

A Delaware Take-Private Suit and Controller Buyout D&O Risk

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Sarah Abrams

April 8, 2026

The Skechers logo is displayed in a stylized, italicized blue font with a slight shadow effect.

In recent years, [leveraged buyouts](#) have once again become a significant source of corporate and securities litigation risk, particularly where founder-led or controller-influenced companies pursue take-private transactions with private equity sponsors. A newly filed [Delaware Chancery Court](#) complaint arising out of the 2025 take-private of Skechers U.S.A., Inc. (the “Skechers Complaint”) provides a timely example. The Skechers Complaint illustrates how these transactions can give rise to fiduciary duty claims, especially when minority stockholders allege that a controlling stockholder influenced both the timing and structure of a transaction to their own benefit. The case may also offer a useful lens through which to examine how recent developments in Delaware [statutory](#) and [case law](#) may affect the standard of review applicable to controller-led transactions.

The Skechers Complaint

The Skechers Complaint, filed on March 16, 2026, by the Police and Fire Retirement System of the City of Detroit, alleges that Skechers’ \$9.4 billion sale to private equity firm 3G Capital is a controller-driven transaction that deprived minority shareholders of fair value. According to the complaint, Skechers’ founders, Robert and Michael Greenberg (the Greenbergs), controlled approximately 60% of the company’s voting power through a dual-class structure and allegedly used that control to dictate the timing, structure, and terms of the transaction with 3G for their own benefit and to the detriment of unaffiliated stockholders.

Skechers’ sale to 3G Capital was announced in May 2025 and closed in September 2025. The Skechers Complaint alleges that unaffiliated shareholders were offered either \$63 per share in cash or a mixed consideration of \$57 in cash plus an equity

unit in the post-merger private entity. The plaintiff alleges that the mixed consideration was effectively illusory for unaffiliated shareholders, as the equity units were unlisted, non-transferable, and subject to significant restrictions. The Skechers Complaint further alleges that the Greenbergs elected the mixed consideration but also secured enhanced governance rights and continued leadership roles, enabling them to retain influence over the company following the transaction.

The plaintiffs further contend that the transaction was opportunistically timed to exploit temporary market dislocation. According to the Skechers Complaint, tariff-related uncertainty in early 2025 depressed Skechers' stock price, allegedly allowing 3G to reduce its offer from an earlier indication reportedly in the low-to-mid \$70s per share to \$63 per share. The plaintiffs allege that this reduction was unjustified given contemporaneous statements suggesting that the tariff impacts were temporary and did not impair the company's long-term value.

Finally, the Skechers Complaint alleges significant process deficiencies by the company, and its directors and officers. The plaintiffs allege that the Greenbergs engaged in months of private negotiations with 3G before involving the board, effectively positioning 3G as the only viable bidder. In addition, the Skechers Complaint alleges that when the board eventually became involved in the transaction that it formed an independent committee only shortly before approving the deal. However, the plaintiff alleges that the independent committee lacked independence, failed to conduct a meaningful market check, and relied on revised downward projections that aligned with the reduced deal price. These combined factors allegedly rendered both the sale process and the share price unfair to minority shareholders.

Discussion

The recent Delaware Supreme Court decisions upholding SB 21 and in *Moelis* could reshape the legal framework applicable to disputes involving controller-led transactions, like the deal outlined in the Skechers Complaint. Transactions involving controlling stockholders that satisfy specified procedural protections, such as approval by a fully empowered and independent special committee and a majority-of-the-minority vote, may now qualify for business judgment review rather than the more exacting entire fairness standard.

Against that backdrop, the allegations in the Skechers Complaint, if substantiated, appear aimed at placing the transaction outside of this emerging safe harbor framework. The plaintiff alleges that the process was dominated by the company's controlling stockholders, that the special committee was either ineffective or insufficiently independent, and that the transaction lacked meaningful procedural safeguards. If proven, these allegations could preclude application of the more deferential standard of review and instead subject the transaction to traditional entire fairness scrutiny, under which defendants would bear the burden of demonstrating both fair dealing and fair price.

The Skechers Complaint further alleges that the controlling stockholders structured the transaction to provide themselves with differential consideration and ongoing governance rights, including through rollover equity and post-closing influence. The plaintiff appears to advance these allegations in an effort to align the claims with the types of controller conduct that Delaware courts have historically scrutinized under the entire fairness framework. If substantiated, such allegations could reinforce arguments that the transaction was not conditioned on protections sufficient to replicate an arm's-length process.

More broadly, the complaint reflects recurring themes in litigation arising out of controller-led leveraged buyouts, including allegations of pre-signing negotiations conducted outside the board's oversight, limited market checks, and the use of revised projections that allegedly supported a lower transaction price. While these are, at this stage, unproven allegations, they are consistent with the types of claims that have historically given rise to fiduciary duty litigation in Delaware, particularly where minority stockholders contend that they were deprived of fair value in a conflicted transaction.

Ultimately, the Skechers Complaint may underscore that, notwithstanding recent efforts by Delaware lawmakers and courts to provide a clearer pathway for controller transactions to receive business judgment deference, those protections remain highly dependent on the integrity of the process employed. Where, as alleged here, plaintiffs contend that the transaction was shaped by a controlling stockholder without the full benefit of independent safeguards, Delaware courts may still be asked to apply the exacting entire fairness standard. While the allegations in the complaint remain unproven, the case serves as a reminder that controller-led take-private transactions continue to present meaningful litigation risk, particularly where the procedural framework is subject to challenge.

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Disclosure custom and practice analysis in securities class actions

By Simona Mola, National Economic Research Associates Inc.

MARCH 27, 2026

Introduction

In securities class actions alleging violations of Section 10(b) of the Securities Exchange Act of 1934 or Section 11 of the Securities Act of 1933, plaintiffs typically claim that the defendant company made false or misleading statements or omitted material information in public communications such as SEC filings.

These cases often hinge on whether certain disclosures or alleged omissions misrepresented the company's results of operations or its business risks and prospects in a way that was materially misleading to investors.¹

Although the governing statutory framework has remained relatively stable, the nature of the allegations in securities class actions has evolved over time.

Recent studies by NERA document that, from January 2021 through December 2025, allegations related to COVID-19 disclosures and environment-related disclosures have declined, while a growing number of cases have alleged either misrepresentations in the use or effectiveness of artificial intelligence capabilities — often described as AI washing — or failures to disclose risks associated with the adoption of AI.²

Many of these alleged misstatements or omissions arise in areas of a company's disclosures (e.g., disclosures in the Management's Discussion and Analysis (MD&A) section, discussion of risk factors, forward-looking information, or other narrative elements of SEC filings) that are principles-based and provide management with the flexibility to determine disclosures in the context of the company's facts and circumstances.³

In responding to such claims, it has proven effective for companies to retain an expert who can assess the allegations through the lens of disclosure custom and practice.⁴ When disclosures involve managerial judgment, custom and practice may provide a framework that guides that judgment.

When drafting these disclosures, companies often look at the evolving customs and practices of comparable companies.⁵ In this context, expert analysis can be valuable in evaluating whether the company's disclosures were consistent with customs and practices.

The goal of such analysis is not to offer an opinion as to whether a particular disclosure was legally compliant or whether a specific omission was material under the securities laws — those are legal questions reserved for courts — but rather to assist fact finders by providing an expert opinion as to whether the company's disclosures fell within what was customary at the time.

When disclosures involve managerial judgment, custom and practice may provide a framework that guides that judgment.

The experts retained in these matters typically bring a combination of academic and practical experience.

Some have advised public companies on disclosure obligations, either as legal or financial professionals, or have worked inside public companies in roles involving SEC reporting. Others have regulatory backgrounds with a focus on securities regulation and SEC reporting.

This blend of firsthand experience and broader perspective is often essential to assess whether a company's disclosure practices and processes were aligned with prevailing customary practices.

In our experience, there are two types of economic analyses that may typically be conducted in this space: (i) an evaluation of disclosure processes to determine whether a company had robust procedures in place at the time of the alleged misrepresentation, consistent with custom and practice; and (ii) an assessment of disclosure practices to evaluate whether the company's disclosure decisions ultimately aligned with those customary practices.

Analysis of disclosure processes

Experts can assess how specific disclosures came about and through which internal process they were developed. This type

of process-focused analysis seeks to understand who was involved in preparing the disclosure, what steps were taken to verify and refine the content, and what internal information or data served as the basis for the statements ultimately included in the public filing.

While qualitative in nature, such analysis may also be summarized in measurable terms. In doing so, the analysis provides context for evaluating whether the company followed an approach to disclosure, grounded in custom and practice for public companies.

Disclosures are typically developed through a drafting process led by a core group of individuals, often from the legal, finance, or investor relations functions, which coordinate input from different business units.

Because there is no rigid regulatory framework governing the structure or content of earnings calls, they are shaped by evolving customs and practices.

Although this core team may be responsible for assembling the disclosure, the underlying information frequently originates with rank-and-file employees who have knowledge of specific risks, operational issues, or business developments. These individuals may compile relevant information upward, where it is evaluated and incorporated into draft filings.⁶

Different sections of an SEC filing may often be assigned to different teams or individuals. Initial drafts may undergo multiple rounds of internal review among legal, finance, accounting, and investor relations personnel, as well as external review involving independent auditors, outside counsel, and underwriters' counsel in the case of registration statements.

This iterative process typically occurs before the board of directors becomes involved. While the board does not draft the disclosure language, it may review filings before they are finalized and provide input on key messaging or areas of concern.

Expert analyses of disclosure processes typically rely on a variety of documents produced in discovery. This may include board meeting minutes, disclosure committee materials (if such a committee exists),⁷ and internal communications reflecting the flow of information related to the drafting of public statements.

Drafts of SEC filings, comments, and internal review notes could help illuminate how a particular disclosure evolved and who was involved at each stage. Deposition testimony may further clarify the roles of individuals and the sources of

information underlying specific disclosures. These materials allow experts to evaluate not only the content of the final disclosure but also the internal processes and judgments that led to it.

In addition to SEC filings, securities class actions may also involve allegations that misleading statements were made in earnings releases or during earnings calls.

These communications, while not subject to the same formal requirements as filings with the SEC, are nevertheless a part of how companies communicate with the market and are often closely analyzed by analysts and investors.⁸ Because there is no rigid regulatory framework governing the structure or content of earnings calls, they are shaped by evolving customs and practices.⁹

In some cases, it is also relevant to examine the internal process for preparing earnings presentations and communications. This process may involve the investor relations team assembling data, drafting talking points, coordinating with finance and legal personnel, and anticipating likely analyst inquiries. Expert analysis in this context focuses on whether a company's earnings call practices were consistent with custom and practice.

Analysis of disclosure practices

In addition to disclosure processes, this analysis focuses on how a company's public disclosures compare to those of other firms facing similar risks or operating under similar conditions. Benchmarking in this context may involve identifying comparable companies and evaluating their disclosure practices over a specific period.

While experts often draw on their professional experience and judgment in assessing how disclosures have evolved in the market, empirical analysis may also be relevant and useful in certain circumstances.

An empirical analysis of corporate disclosures may involve examining a defined sample of comparable companies, for example, companies within the same industry, market capitalization range, or regulatory environment, to document industry disclosure practices.

For example, an expert might assess how companies operating in a given industry characterized risks related to COVID-19 and the impact of supply chain disruptions or declining customer demand and whether those risks were discussed in the risk factor section or reflected in the MD&A.¹⁰ Similarly, experts may review how other companies disclosed the potential impact of AI, product recalls, operational disruptions, or emerging trends that management viewed as important.

Another example of economic analysis may focus on key performance indicators disclosed by companies, such as metrics related to user growth, revenue per customer, operating margin, or customer churn, and whether the

selected KPIs are generally consistent with the types of metrics used by other companies.¹¹

The question is not whether there is a single “correct” set of KPIs but whether the disclosure reflects custom and practice and investor expectations for that type of business.

In conclusion, this type of expert opinion, properly supported by objective economic analysis of available discovery documents, can provide critical insights to inform the fact-finder in assessing disclosure custom and practice in securities class actions.

Notes:

¹ *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438 (1976); *Basic Inc. v. Levinson*, 485 U.S. 224 (1988); and *Matrixx Initiatives, Inc. v. Siracusano*, 563 U.S. 27 (2011).

² Flores, Starykh, and Velikova, “Recent Trends in Securities Class Action Litigation: 2025 Full-Year Review,” *NERA*, 21 Jan 2026, available at <https://bit.ly/3PEhN2a>. See also Flores and Milev, “AI and Securities Class Action Litigation,” *NERA*, 17 Dec 2025, available at <https://bit.ly/4dFK0j7>.

³ 17 C.F.R. Part 229 (Regulation S-K); SEC Release No. 33-6835 (1989); SEC Release No. 33-8350 (2003); and SEC Release No. 33-10890 (2020).

⁴ See, e.g., *SEC v. Ambassador Advisors, LLC, et al.*, E.D. Pa. 5:20-cv-02274-JMG, Doc. No. 75 (21 Dec 2021).

⁵ See, e.g., “Disclosure Effectiveness: Companies Embrace the Call to Action,” *Financial Executives Research Foundation and Ernst & Young*, 2015, available at <https://bit.ly/3Npp7y9>.

⁶ In recent years, public companies have increasingly explored the use of AI to generate initial drafts of disclosures. Platforms such as Nasdaq Lens™ and emerging AI-native SEC disclosure tools like Greenshoe aim to streamline

research, benchmarking, and drafting. Nevertheless, the use of AI does not replace the need for disclosure verification, revision, and oversight. See, e.g., “Goldman Sachs CEO Says AI Can Draft 95% of an IPO Prospectus in Minutes,” *Yahoo Finance*, 22 Jan 2025, available at <https://bit.ly/4IMakKD>; “Nasdaq Lens™ Platform Overview,” *Nasdaq*, available at <https://bit.ly/4rQuuo6>; “Greenshoe Lands \$3M to Launch the First AI-Native Platform for Public Company Reporting,” *Access Newswire*, 13 Nov 2025, available at <https://bit.ly/3PtD5jt>; “AI Explosion Complicates Reporting and Regulation for Companies,” *Bloomberg Law*, 17 Apr 2025, available at <https://bit.ly/3PEhXXk>; and “Using Data Analytics and Artificial Intelligence for Public Disclosures,” *Gibson Dunn Client Alert*, 17 Jan 2024, available at <https://bit.ly/4IMydkY>.

⁷ SEC Release No. 33-8124 (29 Aug 2002) (Certification of Disclosure in Companies’ Quarterly and Annual Reports).

⁸ See, e.g., Frankel, Johnson, and Skinner, “An Empirical Examination of Conference Calls as a Voluntary Disclosure Medium,” *J. Acct. Res.*, 1999 and Matsumoto, Pronk, and Roelofsen, “What Makes Conference Calls Useful?” *The Accounting Review*, 2011.

⁹ Academic and empirical research has examined earnings calls by analyzing factors such as tone, length, and responsiveness to analyst questions. These studies often look at samples of companies to identify patterns in communication style and content. Such comparative analysis may help assess whether a company’s statements during earnings calls were consistent with custom and practice. See, e.g., Blau et al., “Do Sophisticated Investors Interpret Earnings Conference Call Tone Differently than Investors at Large? Evidence from Short Sales,” *J. Corp. Fin.* 31, 2015, p. 203-219 and Borochin et al., “The Effect of Conference Call Tones on Market Perceptions of Value Uncertainty,” *J. Fin. Markets* 40, 2018, p. 75-91.

¹⁰ SEC Division of Corporation Finance, CF Disclosure Guidance Topic No. 9 (25 Mar 2020); and SEC Division of Corporation Finance, CF Disclosure Guidance Topic No. 9A (23 June 2020).

¹¹ SEC Release No. 33-10751 (30 Jan 2020) (Commission Guidance on Management’s Discussion and Analysis; KPIs and Metrics).

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The Growing Risk of Risk Factor Disclosures

Companies are best positioned to identify the principal challenges their businesses may face, and investors benefit from candid and informed risk disclosures that reflect that judgment. Companies should not be required to bear a litigation penalty for providing investors with this valuable information.

April 08, 2026 at 02:00 PM By **Susan Hurd & Sierra Shear**



Susan Hurd, left, and Sierra Shear, right, of Alston & Bird. Courtesy photos

Public companies are required to disclose the material risks they face, and these risk factors have taken on greater importance in securities class action litigation. Historically, companies relied on their risk factor disclosures defensively, arguing that they had warned investors about the very risks that later materialized and therefore could not have misled the market. In recent years, however, plaintiffs have turned those disclosures on their head, alleging that the risk factors themselves were misleading because they downplayed known problems or framed existing issues as merely hypothetical.

Under this theory, plaintiffs allege that a company's risk disclosures were misleading under the federal securities laws because they portrayed a risk as a future, hypothetical harm when, in reality, the risk had already materialized and was known to management. Put differently, the risk factor is said to have misled investors by suggesting that no present problem existed, even though plaintiffs claim the company's internal information reflected the opposite.

In 2024, the Supreme Court had the opportunity in *Facebook v. Amalgamated Bank* to address whether, if ever, claims based on allegedly misleading risk factor disclosures can survive a motion to dismiss. After full briefing and oral argument, however, the court dismissed the appeal without issuing a substantive opinion. That decision left unresolved a question that has divided the lower courts, resulting in differing approaches among the U.S. circuit courts of appeal. Over the past year alone, the Second, Ninth and Sixth circuits have each considered this issue—sometimes more than once—and reached varying conclusions, including at times within the same circuit.

The current state of the law can be summarized as follows. Over the past year, decisions from the Second and Ninth circuits have recognized that, in theory, a plaintiff may state a claim based on allegedly false or misleading risk factor disclosures. In practice, however, those courts often dismiss such claims where the complaint lacks sufficient detail to support the theory. Where claims do survive dismissal, it is typically because the court concludes that there is sufficient detail pleaded—often derived from former employee “confidential informants”—suggesting that, at the time the disclosure was made, the warned-of risk had already materialized behind the scenes and was already having an undisclosed adverse impact on the company.

In cases involving risk factor warnings that were repeated over time, these courts commonly dismiss claims challenging earlier disclosures while permitting claims to proceed only as to those warnings issued closer in time to the alleged corrective disclosure that precipitated the stock price decline.

These decisions also assume, without analysis, that investors may read forward-looking risk factor disclosures as conveying information about present conditions—an assumption that is fundamentally at odds with how risk factors are intended to be understood. Investors do not reasonably interpret disclosures about potential future risks as any implicit representation as to the company's current state of affairs. Indeed, such an interpretation conflicts with well-established principles under the anti-fraud provisions of the federal securities laws recognizing that a company may remain silent on a subject without incurring liability. Yet in jurisdictions that have appeared receptive to imposing liability based on risk factor disclosures, courts have given little consideration to how a reasonable investor would actually interpret the disclosures at issue or to assessing the risk factors in the context of the company's total mix of public statements.

Other courts over the past year, including the notable *HRSA-ILA Funds v. Adidas AG* decision from the Ninth Circuit, have demonstrated a greater willingness to closely parse the language of the specific risk factor at issue and to assess how a reasonable investor would interpret that disclosure in context. Although these courts may also acknowledge that claims based on risk factor disclosures are theoretically possible, they engage in an independent analysis of the challenged language, which frequently results in dismissal.

A third approach has emerged, illustrated by recent decisions from the Sixth Circuit, which have largely rejected the theory that risk factor disclosures can reasonably be interpreted as speaking to present circumstances. Courts in the Sixth Circuit view with justified skepticism the notion that investors ascribe present tense meaning to statements framed as forward-looking. The Sixth Circuit has emphasized that risk disclosures are inherently prospective and that the use of future tense in a risk disclosure, without more, would not lead a reasonable investor to infer anything about current conditions.

If the Supreme Court is disinclined to resolve the uncertainty surrounding risk factor disclosures as the dismissal of the prior appeal may indicate, the U.S. Securities and Exchange Commission may seek to provide the necessary clarity through regulation. At a recent Practising Law Institute conference, SEC Chair Paul Atkins indicated that the commission is considering revisions to Regulation S-K aimed at streamlining risk factor disclosures and reducing excessive litigation-driven disclosures. Among the ideas he discussed was the creation of a “safe harbor” from liability, under which a company’s failure to disclose the impacts of widely publicized events that are reasonably likely to affect most companies would not constitute a material omission for purposes of the federal securities laws’ anti-fraud provisions. While a safe harbor of this kind could reduce defensive over-disclosure, the proposal raises concerns depending on how it is framed. Such a rule could create incentives for companies to remain silent on emerging risks altogether, lest more specific discussion place them outside the safe harbor’s protection.

As the foregoing discussion illustrates, this area of the law would benefit from greater clarity to avoid placing companies in an untenable position. When issuers provide comprehensive risk disclosures and an identified risk later materializes, that outcome should not be surprising and, standing alone, does not suggest fraud. Companies are best positioned to identify the principal challenges their businesses may face, and investors benefit from candid and informed risk disclosures that reflect that judgment. Companies should not be required to bear a litigation penalty for providing investors with this valuable information. A safe harbor broader than the one recently discussed by the SEC would therefore be a sensible reform, grounded in the common-sense principle that risk factor disclosures are forward-looking by design and, absent express language to the contrary, do not purport to describe present circumstances.

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Staring Into the Void(able): Delaware Supreme Court Resolves 'Moelis'

Although the Delaware legislature had already circumscribed the prospective effect of the Court of Chancery's ruling by enacting S.B. 21 in 2024, the Delaware Supreme Court's decision dooms any further application of the Court of Chancery's ruling. The decision also clarifies how courts should review corporate governance provisions in stockholder agreements. And, for Delaware-watchers, the decision represents another signal that the Delaware Supreme Court is undoing the perceived judicial excesses that led to "DExit."

April 08, 2026 at 07:34 AM By **Martin L. Seidel Allison Kernisky & Sarah Molinoff**



(l-r) Martin L. Seidel, Allison Kernisky, and Sarah Molinoff, with Holland & Knight. Courtesy photos

On Jan. 20, 2026, the Delaware Supreme Court, sitting en banc, issued a unanimous decision in [*Moelis & Company v. West Palm Beach Firefighters' Pension Fund*](#), --- A.3d ---, 2026 WL 184868 (Del. Jan. 20, 2026). The decision reversed a controversial ruling from the Delaware Court of Chancery on the enforceability of certain stockholder agreement provisions. Although the Delaware legislature had already circumscribed the prospective effect of the Court of Chancery's ruling by enacting S.B. 21 in 2024, the Delaware Supreme Court's decision dooms any further

application of the Court of Chancery's ruling. The decision also clarifies how courts should review corporate governance provisions in stockholder agreements. And, for Delaware-watchers, the decision represents another signal that the Delaware Supreme Court is undoing the perceived judicial excesses that led to "DExit."

Here are some key takeaways before we dive into a deeper analysis of the case and its practical implications.

- **Void vs. voidable clarity:** The *Moelis* decision clarifies that courts examine whether the subject matter could be lawfully adopted in any manner; if so, provisions are voidable and equitable defenses apply. This narrows the set of arrangements that are truly "void."
- **Accrual rule:** Facial challenges accrue at the execution of the agreement, not as a continuing wrong; ongoing ill effects do not restart the clock.
- **As-applied challenges remain:** Even if facial challenges are time-barred, as-applied challenges to enforcement in specific circumstances remain available.
- **Section 122(18) authorization:** As of Aug. 1, 2024, following passage of S.B. 21, Delaware law affirmatively permits stockholder agreements to include governance-related consent, restriction, and covenant provisions, subject to charter supremacy and the "contrary to law if in the charter" proviso, bolstering contractual private ordering outside the charter. Note that Section 122(18) applies retroactively to agreements entered before its effective date, but it does not affect civil actions completed or pending as of Aug. 1, 2024; thus, it did not resolve *Moelis* itself.
- **Governance drafting:** Post-Section 122(18), companies can use stockholder agreements for governance provisions with clearer statutory footing but must ensure no conflict with the charter and consider how fiduciary duties and exchange rules interact.
- **Litigation strategy:** Defendants facing late-filed facial challenges should press laches under the discrete-act accrual rule and the presumption of prejudice after the three-year period, while plaintiffs should move promptly or frame claims as as-applied challenges with concrete, timely board actions.
- **Delaware got the message:** Delaware's legislature and Supreme Court have squarely responded to corporations voting with their feet, and continue the pattern of rebuking the Court of Chancery when it departs from a contractarian pro-corporation outlook. Interestingly, Delaware experienced a sharp increase in incorporations in 2025, both in absolute terms and relative to other states.

Case Overview and Court of Chancery Decision

The case arose from a stockholders agreement entered at Moelis' IPO that granted its founder-controlled entity extensive governance rights, including consent rights over significant corporate actions and board composition mechanics. Nine years after the IPO, a Class A stockholder challenged those provisions as facially invalid under DGCL Section 141(a) because they allegedly constrained the board's statutory authority outside the charter. The Court of Chancery held the provisions were void and unenforceable and rejected a laches defense, but the Delaware Supreme Court reversed on laches grounds and did not reach the merits.

The stockholders agreement (dated April 15, 2014) required board consent from the founder's entity for 18 enumerated actions, e.g., taking on debt over \$20 million, issuing preferred stock, amending the certificate of incorporation or by-laws, entering into a merger or acquisition, removing or appointing officers, issuing or paying dividends, and adopting annual budgets, among other. The agreement also gave the founder-controlled entity extensive control over the company's board composition through the nomination, election, and vacancy procedures. These features were fully disclosed in the IPO prospectus and subsequent 10-Ks.

The plaintiff became a stockholder in November 2014. In 2023, he filed suit, claiming that these provisions of the stockholders agreement were facially invalid because they violated Section 141 of the DGCL. On summary judgment, the Court of Chancery concluded that laches could not apply because the provisions were "void," not merely voidable, and alternatively, even if laches applied, the challenge was timely under a "continuing wrong" theory. In a separate opinion on the merits, it declared several provisions facially invalid under Section 141(a) because they materially constrained board authority outside the charter.

The Delaware Supreme Court reversed, holding the challenged provisions were at most voidable and that the stockholder's facial challenge was barred by laches because it accrued upon execution of the agreement and was brought nine years later.

The Legislative Response: Section 122(18) of the DGCL

In direct response to the Court of Chancery's merits ruling, the General Assembly enacted S.B. 21, creating Section 122(18), effective Aug. 1, 2024, to authorize corporations—"notwithstanding Section 141(a)"—to contract with stockholders, including to restrict actions, require consents (including from stockholders or directors), and covenant to take or refrain from actions. These authorizations are subject to an important caveat: a provision is not enforceable against the corporation to the extent it is contrary to the certificate of incorporation or would be contrary to Delaware law (other than Section 115 of the DGCL) if included in the certificate of incorporation. Moreover, "a restriction, prohibition or covenant" that relates to a certain specified action is not

contrary to law or to the certificate of incorporation solely because the law or the certificate of incorporation authorizes the specified action.

The legislation was passed in June 2024, signed July 17, 2024, and effective Aug. 1, 2024. Although the law retroactively authorized the type of provisions at issue in *Moelis*, because the legislation, by its terms, did “not apply to or affect any civil action or proceeding completed or pending on or before such date,” it did not moot the *Moelis* appeal.

The Delaware Supreme Court Reverses

Void vs. Voidable

The Supreme Court held that corporate contractual provisions are void only if their subject matter is beyond the corporation’s lawful power in any manner. If the provisions could lawfully be implemented by an authorized method (e.g., via charter under Section 102(b)(1)), the provisions are merely voidable and not void.

Applying this framework, the court emphasized courts must focus on the subject matter of the provisions, not the method used to adopt them. Because the plaintiff identified no mandatory DGCL or Delaware law precluding adoption of similar provisions through charter amendment or another lawful method, the provisions were not void ab initio. The court drew on precedents distinguishing void from voidable acts (including *CompoSecure*, *Klaassen*, *Michelson* and *Nevins*), highlighting that voidable acts are within corporate power but defectively authorized and thus susceptible to equitable defenses, while void acts are ultra vires in the narrow sense or malum in se.

In short, because the provisions were voidable, the court held that they were subject to equitable defenses, including laches.

Laches and Accrual

The court held the claim accrued when the agreement was executed in 2014, adopting the “discrete act” method because complete relief was available then, and rejected the “continuing wrong” theory premised on ongoing operation under the agreement. The court emphasized that continuing violations stem from “continual unlawful acts, not continual ill effects from an original violation,” (citing *Cowell v. Palmer Township*, 263 F.3d 286 (3d Cir. 2001)). Here, by contrast, “the only wrongful conduct alleged in the complaint was the execution of the stockholders agreement in 2014. ... That is the gravamen of plaintiff’s complaint.”

Because the suit was filed nine years after the agreement’s execution—well outside the analogous three-year statute of limitations—delay was presumptively unreasonable and presumptively prejudicial to the company, and the plaintiff failed to rebut the presumption (no tolling, no unusual

circumstances, and disclosures put the plaintiff on notice). The court stressed that equity “aids the vigilant,” explaining that a complete record does not negate laches after the limitations period, and that reasons for delay, not just length, are determinative.

The court underscored that while facial challenges must be timely, later as-applied challenges based on specific circumstances may proceed even after the facial-challenge window closes. The court thus left the door open for as-applied challenges to other voidable governance provisions.

The View from the Ground: Corporate Census Study Results

The question of whether corporations would continue to find Delaware an attractive state for incorporation took on new urgency after the Court of Chancery’s opinion in *Moelis*. However, the results from a recent [Corporate Census paper](#) and dataset are encouraging. According to the study, which uses data from almost two years following the Court of Chancery’s opinion, the year 2025 saw monumental growth for Delaware despite concerns about the state’s decline—both in absolute terms and relative to other states. While national incorporation levels remained flat, about 30% more Delaware corporations formed in 2025 than in 2024. The legislature’s passage of Section 122(18) of the DGCL might account for some of the increase, but the data shows that the jump in incorporations occurred substantially later than the bill’s passage. In any event, it appears that the pessimism over DExit may have been misplaced.

In light of these developments, parties to stockholder agreements may want to consider revisiting those agreements to determine whether they should be amended.

Martin L. Seidel is a partner in Holland & Knight’s New York office where he concentrates his practice on securities and corporate litigation and arbitration, with an emphasis on corporate control contests, transaction-related securities and shareholder litigations, multiparty class actions and derivative litigations. **Allison Kernisky** is a partner in the firm’s Tysons and Miami offices, where she is a member of the securities litigation team and **Sarah Molinoff** is a partner in the Portland office of the firm. She is a member of litigation and dispute resolution practice.

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Securities

Stellantis Sued Over Miss on EV Growth and Record Selloff (1)

April 7, 2026, 3:17 PM PDT; Updated: April 8, 2026, 7:34 AM PDT

Stellantis NV misled the public about the growth potential of battery-powered electric vehicles before it announced a costly retrenchment that shaved its stock price by nearly a quarter, an investor says in a suit filed Tuesday.

The selloff was the steepest since the company's current ticker symbol appeared on the New York Stock Exchange in 2014, according to data compiled by Bloomberg.

The automaker and its top executives concealed "that it was not truly equipped or positioned to grow its adjusted operating income" as claimed, Christopher Harman says in the proposed class action filed in the US District Court for the Southern District of New York.

Either electrification wasn't growing, or Stellantis—which operates numerous vehicle brands, including Chrysler, Fiat, Jeep, and Peugeot—wasn't "well positioned to capitalize upon it and convert the opportunity to growth," Harman says.

In February, Stellantis announced it had missed income benchmarks and "€22 billion in charges alongside a 'reset' of the Company's business," he says.

Its stock price declined 24% to close at \$7.28 per share on Feb. 6, 2026, the day after the announcement. Harman seeks damages on claims for securities fraud.

"The Company believes the allegations are without merit and intends to defend itself vigorously," Stellantis said in a statement emailed Wednesday. "As this matter is now in litigation, we will not comment further."

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

Levi & Korsinsky LLP represents Harman.

The case is Harman v. Stellantis N.V. , S.D.N.Y., No. 1:26-cv-02839, complaint 4/7/26 .

(Updates story originally published April 7 with comment from Stellantis in seventh paragraph.)

Class Action

Manage Newsletters

GitLab Founder, Board Hit With Investor Suit Over Stock Buybacks

April 7, 2026, 12:34 PM PDT

Summary by Bloomberg AI

AI Generated



- A lawsuit says a GitLab Inc. co-founder pushed the software firm into a \$400 million buyback program to regain corporate control “without spending a penny of his own”.
- The buybacks would increase the co-founder's ownership percentage and delay the sunset of his supervoting Class B shares, according to the complaint filed in Delaware's Chancery Court.
- The lawsuit seeks immediate judicial intervention to prevent the defendants from using GitLab's corporate treasury to facilitate the co-founder's acquisition of control.

A GitLab Inc. co-founder pushed the software firm into a \$400 million buyback program in a bid to regain corporate control “without spending a penny of his own,” a lawsuit says.

An investor sued company chairman Sytse Sijbrandij and other board members Monday, saying the corporate repurchases would push his voting power back above the 50% line after a selling spree that earned him \$64 million. The buybacks would immediately increase Sijbrandij's ownership percentage—by directly reducing the overall number of outstanding shares—while also delaying the sunset of his supervoting Class B shares, according to the complaint filed in Delaware's Chancery Court.

Abuses of corporate control in general—and stock buyback gamesmanship in particular—reflect running themes for the leading business tribunal. Similar disputes have included class actions targeting founders, financial backers, and insiders at Acushnet Holdings Corp., Grindr Inc., Hertz Global Holdings Inc., Marqeta Inc., MeridianLink Inc., and Virtu Financial Inc.

Some of those cases settled or ended with a whimper, but the Acushnet, Grindr, Hertz, and Virtu litigation remain pending.

“In the coming weeks and months, Sijbrandij is likely to regain control without paying a cent, much less a control premium,” the new suit says.

GitLab didn't immediately respond to a request for comment Tuesday.

According to the shareholder complaint, Sijbrandij ramped up his sales of high-vote Class B shares starting in December 2024—after years of liquidating them only gradually—when he stepped back into the role of executive chairman following more than a decade as CEO. Over the same period, other early investors have allegedly unloaded even more Class B shares, which automatically convert into ordinary common stock when they're transferred.

That dynamic cut in both directions, with Sijbrandij's own sales decreasing his vote while other Class B shares coming off the board simultaneously drove it back up by increasing his proportion of supervoting stock, the lawsuit says. But the net effect was to lower his voting stake to about 47% while also reducing the Class B shares to around 9% of the company's equity, "dangerously close" to the 5% threshold triggering their conversion as a class, according to the legal filing.

Using company cash to buy back ordinary Class A shares would hand Sijbrandij an outright majority while also increasing the relative Class B share of the company's total value, the suit says. It "seeks immediate judicial intervention to prevent defendants from using GitLab's corporate treasury to facilitate Sijbrandij's imminent acquisition of control."

The shareholder, Kenneth Webb, is represented by Labaton Keller Sucharow LLP, Julie & Holleman LLP, Friedman Oster & Tejtell PLLC, and Kaskela Law LLC.

The case is Webb v. Sijbrandij, Del. Ch., No. 2026-0449, complaint filed 4/6/26.

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Class Action

Manage Newsletters

Tupperware Investors' \$22 Million Court Deal Gets Final Approval

April 8, 2026, 7:06 AM PDT

Tupperware Brands Corp. investors' nearly \$21.8 million settlement earned a federal court's final blessing to resolve claims former executives of the container maker misrepresented its turnaround before reporting disappointing financial results.

The investors' counsel will get a third of that sum—more than \$7.26 million—in attorneys fees and almost \$431,000 for litigation expenses, Magistrate Judge Leslie Hoffman Price said, approving the deal. Each of the investors leading the class will get \$15,000, the US District Court for the Middle District of Florida magistrate judge said Tuesday.

Tupperware was dropped from the suit this year after the case was temporarily stayed over the company's bankruptcy filing, proceedings of which resulted in an investor group taking over its brand and related operating assets

Shareholders sued Tupperware and corporate leaders Miguel Fernandez and Cassandra Harris in 2022 for allegedly over-hyping its turnaround plan with price increases in the face of rising costs

The settlement class includes those who got Tupperware securities from May 5, 2021, through May 4, 2022—the day Tupperware released disappointing first quarter of 2022 results and its stock price plummeted by \$5.76, more than 32%

Levi & Korsinsky LLP and Pomerantz LLP are the investors' lead counsel. Sidley Austin LLP represents the former executives. None of these law firms immediately responded to emails seeking comment.

The case is Edge v. Fernandez , M.D. Fla., No. 6:22-cv-01518, 4/7/26 .

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Securities

Meta Privacy Claims Settlement Backed by Delaware Business Court

April 7, 2026, 12:22 PM PDT

A \$190 million settlement to resolve claims that Mark Zuckerberg and other Meta Platforms Inc. directors mishandled the Cambridge Analytica data privacy scandal won final approval Tuesday from a Delaware court.

Investors claimed Meta's board repeatedly failed to stop violations of Facebook users' privacy and improperly reached a \$5 billion settlement with the US Federal Trade Commission to protect Zuckerberg from personal liability. The derivative litigation, which originally sought at least \$7 billion in damages, advanced to a rare trial of corporate oversight claims, but just one day of testimony was completed in Delaware Chancery Court before the investors secured a deal with Meta.

Insurers will pay the settlement back to the company. The social media company also agreed to corporate governance changes, including establishing a code of conduct for directors that's aimed at avoiding conflicts of interest, shoring up compliance and privacy monitoring, and making it harder to retaliate against employees who point out privacy violations.

Meta's board would have to vote to amend or terminate those changes, as there's no sunset date for their implementation, Chancellor Kathaleen St. Jude McCormick said in a hearing in Wilmington.

The changes are intended to reduce Zuckerberg's authority and control regarding conflicts of interest on the board, said the shareholders' attorney, Maxwell Huffman of Scott & Scott Attorneys at Law LLP.

No attorneys for Meta or Zuckerberg spoke during the hearing.

'DExit' Drama

The July 2025 trial came in the wake of Chancery rulings blamed by some politicians, high-profile founders, and corporate attorneys for pushing Tesla Inc., Dropbox Inc., and other companies out of the state known for being home to two-thirds of the Fortune 500.

Elon Musk and other critics focused their attacks on McCormick and the judge who handled the case before she took it over, Vice Chancellor J. Travis Laster, alleging they were biased toward minority shareholders. In response to renewed accusations of bias, McCormick recently reassigned two cases involving Tesla to other judges.

Meta also explored the possibility of reincorporating outside Delaware in 2025. A venture capital firm co-founded by one of its directors, Marc Andreessen, reincorporated in Nevada, citing an “unprecedented level of subjectivity” from the Chancery Court.

The case focused on disclosures that an outside developer collected personal data from millions of Facebook users without their consent. Cambridge Analytica used the information after being hired by now-President Donald Trump’s 2016 election campaign. During the litigation, the court sanctioned former Facebook director Sheryl Sandberg for intentionally deleting emails related to the scandal.

McCormick also approved a \$58 million fee award for the attorneys who worked on a contingent basis to represent the retirement funds and an individual shareholder behind the litigation.

“This court has awarded higher fee awards in cases that settled short of trial,” she said.

Meta settled similar class action claims in a California federal court in 2022. FTC officials fined Facebook \$5 billion in 2019 after finding it violated a 2012 agreement with regulators mandating users’ consent before their data can be shared.

The investors leading the litigation are primarily represented by Prickett Jones & Elliott PA; Scott & Scott Attorneys at Law LLP; and Kaplan Fox & Kilsheimer LLP.

Meta and its board are represented by Wachtell, Lipton, Rosen & Katz; Potter Anderson & Corroon LLP; and Ross Aronstam & Moritz LLP.

The case is *In re Facebook, Inc. Derivative Litig.*, Del. Ch., No. 2018-0307, settlement hearing 4/7/26 .

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Securities

M&T Bank Escapes Hudson City Investors' Lawsuit Over Acquisition

April 7, 2026, 11:57 AM PDT

M&T Bank Corp. defeated a decade-old lawsuit over alleged misrepresentations or omissions in paperwork sent to Hudson City Bancorp. shareholders who approved its acquisition.

M&T was barred from making certain disclosures due to the bank examination privilege, said US Court of Appeals for the Federal Circuit Judge Evan J. Wallach, sitting in the US District Court for the District of Delaware by designation. If M&T shared agency opinions and recommendations as these Hudson City shareholders sought, it would've violated that privilege and federal regulations on the disclosure of confidential supervisory information.

The US Court of Appeals for the Third Circuit previously partially reopened this case, finding the allegations sufficient at the pleading stage to survive dismissal. But no genuine dispute of material fact existed after discovery, said Wallach's redacted summary judgment order, unsealed and entered into the docket Monday.

The deal, approved by Hudson City shareholders in 2013, didn't close for more than two years as M&T endured Federal Reserve Board scrutiny over Bank Secrecy Act and anti-money-laundering compliance. M&T also faced consumer law accusations of mislabeling "free" checking accounts, a practice it terminated in 2012. The Consumer Financial Protection Bureau filed an enforcement action against M&T over allegedly deceptive advertising, resulting in a \$3.1 million settlement in 2014.

The banks disclosed the merger could take longer than expected to close in their joint February 2013 proxy statement. The investors heading this lawsuit failed to present evidence that additional disclosures would've significantly altered the mix of information or that before the issuance of M&T and Hudson City's joint proxy, the acquirer knew or should've known its "free" checking posed a risk to the acquisition, Wallach said.

The Hudson City shareholders said the proxy seeking shareholder approval of the merger failed to sufficiently disclose M&T's compliance problems and risks that posed to the deal, asserting claims under Section 14(a) of the 1934 Securities Exchange Act. They attempted to prove economic loss through a "benefit-of-the-bargain" theory for damages, alleging they didn't get the benefit they bargained for in voting for the acquisition.

Damages

The investors failed to raise a triable issue on alleged trading or closing damages with four stock drops—they needed evidence demonstrating they would've made more money on their stock sales had proxy disclosures been more robust, Wallach said. Dividends were never promised or implied in the proxy, meaning they can't allege those damages under a benefit-of-the-bargain theory. Nor did they present evidence that the merger as approved by shareholders directly caused alleged damages.

This case, filed in 2015, went up and down the courts—including the banks' rejected US Supreme Court bid. The district court initially certified the case as a class action, but revoked that status in 2024.

Coren & Ress PC is the investors' lead counsel. Simpson Thacher & Bartlett LLP and Reed Smith LLP represented M&T. Sullivan & Cromwell LLP and Potter Anderson & Corroon LLP represented Hudson City. None of these firms nor M&T immediately responded to emails seeking comment.

The case is Jaroslawicz v. M&T Bank Corp. , D. Del., No. 1:15-cv-00897, entered 4/6/26 .

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Class Action

Manage Newsletters

Polished.com Investor Drops Suit Against Retailer's Leadership

April 8, 2026, 9:33 AM PDT

After a court's dismissal of a parallel securities fraud class action, an investor is dropping an accounting-related lawsuit brought on behalf of now-defunct furniture and appliance retailer Polished.com against its leaders.

No settlement is involved, and plaintiff Mei Ling Wong won't be barred from re-filing the derivative suit, the parties said. Wong, executives and board members, and nominal defendant Polished filed their agreement Tuesday in the US District Court for the Eastern District of New York.

The parallel proposed class action alleged serious misconduct against former top executives, including that a then-CEO used the company as a "personal piggy bank." Judge Nicholas G. Garaufis, who also oversees this suit, dismissed the class action March 10 on grounds that former employees' accounts and other allegations weren't specific enough or otherwise sufficient to support the claims.

Here, Wong alleged the executives and directors were responsible for poor internal financial controls that had costly ramifications for the company. Polished filed for Chapter 7 bankruptcy in March 2024, according to the parties' voluntary dismissal agreement.

Notification to shareholders about the dismissal isn't necessary because their rights aren't affected and there's been no settlement, Wong and the defendants said.

The Brown Law Firm PC represented Wong. Dechert LLP represented Polished and most of the individual defendants. Mintz, Levin, Cohn, Ferris, Glovsky and Popeo PC represented former CEO Albert Fouerti. Baker & Hostetler LLP represented former Chief Financial Officer Maria Johnson.

The case is Wong v. Moore , E.D.N.Y., No. 1:23-cv-00559, stipulation 4/7/26 .

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Securities

Arkansas Health System Sued Over Retirement Plan Fund Lineup (1)

April 7, 2026, 7:57 AM PDT; Updated: April 7, 2026, 11:27 AM PDT

Arkansas-based Washington Regional Medical System is facing a federal lawsuit over its decision to offer target-date funds from American Century Investments in its employees' retirement plan.

The proposed class action, filed Monday in the US District Court for the Western District of Arkansas, claims the funds significantly underperformed better options from other companies. Washington Regional breached its fiduciary duties under the Employee Retirement Income Security Act by failing to replace these funds in its \$240 million retirement plan, according to the lawsuit.

Plaintiffs Donald Hodges and Joyce Kendrick bring ERISA claims on behalf of a proposed class of more than 4,000 participants in the Washington Regional plan

Target-date funds from American Century, which isn't a party to the lawsuit, have driven nearly two dozen ERISA lawsuits so far this year

"As the lawsuit was only filed yesterday, we will not have any comment until we have an opportunity to review the allegations with legal counsel," a spokesperson for Washington Regional said via email

Milberg PLLC and Sanford Law Firm PLLC represent the plaintiffs.

The case is Hodges v. Wash. Reg'l Med. Sys. , W.D. Ark., No. 5:26-cv-05070, complaint 4/6/26 .

(Updates with spokesperson's response in third bullet.)

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Consumers Angle for Bite Out of Companies' Tariff Refunds

"Any time you see a pot of money that big, plaintiffs' lawyers get very interested," said J. Matthew Goodin, a partner at Troutman Pepper Locke.

April 07, 2026 at 02:43 PM By **Brendan Pierson**



FedEx was among the first wave of companies targeted by class action attorneys. Credit: Ryan Fletcher/Adobe Stock

In the wake of the U.S. Supreme Court's February ruling striking down President Donald Trump's sweeping tariffs, consumers have begun bringing class actions against importers alleging that they are entitled to any refunds the importers receive from the government.

Law.com Radar picked up lawsuits last month against FedEx Corp. in the U.S. District Court for the Middle District of Tennessee and against Costco Wholesale Corp. in the District of Puerto Rico and Washington state court.

What Happened?

The lawsuits against FedEx allege that the shipping company, acting as an importer, directly charged customers for tariffs imposed on imports and must refund those customers if it receives a refund from the government.

The cases against Costco allege that the retail giant, which is the direct importer of record for much of its merchandise, also passed tariff costs on to consumers while implying in its public messaging that it would not do so. They say that the company, whose customers are mostly members paying an annual fee, is now pledging to use refunds to lower prices in the future but must instead directly refund past purchasers for tariff costs.

The cases include legal claims for unjust enrichment, among others.

FedEx said that “if refunds are issued to FedEx, we will issue refunds to the shippers and consumers who originally bore those charges.”

“When that will happen and the exact process for requesting and issuing refunds will depend in part on future guidance from the government and the court,” it said.

Costco did not immediately respond to a request for comment.

How We Got Here

The Supreme Court’s ruling found that Trump lacked authority under the International Emergency Economic Powers Act to impose his tariffs, but left the process of refunding tariffs already paid to Customs and Border Protection and the Court of International Trade.

So far, no refunds have been paid, though many companies have said they intend to seek them. The refund process is expected to play out in the coming months, and the government is ultimately expected to refund more than \$170 billion.

What’s Next?

J. Matthew Goodin, a partner at Troutman Pepper Locke, said that consumer litigation over tariff refunds will likely continue.

“Any time you see a pot of money that big, plaintiffs’ lawyers get very interested,” he said.

While the first wave of cases targeted shipping companies like FedEx, he said, the latest wave has expanded to retailers like Costco that act as their own importers.

Goodin said that plaintiffs could overcome motions to dismiss if they allege in good faith that tariff costs were passed on. Beyond that, however, the cases will become more complicated and rely heavily on economic experts to prove the effect of tariffs.

Goodin also said consumers probably would have a harder time bringing cases against retailers one or more steps removed from the importer.

“As the connection between the initial payor and how that tariff gets spread down the chain, it’s much more difficult and tenuous to actually trace to the original tariff,” he said.

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The Continuing Rise of Collective and Mass Actions Outside the U.S.

K [dandodiary.com/2026/04/articles/international-d-o/the-continuing-rise-of-collective-and-mass-actions-outside-the-u-s](https://www.dandodiary.com/2026/04/articles/international-d-o/the-continuing-rise-of-collective-and-mass-actions-outside-the-u-s)

Kevin LaCroix

April 7, 2026

One of the more interesting recent developments in the world of directors' and officers' liability and insurance has been the rise of collective actions and mass actions outside the U.S. Class actions are of course a well-established part of the litigation scene in the U.S., but at least traditionally class, mass, or collective actions have been rare outside the U.S. However, as discussed in a December 29, 2025, memo from the Labaton Keller Sucharow law firm entitled "Global Class Action Litigation: Causes, Effects and What's Next" ([here](#)) a variety of changes in a number of jurisdictions has led to an increase in collective litigation outside the U.S., a development that could have important future implications for potential D&O liability.

As the law firm memo notes, since 2021, "hundreds of securities class or group actions have been filed outside the United States, mostly in Europe, Australia, and parts of the Asia-Pacific region." These proceedings have arisen "alongside a broader change in patterns for various types of class and mass actions globally." The changes have been driven by "new collective redress frameworks, more active institutional investors, and a maturing litigation-funding market."

One region where these changes have been pronounced is in Europe and in the UK, as I have noted in previous posts on this site (most recently [here](#)). The UK, for example, has adopted an opt-out mechanism for antitrust claims, as discussed [here](#), and has recently seen a rise in cases involving "group litigation orders," as discussed [here](#). Indeed, the growth in the U.K. of legal matters involving these kinds of mechanisms has started ringing alarm bells in at least [certain quarters](#).

The European Union, for its part, has adopted a proposal for an EU collective redress mechanism, as discussed [here](#). The specifics of the EU mechanism, the adoption of the mechanism in EU member states, and the developments so far are detailed in a November 3, 2025, memo from the A&O Sherman law firm entitled "Class Actions in the European Union" ([here](#)). As the memo notes, "the expected impact of the Directive is a multiplication of representative actions in the EU and a new risk of large cross-border representative actions initiated by one of several qualified entities" representing claimants across the EU.

While many EU jurisdictions have under their local laws limited these representative actions to consumer actions only, other jurisdictions have extended the mechanisms to data protection, public health, antitrust, and environmental matters as well. Many jurisdictions (e.g., German, Netherlands, France, and Poland) expressly provide that representative actions can be brought for the benefit of businesses as well as consumers.

The Labaton law firm's memo notes that these kinds of changes to the procedural frameworks, in the EU and elsewhere, have the effect of "promoting collective actions by removing procedural hurdles" that "may make litigating varieties of class and mass actions outside the U.S. more attractive."

In addition to the EU changes noted above, the Labaton law firm memo also notes recent recommended changes to the statutory regimes regarding collective actions in New Zealand and Singapore. The memo also notes that collective investor actions are allowed under the laws of China (as discussed further [here](#)), specifically noting the recent [approximately \\$40 million settlement](#) under the new Chinese opt-out mechanism in the Essence Information Technology case. (Readers interested in a more detailed overview of the Chinese collective action mechanism should refer to the recent detailed memo from the Jingtian & Gongcheng law firm [here](#).)

With respect to the development of collective actions outside the U.S., the Labaton law firm memo identifies "two consequential structural developments" of particular importance: "the diffusion of opt-out collective actions and the growth of third-party litigation funds, or litigation funding."

The memo expressly notes that opt-out claims are growing in Europe (and as discussed above, in the UK as well). The memo notes that in markets where "opt-out regimes are permitted or courts are receptive to broad aggregation," plaintiffs "can bring larger cases with more ease and less cost."

The A&O Sherman law firm memo to which I linked above notes that under the EU directive, member states can decide whether the claimants must actively join (opt in) or can passively benefit from (opt out) representative actions. However, the directive also requires that the opt-in mechanism should be required for representative actions where claimants do not habitually reside in the member state where the representative action is brought. Claimant who reside in a jurisdiction other than where the action is brought must therefore opt-in.

As the Labaton law firm memo notes, litigation funding has been a contributory factor to the rise of collective actions outside the U.S. as well. Litigation funding traditionally has not been widely utilized in many jurisdictions, such as, for example, within the EU; however, litigation funding increasingly is an important part of the conversation.

As the A&O Sherman law firm memo notes, in September 2022, the European parliament adopted a resolution with respect to litigation funding, providing minimum standards for litigation funders. Interestingly, and as discussed in detail [here](#), in December 2025, the European Commission announced that it would not proceed with plans to regulate litigation funding, following a member forum earlier in the year, leaving the matter to be addressed at the member state level.

The Labaton law firm memo suggests that “together, opt-out regimes and litigation funding may lead to growth in non-U.S. securities litigation filings,” as the combination could “materially increase the supply of large, well-capitalized non-U.S. investor claims.” The international securities litigation environment will, the memo concludes, “continue to evolve and is worth watching.”

I offer the following additional personal observations on this topic, for whatever they may be worth.

It has been my privilege for years to be able to travel to and attend insurance and legal industry forums around the world. Often at these forums, I am the only American in the room. Early on, I became very accustomed to an almost universal revulsion toward the U.S. class action system, which was viewed as excessive, expensive, and abusive.

However, as time has gone by, an interesting thing has been happening.

Increasingly, jurisdictions around the world have, slowly but surely, adopted various elements of the U.S. class action system. To be sure, no country has adopted anything like the whole U.S. class action system. The fact is that in a modern, complex, global economy, there is a need for legal mechanisms allowing mass claims to be processed collectively. Collective actions can be efficient and even cost-effective, as an increasing number of jurisdictions are recognizing.

If I were to pick one thing that I think is the most important global development over the last ten or fifteen years, it is the increasing recognition across many jurisdictions of the need for collective action mechanisms as a procedural way for

complex claims involving masses of claimants to be addressed. I believe that these kinds of mechanisms will continue to be increasingly available in jurisdictions around the world.

Tags: [collective actions](#), [EU directive](#), [European Union](#), [group actions](#), [Group Litigation Orders](#), [litigation trends](#)



[Kevin LaCroix](#)

Kevin M. LaCroix is an attorney and Executive Vice President, RT ProExec, a division of RT Specialty. RT ProExec is an insurance intermediary focused exclusively on management liability issues.

Critical Mass With Law.com's Ellen Bardash: More Attorneys Want to Argue in Monsanto SCOTUS Case, New York Judge Finds Mass Arbitration Firms Protected by Anti-SLAPP Law

The U.S. Solicitor General and lead plaintiffs' counsel in Roundup and paraquat MDLs both want to participate in oral argument before SCOTUS later this month in a case over whether a federal law preempts state failure to warn laws.

April 08, 2026 at 09:59 AM By  **Ellen Bardash**



Dean John Sauer testifies before the Senate Judiciary Committee during his confirmation hearing to be U.S. Solicitor General, on Wednesday, February 26, 2025. Photo: Diego M. Radzinski/ALM

Welcome to Law.com Class Actions: Critical Mass, a weekly briefing for class action and mass tort attorneys.

This week: The **U.S. Solicitor General** and lead plaintiffs' counsel in **Roundup** and **paraquat** MDLs both want to participate in oral argument before **SCOTUS** later this month in a case over whether a

federal law preempts state failure to warn laws. Two firms won dismissal of a **New York Supreme Court** case challenging their mass arbitration campaigns against online casinos.

I'm **Ellen Bardash**, filling in for **Amanda Bronstad**. Feel free to reach out to me with your input by emailing ellen.bardash@alm.com or connecting on [LinkedIn](#). You can get in touch with Amanda at amanda.bronstad@alm.com.

Solicitor General, Roundup Plaintiffs' MDL Counsel Want a Say Before SCOTUS

The **U.S. Supreme Court** is scheduled to hear arguments April 27 in *Durnell v. Monsanto*, a case that centers on whether the **Federal Insecticide, Fungicide, and Rodenticide Act** preempts a failure to warn claim related to **Roundup**.

U.S. Solicitor General D. John Sauer has [asked to argue](#) for 10 of the 30 minutes allotted to **Monsanto** attorney [Paul Clement](#) (**Clement & Murphy**), writing that "Through its registration process, EPA previously reviewed and approved the specific labeling at issue here."

[Ashley Keller](#) (**Keller Postman**), who represents John Durnell—the plaintiff whose \$1.25 million jury award is now on appeal—responded that the EPA doesn't have "sweeping powers" over all claims, and a judge or jury must decide misbranding claims. Keller wrote this about the position that a nationwide regulation on Roundup's key ingredient, glyphosate, would be preferable to individual states' conflicting requirements:

"Perhaps the political branches will be swayed by Monsanto's policy arguments and enact the express preemption clause the company so desperately seeks. The executive branch, at least, seems receptive to Monsanto's entreaties."

[David Frederick](#) (**Kellogg Hansen**) also filed a brief asking for 10 minutes of argument for lead plaintiffs counsel in multidistrict litigation involving Roundup and paraquat. Frederick wrote that between the two MDL dockets, 11,500 people from all 50 states who could be affected by a Supreme Court ruling are represented.

While the Durnell case heads toward argument, Monsanto parent **Bayer** is also finalizing a \$725 million nationwide class action settlement of Roundup claims in a Missouri state court. Objections and opt-outs are due this summer, and Bayer's CEO has said the SCOTUS case could resolve the settlement opt-outs if it's decided in Monsanto's favor.

California Attorney General Rob Bonta said this about state failure-to-warn claims in a statement last week:

“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.”

New York Judge: Mass Arbitrations are Public Speech

In a win for plaintiffs counsel, a New York judge has found two firms’ mass arbitration campaigns qualified as public speech, [dismissing a case](#) against them and citing the state’s anti-SLAPP law.

SCPS LLC and SSPS LLC, which operate the online casinos **Zula** and **Sportzino**, brought malicious prosecution claims against **Kind Law** and **Ben Travis Law**, firms based in Las Vegas and San Diego, respectively, in **New York Supreme Court**, as well as in two federal jurisdictions. The two firms had filed roughly 1,000 arbitration claims against them, racking up over \$1.4 million in fees.

Judge Phaedra Perry-Bond wrote in last week’s opinion that consumer protection against allegedly unlicensed online casinos is a public interest matter, as evidenced by its having been discussed in the media and by New York’s legislature.

Here’s what [Brian Feldman](#) (**Aurelian Law**), who represented the two law firms named as defendants in the case, had to say about the decision, noting it could have an effect in other states with anti-SLAPP laws:

“This lawsuit represented a new tactic in the arbitration defense playbook, which was going after lawyers for personal liability. This decision shuts down that tactic.”

The case is one of several to have been brought against plaintiffs firms that have been pursuing mass arbitration, though many of those suits have been settled or dismissed on jurisdictional grounds.

The two federal cases against the law firms have also been tossed, and Feldman last May put forward the argument that violations of New York’s anti-SLAPP law warranted dismissal of the state action.

The plaintiff companies, represented by [Gavin Rooney](#) (**Lowenstein Sandler**) had argued the process the law firms used to pursue illegal gambling and racketeering claims in arbitration was unethical and involved breaching their duties as lawyers to inform and vet prospective clients.

Perry-Bond concluded there was no evidence the defendant attorneys filed the arbitrations out of malice for the casinos, writing that they instead “did so to economically benefit from the litigation and obtain compensation for their clients.”

Feldman said it's yet to be determined how much the law firms will be seeking in fees and damages.

Here's what else is happening:

Formula MDL: The **U.S. Judicial Panel on Multidistrict Litigation** [ordered the transfer](#) of 19 actions against **ByHeart Inc.** to the **Southern District of New York** on April 2. The New York-based infant formula company was [hit with litigation](#) in November after dozens of babies were infected with botulism. The panel assigned the case to **U.S. District Judge Arun S. Subramanian**, noting the 2023 Biden appointee has not previously served as a transferee judge.

Theft Claims: A state court case brought by Georgia-based **Bullock Law Group** against **Archetype Capital Partners** [has been moved](#) to the **Northern District of Georgia**. The law firm alleges Archetype conspired to steal proprietary data in order to claim it invented video game addiction litigation. Archetype previously sued Bullock Law Group in Nevada. Both sides claim Archetype's co-founder, attorney **Adam Schneider**, colluded with the other side to steal data related to video game addiction mass torts. Bullock Law Group founder [Tina Bullock](#) said in an email, "We look forward to vindication and uncovering all parties who have funded and assisted Archetype in perpetuating this theft and fraud."

Biometric Liability: The **U.S. Court of Appeals for the Seventh Circuit** has [ruled](#) that a 2024 change to Illinois' **Biometric Rights and Privacy Act** that limited the amount of damages a claimant can recover applies retroactively, a win for companies facing billions of dollars in liability in ongoing cases. **Chief Judge Michael B. Brennan**, writing for a three-judge panel, stated a plaintiff who brings thousands of claims under BIPA is only entitled to, at most, one recovery under Section 20 of the law, which was changed to clarify that multiple alleged collections of someone's biometrics—such as using fingerprint scans to clock in at work multiple times—can only be considered a single violation.

Thanks for reading Critical Mass! Amanda will be back next week.

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Analysis | **Antitrust**

'Witness Tampering'?: Live Nation Demands Sanctions Against State Plaintiffs in Jury Trial

"This blatant attempt to dissuade a witness from providing truthful testimony through intimidation is intolerable," counsel for defendants Live Nation and Ticketmaster alleged in a motion requesting sanctions against state plaintiffs after a Live Nation fact witness testified at the antitrust jury trial in Manhattan federal court.

April 07, 2026 at 03:24 PM By  **Sulaiman Abdur-Rahman**



Ticketmaster advertising display outside the Gallery Place/Chinatown metro stop in Washington, D.C. June 6, 2020. Photo: Diego M. Radzinski/ALM

What You Need to Know

- Defendants Live Nation and Ticketmaster allege New York and other state plaintiffs violated the federal witness tampering statute during the antitrust jury trial.
- Latham & Watkins and Cravath, Swaine & Moore represent the defendants and filed a motion asking U.S. District Judge Arun Subramanian of the Southern District of New York to sanction the plaintiffs.

- Winston & Strawn urges Subramanian to deny the motion as counsel for New York, while Hogan Lovells denounces the allegations as counsel for nonparty Anschutz Entertainment Group Inc. or AEG.

Counsel for defendants Live Nation Entertainment Inc. and Ticketmaster LLC have demanded that sanctions be imposed on the state of New York and other government plaintiffs for engaging in alleged witness tampering and professional misconduct during the antitrust jury trial in Manhattan federal court.

“This blatant attempt to dissuade a witness from providing truthful testimony through intimidation is intolerable,” Latham & Watkins and Cravath, Swaine & Moore alleged in a [motion filed April 2](#) on behalf of the defendants. “And Plaintiffs’ failure to report or at least not go along with this misconduct is likewise intolerable.”

Live Nation alleges that state plaintiffs and nonparty Anschutz Entertainment Group Inc., or AEG, have been closely coordinating throughout the antitrust case and “improperly attempted to dissuade” Live Nation’s fact witness Rick Mueller from testifying at the jury trial.

Hogan Lovells partner Justin Bernick, on behalf of AEG, sent an email on March 24 to the District of Columbia’s top antitrust enforcer, Adam Gitlin, concerning Mueller, a former AEG employee now employed by Live Nation.

“We think there is a good chance he would try to avoid testifying if he knew this would come up,” Bernick [wrote in the email](#) about Mueller. “We also think he is likely to admit the circumstances of his departure, even if he downplays them.”

Beverly Hills, California-based Live Nation filed its motion on April 2, asking U.S. District Judge Arun Subramanian of the Southern District of New York to impose nonmonetary sanctions on the plaintiffs after Mueller testified on March 27.

Live Nation, which operates more than 150 U.S. concert venues, requests sanctions that would weaken the plaintiffs’ case by admitting new evidence favorable to Live Nation and providing jury instructions that would make jurors aware of the plaintiffs’ alleged misconduct.

Hogan Lovells, on behalf of nonparty AEG, urges Subramanian to reject Live Nation’s “flagrant misrepresentations,” while Winston & Strawn, on behalf of lead plaintiff New York, urges Subramanian to deny the defendants’ motion for sanctions.

“[T]he Motion takes direct aim at both AEG and its counsel and is riddled with false and incendiary claims about AEG’s counsel’s conduct and alleged motives,” Bernick wrote in [court documents filed Monday](#). “The Court should not ignore the hypocrisy of Defendants’ motion, which

simultaneously accuses another lawyer of unprofessional conduct while basing those accusations on wild speculation and unreasonable inferences, which itself constitutes improper, unprofessional conduct.”

Winston & Strawn litigators representing plaintiff New York State, including Jeffrey L. Kessler, argue it would violate binding case law from the U.S. Court of Appeals for the Second Circuit if Subramanian sanctioned the plaintiffs based on “the actions of a third party over which they have no control.”

“Defendants provide no basis for sanctions against Plaintiffs at all, much less the overreaching sanctions that they seek here,” Kessler wrote in an [opposition brief filed Monday](#). “Instead, this sanctions motion is just the latest iteration of Defendants’ endless litigation gamesmanship as they desperately seek to avoid a decision on the merits by the jury. This Court should summarily deny their request.”

Counsel for the defendants alleges the state plaintiffs violated the federal witness tampering statute 18 U.S.C. § 1512(b) and engaged in unethical conduct in violation of New York State Bar Association Rules 3.4(a)(1) and 4.4 and D.C. Rules of Professional Conduct 3.4(a), (f) and 4.4.

Live Nation further alleges that AEG disclosed Mueller’s personal information to the plaintiffs in violation of Mueller’s right to privacy under the California Constitution.

The attorneys general of more than 20 states and the District of Columbia seek treble damages against Live Nation and its wholly owned subsidiary Ticketmaster on claims that the defendants maintained an unlawful monopoly across the live concert industry.

New York State hired Winston & Strawn as outside counsel and assumed the role of lead plaintiff after the U.S. Department of Justice’s Antitrust Division filed a notice of settlement that would require Live Nation to sell off 13 of its concert venues and establish a \$280 million settlement fund if Subramanian approves of the [proposed divestiture settlement](#).

The parties on Tuesday agreed to a [joint stipulation](#) that would narrow the case and permanently dismiss one of the plaintiffs’ Sherman Act claims for relief if Subramanian issues an order of dismissal with prejudice as to the plaintiffs’ count alleging unlawful exclusive dealing.

Subramanian, as of Tuesday, did not immediately rule on the joint stipulation or the defendants’ motion for sanctions.

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Faith guided approach to social media addiction trial, Lanier says

DJ [dailyjournal.com/articles/390684-faith-guided-approach-to-social-media-addiction-trial-lanier-says](https://www.dailyjournal.com/articles/390684-faith-guided-approach-to-social-media-addiction-trial-lanier-says)

Mark Lanier

Three key courtroom moments, W. Mark Lanier said, led to his March 25 win of a landmark \$6 million verdict at a social media addiction trial in Los Angeles targeting mental health harms allegedly caused by Meta Platforms Inc. and Google LLC's YouTube.

His litigation strategy was guided by Lanier's Christian faith as he represented the plaintiff, a now-20-year-old Kaley G.M., who said she started using YouTube at 6 and developed a debilitating addiction to social media platforms.

"My spiritual path touches everything I do," Lanier, the prominent Texas trial lawyer, and a Baptist minister, said in an interview last week. "It was important to me that justice is not available just to the rich and powerful, the Metas and Googles of this world, but also to the weak and downtrodden.

"This was a clear case. These companies abuse children."

Meta and Google were defended by Covington & Burling LLP and Wilson Sonsini Goodrich & Rosati. Spokespersons for Google did not return a message on Tuesday seeking comment on Lanier's trial performance. A Meta spokeswoman added context to some of Lanier's remarks.

Lanier was intent on undercutting the defense psychiatrist, Sonia Krishna, who blamed his client's home life and genetic factors, rather than her screen time, for her mental health problems, which included depression and suicidal thoughts.

"She wrote her report four hours before she met with Kaley, and before that she spent 10 to 12 hours 'strategizing' with the defense lawyers," Lanier said. "I took her through her miniscule CV--it was only two pages long. She's a tele-psychiatrist. We had the head of Stanford's addiction unit on our side."

Meta spokeswoman Liza Crenshaw said that the Stanford psychiatrist, Anna Lembke, never evaluated the plaintiff and drew laughter in the courtroom when she testified that people can become addicted to anything, even vampire romance novels.

Lanier drove home his attack on Krishna with a bit of courtroom jiu-jitsu in which he used Google Street View to diminish the jury's respect for Krishna by showing that her Austin, Texas, "office" was actually a storefront mailbox facility next to a Petco in a strip mall.

"At that point I could tell the jury was stunned and totally turned off by her," Lanier said. "Her credibility was totally destroyed by me." *Social Media Cases*, JCCP5255 (L.A. Super. Ct., filed Oct. 24, 2022).

Krishna's practice of seeing patients virtually is a commonplace in psychiatry, the Meta spokeswoman said.

Lanier noted that another defense psychiatrist was sitting in the gallery. "At that point, he got up and left the courtroom, and we never did see him testify," Lanier said.

Lanier's cross-examination of Meta CEO Mark Zuckerberg was structured by the parable of the Good Samaritan.

Lanier presented Zuckerberg with three options. "I pointed out that if we see a vulnerable child we can hustle on down the road or we can stop and try to help-- or we can target and prey on them to enrich ourselves. So, I asked him, 'Why did Meta choose to prey upon them?'"

"I guess I don't think we should," Zuckerberg said.

"Amen to that," Lanier replied, using the exchange to pivot to Meta documents obtained in discovery that showed the company's goals of increased user time and data on millions of users under age 13, despite the company's claim it removes children from the site.

The Meta spokeswoman said that Zuckerberg also made the points that safety and protection for teenage users are good for business and that Meta gets less than 1% of its revenue from teens.

A third key moment came when Lanier rebutted a Google employee's testimony about suppressing data and evidence. "They got caught deleting Kaley's watch history, minimizing it. That was a hurter for them," Lanier said.

"I told the jury I post on Instagram and YouTube myself," Lanier said. "There's good those companies do. They don't need to be evil to be successful. Can't we do the good without the bad?"

Now that the trial is over, Lanier said decisions about how he and co-counsel will handle the appeals are still in progress. He's looking ahead. "I don't have another social media trial scheduled, but I have been offered one," he said, declining to give details.

"I'm thinking seriously about stepping in. I've been bitten by the bug. I want to go after them."

And he's not done with Google. Next up is a much-delayed antitrust trial in which the online giant is accused of monopolizing its digital advertising practices. Lanier represents 10 state plaintiffs in the suit. The plaintiffs are seeking damages in the billions of dollars. *State of Texas et al. v. Google LLC*, 4:20-cv-00957 (E.D. Tex., filed Dec. 16, 2020).

Lanier described the antitrust case using the vocabulary of morality. His complaint states that Google has "dropped its famous 'don't be evil' motto" and adds, "The Supreme Court has warned that there are such things as antitrust evils. This litigation will establish that Google is guilty of such antitrust evils, and it seeks to ensure that Google won't be evil anymore."

Lanier founded the Christian Trial Lawyers Association in 2003 and the Lanier Theological Library soon after. "I've always had a foot in both worlds," he said of Christianity and the law in an earlier Daily Journal interview. "Faith questions are about ultimate truths in the world, and my Christian worldview informs my courtroom work. They are natural handmaidens, each seeking truth."

He's encountered anti-Christian bigotry, but not lately, he said. "There was some prejudice against me for my faith when I was younger. But now they can't sneer to my face because I have too many verdicts and made too much money."

#390684

John Roemer

Daily Journal Staff Writer

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Profile | **Litigators**

Epstein Survivor's Attorney Breaks Silence at Last: 'It Was Honestly Too Emotional for Me'

Brittany Henderson's representation of Epstein survivors highlights evolving civil liability and strategy, while revealing the profession's emotional toll.

April 07, 2026 at 01:41 PM By  **Lisa Willis**



Brittany Henderson, partner with Edwards Henderson. Fort Lauderdale, FL. Courtesy photo

The news landed like a gut punch.

When Brittany Henderson learned that Virginia Giuffre—the woman who had become the public face of hundreds of survivors of sexual abuse by Jeffrey Epstein—had taken her own life, the reaction was not just grief: It was something heavier. Disbelief. Anger. A quiet, lingering question no lawyer ever wants to confront: Was there more that could have been done?

"This is the first time I have spoken publicly about her," Henderson admitted. "It was honestly too emotional when she passed."



Former Prince Andrew, now Andrew Mountbatten Windsor, left, with Jeffrey Epstein's accuser Virginia Roberts Giuffre, right, in 2001. Courtesy of the SDNY

Giuffre turned to Henderson and her then-law partner—now husband—Brad Edwards of Edwards Henderson for representation in 2014. The Broward County firm focuses on advocating for victims and survivors of violent crime and sexual abuse.

"Knowing somebody who is so strong and who stood up for so many other people and made so many sacrifices for every victim of Jeffrey Epstein, every survivor, to know that the weight of the world on her shoulders had been too much, and there wasn't anything else that we could have done to save her, is truly devastating," Henderson said.

Giuffre had been, in Henderson's words, "a warrior," a woman who stood up not only for herself, but for an entire generation of victims tied to disgraced financier Jeffrey Epstein and the powerful network surrounding him, including figures like Prince Andrew. She was among the first to speak publicly, long before the cultural shift that would make such disclosures more widely believed.

For Henderson, who has now represented more than 250 Epstein survivors, Giuffre's death was both devastating and clarifying. It underscored the emotional toll carried by victims—and the responsibility borne by those who advocate for them.

"She carried the weight of the world," Henderson reflected. "But what I've seen since is extraordinary. The women have come together in a way that honors her. Her legacy didn't end—it

expanded.”

A Calling Discovered in a Conference Room

Henderson did not set out to become one of the country’s most prominent civil advocates for sexual abuse survivors. Raised in South Florida, the daughter of a first-generation college graduate, she initially imagined a career in medicine. That path quickly dissolved under the weight of organic chemistry courses at Auburn University.

What remained constant was a desire to help people.

"Brittany was my law clerk while still in school, and it was readily apparent even then that she would go on to be a rock star," said Blake V. Dolman of Krupnick Campbell Malone in Fort Lauderdale. "Since then, I’ve had a front row seat to her meteoric rise, and could not be more proud of all that she has accomplished and the many victims she has helped."

Law became the vehicle. At Nova Southeastern University, Henderson discovered not just her aptitude for advocacy, but her voice. Early internships placed her in litigation environments where writing and human connection mattered as much as legal theory.

The turning point came in 2014. Working at a firm led by Brad Edwards—now her husband—Henderson was asked to sit in on a meeting with a potential client: Virginia Giuffre.

What she witnessed reshaped her career. Giuffre was not just recounting traumatic events; she was volunteering to challenge a system that had protected powerful men for years. Henderson explained this was pre-the [#MeToo](#) movement, before cultural momentum favored survivors. The risks were enormous.

"I remember thinking: This is unbelievable," Henderson said. "The courage it takes ... and realizing this is how I can help people."

That meeting marked the beginning of a professional identity rooted not just in law, but in advocacy at its most human level.

Building Trust With the Voiceless

Over the next decade, Henderson would become one of the first voices many Epstein survivors heard when they finally decided to come forward. Her role was not initially courtroom-centered—it was personal.

"I’ve spoken with all of them," she said of the more than 250 survivors her firm has represented.

In the early years, that number was far smaller. Fear dominated: Epstein was alive, his influence was intact and many victims believed coming forward could cost them everything, she said.

That changed after Epstein's death in 2019. Almost immediately, the firm saw a surge of calls—dozens within days. Strength, Henderson observed, came from numbers. Survivors began to understand they were not alone.

What she found most striking was not their differences, but their shared internal struggle: shame. Highly intelligent, capable women often blamed themselves, questioning how they had been manipulated. Henderson's job became, in part, dismantling that belief, she said.

One of her most effective tools was perspective. Even seasoned professionals—including her own partner—had found Epstein charismatic and disarming in person. That psychological reality helped survivors understand how manipulation operates, and why their experiences were not failures of judgment.

"It's powerful for them to realize this wasn't just them," she said. "It wasn't their fault."

The Long Road From Pro Bono to Precedent

From a business standpoint, Henderson's work defied conventional legal economics. For years, the Epstein litigation was largely pro bono. Statutes of limitations had expired. Legal pathways were limited. The firm pursued claims under the Crime Victims' Rights Act, focusing on government accountability rather than financial recovery.

It was, by traditional metrics, unsustainable. But the landscape shifted.

The rise of the #MeToo movement, combined with legislative changes and evolving legal theories around sex trafficking, opened new avenues. Civil claims expanded beyond Epstein himself to institutions that allegedly enabled his conduct.

That shift led to landmark outcomes, including major settlements involving [JPMorgan Chase](#) and [Bank of America](#). For the first time, survivors were not just heard—they were compensated. And the firm could sustain itself doing the work it had long believed in.

According to Dolman, Henderson and her team have pioneered entirely new legal theories and causes of action against financial institutions and other enablers that most lawyers would have scoffed at. "There is no more effective advocate on the planet for survivors of sexual abuse than Brittany Henderson," he said.

"It took years before it became a viable practice," Henderson said. "But the change in the world's willingness to listen made it possible."

Even as cases resolve, closure remains elusive. Recent developments—including the release of millions of Epstein-related documents—have reignited trauma for many survivors. Despite efforts

to protect identities, numerous victims were exposed, forcing Henderson and her team back into litigation mode.

The fight, it seems, is not linear. “We thought it might finally be over,” she said. “But now we’re preparing again—to protect them.”

Beyond the Law

What distinguishes Henderson’s practice is not just the scale of the cases, but the depth of her relationships with clients in a profession often defined by detachment. She has attended former clients' weddings, been present for the births of their children and maintained friendships that extend far beyond legal representation.

“The best feedback I’ve ever received isn’t about a result,” she said. “It’s about taking the time to see someone—to understand them beyond their case.”

That philosophy, she says, is transferable across all areas of law because, at its core, she believes her work is not solely about Epstein, or even litigation. It is about restoring something that was taken—voice, dignity and belief—and ensuring it is never lost again.

And in that sense, Henderson said, the legacy of Virginia Giuffre lives on not just in headlines or settlements, but in every survivor who now feels strong enough to speak.

"While her death was incredibly devastating, I know that she would be so proud to see just how tremendously the movement has kind of come together and has grown even stronger since her passing," Henderson said. "And it's not something that I think would have happened but for the world losing Virginia. So her death was certainly not in vain, and I take great comfort in that."

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UBS loses bid to limit liability for Nazi-linked crimes, US judge's ruling shows

 [reuters.com/sustainability/society-equity/ubs-loses-bid-limit-liability-nazi-linked-crimes-us-judges-ruling-shows-2026-04-07](https://www.reuters.com/sustainability/society-equity/ubs-loses-bid-limit-liability-nazi-linked-crimes-us-judges-ruling-shows-2026-04-07)

Jonathan Stempel

April 7, 2026

A logo of Swiss bank UBS on a building at the Paradeplatz in Zurich, Switzerland, March 19, 2026. REUTERS/Denis Balibouse/File Photo [Purchase Licensing Rights](#) , [opens new tab](#)

NEW YORK, April 7 (Reuters) - A U.S. judge on Tuesday rejected UBS' [\(UBSG.S\)](#) , [opens new tab](#) bid to clarify a \$1.25 billion settlement from 1999 of Holocaust-related litigation against Swiss banks by shielding it from claims based on new revelations about Nazi-linked accounts.

U.S. District Judge Edward Korman in Brooklyn, New York, said UBS was seeking an advisory opinion protecting it from "hypothetical" lawsuits that have not been filed.

"Until a genuine case or controversy arises that requires judicial interpretation of its terms, the agreement will continue to speak for itself," wrote Korman, who oversaw the 1999 settlement.

The Simon Wiesenthal Center, a Jewish human rights group, had argued that UBS' proposal would improperly expand the settlement to encompass newly uncovered facts about banks' dealings with the Third Reich.

UBS [sought](#) Korman's intervention after an investigation commissioned in 2020 by the former Credit Suisse uncovered additional ties between that bank, its predecessors and Nazis, including [890 accounts](#) with potential Nazi links.

Advertisement · Scroll to continue

The \$1.25 billion was paid by UBS and Credit Suisse and distributed to more than 458,000 Nazi victims and their families.

In a statement, UBS said: "Nothing in the judge's opinion contradicts our reading of the 1999 settlement agreement."

Lawyers for the Simon Wiesenthal Center did not immediately respond to requests for comment.

UBS bought Credit Suisse in a Swiss government-arranged emergency takeover in 2023.

Reporting by Jonathan Stempel in New York Editing by Bill Berkrot, Rod Nickel

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Securities

Insight

Big Law Firms Who Surrendered to Trump's Demands Ended up Losing

April 8, 2026, 1:30 AM PDT

One year ago, President Donald Trump issued the first of his executive orders targeting law firms who represented clients or causes he didn't like for retaliation and punishment.

The orders imposed significant sanctions designed to chill the legal profession—especially elite Big Law firms—from taking positions antithetical to the administration.

The strategy of self-preservation embraced by some of the most prestigious firms in the face of Trump's demands didn't work. Those that caved have lost partners and clients, and remain bound by unconstitutional deals that require them to do Trump's bidding.

The message Big Law sent to ordinary citizens was clear: When the going gets tough, lawyers look after themselves first and everything else second.

It only took a few weeks for nine of the country's biggest firms to capitulate to Trump's demands, agreeing to provide the administration with a total of nearly \$1 billion in free legal assistance in exchange for an unenforceable promise from the president not to issue an executive order punishing the firm.

Four firms targeted by Trump's executive orders chose to fight: Perkins Coie; WilmerHale; Jenner & Block; and Susman Godfrey. Their decision proved the wiser course. Each won federal district court rulings holding that the orders violated their First Amendment right to advocate for clients and causes of their choosing.

The administration told the US Court of Appeals for the District of Columbia Circuit that it intended to abandon its appeal of the district court decisions but then, a day later, announced that it would pursue the appeal after all.

Lessons Offered

It is rare for the Department of Justice to reverse course in such a publicly transparent and seemingly inexplicable manner. The immediate about-face offers four important lessons.

First, the administration knows it has little chance of convincing any US Court of Appeals, or the US Supreme Court for that matter, that the executive orders are lawful. The initial decision to abandon the appeal couldn't have been made without the approval of top officials in the Justice Department. So why change back?

Some suggest the White House decided it was more important not to appear weak by admitting it was wrong. That could be part of the reason, but it's likely more pragmatic than that.

If the appeal is abandoned and the district court rulings are left to stand, the deals with the nine firms are no longer legally valid or enforceable, and the hundreds of millions of dollars in free legal assistance is gone. With the appeal in place, Trump can continue to coerce Big Law into representing him and his causes—at least until the Supreme Court says otherwise.

Second, it's now clear just how grievous a mistake it was for the nine law firms to cave without a fight. Former Biden adviser Neera Tanden said one of the firm's actions would "live in infamy."

Each of these firms—A&O Shearman; Cadwalader Wickersham & Taft; Kirkland & Ellis; Latham & Watkins; Milbank; Paul Weiss; Simpson Thacher & Bartlett; Skadden; and Willkie, Farr & Gallagher—inflicted permanent damage not just on themselves, but on the legal profession as a whole.

The surrender was led by a Wall Street powerhouse, Paul Weiss, and its former managing partner Brad Karp, who met with Trump in person to hammer out a deal he hoped would preserve the firm's profitability, which at \$7.5 million per partner made it one of the most lucrative legal practices in the world.

Other firms decided to follow suit, figuring that if Paul Weiss was no match for Trump, neither were they. Many just stayed quiet, hoping not to be the next target.

My own efforts following the Paul Weiss agreement to rally opposition from firms and partners that I had worked with and respected over nearly 40 years as a civil rights lawyer working for non-profits and at my own firm were met with surprising equivocation.

At many firms there was little to no commitment to resist or fight an unconscionable and unconstitutional assault on the legal profession and the judiciary.

Those that caved have suffered reputational damage that could hurt their ability to recruit young lawyers and clients for many years. In contrast, all of the firms that stood up to Trump—Perkins Coie; Jenner & Block; WilmerHale; and Susman Godfrey—have posted an increase in profits per partner for 2025 over 2024.

Third, the law firms' actions should help shape how we should think about resisting Trump's authoritarian tendencies in the remainder of his second term.

The strategic mistake in Big Law's response to what it saw as an existential threat to its survival was the failure to stick together. Collectively, the legal profession has enormous power. Had each firm looked out for the others, Trump's early efforts to coerce and co-opt a critical pillar of our democracy could have been thwarted.

The president came after the legal profession first for a reason. Without lawyers, other powerful institutions are defenseless.

Big Law's failure to stand together gave the White House an opening to push ahead with its efforts to coerce money and limit academic freedom at places like Columbia, Brown, University of Virginia, and Harvard. They followed Big Law's playbook, each trying to cut their own deal. The outcome for many universities might well have been different if Big Law had led by example and held firm.

Of all the elite universities threatened with punitive action by Trump, only Harvard fought back in court. Like the firms that stood up, it is winning.

That brings me to the final lesson. For those who have faith in the rule of law and the conviction to persevere, an authoritarian can be defeated.

Anyone in Trump's current crosshairs would do well to pay attention to the brave firms that made the decision to fight—not fold. As District Judge Beryl Howell put it, they "will be the models lauded when this period of American history is written."

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Acting DOJ chief Blanche says Trump has 'right' to influence investigations

 [reuters.com/legal/government/acting-doj-chief-blanche-says-trump-has-right-influence-investigations-2026-04-07](https://www.reuters.com/legal/government/acting-doj-chief-blanche-says-trump-has-right-influence-investigations-2026-04-07)

Andrew Goudsward

April 7, 2026

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Trump has 'right' to influence investigations, says acting AG Blanche

- Blanche defends Trump's authority to influence DOJ probes, calls it a presidential duty
- Trump fired former attorney general last week
- Acting attorney general praises Trump: 'I love you, sir'

WASHINGTON, April 7 (Reuters) - Acting U.S. Attorney General Todd Blanche said on Tuesday that President Donald Trump has a right and duty to shape federal probes of individuals who investigated him as he faces pressure from the president to deliver prosecutions of perceived enemies.

In his first extended comments since being named acting attorney general last week, Blanche bristled at the notion that the Justice Department has been improperly [targeting Trump's opponents](#), but defended the president's authority to influence investigations.

"We have thousands of ongoing investigations and prosecutions going on in this country right now. It is true that some of them involve men, women and entities that the president in the past has had issues with and believes should be investigated. That is his right and indeed it is his duty to do that, meaning to lead this country," Blanche said during a press conference.

Trump [fired former Attorney General Pam Bondi](#) on Thursday in part over dissatisfaction with the pace and outcome of cases Trump has demanded.



Acting U.S. Attorney General Todd Blanche speaks during a press conference at the Justice Department in Washington, D.C., U.S., April 7, 2026. REUTERS/Kevin Lamarque [Purchase Licensing Rights](#)  , [opens new tab](#)

'I LOVE YOU, SIR'

The Justice Department under Trump has opened a slew of investigations into Trump adversaries, including U.S. officials who concluded that Russia interfered in the 2016 U.S. presidential election to boost Trump's first campaign, Democratic lawmakers who urged U.S. military personnel to refuse unlawful orders and liberal donors and fundraising groups.

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The DOJ has encountered obstacles from judges and grand juries in many of those investigations. A federal judge last year dismissed cases against two officials who investigated Trump, James Comey and Letitia James.

Blanche, who represented Trump in three of the four criminal cases he faced during his years out of office, pointed to those cases in arguing that Trump "wants justice" for those whom he believes improperly turned the legal system against him.

Blanche declined to say on Tuesday whether he wants to be nominated to the vacant attorney general post. He said the decision was up to Trump, and if the president nominated someone else and asked Blanche to leave his role in the Justice Department, "I will say, 'thank you very much, I love you, sir.'"

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Securities

Gibson Dunn Partner Takes Top Enforcement Role at SEC

April 8, 2026, 10:25 AM PDT

A former Securities and Exchange Commission official will return to the agency next month to take the top enforcement job following the sudden resignation of the previous director.

David Woodcock, a partner at law firm Gibson Dunn & Crutcher, will start May 4, the agency said Wednesday. Acting Enforcement Director Sam Waldon will continue in the role until then.

"I am incredibly pleased to have David rejoin the SEC at this critical time, as we continue to focus on the types of misconduct that inflict the greatest harm to investors," Chairman **Paul Atkins** said in a statement.

Woodcock was head of the SEC's Fort Worth, Texas office from 2011 to 2015. He also previously served as an in-house corporate attorney at Exxon Mobil Corp.

Woodcock had been under consideration for the high-profile enforcement director role last year, according to people familiar with the process who asked not to be identified discussing the confidential processes. Ultimately, Atkins chose Margaret "Meg" Ryan, a senior military judge with no securities law background who was on a list of potential Supreme Court nominees during President Donald Trump's first term in office.

Ryan quit in March after just about six months on the job. She gave no reason to the staff for her departure.

Enforcement cases against firms and individuals have dropped at the SEC during Trump's second administration, as have the size of the penalties levied on firms and individuals, according to a report from Cornerstone Research.

The agency's recent enforcement statistics for fiscal year 2025 reported higher penalties and returns of illegal profits compared to the previous year, but those statistics were bolstered by actions at the end of the Biden administration.

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FT PROFESSIONAL

US financial regulation

SEC chair says US states should lead on policing corporate behaviour

Comments by Paul Atkins come as Trump administration is seeking to loosen regulatory constraints



Paul Atkins: 'We must stay in our lane as a disclosure agency and not be a merit regulator' © Eva Marie Uzcategui/Bloomberg

Sujeet Indap in New York

Published AN HOUR AGO



The head of the US Securities and Exchange Commission has said federal regulators should take a back seat to states in policing executive conduct, underscoring the administration's stance that light-touch regulation will unleash economic growth.

The comments by [SEC](#) chair Paul Atkins are the latest indication that federal authorities wish to retreat from aggressive legal and regulatory enforcement, which they have maintained is not ultimately useful to investors.

Politically conservative states, most notably Texas, have been setting themselves up as business-friendly alternatives to traditional corporate and financial powerhouses such as Delaware and New York.

“[We] are focused on ensuring that states, and not the SEC, regulate matters of corporate governance,” [Atkins](#) told a conference on Monday in Miami organised by the Texas Stock Exchange, which is set to launch this year, in comments posted on the SEC’s website.

“Over time, the agency has used its disclosure authority to attempt to indirectly establish governance standards that state corporate law should and can address. We must stay in our lane as a disclosure agency and not be a merit regulator,” he added.

Under Atkins, SEC chair since last April, the agency has championed light-touch [regulation](#) and sought to discourage “frivolous litigation” and other constraints to private companies going public. It has explored curtailing quarterly financial reporting and shortening “risk factors” sections in securities filings among other changes.

US federal securities laws govern the sale and purchase of securities, largely through disclosure requirements, while state law oversees board of director matters and the application of corporate fiduciary duties. But there is overlap between the two regimes in many areas, such as shareholder proposals and dealmaking.

States such as Texas and Nevada, which restrict the ability to bring shareholder lawsuits, have been increasingly persuading companies to move their incorporation from Delaware, which has historically dominated as the legal home for most big US companies.

However, Delaware has increasingly been viewed as unfriendly to founder-dominant companies such as Tesla, after its trial court twice rejected a \$56bn pay package for chief executive Elon Musk.

Tesla and Coinbase are among high-profile companies that have switched their incorporation to Texas, while Nevada has attracted several companies including TripAdvisor and Dropbox.

Atkins' stance on federalism also stands in contrast to other recent Trump administration actions such as its decision to sue three states for attempting to regulate prediction markets. It argued that those wagers were the domain of the federal government's Commodity Futures Trading Commission.

Atkins told the FT in February that he rejected the idea of "federalising" corporate law where a single standard for fiduciary duties would apply to all US companies.

Attendees at the Miami event included Florida governor Ron DeSantis and Texas governor Greg Abbott as well as executives from Citadel, the hedge fund that relocated its headquarters to Florida in 2022.

"I believe that the momentum taking place across the Boom Belt reflects a deeply American idea: that competition — among firms; among markets; and yes, among states — is the animating force behind a system that has produced more prosperity than any other in human history," Atkins said, referring to 11 southern states including Texas.

Critics of Atkins' deregulatory drive say shareholder rights and litigation can improve corporate governance to the benefit of both investors and executives.

On Monday, Atkins repeated previous comments about the SEC changing its historic opposition to companies writing bylaws that force shareholder grievances into individualised mandatory arbitration.

"[We] are allowing public companies to have litigation alternatives while maintaining an avenue for shareholders to continue to bring forth meritorious claims," he said.

"At the SEC, we have been hard at work on executing this plan so that we can shield the innovator from the frivolous — and protect the investor from the fraudulent."

This article has been amended to reflect that Citadel is the hedge fund that relocated its headquarters to Florida in 2022



Ann M. Lipton

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"as part of the three pillars of making IPOs great again, we are focused on ensuring that States, and not the SEC, regulate matters of corporate governance.."

AH HAHAAHAH AHAHAHAHAHA

deep breath

A HAHAAHAHAHAHAHAHHHH

www.sec.gov/newsroom/spe...

SEC.gov | Remarks at the Texas Stock Exchange Event: Welcome to the Boom Belt: A Return to First Principles in Public Markets

Paul S. Atkins, Chairman

www.sec.gov

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SEC.gov | Remarks at the Texas A&M School of Law Corporate Law Symposium

Chairman Paul Atkins outlines some reforms being considered by the SEC to return its disclosure regime to its original intent.

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What he meant was "certain states, so long as they align with the SEC's vision for IPOs from January 22, 2025 and on."

2



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When was investor protection deleted from the SEC mission statement? /s

2



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SEC Enforcement Report Contains Some Zingers

 fcpaprofessor.com/sec-enforcement-report-contains-some-zingers

April 8, 2026

Traditionally, the SEC Enforcement Division releases its fiscal year (ends on September 30th) enforcement report in the Fall.

Yesterday, the [SEC released its enforcement report for FY 2025](#) and it contains some zingers.

The SEC's release begins: "Central to an effective enforcement program is determining which cases to bring and responsibly stewarding Commission resources. Regrettably, such resources have been misapplied in prior years to pursue media headlines and run up numbers, and in turn, led to misguided expectations on what constitutes effective enforcement."

The release continues:

"FY 2025 was a unique period of transition for the enforcement division never experienced before in modern SEC history. It was characterized by an unprecedented rush to bring a significant number of cases in advance of the presidential inauguration and the aggressive pursuit of novel legal theories under the prior Commission.

This period brought about the current Commission's resolution of prior cases that were not sufficiently grounded in the federal securities laws. The current Commission deliberately refocused the enforcement program on matters of fraud—cases that inherently require more time and resources to develop and bring, often requiring up to two or more years to manifest results.

Since fiscal year 2022, the prior Commission brought 95 actions and \$2.3 billion in penalties against firms for book-and-record violations, specifically failing to maintain and preserve off-channel communications. Together with seven crypto firm registration-related and six 'definition of a dealer' cases, these cases identified no direct investor harm from those violations, produced no investor benefit or protection, and demonstrate what the current Commission views as a misinterpretation of the federal securities laws, a misallocation of Commission resources, and a bias for volume of cases brought versus matters of investor protection. This year's enforcement results clarify the flaws of these actions and their respective penalties and re-establish the definition and measure of enforcement effectiveness, grounded in Congress's original intent and focused on bringing actions that actually prevent investor harm instead of headlines and inflated numbers.

Going forward, enforcement priorities and results will be linked to the Commission's and the Division's core mandate, and will thus contemplate the following elements to fulfill its mission: Standing up to fraud in its many forms and those market participants engaged in such misconduct; addressing the fraudulent and manipulative conduct of the parties in question through appropriate remediation; and repaying investors' losses when harmed."

In the release, SEC Chairman Paul Atkins stated:

"Over the past year, the Commission has put a stop to regulation by enforcement and recentered its enforcement program on the Commission's core mission by prioritizing cases that provide meaningful investor protection and strengthen market integrity. We have redirected resources toward the types of misconduct that inflict the greatest harm—particularly fraud, market manipulation, and abuses of trust—and away from approaches that prioritized volume and record-setting penalties over true investor protection. A key part of this course correction is a renewed emphasis on holding individual wrongdoers accountable, which promotes stronger deterrence and better safeguards investors. I am proud of the staff's work in advancing an enforcement program grounded in sound judgment, clear legal authority, and the real-world needs of the investing public."

SEC Commissioner Mark Uyeda stated:

"I fully support the move away from using enforcement as a tool for policymaking, and the return to the Commission's historical norms. We will remain focused on coherent and transparent policymaking, as well as meaningful engagement with market participants to promote compliance, and wield the authority of enforcement in a more appropriate manner, guided by investor protection above all."

SEC Scales Back Market Surveillance Tool, Raises Oversight Concerns

The Consolidated Audit Trail is a database that tracks all activity in U.S. equity and options markets. Firms say the size and breadth of the data the U.S. Securities and Exchange Commission collected has led to very high costs—about \$250 million annually for broker-dealers.

April 07, 2026 at 06:18 PM By  **Dan Novak**



U.S. Securities and Exchange Commission seal in Washington, D.C. Photo: Diego M. Radzinski/ALM

Over the past year the U.S. Securities and Exchange Commission has been shrinking a key market oversight tool—the Consolidated Audit Trail.

The CAT is a database that tracks all activity in U.S. equity and options markets. The CAT's primary purpose is to enhance oversight of securities markets by taking trading information largely already gathered by brokers and financial firms and housing it in one repository.

But firms say the size and breadth of the data collected has led to very high costs—about \$250 million annually for broker-dealers, according to SEC Chair Paul Atkins. The CAT collects roughly 58 billion records daily, according to the Financial Industry Regulatory Authority, the self-regulatory organization responsible for overseeing the database.

The SEC has taken steps aimed at reducing the cost of the CAT but observers say these measures weaken the commission's ability to police the markets.

In January, the SEC eliminated the requirement that the CAT collect certain personally identifiable information like addresses, names and dates of birth.

The SEC has acknowledged that not collecting personal information could “negatively impact regulatory efficiency” by making it harder to link transaction data to specific individuals. But the commission concluded the benefits of collecting and storing sensitive personal information did not justify the risks posed by a potential data breach.

And in March, the SEC said it would delete information collected in the CAT older than three years despite the statute of limitations for securities fraud being five years.

The CAT is the most important tool the commission has to catch Wall Street misconduct, said Ben Schiffrin, director of securities policy at Better Markets, a private SEC watchdog organization.

The repository was designed to make it easier for the SEC to investigate violations. If the SEC ever wants more information about a trade, it can simply access the CAT, said Schiffrin, a former SEC associate general counsel.

“It is now clear that the SEC is not going to propose an order to eliminate the CAT entirely, which might alert the public to its end game of de facto killing the CAT,” Schiffrin added in a statement. “Instead, the SEC is going to kill the CAT piece by piece.”

The repository was established through SEC rulemaking in 2012 but was not fully implemented during the Biden administration.

“It wasn't really that long before the new [Trump] administration came in and now is generally dismantling the CAT,” Schiffrin said.

Columbia University securities law professor John Coffee said the CAT gives the SEC greater ability to see and manage the market and find out who is trading with whom and can be used to protect against future market crashes.

“I think it did give the SEC the ability to find things out fast,” Coffee added.

Regulatory attorney James Brady said the CAT makes data collected by firms readily available for the SEC or FINRA to see but that “the sheer scope of it has made it so just incredibly expensive.”

The Katten Muchin Rosenman partner predicted the CAT will likely continue to exist but at a smaller scale with reduced costs.

George Washington University securities law professor Jeremy McClane said the SEC is simply attempting to better balance the CAT's costs with its benefits.

“When the costs are spiraling the way they have, it makes you wonder whether the project has been very well managed,” McClane added.

Page printed from: <https://www.law.com/nationallawjournal/2026/04/07/sec-scales-back-market-surveillance-tool-raises-oversight-concerns/print/>

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Securities

SEC Awards Whistleblower Over \$50 Million for Enforcement Tip

April 7, 2026, 11:06 AM PDT

A whistleblower will receive more than \$50 million for providing “significant information” early in a Securities and Exchange Commission investigation that helped lead to an enforcement action.

The award, announced in an order Tuesday, didn’t identify the whistleblower or name the firm that the tipster flagged to the regulator — in line with longstanding agency practice.

The enforcement action related to a company misleading investors about the success of a unit within the firm. Executives within the firm also settled claims with the agency, according to the document, which is redacted in numerous places.

The whistleblower “provided extensive ongoing assistance throughout the course of the investigation,” according to the order.

The same document included details about more than half a dozen other tipsters whose claims the SEC denied.

The SEC’s whistleblower program was created in the wake of the 2008 financial crisis under the landmark Dodd-Frank Wall Street Reform and Consumer Protection Act. Individuals who voluntarily give the agency original, timely and credible tips resulting in enforcement actions may be eligible for awards. Awards can range from 10% to 30% of money collected when sanctions exceed \$1 million.

The agency awarded more than \$60 million to 48 individual whistleblowers in fiscal 2025, according to the SEC’s annual report. The 2025 reward total represents a more than 75% reduction compared to the \$255 million it paid to tipsters the year before.

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Litigation

Manage Newsletters

Texas Court Wipes Out \$48 Million Whistleblower Medicaid Award

April 8, 2026, 6:45 AM PDT

Summary by Bloomberg AI

AI Generated



- Three whistleblowers will get nothing from Texas' \$236 million Medicaid fraud settlement with Xerox because the state relied on media reports to bring the case.
- A trial court had awarded the whistleblowers a combined \$48 million for disclosing Xerox's failures to confirm Medicaid eligibility in orthodontics services, but the appeals court wiped out the award.
- The appeals court ruled that the news reports publicly disclosed evidence of a fraudulent transaction by Xerox, and the whistleblowers did not provide independent knowledge of the fraud to collect proceeds in the state settlement.

Three whistleblowers will get nothing from Texas' \$236 million Medicaid fraud settlement with Xerox because the state relied on media reports, not their knowledge, to bring the case, the statewide intermediary appeals court ruled.

Tuesday's unanimous opinion wipes out the combined \$48 million a trial court awarded them for disclosing Xerox's failures to confirm Medicaid eligibility in orthodontics services.

"We hold that the news reports publicly disclosed evidence of a fraudulent transaction by Xerox," Justice April Farris wrote.

The dispute over the 2019 settlement marks the first time a Texas court interpreted a statute governing the quality of information a whistleblower must provide to collect proceeds in a state settlement. The law disqualifies anyone without independent knowledge of fraud or when the information is already public before they shared it with authorities.

For help, the justices looked to the Federal False Claims Act, which is "analogous" to the state's disclosure provision, Farris wrote.

The news reports showed that Xerox, the private contractor charged with authorizing orthodontic claims, approved claims for orthodontics works even when the condition of a patient's teeth didn't qualify for the assistance. During oral arguments in February, the state argued that the information the whistleblowers provided was already available to investigators through news reports and a legislative hearing.

The whistleblowers—Alexandra Alvarez, Joshua LaFountain, and Dr. Christine Ellis—argued the reports didn't disclose fraud by Xerox, but rather focused on the state, a contention rejected by the justices.

"The reports specifically named Xerox, addressed Xerox's role in failing to properly process claims, and revealed Xerox's policy of encouraging employees to rush through claims rather than properly analyzing them," the opinion said.

Ellis claimed she was an original source of one of the news stories on the fraud, but the justices said the statute requires that she provide the information to the state, which she didn't.

Chief Justice Terry Adams of the Court of Appeals, First District, sat in place of Justice Scott Field. Chief Justice Scott Brister also joined the opinion.

Waters Kraus Paul & Siegel represents the whistleblowers.

The case is Texas v. Alvarez , Tex. App., 15th Dist., No. 15-25-00034-CV, 3/11/26 .

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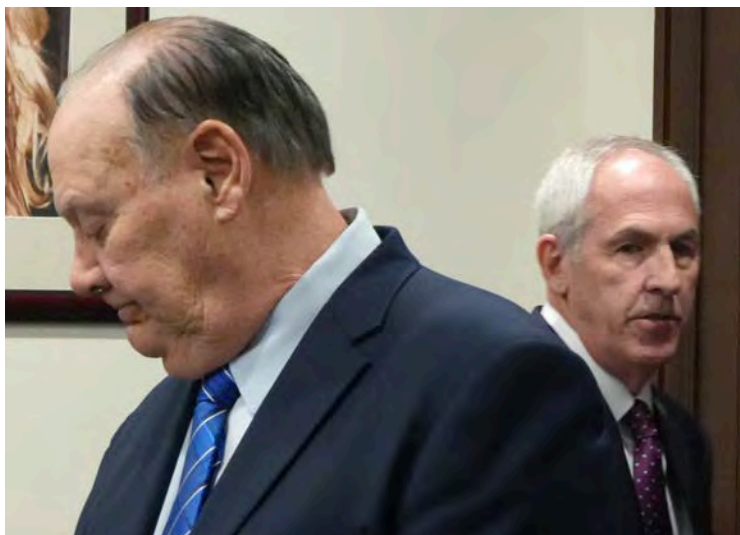
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What's next for ex-FirstEnergy executives after hung jury in bribery trial?

 [cleveland.com/court-justice/2026/04/whats-next-for-ex-firstenergy-executives-after-hung-jury-in-bribery-trial.html](https://www.cleveland.com/court-justice/2026/04/whats-next-for-ex-firstenergy-executives-after-hung-jury-in-bribery-trial.html)

By Adam Ferrise, cleveland.com

April 5, 2026



By

- [Adam Ferrise, cleveland.com](https://www.cleveland.com/court-justice/2026/04/whats-next-for-ex-firstenergy-executives-after-hung-jury-in-bribery-trial.html)

AKRON, Ohio — When a Summit County jury [couldn't reach a verdict](#) last week in the high-profile bribery trial of two former FirstEnergy executives, the decision essentially hit the reset button on the case, experts said.

That means after the two-month long trial of former CEO Chuck Jones and ex-top lobbyist Michael Dowling, the case will return to where it was before — pretrial wrangling and waiting for a final outcome in a case that's been one of the most closely watched in Ohio in recent memory.

Experts say another trial — which is expected after Ohio Attorney General Dave Yost vowed to retry the case — gives both prosecutors and the defense a do-over. Both sides can refine their arguments and strategies heading into the second trial.

"It's often a matter of trying to re-strategize and think about how to make their arguments more forceful or reframe evidence for the jury," Cleveland State University law professor Jonathan Witmer-Rich said.

The trial was the latest in a string of criminal cases, lawsuits and regulatory investigations over what officials have called the largest bribery scandal in Ohio history — the 2019 passage of House Bill 6.

Prosecutors [accused](#) Jones and Dowling of bribing Sam Randazzo with \$4.3 million in late 2018, shortly before Randazzo became chairman of the Public Utilities Commission of Ohio. The regulatory body holds power over how much revenue utilities like FirstEnergy can make.

Randazzo, working at Jones' and Dowling's behest, helped draft HB 6, which gave a \$1.3 billion bailout to two aging nuclear power plants and ensured the Fortune 500 company would keep making inflated profits, according to prosecutors. He also killed a PUCO review of the company's finances that would have cost FirstEnergy millions and sunk its stock prices, prosecutors said.

Defense attorneys said the payment to Randazzo, who died by suicide in 2024, [wasn't a bribe](#). They argued it was payment for a settlement that Randazzo negotiated on behalf of clients while he was a private attorney. Randazzo then stole the money instead of distributing it to his clients, defense attorneys said.

Here's a look at what will happen next in the case.

Round two

Summit County Common Pleas Judge Susan Baker Ross formally declared a mistrial in the case on Wednesday, one day after she dismissed the deadlocked jury.

A juror who spoke to reporters following the hung jury announcement said the vote for guilty ranged from 10-2 to 8-4.

A new trial gives both prosecutors and defense attorneys a chance to refine their arguments, witness list and other tactics, said former University of Akron law professor J. Dean Carro.

Attorneys on both sides of the case spent about an hour talking to the jury after the trial ended. Carro said that was smart. It gave the attorneys a chance to hear what resonated with jurors and what didn't.

"It's huge," Carro said. "It gives you insight into an objective third party's view of what has been presented."

Both Carro and Witmer-Rich said the second trial will likely happen sooner than the more than two years and roughly 600 pretrial filings it took for the case to reach trial the first time.

That's because Baker Ross has already made a slew of rulings about what evidence and witnesses could be presented to the jury.

He said there will likely be pretrial filings and arguments, but much less than in the lead-up to the first trial.

"It's not going to be tried immediately, but it won't take nearly as long to get to trial," Witmer-Rich said. "The parties can file motions ahead of the trial, but it's going to be much narrower and should get to trial in a reasonable period of time."

What about the federal charges?

Jones and Dowling also face [federal charges](#) that accuse them of bribing both Randazzo and former Ohio House speaker Larry Householder, the mastermind behind HB 6. [Householder](#) was convicted during a 2023 trial of using some \$60 million in FirstEnergy money to amass political power, ensure HB 6's passage and beat back an effort to repeal the bill.

The federal case can run parallel to the state case because federal and state court are separate entities. A person can be charged with the same or similar crimes in both court systems.

Pre-trial proceedings in the federal case were paused during the state court trial. Those proceedings will likely be restarted, with pretrial motions and other arguments. A trial date in that case has not yet been set.

Other cases still in the mix

Aside from the two criminal cases against Jones and Dowling, two more legal proceedings related to HB 6 are ongoing.

Householder faces charges in Cuyahoga County that accuse him of illegally using campaign money to fund his defense in the 2023 trial. That case [is set for trial](#) on June 8.

Jones is also facing a \$20 million [lawsuit](#) filed by the U.S. Securities and Exchange Commission. The lawsuit seeks to recoup the money the SEC says Jones earned from the scheme, along with unspecified civil penalties. Movement in that case has been slow. The last filing in the case was more than 13 months ago.

Securities

Manage Newsletters

Matt Levine's Money Stuff: Robot Retail Investors

April 8, 2026, 10:59 AM PDT

AI agents in retail investing

People do not like to lose money on stocks. Sometimes a stock goes down, and people who own it sell it to avoid losing more money, so it goes down more. This behavior is to some extent predictable, so there are circumstances in which you might think "if this stock goes below \$50, it will probably keep going down to \$45." You might think that as a pure matter of investor psychology: "If the stock goes below \$50, a lot of people who bought it at \$50 will have losses and panic and hit the 'sell' button, driving it down more."

You might have a slightly different theory. Because people do not like to lose money on stocks, and are not monitoring their stocks constantly, they might use stop-loss orders, where they tell their broker "if this stock goes below \$50, sell it immediately." Intuitively, people who do this are more likely to use round numbers like \$50 than, like, "if this stock goes below \$51.37, sell it," so there is some clustering of stop-loss orders; there are more of them at some numbers than at others. And so if you are trying to predict market behavior, you might think "if this stock goes below \$50, a lot of people will *automatically* sell it, and it will go down to \$45." None of this is investing or technical-analysis advice, but a [certain amount](#) of "stop hunting" probably goes on in financial markets: If you know or suspect that a lot of people have stop-loss orders to sell if a stock falls to \$50, you might try to short the stock until it hits \$50, expecting to trigger the stops and buy it back at \$45.

In a sense, the previous two paragraphs express the same idea: They both say "people have irrational biases that make them anchor on round numbers and fear losses, so if the stock falls to \$50 there will be further irrational selling driving it down to \$45." The difference is the mechanism: In the first paragraph, the stock hits \$50 and then people decide to sell; in the second paragraph, people *plan ahead* to sell if the stock hits \$50, and automate that selling. But the second paragraph feels more real, more predictable: "I know there are stop orders to sell at \$50, so if the stock falls below \$50 it will keep going down" has a bit more science to it than "I think people will panic at \$50 and sell more."

This point might generalize. Like:

1. Everything that happens in financial markets reflects, in some way, investor psychology. If you have a good aggregate sense of how investors think about stuff, and stuff happens, then you can predict whether asset prices will go up or down. But this is very hard and somewhat fuzzy, and if you said "I have perfect insight into how investors think so give me money to start a hedge fund," people might not believe you. (If you have empirical insight into some narrower behavioral point – "Indian retail investors buy way more options than underlying shares," [say](#) – then that might be a useful strategy.)

2. Some things that happen in financial markets – some small but notable subset of the things in the previous paragraph– reflect *automated* or *rule-based* investor psychology. Investors think “if X happens I should do Y,” and they set up an automated process to do Y if X happens, and if you have a good aggregate sense of what processes they have automated and how, you can predict whether asset prices will go up or down. This is not easy, necessarily, but it feels like more of an exact science than simply predicting investor psychology, and you probably can do it at a hedge fund. “When new stocks are added to the index, index funds mechanically sell the old stocks and buy the new ones”: That is a quasi-automation of investor desires, and predicting it is definitely a [hedge fund strategy](#) . “When a bond goes from a BBB- rating to BB+, investment-grade bond funds have to sell it, and its price falls more than is justified by fundamentals”: That again is a story about investor psychology (people like to own safe bonds) that has been turned into a mechanical rule (investment-grade funds *have* to own bonds with investment-grade ratings).

The examples in the previous paragraph – index rebalancing, fallen-angel bonds – are about *institutional* investors, because institutional investors are, you know, institutions. They have rules and procedures and mandates and regulation; they behave predictably. Retail investors just do what they want. They sometimes act predictably, but they tend not to *automate* their predictable behavior, aside from the occasional stop-loss order. You might think “retail investors tend to buy the dip, so if the stock market is down more than 2% near the close today, I should buy some stock to profit from tomorrow’s retail dip-buying,” and you might be right. But the retail buyers might all change their minds or forget; their dip-buying is just a descriptive matter of psychology. It’s not like they have all set up automated rules-based systems to buy the dip.

Last week the Wall Street Journal had a story with the headline “Buying the Dip? This AI Agent Will Do It for You”:

Public, a privately held brokerage firm, is rolling out a feature allowing customers to use AI to automate their investing tactics and execute trades.

AI agents could be deployed to buy protective puts should oil spike, hedging against potential stock losses, and automatically sweep customers’ cash into higher-yielding assets, like bonds. Account holders could also use the agents to add a 20% stop-loss order on their trades, limiting potential losses by automatically selling a security when it drops to a certain price, Public co-Chief Executive Jannick Malling said. ...

Public users start by typing in a strategy or investment thesis, then refine its parameters with a series of follow-up questions, including which accounts the agent will trade from, which assets to buy or sell and whether the trade will be one-time or recurring.

Once the parameters are set, the tool offers a workflow for traders to edit, review and approve before the agent goes live.

Here’s Public’s web page describing the agents, with sample prompts like “Whenever SPY drops 3% or more in a single trading day, invest \$10,000 at the next market open” and “If the market volatility index (VIX) hits \$25, buy a put option on the S&P 500 to hedge my portfolio.”

I don’t know. That’s cool? Probably:

Most retail investors will not end up using artificial intelligence agents to automate their investing tactics; and

The ones that do will automate lots of idiosyncratic investing tactics that tend to cancel each other out, so it's not like they'll all automatically do the same things.

Still, we have [talked a few times](#) before about the possibilities for AI to coordinate retail behavior. If retail investors tend to get investment ideas from AI chatbots, I have written, those chatbots might tend to send all the retail investors to the same ideas, so the stocks favored by the chatbots will go up. Similarly, here, if retail investing becomes increasingly agentic, the agents might tend to automate stereotypical retail behaviors. These days, the most stereotypical retail behavior probably is [buying the dip](#), and maybe that is the first one that will be automated. And then if the S&P 500 drops 2% or more in a trading session, every hedge fund will buy at the close, knowing that there's billions of dollars of agentic retail demand coming the next morning.

Elsewhere in retail coordination via agentic AI:

Crypto influencer and entrepreneur Anthony Pompliano[s] ... company ProCap Financial is launching a new business focused on AI-generated research reports for individual investors.

The plan is to have a fleet of AI agents scanning the markets, analyzing trends and drafting reports with titles like "3 Stocks That Win From Both Tariff Refunds and the Iran Oil Shock," according to an example shared with The Wall Street Journal. ...

The agents are capable of generating hundreds of reports a day, Pompliano added—but the company will start by circulating just a few daily to avoid flooding investors' inboxes.

Reports distributed by the service, called ProCap Insights, will cover single-name stocks, thematic trends and macro analyses and won't offer any specific "buy" or "sell" recommendations, according to the company. A ProCap Insights annual subscription will cost investors \$2,500 a year.

Pompliano, who is ProCap Financial's chief executive, said that AI-generated research notes are quicker and cheaper to produce than those assembled by a team of analysts at, say, a major investment bank. His company built ProCap Insights over the course of two weeks, he added. He said it cost only a couple thousand dollars and there was just one employee overseeing the project.

So they spent a couple thousand dollars to build a system that automatically generates reports with no effort, and they're charging \$2,500 for those reports?

Satoshi?

At the New York Times, John Carreyrou more or less claims to have identified Satoshi Nakamoto, the pseudonymous inventor of Bitcoin, as Adam Back, a British cryptographer and Bitcoin guy. The evidence – word choices on listservs, taste in cryptography, posting about Bitcoin, etc. – is not quite conclusive; Back has denied being Satoshi, and my Bloomberg colleague Joe Weisenthal is not convinced.

But I appreciated another aspect of Carreyrou's evidence. I [joke a lot](#) around [here](#) about claims that investment analysts use "tone and body language" in executive meetings to make investing decisions; the investment analysts are not CIA interrogators. But I suppose it's possible that investigative journalists are in fact good at using that sort of evidence, and Carreyrou seems to rely on it. He was put on Back's trail at the beginning of the story, and more-or-less confirmed in his suspicions at the end, by Back's body language:

[In a documentary Carreyrou watched,] Adam Back, a British cryptographer and leading figure in the Bitcoin movement, sat on a park bench in Riga, Latvia, his shirt untucked under a brown coat. The filmmaker casually rattled off the names of several Satoshi suspects. At the mention of his own name, Mr. Back tensed up, strenuously denied he was Satoshi and asked that the conversation be kept off the record.

Having encountered my share of liars and developed something of an expertise in their tells, Mr. Back's demeanor – his shifty eyes, his awkward chuckle, the jerky movement of his left hand – struck me as fishy.

And at the end:

Over the next two hours, I presented my evidence piece by piece. In his soft British lilt, Mr. Back insisted he wasn't Satoshi and chalked it all up to a series of coincidences. But at times, his body language told a different story. His face reddened and he shifted uncomfortably in his seat when confronted with things that were harder to explain away.

It's the \$5 wrench attack of Satoshi Nakamoto identification: The best way to prove that someone is Satoshi is to go up to him and say "are you Satoshi" and see if he starts looking shifty.

Anyway, in his day job, Back is now the chief executive officer of Bitcoin Standard Treasury Company, a digital asset treasury company planning to go public by merger with a special-purpose acquisition company, of course. I [once wrote](#) about the rise of digital asset treasury companies around the world:

What would Satoshi Nakamoto think? What a strange vision of crypto this is. In the future, in every country, you will be able to go to your locally regulated stockbroker and pay a premium of 100% or more to buy shares of stock of a trusted local company, denominated in the local currency, that will hold Bitcoin for you. If you want to transfer your Bitcoin across national borders you can ... I don't know, sell the stock on the exchange through your broker, do a foreign exchange transaction to convert rupees into dirham, find a stockbroker in the target country, open an account, pass know-your-customer checks, fund the account with local currency and then buy stock in that country's local Bitcoin company (at a 100% or more premium). Seems like it might be easier to buy Bitcoin? But what do I know.

Maybe now we know what Satoshi Nakamoto would think!

One more point. Carreyrou writes:

As chief executive of the merged company, Mr. Back was required under U.S. securities law to disclose any information that was material to its investors. A secret stash of 1.1 million coins that could crash the Bitcoin market if it were suddenly sold, for example, would probably be considered material.

Everything, I often say around here, is securities fraud. It would be satisfying if being Satoshi Nakamoto is also securities fraud.

"In a crisis all correlations go to 1"

Elsewhere in hedge fund trades, Bloomberg's [Justina Lee reports](#) :

The dispersion trade, which buys options on individual US stocks while selling those on the broader index, suffered a 4.9% loss last month, the steepest since 2011 in backtested data, an index from JPMorgan Chase & Co. shows. Bank swaps tied to the approach fell 2.6%, according to Premialab, which aggregates industry data.

The losses lay bare the strategy's vulnerability to such a major geopolitical event. As the conflict in Iran escalated, investors rushed to hedge at the index level, driving implied volatility on the S&P 500 sharply higher. At the same time, individual stocks began moving in lockstep – collapsing precisely the divergence between single-name and benchmark volatility that the dispersion trade is designed to harvest.

"The recent events had macro consequences on oil, commodities, inflation, rates, rather than micro impacts at the single-stock level," Luca Valitutti, managing director for exotics and hybrids trading at Citigroup Inc., wrote in an email. "Correlation between single stocks has spiked."

We [talked about this](#) at the beginning of last month. The dispersion trade is, classically, a bet on stereotypical behavior by investors: They like to buy index options to hedge broad market risk, and they like to sell single-stock options for income. Therefore index options trade at a premium and single-stock options trade at a discount, and you can manufacture index options out of single-stock options to capture that spread.

But it is also a fundamental bet on correlation. If individual stocks are volatile but uncorrelated, then their volatility will cancel each other out: Some stocks will go up 2%, some will go down 1.5%, and the overall stock index will go up 0.5%. Index volatility will be lower than single-stock volatility, and a strategy of buying single-stock options and selling index options will make a lot of money. If individual stocks all move together, then they'll all go up 2% today and down 1.5% tomorrow, the overall index will go up 2% today and down 1.5% tomorrow, index volatility will be high and you'll lose money on the dispersion trade.

As we discussed last month, a reasonable fundamental story *in February* was something like "the rise of artificial intelligence is going to create huge winners and huge losers, so there will be a lot of dispersion among stocks." And February was a great month for the dispersion trade. And then a reasonable fundamental story *in March* was something like "oh man are you watching this Iran war?" The war has similar effects on all of the stocks, so correlation has gone up.

Auditing

There are various sophisticated forms of accounting fraud, where you can exploit nuances of accounting rules and blind spots of auditors to inflate your company's assets or revenues. But there is also the simplest form of accounting fraud, where you have 1,000 widgets in inventory and just write down that you have 10,000. That is not especially difficult for your auditors to spot: They can just go to your widget warehouse and count the widgets. But that's easy for me to say, here, typing on my computer. If you are the auditor sent out to the widget warehouse, "just count 10,000 widgets" might not sound that easy.. Here is a Wall Street Journal story about auditors praying for AI to replace them:

Accounting firms and their clients are increasingly using artificial intelligence and drones to do work long handled by humans. But so far, there's been no technological solution to what is often the dirtiest part of an audit: counting inventory. That means the messy, bizarre field trips remain a rite of passage for young professionals in an otherwise deskbound field. ...

Auditors are often tasked with traveling to the middle of nowhere and tallying up a large amount of unusual things, from chickens and pigs to quarry rocks, corn, traffic lights and telephone poles. They complain about ending up covered in manure or dust, or shivering in a freezer.

The large accounting firms typically rely on junior auditors to do much of the dirty work. The trips provide an opportunity to learn more about clients. But in the moment, they stink. Gen Z auditors share horror stories on social media. "I just counted thousands and thousands of nuts and bolts. What did you do today??" one posted on TikTok. A Reddit user said they were sent to count rocks in below-freezing weather, including a pile in a snake-infested quarry.

We used to talk all the time about the idea that "the blockchain" would prevent fraud, guarantee the provenance of goods, etc., and I was always skeptical: Really good computer technology can prevent all sorts of computer-based fraud and manipulation, but there is always going to be some nexus between the computers and the physical world, and you can't count on the computer to monitor that nexus. Eventually I suppose AI will get good enough to police that nexus – humanoid robots with sophisticated eyes will walk into the warehouse and instantly say "I count 162,385 nuts and 237,423 bolts, what's next?" – but for now it is, uh, maybe the last job for humans.

Also, I know I will get emails about it, so I will obligatorily mention the Salad Oil Scandal of 1963, which I suppose could have been prevented if a junior auditor had *gone for a swim* in the tanks of soybean oil.

Things happen

Tesla/SpaceX merger sure why not. [Polymarket's Iran Bets](#) Draw Fresh Disputes and Insider Scrutiny. Insurers' \$1 Trillion Buildup in Private Credit Is Leaving Regulators in the Dust. Blue Owl Fund [Outlook Cut to Negative](#) by Moody's on Outflows. [Barings](#) Caps Redemptions as Private Credit Holders Seek 11%. Citi sets aggressive targets for bankers in wealth management unit. Commerzbank Doesn't See Basis For Deal With UniCredit Following Talks. Iran demands crypto fees for ships passing Hormuz during ceasefire. A Fire Sale Has U.S. Office Buildings Going for 90% Off. Chile Uncovers \$917 Million [Copper-Theft Ring](#) Shipping to China. ['Freak Out' Indicator](#) Soars to Record With War Sparking Trader Anxiety. Humans Are Losing the Fight Against Flying Fish. "Donald Trump ... has threatened to destroy a civilization. How does an investor process that? Is it a bigger upside risk or downside risk?"

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1. There are probably other exceptions. Automated inflows into retirement savings on the 1st and 15th of the month, stuff like that.

2. It didn't used to be! Not that long ago, [I could write](#) : "It is well known that one of the best services a retail broker can provide is not answering the phones during a crash," because stereotypically retail investors panicked and sold during crashes. Not anymore.

3. Lee: "While implementation varies, dispersion is based on the idea that because investors like to buy index hedges, there's typically a premium on protection at the benchmark level compared to the stock level. At the same time, the contrasting swings of individual names can offset each other, meaning gauges can stay calm even as their members move around."

4. Because options are more valuable with higher volatility.

5. Because the index options you sold are priced at, effectively, some assumed correlation that is less than 1; if the correlation goes up then the index options will be worth a lot more than you sold them for.

6. Actually Wikipedia tells me that the tanks had "a few feet of salad oil floating on top to trick inspectors," so the auditors would have needed to do a deep dive, ba dum tss.

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News from Bloomberg Terminal

Super Micro Launches Internal Probe of Server Sales

April 8, 2026, 11:21 AM PDT

By Andrew Pollack

(Bloomberg) --

Super Micro Computer Inc. said a committee of its independent directors has hired a law firm and is investigating the circumstances surrounding an indictment last month of two employees and a contractor over the sale of servers to China.

"The independent directors have not set a definitive timetable for the investigation," Super Micro said Tuesday in a statement. "The company will provide an update when the investigation is complete and does not intend to comment further until that time."

US prosecutors charged Super Micro co-founder Yih-Shyan "Wally" Liaw and two others with illegally diverting billions of dollars in Nvidia Corp.-powered servers to China in violation of export-control laws. Liaw, Ruei-Tsang "Steven" Chang, who served as a general manager in Super Micro's Taiwan office, and Ting-Wei "Willy" Sun, an outside contractor, allegedly sold the hardware to an unnamed Southeast Asian company and coordinated its ultimate shipment to Chinese customers. All three have pleaded not guilty.

In addition, to the probe, Super Micro said it has initiated an internal review of its Global Trade Compliance Program, led by its general counsel. The company said its findings will be reported to its independent board directors of the Board.

(Corrects executive leading review of Global Trade Compliance Program in the fourth paragraph.)

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Super Micro begins independent probe after criminal case against co-founder, others

 [reuters.com/legal/government/super-micro-begins-independent-probe-after-criminal-case-against-cofounder-2026-04-07](https://www.reuters.com/legal/government/super-micro-begins-independent-probe-after-criminal-case-against-cofounder-2026-04-07)

Reuters

April 7, 2026

The Super Micro logo is seen in this illustration taken August 3, 2025.

REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights](#) , [opens new tab](#)

[\(SMCI.O\)](#) , [opens new tab](#) said on Tuesday it had begun an independent investigation into the indictment of three people linked to the company on the charges of committing export-control violations. The San Jose, California-based company has also launched an internal review of its global trade compliance program, it said. The U.S. Justice Department [last month](#) charged co-founder Yih-Shyan Liaw, sales manager Ruei-Tsang Chang and contractor Ting-Wei Sun with allegedly running a scheme to route U.S.-made servers through Taiwan to Southeast Asia. The products were allegedly repackaged into unmarked boxes in Southeast Asia and smuggled into China.

Super Micro, which was not named as a defendant in the case, had placed Liaw and Chang on leave and terminated Sun after it became aware of the charges. Liaw [resigned](#) from the company's board in March following the indictment. The three allegedly moved at least \$2.5 billion in U.S. AI technology, including over half a billion dollars' worth shipped between April and mid-May last year, the department said.

Four Chinese universities, including two linked to the People's Liberation Army, bought Super Micro servers with restricted AI chips over the past year, Reuters [reported](#) last month, citing procurement data.

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Chinese universities and research institutes have previously acquired restricted chips in servers made by Super Micro and other manufacturers, from 2024 shows. Super Micro said the investigation was being led by two independent board members — Lead Independent Director Scott Angel and Audit Committee Chair Tally Liu.

The findings would be reported to the board's remaining independent directors, who have retained law firm Munger, Tolles & Olson to lead the investigation. Consulting firm AlixPartners has been engaged to provide forensic accounting expertise.

The independent directors have not set a timetable for completing the investigation.

Reporting by Harshita Mary Varghese in Bengaluru; Editing by Shreya Biswas

Securities

Adani Argues SEC Fraud Suit Against Him Should Be Tossed (3)

April 7, 2026, 11:05 PM PDT

Gautam Adani says that the US Securities and Exchange Commission fraud case against him should be dismissed, with his lawyers arguing that the Wall Street regulator's case "fails" for multiple reasons.

Lawyers for the Indian billionaire and his nephew Sagar said in a letter to a federal judge in Brooklyn, New York, on Tuesday that they will formally seek to dismiss the case by the end of the month. The SEC, the attorneys said, lacked necessary jurisdiction over the two men and that the alleged misstatements underpinning the case weren't actionable.



Gautam Adani

Photographer: Sumit Dayal/Bloomberg

The SEC's lawsuit, filed in November 2024, alleges that the Adanis violated US securities laws by making false and misleading representations about Adani Green Energy Ltd. In addition to the SEC's civil complaint, federal prosecutors in Brooklyn charged the Adanis and others with allegedly helping drive a \$250 million bribery scheme in India to lock in solar-power contracts.

Gautam Adani chairs the Adani Group conglomerate and **Sagar Adani** is executive director at Adani Green Energy. Neither the conglomerate nor its corporate units were sued by the SEC.

Both the criminal and SEC cases stalled with the Adanis in India. The Adani Group has called the US allegations "baseless."

According to the regulator's 2024 lawsuit, Gautam Adani spearheaded an effort to pay or promise hundreds of millions of dollars in bribes to Indian state government officials to induce them to enter contracts that Adani Green needed to develop India's largest solar power plant project.

At the same time, he and his nephew falsely touted the company's compliance with antibribery principles and laws in connection with a \$750 million bond offering, the SEC said.

Read More: Adani Charged by US in \$250 Million Bribery Case, Shaking India

An SEC spokesperson declined to comment on the letter from the Adanis' lawyers.

The lawyers argued that because American regulators couldn't bring a case for alleged violations of US anti-bribery claims against the Adanis, they instead "recast" it as securities fraud. The Adanis also dispute that there's "any credible evidence supporting the purported bribery scheme," the attorneys wrote.

Tuesday's letter to the judge was signed by Gautam's lawyers at Sullivan & Cromwell led by Robert Giuffra Jr. Sean Hecker at Hecker Fink and Timothy D. Sini at Nixon Peabody also signed as counsel for Sagar.

"Fatally, the complaint does not allege that Gautam Adani authorized the issuance of the bonds or otherwise personally directed any relevant conduct at the United States," the lawyers added.

The lawyers said Tuesday they will file a formal motion to dismiss by April 30, but told US District Judge Nicholas Garaufis in Brooklyn they would be ready to attend a pre-motion conference if he scheduled one.

Later Tuesday, the judge directed parties in the case to confer on scheduling one.

Adani Enterprises Ltd., conglomerate's flagship, jumped as much as 11.5% on Wednesday in Mumbai while other nine Adani stocks also rose during trading. The day's surge added almost \$11 billion to the group's total market value.

(Adds the jump in Adani Group stocks in the final paragraph.)

--With assistance from **Nicola M White** and **Ashutosh Joshi**.

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<https://www.wsj.com/business/media/paramount-president-jeff-shell-leaving-amid-lawsuit-651ed057>

BUSINESS • MEDIA

Paramount President Jeff Shell Leaving Amid Lawsuit

Company launched investigation into allegations that Shell disclosed confidential information related to deals

By Joe Flint [Follow](#)

Updated April 8, 2026 1:55 pm ET



Paramount President Jeff Shell in 2021. KEVIN DIETSCH/GETTY IMAGES

Quick Summary

- Jeff Shell, Paramount president, will leave the company and resign from its board Wednesday.

[View more](#)

Jeff Shell is resigning as Paramount's president and is stepping down as a member of its board of directors, the media and entertainment company said Wednesday.

Shell's resignation comes after an investigation into whether he disclosed confidential company information to a man who claimed to have consulted for the veteran media executive. Paramount PSKY 0.60% ▲ said its probe cleared him of wrongdoing.

Shell was accused of leaking material nonpublic information about Paramount's business dealings by R.J. Cipriani, a self-professed fixer and whistleblower who said he did work amounting to crisis communications services for Shell.

Cipriani alleged in a breach of oral contract and fraud lawsuit filed in March in California Superior Court that he consulted for Shell from August 2024 through February 2026. During that time, the suit alleged, Shell disclosed advance notice of Paramount's deal to acquire UFC media rights worth \$7.7 billion, among other things.

Paramount said Shell was resigning to focus on the lawsuit.

Cipriani said Shell reneged on a purported promise to make "Star Serenade," an English-language version of a Spanish-language music reality series Cipriani and his wife created that airs on the Roku Channel.

Cipriani subsequently filed a similar lawsuit against Paramount and its board of directors.

Paramount said it "conducted a complete and thorough review" of the allegations.

"The facts demonstrated that these allegations do not establish a securities law violation," Paramount said in a Wednesday statement. Shell notified Paramount "of these accusations and is taking forceful legal action," the company said.

Paramount and members of its board will “respond in the proceedings to the frivolous and baseless claims” against them, the company said.

Shell has filed a counterclaim against Cipriani, alleging defamation and extortion.

Shell’s departure from Paramount was expected regardless of the Cipriani squabble, people familiar with the matter said. While he was instrumental in the buildup to Paramount’s acquisition of Warner Bros. Discovery, most of the company’s key unit leaders reported to Chief Executive David Ellison.

Shell’s departure from Paramount marks the second time he has left a high-profile position under pressure in recent years. In April 2023, Shell resigned as chief executive of Comcast’s NBCUniversal after an investigation into a sexual-harassment complaint. Shell said at the time that he had an “inappropriate relationship” with a colleague.

Cipriani said he had a role in publicizing the circumstances of Shell’s departure from NBCUniversal, saying in his complaint that it was consistent with his “longstanding practice of exposing misconduct in the entertainment and media industries.”

Shell and Cipriani were introduced to each other by high-powered Hollywood attorney Patricia Glaser, who has worked with both men. In his suit, Cipriani said Glaser asked him to stop spreading negative gossip about Shell. After meeting Shell, Cipriani said he developed sympathy for the executive and “agreed to assist him—voluntarily and without compensation.”

Shell, who previously held senior positions at Disney and Fox, joined Paramount after Ellison’s Skydance Media took control of the company last year. Before that he oversaw the sports and media portfolio of RedBird

Capital Partners, the private-equity firm that has an ownership stake in Paramount.

Joe Flint is a media and entertainment reporter for The Wall Street Journal based in the Los Angeles bureau covering everything from broadcast networks and sports to cable and streaming. He writes about companies such as Netflix, Apple, Warner Bros. Discovery, Walt Disney Co. and Amazon. Joe firs...

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Blue Owl Fund Outlook Cut to Negative by Moody's on Outflows (1)

April 7, 2026, 8:45 PM PDT

Summary by Bloomberg AI

AI Generated



- Moody's Ratings cut the outlook on Blue Owl Credit Income Corp. to negative after "significantly higher-than-peer redemption requests in the first quarter".
- The private credit industry is facing an investor exodus amid concerns over lax lending standards and failure to clearly explain liquidity restrictions, with investors seeking to withdraw around \$13 billion from over a dozen funds.
- Moody's expects "elevated redemptions to persist in coming quarters and inflows could slow further" which could cause the fund's "currently strong capital and liquidity positions" to "begin to dissipate".

The outlook on the flagship fund of private credit giant Blue Owl Capital Inc. was cut to negative by Moody's Ratings, the latest sign of mounting strains in an industry stung by investors rushing to pull their money from funds aimed at retail buyers.

The rating firm moved the outlook on Blue Owl Credit Income Corp., a non-traded business development company, from stable after "significantly higher-than-peer redemption requests in the first quarter," it [said](#) in a statement Tuesday. The move is part of Moody's [broader revision](#) of its outlook for private credit investment vehicles to negative.

Blue Owl's \$36 billion private credit fund [received](#) requests from investors to cash in on 21.9% of outstanding shares but capped redemptions to 5% in the first three months of the year. Shares of the firm, which [have become](#) one of the favored ways to bet on a sustained fallout due to the company's elevated exposure to software businesses that could be laid low by AI, closed at a record low earlier this week.

The \$1.8 trillion private credit industry is facing an investor exodus amid concerns over lax [lending standards](#) and [failure](#) to clearly explain liquidity restrictions. Investors have sought to withdraw around [\\$13 billion](#) from over a dozen funds in the first three months of the year, according to Bloomberg estimates and data from Robert A Stanger & Co. Heavyweights including Apollo Global Management Inc., Ares Management Corp., BlackRock Inc. and Cliffwater LLC have all moved to limit redemptions. Meanwhile, Blue Owl's smaller, tech-focused vehicle saw [exit requests](#) top 40%.

While the redemption limits kept net outflows contained, "we now expect elevated redemptions to persist in coming quarters and inflows could slow further from already reduced levels," Moody's added. As a result the fund's "currently strong capital and liquidity positions, which are relative credit strengths, could begin to dissipate as the company contends with net outflows over the outlook period," it said.

"We remain confident that as one of only three non-traded BDCs with a Baa2 rating from Moody's, Blue Owl Credit Income Corp. remains well positioned to capitalize in the current market environment," Blue Owl said in response to questions about the Moody's move. The fund "has one of the most conservative financial profiles in the industry with leverage of just 0.8X and strong underlying credit performance," it said.

(Updates story with private credit redemption details in paragraph four.)

--With assistance from **Olivia Fishlow**.

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Law Profs Back Boeing In 7th Circ. Bid To Void 737 Max Class

By **Linda Chiem**

Law360 (April 7, 2026, 6:35 PM EDT) -- Law professors have told the Seventh Circuit that an Illinois district court improperly certified a class of investors alleging Boeing misrepresented the 737 Max 8 jets' safety after two deadly crashes in 2018 and 2019, saying there's been a "troubling" pattern of courts blessing classwide damages theories backed by zero evidence.

A group of law professors and former U.S. Securities and Exchange Commission officials filed an **amicus curiae brief** Monday urging the Seventh Circuit to grant Boeing's request to immediately challenge U.S. District Judge Franklin U. Valderrama's March 16 **class certification decision**.

They contend that the investor plaintiffs led by the Public Employees' Retirement System of Mississippi offered a **bare-bones and cursory** classwide damages theory that doesn't even come close to clearing the evidentiary standard set by the U.S. Supreme Court's 2013 ruling in **Comcast Corp. v. Behrend** .

Comcast established that plaintiffs seeking class certification need "evidentiary proof" that "damages are capable of measurement on a classwide basis," in a manner "consistent with its liability case."

Yet the district court signed off on the plaintiffs' generic out-of-pocket damages theory, failing to account for the "complexities presented by this case, which involves numerous alleged misstatements over many months, and five separate alleged corrective disclosures, all against a backdrop of constantly evolving publicly available information about Boeing," according to the amicus brief.

"If plaintiffs' showing below suffices under Comcast, then Comcast is meaningless in securities cases (and perhaps beyond)," the law professors and officials said in their brief. "Dr. Tabak's approach is a tautology, not a methodology. Reciting a damages rule without explaining how it might be operationalized in a manner consistent with plaintiffs' theories of liability cannot possibly satisfy Comcast, which is based on the premise that courts must 'conduct a rigorous analysis' of the defined methodologies."

"The district court's decision 'reduce[s] Rule 23(b)(3)'s predominance requirement to a nullity' — precisely what Comcast forbids," they added.

Boeing **petitioned** the Seventh Circuit on March 30 for permission to immediately appeal Judge Valderrama's finding that the plaintiffs and their expert, Dr. David Tabak, presented a viable classwide approach to damages.

"Interlocutory review is especially needed here given the extreme nature of plaintiffs' claims," Boeing said. "Plaintiffs seek to convert two tragic accidents involving the 737 Max aircraft into securities-fraud claims predicated on dozens of purported misstatements spread over a year. Plaintiffs claim more than \$15 billion in damages, which may make settlement to avoid 'the risk of a catastrophic judgment' all but 'inevitable.'"

"As this court has stressed, '[t]he effect of a class certification in inducing settlement to curtail the risk of large awards provides a powerful reason to take an interlocutory appeal,'" Boeing added. "Defendants should not be forced to risk a massive jury verdict to obtain review of an incorrect class-certification ruling, or else 'abandon a meritorious defense' because it is more 'economically prudent to settle.'"

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

The MCAS was unique to the 737 Max 8 jets. 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, according to court filings.

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

Boeing has maintained that throughout the grounding, its public statements periodically included estimates of when Boeing believed the FAA would recertify the 737 Max in order for the aircraft to return to service. Boeing said it cautioned investors that its estimated timetable for the recertification of the 737 Max and the airplane's return to service was uncertain and contingent on FAA approval.

In addition to this consolidated case, Boeing is trying to fend off other securities fraud lawsuits tied to the 737 Max line of jets.

Another Illinois federal judge recently allowed equity funds to **pursue pared-down claims** alleging Boeing defrauded investors by downplaying the 737 Max 8 jets' safety flaws. U.S. District Judge Manish S. Shah only partly granted Boeing's **dismissal bid** in that case filed by College Retirement Equities Fund, TIAA-CREF Funds, Nuveen Investment Funds Inc. and other affiliate funds.

The Fourth Circuit is currently considering **Boeing's challenge** to a Virginia district court's March 2025 decision **certifying a class** of investors alleging Boeing misrepresented the safety of a different jet — the 737 Max 9 — after a 2024 midair **door-plug blowout** on an Alaska Airlines flight. That **lawsuit** is spearheaded by the Rhode Island General Treasurer James A. Diossa, who sued on behalf of the Employees' Retirement System of Rhode Island, and the Local #817 IBT Pension Fund.

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

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

Boeing and Muilenburg are represented by John F. Hartmann, Craig S. Primis and Katherine R. Katz of Kirkland & Ellis LLP, and Jeffrey B. Wall, David N. Whalen, Richard C. Pepperman II and Benjamin R. Walker of Sullivan & Cromwell LLP.

The amici SEC officials and law professors are represented by Todd G. Cosenza, Brady M. Sullivan and Erica L. Ross of Willkie Farr & Gallagher LLP.

The appeal is Boeing Company et al. v. Public Employees' Retirement System of Mississippi et al., case number 26-8007, in the U.S. Court of Appeals for the Seventh Circuit.

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

--Editing by Kelly Duncan.



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Delaware Chancery OKs \$190M Meta Privacy Settlement

By Jarek Rutz

Law360 (April 7, 2026, 7:45 PM EDT) -- The Delaware Chancery Court on Tuesday approved a \$190 million settlement resolving long-running stockholder claims that Meta Platforms Inc. mishandled user privacy and board oversight in the wake of the Cambridge Analytica scandal, closing out a case that had stretched more than seven years and reached the second day of trial.

Chancellor Kathaleen St. J. McCormick said at a hearing that she found the deal fair and reasonable, pointing to both the size of the monetary recovery and a package of corporate governance reforms aimed at strengthening privacy oversight and limiting insider decision-making authority.

The **settlement**, reached in July 2025, provides for a \$190 million payment to Meta, funded by insurance, along with changes to whistleblower protections, director independence rules and insider-trading controls.

"This litigation is complex, to understate matters," Chancellor McCormick said during the hearing, emphasizing the difficulty of the claims and the significance of the recovery.

The case stems from a 2018 stockholder derivative suit filed after revelations that data from tens of millions of Facebook users had been improperly shared with political consulting firm Cambridge Analytica. Investors alleged that Meta executives and directors, including CEO Mark Zuckerberg and former COO Sheryl Sandberg, failed to comply with a 2012 Federal Trade Commission consent order governing user privacy.

The complaint accused company leaders of ignoring red flags, misleading users and regulators and ultimately causing Meta to incur billions of dollars in fines and related costs, including a record \$5 billion settlement with the FTC in 2019. The litigation also included insider-trading claims tied to stock sales made by Zuckerberg during the relevant period.

After years of litigation, including extensive document discovery, dozens of depositions and a partial trial, the parties reached an agreement in principle on July 17, the second day of an eight-day trial.

Chancellor McCormick said the court's role was to weigh what plaintiffs would give up against what they would gain, and concluded that the balance favored approval.

"Evaluating the give and get here, I view the settlement to be fair [and] reasonable, and it is approved," she said.

The \$190 million payment ranks among the largest settlements in Delaware history, according to lawyers in the case. Plaintiffs had advanced multiple theories, including oversight claims alleging that the board failed to monitor compliance and claims that the company overpaid regulators to shield Zuckerberg from personal liability.

Those claims carried legal hurdles. The court noted that oversight claims are among the most difficult to prove under Delaware law, requiring evidence of bad-faith disregard of known risks — a high bar that often leads to dismissal. Defendants, for their part, argued that Meta invested heavily in privacy compliance and worked closely with regulators and that any failures did not rise to the level of wrongdoing.

The settlement also includes governance reforms designed to address those concerns. Meta agreed to expand its whistleblower program to explicitly cover privacy violations and route complaints directly to a board committee, adopt a new director code of conduct governing conflicts and compliance, and require its chief legal officer to oversee trading plans to reduce the risk of insider trading.

The chancellor highlighted those reforms as meaningful and durable, noting that they are not subject to automatic expiration and would require board action to undo.

In addition to approving the settlement, Chancellor McCormick signed off on nearly \$58 million in attorney fees and expenses, roughly 30% of the monetary recovery, finding the request justified by the scale and complexity of the case and the years of work involved.

She pointed to the plaintiffs' efforts in building a record that included millions of documents and expert testimony, as well as the fact that the case reached trial, as key factors supporting the award.

The judge also approved incentive payments to the lead stockholder plaintiffs for their involvement in the litigation.

No stockholders objected to the deal, and no challengers appeared at Tuesday's hearing.

With the ruling, the case will be dismissed with prejudice, bringing an end to a closely watched corporate governance battle.

"This was the first case to take a Caremark claim to trial, and, in the process, we sent a clear message that even the most powerful directors and officers must take their oversight obligations seriously," Scott + Scott Attorneys at Law LLP managing partner David Scott said in a press release, referring to a 1996 Delaware case. "The case also brought novel claims concerning Meta's related regulatory settlement with the Federal Trade Commission and insider trading. "

Other representatives for the parties did not immediately respond to requests for comment Tuesday.

The plaintiffs are represented by lawyers with Gainey McKenna & Egleston, Berman Tabacco, Robbins LLP, Cotchett Pitre & McCarthy LLP, Andrews & Springer LLC, Pickett Jones & Elliott PA, Hach Rose Schirripa & Rehns LLP, Scott + Scott Attorneys at Law LLP, Dilworth Paxson LLP and Kaplan Fox & Kilsheimer LLP.

The current or former directors are represented by Wachtell Lipton Rosen & Katz and Gibson Dunn & Crutcher LLP. Zuckerberg and Sandberg are additionally represented by Potter Anderson & Corroon LLP.

Meta is represented by Ross Aronstam & Moritz LLP.

The case is In re: Facebook Inc. Derivative Litigation, case number 2018-0307, in the Delaware Court of Chancery.

--Editing by Karin Roberts.



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Biogen, Investors Reach Deal In Alzheimer's Drug Litigation

By Carolyn Muyskens

Law360 (April 7, 2026, 7:13 PM EDT) -- A class of investors has reached a deal with Biogen Inc. to avoid a trial and resolve a suit over statements executives made as they launched an Alzheimer's drug, according to a Tuesday filing in Massachusetts federal court.

U.S. District Judge William G. Young wrote in a brief **order** that he had been notified about the settlement.

The deal heads off a trial scheduled to begin May 4 on claims that Biogen executives made misleading statements about Aduhelm shortly after the drug received U.S. Food and Drug Administration approval in June 2021.

The lead plaintiff, the Oklahoma Firefighters Pension and Retirement System, said in a **2022 complaint** that Biogen's stock price was buoyed for a time by the FDA approval and the company's statements, but began to drop sharply over the following months as hospitals refused to prescribe the drug and insurers announced they would cover the drug only for patients in clinical trials.

An attorney for the pension fund, Jeffrey C. Block of Block & Leviton LLP, said settlement details remained confidential for now but would eventually be made public, since the deal will require judicial approval.

The lawsuit had been narrowed over the years to focus on a handful of statements about the company's expectations regarding Medicare coverage for the drug.

Judge Young recently denied the Biogen defendants' motion for summary judgment, which argued the class hadn't established the decline in its stock price was caused by the Medicare coverage statements. The March 30 decision said the class's loss-causation expert took into account competing forces that could have affected the stock price.

Judge Young **certified a class** of investors with a class period starting June 8, 2021, the day after the drug received FDA approval, and ending July 12, 2021, the date Biogen announced that the Medicare coverage determination for Aduhelm would be lengthy and not clear-cut.

The plaintiffs are represented by Jeffrey C. Block, Jacob A. Walker, Michael D. Gaines, Brendan Jarboe, Mark B. Byrne and Zoe van Vlaanderen of Block & Leviton LLP.

Biogen and its executives are represented by James R. Carroll, Michael S. Hines and Yaw Anim of Skadden Arps Slate Meagher & Flom LLP.

The case is Oklahoma Firefighters Pension and Retirement System v. Biogen Inc. et al., case number 1:22-cv-10200, in the U.S. District Court for the District of Massachusetts.

--Editing by Linda Voorhis.



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Upstart Misled Investors On AI Model's Accuracy, Suit Alleges

By **Katryna Perera**

Law360 (April 7, 2026, 7:52 PM EDT) -- An investor of cloud-based artificial intelligence lending platform Upstart Holdings Inc. hit the company and its top brass with a proposed class action Tuesday, alleging they misrepresented the accuracy of the company's AI model and how it was affecting Upstart's revenues and growth.

Plaintiff Anthony Dunn filed a **complaint** against the company, CEO Dave Girouard, Chief Financial Officer Sanjay Datta and other executives on behalf of a proposed class of all individuals and entities who purchased or acquired Upstart securities between May 14, 2025, and Nov. 4, 2025, when the company reported disappointing financial results that allegedly sent its stock falling.

According to the complaint, through its platform, Upstart provides unsecured personal loans, small-dollar loans, auto loans and home equity lines of credit. The company claims to use AI models to "more accurately quantify the true risk of a loan, a process that it refers to as 'risk separation,'" according to the complaint.

"The company claims that this differentiated approach to underwriting has generally led to higher approvals and lower interest rates relative to traditional lending practices, providing more predictable returns to its capital partners, including banks, credit unions, and institutional investors," the complaint states. "Defendants periodically calibrate Upstart's AI models to improve accuracy and automation of loan approvals."

One of these calibrations occurred in May 2025 when Upstart launched a new iteration of its AI model referred to as "Model 22," according to the complaint. The accuracy of Model 22 was touted by the defendants, who claimed it was increasing loan approval rates, which in turn increased Upstart's revenues and growth, Dunn says.

"For example, in February 2025, Upstart issued financial guidance for the full year of 2025, including revenue of approximately \$1 billion, which included revenue from fees of approximately \$920 million," the complaint states. "In May 2025, defendants slightly raised the foregoing guidance to revenue of approximately \$1.01 billion, which still included revenue from fees of approximately \$920 million."

The complaint goes on to say: "Then, in August 2025, defendants substantially raised the foregoing guidance to revenue of approximately \$1.055 billion, which included revenue from fees of approximately \$990 million – \$70 million more than previously projected – citing improvements in performance driven by Model 22."

Dunn alleges that throughout the proposed class period, the defendants overstated Model 22's overall accuracy and tendency to increase loan approval rates and failed to disclose that the model "frequently overreacted to negative macroeconomic signals in performing its risk-separation processes."

Additionally, Dunn says the defendants did not disclose to investors that Model 22's "overly conservative assessment of credit and macroeconomic conditions was having a significant negative impact on Upstart's revenue results, rendering the company's previously issued FY 2025 revenue guidance unreliable and/or unrealistic."

The truth began to emerge in November 2025, when Upstart announced its third-quarter 2025 financial results, which missed its previously issued revenue guidance by roughly \$280 million, according to the complaint.

The company also reported that it expected to generate \$288 million in revenue in the fourth quarter of 2025, which fell below previously issued estimates of \$303 million, according to the complaint.

"Further, Upstart negatively revised its FY 2025 revenue guidance to approximately \$1.035 billion, versus the \$1.06 billion consensus estimate and its prior guidance of approximately \$1.055 billion, as well as its expected FY 2025 revenue from fees, which it reduced to approximately \$946 million from its prior outlook of approximately \$990 million," the complaint states.

The disappointing financial results were attributed to Model 22 by the defendants, according to the complaint, and they revealed on an earnings call with investors that the AI model had "'overreact[ed] to macroeconomic signals in the quarter, reducing borrower approvals and conversion rates."

"Defendants also acknowledged that they had 'knowingly' calibrated their AI model to be 'more conservative on the credit side in earlier parts of the quarter', and that the negative impacts of Model 22's 'overresponsive[ness]' to macroeconomic signals in the quarter would continue to negatively impact revenues in Q4 2025, resulting in Upstart's negatively revised FY 2025 financial guidance," the complaint states.

Dunn says on this news, Upstart's stock price fell by \$4.49, or 9.71%, to close at \$41.75 per share on Nov. 5, 2025.

The suit seeks damages, attorney fees and a jury trial. Representatives for the parties did not immediately respond to requests for comment Tuesday.

Dunn is represented by Jennifer Pafiti, Jeremy A. Lieberman and J. Alexander Hood II of Pomerantz LLP.

Counsel information for the defendants was not immediately available.

The case is Dunn v. Upstart Holdings Inc. et al., case number 3:26-cv-02974, in the U.S. District Court for the Northern District of California.

--Editing by Amy French.