. Rolnick, Marc B. Kramer, Michael J. Hampson and Nicole T. Castiglione of Rolnick Kramer Sadighi LLP and Jordan A. Finfer of Patzik Frank & Samotny Ltd.

The Boeing defendants are represented by John F. Hartmann, Brenton Rogers, Craig S. Primis, Katherine R. Katz, Kenneth P. Monroe and Reid Coleman of Kirkland & Ellis LLP.

The case is College Retirement Equities Fund et al. v. The Boeing Co. et al., case number 1:22-cv-03845, in the U.S. District Court for the Northern District of Illinois.

--Editing by Janice Carter Brown.



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Nike Beats Bulk Of Investor Fraud Claims Over Biz Strategy

By **Katryna Perera**

Law360 (April 1, 2026, 7:33 PM EDT) -- An Oregon federal judge has dismissed nearly all the claims in a securities class action against Nike over what investors say was a failed business strategy, finding that most of the suit's challenged statements are nonactionable corporate optimism, but she allowed one alleged misstatement about Nike's innovation pipeline to proceed.

U.S. District Judge Adrienne Nelson issued an **opinion and order** Tuesday, finding that the investors adequately alleged the falsity of a September 2023 statement by John Donahoe II, Nike's former president and CEO, touting the strength of the company's innovation pipeline.

According to the judge, the suit offers specific allegations that contradict Donahoe's statement.

"For example, plaintiffs allege that Nike 'did not bring new and innovative products to the market and instead relied on the same products that previously generated revenue' from the fall of 2020 through the fall of 2022," the order states.

"Plaintiffs also allege that a former employee noted that Nike lacked innovation from June 2020 through his 2022 exit. And, significantly, plaintiffs allege that Nike appointed its first chief innovation officer to 'amplify and accelerate Nike's innovation strategy and distinction' in November 2023," the order further states.

Judge Nelson said Donahoe's statement was "'inconsistent with real-time financial information' that showed that the market 'had become saturated,' that business was experiencing a 'slowdown,' and that the 'sales pipeline had been declining,' and that 'sales executives were falling short,' often by as much as 50%."

The plaintiffs have also adequately pled scienter, or knowledge of wrongdoing, by Donahoe in making this statement, the judge found.

According to the order, an "admission" Donahoe made several months later, in April 2024, supports claims of scienter regarding his statement that Nike's innovation pipeline was "strong."

"In April 2024, Donahoe said that Nike had been 'ruthlessly focused on rebuilding [its] disruptive innovation pipeline' 'over the last year.' 'The last year' would have begun in April 2023 — months before Donahoe made his September 2023 statement about the innovation pipeline's strength," the order states.

"Additionally, in July 2024, Donahoe also said that Nike had been 'kick-starting a multi-year innovation cycle' 'over this past year,' again supporting knowledge as of at least mid-2023," the order further states. "Accordingly, plaintiffs have sufficiently alleged that Donahoe had actual knowledge of falsity when he made [his innovation pipeline statement]."

The judge found that the falsity of other statements in the complaint was adequately alleged, but ultimately dismissed them because the plaintiffs failed to sufficiently allege that any of the defendants had direct knowledge of their falsity. Those statements related to Nike's pace of innovation, brand reputation, innovation pipeline and marketplace strategy.

Investors claim that Nike lost them billions of dollars by switching to a business growth strategy in

2020, known as consumer direct acceleration, that was a "ticking timebomb."

Led by the City Pension Fund for Firefighters and Police Officers in the City of Pembroke Pines, Florida, the suit claims that a series of poor financial results released by Nike beginning in December 2023 led to multiple stock drops, with the price at one point falling by 20% — the largest such drop in Nike's history, according to shareholders.

They say those financial reports reflect the failures of the consumer direct acceleration business strategy and argue that the company and its leadership, including Donahoe and Chief Financial Officer Matthew Friend, knew about those flaws at the time they were publicly praising the strategy.

The strategy was meant to shift Nike's focus away from a wholesale model of selling through established athletic retailers and onto a direct-to-consumer model, both through online traffic and brick-and-mortar Nike stores, according to the suit.

But investors say the strategy ran into several problems that were hidden from shareholders, including a lack of inventory and a "dysfunctional" internal group that failed to develop the necessary technology to make the direct-to-consumer model work.

In moving for dismissal last year, Nike **argued** that it "never promised, as plaintiffs imply, flawless execution and zero obstacles to the ambitious CDA strategy."

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

The investors are represented by Carol Villegas, Irina Vasilchenko, Matthew Grier, Nicolas Apter-Vidler and Mark Willis of Labaton Keller Sucharow LLP, Jonathan Cohen of DRRT, Steven Toll and Molly Bowen of Cohen Milstein Sellers & Toll PLLC, and Timothy DeJong, Keith Ketterling and Cody Berne of Stoll Berne.

Nike and the individual defendants are represented by B. John Casey and Alex Van Rysselberghe of Stoel Rives LLP and Brian Lutz, Jessica Valenzuela and Jeff Lombard of Gibson Dunn & Crutcher LLP.

The case is In re: Nike Inc. Securities Litigation, case number 3:24-cv-00974, in the U.S. District Court for the District of Oregon.

--Additional reporting by Jessica Corso. Editing by Jay Jackson Jr.



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Twitter Investors Win Class Cert. In Elon Musk Fraud Suit

By **Emilie Ruscoe**

Law360 (April 1, 2026, 7:46 PM EDT) -- Investors in X, the social media platform formerly known as Twitter, have been granted class certification in litigation alleging tech billionaire Elon Musk secretly amassed a significant stake in the company while its stock traded at artificially depressed prices.

In a **Tuesday order and opinion** in Manhattan federal court, U.S. District Judge Andrew L. Carter Jr. granted a pension fund lead plaintiff's motion seeking certification of a class of those who purchased shares of the company between March 25, 2022, after Musk missed a deadline to make his growing Twitter stake known, and April 4, 2022, when Musk finally made the required regulatory filing disclosing his stake.

Judge Carter also said that the pension fund, the Oklahoma Firefighters Pension and Retirement System, will serve as class representative and designated its Bernstein Litowitz Berger & Grossmann LLP legal team class counsel.

With the ruling, the judge sided with the investor in finding that it had shown that common questions of law and fact predominate over individual ones for its proposed class. The judge held that the suit showed investors had relied on a material misrepresentation with the assertion that for several months after he started buying up its shares, Musk did not disclose his interest in Twitter.

The judge also said that under Second Circuit precedent, plaintiffs don't need to lay out a damages methodology in a motion for class certification, rejecting, for now, Musk's argument that the investor hadn't put forward a methodology for calculating classwide damages.

Judge Carter also noted that the parties "strongly disagree" about whether the pension fund has claims that are typical of the class, but found that the investor's claims are "typical enough," citing a 2025 opinion in the district holding that lead plaintiffs can be considered typical if their "losses were the result of a sustained course of conduct" during the proposed class period.

Judge Carter noted Tuesday that the proposed class would purportedly include thousands of investors, satisfying the so-called numerosity requirement for class certification. The judge also said that the pension fund had met relevant requirements for showing its adequacy to lead the litigation; the class members' grievances share common questions of fact and law; the class definition is clearly ascertainable; and a class action was superior to other methods of adjudicating the claims.

The latest version of the **investor suit**, from May 2024, alleges Musk "reaped the benefit of substantial savings when purchasing Twitter stock" by hiding his acquisitions. The suit estimated Musk would have paid about \$200 million more if it had been publicly known that he was building up an activist stake in the social media company.

"Twitter investors who sold their company shares (or traded options) during the class period were cheated out of the true value of their securities, because they sold at prices that were kept artificially low by Musk's secret scheme, misleading statements, and violation of his disclosure obligations," the suit states.

The latest filings in this case come on the heels of a separate **two-week trial** in San Francisco federal court that ended with a jury finding Musk committed securities fraud by mischaracterizing the platform's woes about fake "bot" accounts as he tried to sink or rework his \$44 billion deal to acquire

the social media platform.

On Wednesday, counsel for the investors declined to comment and counsel for the defendants did not immediately respond to a request for comment.

The investors are represented by Salvatore Graziano, Katherine Sinderson, Jeremy Robinson, Jonathan D'Errico, Emily Tu and Rebecca Temkin of Bernstein Litowitz Berger & Grossmann LLP and Frank Partnoy of Bishop Partnoy LLP.

Musk and the other defendants are represented by Alex Spiro, Sarah Heaton Concannon, Jesse Bernstein, Jacob Waldman, Brenna Nelinson, Nathan Goralnik and Rachel Frank of Quinn Emanuel Urquhart & Sullivan LLP.

The case is Oklahoma Firefighters Pension and Retirement System v. Musk, case number 1:22-cv-03026, in the U.S. District Court for the Southern District of New York.

–Additional reporting by Jessica Corso, Linda Chiem, Lauren Berg, Katryna Perera, Sydney Price, Hailey Konnath and Dorothy Atkins. Editing by Michael Watanabe.

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Peloton Escapes Investors' Suit Over Recalled Bikes

By **Katryna Perera**

Law360 (April 1, 2026, 3:52 PM EDT) -- Peloton has extinguished a second attempt by investors to hold the company and its top brass liable for how Peloton handled a recall of its defective bicycle seats, with a New York federal judge finding that the company did not make any material misstatements or omissions to investors.

U.S. District Judge Margo K. Brodie issued an **order** on Tuesday dismissing the investors' second amended complaint alleging that Peloton and its executives overstated the safety of the company's products and downplayed the need for additional reserves to absorb product recall expenses.

Initially filed in 2023, the suit **alleged** that the recall of nearly 2.2 million Peloton bikes with the defective seat caused the company's stock to plummet by 9% and claimed that the defendants were aware of the seat's risk and knew a recall was likely.

Peloton announced in May 2023 that it had received five reports of the bike seat breaking during use and voluntarily notified the U.S. Consumer Product Safety Commission, which recalled the products.

Peloton moved to dismiss the investors' second amended complaint last July, **arguing** that the new complaint did not cure deficiencies that led to the lawsuit's **initial dismissal**.

On Tuesday, Judge Brodie agreed, finding that the operative complaint fails to plead any actionable misstatements.

The judge found that Peloton's risk disclosures about the bike seat were not misleading because they warned investors that products "may be affected from time to time by design and manufacturing defects" that could "adversely affect our business and result in harm to our reputation."

The risk disclosures would only be materially misleading if they were made when the "adverse effect" on the business had already materialized or if the defendants knew of an impending adverse effect, but the investors have failed to plead facts supporting either scenario, the judge said.

Judge Brodie also found that Peloton's statements about an "estimated contingent loss expense" of \$8.4 million following the bike recall were not misleading because they were forward-looking.

Additionally, statements about Peloton's corporate values, product safety, and product quality and statements about the company's "churn and goal of prioritizing subscription growth," are corporate puffery, the judge said.

The investors also fail to allege scienter, the judge said, because they do not "persuasively" show that the defendants had a reckless disregard for the truth or a motive or opportunity to commit fraud.

"Plaintiffs' argument that defendants were motivated to and subsequently obscured safety and quality defects 'to fend off further reputational and operational damage,' following the recall ... are not sufficient to support scienter," the order states.

The judge also dismissed the suit's control person claims. Representatives for the parties did not immediately respond to requests for comment on Wednesday.

Peloton and the individual defendants are represented by Mark Gimbel, Robert Gianchetti and Jordon Joachim of Covington & Burling LLP.

The co-lead plaintiffs and proposed investor class are represented by Villi Shteyn, Jeremy Lieberman, Villi Shteyn and Justin D'Aloia of Pomerantz LLP and Shannon Hopkins, Gregory Potrepka, Morgan M. Embleton and Amanda Foley of Levi & Korsinsky LLP.

The case is Solomon v. Peloton Interactive Inc. et al., case number 1:23-cv-04279, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Elaine Briseño. Editing by Vaqas Asghar.

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Quantum Corp. Seeks Exit From Investor Fraud Suit

By **Rachel Konieczny**

Law360 (April 1, 2026, 7:41 PM EDT) -- Data storage company Quantum Corp. asked a Colorado federal judge to throw out a proposed class action against it, claiming the investor did not show that the company or its executives acted with actual knowledge of the alleged securities fraud or deliberate recklessness.

In a **motion to dismiss** filed Tuesday in Colorado's federal district court, Quantum disputed **an investor's claim** that the company must have known its 2025 financial statements were incorrect because the company improperly recognized revenue that resulted in it needing to restate its previous reports. Quantum said its 2025 accounting restatement involved a distinct error, not a pattern of fraud.

"Quantum's repeated disclosures that its internal controls were not effective undermine any inference of intent," the company said in its motion.

Quantum also pushed back against the investor's claim that executive turnover established scienter, or the intent or knowledge of wrongdoing, contending that the complaint failed to allege contemporaneous statements linking the departures to the alleged misstatements.

"There are no allegations of unusual severance terms, clawbacks, or admissions. At most, plaintiff alleges that executives departed around the time of Quantum's disclosures," the motion said. "The timing alleged by plaintiff is equally consistent with a non-culpable inference: the board was unhappy with Quantum's long history of failing to make a profit and hired new management in hopes of a turnaround."

The investor's two confidential former employees also fail to establish scienter, Quantum said, and the investor did not claim that either witness conveyed information suggesting Quantum's initial financial statements had errors when signed.

Quantum also said the investor failed to show a motive for the company to misstate its 2025 initial financial results.

Seung Lee, a Quantum investor, said the company published false and misleading financial statements for the first three quarters of fiscal year 2025, and in the third quarter of 2025, overstated its revenue by almost \$4 million and understated net loss by the same amount.

Lee said Quantum's stock price first took a hit in June 2025, dropping from nearly \$10 per share to \$8.97 a share when the company announced it had notified the U.S. Securities and Exchange Commission that it would file its annual report late because it was reviewing its revenue accounting practices.

Another drop in the stock price came in August 2025, Lee said, when Quantum made new filings with the SEC that announced the company's third quarter earnings from fiscal year 2024 "could not be relied upon" and the revenue totals from it needed to be decreased approximately \$3.9 million.

A spokesperson for Lee declined to comment Wednesday. Counsel for Quantum did not immediately respond to request for comment.

Lee and the proposed class are represented by Jacob Goldberg, Gonen Haklay and Phillip Kim of The Rosen Law Firm PA.

Quantum and the individual defendants are represented by Andrew Shoemaker of Shoemaker Ghiselli & Schwartz LLC and Bruce Ericson of Pillsbury Winthrop Shaw Pittman LLP.

The case is Seung Lee v. Quantum Corp. et al., case number 1:25-cv-02770, in the U.S. District Court for the District of Colorado.

--Additional reporting by Zach Dupont. Editing by Stephen Berg.

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BofA \$72.5M Deal With Up To 75 Epstein Victims Clears Hurdle

By **Pete Brush**

Law360, New York (April 2, 2026, 2:02 PM EDT) -- A Manhattan federal judge gave preliminary approval Thursday to a settlement in which Bank of America will pay \$72.5 million to as many as 75 women to settle allegations that it facilitated what the court called Jeffrey Epstein's "monstrous" sex-trafficking and abuse.

U.S. District Judge Jed S. Rakoff set down an Aug. 27 date for a final approval hearing for the North Carolina-based bank and anonymous class representative Jane Doe, an Epstein survivor from Russia who now lives in Florida. The **high-profile deal** appears sufficient, the judge said, adding that he would continue to scrutinize it carefully.

"The court takes note of its continuing obligation to ascertain whether the settlement is fair," Judge Rakoff said. "It's especially important in a class action. A lot of the members of the class are only indirectly present in court."

The bank hosted accounts in Doe's name that Epstein used for trafficking-related payments and other "alarming and erratic" transactions, according to Doe. She alleged that the bank looked past red flags as it sought to please a wealthy client.

The bank denies the allegations but has said it settled "to put this matter behind us" and give "further closure" to the plaintiffs.

The settlement was announced after Judge Rakoff in February declined the bank's dismissal bid, **putting the case** on track for a possible trial.

The first approval step came with only minor changes to legal language, and after the court heard that it will be publicized online and in newspapers both in the U.S. and in Eastern Europe, where Doe's lawyer David Boies said some of Epstein's victims who qualify may reside.

Asked how many class members would share in the settlement, David Boies said, "We are estimating between 60 and 75, your honor. We have identified 60 that we're pretty sure of. We can't be sure they'll all submit claims. We also think that there may be some additional ones that we have not actually identified."

Judge Rakoff said that, given the size of the class, \$72.5 million appeared to be an adequate sum.

"Many of the victims have already received through previous litigation substantial sums of money as well," the judge said. "If there were thousands of victims then the settlement might not be as adequate."

The hearing also featured an appearance from an unnamed woman who said she is an Epstein survivor who knew the deceased financier "my whole life" and who complained of ongoing harassment from unnamed people.

"There are people who are being very antagonistic and malicious and who are attacking me," said the woman, who broke down in tears as she spoke.

Judge Rakoff directed her to visit a legal assistance clinic for potential representation, and to write

down her story for the court to review.

"I guarantee you I will look at it," the judge said. "I think the thing to do is handle it that way – not here in an open proceeding, which must be painful for you."

The bank, its counsel and counsel for the plaintiffs declined comment after Thursday's hearing.

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

Bank of America is represented by Bethany Biesenthal and Charlotte Taylor of Jones Day.

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

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Evita Boss Admits To Russia-Linked Crypto Laundering Ruse

By **Stewart Bishop**

Law360, New York (April 1, 2026, 9:40 PM EDT) -- The founder of crypto payments firm Evita on Wednesday admitted to what prosecutors say was a scheme to launder over half a billion dollars in cross-border transactions through the U.S. financial system, including funds held by sanctioned Russian banks.

During an afternoon hearing before U.S. Magistrate Judge Taryn Merkl in Brooklyn, Iurii Gugin, 39, also known as Iurii Mashukov and George Goognin, pled guilty to a four-count superseding information charging him with wire fraud conspiracy, violating the International Emergency Economic Powers Act, money laundering conspiracy and conspiracy to defraud the U.S.

Gugin is the founder of Evita Investments Inc., which he billed as a business-to-business lender and import/export facilitator that allowed foreign entities to provide upfront payments to U.S. manufacturers, and Evita Pay Inc., a purported cross-border payment and currency exchange servicer.

In actuality, Gugin used both companies to accept and launder crypto from overseas customers — including entities with funds held at sanctioned Russian banks, prosecutors say.

According to the government, many of Evita's foreign customers sent Gugin payments in the cryptocurrency stablecoin Tether, or "USDT," which he ultimately converted into U.S. dollars or other fiat currencies while obscuring the true nature of the transactions.

Prosecutors say in order to cover his tracks, Gugin doctored invoices by digitally "whiting out" the names and addresses of his customers, and he repeatedly lied to U.S. banks, Florida state regulators and crypto exchanges, falsely claiming that Evita did not conduct business with Russian entities or sanctioned entities, even as he held his own personal accounts with multiple sanctioned banks.

Held **without bail** since his June arrest in Manhattan, Gugin, a Russian national and New York resident, appeared dressed in tan fatigues and addressed the court with a seemingly cheerful disposition, as he admitted to misleading U.S. financial institutions into accepting transactions at his direction, while representing that he wasn't doing business with Russian entities, "which was not true."

"There were Russian banks and international brokers who gave me orders to execute those transactions," Gugin said.

In a June 6 indictment and other documents, prosecutors say Gugin lied to at least 10 different financial institutions about Evita's business, including by disavowing any Russian connection and making false representations about Evita's compliance procedures. Those falsehoods included claims that Evita adhered to rigorous anti-money laundering and know-your-customer standards, according to the government, when in fact, Gugin often flouted those requirements.

However, in court Wednesday, Gugin made a point of saying that while he did deceive banks, they suffered no monetary losses.

According to the government, Gugin also duped Florida state regulators about Evita Pay's business in order to obtain a money transmitter license, which he used to convince a U.S. crypto exchange to

process his transactions.

At the same time, Gugin publicly claimed his business was diligent in investigating suspicious activities and illegal practices, according to the government. Gugin was even profiled in the Wall Street Journal in a 2024 story on millionaires who opt to rent homes instead of buying property, and the story reported that he paid roughly \$19,000 a month to live in a three-bedroom apartment in a luxury Manhattan high-rise.

Prosecutors estimate that Gugin faces an advisory sentencing guidelines range of 78 to 87 months in prison, though the ultimate guidelines calculation will be determined by a judge.

As part of his plea agreement with the government, Gugin has also agreed to forfeit over \$1.26 million and not to appeal any sentence of roughly eight years or less.

A spokesperson for the U.S. Attorney's Office for the Eastern District of New York declined to comment. Counsel for Gugin had no immediate comment late Wednesday.

A sentencing date for Gugin has not been set. He's due back in court for a conference on May 1.

The government is represented by Matthew Skurnik and Eric Silverberg of the U.S. Attorney's Office for the Eastern District of New York.

Gugin is represented by Thomas Firestone and Tamara Rozina of Squire Patton Boggs LLP.

The case is U.S. v Gugin, case number 1:25-cr-00191, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Dorothy Atkins. Editing by Linda Voorhis.

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Musk, X Settle Former Twitter Workers' Severance Suit

By **Katryna Perera**

Law360 (April 2, 2026, 12:48 PM EDT) -- X Corp. and Elon Musk have agreed to settle claims by a group of six former Twitter employees that they were falsely promised severance benefits in connection with Musk's acquisition of the social media company.

The parties filed a joint **status report** on Wednesday informing the Delaware federal court that they had reached a settlement in principle and were drafting a written agreement with specific terms.

The former employees sued Musk and his companies in 2023 after the \$44 billion take-private deal in 2022 that later turned Twitter into X Corp., claiming they were promised **severance benefits** that were never paid. They accused Musk of loading the company with debt, commingling assets and letting executives renege on premerger employment commitments.

The employees' fraud claims, among others, were **dismissed** in September, shortly after the employees served subpoenas on five law firms that represented Twitter in connection with the acquisition. The employees sought documents and communications concerning specific terms of the merger agreement that effectuated the 2022 acquisition.

X and Musk moved to quash the subpoenas, arguing that the subpoenas were seeking discovery of documents that were subject to attorney-client and work product privileges.

A Delaware federal judge **agreed** with X and Musk last month, finding that the former employees failed to provide any evidence suggesting X and Musk sought to induce Twitter employees to remain at the company through the merger by making promises about severance benefits they knew were not true.

The former employees are represented by Akiva Cohen, Dylan M. Schmeyster, Michael D. Dunford and Lane A. Haygood of Kamerman Uncyk Soniker & Klein PC, and Joseph L. Christensen of Christensen Law LLC.

X and Musk are represented by Jody Barillare, Eric Meckley and T. Cullen Wallace of Morgan Lewis & Bockius LLP.

The case is Wolfram Arnold et al. v. X Corp. et al., case number 1:23-cv-00528, in the U.S. District Court for the District of Delaware.

--Editing by Alex Hubbard.

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PBM Opioid Crisis Suit Stays In Federal Court, Judge Says

By **Susan Smiley**

Law360 (April 1, 2026, 2:16 PM EDT) -- A Michigan federal judge on Tuesday denied a request from the state attorney general to remand to state court a suit accusing two pharmacy benefit managers of fueling the opioid crisis, saying the case will remain in federal court because work performed for federal and nonfederal clients cannot be separated.

Express Scripts and OptumRx were sued by the state in Wayne County Circuit Court as part of the Michigan attorney general's effort to charge PBMs, claiming they are accountable for the effects of the opioid addiction crisis in the state.

The two PBMs provide services for federal workers and the U.S. Department of Defense in addition to providing the same services to nonfederal entities.

U.S. District Judge Shalina D. Kumar said Express Scripts and OptumRx satisfied a three-prong test for allowing a private party to remove under the federal officer statute.

Judge Kumar said the two PBMs showed they acted under the direction of a federal officer, the actions for which they are being sued were performed under color of federal office and there is a colorable federal defense to the PBMs' claims.

The state sought to avoid removal under the federal officer statute by exempting work done for federal clients by Express Scripts and OptumRX from its complaint. The PBMs said it is impossible to divide their federal and nonfederal clients to enforce the disclaimer.

"The court accepts the defendants' theory of the case that their federal and nonfederal work is indivisible based on the way it negotiates rebates for the federal government and private clients collectively," Judge Kumar said in her decision.

PBMs negotiate prescription drug benefits for health insurers, employers and government programs and negotiate drug prices between insurers, pharmacies and drug manufacturers.

Judge Kumar said the state contradicted itself because its original complaint challenged only "nonfederal opioid business practices" but said PMBs' "single negotiation with drug manufacturers, for the benefit of all clients, federal and private, is indivisible."

Counsel for the state and the pharmacy benefit managers did not immediately respond to request for comment Wednesday.

The state is represented by Matthew L. Walker and Scott A. Mertens of the Michigan department of attorney general, Anthony J. Majestro of Powell & Majestro PLLC and Mark P. Pifko of Baron & Budd PC.

Express Scripts is represented by Jonathan G. Cooper of Quinn Emanuel Urquhart & Sullivan LLP and John F. Rhoades, Mark J. Makoski, Monique S. Eubanks and Michelle L. Mayfield of Dykema Gossett PLLC.

OptumRx Inc. is represented by Irina N. Kashcheyeva and Ki Lee Kilgore of Foley & Lardner LLP and Brian D. Boone and Caitlin Van Hoy of Alston & Bird LLP.

The case is Attorney General of the State of Michigan v. Evernorth Health Inc. et al., case number 4:24-cv-13185, in the U.S. District Court for the Eastern District of Michigan.

--Editing by Stephen Berg.

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