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This Week in Chancery: SpaceX Investor, Endeavor, CD&R Accord

April 13, 2026, 2:00 AM PDT

An investment company ousted from a group formed to take a slice of SpaceX will implore Delaware's Supreme Court to reconsider a decision favoring the consortium's leader, just as the Elon Musk company reportedly prepares for a historic initial public offering.

Here's more to know about that, plus a peek at what's in Delaware's Chancery Court this week.

Monday: Bucks Cnty. Emps. Ret. Sys. v. Clayton Dubilier & Rice, LLC, Del. Ch., No. 2023-1151, settlement hearing 4/13/26.

At issue: Vice Chancellor Lori W. Will will review an agreement by Clayton, Dubilier & Rice LLC affiliates to fork $70 million to end a proposed class action over their $4 billion deal to take Covetrus Inc. private. If approved, the deal on behalf of former Covetrus stockholders would end a lawsuit alleging the private equity firm colluded with insiders of the animal health company to lower its sale price.

Court action: Will holds a settlement hearing in Wilmington, Del., at 11 a.m.

CD&R Agrees to $70 Million Settlement in $4 Billion Deal Case

Tuesday: Garlikov vs Navidea BioPharms., Inc., Del. Ch., No. 2024-0923, hearing 4/14/26.

At issue: Chancellor Kathaleen St. J. McCormick will hear arguments over whether to dismiss a shareholder lawsuit claiming a Navidea BioPharmaceuticals Inc. director, John Scott, stacked its board and seized control of the biotech company for selfish purposes. The case was stayed as against Navidea after it filed for Chapter 11 bankruptcy last year. Former independent directors targeted by the proposed-class-and-derivative suit say it levies "unsupported, vague and conclusory allegations that each of them abandoned their duties of loyalty and tarnished their reputations in order to secure control of a failing—now failed—Company by Defendant Scott."

Court action: McCormick holds a hearing on defendants' motions to dismiss in Wilmington, Del., at 1:30 p.m.

Navidea BioPharma Sued Over Scheme to ‘Steal’ Corporate Control

Wednesday: Leo Invs. Hong Kong Ltd. v. Tomales Bay Cap. Anduril III, LP, Del., No. 415/428,2025, oral arguments 4/15/26.

At issue: A former member of an investment consortium built to buy a bit of SpaceX that was booted over its ties to China will ask Delaware’s high court to reconsider a Chancery decision favoring the ousting by the consortium and its fund manager. Vice Chancellor J. Travis Laster last year ruled in favor of the fund manager, Iqbaljit Kahlon, a major investor into Musk’s company, rejecting nearly all of the claims from the ousted member, Leo Investments Hong Kong Ltd., a subsidiary of China’s Leo Group Co. Laster awarded Leo $1 in nominal damages. In a cross appeal, Kahlon and the group are attacking Laster’s decision to have him pay Leo more than $15.8 million for litigation expenses.

Court action: The Delaware Supreme Court will hear arguments in Dover, Del., at 11:10 a.m.

SpaceX Investors Beat Lawsuit by Member Ousted on China Ties (2)

Friday: In re Endeavor Grp. Holdings, Inc., Del. Ch., Nos. 2025-0317&0663, telephonic hearing 4/17/26.

At issue: Will will hear arguments in a discovery dispute on a series of competing motions to produce documents and answer interrogatories in a pair of legal actions over Endeavor Group Holdings Inc.'s $25 billion buyout by Silver Lake LLC. Billionaire Carl Icahn, a Swedish bank, and hedge funds targeting the deal, which they say squeezed out smaller stockholders, previously lost a bid for a mediator to resolve document disputes with Silver Lake.

Court action: Will holds a telephonic hearing at 9:15 a.m.

Silver Lake Buyout Judge Rejects Request for Document Mediator

Endeavor Buyout Arbitrage Fuels Court Fight Over Lawyer Fees

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Revance's $17 Million Investor Settlement Gets First Court Nod

April 13, 2026, 8:37 AM PDT

Revance Therapeutics Inc.'s $17 million agreement with investors earned a federal judge's initial blessing to resolve allegations the anti-wrinkle injection developer hid it might be in breach of a dermal-filler contract, lowering its buyout price.

The settlement class preliminarily approved by Judge Eli Richardson April 10 covers those who acquired Revance securities from Feb. 29, 2024, through the close of the biotechnology company's acquisition by Crown Laboratories Inc. on Feb. 6, 2025. If given final approval by the US District Court for the Middle District of Tennessee, the deal would end a proposed class action tied to disclosures about the merger's price tag.

Investors sued last year, alleging Revance concealed partner Teoxane SA raised issues over their distribution agreement to sell the Swiss company's line of dermal fillers in the US and that Crown, as a result, wasn't likely to proceed with a $6.66-a-share offer—a total enterprise value of $924 million. The truth allegedly emerged in December 2024 when Revance said it agreed to a revised Crown offer of $3.10 a share, less than half of its previously-announced merger price. Revance's share price plummeted almost 21% to $3.03 that day.

Crown ultimately bought out Revance at $3.65 per share last year. The combined skincare aesthetics and therapeutics company rebranded as REVANCE.

Entwistle & Cappucci LLP and Saxena White PA are lead counsel for the investors. Kirkland & Ellis LLP and Riley & Jacobson PLC represent Revance. Skadden, Arps, Slate, Meagher & Flom LLP and Baker, Donelson, Bearman, Caldwell & Berkowitz PC represent former Revance executives Mark J. Foley and Tobin C. Schilke. None of these law firms nor REVANCE immediately responded to emails seeking comment.

The case is In re Revance Therapeutics, Inc. Sec. Litig. , M.D. Tenn., No. 3:25-cv-00018, 4/10/26 .

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Musk Beats Lawsuits Filed in Delaware Just Before Texas Move (1)

April 13, 2026, 9:04 AM PDT; Updated: April 13, 2026, 9:52 AM PDT

Summary by Bloomberg AI

AI Generated

- Delaware's business court ruled that Texas is the proper venue for claims of corporate wrongdoing by Elon Musk as Tesla Inc.'s CEO, dismissing litigation filed in Delaware.
- The ruling enforces Tesla stockholders' decision to require derivative litigation to be filed in a Texas forum, as stated in the company's by-laws.
- The decision disposes of three separate shareholder derivative suits consolidated before Vice Chancellor Bonnie W. David, who said it is not inequitable to enforce the stockholders' decision.

Texas would be the proper venue for claims of corporate wrongdoing by Elon Musk as Tesla Inc.'s CEO, Delaware's elite trial-level business court ruled Monday, dismissing litigation filed just as the electric vehicle-maker reincorporated in 2024.

"I will not second-guess Tesla stockholders' chosen forum by purporting to weigh the advantages and disadvantages of Texas law and procedure relative to our own. The owners of the corporation voted to require that derivative litigation be filed in a Texas forum. On the present facts, it is not inequitable to enforce their decision," Vice Chancellor Bonnie W. David said in a 25-page opinion.

Her ruling disposes of three separate shareholder derivative suits consolidated before her.

Musk moved Tesla to Texas after the Chancery Court's chief judge, Chancellor Kathaleen St. Jude McCormick, twice rejected his CEO pay package. The Delaware Supreme Court restored that 2018 compensation deal in a December ruling.

The e-vehicle maker argued in October—while the cases were still before McCormick—that shareholder-approved by-laws requiring the application of Texas law to derivative lawsuits after its reincorporation should also apply to litigation that was pending in Delaware when the move occurred.

Facing allegations of bias from attorneys for Musk and Tesla, McCormick used Scrabble board game tiles drawn from a bag to reassign remaining litigation related to the car-maker and the world's richest person. David's ruling came without additional arguments or briefing in the combined multiple lawsuits over Musk's alleged insider trading, his acquisition of then-Twitter Inc., and his focus on artificial intelligence.

The shareholders attacked Tesla's Texas redomestication, "but they do not argue that Tesla's stockholders were misled about the effect of the Texas Forum Bylaw in requiring derivative litigation to be brought in Texas rather than Delaware courts," David said.

Tesla is represented by Sullivan & Cromwell LLP, DLA Piper LLP (US), and Richards, Layton & Finger PA. Musk is represented by Quinn Emanuel Urquhart & Sullivan LLP. The other Tesla directors are represented by Freshfields US LLP and Ross Aronstam & Moritz LLP.

The lead plaintiffs in the consolidated litigation, the Employees' Retirement System of Rhode Island and the Cleveland Bakers and Teamsters Pension Fund, are represented by Prickett, Jones & Elliott PA, Saxena White PA, Grant & Eisenhofer PA, Lieff Cabraser Heimann & Bernstein LLP, and The Schall Law Firm.

Michael Perry, an investor who claims Musk engaged in insider trading in the sales of over $7 billion of Tesla shares, is represented by Squitieri & Fearon LLP, deLeeuw Law LLC, and Moore Law PLLC.

The cases are In re Tesla, Inc. Derivative Litig. , Del. Ch., No. 2024-0631, opinion filed 4/13/26 and Perry v. Musk , Del. Ch., No. 2024-0560, opinion filed 4/13/26 .

(Updates with additional details on the litigation history.)

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Elon Musk, Who Owns X, Appears to Post on TikTok

nytimes.com/2026/04/12/technology/elon-musk-tiktok.html

Ryan Mac April 12, 2026

Since spending $44 billion to buy Twitter in 2022, Elon Musk has transformed the social media site into X and turned it into his preferred conversation venue. Every day, he spends hours posting to the platform, where he has nearly 238 million followers.

But Mr. Musk's devotion to X may now be hitting a limit.

On Wednesday, a verified TikTok account with the @elonmusk handle posted for the first time to the video sharing site. The clip featured Mr. Musk speaking about the future and showed a supercut of achievements and promotional material from his companies SpaceX and Tesla. The video was captioned "Ad Astra," a Latin phrase meaning "to the stars."

An account with the @elonmusk username, which has a verified check mark, also recently surfaced on Instagram — but has yet to post anything.

Mr. Musk, TikTok and Meta, which owns Instagram, did not respond to requests for comment. The New York Times could not independently verify if Mr. Musk was behind the TikTok and Instagram accounts.

The accounts are becoming active just as the billionaire is in the process of taking SpaceX, his rocket and satellite company, through an initial public offering. To do so, Mr. Musk needs to build widespread public interest in SpaceX so it can raise billions of dollars from investors. The public offering could turn the 54-year-old tech mogul, who is already the world's richest man, into the first trillionaire.

Mr. Musk has previously shown disdain for other social media companies that X competes against. In 2022, he briefly banned Twitter users from promoting their accounts on other social platforms, including Instagram and Facebook.

Mr. Musk deleted the Facebook pages for Tesla and SpaceX in 2018 after a public outcry about how the social network handles user data. That same year, he said he had deleted his personal Instagram account. He told the podcaster Joe Rogan in a recent interview that he was "concerned that Instagram actually leads to more unhappiness, not less."

In 2023, Mr. Musk also said at The Times's DealBook conference that he had stopped using TikTok because he felt that the app's artificial intelligence was "probing" his mind. He called the video site addicting and "rife" with antisemitic content.

Online archives show a TikTok account with the @elonmusk handle from as early as 2024, but it did not have posts or a verification badge, which the video app provides to notable figures on the platform as a way to prevent impersonation.

Last week, the video posted on the @elonmusk TikTok account showed not only promotional material from SpaceX and Tesla, Mr. Musk's electric car company, but also Neuralink, his brain-computer interface company, and The Boring Company, his tunneling start-up. The video, which is over a minute long, has been viewed 2.1 million times. Mr. Musk does not appear to have shared the same video on X. (SpaceX now owns X.)

The @elonmusk account on Instagram has a verified badge and nearly 18,000 followers, but is private and has no posts or profile picture. According to Instagram's website, the platform can award verified badges or allow users to buy them after it confirms that an account "is the authentic presence for that person or brand."

"I like building things," reads the @elonmusk profile on Instagram. After publication of this article, the account changed again, removing its biography and verified check mark.

Ann M. Lipton
@annmlipton.bsky.social

he better not make the s-1 public within 30 days.

or we're just ignoring gun jumping rules, why not

www.nytimes.com/2026/04/12/t...

Elon Musk, Who Owns X, Appears to Post on TikTok

www.nytimes.com

7:32 PM · Apr 12, 2026 Everybody can reply

2 reposts **3** likes

1 2 3

Write your reply

Obi-Wine Kenobi @obiwinekenobi.bsky.social · 15h

He's literally going to be pardoned.

Blue sky, baby.

Securities

Wells Fargo, Ocwen Seek Tweak to ERISA Mortgage Appeal Opinion

April 10, 2026, 8:57 AM PDT

Ocwen Financial Corp. and Wells Fargo Bank NA asked the Second Circuit to revise its decision reviving a lawsuit attempting to hold them liable under ERISA for alleged pension losses tied to mortgage-backed securities.

Wells Fargo and Ocwen—now known as Onity Group Inc.—want the appeals court to remove language from its March opinion suggesting that residential mortgage-backed securities trusts are ERISA plan assets simply because they qualify as "equity interests" under the relevant federal regulations.

A federal district judge ruled in 2023 that the securities don't qualify as plan assets under ERISA—and thus there's no valid claim under the statute—because they're more like debt than equity.

The US Court of Appeals for the Second Circuit disagreed in part. It held that the pension plan's investments in real estate mortgage investment conduit (REMIC) trust certificates "represent beneficial interests in those trusts" and under the relevant US Labor Department regulation, "the assets of a trust in which a plan holds a beneficial interest are plan assets" under ERISA.

This suggestion reflects a misreading of the regulations that could prevent the district court from having the first say on the relevant legal issues, the defendants said in a petition filed Thursday in the US Court of Appeals for the Second Circuit.

Under the regulation, a security's status as an equity interest is a "necessary but not sufficient condition to subject the assets backing that security to ERISA's strictures," Ocwen and Wells Fargo said. The appeals court should therefore revise its opinion to remove any suggestion to the contrary and allow the district court to "consider the remaining elements of the plan-asset determination 'in the first instance,'" they said.

The proposed class action, filed in 2018, appears to be the first-ever attempt to argue that mortgage-servicing misconduct can violate the Employee Retirement Income Security Act if pension funds invest in mortgage-backed securities. Pension fund trustees say Ocwen, with help from Wells Fargo, enriched itself at the fund's expense by forcing homes into foreclosure, thereby devaluing assets held by the fund.

O'Melveny & Myers LLP and Orrick, Herrington & Sutcliffe LLP represent Ocwen. Jones Day represents Wells Fargo. Keller Rohrback LLP and R. Bradley Miller of Alexandria, Va., represent the pension trustees.

The case is Powell v. Ocwen Fin. Corp. , 2d Cir., No. 23-999, petition for reheraing 4/9/26 .

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Texas attorney general probes Lululemon over potential 'forever chemicals' in its activewear

reuters.com/legal/litigation/texas-attorney-general-probes-lululemon-over-potential-forever-chemicals-its-2026-04-13

Reuters April 13, 2026

A Lululemon Athletica logo is seen outside one of the company's stores in New York, December 16, 2013. REUTERS/Shannon Stapleton (UNITED STATES - Tags: BUSINESS FASHION TEXTILE LOGO) Purchase Licensing Rights , opens new tab

April 13 (Reuters) - Texas Attorney General Ken Paxton has launched an investigation into athleisure brand Lululemon (LULU.O) , opens new tab over the potential presence of "forever chemicals" in its activewear, he said on Monday in a post on social-media platform X.

The probe will examine whether Lululemon's athletic apparel contains PFAS, which the brand's health-conscious customers would not expect based on its marketing, Paxton said. PFAS, or per- and polyfluoroalkyl substances, are a group of widely used materials called "forever chemicals" because they do not break down easily in nature.

Lululemon did not immediately respond to a Reuters request for comment.

- Attorney General Paxton said emerging research and consumer concerns have raised questions about whether certain synthetic materials in the apparel could be linked to endocrine disruption, infertility, cancer and other health risks.
- PFAS are associated with harmful health effects in humans and animals, according to the U.S. Environmental Protection Agency.
- The Office of the Attorney General will examine Lululemon's testing protocols, restricted substances list and supply chain practices against state safety standards.
- "If Lululemon has violated Texas law, it will be held accountable," Paxton said in his post.
- Shares of Lululemon were marginally down at $163.59, with the stock losing nearly 22% so far in 2026.
- Earlier this year, the company had to pull its "Get Low" workout collection from its website following user complaints, only resuming online sales after addressing the issues.
- Lululemon, which appointed a former chief of jeans maker Levi Strauss (LEVI.N) , opens new tab to the board last month, has forecast weak

annual results amid tepid demand and an ongoing proxy fight with its founder.

Reporting by Anuja Bharat Mistry in Bengaluru; Editing by Jonathan Ananda

News from Bloomberg Terminal

Texas Probes Lululemon for Alleged ‘Forever Chemicals’ Use

April 13, 2026, 9:49 AM PDT

Summary by Bloomberg AI

AI Generated

- Lululemon Athletica Inc. fell in New York trading after the Texas attorney general said his office is investigating for the presence of "forever chemicals" in the yogawear brand's apparel.
- The probe will examine whether Lululemon's athletic apparel contains PFAS that their health-conscious customers would not expect based on the brand's marketing.
- The Texas attorney general's investigation creates another headache for Lululemon, which has slumped in the stock market as sales growth tapers off, quality issues resurface and the founder advocates for a board overhaul.

By Jonathan Roeder

(Bloomberg) --

Lululemon Athletica Inc. fell in New York trading Monday after the Texas attorney general said his office is investigating for the presence of so-called “forever chemicals,” which have been linked to health problems, in the yogawear brand’s apparel.

“Emerging research and consumer concerns have raised questions about the potential presence of certain synthetic materials and chemical compounds in their apparel,” the office of Texas Attorney General Ken Paxton said in a statement. The probe “will examine whether Lululemon’s athletic apparel contains PFAS or ‘forever chemicals’ that their health-conscious customers would not expect based on the brand’s marketing.”

Lululemon shares dropped as much as 4.5% after the announcement but subsequently pared the decline. The company didn’t immediately respond to a request for comment. PFAS were among substances that Lululemon aimed to limit use of, according to a 2024 document.

Paxton's investigation creates another headache for Lululemon, which has slumped in the stock market as sales growth tapers off, quality issues resurface and the founder advocates for a board overhaul. The company is currently operating without a permanent chief executive officer as it searches for a replacement.

Polyfluoroalkyl chemicals, known as PFAS, are used in hundreds of products that are slippery, non-stick or stain-resistant and have been linked in studies to health problems like cancer and poor immune health. The National Library of Medicine, which tracks published research globally, identifies only two studies that deal with textiles and health issues tied to endocrine disruption.

The Texas probe also underscores the risk for apparel companies as the use of PFAS continues to attract attention. Paxton is already suing Chinese fast-fashion company Shein, claiming its products have chemicals such as PFAS that violate US safety standards.

PFAS manufacturers have long been the target of litigation related to their presence in groundwater and exposure to firefighting foam. But more recently that has expanded to plaintiffs targeting consumer product makers, alleging the companies fail to disclose on their packaging the presence of PFAS.

Paxton has initiated a series of investigations in line with the Make America Healthy Again agenda led by Health and Human Services Secretary Robert F. Kennedy Jr. Last April, Paxton said he was investigating Froot Loops-maker WK Kellogg Co. over its inclusion of artificial food colorings. The company, which is now owned by Ferrero International SA, said in July it would eliminate synthetic dyes by the end of 2027.

Read more: Froot Loops, Apple Jacks to Cut Synthetic Dyes by 2027

Paxton has also been investigating toothpaste companies he has said are encouraging children to use greater amounts of fluoride than is thought to be safe. In December, Procter & Gamble Co. said it would modify the amount of Crest toothpaste in its advertisements in Texas to depict age appropriate usage.

(Adds Lululemon's past statement on PFAS in third paragraph and context on PFAS litigation in sixth and seventh paragraphs.)

--With assistance from Kristina Peterson, Michelle Fay Cortez and Lily Meier.

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Shruti Date Singh

Uber liable for assaults under North Carolina law

DJ dailyjournal.com/articles/390754

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A federal judge has ruled that Uber can be held liable under North Carolina law when its drivers commit sexual assault, handing plaintiffs a major victory ahead of the next bellwether trial in the sprawling multidistrict litigation against the rideshare company.

Senior U.S. District Judge Charles R. Breyer in San Francisco granted summary judgment Friday on whether Uber qualifies as a common carrier under North Carolina law -- a designation that carries heightened duties to protect passengers.

The ruling resolves a central legal issue in favor of plaintiffs before the second bellwether trial, scheduled to begin April 15, with jury selection set for the day before.

Breyer concluded that Uber meets the definition of a common carrier because it holds itself out to the public as a transportation provider for hire.

"Uber clearly qualifies as a common carrier on that basis," Breyer wrote. "The undisputed factual record in this litigation demonstrates that Uber holds itself out to the public as a transportation provider through its ubiquitous advertising as well as the control it exerts over Uber rides and the safety of its passengers."

The decision relies on longstanding North Carolina precedent, including the state Supreme Court's 1960 ruling in *Jackson v. Stancil*, which defines a common carrier based on whether a company presents itself as willing to transport passengers for hire.

Breyer also cited *Hairston v. Atlantic Greyhound Corp.*, a 1942 decision establishing that common carriers owe "a high duty" to protect passengers from assaults "of any source," including those committed by employees.

Applying that standard, Breyer held that Uber may be liable for assaults committed by its drivers regardless of how those drivers are classified.

"Since the carrier owes a high duty to a passenger to protect him from assault from any source, a malicious or wanton assault committed on a passenger by an employee while on duty, whether within the line of his employment or not, constitutes a breach of duty directly imposing liability," he wrote.

The ruling rejects a key defense advanced by Uber, which argued that it operates as a "transportation intermediary, not a carrier of persons," and therefore should not be subject to common carrier liability.

Uber's attorneys from Kirkland & Ellis LLP pointed to North Carolina's 2015 Transportation Network Company law, which regulates rideshare services and classifies drivers as independent contractors. They argued the statute places companies like Uber into a separate regulatory category with distinct obligations.

Breyer disagreed, finding no indication that the law was intended to displace common law liability.

"Had the North Carolina legislature so desired, it could have modeled its TNC statute after states like Florida and Texas that explicitly exempted Uber and other rideshare providers from common carrier liability," he wrote. "But the legislature did not do so."

The judge added that Uber cannot rely on the regulatory framework to "manufacture a statutory limitation" on liability where none exists.

Breyer also rejected the argument that driver classification shields the company from responsibility, emphasizing that common carriers owe non-delegable duties to passengers.

"As a common carrier Uber owes a non-delegable duty to Plaintiff and other riders to transport them safely, and that duty is breached when an Uber driver assaults a passenger -- regardless of whether the driver is properly classified as Uber's employee or an independent contractor," he wrote.

The upcoming trial will be held in North Carolina, where the alleged assault occurred, rather than in Breyer's San Francisco courtroom.

The decision builds on momentum for plaintiffs in related litigation. In a separate Judicial Council Coordination Proceeding in California state court, plaintiffs were granted summary judgment last year on the same common carrier issue under California law.

The MDL, consolidated in the Northern District of California, involves numerous claims alleging that Uber failed to adequately protect passengers from sexual assault by drivers.

In the first bellwether trial, held in Arizona, a jury awarded $8 million to a plaintiff, finding that the driver acted as an apparent agent of Uber, even if formally classified as an independent contractor.

That verdict, combined with Breyer's latest ruling, strengthens plaintiffs' position heading into the next phase of trial proceedings.

Rachel B. Abrams of Peiffer Wolf Carr Kane Conway & Wise LLP, Sarah R. London of Lieff Cabraser Heimann & Bernstein LLP, and Roopal P. Luhana of Chaffin Luhana LLP serve as co-lead counsel for the plaintiffs.

#390754

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Securities

Event Bets Pose a Problem for Wall Street Firms Looking to Trade

April 12, 2026, 3:00 AM PDT

Prediction markets are booming. Wagers on everything from the return of Jesus Christ to who will win the World Cup have driven weekly volumes on platforms like Polymarket and Kalshi into the billions of dollars.

Even as some Wall Street players have taken the first steps into this sort of event betting, many big trading firms, including Citadel Securities, IMC Trading and Hudson River Trading have stayed away so far.

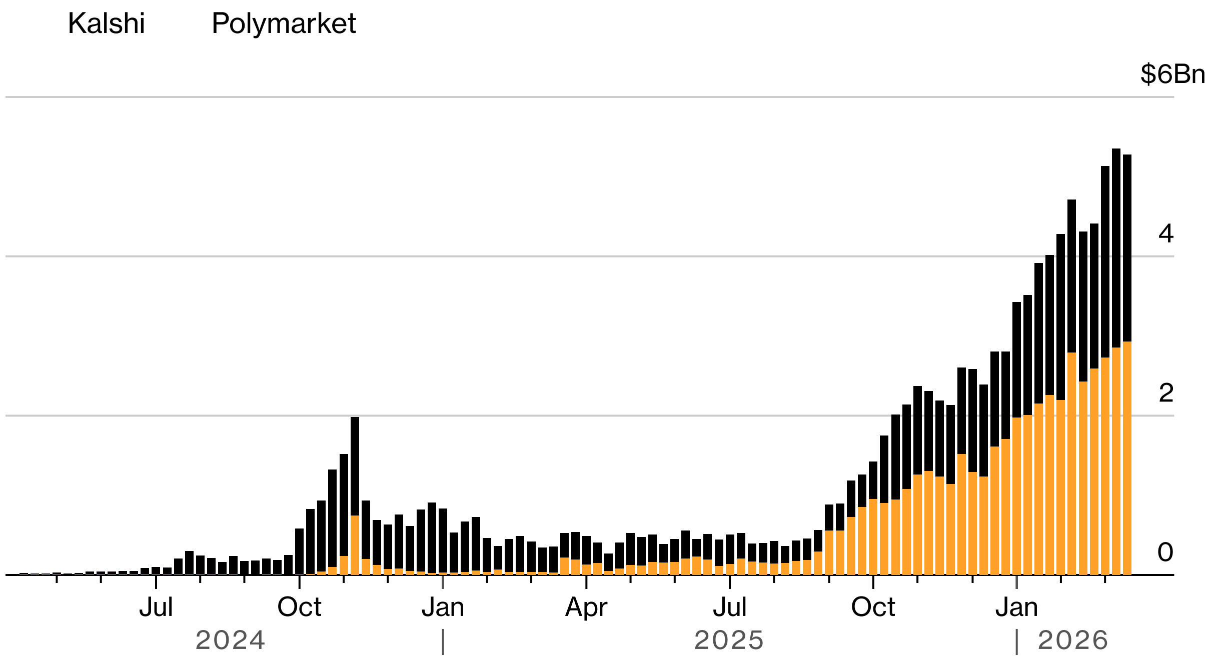
There are numerous reasons why institutional traders have not joined in, including the lack of regulatory clarity and the relatively light volumes compared with the other areas where they operate.

But a new academic paper points to another potential reason: Some of the basic tools that sophisticated traders use to manage risk in other markets aren't available in event-based bets.

At the most basic level, most market makers offset their risk in one type of trading by hedging with other related assets — for options markets, they can do this in the underlying stock market. That is much less easy when the bet is on a celebrity wedding or an election, according to the paper published by Nick Palumbo, a former product manager at the sports betting site DraftKings Inc.

"Unlike options or futures markets, event contracts do not reference an underlying spot asset that permits mechanical hedging," Palumbo wrote in his paper.

Prediction Markets Handle Billions
Weekly notional trading volume on Polymarket and Kalshi



Note: Data as of week beginning March 9
Source: @datadashboards on Dune Analytics

Bloomberg

Representatives for Citadel and IMC confirmed that they are not involved in prediction markets, but declined to offer comment on their reasons. HRT did not respond to a request for comment.

Read More: Iran Bets Expose Limits of Prediction Markets for Wall Street

The lack of an underlying asset is not a total deal killer. Proprietary trading firms take a variety of approaches to dealing with the directional risks involved in the assets they buy and sell. Many market makers opt to stay as risk neutral as possible, through hedging. Others, like Jane Street, are more willing to take directional risk to make money.

For Palumbo, trying to compare trading on event bets to market making on financial exchanges is the wrong approach. Instead, he thinks credit underwriting and insurance underwriting may offer better comparisons. Those are situations where the capital provider is risking resources either in exchange for an upfront premium, or for the steady drip of a long-term yield.

“They are underwriting outcome risk,” Palumbo said in an interview. “They’re taking a stance, they’re saying, ‘I need to be right on this to make money.’ Whereas a market maker doesn’t care about price direction, just about being able to collect spread.”

Once a loan or insurance contract has been underwritten, there are ways banks and insurers can pass that liability onto others through credit default swaps, structured risk transfers or reinsurance. It will take some time for those products to develop in the nascent prediction market industry, if it happens.

“Because there’s no spot market to hedge, this concept of ‘delta neutral’ doesn’t exist in sports betting,” said Jason Trost, the founder of sports market maker Hanson Applied Sciences, referring to a concept options market makers use to manage the risk a swing in an asset’s value leads to losses.

Trost said that bookmakers address this by creating a large bid-ask spread between where they are selling to customers on both sides of a bet.

“The margins in sports bets are huge,” Trost said, adding that while a spread of 200 basis points, or 2%, is “very common,” they can reach as much as 16% in illiquid markets. “That’s unheard of in a lot of traditional finance.”

For Palantir Technologies, for example, the bid-ask spread on calls expiring in May is roughly 1.6%, while the spread for Palantir stock is roughly 0.02%, according to data compiled by Bloomberg.

The comparison between prediction markets and sports betting is very relevant given that sports games have become the most popular category of trading. The exchanges say they are fundamentally different because they do not take the other side of customer trades, but Palumbo and Trost say market makers can essentially take on the role of the bookie.

Read more: Kalshi, Polymarket Rewrite Super Bowl Playbook for Pro Gamblers

One of the first Wall Street firms to get involved in prediction markets, Susquehanna International Group, has a history that could be helpful here. It has long had a unit that specializes in sports betting, based in Dublin. Currently, the firm is hiring more sports traders in the Irish capital and at its headquarters in the Philadelphia suburbs, according to job postings on the company’s website.

--With assistance from **Emily Nicolle**, Katherine Doherty and **Cecile Vannucci**.

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Securities

Trump-Linked World Liberty Project Faces Investor Revolt (1)

April 13, 2026, 12:42 AM PDT

World Liberty Financial Inc., a Trump family crypto venture, is facing an investor revolt that includes billionaire backer **Justin Sun**, who accused the project of secretly building controls that let insiders freeze token holders' funds.

Sun, who poured tens of millions of dollars into World Liberty, called the project "a trap masquerading as a door" in a post on X on Sunday.

His denunciation adds to mounting criticism over a move by the project to deposit its own WLFI tokens as collateral on a lending platform and borrow $75 million against them. Critics say the maneuver could let World Liberty extract cash before a wave of tokens are unlocked, flooding the market with new supply.

World Liberty says it can top up its collateral to prevent that and has roundly rejected the criticism.

"It would be completely false to suggest that World Liberty is 'exiting' any positions: instead, we're doubling down based on our roadmap," spokesperson David Wachsman said on Friday. The project had already repaid $25 million of the loan, he said.

"We are committed to sound risk management and continuously evaluate our positions and collateral structure, which is why we have already paid back 33%," Wachsman said.

Still, the WLFI token's value has dropped by more than half since a portion of its supply was unlocked for trading last year. It hit an all-time low below $0.08 over the weekend, according to CoinGecko data.

World Liberty has said it deposited 3 billion of the tokens into Dolomite, a lending protocol, and borrowed $75 million in stablecoins against them. Dolomite's co-founder, Cory Caplan, also serves as World Liberty's chief technology officer.

If WLFI's price drops far enough, the concern is that the position could be liquidated — dumping tokens onto the market and accelerating the very selloff investors fear. Many posters on X have expressed concerns about the loan on Dolomite.

“As a project, using your own token as collateral for loans is very bad,” said Morten Christensen, a WLFI investor who also runs AirdropAlert.com. “It puts fear, doubt and anger in investors’ mind.”

Representatives of Dolomite, including Caplan, didn’t return requests for comment.

Timing

The move is drawing particular scrutiny because of its timing. World Liberty is soon expected to post a long-awaited proposal to create a schedule to unlock 80% of early investors’ WLFI token holdings. When tokens unlock and more supply enters the market, it typically pushes prices down.

If the position were to be liquidated through Dolomite, World Liberty would in effect be able to cash out before the rest of the sellers can, critics said. Dolomite could also be left with bad debt.

“It’s essentially World Liberty team dumping on retail,” said Austin Campbell, adjunct professor at NYU Stern School of Business and a stablecoin expert.

World Liberty says it has the financial resources to back its position.

The project is “nowhere near liquidation,” it said in a post on Thursday. “And frankly, even if markets moved dramatically against us, we’d simply supply more collateral.”

The backlash extends beyond the lending maneuver. In March, World Liberty pushed through a governance proposal that could reduce the voting power of early investors in key decisions. Sun called the project’s votes a sham, saying key information was withheld and outcomes were predetermined.

Justin Sun
Photographer: Suhaimi Abdullah/Bloomberg

In 2025, Sun also alleged that the project blacklisted his WLFI token wallet, preventing him from being able to access his unlocked coins.

World Liberty didn’t reply to a question about Sun’s blacklisting claim. Separately, the project posted on X on Sunday: “We have the evidence. We have the truth.”

World Liberty was co-founded by President Donald Trump and his sons. Sun attended a dinner with Trump last year.

The intertwining of a presidential brand with the latest controversy raises questions that extend well beyond the industry — about disclosure, potential conflicts of interest, and what happens when a political brand effectively anchors a crypto project with retail investment.

Blockchain technology does provide some clues — the Dolomite transactions, for instance, are visible on-chain. But unlike publicly traded companies, most crypto token projects are not subject to a comparable disclosure and governance regime requiring regular audited financial statements, public reporting of insider transactions, or exchange-style independent board oversight, making it harder for outside investors to assess what is happening.

(Updates pricing information for the WLFI token in the seventh paragraph.)

Securities

Winklevoss Twins' $330 Million Gemini Loans in Focus After Rout

April 10, 2026, 12:23 PM PDT

Gemini Space Station Inc.has lost more than half its market value this year, cut 30% of its workforce and retreated from major overseas markets as the crypto exchange struggles financially.

Now, one idea being floated internally involves asking founders Tyler and **Cameron Winklevoss** to forgive hundreds of millions of dollars in loans they provided to the company, possibly by converting that debt into additional equity, according to a person familiar with the matter.

Any major decision would require the blessing of the Winklevoss brothers, who control the majority of voting shares and have not signaled whether they'd support the move.

A Gemini spokesperson did not immediately respond to requests for comment, nor did the Winklevoss twins.

The founders have long loaned funds to Gemini, primarily through Winklevoss Capital Fund LLC. At the end of December, Gemini had 4,619 Bitcoin in debt outstanding, worth more than $330 million at current prices.

On Thursday, CoinDesk reported that interested parties are looking into buying Gemini's licenses for businesses overseas that it recently shuttered. The company's shares rose 9% on the news, though they are still down more than 50% so far this year, according to data compiled by Bloomberg.

Those licenses would not fetch more than a few million dollars because of the complexity and time involved in transferring them, the person said.

Read More: Winklevoss' Gemini Risks a Hard Landing After the Crypto Rout

Gemini, which went public last fall, unveiled an initial round of job cuts in February and said it would exit marketsincluding the UK, European Union and Australia. The crypto exchange also parted ways with its chief operating officer, chief financial officer and chief legal officer.

Gemini employed about 445 people as of March 1, the company said in a recent shareholder letter.

Like most rivals, Gemini is navigating rough waters as Bitcoin's price remains down more than 40% since hitting an all-time high in October.

Gemini is also unprofitable: the firm lost $585 million last year, including unrealized losses on the value of cryptoassets, according to securities filings.

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Securities

Michael Saylor's Crypto Machine Stacks a New Layer of Leverage

April 10, 2026, 9:04 AM PDT

The leverage-to-buy-Bitcoin model pioneered by Michael Saylor's Strategy Inc. has spawned yet another web of startups tied to its fortunes — all of them exposed if Bitcoin falls.

The market remains niche — at least three issuers of what are effectively stablecoins and who collectively manage more than $100 million - have emerged since January. Each token is backed primarily by Strategy's "Stretch" perpetual preferred shares, a hybrid security that pays a junk bond equivalent yield.

Apyx, run largely by executives from the Solana digital asset treasury firm DeFi Development Corp., is targeting an annual percentage yield of around 13% for its holders. Buck Lab's "savings coin" offers around 10% annualized yield. Meanwhile, stablecoin protocol Saturn just began offering yields above 11.5%. The tokens add what could be viewed as another layer of leverage tied to the treasury-company model **Saylor** pioneered almost six years ago.

Saylor's approach – sometimes called the digital credit flywheel, in which companies sell securities to buy crypto that generates no yield, then sell more to keep paying investors – dates to the Covid pandemic, when he began using shares of the dot-com-era software maker to buy Bitcoin.

The model proved wildly successful - and widely emulated - as long as the stock continued to trade at a steep premium to the underlying value of the crypto holdings. With Bitcoin in the midst of a bear market, the firm is looking toward a new approach.

Strategy is pivoting to selling perpetuals that offer an annualized dividend of 11.5%, paid monthly, which it funds from the proceeds raised by selling even more common and preferred shares. Then it buys more Bitcoin.

Retail investors, other DATs, and now the stablecoin token issuers have turned to the preferreds as a way to capture steady returns. It's a concentrated bet that hinges on Bitcoin appreciating and Strategy's financial health.

A sustained Bitcoin decline would erode the value of the preferreds — and if it deepens enough, the dividends funding the yields could stop altogether.

“Dividends of preferred shares are usually not guaranteed and could be reduced, suspended or altered if needed,” said **Owen Lau**, an analyst from Clear Street. “The dividend ultimately depends on the balance sheet and free cash flow of the issuing company.”

Strategy has a cash reserve of about $2.25 billion, enough to cover interest and distributions for more than two years. Proponents argue risk is limited because Strategy is contractually obligated to pay regardless of Bitcoin’s price, unless it exercises the option to cancel the payouts that the company has retained. Strategy didn’t respond to a request for comment.

“Missed payments accrue and must be paid before any common equity distributions,” said **Travis VanderZanden**, founder of Buck. “So while Bitcoin volatility is always a consideration in the broader Strategy ecosystem, Stretch’s dividend stream is structurally senior and doesn’t depend on Bitcoin appreciation.”

Still, Buck’s website warns holders that they could lose some or all of their funds, adding that “yield is not guaranteed and depends on the continued payment of Stretch dividends.”

Kevin Li, co-founder of Saturn, says he is taking a proactive approach to risk management. If the value of the collateral drops relative to obligations, Saturn “will look to sell Stretch for cash,” he said.

Apyx plans to expand its reserves to other preferreds as more DATs - as digital asset treasury firms are known - issue them. The company has already allocated about 5% of its reserves to preferred equity issued by Bitcoin treasury firm Strive Inc. Almost half is allocated to Stretch.

“We’re on the way to being the largest single holder of Stretch,” said **Joseph Onorati**, who is CEO of both Apyx and DeFi Development. “While we will diversify further, we may end up holding more than 70% Stretch long term.”

Apyx has purchased about $45 million in Stretch, while Saturn holds $9.8 million and Buck about $1.8 million, with each issuer holding the shares as collateral — and building leverage on top.

It's a structure that some market observers say contradicts the purpose of dollar-pegged tokens. Preferreds don't offer the same level of security as the safe assets typically used to help stablecoins maintain their one-to-one peg, according to Hilary Allen, a law professor at American University.

Stablecoins were originally created as a way for crypto traders to maintain value within a blockchain network without having to constantly shift funds into traditional accounts. They've increasingly been seen as a possible conduit for lowering costs and increasing the speed of transactions on conventional payment networks.

"This is a risky model," Allen said. "Stablecoins evolved because the prices of unbacked cryptocurrencies were very volatile and there was a desire for a more stable alternative."

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Coty Brass Hid Struggling Beauty Brands Sales, Suit Says

By **Sydney Price**

Law360 (April 10, 2026, 9:00 PM EDT) -- Executives and directors of beauty giant Coty Inc. were hit with a shareholder's derivative suit accusing them of damaging the company by falsely claiming that sales in both its consumer and prestige beauty segments were improving when both divisions were actually struggling.

According to the complaint filed by shareholder Guy Moar on Thursday in Manhattan federal court, Coty's marketing efforts deteriorated the margins of the company's consumer beauty segment, which includes brands Adidas, Vera Wang and David Beckham, causing it to underperform. At the same time, growth for its prestige beauty brands, which include Burberry, Calvin Klein, Gucci and Hugo Boss, was slowing, according to the suit.

The suit's relevant period begins Aug. 20, 2025, the day Coty announced during an earnings call that it anticipated "organizational changes" in the U.S. implemented several months prior would begin yielding results "over the course of the year," according to the complaint. Coty also told investors that day it expected net revenues would "turn positive in the second half, with further new launches and as year-over-year comparisons ease," the suit states.

For the next several months, Coty represented to investors that it was on track to meet its financial goals, the suit claims. For example, on Nov. 5, 2025, the company said that "following recent changes, Coty's underlying business trends are already improving," and that it saw "tremendous potential to accelerate this momentum," the suit states.

The truth emerged, the suit alleges, on Feb. 5, the day Coty announced financial results for the second quarter of fiscal year 2026. Coty called its financial performance over the previous 18 months "disappointing," and said it was "not yet delivering at the level it should." The company also said it would retract its full fiscal year guidance.

Following the announcements, shares of Coty declined 49 cents each, or about 16%, to close at $2.66 on Feb. 6, according to the complaint.

In addition to nominal defendant Coty, the suit's individual defendants include its former CEO Sue Nabi, Chief Financial Officer Laurent Mercier and several current and former directors.

The suit accuses the individual defendants of violating the Exchange Act, breaching their fiduciary duties, wasting corporate assets and being unjustly enriched.

The complaint also notes Coty is facing a **securities class action** alleging similar violations, also in Manhattan federal court.

Moar is represented by Timothy Brown, Saadia Hashmi, Elizabeth Donohoe and Zachary Benson of The Brown Law Firm PC.

Counsel information for Coty and the individual defendants was not immediately available Friday.

The case is Moar v. Nabi et al., case number 1:26-cv-02931, in the U.S. District Court for the Southern District of New York.

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REIT Investors Ink Deal Over CEO's Alleged Undisclosed Loan

By **Sydney Price**

Law360 (April 10, 2026, 9:54 PM EDT) -- Investors in Sun Communities Inc. asked a Michigan federal judge to grant initial approval to their $2.3 million deal with the real estate investment trust to end claims that its failure to disclose its then-CEO received a loan from a board member's relatives damaged shareholders when the information emerged in a short seller report.

According to Thursday's motion for preliminary approval, the proposed settlement represents about 5% of the maximum recoverable damages, which is lower than the median for similar suits. Given the risk of continued litigation, the settlement is still a "favorable result," the investors said.

"At the time the settlement was reached, defendants still had numerous procedural mechanisms to dismiss the case," the motion said. "There was no guarantee that plaintiffs would have even survived defendants' motion to dismiss, let alone prevailed over defendants' arguments at class certification, summary judgment, trial and appeal."

Lead counsel for the investors will request up to one-third of the settlement fund, or about $760,000, in fees and up to $55,000 for litigation expenses, the motion said.

If approved, the settlement would end claims that Sun Communities' stock fell after a short seller publicly reported then-CEO Gary Shiffman received a $3.95 million loan from the family of a director.

"After reviewing 15 years' worth of Sun's Securities and Exchange Commission filings and obscure public records, interviewing former Sun employees, consulting with three experts, drafting portions of an amended complaint, and holding a full-day mediation assisted by an experienced and respected mediator, plaintiffs agreed to settle claims in this action for $2.3 million," the motion said.

According to the complaint, launched in 2024, DH Bingham Farms LLC, an entity registered under Shiffman's name, took out a mortgage from David B. Hermelin Trust and Doreen Hermelin Trust in 2019 to purchase a home. David and Doreen Hermelin are the parents of Brian Hermelin, an independent director of Sun Communities who chaired the board's compensation committee and served on its audit committee, the investors said.

The loan was reported by the activist short selling firm Blue Orca Capital, which disclosed in the report that it held a short position in Sun Communities.

Blue Orca also said it found that Shiffman had borrowed money from Sun Communities board member Arthur Weiss, citing October 2023 deposition testimony in which Shiffman said he and Weiss have "had a relationship over 35 years where we've loaned each other money."

The investors said the report raised concern about "the integrity of SUI's board and the integrity of the company's governance, controls, and financial disclosures."

Sun Communities made "overwhelmingly positive statements to investors while, at the same time, disseminating materially false and misleading statements and/or concealing material adverse facts concerning where money was coming from, namely, undisclosed loans and a $4 million mortgage," the investors said.

Blue Orca published the report after market close on Sept. 24, 2024. Sun Communities' stock price dropped from its Sept. 24 closing price of $139.10 per share to a low of $137.48 per share the next day, according to the complaint.

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

The investors are represented by Phillip Kim and Jonathan R. Horne of The Rosen Law Firm PA and David J. Shea of Shea Law PLLC.

Sun Communities is represented by Jonathan Youngwood and Janet Gochman of Simpson Thacher & Bartlett LLP.

The case is Nelson v. Sun Communities Inc. et al., case number 2:24-cv-13314, in the U.S. District Court for the Eastern District of Michigan.

--Editing by Nick Siwek.

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Trump Media Pans Truth Social Backers' Bid To Depose Trump

By **Bonnie Eslinger**

Law360 (April 10, 2026, 9:40 PM EDT) -- Trump Media & Technology Group urged a Florida state judge to deny a bid by former backers of President Donald Trump's Truth Social platform to stay its July trial over taking the company public, saying the court shouldn't wait on the defendants' too-late appeal related to deposing the president.

The Thursday filing from Trump Media opposes an April 2 request from ARC Global Investments and its founder Patrick Orlando to stay the trial pending appellate review of the state court's order denying the defendants' request to subpoena President Trump.

"The ARC parties' recent stay motion is the latest installment in an endless series of groundless maneuvers to evade trial," the opposition filing states.

While the ARC parties claim that their appeal is timely and based on a February denial of their subpoena request, that court order was based on an earlier October decision from a judge formerly overseeing the case, Trump Media argues.

That ruling, from Judge Hunter Carroll of the Twelfth Judicial Circuit Court — and related to a similar subpoena bid from former defendants in the case — held that there was a "heightened standard" to take the president's deposition, Trump Media underscored.

Therefore, the ARC parties were "five months too late" when they filed their petition for certiorari with the Second District Court of Appeal over the February denial of their subpoena, Trump Media says.

Although the subpoenas the president moved to quash were issued by other, now former defendants in the case, the ARC parties "affirmatively joined the effort to enforce the subpoenas against the president, insisting that an adverse decision would harm their own interests," the Trump Media filing states.

They knew back in October that the "heightened standard" would apply. Judge Carroll's Oct. 6 order needed to have been challenged within 30 days, the filing says.

"The ARC parties blew the jurisdictional deadline and never filed a petition to review the Oct. 6, 2025, order," Trump Media says.

ARC and Orlando also "sat" on the court's Feb. 17 order before filing that certiorari petition and have made "zero" effort to expedite a decision on that appeal, the Thursday filing asserts.

The lawsuit stems from the initial public offering of Trump Media, which went public in March 2024 after merging with special purpose acquisition company Digital World Acquisition Corp. In the suit, Trump Media claims that Orlando — Digital World's former chair and CEO — and his company, ARC Global, threatened to block the merger as a way to enrich themselves at the 11th hour. Trump Media says Orlando's actions resulted in lengthy delays in the merger process and imposed massive costs.

In October, Judge Carroll, who was overseeing the case at that time, issued an order quashing a request from another defendant in the case, United Atlantic Ventures, to subpoena the president.

Judge Carroll **recused** himself from the case on Oct. 10.

In December, Trump Media agreed to dismiss United Atlantic Ventures and its executives, Andy Litinsky and Wes Moss, the co-founders of Truth Social Media, from the case.

Shortly thereafter, in February, the new judge assigned to the case, Twelfth Judicial Circuit Judge Diana Moreland, denied the ARC parties' motion to subpoena Trump to appear for a deposition.

In that order, the judge said the defendants had not satisfied the "heightened standard" established by Judge Carroll's Oct. 6 order to depose a "nonparty" president: a need for the discovery requested, an absence of other sources and "no available less burdensome form of discovery short of the president's deposition exists."

Weeks later, Judge Moreland also issued a stay for the depositions of executives and lawyers involved in the merger. Trump Media shot back with a motion to vacate the stay that accused Orlando and ARC of reneging on the parties' agreement with how arbitration should proceed.

"ARC's upending of the arbitration process is part and parcel of a lengthy pattern of their trial avoidance strategy that requires correction by the court," Trump Media states in its March 6 memo.

On March 19, Judge Moreland **extended** the previous pause on depositions to allow the arbitrator time to resolve the dispute over who controls documents related to the merger.

"The stay will not be vacated," Judge Moreland said. "It will stay exactly as previously announced and signed on the order today."

On April 2, Orlando and ARC filed their motion to postpone the July start of the trial while they waited on the outcome of their request to the Second District Court of Appeal, seeking review of Judge Moreland's denial of their request to subpoena the president.

While finding that the parties had not met the "heightened standard" to depose the president, the court's order "did not dispute the ARC parties' position that President Trump is a material witness, nor did it find that good cause existed to issue a protective order precluding the ARC parties from taking President Trump's deposition," the motion states.

The ARC parties told they court that they sought appellate review of the order in a timely fashion by filing a petition for writ of certiorari on March 26. The Second District Court of Appeal generally takes at least six months and often up to 10 months after a petition is filed to issue its decision, the ARC parties said.

If the trial is not paused, the ARC parties say they "likely will be forced to go to trial without President Trump's testimony, which would severely impair their ability to defend themselves against plaintiffs' claims and cause them harm that cannot be adequately remedied in a post-judgment appeal."

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

Trump Media is represented by Christopher G. Oprison, Caryn G. Schectman, Ronald N. Brown III, Eric Forni, Whitney C. Cloud, Charles J. Hamilton, Steven M. Rosato and Tal Aburos of DLA Piper (US), and by Tyler B. Stall and Steven D. Hutton of Hutton & Stall PLLC.

ARC and Orlando are represented by Christopher King, Andrew Vitali III and Kevin P. Jacobs of Homer Bonner Jacobs Ortiz, by Adam L. Schwartz, Jeanah Park and Andrew T. Figueroa of Vedder Price PC, by Kimberly A. Bald of Harllee & Bald PA, by Morgan Bentley and Kaylin Humerickhouse of Bentley Goodrich Kison, and by Matthew D. Perri of Richards Layton & Finger PA.

The case is Trump Media & Technology Group Corp. et al. v. ARC Global Investments II LLC et al., case number 2024-CA-001061, in Florida's Twelfth Judicial Circuit Court.

–Additional reporting by David Minsky. Editing by Karin Roberts.

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Calculating Damages In IEEPA Tariff Refund Litigation

By **Tiago Duarte-Silva and Zawadi Lemayian** (April 10, 2026, 4:50 PM EDT)

Tiago Duarte-Silva

Zawadi Lemayian

The U.S. Supreme Court's February **ruling** in Learning Resources Inc. v. Trump, opening the door to more than $175 billion in government refunds, resolves one question: The tariffs imposed under the International Emergency Economic Powers Act were illegal. But it did not resolve a harder question: Who bore their economic cost?

That distinction is now driving two parallel waves of private litigation: commercial disputes between importers, distributors and retailers over how tariff burdens were allocated across supply chains, and consumer class actions against companies that passed tariff costs to end purchasers, and are now collecting refunds.

At the center of these disputes is a distinction familiar to public economists but increasingly relevant to courts: the difference between statutory and economic incidence.

The statutory incidence of a tariff falls on the importer of record, i.e., the entity that writes the check to U.S. Customs and Border Protection. "Economic incidence" describes where the cost of a tariff ultimately lands after prices adjust throughout the supply chain. These two concepts can diverge substantially, and that divergence is the source of most of the private litigation discussed below.

Disputes Between Private Parties Following Government Refunds

Tariffs are typically paid by the importer of record when goods enter the U.S. When the Supreme Court invalidated the tariffs, it opened the door to refunds of those payments. Even if the importer of record is the one who claims and gets a refund, that is not necessarily the entity that ultimately absorbed its cost. As a result, refund claims are likely to trigger disputes among participants in the supply chain over who bore the economic burden of the tariffs.

If an importer passed tariff costs through to downstream customers and now receives a refund from the government, those customers are likely to argue that the importer is getting a windfall. For example, distributors or retailers may assert that they paid higher prices because importers incorporated tariff costs into their pricing. If the importer later recovers a refund of those tariffs, the downstream purchaser may argue that the refund should be shared.

These disputes echo a well-developed line of cases in federal antitrust law. The U.S. Supreme Court's 1977 ruling in Illinois Brick Co. v. Illinois barred indirect purchasers from recovering on the grounds that measuring cascading pass-through was too speculative and risked duplicative recoveries. Some states have enacted related statutes restoring indirect purchaser claims.

Courts adjudicating tariff refund disputes may look to this body of doctrine, even though the IEEPA context does not map onto it precisely, as a framework for thinking about how economic burdens are assigned and traced across a supply chain.

Private disputes may also arise in the opposite direction: Suppliers whose contracts were renegotiated in response to tariffs may argue that they absorbed part of the tariff burden through reduced prices, altered contract terms or canceled orders. For example, a downstream purchaser may have demanded price concessions or declined to honor minimum purchase commitments after tariffs increased the cost of imported inputs.

Consumer Class Actions Over Tariff Refunds

Plaintiffs have begun filing class actions alleging that companies collected amounts from consumers that were attributable to IEEPA tariffs and should return those amounts if tariff refunds are obtained. The theories vary.

Stockov v. Costco Wholesale Corp. in the U.S. District Court for the Northern District of Illinois and Ward v. EssilorLuxottica S.A. in the U.S. District Court for the Eastern District of New York are framed around **higher retail prices** or tariff-related charges allegedly borne by consumers.

Reiser v. Federal Express Corporation, a **case** in the U.S. District Court for the Southern District of Florida, is different: It seeks recovery of import duties, and related brokerage and clearance fees allegedly collected on shipments that would have been duty-free absent the IEEPA tariffs.

The economic theory underlying these class actions is parallel to the above. If the economic incidence of the tariffs fell on consumers rather than importers, then consumers will argue they should be the proper beneficiaries of any refund. If retailers incorporated tariff costs into product prices, end purchasers can argue they effectively funded those duties, and that a refund flowing only to the importer constitutes a windfall.

However, demonstrating such pass-through at the consumer level is often difficult in practice. Retail prices typically reflect many concurrent influences, including broader inflation, transportation costs, supplier negotiations and strategic pricing decisions. Observed price increases therefore cannot automatically be attributed to tariffs alone.

Consumer class actions will also face significant hurdles at the class certification stage. Under the the U.S. Supreme Court's 2013 **ruling** in Comcast Corp. v. Caroline Behrend, a plaintiff's damages model must be capable of measuring classwide damages attributable specifically to the liability theory advanced. So, a general model of industry-wide price effects is unlikely to satisfy Rule 23 if the claimed harm varies materially across products, customers or time periods.

Because tariffs affected some products more than others, and because retailers adjusted prices differently across regions, channels and individual stock-keeping units, defendants will argue that pass-through cannot be demonstrated with common evidence sufficient to establish predominance.

These challenges mirror issues that courts have confronted in indirect purchaser litigation under antitrust law. In those cases, economic analysis often focuses on estimating how upstream cost shocks propagate through supply chains and whether a measurable overcharge can be identified at the consumer level.

Whether and to What Extent Tariff Costs Were Passed Through

Both supply chain disputes and consumer class actions will therefore turn on a similar economic issue: Whether and to what extent tariff costs were passed through to various parties.

Pass-through is not uniform across industries or even necessarily across products by the same company. In competitive settings, the extent to which a cost shock is transmitted to buyers versus absorbed by sellers depends on the relative elasticities of supply and demand, and so a wide range of outcomes is possible.

In differentiated or concentrated markets, pass-through also depends on demand curvature, cost conditions and strategic pricing behavior. For that reason, pass-through can be incomplete, complete or in some settings exceed 100%, a counterintuitive result that has appeared in the empirical literature and reflects the dynamics of strategic pricing among a small number of competitors.

Some firms may have absorbed tariffs by reducing their margins, particularly if competitive pressures limited their ability to raise prices. Others may have passed the costs through partially or fully, depending on demand conditions, contractual relationships and market structure.

The timing of pass-through can also vary. Prices may adjust gradually rather than immediately after tariffs are imposed, reflecting negotiations with customers, inventory cycles or strategic pricing decisions. In some cases, companies may initially absorb tariffs and later raise prices once it becomes clear that the policy will remain in place.

One key issue will be measuring pass-through — i.e., the extent to which tariff costs were absorbed by the importers of record versus transmitted to downstream purchasers. That analysis may rely on customs records, pricing data, invoices and broader market indicators to estimate how tariff shocks affected prices across products, customers and time periods.

As introduced above, measuring economic harm requires paying attention to various categories of loss. Each tells a different story about who bore the burden and what a refund does and does not remedy.

- A price effect: margin compression when tariff costs were absorbed by the importer rather than passed through.
- A volume effect: lost profits on sales that did not occur because higher prices reduced demand, as buyers substituted toward alternative products or deferred purchases.
- Adjustment costs: the expense of restructuring supply chains, renegotiating commercial relationships, rationalizing product lines or shifting sourcing — i.e., costs that are triggered by the tariffs but are not remedied simply because prices eventually adjust or duties are refunded.

This taxonomy matters for litigation because a refund of collected duties addresses none of these losses directly. A firm that fully passed through tariff costs in its prices may still argue that it has suffered harm through volume erosion and adjustment costs, even if duties are later refunded.

Establishing tariff pass-through may also be particularly challenging because the tariffs coincided with other economic forces that affected prices. Many industries experienced broader inflationary pressures, supply chain disruptions and fluctuations in input costs unrelated to tariffs. As a result, observed price increases cannot automatically be attributed to tariffs.

Significant Amounts of Interest on Refunds May Raise Additional Economic Questions

A related but distinct set of disputes concerns who is entitled to the interest accruing on refunded duties. Under current U.S. Customs and Border Protection rules, the applicable rate on duty overpayments is 6% annually for corporations, a meaningful sum given both the volume of duties collected and the time elapsed since payment.

The importer of record may argue that it is the proper recipient because it advanced the tariff payment and therefore bore the financial cost of having capital tied up. From this perspective, interest compensates the importer for the time value of money and the risk associated with paying duties that were later invalidated.

Downstream purchasers, however, may contend that if tariff costs were passed through in the form of higher prices, they effectively financed the tariff payments. In that case, they may argue that interest on refunded tariffs should also be shared because they bore part of the economic burden of the payment during the period before the refund.

The economic logic of the downstream purchaser's claim will likely be that, if tariff costs were passed through in the form of higher prices, then the downstream party advanced an interest-free loan to the importer, i.e., it funded the duty payment without receiving the time value of that money during the period before refund.

The interest allocation question may therefore be seen by courts as linked to the pass-through question: Whoever bore the economic incidence of the tariff also bore the liquidity cost of having capital tied up. The answer will depend on contractual arrangements, pricing dynamics and the timing of payments across the supply chain.

Conclusion

The government refund litigation will resolve many of the legal questions raised by the Supreme Court's February decision. The private disputes now forming between commercial actors, and the consumer class actions now being filed, will address a different and in some ways harder set of questions — not whether the tariffs were lawful, but who ultimately bore their economic cost.

Those questions will not be answered by reviewing invoices or customs records alone. The period during which the tariffs were in effect coincided with broader inflationary pressures, supply chain disruptions and demand shifts that independently affected prices across industries. Isolating the tariff-specific contribution to an observed price change will require economic analysis drawing on pricing data, contract terms and market indicators — and will need to account for the different ways in which price effects, volume effects and adjustment costs may have materialized across different products, customers and time periods.

Courts will draw on jurisprudence for guidance, but those frameworks will require adaptation. The IEEPA tariffs were imposed by executive order rather than through the standard administrative process, affected supply chains spanning dozens of countries and generated economic consequences that a refund of collected duties does not fully address.

As those cases develop, the central methodological challenge will be distinguishing tariff-related effects from the other market forces operating during the same period — and determining, with as much precision as the available evidence allows, where in the supply chain the economic burden of the tariffs ultimately came to rest.

Tiago Duarte-Silva and Zawadi Lemayian are vice presidents at Charles River Associates.

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[2] https://www.reuters.com/world/us-tariff-revenue-risk-supreme-court-ruling-tops-175-billion-penn-wharton-2026-02-20.

[3] https://www.newsweek.com/tariffs-update-will-us-consumers-get-refunds-key-questions-explained-11565213.

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[5] Stockov v. Costco Wholesale Corporation , No. 1:26-cv-02734 (N.D. Ill filed March 11, 2026).

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[7] Ward v. EssilorLuxottica SA , No. 1:26-cv-01133 (E.D.N.Y. filed February 26, 2026. https://apnews.com/article/tariffs-fedex-essilorluxottica-consumers-lawsuits.

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Big Banks Say They Were Victims Of Tricolor Fraud Scheme

By **Katryna Perera**

Law360 (April 10, 2026, 9:48 PM EDT) -- JPMorgan, Barclays and Fifth Third have urged a New York federal judge to toss an investor suit claiming the banks ignored flaring red flags and helped conceal a sprawling subprime auto loan fraud by Tricolor Holdings, arguing that they were also victims of the fraud and not aware of the scheme despite being sophisticated financial institutions.

The banks filed a dismissal **motion** on Thursday, arguing that the investors' claims are barred by "black-letter law" since merely alleging that the banks should have been more alert or skeptical of Tricolor is not enough to establish that they were promoting the fraud.

The banks argue that the investors are trying to "shift" their losses onto the banks, but that the complaint improperly blames the banks for a fraud for which they are the primary victims and that the pleading is deficient since it "lumps together" the individual claims of 30 separate plaintiffs.

More than three dozen institutional investors **accused** units of JPMorgan Chase & Co., Barclays PLC and Fifth Third Bancorp in February of securities fraud and other violations tied to securitizations of Tricolor-originated auto loan receivables from 2022 to 2025.

Tricolor, a Texas-based subprime auto lender, **filed for bankruptcy** in September and has since become the epicenter of investigations into what a court-appointed trustee has said appeared to be "a pervasive fraud of huge proportions."

The current action targets JPMorgan, Barclays and Fifth Third over their roles as warehouse lenders and underwriters to Tricolor, alleging they "fueled and perpetuated Tricolor's Ponzi-like fraud" to protect their own bottom lines.

The plaintiffs, which include funds managed by One William Street, Clear Haven Capital and Janus Henderson, say they ultimately relied on the banks' representations to buy more than $230 million of Tricolor asset-backed notes.

The banks, however, argued on Thursday that the complaint fails to plead "even the most basic facts and circumstances concerning each of the 30 individual plaintiffs' transactions."

Not only did the bank not "make" any of the challenged misleading statements in the suit, but many of the statements are inactionable, according to the motion.

"Plaintiffs allege that Tricolor made statements that are generic statements of optimism that are not actionable or are true on their face and not alleged to be false," the motion states. "Plaintiffs cannot transform inactionable generalities and indisputably truthful factual statements into securities fraud by claiming that Tricolor failed to accuse itself of 'uncharged, unadjudicated wrongdoing.'"

The suit's claim that the investors relied upon the misstatements is also conclusory and not pleaded with particularity for each of the 30 plaintiffs, according to the motion.

Finally, the banks argue that the suit fails to plead that they acted with intent to defraud the investors.

"Plaintiffs try to plead fraudulent intent by contending generically that defendants sought to earn 'fees' by providing 'services for Tricolor,'" the motion states. "But in this Circuit, a generalized motive to earn fees — shared by every corporation — has never been sufficient to plead fraud."

Additionally, the investors' claim that the banks would have discovered Tricolor's fraud sooner had they "asked more questions and probed Tricolor more deeply about the tangential issues flagged in the consulting reports," does not plead scienter, the motion states.

The banks also urged the court to dismiss the suit's state common law fraud and securities claims, saying they fail for the same reasons as the federal securities claim.

Finally, the banks argued that the suit's state law fraudulent transfer claim fails because the "transfers" the investors are challenging — "transfers of 'cash' raised by 'selling the notes' in exchange for 'auto loan receivables'" — were made by separate Tricolor-related entities to which the investors do not have a relationship with and therefore, no standing to sue.

Fifth Third filed a separate supplemental **motion** on Thursday stating that it "stands in a materially different position than its co-defendants, and the problems with plaintiffs' impermissible group pleading are particularly acute" as to itself.

According to Fifth Third, it only participated in five of the seven securitization trusts and as to those five offerings, it served as an "initial purchaser of a vanishingly small fraction of only the Class A Notes — the most senior, lowest-risk tranche."

"[Fifth Third] had no involvement with the subordinate notes that form the primary basis for plaintiffs' claims, and plaintiffs do not claim that they purchased any note of any kind from [Fifth Third]," the motion states.

Fifth Third also argues that the complaint's scienter claims against it are "fatally deficient."

Federal prosecutors **indicted** Tricolor's former CEO and chief operating officer on fraud charges late last year. The lender's former chief financial officer and another former finance executive pled guilty to fraud charges around the same time.

According to the complaint, Tricolor funded its auto lending with revolving lines of credit from the banks and would pledge the loans back to these warehouse facilities as collateral. The loan receivables were then packaged into nearly $2 billion of securities that affiliates of the banks underwrote and sold, the plaintiffs allege.

They contend the banks kept this pipeline flowing even as auditors raised alarms that pointed to control breakdowns at Tricolor, loan data irregularities and potential double-pledging of collateral. The banks were incentivized to look the other way, or else the pipeline could shut down and they "would be left holding the bag," the suit claims.

The suit alleges this "house of cards" finally crumbled when Tricolor filed for bankruptcy. Once the "truth of Tricolor's fraud emerged," the plaintiffs said, their Tricolor notes plummeted in value and now "trade for pennies on the dollar."

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

The plaintiffs are represented by Blair Adams, Deborah Newman, Robert Loigman, Toby Futter and Eric Winston of Quinn Emanuel Urquhart & Sullivan LLP.

JPMorgan is represented by Robert A. Sacks and Jonathan S. Carter of Sullivan & Cromwell LLP.

Barclays is represented by Jeffrey T. Scott, Jonathan M. Sedlak and Jacob E. Cohen of Sullivan & Cromwell LLP.

Fifth Third is represented by Robert J. McGahan, Jonathan Harrington and Rebeccah Lynn Bower of Bradley Arant Boult Cummings LLP and Jenna M. Dabbs, Sean Hecker and Marshall L. Miller of Hecker Fink LLP.

The case is One William Street Capital Master Fund Ltd. et al. v. JPMorgan Chase Bank NA et al., case number 1:26-cv-01622, in the U.S. District Court for the Southern District of New York.

–Additional reporting by Jon Hill. Editing by Michael Watanabe.

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3 Valve 'Loot Box' Suits Merged, Hagens Berman To Rep Users

By **Ben Adlin**

Law360 (April 10, 2026, 9:01 PM EDT) -- A Seattle federal judge has consolidated three putative class actions accusing gaming giant Valve Corp. of promoting illegal gambling by offering "loot boxes" for its PC gaming titles, and appointed Hagens Berman Sobol Shapiro LLP as interim lead counsel for the gamers.

All three lawsuits were brought in the Western District of Washington, where Valve is headquartered, on the heels of a similar action **that New York's attorney general launched** Feb. 25. The gamers suing Valve alleged the company's loot boxes amount to illegal gambling by luring players into spending money on games of chance that can pay out rare, potentially valuable virtual items that are often used in video games.

Hagens Berman represents named plaintiffs in two of the merged suits, filed March 9 and March 24. The third suit was filed March 11 by a player represented by Milberg PLLC and Girard Sharp LLP.

U.S. District Judge John H. Chun appointed Hagens Berman to be interim lead counsel Thursday. He named Milberg and Girard Sharp as the plaintiff executive committee.

"We are pleased to get this leadership appointment and look forward to moving forward on this important consumer protection case," Steve W. Berman, the managing partner of Hagens Berman, told Law360 in an email Friday.

Judge Chun gave the users 30 days to file a consolidated complaint. Valve will subsequently have 45 days to respond.

Valve distributes the loot boxes for free, often as rewards for playing PC games that are themselves free to play, according to the plaintiffs' complaints. The games include popular titles such as the Counter-Strike franchise and Dota 2.

The company makes money from the loot boxes both by selling keys to open them — typically for about $2.50 apiece — and again through a 15% cut on any unlocked items that players sell through the company's Steam Community Market, the gamers said.

Especially rare items can be resold for hundreds, sometimes thousands of dollars.

The market for cosmetic "skins" — which change the user's appearance in-game — for Counter-Strike alone exceeds $4 billion, players in one of the cases asserted, citing a March 2025 news report. According to another of the suits, Valve also "went so far as to hire an internationally renowned economist to help it develop currencies and cross-platform economies."

The company also designed its loot box system to be especially engaging, with animations that resemble slot machines, the gamers argued. Young people, who make up a large share of Valve's consumer base, are particularly vulnerable, they added.

"Players buy and open loot boxes for the same reason people play slot machines — the hope of a valuable payout," plaintiffs in one of the suits said.

The gamers in their separate complaints **brought claims against Valve** under Washington's recovery of money lost at gambling statute, RCW 4.24.070, which allows people to recover assets lost to illegal gambling. The plaintiffs also alleged Valve broke Washington's Consumer Protection Act, which forbids unfair or deceptive business practices and allows recovery of triple damages.

Counsel for Valve did not immediately respond to a request for comment Friday.

The gamers are represented by Steve W. Berman, Moses I. Jehng, Ben Harrington, Rio S. Pierce and Roxana Moussavian of Hagens Berman Sobol Shapiro LLP, Douglas H. Sanders, Gary M. Klinger, William J. Edelman, Michael A. Acciavatti and Jason T. Dennett of Milberg PLLC, and Adam E. Polk, Simon Grille and Fatima Ladha of Girard Sharp LLP.

Valve is represented by Blake E. Mark-Dias of Corr Cronin LLP.

The case is In Re Valve Loot Box Litigation, case number 2:26-cv-00788, in the U.S. Distict Court for the Western District of Washington.

The underlying cases are Flauto et al. v. Valve Corp., case number 2:26-cv-00788, Matamoros et al. v. Valve Corp., case number 2:26-cv-00812, and Galas et al. v. Valve Corp., case number 2:26-cv-00995, in the U.S. District Court for the Western District of Washington.

--Additional reporting by Katryna Perera. Editing by Covey Son.

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Uber Had 'Non-Delegable Duty,' Judge Finds In Assault MDL

By **Rae Ann Varona**

Law360 (April 10, 2026, 9:32 PM EDT) -- Uber is a "common carrier" and thus it owed a "non-delegable duty" to safely transport a woman who alleged that a driver on its platform sexually assaulted her, a California federal judge ruled Friday, rejecting the ride-hailing company's contention that it doesn't carry passengers but merely connects them to others who independently provide transportation.

U.S. District Judge Charles R. Breyer said in granting the North Carolina-based passenger's motion for partial summary judgment that under North Carolina law, one is a common carrier if they hold themselves out to as such, "either expressly or by a course of conduct," that they will "carry for hire on a uniform tariff all persons applying so long as he has room."

"Uber clearly qualifies as a common carrier on that basis," Judge Breyer wrote in an **order**. "The undisputed factual record in this litigation demonstrates that Uber holds itself out to the public as a transportation provider through its ubiquitous advertising as well as the control it exerts over Uber rides and the safety of its passengers."

The judge ruled that as a common carrier, Uber owes a non-delegable duty to the passenger and other riders to transport them safely. That duty is breached when an Uber driver assaults a passenger, "regardless of whether the driver is properly classified as Uber's employee or an independent contractor under North Carolina law," according to the order.

Judge Breyer's decision in favor of a passenger, referenced as "WHB 823" in court documents, came in a pretrial order in a multidistrict litigation over passengers' allegations of sexual assaults by Uber drivers.

The first bellwether trial concluded in February with a federal jury in Phoenix awarding a passenger **$8.5 million in damages** against Uber. Jurors in that case found that while Uber was not negligent with respect to rider safety, it was liable for the actions of a driver accused of sexually assaulting the passenger in 2023 because the driver was acting as the "apparent agent" of Uber.

WHB 823 alleged in her lawsuit that she was "sexually assaulted, harassed, battered, or otherwise attacked by an Uber driver in connection with a ride facilitated on the Uber platform" in late March 2019.

The plaintiff also said in court filings that when she tried leaving an Uber vehicle, the driver grabbed her thigh and made sexualized comments.

Among the causes of action she lodged against Uber are negligence, fraud and misrepresentation, negligent infliction of emotional distress, and common carrier's non-delegable duty to provide safe transportation.

The passenger had last month moved for summary judgment on two issues: whether Uber was a common carrier, and whether, as a result, Uber is vicariously liable for its driver's alleged assault.

A common carrier, under North Carolina law, is one who holds itself out as offering transportation to the public for money, according to her motion.

The passenger argued that "under undisputed facts, that is exactly what Uber is and what Uber does."

Uber, she asserted, holds itself out as a transportation provider and vouches for the safety of its rides. Uber is also in the business of providing transportation. And its transportation services are an offer to the public, according to her complaint.

The passenger asserted that Uber also is not a "mere broker for services offered by independent transportation providers." Rather, Uber "exercises control over matching, fare setting, payment processing, ride monitoring, and incident response," WHB 823 said.

Uber, in response, contended the claim that it is a common carrier "finds no support in North Carolina law."

North Carolina, by statute, established Uber a transportation network company, "whose function is to connect users seeking rides to others who independently provide transportation, not a common carrier that provides transportation," Uber argued.

Uber, under the transportation network company statute, is a "transportation intermediary, not a carrier of persons," it asserted.

WHB 823's contention that the company owed a non-delegable duty also "runs headlong into the TNC statute, which explicitly mandates that Uber delegate transportation duties to presumptively independent drivers," Uber further argued.

In siding with the passenger, Judge Breyer said Friday that North Carolina lawmakers, if they "so desired," could have modeled its transportation network company statute after states such as Florida and Texas, which he noted have "explicitly exempted" rideshare providers from common carrier liability.

"But the legislature did not do so, and therefore Uber cannot use its strained explanation of the TNC regulatory environment to manufacture a statutory limitation on Uber's common law tort liability where one does not actually exist," the judge determined.

Judge Breyer's order arrived a day after WHB 823 **also argued** Uber should not be allowed to introduce evidence that she saw attorney advertisements before suing Uber. The company has asserted that the exposure goes to her credibility, as it suggests the advertisements played a role in her decision to sue.

Counsel for the parties did not immediately respond to requests for comment late Friday.

The passenger is represented by Sarah R. London of Girard Sharp LLP, Rachel B. Abrams of Peiffer Wolf Carr Kane Conway & Wise LLP and Roopal P. Luhana of Chaffin Luhana LLP.

Uber is represented by Laura Vartain Horn, Allison M. Brown and Jessica Davidson of Kirkland & Ellis LLP, Sabrina H. Strong and Jonathan Schneller of O'Melveny & Myers LLP and Bradley R. Kutrow of McGuireWoods LLP.

The passenger's case is WHB 823 v. Uber Technologies Inc. et al., case number 3:25-cv-00737, in the U.S. District Court for the Western District of North Carolina.

The MDL is In re: Uber Technologies Inc., Passenger Sexual Assault Litigation, case number 3:23-md-03084, in the U.S. District Court for the Northern District of California.

--Additional reporting by Bonnie Eslinger and Hayley Fowler. Editing by Covey Son.

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Amex Consumer Attys Want $13M Of $17.5M Antisteering Deal

By **Katryna Perera**

Law360 (April 10, 2026, 8:56 PM EDT) -- Counsel for a group of consumers who reached a $17.5 million settlement with American Express Co. in a suit alleging the credit card company's so-called antisteering rules caused non-Amex cardholders to pay higher charges has asked a New York federal judge to award them nearly $13 million in attorney fees and litigation costs.

The consumers' attorneys from Berman Tabacco, Gordon Ball PLLC and several other firms filed a **motion** for attorney fees on Thursday seeking approximately $5.8 million in counsel fees, which equates to about a third of the settlement fund, plus $7 million in litigation costs.

"Based on class counsel's investment of time and resources, the complexity of the litigation, the risks class counsel assumed, and the quality of the representation, the requested 33.33% fee award is fair and reasonable," the motion states.

Class counsel say that since the start of the suit, through January 2026, they have invested nearly 64,000 hours in litigating the action, which is valued at approximately $45 million in lodestar.

"Class counsel prosecuted this litigation on a wholly contingent-fee basis, with no guarantee that class counsel would receive any payment at all," the motion states. "Class counsel assumed daunting litigation risks. Most significantly, class counsel took on the challenge of attempting to prove antitrust overcharge damages to consumers flowing from Amex's anti-steering rules in its contracts with merchants, a type of vertical non-price restraint."

According to the motion, not only did class counsel work on the litigation for over seven years, they also reviewed over 2 million documents as a part of discovery, subpoenaed over 40 financial institutions and dozens of merchants, defeated two attempts for an appeal by Amex, and prepared for and prosecuted a trial.

The sheer amount of work done by the attorneys warrants the fee request, the motion states, but the magnitude and complexity of the action also favor granting it.

The motion also lists some of the litigation's most expensive sources, including approximately $4.6 million for the plaintiffs' economic experts team, which "developed evidence of the 'but-for' world critical to proving anticompetitive effects and a damages model that was admissible through class certification and trial."

The trial costs also totaled roughly $900,000, according to the motion.

Class counsel also asked the court on Thursday the court to grant service awards to the suit's 12 class representatives. The motion asks that $15,000 be awarded to each of the nine representatives who testified at trial and $10,000 to each of the remaining three plaintiffs, for a total of $165,000.

The parties alerted the court **in December** that they had reached a settlement, after a New York federal jury ordered Amex to **pay more than $12 million** to one class of consumers, and the court granted preliminary approval to the deal in February.

At trial, Amex was ordered to pay $12 million to a class of Illinois consumers after a jury found the company liable under Illinois state law for overcharges the class said they incurred due to so-called antisteering rules Amex imposed on merchants that accept Amex cards.

The suit also included plaintiffs from several states, including Alabama, Kansas and Maine, as well as Washington, D.C. However, the jury did not find Amex liable on any of these plaintiffs' antitrust claims, including the claim that Amex's rules did not unreasonably restrain trade.

The focus of the suit — Amex's nondiscrimination, or antisteering, rules — were also the target of suits from federal and state enforcers that resulted in the U.S. Supreme Court's landmark Ohio v. American Express Co. decision in 2018, in which the justices found the rules **did not violate federal antitrust law** because Amex uses the higher fees it charges merchants to provide better cardholder benefits.

Counsel for the consumers declined to comment on Friday and counsel for Amex did not immediately respond to requests for comment.

The plaintiffs are represented by Berman Tobacco, Gordon Ball PLLC, Stearns Weaver Miller Weissler Alhadeff & Sitterson PA, Lovell Stewart Halebian Jacobson LLP, Miller Law LLC, Stamell & Schager LLP, Saltz Mongeluzzi & Bendesky, Wagstaff & Cartmell LLP, Kahn Swick & Foti LLC, Methvin Terrell Yancey Stephens & Miller PC, Bienert Katzman Littrell Williams LLP, Karon LLC and Cuneo Gilbert Flannery & Laduca LLP.

American Express is represented by Cravath Swaine & Moore LLP.

The case is Moskowitz et al. v. American Express Co. et al., case number 1:19-cv-00566, in the U.S. District Court for the Eastern District of New York.

--Editing by Michael Watanabe.

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CNN Can't Ditch Privacy Class Action Over Tracking Tools

By **Dorothy Atkins**

Law360 (April 10, 2026, 9:55 PM EDT) -- A New York federal judge has refused to toss a proposed class action alleging CNN violated the California Invasion of Privacy Act by surreptitiously installing data trackers and sharing the data with third parties including Microsoft for targeted advertising, finding the alleged privacy harm and claims are sufficiently pled.

In a 21-page **ruling** issued Thursday, U.S. District Judge Victor Marrero held that lead plaintiff Anthony D'Antonio sufficiently alleged that Cable News Network Inc. violated a privacy interest bearing a "close relationship" to a traditionally recognized harm.

Although the judge repeatedly acknowledged that courts applying CIPA have been divided on the standard for pleading harm and a CIPA privacy claim, Judge Marrero said he was persuaded to follow the line of district court rulings that have kept alive similar CIPA claims and allegations of harm.

"Several of D'Antonio's allegations lead the court to conclude that he has adequately pleaded a concrete injury – or an intangible harm that has a close, but not identical relationship to a harm that has traditionally been recognized at common law," the order says.

The ruling keeps alive a lawsuit that was initially filed by Carol Lesh in California state court in January 2024, which CNN quickly removed to New York federal court.

In February 2025, the judge refused to toss a previous rendition of the complaint, and subsequent mediation attempts were unsuccessful. In October, Lesh's counsel filed an amended complaint replacing Lesh as lead plaintiff with D'Antonio in light of Lesh's death, according to court documents.

D'Antonio's amended complaint alleges that CNN allowed third-party trackers to be installed on its news website, CNN.com, and visitors' internet browsers so that CNN and third parties, including PubMatic, Microsoft and OpenX, could collect consumer data. Those third parties used that data to identify specific users by linking users to profiles maintained by data brokers in order to target them with advertising without their consent, the suit alleges.

D'Antonio claims that data brokers offer individuals' profiles for sale "to a near endless supply of advertisers without [the users'] knowledge or consent," and the allegedly collected data includes users' IP addresses and device identifier information such as device type, browser type and other metadata. In particular, D'Antonio alleges that the trackers allowed third-party PubMatic to collect his data and target him with Jaguar Land Rover ads.

D'Antonio claims the trackers constitute a "pen register" under CIPA, and that the conduct violates a CIPA provision that states "a person may not install or use a pen register or a trap and trace device without first obtaining a court order."

D'Antonio's suit seeks to represent a class of California residents who accessed the CNN website in the Golden State and had their IP address collected by the trackers.

But CNN argued in December its latest motion to dismiss that D'Antonio lacks Article III standing and fails to state a viable claim for relief. Even if he has standing and has stated a viable claim, CNN argued that the news network is safeguarded by a CIPA exception that applies to electronic communication service providers.

But in his ruling Thursday, Judge Marrero noted that courts in New York and California are currently divided over whether consumers asserting similar CIPA claims can establish Article III standing.

"From those decisions — and others presented by the parties — the court can glean no determinative or dispositive factual circumstance or allegation warranting adherence to a specific line of cases," Judge Marrero's order states.

In light of the lack of clear precedential guidance, Judge Marrero said he would follow the direction of district courts that have refused to toss similar CIPA claims on the basis of lack of Article III standing.

The judge additionally noted that in his prior order denying CNN's initial motion to dismiss last year, he found that the trackers could be considered a "device or process," because they constitute software that "identifies consumers, gathers data and correlates that data."

In reaching that conclusion, Judge Marrero relied on a California 2023 district court decision in Greenley v. Kochava Inc., he said.

And although CNN argues that CIPA can't apply to D'Antonio's claims because they purportedly implicate the "content" of his communications, Judge Marrero said courts have similarly been divided over whether a digital fingerprint revealing user information constitutes the "content" of the communication at issue.

"Given a survey of the recent case law, this court is once again persuaded to follow the trend of other courts that have found that trackers collecting fingerprinting information or other similar data do not necessarily collect the 'content' of that information such that exclusion from CIPA's purview is warranted," the order says.

The judge additionally refused to find on a motion to dismiss that CNN is shielded from CIPA liability under an exception to the statute, noting that "given the allegations and the breadth of data alleged to have been tracked in this case, the court finds that this question raises factual issues not suitable to be resolved on a motion to dismiss."

A representative for CNN declined to comment Friday.

Counsel for D'Antonio didn't immediately respond to requests for comment Friday.

D'Antonio is represented by Yitzchak Kopel, Alec M. Leslie, Max S. Roberts and Victoria X. Zhou of Bursor & Fisher PA.

CNN is represented by David L. Yohai of Weil Gotshal & Manges LLP.

The case is Anthony D'Antonio v. Cable News Network Inc., case number 1:24-cv-03132, in the U.S. District Court for the Southern District of New York.

--Editing by Linda Voorhis.