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J&J Denied Supreme Court Review of Investor Class Certification

April 20, 2026, 6:34 AM PDT

Summary by Bloomberg AI

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- Johnson & Johnson failed to convince high court justices to look at whether investors should've been certified as a class in a lawsuit alleging the pharmaceutical giant misrepresented the safety of its talc products.
- The Supreme Court had established a tool for opposing class status in cases where investors argue misstatements sustained elevated share prices, known as the "inflation-maintenance" theory, in its 2021 ruling in *Goldman Sachs Grp., Inc. v. Ark. Teacher Ret. Sys.*
- Justices declined to review the case, with Justices Samuel Alito and Brett Kavanaugh not participating in the decision, according to the court.

Johnson & Johnson failed to convince high court justices to look at whether investors should've been certified as a class in a lawsuit alleging the pharmaceutical giant misrepresented the safety of its talc products.

J&J had wanted the justices to clarify their 2021 ruling in *Goldman Sachs Grp., Inc. v. Ark. Teacher Ret. Sys.*, where the court established a tool for opposing class status in cases where investors argue misstatements sustained elevated share prices, known as the "inflation-maintenance" theory.

The Supreme Court in *Goldman* said companies can rebut a presumption that shareholders as a class relied on its stock price by severing the link between the price and alleged generic misrepresentations. The US Court of Appeals for the Second Circuit, on remand, undid the *Goldman* class, finding a wide-enough mismatch between the misrepresentations alleged and later, stock price-deflating corrective disclosures.

In J&J's appeal of shareholder class certification, a split Third Circuit decided that unlike in *Goldman*, there was no mismatch between the contents of the alleged misrepresentations and subsequent disclosures.

Securities attorneys have been monitoring class status decisions such as J&J's nationwide. Zillow Group Inc. is expected to seek Supreme Court review out of a Ninth Circuit ruling that affirmed class status in a suit alleging the real estate marketplace had misrepresented its home-flipping business' pricing model.

Justices Samuel Alito and Brett Kavanaugh didn't participate in the decision to turn aside the case, according to the court.

Robbins Geller Rudman & Dowd LLP and Carella Byrne Cecchi Brody & Agnello PC represent the investor class. Sidley Austin LLP represents J&J.

The case is Johnson & Johnson v. San Diego Cnty. Emps. Ret. Ass'n, U.S., No. 25-977, 4/20/26 .

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Securities

Rocket Lab Defeats Investor Lawsuit Over Delayed Neutron Launch

April 17, 2026, 9:47 AM PDT

Rocket Lab USA Inc. and top executives routed allegations they misled investors about the testing and debut timeline for its reusable Neutron rocket before a 2025 short-seller report.

The court again found the lawsuit's theory of securities fraud by Rocket Lab CEO Sir Peter Beck and Chief Financial Officer Adam Spice "simply does not make much sense." Judge George H. Wu of the US District Court for the Central District of California finalized an earlier tentative ruling, tossing the proposed class action with prejudice Thursday.

The more innocent inference—that the spaceflight company and executives sincerely hoped their timeline would be achievable while knowing there could be challenges—was an "even more an appropriate conclusion" here because the complaint didn't come close to adequately alleging statements about the launch schedule for Neutron were "flagrantly false," Wu said.

And the investors didn't sufficiently plead a short-seller report could be a corrective disclosure of allegedly fraudulent statements for purposes of showing loss causation, Wu said.

The investors cited language from a Ninth Circuit case to support their argument that Bleeker Street Research's report could serve as a corrective disclosure. However, Wu ruled that argument was dicta, agreeing with Rocket Lab.

In that case, the US Court of Appeals for the Ninth Circuit indicated two short-seller reports may be used to plead loss causation, but found they still didn't qualify as corrective disclosures because one didn't relate back to alleged misrepresentations and the other was made of public information.

Investors sued two days after Bleeker accused the company on Feb. 25, 2025, of deceiving shareholders about the Neutron test-launch timeline for that year. Rocket Lab's share price fell 9.8% to close at \$20.28 that day.

The proposed class would've included those who got Rocket Lab stock from Jan. 9, 2025, through Feb. 25, 2025.

Rocket Lab said this February that it now expects Neutron's first launch to be in the fourth quarter of 2026 following a first stage tank test failure earlier this year, adding to a series of delays for this rocket as the company works to rival Elon Musk's SpaceX.

Glancy Prongay Wolke & Rotter LLP represents the investors. Skadden, Arps, Slate, Meagher & Flom LLP represents Rocket Lab and the executives. Neither of these law firms nor the company immediately responded to emails seeking comment.

The case is *Bray v. Rocket Lab. USA, Inc.*, C.D. Cal., No. 2:25-cv-01733, 4/16/26 .

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Feds Charge Executives With Using Sham Contracts to Inflate AI Business Revenues

Prosecutors claim the executives of the now-bankrupt iLearningEngines Inc. fabricated customer relationships and contracts to inflate revenues by hundreds of millions of dollars. The case was filed less than a month after a federal court in Maryland dismissed a securities suit that alleged similar misconduct.

April 17, 2026 at 02:48 PM By **Alyssa Aquino**



U.S. Courthouse, Eastern District of New York in Brooklyn, New York. Photo: Ryland West/ALM

New York federal prosecutors are accusing the executives of the bankrupt artificial intelligence company iLearningEngines Inc. of faking “virtually all” of its business relationships and contracts to obtain investor funding.

The U.S. Attorney’s Office for the Eastern District of New York said that Puthugramam Chidambaran and Sayyed Farhan Ali Naqvi—the founder and former chief financial officer, respectively, of iLearning, an AI-powered learning automation software company—had family

members, employees and friends posing as iLearning's customers to sign sham contracts with the company.

To keep the alleged scam going, prosecutors alleged, the executives would send money received from lenders and investors to these alleged customers, who would then send the money back to iLearning.

"The defendants exploited investor excitement over the AI boom and presented a rosy financial outlook to investors and lenders that was built on lies. While the defendants pitched iLearning as a way to revolutionize training and education through AI, the truly artificial part of the defendants' story was iLearning's customers and revenues," U.S. Attorney Joseph Nocella said in a statement announcing the charges Friday.

The pair are facing a 10-count indictment charging them with wire fraud, securities fraud and conspiracy. They are also each charged with operating a continuing financial crimes enterprise, a charge that, if proven, carries a mandatory 10-year prison sentence.

Both Chidambaran and Naqvi were arrested Friday morning, according to prosecutors.

Neither Chidambaran nor Naqvi could be immediately reached. Their counsel in a related securities matter didn't immediately respond to requests for comment.

The indictment was announced less than a month after a Maryland federal court dismissed a securities suit alleging that Chidambaran, Naqvi, iLearning and the firm's old auditor used so-called round trip transactions with a partner to inflate its revenues. That case was brought by investors represented by Levi & Korsinsky.

U.S. District Judge Deborah K. Chasanow said the investor failed to allege that iLearning made any false representations about its revenue.

Chidambaran had been represented by Miller & Chevalier and Naqvi had been represented by Mintz, Levin, Cohn, Ferris, Glovsky and Popeo in the securities suit. Counsel in those civil cases didn't immediately respond Friday to requests for comment.

iLearning was founded in 2010 by Chidambaran. It went public in 2024 through a SPAC merger, after which it achieved a \$1.5 billion market capitalization.

But only a few months after going public, the short-seller, Hindenburg Research, reported suspicions that iLearning's revenue and expenses were "largely fake." The short-seller reported that 96% of iLearning's revenue appeared to run through an "undisclosed related party" abroad and that iLearning had inflated its India revenues by 99%.

After the report was published, iLearning's stock price plummeted. It later filed for Chapter 11 bankruptcy in Delaware, which it later converted into a Chapter 7 liquidation.

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Securities

SVB Investors Warn KPMG of Expanded Claims Over Bank Collapse

April 17, 2026, 3:30 PM PDT

KPMG LLP is bracing for an expanded set of investor claims including securities fraud in an ongoing court fight over the Big Four accounting firm's audits for failed Silicon Valley Bank.

Investors intend to add the fraud claim and to bring an additional audit year under scrutiny in their proposed class action, KPMG said in filings with the US District Court for the Northern District of California on Thursday. The investors are suing underwriters and former executives and directors as well as KPMG.

Bank investors in 2023 sued the auditor over its work vetting of the regional bank's corporate accounting.

KPMG issued clean audit reports for Silicon Valley along with Signature Bank and First Republic Bank in the weeks before the lenders failed in 2023. A report issued by Senate Democrats found that KPMG missed red flags before the three banks collapsed including a \$15 billion drop in value for certain long-term assets held by SVB.

A federal judge agreed Thursday to postpone a hearing set for next week to consider whether to certify the class of harmed investors after KPMG warned that the potentially expanded claims would "fundamentally" change the case and alter its defense, according to court records.

KPMG stands by its audit opinions, the firm said in a statement Friday. Lawyers representing investors did not immediately respond to a request for comment.

Investors until now have sought to hold KPMG liable for misstatements related to SVB offering documents, a non-fraud claim.

Two other investor suits are proceeding in parallel with the class action, as is a suit by SVB's receiver, the Federal Deposit Insurance Corporation, targeting former bank directors and officers.

Bernstein Litowitz Berger & Grossmann LLP and Kessler Topaz Meltzer & Check LLP are lead counsel for the investors. King & Spalding LLP represents KPMG.

The case is *In re SVB Financial Group Sec. Litig.*, N.D. Cal., No. 5:23-cv-01097, motion 4/16/26 .

Delaware Court Rejects "Public Offering" Exclusion in De-SPAC Coverage Dispute

K [dandodiary.com/2026/04/articles/d-o-insurance/delaware-court-rejects-public-offering-exclusion-in-de-spac-coverage-dispute](https://www.dandodiary.com/2026/04/articles/d-o-insurance/delaware-court-rejects-public-offering-exclusion-in-de-spac-coverage-dispute)

Sarah Abrams

April 19, 2026



Amid signs of a renewed [uptick in SPAC activity](#), courts continue to grapple with D&O insurance coverage issues arising out of older de-SPAC transactions. In a March 30, 2026, [decision](#) involving the de-SPAC of [View Operating Corporation \(View\)](#), the Delaware Superior Court held, in part, that View's D&O policy "public offering" exclusion did not apply to preclude coverage for claims arising out of a de-SPAC transaction and that additional payment conditions could not be imposed unless expressly stated in the policy.

My thanks to Geoffrey Fehling of the Hunton Andrews Kurth law firm, who wrote about the court's decision in his early April 2026 post on [LinkedIn](#).

Background

The underlying facts follow a now-familiar de-SPAC trajectory. A private operating entity View, Inc. ("Old View") entered into a merger with a special purpose acquisition company CF Finance Acquisition Corp. II ("CFII"), a blank-check company sponsored by Cantor Fitzgerald & Co. (SPAC), becoming a wholly owned subsidiary of the publicly traded parent. Following the transaction, the combined enterprise, View, faced a series of adverse developments, including an audit committee investigation, an SEC investigation, a securities class action, derivative litigation, and an SEC enforcement action against an officer tied to alleged misstatements during the transaction.

View then sought coverage under its D&O program for defense and settlement costs arising from these proceedings. While most insurers participated, one carrier denied coverage, relying primarily on a "public offering" exclusion and separately arguing that it had no payment obligation until defense costs were actually paid.

The insurance coverage dispute that followed centered on the interpretation of the "public offering" exclusion, which barred claims "arising out of any public offering of equity securities of the Company," and the reimbursement insuring agreement. The insurer contended that the de-SPAC transaction functioned as a public offering of View's securities, even if structured through the SPAC parent.

The Court's Ruling

The Delaware Superior Court rejected the insurer's coverage position and granted summary judgment in favor of View on the core issues, emphasizing that policy language must be applied as written and exclusions construed narrowly under Delaware law. The court held that the "public offering" exclusion applies only where there is an offering of the insured entity's own equity securities. Because the transaction involved shares issued by the SPAC parent, not View, the exclusion did not apply.

The court also rejected the insurer's attempt to rely on a "substance over form" theory, finding that this approach improperly collapsed the legal distinction between parent and subsidiary entities and expanded the exclusion beyond its plain terms. To the extent any ambiguity existed, under Delaware Law, it was required to be resolved in favor of coverage. The court further declined to consider extrinsic materials such as SEC guidance, reinforcing that unambiguous policy language controls.

Finally, the court rejected the insurer's argument that payment obligations were triggered only after defense costs were actually paid, holding that "pay on behalf of" language requires payment once liability is incurred. Notably, the court also allowed View's bad faith claim to proceed, finding the insurer's positions insufficiently "colorable," particularly given the lack of supporting authority and the shifting nature of its arguments.

Discussion

This Delaware Superior Court decision may reinforce the strict, narrow approach that Delaware courts often take toward interpreting insurance exclusions. Even in complex de-SPAC transactions, insurers bear a heavy burden to prove that an exclusion applies explicitly. For D&O underwriters, the takeaway appears straightforward: if an exclusion is expected to apply to a particular risk, it must say so clearly. Delaware courts hearing insurance coverage disputes involving de-SPACs may not accept insurer arguments that rely on expanding or recharacterizing exclusionary provisions.

The ruling also highlights the continuing tension between form and substance in the SPAC context. While de-SPAC transactions may be described as functional equivalents of IPOs, the Delaware Superior Court declined to adopt that framing for purposes of policy interpretation. Instead, it adhered to corporate formalities and legal distinctions, which proved dispositive in the coverage analysis. For D&O underwriters, this underscores that how a transaction is legally structured, not how it is economically characterized, will drive coverage outcomes, reinforcing the need to underwrite based on legal form and deal mechanics.

Thus, this case may highlight a gap between traditional D&O policy language and modern transaction structures. Generic "public offering" exclusions in legacy forms may be inadequate and potentially vulnerable to challenge when applied to de-SPAC transactions. From a D&O underwriting standpoint, standard exclusions may need to be revisited with consideration of whether more tailored language addressing SPAC mergers, reverse recapitalizations, or similar structures is necessary to accurately capture intended risk allocation.

From a D&O exposure perspective, the Delaware court's ruling may also have significant implications for the timing of defense cost advancement. By confirming that "pay on behalf of" language is triggered upon the incurrence of liability rather than actual payment, the court endorsed a policyholder-friendly interpretation that accelerates insurer payment obligations. Underwriters and claims professionals may recognize that this interpretation can materially impact anticipated loss arising from de-SPAC transactions.

The View coverage decision further reinforces that carriers may be required to advance defense costs promptly once liability attaches, rather than waiting for insureds to exhaust their own capital. Equally significant was the Delaware court's willingness to allow View's bad faith claim to proceed, notwithstanding the insurer's assertion of a reasonable coverage position. For D&O insurers, this may signal that, under Delaware law, purportedly aggressive or unsupported coverage positions, particularly those lacking clear policy grounding or consistent rationale, could result in extra-contractual exposure.

Finally, even as SPAC formation activity ebbs and flows, the pipeline of litigation arising from prior de-SPAC transactions remains substantial. As these matters continue to generate coverage disputes, decisions like the one involving View and its insurer, may shape both underwriting practices and policy wording going forward.

Tags: [D&O insurance](#), [Delaware](#), [Securities Litigation](#), [SPAC](#)

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April 5, 2026

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BBQ Chain Workers Ink Stock Plan Class Deal Worth \$22.5 Million

April 20, 2026, 7:26 AM PDT

Former employees of the Dallas BBQ restaurant chain negotiated a class settlement valued at \$22.5 million in their lawsuit challenging Argent Trust Co.'s handling of their employee stock ownership plan.

The proposed deal includes a \$10 million cash payment and reductions to the amounts owed to selling shareholders of WBBQ Holdings Inc. This reflects an average gross recovery of about \$15,000 for each of about 1,500 class members, according to an April 17 motion seeking preliminary approval from US District Court for the Southern District of New York Judge Denise L. Cote.

The lawsuit claims participants in the WBBQ ESOP got a bad deal when the plan paid about \$98 million for an 80% stake in the company in a 2016 transaction overseen by Argent

The settlement comes two months after Cote approved a similar settlement between WBBQ executives and the US Department of Labor

That deal required executives to pay \$1 million to the ESOP, along with a \$100,000 penalty to the department, while mandating that the ESOP's debt be reduced by \$14 million

Cohen Milstein Sellers & Toll PLLC represents the plan participants. Groom Law Group represents the defendants.

The case is Lloyd v. Argent Tr. Co. , S.D.N.Y., No. 1:22-cv-04129, settlement motion 4/17/26 .

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Securities

Caitlyn Jenner Memecoin Not a Security, Court Says in Dismissal

April 17, 2026, 12:44 PM PDT

A memecoin holder can't proceed with proposed class claims that Caitlyn Jenner unlawfully sold unregistered securities because the celebrity former athlete's \$JENNER cryptocurrency isn't a security, a federal court ruled.

Without those tossed federal securities claims, lead investor Lee Greenfield can't keep his California state law claims in federal court, Judge Stanley Blumenfeld Jr. said Thursday for the US District Court for the Northern District of California. But can re-file them in state court if he chooses, the judge said.

The decision is the latest applying a 1946 US Supreme Court framework for securities to digital assets. Blumenfeld took note of a Securities and Exchange Commission interpretive rule issued March 23 on how that top court case, *SEC v. W. J. Howey Co.*, applies in the crypto context.

But the SEC's interpretation "has not been published in the Federal Register and is not binding," Blumenfeld said. It "merely appears consistent with the Court's independent, conclusion that \$JENNER is not a security," he said.

Coincidentally, athletes and other celebrities who are defendants in a proposed class action over the collapse of cryptocurrency exchange FTX cited that SEC interpretation Thursday. They argued that its reasoning undercuts the claims in the case, where FTX victims are expected to request preliminary approval of a global settlement April 24.

Here, Greenfield—on behalf of a proposed class—said Jenner and her late manager Sophia Hutchins downplayed or completely omitted the risks involved with investing in \$JENNER.

Blumenfeld dismissed a previous version of the complaint in May 2025, saying Greenfield, a UK citizen, failed to allege that his transactions occurred in the US as required under the federal securities laws.

Greenfield's new complaint fails to show a common enterprise through "horizontal" characteristics like pooled funds with other participants, Blumenfeld said. And allegations about Jenner taking commissions on token transactions "preclude a finding of vertical commonality," he said.

The investors' fortunes weren't vertically tied to the promoters' fortunes on the basis of Jenner's and Hutchins' \$JENNER holdings, the judge said. Because Jenner allegedly "paid little to nothing for her tokens and enjoyed an independent, risk-free tax revenue stream, her overall financial success did not depend on investor profits or losses," he said.

Fitzgerald Monroe Flynn PC is lead counsel for the investors. Blank Rome LLP represents Jenner and Hutchins' estate.

The case is Azad v. Jenner , C.D. Cal., No. 2:24-cv-09768, 4/16/26 .

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Nationwide class debated in Wells Fargo cash sweep case

DJ [dailyjournal.com/articles/390903-nationwide-class-debated-in-wells-fargo-cash-sweep-case](https://www.dailyjournal.com/articles/390903-nationwide-class-debated-in-wells-fargo-cash-sweep-case)

U.S. District Judge Vince Chhabria

The plaintiffs in a proposed class action against Wells Fargo argued that U.S. District Judge Vince Chhabria had a simple decision to make. They said he should certify a nationwide class based on their claim that Wells Fargo breached duties owed to clients by automatically enrolling them in a program that swept uninvested cash into a low-interest account.

Chhabria didn't quite see it that way.

"Oh, it's a difficult class certification issue," the judge said in a Thursday hearing. *In re Wells Fargo Cash Sweep Litigation*, 3:24-cv-04616 (N.D. Cal., filed July 30, 2024).

The plaintiffs allege the bank and its advisory wing breached contracts and implied duties by enrolling clients in its "cash sweep" program. They allege the interest rates are unreasonably low and that the bank failed to disclose higher-yield alternatives.

The proposed classes include all "cash sweep" clients and two subclasses of customers who entered the program through a Wells Fargo retirement account or financial adviser. The parties discussed differences in statutes of limitations and whether subclass claims hinge on individual adviser communications.

The defense, represented by David G. Hille and Erika Murdoch of White & Case LLP, pointed out that Chhabria had previously ruled that statute of limitations questions would be governed by New York law due to a choice-of-law provision. New York's borrowing statute applies the limitations period of a class member's residence, which varies by state, they argued, precluding a nationwide class.

Chhabria seemed to agree at first.

"In some states it's very difficult to discern" the limitations period, the judge said.

But the plaintiffs -- represented by Salvatore J. Graziano and Adam H. Wierzbowski of Bernstein Litowitz Berger & Grossmann LLP, Sona R. Shah of Simmons Hanly Conroy LLP and Alex B. Heller of Berger Montague PC -- argued that differences among states are not significant and would affect only a small number of class members.

Chhabria said a nationwide class could be proper, but the plaintiffs must show that.

"It's theoretically possible, but you have to show that it's possible," Chhabria said.

Even if possible, the defense argued, trying the case as a nationwide class would be an "absolute mess."

"It is not as simple as getting a chart together," Hille said.

Chhabria suggested a nationwide class of current customers.

"What if it were a class of people who are still with Wells Fargo?" Chhabria said.

But Hille countered that the same statute of limitations governs how far back claims can reach.

"It's a question of, 'How far back can you go?'" Hille said.

The defense also challenged the subclass of advisory clients, arguing that whether the bank breached its fiduciary duty depends on communications with individual advisers.

Chhabria was open to that argument at first, saying a claim would depend on the adviser conversation "in every scenario that I can conceive of." But he noted that such reasoning could make class actions against advisory banks effectively impossible.

The plaintiffs said that by automatically enrolling clients in a program offering unreasonably low interest, the bank put its own interests above clients' regardless of any advice given.

#390903

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US Supreme Court rebuffs challenge to class-action status of bank collusion suit

 [reuters.com/legal/government/us-supreme-court-rebuffs-challenge-class-action-status-bank-collusion-suit-2026-04-20](https://www.reuters.com/legal/government/us-supreme-court-rebuffs-challenge-class-action-status-bank-collusion-suit-2026-04-20)

Mike Scarcella

April 20, 2026

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

- Cities including Philadelphia, Baltimore and San Diego sued
- They say banks artificially inflated municipal bond interest rates
- Potential damages of \$12 billion estimated

WASHINGTON, April 20 (Reuters) - The [U.S. Supreme Court](#) declined on Monday to hear a bid by Bank of America ([BAC.N](#)) , [opens new tab](#) and seven other major financial institutions to prevent American cities from banding together in a \$12 billion class action accusing them of artificially inflating interest rates on a popular municipal bond.

The justices turned away an appeal by the banks brought after a lower court upheld a judge's decision to certify the lawsuit brought by Baltimore, Philadelphia, San Diego and other cities as a class action. The Supreme Court's action paves the way for the suit to proceed as a class action.

The other banks are Barclays ([BARC.L](#)) , [opens new tab](#), Citigroup ([C.N](#)) , [opens new tab](#), Goldman Sachs ([GS.N](#)) , [opens new tab](#), JPMorgan Chase ([JPM.N](#)) , [opens new tab](#), Royal Bank of Canada ([RY.TO](#)) , [opens new tab](#), Wells Fargo ([WFC.N](#)) , [opens new tab](#) and Morgan Stanley ([MS.N](#)) , [opens new tab](#).

The cities have accused the banks of colluding from 2008 to 2016 to raise rates on thousands of long-term bonds called variable-rate demand obligations.

An attorney for the city plaintiffs declined to comment. The plaintiffs previously said there are thousands of jurisdictions that are class members in the lawsuit. A lead attorney for the banks in the Supreme Court appeal did not immediately respond to a request for comment.

The bonds have short-term rates that typically reset weekly. The cities contend banks drove up interest rates, reducing available municipal funding for hospitals, schools and other outlets.

The banks [argued](#) in Manhattan federal court that the cities should be required to sue for damages individually, not as a group. They also have denied any wrongdoing.

The banks in their appeal contend that U.S. district judges must first resolve disputes among third-party experts that address whether common issues predominate before allowing cases to move forward as class actions. They said the New York-based 2nd U.S. Circuit Court of Appeals was wrong last year to uphold certification of a nationwide class of municipal bond issuers.

The banks had told the Supreme Court that the 2nd Circuit's ruling, if left in place, would encourage overly broad class actions, dramatically raising potential liability and coercing settlements. The cities and other municipal issuers countered that the banks were seeking to transform class certification into a mini-trial on the merits of a lawsuit.

The plaintiffs also asserted there was no conflict among appellate courts and that class certification decisions should focus first on whether common questions can be resolved on a class-wide basis, not on whether plaintiffs will ultimately prevail.

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Tariff refund system launches as thousands of companies file claims

 [reuters.com/business/tariff-refund-system-launches-thousands-companies-file-claims-2026-04-20](https://www.reuters.com/business/tariff-refund-system-launches-thousands-companies-file-claims-2026-04-20)

Timothy Aeppel

April 20, 2026

Shipping containers wait to be transported along a railroad at the port of Los Angeles in Long Beach, California, U.S., March 10, 2026. REUTERS/Caroline Brehman/File Photo [Purchase Licensing Rights](#)  , [opens new tab](#)

- CBP refund system goes live, aims to return up to \$166 billion to importers per court order
- System is a little glitchy but accepting submissions, early filers report
- Unclear if early filing affects refund processing speed

April 20 (Reuters) - The refund system set up to allow companies to recover [illegally collected tariffs](#) from the U.S. government went live on Monday as thousands of companies rushed to file claims.

"So far, so good" - though the system is a little glitchy, said Jay Foreman, CEO of toymaker Basic Fun, which had a team in its "war room" at its headquarters in Boca Raton, Florida, ready to start filing when the system went live at 8 a.m. U.S. Eastern time (1300 GMT).

Foreman said the system didn't crash as some had feared it might under the onslaught of attempted submissions - but rather would sometimes not allow an upload and force them to retry. The company has over 500 files it needs to upload to the system, although the system permits these to be uploaded in batches.

"However, if you load too many or the system is too busy it will kick them back," Foreman said in an email about how the process was working in the early moments. "We've got over 50% of our invoices loaded so far. We are hoping in the next few hours to have them all loaded. I'm very happy we got this process started early."

Companies contacted by Reuters in recent days expressed concerns about the durability of the new system, created by U.S. Customs and Border Protection in response to a court order that it prepare to return up to \$166 billion to importers. The U.S. Supreme Court in February struck down the tariffs President Donald Trump pursued under a law meant for use in national emergencies, handing the Republican president a [stinging defeat](#).

In court filings, Customs officials said as of April 9, some 56,497 importers had completed the necessary steps to receive electronic refunds, an amount totaling \$127 billion, or more than three-quarters of the total eligible to be refunded. More

than 330,000 importers paid the tariffs at issue on 53 million shipments of imported goods.

It is unclear whether getting a refund claim into the portal as soon as possible will impact how quickly it's processed, but many companies decided to not take the risk of waiting.

A CBP spokesman said on Friday they created a system that will "efficiently process refunds, pursuant to court order, for importers and brokers who paid" the duties.

This is the latest twist in a drawn-out battle over emergency tariffs collected over the past year as Trump seeks to restructure U.S. trade relations. The constantly shifting tariffs roiled global business as companies rushed to move supply chains to avoid them as well as figure out who would ultimately pay the taxes.

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Tim Aeppel covers the intersection of economics and companies, with an emphasis on manufacturing. Previously, Tim served as the Chief Economics Correspondent at The Wall Street Journal after spending six years as the Journal's roving manufacturing correspondent. He began his career at the Christian Science Monitor, where he launched the paper's first environmental affairs beat. Tim has spent much of his career chasing stories on the world's factory floors and industrial byways, applying a sharp eye for detail coupled with a deep understanding of the macro forces that shape the economy. He is a graduate of The Fletcher School of Law and Diplomacy at Tufts University and of Principia College.

News from Bloomberg Terminal

Amazon's Alleged Price-Fixing Targets Walmart, Home Depot

April 20, 2026, 10:41 AM PDT

Summary by Bloomberg AI

AI Generated



- Amazon.com Inc. allegedly coerced prominent brands into a price-fixing scheme that influenced costs for goods on retail websites operated by other companies.
- The scheme allegedly involved Amazon reaching out to its vendors and instructing them to "fix" retail prices on competitors' websites, threatening dire consequences if vendors did not comply.
- The California Attorney General is seeking to prevent Amazon from engaging in the alleged price-fixing practices while the lawsuit proceeds, with a trial scheduled for January 2027.

By Spencer Soper and Josh Sisco

(Bloomberg) --

Amazon.com Inc. coerced Levi Strauss & Co. and other prominent brands into an alleged price-fixing scheme that influenced costs for a wide variety of goods on retail websites operated by Walmart Inc., Target Corp., Home Depot Inc., Chewy Inc. and others, according to court documents unsealed Monday.

The filing is part of California Attorney General Rob Bonta's 2022 antitrust lawsuit alleging Amazon artificially inflated product prices to protect its profit margins. Bonta is seeking to prevent the company from engaging in the alleged price-fixing practices while the lawsuit, scheduled for trial in January 2027, proceeds. His is one of several antitrust cases against the e-commerce giant, which captures about 40 cents of every dollar spent online in the US.

The document alleges that vendors were cowed by Amazon's bargaining power and, fearing punishment, agreed to raise prices on competing retail websites.

"Evidence developed in discovery reveals that Amazon, its vendors and competing retailers are fixing retail prices," according to an unredacted court filing made public on Monday. "Time and again, across years and product categories, Amazon reaches out to its vendors and instructs them to 'fix' retail prices on competitors' websites, threatening dire consequences if vendors do not comply."

In an emailed statement, Amazon spokesperson Mark Blafkin said: "The Attorney General's motion is a transparent attempt to distract from the weakness of its case, coming more than three years after filing its complaint and based on supposedly 'new' evidence it has had for years."

The filing details more than 15 instances of Amazon employees contacting suppliers after seeing products with lower prices on competing sites, including Best Buy Co. and Newegg Commerce Inc. The communications reveal Amazon's campaign to ensure it had the best prices on a wide range of products, including Levi's khaki pants, Hanes apparel, bar stools, fertilizer, eye drops, portable generators and guitar audio equipment.

The filing doesn't provide any evidence of direct communication between Amazon and competing retailers. Rather, the Seattle-based company contacted product suppliers and brands, which responded by saying rivals such as Walmart and Home Depot had agreed to update the prices of their products.

"Amazon provides exact details of its competitors' prices and directly asks vendors to 'look into' getting the competitors to increase their prices," according to the complaint.

Amazon faces antitrust complaints from the Federal Trade Commission and attorneys general from multiple states and Washington, DC. Bloomberg in 2019 reported on Amazon's practice of squeezing sellers who offered better prices on Walmart. That article was cited when Bonta filed his lawsuit in 2022.

Three antitrust trials scheduled to begin in 2027 include similar allegations that Amazon has forced brands to raise prices at competing retailers or suffer limited or no visibility on Amazon. The California case will be closely watched because it's scheduled to go to trial in January before the others. The FTC and a group of largely Democratic state AGs have a March trial date in Seattle. The District of Columbia's case is scheduled to head to trial in May 2027.

Any of them could lead to a forced breakup of Amazon's retail business. While only the federal case could force nationwide business changes, all three would likely have the same impact since it would be unlikely for Amazon to limit the effects to a single location.

The unsealed California motion says the evidence reveals conduct egregious enough for a court to temporarily block the behavior pending the outcome of the trial. The court has scheduled a hearing for July at the state's request.

(Updated with Amazon comment in fifth paragraph.)

--With assistance from Leah Nylen.

Amazon's collusion drove up consumer prices, California says, citing new evidence

 [reuters.com/legal/litigation/1-pm-edt-embargo-amazons-collusion-drove-up-consumer-prices-california-says-2026-04-20](https://www.reuters.com/legal/litigation/1-pm-edt-embargo-amazons-collusion-drove-up-consumer-prices-california-says-2026-04-20)

Jonathan Stempel

April 20, 2026

Two Amazon Prime semi trucks at a rest stop off the highway near Oceanside, California, U.S., March 31, 2026. REUTERS/Mike Blake [Purchase Licensing Rights](#) , [opens new tab](#)

- California says Amazon's actions caused consumers to pay more
- Amazon sought to avoid matching lower prices, California says
- Amazon has said its merchant agreements are legal, benefit consumers

April 20 (Reuters) - Amazon.com ([AMZN.O](#)) , [opens new tab](#) worked behind the scenes with merchants such as Levi Strauss ([LEVI.N](#)) , [opens new tab](#) to prod online rivals such as Home Depot ([HD.N](#)) , [opens new tab](#), Walmart ([WMT.O](#)) , [opens new tab](#) and Chewy ([CHWY.N](#)) , [opens new tab](#) to raise prices for consumers so it would not be undercut, California's attorney general said on Monday.

Evidence detailing alleged efforts to fix prices was unsealed on Monday, as part of Attorney General Rob Bonta's 3 1/2-year-old antitrust [lawsuit](#) against Amazon. The lawsuit also seeks to recoup what Bonta called ill-gotten profits. A trial is scheduled for January 19, 2027.

"Amazon is illegally working to rake in the profits by making sure consumers have nowhere else to turn to for lower prices," Bonta said in a statement.

The Seattle-based retailer did not immediately respond to a request for comment. Amazon is the only defendant in the suit.

In a filing in San Francisco Superior Court, California described dozens of cases of alleged price-fixing that boosted prices for goods such as khaki pants, fertilizer, eye drops and dog treats.

Bonta has said the alleged collusion leads merchants and rivals to raise prices or make products temporarily unavailable so Amazon wouldn't have to price match. The filing described Levi Strauss' alleged effort to persuade Walmart to charge \$29.99 for Easy Khaki Classic pants after Amazon expressed "concern" with Walmart's original \$25.47 price.

California said Amazon's complaint about lower fertilizer prices prompted Home Depot's agreement "to raise the prices this time," while Amazon pushed Allergan,

now part of AbbVie ([ABBV.N](#))  , [opens new tab](#) , to see if Walmart would charge \$16.99 for eye drops so it wouldn't have to price match at \$13.59.

The filing also described Amazon's alleged effort to break a price match with Chewy, the online pet supply retailer, for Canine Naturals pet treats. "(Prices) that went up on Amazon immediately went up on Chewy," an intermediary merchant wrote, adding a smiley-face emoji. "Overall this looks like it's working!"

Amazon has said its agreements with merchants are legal and benefit consumers through increased product selection, appropriate stocking and competitive prices. The company's revenue in 2025 surpassed that of Walmart, long the world's largest retailer by revenue.

Bonta is seeking an [injunction](#) to stop Amazon's alleged price-fixing while the case is pending. A July 23 hearing is scheduled.

Reporting by Jonathan Stempel in New York; Editing by Ethan Smith

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California Brief

Deep Dive

Live Nation Verdict Boosts Private Suits Over Concert Tickets

April 17, 2026, 8:43 AM PDT

A high-profile jury verdict against Live Nation Entertainment Inc. in a suit pursued by more than 30 states injects new momentum into private plaintiffs' antitrust cases against the US concert promoter and further exposes the company to billions in damages.

Live Nation illegally monopolized the live events industry and overcharged fans for tickets to music performances, a federal jury in Manhattan concluded on April 15. Private plaintiffs will now argue that Live Nation can't attempt to relitigate many of the same facts found in the states' case.

The verdict shows other courts "that there was a violation of the law, that there was an adjudicated process that led to a finding of liability," said William Kovacic, a former chairman of the Federal Trade Commission.

"Even if the facts don't match up precisely with other cases, I think this tends to give other trial judges a sense of confidence that they are not going way out on a limb if they find liability themselves," said Kovacic, now a George Washington University law professor. "It's nice, I think, to have some company."

Some of the private cases predate the Justice Department's 2024 case against Live Nation, which later settled mid-trial. The states then resumed the trial, seeking a breakup of the company.

Taylor Swift fans sued in the US District Court for the Central District of California in 2023, saying they were victims of the concert ticket sale debacle for Swift's Eras tour due to the company's unlawful conduct.

The Swifties are "ecstatic that a jury has spoken what we all know to be the truth"—that the company is a monopoly that exploits consumers, said Jennifer Anne Kinder, a Dallas attorney who represents the plaintiffs.

"It's confirmation, it gives us confidence," Kinder said of the verdict. "It really is just step one in a process of dismantling and changing the way ticket sales occur in the United States."

Live Nation didn't immediately respond to a request for comment. The company in an April 15 statement said it will soon renew its motion to address liability theories in the states' case and will appeal any unfavorable rulings.

"The jury's verdict is not the last word on this matter," the company said.

Class Action

Another case, a certified class action, is further ahead procedurally than the other private suits and slated to go to trial in 2027.

The verdict is a "vindication for a lot of hard work and a lot of views that people have had for many, many years at this point," said Adam Wolfson, a partner at Quinn Emanuel Urquhart & Sullivan LLP who represents the ticket purchasers in the class suit along with his co-counsel Kevin Teruya.

The class action, along with the states' case, both bring antitrust claims under the Sherman Act, Wolfson said.

"We both are basing that on the same core set of facts and our allegations about the markets are virtually identical," he said. "Did they act anticompetitively? There is a strong chance that we are going to get issue preclusion on that in our favor."

He also noted that the damages model in the private class action against Live Nation is "multiples" of the states' damages model.

Jurors in the states' case found that the company's conduct caused concert-goers to overpay by \$1.72 per ticket, and Live Nation in its statement said it shouldn't owe more than \$450 million in damages.

Attorneys for plaintiffs in a separate consumer case against Live Nation in the Southern District of New York, and another brought by the defunct ticketing firm Fanimal Inc. in 2025, didn't immediately respond to requests for comment.

'Major Tailwind'

The Live Nation verdict sets up an argument for collateral estoppel, a legal doctrine that prevents a party from relitigating an issue that has already been decided in a prior action, said David Gringer, an antitrust partner with WilmerHale.

Private plaintiffs can now invoke the doctrine on questions relevant to their cases based on the verdict, he said.

"There is going to be a lot here that is potentially estopped," Gringer said. "If you're a private plaintiff, you just got a major tailwind behind you from this jury verdict. And if you're Live Nation, now there is a big headwind."

But Live Nation won't simply "swallow the defeat," Kovacic said. An appeal could drag out the litigation process for years, he noted.

"They are going to say there wasn't monopoly power and the conduct was not improper," Kovacic said. "They are going to fight on both of the traditional fronts of monopolization litigation, and I suspect there will be a disputed remedy as well."

The states are seeking to unwind the deal that combined Live Nation and Ticketmaster in 2010. And while private litigants tend to want damages, they can also ask for injunctive relief, Kovacic said.

"The whole reason the states pressed ahead here was to get a divestiture," he said.

Live Nation is represented by Latham & Watkins LLP in the class action and the states' case.

The class action is Jeanene Popp, Luis Ponce, and Jacob Roberts v. Live Nation Entertainment , C.D. Cal., No. 2:22-cv-00047 .

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<https://www.wsj.com/business/the-cancer-victims-who-could-sink-bayers-roundup-settlement-a932cfed>

BUSINESS

The Cancer Victims Who Could Sink Bayer's Roundup Settlement

With thousands of cases piling up in U.S. courts, the company's relief plans still face hurdles

By Patrick Thomas [Follow](#) and Erin Mulvaney [Follow](#)

April 20, 2026 11:45 am ET



Phillip Dressel developed skin lesions after decades of Roundup use, according to court records. JUSTIN IDE/BAILEY & GLASSER

Quick Summary

- Plaintiffs are deciding whether to join Bayer's \$7.5 billion settlement for Roundup cancer claims.

[View more](#)

The clock was ticking for Phillip Dressel to make a decision that could mean life-changing money.

Dressel is one of roughly 200,000 plaintiffs who have sued Bayer BAYN 0.63% ▲ , claiming that its weedkiller Roundup caused their cancer.

The 69-year-old former landscaper with a rare form of non-Hodgkin lymphoma could join a \$7.5 billion settlement reached earlier this year. His other option was proceeding with his individual case against Bayer.

The settlement could bring Dressel at least \$48,000. A jury verdict, his lawyers estimate, could bring a payout totaling millions of dollars. He had to make a decision by June 4.

Opting to go it alone is risky: Roughly two-thirds of the 28 Roundup trials so far have ended in a loss for plaintiffs. It might get harder going forward. The Supreme Court on April 27 will hear a case brought by Bayer in the company's bid to narrow the volume of Roundup claims it is facing.

Bayer wants anyone with a claim to join the settlement and put an end to a litigation nightmare that has hung over it since its 2018 acquisition of Monsanto, the inventor of Roundup. Bayer has denied that Roundup causes cancer and said that the product is safe to use, citing numerous regulatory reviews.

A Bayer spokesman said the settlement is fair to all parties and would provide significant compensation to current and future claimants.

But Dressel wants to hold Bayer accountable and for the company to admit that it marketed a potentially dangerous product. He has decided to roll the dice and take Bayer to trial. "They screwed up, basically, and when you screw up, you gotta be accountable," he said.

The potential settlement is Bayer's latest attempt to end the mass litigation it faces for the weedkiller and fend off future lawsuits. The case has echoes of similar proposed deals with 3M, Johnson & Johnson, and Purdue Pharma.

But getting such a deal done can be hard and fractious among the thousands of alleged victims who have to decide if the settlement offers fair compensation.



Dressel, who has a rare form of non-Hodgkin lymphoma, filed a lawsuit against Monsanto and Bayer alleging the companies failed to warn users of cancer risks. JUSTIN IDE/BAILEY & GLASSER

‘Dire’ situation

With Bayer, a group of lawyers representing roughly 40,000 claimants negotiated privately with the company over 18 months to design the settlement plan. The \$7.5 billion settlement received preliminary approval from a Missouri state judge in March to proceed. The proposed settlement would bring Bayer’s total price tag to resolve the Roundup litigation to roughly \$22 billion.

While the number of cases has mounted, Bayer has explored strategic options, including a potential bankruptcy filing to curb its Roundup litigation costs. The company has lobbied state legislatures and sought other relief to limit its exposure from a torrent of cases. The company wants to get as many plaintiffs as possible into the settlement.

“The opt-outs need to be something approaching zero,” Chief Executive Bill Anderson said in a March investor call. “If people opt out, then you don’t

really have an agreement, and then we would have to move on to other potential solutions.”

But the plan has divided plaintiffs’ lawyers since it was announced. Critics of the settlement said the process was rushed and won’t adequately compensate victims. The proposed requirements for proving Roundup exposure and age limitations are unfair, they said.

If Bayer prevails in the case before the Supreme Court, it could help lead to the dismissal of thousands of cases against the company. Eric Holland, a lawyer who represents a few thousand plaintiffs, sees that as a strong reason for plaintiffs to take the settlement deal. “The situation is dire,” he said.

One of the skeptics among the plaintiffs, Wagstaff Law Firm, recently switched its position in support of the deal last month, a sign that opposition is narrowing.



Dressel’s medical procedures, including a left-leg amputation and tumor removal from his skull, have cost him hundreds of thousands of dollars. JUSTIN IDE/BAILEY & GLASSER

‘You need a little something’

For Dressel, the case is about adequate compensation and hearing Bayer take responsibility.

He said he sprayed gallons of Roundup almost every week in his more than 20 years working as a landscaper. It was the best stuff, he said, to clear yards and sidewalks of weeds. Dressel didn't question using it until 2023, when he noticed skin lesions forming on his arms. A biopsy revealed cancer.

Dressel said he hasn't been able to work in the past two years. Medical procedures, including a left-leg amputation and tumor removal from his skull, have cost him hundreds of thousands of dollars—a sum surpassing what the potential settlement might yield. He now spends most days hooked up to an IV machine at his small apartment outside of Orlando, Fla.

David Selby II, an attorney who represents Dressel and other Roundup cancer plaintiffs, said he is working to get him a trial as soon as possible.

Dressel said he isn't looking to get hundreds of millions of dollars, but enough to stay alive.

“I'm not trying to be a jerk,” he said. “You need a little something, you know, I got to continue living.”

Patrick Thomas covers agriculture and America's food supply chain for The Wall Street Journal. He writes about the way food in the U.S. is grown and sold, reporting about the businesses of meat processors, grain traders, pesticide manufacturers, crop-seed developers and supermarkets....

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Spinach becomes fresh fodder for plaintiffs' lawyers in California food safety cases

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Jenna Greene

April 20, 2026

Spinach is seen before being harvested at a field, March 20, 2011. REUTERS/Jo Yong-Hak/File photo [Purchase Licensing Rights](#)  [, opens new tab](#)

April 20 (Reuters) - In popular culture, spinach is practically synonymous with healthy food — just ask Popeye.

That reputation didn't stop plaintiffs' lawyers in California from [suing](#)  [, opens new tab](#) the maker of Green Giant frozen chopped spinach last year, alleging that the product contains the toxic heavy metal cadmium and should carry a warning label or be reformulated.

Defense lawyers counter that the spinach is safe and call the lawsuit meritless. The litigation is the latest flashpoint in a long-running legal battle over California's Proposition 65. The 1986 law, more formally known as the Safe Drinking Water and Toxic Enforcement Act, is among the nation's most stringent consumer chemical regulations. It requires businesses to provide a "clear and reasonable warning" before exposing Californians to [more than 900 chemicals](#)  [, opens new tab](#) deemed hazardous by the state.

Intended as a public-health measure, Prop 65 has also become a lucrative niche for private attorneys, who are empowered by statute to bring suits "in the public interest" — and get their legal fees paid by the defendants if they succeed.

Such a system allows the state to police chemical exposures with a minimal workforce, instead incentivizing plaintiffs' lawyers to ferret out violations.

The cases tend to settle quickly, and the civil penalties are usually modest, often just a few thousand dollars.

The real money is in the legal fees.

State records [show](#)  [, opens new tab](#) there were a record 1,833 settlements and court-approved judgments in cases alleging Proposition 65 violations last year, costing defendants a total of \$86 million. Nearly 90% of that money — or \$75 million — flowed to plaintiffs' lawyers for fees.

California law requires the fees to be "reasonable," and based on the going hourly rate for attorneys of similar skill and experience in the relevant market.

Harder to put a dollar value on is the accompanying injunctive relief. Cases are almost always resolved by companies agreeing to make changes to their products

to remove the harmful chemicals — or if that's not feasible, by adding a warning label to alert consumers. Supporters say such steps benefit the general public. Over the years, Prop 65 litigation has led to reformulations of products ranging from children's jewelry to artificial turf.

Defense lawyers argue that more recent Prop 65 cases pursued by the plaintiffs' bar, including litigation targeting shiitake mushrooms, brown basmati rice, artichoke hearts, and sunflower seeds, stray from the law's earlier focus on industrial pollution. Elements like cadmium occur naturally in the plants, they say, and at levels that are unlikely to cause harm.

"When Proposition 65 was enacted by voters in the 1980s, the principal idea was to encourage more responsible manufacturing," said BraunHagey & Borden partner David Kwasniewski, who represents defendant B&G Foods in the spinach suit. "I don't think anyone at the time thought it would turn into a tool" for plaintiffs' lawyers to sue over trace elements in single-ingredient foods.

B&G sold its Green Giant frozen vegetable line to Seneca Foods in March, but continues to actively litigate the spinach case.

B&G and Seneca did not respond to requests for comment.

The case began last summer, when plaintiffs' lawyers from Entorno Law in San Diego filed suit in San Francisco Superior Court against B&G, as well as grocer Kroger, which did not respond to a request for comment.

Entoro lawyers brought more than five dozen Prop 65 actions last year that resulted in companies reformulating their products or adding warnings, [state records show](#)  , [opens new tab](#).

"We take pride in getting products cleaned up that have toxic chemicals that unwitting consumers are putting into their bodies," partner Noam Glick told me. Such litigation requires plaintiffs to notify the California Attorney General in advance, as well as to provide a "certificate of merit" and supporting documents to show the claim has merit. Settlements must also be submitted to the state for review. The AG's office did not respond to a request for comment.

The 5-page [complaint](#)  , [opens new tab](#) against B&G seeks injunctive relief plus civil penalties and legal fees, alleging that the company knew or should have known Green Giant frozen spinach contains cadmium, which accumulates from the soil.

The element is classified by California as a carcinogen, linked to lung, prostate, and kidney cancers, and may also cause developmental and reproductive harm. Glick and Entorno partner Craig Nicholas shared lab testing results with me that showed cadmium in the frozen spinach. They argue the toxin level could be

"substantially reduced" by modifying the growing process, for example, by using additives that reduce the spinach plants' cadmium uptake.

B&G in court papers says its tests show that any detectable cadmium in the spinach falls below the maximum allowable dose levels set by California environmental regulators for reproductive toxins, and poses no significant risk for carcinogens.

The company also argues that the claim is time-barred for procedural reasons specific to the statute, and has asked the court to dismiss the case.

The lawyers on both sides have clashed repeatedly over Prop 65 cases before, and the litigation is shaping up to be unusually acrimonious. In January, the court sanctioned defense counsel Kwasniewski \$5,000 for making "irrelevant and besmirching allegations" about opposing counsel and struck the offending passages from the pleadings.

"We obviously don't agree with the ruling," Kwasniewski said.

One consequence of widespread Prop 65 litigation, he added, is that variations of this warning — "This product or premises contains chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm" — have become ubiquitous.

As a California resident, I can attest to that. The warning appears everywhere, from parking garages to grocery aisles. The challenge for regulators and courts alike is how to calibrate those alerts so they still prompt informed choices — without drowning consumers in notices so familiar they become meaningless.

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Jenna Greene writes about legal business and culture, taking a broad look at trends in the profession, faces behind the cases, and quirky courtroom dramas. A longtime chronicler of the legal industry and high-profile litigation, she lives in Northern California. Reach Greene at jenna.greene@thomsonreuters.com

California Brief

Target False-Ad Suit Challenging Sheet Thread Count Gets Revived

April 17, 2026, 11:37 AM PDT

A suit alleging Target Corp. deceived shoppers over “100% cotton” 800-thread count bed sheets was revived by a federal appeals court Friday.

The lower court failed to analyze whether the label was ambiguous, which would require a reasonable consumer to account for additional information to interpret the label’s claim, the US Court of Appeals for the Ninth Circuit said. It reversed dismissal of the suit and remanded for further proceedings.

Plaintiff Alexander Panelli sued Target after buying the sheets as advertised. He said that the bedding was rougher than he expected, that independent testing showed the sheets had a thread count of 288, and that it’s physically impossible for cotton threads to be fine enough to have more than 600 per square inch of 100% cotton.

The lower court dismissed his suit, saying no reasonable consumer would interpret the labels to mean the product promised something impossible to find.

But using that would “create an aberrant framework for analyzing literally false advertising,” Judge Ana de Alba wrote for the appeals court. “Under the district court’s reading, manufacturers would face no liability for false advertising so long as the claims were wholly false—regardless of whether this falsity is generally knowable to consumers.”

The district court applied *Moore v. Trader Joe’s Co.*, where consumer deception claims based on a “100% New Zealand Manuka Honey” claim were tossed. There, the label statement was determined to be ambiguous. Reasonable consumers would know about the impossibility of making honey that’s wholly derived from one floral source, and the low price of the honey would dissuade them from thinking it was entirely from manuka flower nectar.

In applying the same framework to the bed sheet label, the lower court “skipped a step” in not determining whether the label was ambiguous.

“Without the required finding of ambiguity, the district court was not permitted to pull back the covers on Target’s claim and account for outside, contextual information in its reasonable consumer analysis,” de Alba said.

Additionally, unlike *Moore*, the challenged claim here communicates an objective measure of a physical aspect of the product, the judge said.

The Ninth Circuit rejected Target’s argument that there are multiple methods for thread counting and multiple ways to interpret the label.

“There is a loose thread in Target’s argument: it is unlikely that a reasonable consumer would know there are multiple thread-counting methodologies,” de Alba said. “Realistically, a reasonable consumer’s knowledge of textile manufacturing is likely limited to the fact that a higher thread count listed on packaging indicates a higher quality sheet.”

And Panelli’s allegations are actionable under California consumer protection laws because he alleged literal falsity, de Alba said, drawing on numerous other deceptive advertising cases.

Though some advertising claims can be so clearly false that no reasonable consumers would be deceived by them, Panelli’s allegations don’t fall into that “narrow category,” the judge said.

Judges Kim McLane Wardlaw and Eric C. Tung joined the opinion.

Panelli was represented by Clarkson Law Firm PC, Crosner Legal PC, and Salisbury Legal Corp.

Target was represented by Dentons US LLP.

The case is *Panelli v. Target Corp.*, 9th Cir., No. 24-6640, 4/17/26 .

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News from Bloomberg Terminal

Republicans plan big spending to keep Ohio's Senate seat. A bribery scandal adds to their challenges

April 19, 2026, 5:25 AM PDT

Republicans plan big spending to keep Ohio's Senate seat. A bribery scandal adds to their challenges

By JULIE CARR SMYTH

COLUMBUS, Ohio (AP) - As he seeks to retain his U.S. Senate seat this fall, Ohio Republican Jon Husted has been unable to escape the shadow of a \$60 million bribery scandal that has roiled state politics for more than five years.

Husted was recently called to testify as a defense witness in the related criminal trial of two former energy executives, testimony he might have to reprise after a hung jury led to a mistrial in the case in March. A judge in Akron scheduled the retrial to begin Sept. 28, meaning Husted could be back on the witness stand a week before early voting begins for the November elections.

The former lieutenant governor and Ohio secretary of state has never been charged with or accused of any wrongdoing. But the vast public record that has emerged from the scandal has raised questions about Husted's dealings with key players who have been indicted or imprisoned in the scheme, which revolved around legislative approval of a \$1 billion bailout for the state's two nuclear power plants.

It's too early to know whether Husted's association with the trial will be a political liability for the first-term senator, who in the fall is expected to face Sherrod Brown, a Democrat ousted from the Senate in 2024.

In a potential sign of concern, Senate Republicans' main super political action committee, the Senate Leadership Fund, recently announced plans to spend \$79 million on Husted's behalf. That's roughly one-quarter of its planned national spending in eight tightly contested Senate races.

Husted says he had no role in the bailout bill

Asked in 2022 what role he played in the bailout legislation, known as House Bill 6, Husted answered, "None." He has reiterated that stance many times since, even as evidence disclosed in the case has raised questions about his involvement.

Husted calendars that came to light during the recent trial involving executives for the utility, Akron-based FirstEnergy, showed a number of additional meetings or phone calls that he had with former CEO Chuck Jones, with the state's former top utility regulator, who has since died, and with then-Ohio House Speaker Larry Householder. They formed the triangle of influence at the heart of scheme as laid out by federal prosecutors. Husted's calendars were obtained by the Ohio Capital Journal through a public records request and have been reviewed by The Associated Press.

Jones and former FirstEnergy lobbyist Michael Dowling were charged for their alleged roles in the bribery scandal and will be retried in the fall. Householder is serving a 20-year prison sentence after being convicted in 2023 of orchestrating the scheme, which FirstEnergy has admitted to underwriting.

The interactions noted in Husted's calendars were around the time the bailout bill was being developed and passed. Evidence presented in various cases showed Jones and Dowling discussing a push by Husted for additional subsidies in the legislation.

Husted has consistently denied that he played a role in creating the legislation as well as having any knowledge of criminal activity surrounding the bill.

In an NBC4 interview in January, Husted said, "My role was very clear. I wanted the nuclear power plants to remain operational." He said it was "about keeping those plants open and keeping the lights on for millions of Ohioans."

Husted referenced in a text exchange about subsidy negotiations

In June 2019, Jones texted Dowling screenshots of a conversation he had with Householder that suggested Husted was working on FirstEnergy's behalf to extend the term of the nuclear plant subsidies from six years to 10 years.

Jones urged Householder to "negotiate hard" for 10 years of subsidies or he would be forced to revisit the issue again before his speakership ended. "Ugh, that adds \$600M," Householder wrote about an additional amount that has not been previously reported. The bill called for charging Ohio ratepayers \$150 million a year in nuclear subsidies.

"Husted called me 2 nights ago and was supposed to get it in the Senate version," Jones replied.

"He's not a legislator," Householder replied about Husted, who was by then the lieutenant governor.

"I know but he said Senate leaders would listen," Jones replied. "He didn't deliver."

The texts were part of evidence gathered in Householder's criminal trial. When Husted has been asked previously about the exchanges, he has been adamant that they do not prove he was part of the deal-making.

"I don't know what you're talking about. We weren't involved," Husted said when asked about the texts during an unrelated news conference in 2024. "Texts to other people - texts to other people shared amongst themselves - have nothing to do with me. And I wasn't involved in that conversation."

Cases surface utility donations to benefit Husted

A longtime Ohio lobbyist told federal agents that FirstEnergy and FirstEnergy Solutions, the subsidiary that owned the nuclear power plants helped by the bailout, funneled dark money to nonprofits that benefited Husted and Gov. Mike DeWine, a Republican.

According to the notes from his Department of Justice interview obtained by The Associated Press and not previously reported, lobbyist Neil Clark identified one of the groups as Freedom Frontier. That was the very group that received a \$1 million contribution in 2017 marked internally by FirstEnergy as "Husted campaign." The donation was brought to light through documents filed in a lawsuit by FirstEnergy shareholders and obtained through a records request by cleveland.com. Husted was a candidate for governor at the time.

Dark money refers to political contributions flowing to certain nonprofit organizations whose donors do not have to be publicly identified. Coordinating between those groups and candidate campaigns is generally prohibited by federal law.

Internal FirstEnergy communications from 2017 and 2018, which is evidence in a U.S. Securities and Exchange Commission investigation, include discussions involving Jones, Dowling and others about attending Husted events as far back as 2016. They also reflect Dowling's concerns about dark money contributions becoming public.

Jones and Dowling also discussed strategies to contribute under alternate names. In July 2018, for instance, as the two were planning a DeWine-Husted fundraiser in Naples, Florida, they discussed contributing under one name while covering event costs under another - so there would be "no cost billed to (the) campaign."

Husted declined a request for further comment about the details that have emerged as the various cases surrounding the bribery scandal play out.

"Sen. Husted has commented extensively with the media and given testimony under oath and doesn't have anything additional to add," said Josh Eck, his spokesperson.

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BOMBHELL REPORTING: Jon Husted's Ties to \$61 Million Dollar Bribery Scandal Much Deeper Than Previously Known

 ohiodems.org/bombshell-reporting-jon-husteds-ties-to-61-million-dollar-bribery-scandal-much-deeper-than-previously-known-2

Tony Wen

April 20, 2026

April 20, 2026

[ASSOCIATED PRESS](#): Republicans plan big spending to keep Ohio's Senate seat. A bribery scandal adds to their challenges

COLUMBUS, OHIO — New reporting from the [Associated Press](#) reveals that Senator Jon Husted's ties to the FirstEnergy bribery scandal, the largest corruption scheme in Ohio history, are much deeper than previously known.

The new reporting reveals that Husted played a key role in negotiating the billion dollar bailout to utility companies – even going as far as pushing to deliver \$600 million more to FirstEnergy and other utilities at the expense of Ohio taxpayers. This further underscores Husted's key role in the FirstEnergy corruption scheme, with previous reporting revealing [phone calls](#), [text messages](#), and [secret meetings](#) between Husted and the indicted FirstEnergy executives.

Ohio Democratic Party Senior Communications Advisor Tony Wen released the following statement:

"Jon Husted was at the center of the largest bribery scandal in Ohio history and it's costing Ohioans thousands of dollars more on their utility bills. Now we are learning that Jon Husted's ties to the FirstEnergy bribery scandal run even deeper than previously known. Ohioans deserve answers about how deep Jon Husted's involvement goes."

READ MORE:

Associated Press: [Republicans plan big spending to keep Ohio's Senate seat. A bribery scandal adds to their challenges](#)

- As he seeks to retain his U.S. Senate seat this fall, Ohio Republican Jon Husted has been unable to escape the shadow of a \$60 million bribery scandal that has roiled state politics for more than five years.
- Husted was recently called to testify as a defense witness in the related criminal trial of two former energy executives, testimony he might have to reprise after a hung jury led to a mistrial in the case in March.
- A judge in Akron scheduled the retrial to begin Sept. 28, meaning **Husted could be back on the witness stand a week before early voting begins for the November elections.**
- **Husted calendars that came to light during the recent trial involving executives for the utility, Akron-based FirstEnergy, showed a number of additional meetings or phone calls** that he had with former CEO Chuck Jones, with the state's former top utility regulator, who has since died, and with then-Ohio House Speaker Larry Householder.
- The interactions noted in Husted's calendars were around the time the bailout bill was being developed and passed. **Evidence presented in various cases showed Jones and Dowling discussing a push by Husted for additional subsidies in the legislation.**
- A longtime Ohio lobbyist told federal agents that FirstEnergy and FirstEnergy Solutions, the subsidiary that owned the nuclear power plants helped by the bailout, **funneled dark money to nonprofits that benefited Husted and Gov. Mike DeWine, a Republican.**
- According to the notes from his Department of Justice interview obtained by The Associated Press and not previously reported, lobbyist Neil Clark **identified one of the groups as Freedom Frontier. That was the very group that received a \$1 million contribution in 2017 marked internally by FirstEnergy as "Husted campaign."**
- Internal FirstEnergy communications from 2017 and 2018, which is evidence in a U.S. Securities and Exchange Commission investigation, include discussions involving Jones, Dowling and others about attending Husted

events as far back as 2016. They also reflect Dowling's concerns about dark money contributions becoming public.

- Jones and Dowling also discussed strategies to contribute under alternate names. In July 2018, for instance, as the two were planning a DeWine-Husted fundraiser in Naples, Florida, they discussed contributing under one name while covering event costs under another — so there would be “no cost billed to (the) campaign.”
- **Husted declined a request for further comment about the details that have emerged as the various cases surrounding the bribery scandal play out.**

As a reminder, Jon Husted played a central role “[running the show](#)” in the largest bribery scandal in Ohio history alongside Dowling and Jones:

- New evidence during the trial [revealed](#) nine calls between Jon Husted and Mike Dowling in the months preceding a \$4.3 million bribe to former Utilities Commission Chair Sam Randazzo.
- [New reporting](#) revealed Jon Husted held secret meetings with Dowling and Jones, including with the “mastermind of Ohio’s largest public corruption scheme two days before scandal-ridden bribery legislation was introduced.”
- Neil Clark, a FirstEnergy lobbyist and co-defendant with former House Speaker Larry Householder, referred to Husted as FirstEnergy’s “[golden boy](#).”
- [Text messages](#) between Husted, Dowling, and Jones reveal that the trio were in constant communication “before, during and after his campaign.”
- Convicted FirstEnergy CEO Chuck Jones said Husted was a “[good friend of FirstEnergy](#)” who was “[highly engaged](#)” and “[fighting to the end](#)” in support of the massive bail out.
- A [dinner](#) between Jon Husted and the convicted FirstEnergy executives at the Athletic Club of Columbus was a focal point of the criminal trial.
- Public records show that FirstEnergy — led by Jones and Dowling — funneled [\\$1 million](#) in dark money to a dark money group backing Husted in 2017, part of the same corrupt scheme that led to federal and state indictments.

###

Securities

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Opinion

Matt Levine's Money Stuff: The SEC Can't Find Victims

April 20, 2026, 10:05 AM PDT

Disgorgement

In 2022, Elon Musk bought about 9% of the stock of Twitter Inc. US securities laws at the time required him to disclose his stake within 10 days after he acquired 5% of the stock. He hit 5% on March 14, 2022, so his deadline to disclose the stake was March 24. He didn't file the disclosure, and kept secretly buying more stock.

When he ultimately disclosed his ownership on April 4, 11 days late, Twitter's stock predictably jumped, as the market (correctly) anticipated that he would buy the whole company at a premium. Had he followed the law and disclosed his stake earlier, the stock (presumably) would have jumped earlier. But [he didn't](#), and from March 24 through April 3, he bought about 13 million more shares at lower, pre-disclosure prices. On [some simple math](#), Musk saved about \$143 million by illegally waiting to disclose his purchases so he could buy more in secret.

There is really nothing more to it than that: Musk broke the law, and he made tens of millions of dollars by breaking the law, and in 2025 the US Securities and Exchange Commission sued to make him give the money back.

But: Give the money back to *whom*? Musk bought about 13 million Twitter shares in illegal secrecy, paying about \$39 per share. Had he made the required disclosures, he would probably have paid about \$50 per share. If he saved \$11 per share, then it stands to reason that the people who sold him the stock each lost about \$11 per share. He should give them the money.

There are some problems with this reasoning, though. For one thing, it is pretty hard to trace US stock transactions; Musk doesn't know who sold him his stock, and those people don't know they sold to Musk. Probably, he bought most of that stock from market makers, banks and electronic trading firms, who tend to be involved in most US stock trades. But the market makers did not, in any obvious sense, *lose* \$11 per share on their Musk trades. They probably bought the stock from somebody else, at right around \$39 per share, seconds before or after they sold it to Musk. They are not particularly sympathetic victims, and if they got the money it would be a pure windfall. Perhaps Musk should give them the money and they should give it to the people they bought the stock from, but those people might also have been electronic trading firms; there is no sensible way to find the ultimate "victims."

Also, even if you could find some individual investor who sold stock to Musk at \$39, so what? Nobody forced that person to sell. If Musk had never bought any Twitter stock, she probably would still have sold at \$39. Perhaps in some sense she was deceived about the value of the company; perhaps she thought "this company is not worth a penny more than \$39" but would have thought otherwise if she knew about Musk's interest. But perhaps not. Maybe she had a tuition bill to pay and just put in a market order to sell. The stock market is a large distributed system; it's not like she was negotiating directly with Musk and he tricked her.

Also, how do I know that Musk would have paid \$50 per share, instead of \$39, if he had followed the rules and disclosed his stake on time? I don't. I have some decent evidence: Musk *did* disclose his stake 11 days later, and the stock *did* jump to about \$50, and Musk's involvement was surely the main news about Twitter in 2022. But it is hard to prove the counterfactual, and perhaps if Musk had disclosed a 5% stake on time the market would have reacted less than it did to his late 9% disclosure.

Also, what is the counterfactual here? If Musk had disclosed his stake and the stock jumped to \$50 and he kept buying, he would have paid an extra \$143 million to get to 9%. But would that have happened? He could have stopped buying once he disclosed. Then nobody would have sold to him at \$39 or at \$50. Perhaps he would have ended up buying the rest of Twitter at \$54.20 per share, as happened in real life, but perhaps not. Maybe with only a 5% stake he would have given up on buying it. Maybe he would have offered less.

This is not really about Musk. This sort of problem happens a lot in the stock market. If somebody (1) makes money from stock trades (2) illegally, it stands to reason that (3) somebody else lost the money. But the stock market is a diffuse and complex system, and it's not easy to match the exact people who lost the money, and the exact amount of money they lost, to the illegal transactions.

So we [talked in 2024](#) about a pump-and-dump case. Some guys with online nicknames like "Mystic Mac" and "The Stock Sniper" talked up some stocks online, their followers bought the stocks at inflated prices, the pumpers sold their shares at inflated prices and then the stocks collapsed. The SEC and the Justice Department brought charges against the pumpers, because that is the most basic sort of securities fraud. A judge in Texas, though, threw out the charges, concluding that there were no victims. Sure, if the pumpers had lied about stocks to identifiable victims, and then sold their stock directly to those victims at inflated prices, that might have been fraud, but there's no way to prove that that's what happened. The pumpers lied to their followers, the followers bought the stock at inflated prices, and the pumpers sold the stock at inflated prices, but you don't know that the pumpers sold the stock *to the followers* – presumably they sold mostly to market makers – or what the followers would have done if there was no pump. Maybe they would have bought the stock anyway?

I called this opinion "wild" – "[Pump and Dumps Are Legal Now](#)," was my headline – and in fact it was [overturned on appeal](#) last year. But there is something to it. The accounting of profits and losses in pump-and-dump schemes is not straightforward; the profits of the pumpers do not map simply to the losses of the victims.

If you do a pump-and-dump, and the SEC comes after you, they will probably demand that you give back the money you made. But: Give the money back to whom? Sure sure sure the SEC can count how much money you made on the pump-and-dump, but it can't easily count how much money people lost to you, or who they were. In the first instance, the SEC will demand that you give back the money *to the SEC*. And then it might set up a " [fair fund](#) " for victims, and have some process for people to submit claims and reimburse them. But it will not be surprising if the amount of money the SEC takes from you does not equal the amount that it returns to victims, because your profits and your victims' losses are not the same thing.

Isn't that weird? Some people think so. Bloomberg's [Greg Stohr and Nicola White report](#) :

Three times over the past decade, the US Supreme Court has cut the Securities and Exchange Commission's ability to extract millions of dollars from alleged wrongdoers.

Critics of the commission say it's not enough. In arguments Monday they are asking the justices to put new limits on "disgorgement," one of the SEC's most potent enforcement tools, designed to recoup illicit profits and return them to victims. ...

Critics say the SEC is using disgorgement to enrich the Treasury, rather than compensate victims. The commission's fiscal 2025 financial report indicates it holds more than \$5 billion in collected disgorgement and penalties that haven't been distributed to victims. ...

The latest case involves Ongkaruck Sripetch, who was accused by the SEC of engaging in a variety of fraudulent schemes tied to at least 20 penny stock companies. The SEC said Sripetch, who controlled a website called Stockpalooza.com, joined with associates to promote shares and then dump them before the price cratered. The schemes generated \$6.6 million in illicit profits, the SEC said.

Sripetch agreed to a judgment against him while continuing to fight the disgorgement award. A federal district judge then ordered Sripetch to give up \$3.3 million in profits and interest. The 9th US Circuit Court of Appeals affirmed, rejecting Sripetch's contention that the SEC needed to show what lawyers call "pecuniary harm."

Sripetch says the 2020 Supreme Court ruling - and its requirement that disgorgement be "awarded for victims" - indicates it can be used only when the SEC can show quantifiable harm that would allow for compensation.

"This court made clear what disgorgement means - it requires restoring the status quo and returning funds to victims," who necessarily must have suffered pecuniary loss, his lawyers argued.

"The clash could also affect the SEC's lawsuit against Elon Musk," they note. (Here are the briefs from Sripetch, and the SEC, and a group of "remedies and restitution scholars.") If you do fraud in the stock market, in some intuitive sense the victim of the fraud is *the stock market*: You extracted a certain amount of money from the market, but exactly who put that money into the market is not always clear. The SEC's job is to protect the stock market, so it will try to make you give the money back. But there is no easy way to make you give the money back to the market.

Private credit countercyclicality

I have [written about](#) one important difference between private credit and other kinds of credit (syndicated bank loans, bonds), which is:

1. Private credit lenders raise money first, and then use it to make loans, while
2. Banks and bond underwriters make loans first, and then raise money to fund them.

If a company wants to borrow money, it might meet with a bank, who will say “yes, we can help you, we’ll just need to find some investors who have the money,” and then the bank will go out and market bonds or loans to investors, and if it succeeds in finding investors then the financing will close.

Or the company might meet with a private credit direct lender, who will say “yes, we have the money right here, here you go.” There’s no need for marketing; the private credit lender has the money already. The private credit lender isn’t generally lending *its own* money: It has raised a *fund* from investors, and it’s lending their money. There was marketing. It just happened first. In private credit, the lenders market the loans and then make them; in bank lending and bonds, the banks make the loans and then market them.

This is oversimplified but useful. For instance, it explains one of the main appeals of private credit to borrowers, which is that it can offer more speed and certainty than a bond deal or a broadly syndicated loan. There might be other advantages. Here is a paper from March on “The Cyclicity of Direct Lending,” by Franz Hinzen, Giorgio Mondini, Paul Rintamäki and Sascha Steffen:

In direct lending, nonbank financial institutions originate bilaterally negotiated loans to risky firms. We document that issuance in this segment of the private credit market is countercyclical relative to issuance in other high-yield corporate credit markets, such as syndicated loans. This countercyclicality is the result of firms substituting across credit markets. Rather than forgo debt financing, firms switch to direct lending when credit conditions in other credit markets tighten. This substitution behavior is especially pronounced among sponsor-backed firms. Contrary to the concern that private credit could amplify credit supply shocks, our results indicate that private credit may dampen the corporate credit cycle. Thus, our findings have important implications for assessing the financial stability ramifications of the rapid growth in private credit.

From the paper:

We show that, among firms receiving a loan in a given quarter, the share borrowing in the private credit market increases when conditions in the syndicated loan market tighten. For example, when spreads in the leveraged loan market widen, and deal-making becomes more difficult, the share of firms that raise funds in the private credit market increases.

They do not exactly explain *why* private credit is available when syndicated loans aren't, but intuitively my model could explain it. When credit conditions are good, there are lots of syndicated bank loans and bond deals, because those are cheaper than private credit, and it is also easy for private credit firms to raise funds. When credit conditions are bad, there are no syndicated bank loans or bond deals (because no one will buy them), but the private credit firms [still have](#) all those funds that they raised, so they can go ahead and make loans.

Interception trade

There is, I suppose, such a thing as the time value of portfolio managers. A talented hedge fund portfolio manager in a year is worth less, to a hedge fund, than a similarly talented hedge fund portfolio manager today. If you run a multistrategy hedge fund, and you come across a talented portfolio manager who would be perfect for your firm, you might want to pay her \$100 million if she can start today. But if she has to wait a year to start, she might only be worth \$80 million. You have clients and money and a need now, and she has the skills now. In a year, who knows? Maybe you will have lost money and won't be able to afford her. Maybe you will have made so much money that you can afford someone better. Maybe her skills will have atrophied or her strategy will no longer be relevant.

In the modern hedge fund market, almost every talented hedge fund portfolio manager is available on, roughly, a one-year delay. (Sometimes more, sometimes less, but a year is the right order of magnitude.) The big multistrategy hedge funds make their portfolio managers sign noncompete agreements, and when they leave the managers have to wait out long gardening leaves before starting at a competitor. Hedge funds mostly just live with this when they hire outside talent. The hedge-fund talent market is primarily a futures market.

But there is a small spot market for experienced hedge-fund talent. Some of those futures are expiring every month. Some portfolio manager gave notice at her old firm 11.5 months ago and is starting at her new firm in two weeks. Her old noncompete has almost expired, and her new noncompete hasn't started yet. There is a tiny window of spot availability. If you outbid her new firm, you could get her on only a two-week delay, which is surely worth more than getting some other comparable manager on a one-year delay.

So you *should* be able to outbid her new firm: They agreed (a year ago) to pay her the one-year-forward price, while you're bidding for her immediate availability. Of course I suppose they could raise their bid to match, though they might be annoyed if she asks. Anyway, Bloomberg's [Nishant Kumar reports](#) :

Hedge funds have been trying for years to lock down their star traders. Many have expanded and tightened noncompete agreements, longtime industry fixtures. ...

Enter the "interception trade," another recent addition to the hedge-fund lexicon. The term refers to a burgeoning sub-market for talent in which employers target employees who have already agreed to join another firm. It all comes down to timing. Employers must strike at the precise moment a potential hire's noncompete agreement expires, or even just before. One recruiter has started to keep a list of people he's placed in new jobs along with the dates their mandated leaves expire, in case new, more lucrative opportunities come up.

Jason Kennedy, a London-based recruiter, is blunt about what's going on. He likens it to breaking up with someone you're engaged to marry. In financial markets, options lose value as they approach their expiration date. With traders, it's just the opposite. Their value goes up as their forced leave runs out.

"The less gardening leave he has, the more valuable he becomes to the buyer," Kennedy says.

The problem with recruiting hedge fund portfolio managers is that they understand optionality.

Pre-tax alpha

We [talked last week](#) about tax alpha and pre-tax alpha. Basically:

1. You can generate some tax benefits by borrowing some money, buying a lot of stocks, shorting a lot of other stocks, and harvesting the losses from whichever side of the trade loses money. This is sometimes called a "tax-aware long-short strategy."
2. You can try to buy stocks that go up and short stocks that go down. (If you do this, you will generate "pre-tax alpha," that is, market-beating returns.)
3. The first thing is a lot easier than the second.
4. But if you do the first thing *without* doing the second thing – if you *just* look for tax benefits – the Internal Revenue Service might shut you down, because you need some "economic substance" to your business beyond tax savings.

"Tax Alpha Needs Some Real Alpha," was my headline. A reader pointed me to this recent paper on "The Tax Benefits of Pre-Tax Alpha," by Joseph Liberman, Nathan Sosner and Pedro Freitas of AQR Capital Management (a big purveyor of tax-aware long-short strategies), making different but related points:

We present new evidence that pre-tax alpha materially enhances the tax benefits of tax-aware long-short beta-one equity strategies. The positive effect of pre-tax alpha on tax benefits strengthens with leverage and investment horizon. Two mechanisms drive this result. First, pre-tax alpha accelerates the growth of net asset value (NAV), which leads to higher dollar tax benefits as the asset base over which these benefits are realized grows. Second, pre-tax alpha leads to creation of new positions, acting similarly to recurring capital contributions. Position creation also lowers the cost of transitioning a long-short strategy to a long-only portfolio. In combination, greater tax benefits, faster NAV growth, and reduced transition costs stemming from higher pre-tax alpha translate into significantly higher after-tax post-transition wealth created by tax-aware long-short strategies.

Again, both for tax legal reasons and also for extremely obvious financial reasons, it is better to buy mostly stocks that go up, even in a portfolio built to harvest tax losses.

Elsewhere, Bloomberg's [Loukia Gyftopoulou reports](#) :

A short seller is taking aim at the more than \$1 trillion that's invested in strategies that reduce taxes for the rich – putting one of the US' most staid money managers in its crosshairs.

Orso Partners has amassed a bet against Affiliated Managers Group Inc., the \$813 billion investment firm that backs Cliff Asness' AQR Capital Management, according to a letter to investors seen by Bloomberg. AQR has been at the forefront of building out an ecosystem of trades – often called tax-aware long-short strategies – that has sprung up recently as Wall Street rushes to help wealthy Americans deal with taxable gains after years of rising markets. ...

AQR's recent growth "is built on regulatory arbitrage that faces immediate scrutiny," Orso portfolio manager Nathan Koppikar said in a letter to investors.

Seems a little unsporting for a hedge fund to try to raise other investors' taxes.

Everyone's got a podcast

From last week:

The Securities and Exchange Commission [Thursday] announced the launch of Material Matters With SEC Chairman Paul Atkins, a new podcast that provides stakeholders and the investing public with exclusive interviews and insights around the agency's policy and rulemaking agenda.

Chairman Atkins will be joined by guests across the agency, government, and industry, including fellow commissioners, division directors, legal and policy experts, authors, and corporate leaders.

"I'm excited to launch *Material Matters*, a new podcast that will provide the American public with an inside look at the SEC's vital work and its implications for our economy," said Chairman Atkins. "I look forward to welcoming accomplished guests from both inside and outside the agency who play a critical role in our efforts to strengthen U.S. capital markets for the next generation."

I have not yet gotten my invitation to appear on this podcast but I will be sure to let you know when I do.

Things happen

Private Credit Is on the Hunt for Credit-Card Debt. UniCredit steps up pursuit of Commerzbank with new plan. Google Eyes [New Chips](#) to Speed Up AI Results, Challenging Nvidia. Polymarket in Talks to Raise Money at About \$15 Billion Valuation. Car Owners Are Revolting Over Tesla's Self-Driving Promises. [AI Junk-Debt](#) Offering Wave Rolls On as Edged Compute Sells Bonds. Big Oil Plows Billions Into Far-Flung Drilling Sites to Escape Iran Turmoil. Blackstone-Backed [Jersey Mike's](#) Submits Confidential IPO Filing. Months-old start-up Recursive Superintelligence raises \$500mn for self-teaching AI. Billionaire Investor Warns [Sports Prediction Markets](#) Harm Men. "It is, I think, legally defined as puffery." Three people sentenced to jail for bear-suit insurance scam in California.

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1. That was my calculation at the time; the SEC later said "at least \$150 million." I will use \$143 million because the numbers are simple, 13 million shares times an \$11 per share stock-price jump.

2. The rule "imposes a strict liability standard," says the SEC: It doesn't matter *why* Musk broke the rule, only that he did and profited.

3. In particular, banks do make lots of loans using their own money. It's just that in the places where they most notably compete with private credit – particularly in leveraged buyout financing – the banks tend to syndicate loans and bond deals, rather than funding them with their own money.

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SEC Decries Biden-Era 'Rush' as Enforcement Numbers Fall

The U.S. Securities and Exchange Commission filed 456 enforcement actions in fiscal year 2025, a 22% drop from FY 2024.

April 17, 2026 at 04:53 PM By  **Dan Novak**



Paul Atkins, chair of the U.S. Securities and Exchange Commission. Photo: Diego M. Radzinski/ALM

Overall enforcement volume sharply declined at the U.S. Securities and Exchange Commission during fiscal year 2025, according to SEC data released this month—a decrease the agency called a marked improvement from the prior administration.

According to the SEC's [enforcement results](#) for fiscal year 2025, during which there was a transition between the Biden and Trump administrations, the SEC filed 456 enforcement actions, a 22% drop from 2024. The SEC also took 303 “stand-alone” actions brought solely by the agency, 30% fewer than in 2024.

Most enforcement actions in FY 2025, which ended Sept. 30, were brought prior to the end of the Biden administration in January 2025.

The SEC said it resolved cases brought by former Chair Gary Gensler that were insufficiently grounded in federal securities laws. The commission under the prior administration “was characterized by an unprecedented rush to bring a significant number of cases in advance of the presidential inauguration and the aggressive pursuit of novel legal theories,” the SEC stated.

By contrast, the current commission has refocused the enforcement program on “cases that directly harm investors and the integrity of the U.S. securities markets,” like fraud, market manipulation and insider trading, the SEC added.

“We have redirected resources toward the types of misconduct that inflict the greatest harm ... and away from approaches that prioritized volume and record-setting penalties over true investor protection,” SEC Chair Paul Atkins said in a statement.

The retreat in enforcement at the agency was likely due to the 18% reduction in enforcement staff in fiscal year 2025 and a pullback from cases involving off-channel communications, whistleblower rule violations and cybersecurity disclosures, said former SEC attorney Haima Marlier.

Violations for off-channel communications are cited by the administration as being non-fraud cases where there is no investor harm, but which can still yield hundreds of millions of dollars in settlements, Marlier added.

Dennis Kelleher, president of the SEC watchdog group Better Markets, lambasted the commission’s low enforcement figures, accusing the SEC of abandoning its oversight responsibilities and investor protection mission.

“The SEC’s 2025 enforcement record is a pathetic and indefensible dereliction of duty and its attempt to characterize its failures as success would make George Orwell envious of the agency’s double-talking duplicity,” Kelleher said in a statement.

The SEC in releasing its enforcement results repeatedly criticized the Biden administration’s approach.

The SEC under Gensler used resources to “pursue media headlines and run up numbers, and in turn, led to misguided expectations on what constitutes effective enforcement,” the SEC stated.

Marlier, now a partner at Morrison & Foerster, questioned the SEC’s characterization.

"In my experience, there was a pretty robust process for determining whether or not to charge a securities law violation, and the staff and the supervisors were very conscientious about that process, including under the first Trump administration," said Marlier, who left the SEC in 2020.

Stradley Ronon Stevens & Young partner Greg DiMeglio stated via email that the drop in SEC enforcement is consistent with Atkins' stated policy priorities and public statements.

"Although it's hard to imagine even lower numbers than those we've seen recently, I hesitate to predict the amount of any potential upswing," he said.

The SEC's framing the decrease in overall enforcement activity as a victory "seemed to suggest that we should expect even lower numbers in years to come," Hogan Lovells stated in a client alert.

The SEC recently appointed Gibson, Dunn & Crutcher partner David Woodcock to head its enforcement division beginning on May 4.

Woodcock, a lawyer and certified public accountant, served from 2011 to 2015 as director of the SEC's Fort Worth Regional Office as well as chair of its Financial Reporting and Audit Task Force.

Woodcock said this month that he was honored to rejoin the SEC and was committed to leading the division with "the highest level of professionalism and rigor."

Page printed from: <https://www.law.com/nationallawjournal/2026/04/17/sec-decries-biden-era-rush-as-enforcement-numbers-fall/print/>

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US Supreme Court to consider SEC's 'disgorgement' power

 [reuters.com/sustainability/boards-policy-regulation/us-supreme-court-consider-secs-disgorgement-power-2026-04-20](https://www.reuters.com/sustainability/boards-policy-regulation/us-supreme-court-consider-secs-disgorgement-power-2026-04-20)

John Kruzel

April 20, 2026

A person uses a video camera to record outside the U.S. Supreme Court building in Washington, D.C., U.S., February 20, 2026. REUTERS/Jonathan Ernst/File Photo [Purchase Licensing Rights](#) , [opens new tab](#)

- Case tests key Securities and Exchange Commission power
- SEC can seek surrender of profits from illegal activities
- Trump administration is defending the SEC in the case

WASHINGTON, April 20 (Reuters) - The [U.S. Supreme Court](#) was set on Monday to weigh the authority of the Securities and Exchange Commission to recover profits made from illegal activities - a financial remedy called disgorgement - in a test of one of the Wall Street watchdog agency's key powers.

Republican President [Donald Trump](#)'s administration is defending the SEC's broad disgorgement authority against a challenge by a defendant named Ongkaruck Sripetch, who was ordered by a court to repay more than \$3 million in ill-gotten gains and interest related to a financial fraud case.

The justices will hear arguments in Sripetch's appeal of a lower court's decision backing the SEC's action.

The SEC's general power to pursue disgorgement is not in dispute in the case. Courts have long recognized this authority and Congress enshrined it in federal law. At issue is whether the agency must show that victims suffered economic harm before it can seek the surrender of illegal profits.

Under Trump, the SEC used the remedy to obtain around \$1.4 billion in fiscal 2025, according to an agency tally that excluded certain sums. The prior year under Democratic President Joe Biden, the SEC obtained \$6.1 billion through disgorgement, almost three-fourths of its total financial penalties.

The SEC in 2020 sought disgorgement for illicit proceeds that it said Sripetch reaped through fraudulent means, including a pump-and-dump scheme that involved artificially inflating the price of penny stocks before selling off his shares at a profit.

Sripetch admitted violating securities law, and in a related criminal case was sentenced to 21 months in prison. He is challenging the lower court's

disgorgement order on the grounds that the SEC failed to prove his actions caused stock prices to drop or otherwise financially harmed investors.

Justice Department lawyers argued in court papers that the SEC is not required to show that fraud inflicted financial, or "pecuniary," harm before pursuing repayment through the courts.

"Disgorgement is a remedy designed to strip ill-gotten profits from wrongdoers, not to compensate victims for their losses," they wrote in court papers.

A California-based federal judge sided with the SEC's broader interpretation of its disgorgement power in a ruling that was upheld last year by the San Francisco-based 9th U.S. Circuit Court of Appeals.

Federal appellate courts have been divided on whether the SEC must show that victims suffered pecuniary harm as part of the remedy. Both the Trump administration and Sripetch urged the Supreme Court to take up the question to resolve the split among lower courts.

The SEC's \$1.4 billion disgorgement figure for fiscal 2025 excludes certain repayments secured by other federal agencies and an \$8 billion payment made in January 2025, during the second week of Trump's return to the White House, stemming from long-running SEC litigation concerning a Ponzi scheme. Beyond disgorgement, the SEC can also pursue fines, sanctions and other punishment.

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Securities

SEC Power to Recoup Illicit Profits Challenged at Supreme Court

April 19, 2026, 8:00 AM PDT

Three times over the past decade, the US Supreme Court has cut the Securities and Exchange Commission's ability to extract millions of dollars from alleged wrongdoers.

Critics of the commission say it's not enough. In arguments Monday they are asking the justices to put new limits on "disgorgement," one of the SEC's most potent enforcement tools, designed to recoup illicit profits and return them to victims.

The dispute will shape a panoply of SEC cases in which victims aren't easy to pinpoint, from low-profile record-keeping violations to major insider trading allegations. The SEC used disgorgement to secure orders for more than \$6 billion in fiscal 2024 and almost \$11 billion last year.

The clash could also affect the SEC's lawsuit against Elon Musk for allegedly flouting a deadline to disclose his growing stake in Twitter and in the process saving himself more than \$150 million. In a suit filed days before Trump took office, the SEC is seeking disgorgement as well as civil penalties. Musk and the SEC told a judge earlier this month they are headed toward a trial.



Elon Musk

Photographer: Krisztian Bocsi/Bloomberg

Supporters say disgorgement is crucial to the SEC's investor-protection efforts. It ensures that fraudsters don't see securities law enforcement as just the cost of doing business, said Corey Frayer, director of investor protection at the Consumer Federation of America and a former SEC adviser.

"I don't think the detriment to the SEC's enforcement regime could be understated here," Frayer said. "Without disgorgement, you have enormous incentive to cheat the markets."

Enriched Treasury

But critics say the SEC is using disgorgement to enrich the Treasury, rather than compensate victims. The commission's fiscal 2025 financial report indicates it holds more than \$5 billion in collected disgorgement and penalties that haven't been distributed to victims.

And without clear limits, the SEC could weaponize its authority and impose heavier penalties on political opponents than on allies, says Thomas Berry, director of the Cato Institute's Robert A. Levy Center for Constitutional Studies. The libertarian group filed a brief pointing to Justice Department and Internal Revenue Service investigations of foes of President Donald Trump.

"The biggest risk for us is the lack of a limiting principle for an upper bound for how much they can penalize people found liable in civil enforcement actions," Berry said.

The Supreme Court ruled in 2017 that the SEC is bound by a five-year statute of limitations when it seeks disgorgement. Three years later, the court upheld the commission's disgorgement authority against a broad attack but limited its use. The 2020 ruling said awards are permissible only if they are capped at the wrongdoer's net profits and are "awarded for victims."



The US Supreme Court in Washington, DC, hears a challenge to the SEC's disgorgement policy Monday, after curbing the agency's use of the power three times in the past decade.

Photographer: Graeme Sloan/Bloomberg

Disgorgement is distinct from civil penalties, which the agency can use as punishment if it can meet the legal requirements. The Supreme Court said in 2024 that defendants have a constitutional right to a jury trial in federal court when the commission asks for civil penalties.

Pump and Dump

The latest case involves Ongkaruck Sripetch, who was accused by the SEC of engaging in a variety of fraudulent schemes tied to at least 20 penny stock companies. The SEC said Sripetch, who controlled a website called Stockpalooza.com, joined with associates to promote shares and then dump them before the price cratered. The schemes generated \$6.6 million in illicit profits, the SEC said.

Sripetch agreed to a judgment against him while continuing to fight the disgorgement award. A federal district judge then ordered Sripetch to give up \$3.3 million in profits and interest. The 9th US Circuit Court of Appeals affirmed, rejecting Sripetch's contention that the SEC needed to show what lawyers call "pecuniary harm."

Sripetch says the 2020 Supreme Court ruling – and its requirement that disgorgement be "awarded for victims" – indicates it can be used only when the SEC can show quantifiable harm that would allow for compensation.

"This court made clear what disgorgement means – it requires restoring the status quo and returning funds to victims," who necessarily must have suffered pecuniary loss, his lawyers argued.

The SEC says that's a misinterpretation of the 2020 decision. The government also contends that Congress later modified the law to clarify that the SEC has broad disgorgement powers.

Disgorgement "reflects the fundamental principle that it would be quintessentially inequitable to permit a known wrongdoer to profit from his own misdeed," the SEC said in a court filing. "Disgorgement's essential function is thus to strip wrongdoers of ill-gotten gains, not to compensate victims for monetary losses."

As is the usual practice at the Supreme Court, the SEC is being represented by Solicitor General **D. John Sauer**, putting the full weight of the Trump administration behind the commission.

Power Embraced

The agency said in April that it obtained \$10.8 billion in disgorgement orders in fiscal 2025, though that figure is inflated by a flurry of settlements in the final months of Joe Biden's presidency plus the finalization of a long-running case against convicted fraudster **Robert Allen Stanford** and other defendants.

SEC enforcement actions overall have plunged during the second Trump administration, as have the size of the penalties levied on publicly traded companies and their subsidiaries, according to a report from Cornerstone Research and the NYU Pollack Center for Law & Business.



Paul Atkins, chairman of the US Securities and Exchange Commission (SEC)

Photographer: Eva Marie Uzcategui/Bloomberg

But the SEC under Chairman **Paul Atkins** has continued to embrace broad disgorgement powers, says Nicolas Morgan, president of Investor Choice Advocates Network, a public interest law firm that represents people facing commission complaints.

"We certainly have active, ongoing cases where disgorgement was awarded without proof of pecuniary harm to victims, and we've seen no letup in those cases," said Morgan, a former SEC litigator whose group filed two briefs urging the court to rule against the government. "So I don't see any changing of position on the use of disgorgement by the current administration."

The SEC last year joined *Sripetch* in urging the Supreme Court to take up the issue and resolve lower court disagreement.

The court will rule by July in the case, *Sripetch v. SEC*, 25-466.

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'No Longer One Size Fits All': Tweaks to U.S. Sentencing Guidelines May Ease White-Collar Penalties, Cut Litigation

New amendments approved by the U.S. Sentencing Commission reduce the emphasis on loss calculations in white-collar cases and give judges greater discretion to consider culpability and noneconomic harm. The changes could lead to more individualized sentences, lighter penalties in some fraud cases, and less litigation ahead of sentencing, one observer said.

April 17, 2026 at 04:49 PM By  **Emily Saul**



Judge hands down sentence

Newly-adopted changes from the U.S. panel that determines federal sentencing policy could result in less litigation and lighter sentences in white-collar criminal cases.

The U.S. Sentencing Commission on Thursday passed the modifications as part of a package of amendments made to the advisory guidelines used in federal sentencing.

The revisions cut the number of brackets in the loss tables from 16 to eight and adjust for inflation. They also provide judges with broader discretion to ask whether the guideline number reflects culpability.

Big picture, the tweaks could provide defense attorneys with “stronger footing” to argue for a sentence that’s more individualized to their client and less laser-focused on loss calculations, said Perry Carbone, an adjunct professor at the Elisabeth Haub School of Law at Pace University who teaches criminal procedure.

Carbone, a longtime federal prosecutor who headed the Criminal Division at the U.S. Attorney’s Office for the Southern District of New York, said he’d consider the changes incremental, not structural.

“The focus is shifting away from the naked, raw numbers,” Carbone observed. Instead, he said, the guidelines now give judges more leeway to ask questions like: “What was the person’s role in the offense?” “Was the intent there for personal gain?” “Was there sophistication?” “What actually happened?”

“It’s no longer a one size fits all,” he said.

Under the changes, judges are now also able to consider noneconomic harm in white-collar sentencings, such as emotional trauma the financial loss caused the victim or victims. For example, Carbone said a judge would be able to draw a distinction between the defrauding of an institutional investor and a retiree who lost their life savings in a fraud.

“The court has now has more tools at its disposal to consider all the circumstances and rely much less heavily on the significance of the loss table,” he explained.

Carbone predicted the change would lessen the litigation that currently occurs ahead of sentencing, as defense attorneys and prosecutors spar over actual loss versus intended loss.

A less mechanical reliance on the loss tables could also result in downward variances in large fraud cases, he opined. Sentencing assessments will also be more individually tailored to the defendant and their circumstances. For example, was the defendant who stole money under intense financial pressure, or did the crime appear to be only a product of greed?

Judges will also have more latitude to impose probation or home confinement for lower-level white-collar offenders and give more weight to post-conviction rehabilitation like volunteering and making efforts to repay victims.

Judges were already doing this, Carbone said, but the change recognizes a shift in the industry.

The amendments must be submitted to Congress by May 1, 2026. Without any congressional attempt to intervene or reject the changes, they will become effective in November.

Over the next couple of months, Carbone predicted defense attorneys will attempt to push sentencing dates back until the new guidelines are effective. Or, he said, they'll argue the judge should just apply them now, given that the change is expected later this year.

Carbone said he expected prosecutors to react to the change by placing less emphasis on maximizing the loss calculation and more emphasis on telling the story of the offense itself and the impact on victims.

The sentencing guidelines were first enacted to create more uniformity and consistency in sentencing, he noted.

"When you give judges more discretion, you're going to have more inconsistency," he observed. "That's a byproduct of this kind of change. But it's a tradeoff. If you want more fairness and you want judges to be able to consider the nuances, then you're going to have less uniformity."

Carbone said he did not predict these changes would be seen as controversial by lawmakers, as they address topics that have been under discussion for a long time.

The panel proposed the reform last year following years of criticism by academics and the defense bar, who said the reliance on the loss amounts in white-collar cases resulted in excessive punishment.

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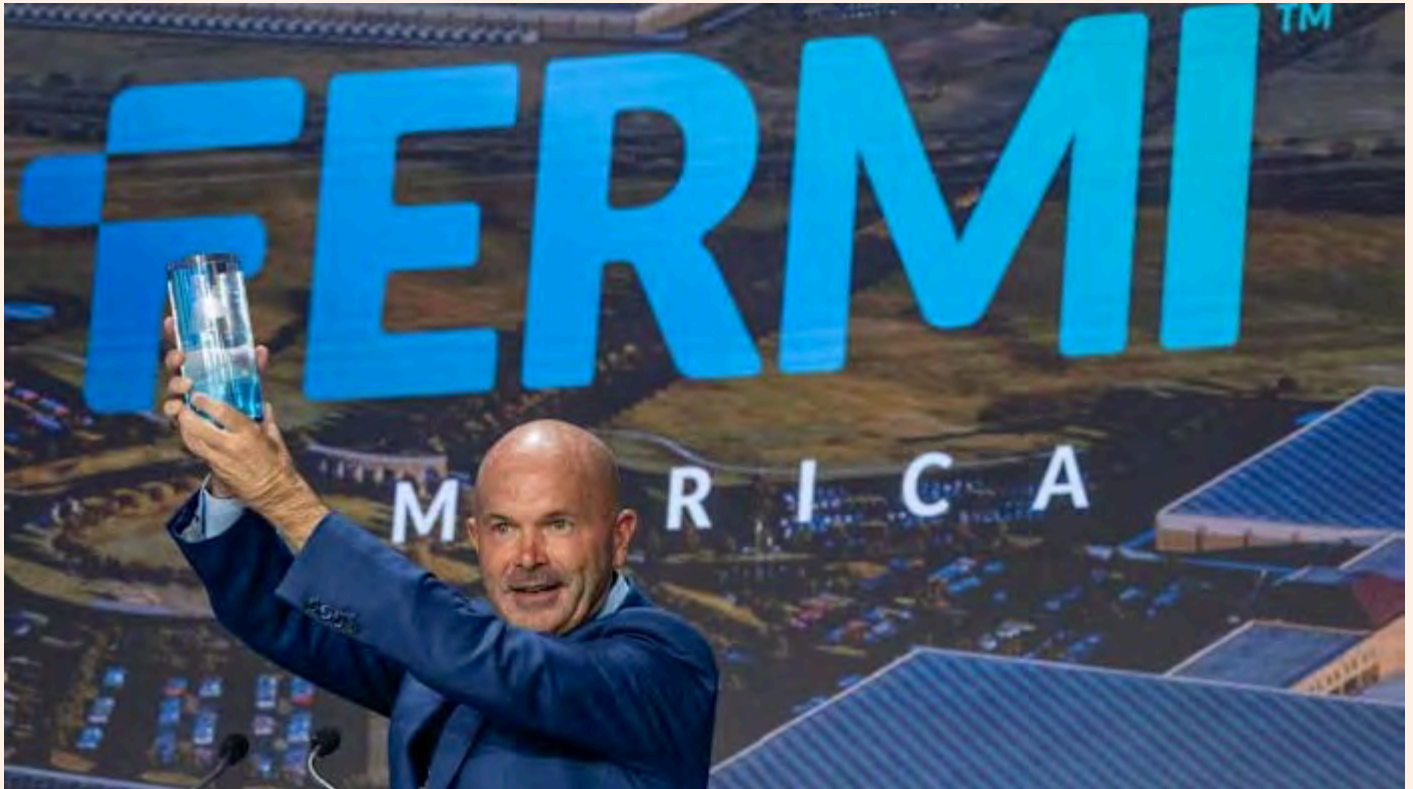
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FT PROFESSIONAL

Artificial intelligence

Shares in data centre hopeful Fermi plunge as top executives quit

Company co-founded by former Trump energy secretary beset by setbacks including loss of \$150mn Amazon investment



Fermi says it will begin a search for a new chief executive following the departure on Friday of Toby Neugebauer © Bloomberg

Martha Muir, George Steer and Jamie Smyth in New York

Published 3 HOURS AGO



Shares in a company that plans to build the world's largest energy and data centre campus plunged more than 20 per cent on Monday after its chief executive and finance director resigned.

Fermi, which was co-founded by Donald Trump's former US energy secretary Rick Perry, said it would begin a search for a new chief executive following the departure late on Friday of Toby Neugebauer, who was also a co-founder of the Texas-based company. It is also seeking a new chief financial officer following the resignation of Miles Everson, who the company said had been elected as a board director.

“Two steps forward and two steps back has seemed to be the mantra for Fermi since its IPO last year,” said David Auerbach, chief investment officer at Connecticut-based real estate investment trust Hoya Capital. “At this point it has been nothing but a bet on a dream which has turned out to be a nightmare for investors.”

A company spokesperson declined to comment beyond a press release announcing interim appointments to fill the vacancies.

Fermi shares extended an 82 per cent decline since its peak when it went public in October. It has been beset by a series of setbacks, including the loss of a \$150mn investment from [Amazon](#) to help fund construction, although a letter of intent for a 20-year lease with the ecommerce giant remains in place.

Filings with US regulators showed Fermi co-founder Griffin Perry, its chief site officer Charlie Hamilton and chief operating officer Jacobo Ortiz sold shares in the company worth a combined \$67.8mn between March 30 and April 9. Perry’s sales accounted for \$56mn of the total figure.

Fermi’s market capitalisation has plunged to about \$3.4bn from a peak of more than \$19bn on the day of its [IPO](#) in October, when its shares surged 55 per cent.

The company has struggled to find an anchor tenant for a huge proposed data-centre campus in Amarillo, Texas, which would offer up to 17 gigawatts of nuclear, natural gas and renewable powered energy.

Fermi has been coming under increasing pressure to sign a customer, with potential tenants reportedly losing trust in Neugebauer and leaning on Fermi to find a replacement.

The Amarillo campus, dubbed “Project Matador”, was expected to be one of the world’s largest data centre campuses, with a building cost of more than \$50bn. The project was provisionally named the President Donald J Trump Advanced Energy and Intelligence Campus.

Fermi's shares have fallen more than 80% since the company's IPO

Share price, \$



Source: LSEG via markets.ft.com

The scale of the project and its political connections have made Fermi a high-profile test of whether the power and data infrastructure projects proliferating around the country are viable.

Neugebauer will remain on Fermi's board. Just three weeks before, he told analysts during the company's fourth-quarter results that he "can't overstate how seriously" he took his duty to its investors and insisted that finding a customer that was a tech giant for its energy campus would be "the easy part".

In a call with analysts on Sunday, Fermi said the shake-up had been at least three months in the making and that it would have no effect on its ability to sign tenants and meet its delivery targets.

In its March 30 10-K filing, the company said it had "material weakness" in its financial reporting and that it lacks the processes "to satisfy the accounting and financial reporting requirements of a public company".

While Fermi searches for replacements for Neugebauer and Everson, it said Ortiz and Anna Bofa, previously a board adviser, would share the responsibilities of leading the company. Marius Haas, lead independent board director, has stepped into the role of chair of Fermi's board.

All 11 of the investment banks that cover the stock have assigned it a buy rating, including Cantor Fitzgerald, UBS and Mizuho, which underwrote the IPO. In late March the company reported a net loss of \$486mn in fiscal year 2025.

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[News from Bloomberg Terminal](#)**The Fermi Paradox Exposes Limits of the AI Energy Boom**

April 20, 2026, 11:07 AM PDT

Summary by Bloomberg AI

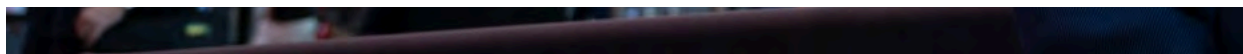
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- The Fermi Inc. paradox asks why the company hasn't obtained a hard power contract from hyperscalers despite high demand for electricity.
- Fermi's CEO and CFO left abruptly, and the company announced a new "office of the CEO" and will search for an interim CFO, leading to a 20% stock drop.
- The turmoil at Fermi is an alarm bell for the overhyped hyperscaler thesis and valuations across the sector, with forecasts of power demand from hyperscalers running into physical realities of the grid.

By Liam Denning

(Bloomberg Opinion) --



C-suite drama.

Photographer: Victor J. Blue/Bloomberg

The Fermi Paradox asks why, given the vastness of the universe, there is no hard evidence of aliens. The Fermi Inc. paradox asks why, given seemingly insatiable demand from hyperscalers for electricity, former Energy Secretary Rick Perry's AI-energy firm hasn't obtained a hard power contract from said hyperscalers.

The dissonance has now become unbearable. With the stock having dropped 69% since its initial public offering last September, Fermi had itself quite the weekend. Chief Executive Officer, co-founder and major shareholder Toby Neugebauer left abruptly. Then Chief Finance Officer Miles Everson followed him out the door. By Monday morning, the company was announcing a new "office of the CEO" comprising a board member and the chief operating officer. Details of a new interim CFO are due later this week.

The stock fell another 20%, which means a dollar and change at this point. Fermi's turmoil is an alarm bell for the overhyped hyperscaler thesis juicing power forecasts and valuations across the sector.

The weekend's C-suite revolution was all gamely spun as "Fermi 2.0." But, barely six months on from its splashy stock-market debut, a company updating itself faster than a Microsoft software patch is not a good sign. The fact that Fermi is announcing a search for an "interim" CFO also lends the proceedings an unhelpful air of improvisation. The appointment of Jeffrey Stein, co-founder of restructuring boutique Breakpoint Partners and boasting "more than 30 years of experience in the distressed and special situations market," to the board is also a thing no investor likes to hear on a Monday morning.

Fermi had "all the trappings of a bandwagon IPO," as I wrote last October. Perry's name as co-founder drew attention, as did that of Neugebauer, a private equity tycoon and Republican donor. The company had secured a lease on a strategically located site in the Texas panhandle, as well as a gas-supply contract and orders for hard-to-obtain gas turbines. This, as well as Fermi's touted ambition to build nuclear reactors, made the site near Amarillo perfect, seemingly, for any hyperscaler wanting to get multi-gigawatt datacenters up and running fast. Ballooning forecasts for datacenter power demand, as well as a tiny free float, juiced Fermi's valuation to a peak of more than \$19 billion.

That now hovers around \$3 billion. The scene was set on a defensive earnings call at the end of last month. Investors had become antsy at the continuing lack of an anchor tenant, especially after a Business Insider report in December claiming Amazon.com Inc. had pulled out of a potential deal, citing Neugebauer himself as the source. (Fermi subsequently denied that either the company or Neugebauer had identified the prospective tenant; Business Insider stood by its reporting).

Neugebauer and Everson spent much of the call talking up prospects for a tenant agreement as well as listing funding sources, much of it non-recourse equipment financing credit. Fermi's combined capital expenditure over 2026 and 2027 is forecast to be \$6.8 billion, nine times forecasted Ebitda and more than double the current market cap. At one point, Neugebauer said the company had a standing call every day at 4 pm Eastern to review Fermi's cash position; which may have been intended to reassure but rather raised the question of why executives felt the need to do that every day. Certainly, the now-former CEO and CFO did not turn around sentiment.

There's a pretty standard cautionary tale about hyped-up IPOs here. Fair play to whomever came up with "Fermi 2.0," but its already-thin powers of persuasion are further undermined by the continued, and awkward, presence of Neugebauer and Everson, now both on the board.

That warning spreads far beyond Fermi's non-insider shareholders, though. The artificial intelligence boom, and its associated dizzying quantities of funding, has stoked a build-it-and-they-will-come mentality in the energy sector. Besides Fermi's initial stock-price pop, developers of advanced nuclear reactors, most lacking a licensed design, sport meme-like valuations; Oklo Inc., for example, has fallen roughly 60% from its peak last fall and still trades at more than 1,200 times forecasted *revenue*.

But as Jigar Shah, former head of the Department of Energy's Loan Programs Office and who now runs advisory firm Multiplier, wrote in a timely thread on X this weekend: "This isn't a funding problem." Forecasts of 100 gigawatt-plus expansions in power demand from Silicon Valley executives more used to the infinitely scalable dynamics of software are running into the stubborn physical realities of the grid (along with a growing political backlash). The supply chain, and regulatory process, for power hookups is backed-up and subject to wider groups of stakeholders than just the hyperscalers. Shah estimates around 34 gigawatts of capacity might be added by 2030.

Part of the issue here is that hyperscalers demand a level of reliability that the US power grid will struggle to deliver, necessitating redundancy in the form of on-site or backup generation. Sector and Sovereign Research LLC estimates that datacenters will add 75 gigawatts of peak demand by 2030, the lion's share of a total increase they forecast at 105 gigawatts. But the need to maintain buffers of spare capacity, both on the grid and off, means the net capacity required would be 182 gigawatts. "The United States has never added 182 GW of dispatchable capacity over a five-year period," SSR writes.

Fermi is premised on this, essentially offering hyperscalers a short-cut to plugging in. Yet an AI sector seemingly desperate for power, and rich enough to pay up, is strangely hesitant. The more exuberant forecasters of datacenter demand must surely pause in the face of such evidence, or rather lack of it.

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BUSINESS • AUTOS

Car Owners Are Revolting Over Tesla's Self-Driving Promises

An international backlash is growing over outdated Tesla hardware



Tom LoSavio paid more than \$100,000 for his Tesla Model S nine years ago, including \$8,000 for the self-driving software.

By **Becky Peterson** [Follow](#) | Photography by Jason Henry for WSJ

April 20, 2026 5:30 am ET

Quick Summary



- Tom LoSavio, a retired attorney, is the lead plaintiff in a class-action lawsuit alleging Tesla misled customers about its Full Self-Driving (Supervised) product.

[View more](#)

When Tom LoSavio bought his [Tesla](#) **TSLA -2.13%** ▼ Model S in 2017, he thought he was buying a car that would one day drive itself.

The retired attorney and self-described early adopter paid more than \$100,000 for the luxury sedan, including \$8,000 for lifetime access to its most advanced driver-assistance features. Tesla

Chief Executive Elon Musk said that the hardware in the company's cars would eventually allow all of its cars to drive themselves.

"My wife and I talked about what a great thing it would be if we could just get in a car and have it drive us places," LoSavio told The Wall Street Journal.

In the nine years since, LoSavio said it has become clear that Tesla took him for a ride. He is the lead plaintiff in a class-action lawsuit that alleges that Tesla charged customers thousands of dollars in pricey upgrades for a product that didn't, and still doesn't, exist.

LoSavio alleges that Musk and Tesla have made repeated claims that were false about the self-driving capabilities of these vehicles and misled consumers who paid extra because they believed the company's marketing. His lawsuit is one of several ongoing efforts by Tesla owners looking to hold the company accountable for overpromising and under-delivering on its Full Self-Driving (Supervised) product.

In the Netherlands, a Tesla owner launched a campaign last week to organize European buyers, some who paid thousands for automated-driving technology but still lack access because of local regulations. A law firm in Australia has also assembled a class-action case accusing the company of misleading customers about the cars' capabilities.

The matter calls into question Musk's decadelong marketing pitch that Tesla's autonomous vehicles were just around the corner. That promise kept Tesla's stock near all-time highs—and with a market cap that exceeds most other automakers combined—even as its share of the electric-vehicle market has eroded.

Tesla and its lawyers didn't respond to requests for comment.

The issue of Hardware 3, as the outdated hardware is known, has taken on a life of its own online, with owners taking to Reddit and Facebook to complain about Tesla's inaction. Investors also frequently ask Tesla executives about the matter on quarterly earnings calls.

The lawsuits and European campaign represent just thousands of Tesla customers. Wall Street analysts, however, estimate that there are millions of Teslas on the road with the outdated hardware no longer capable of running the most sophisticated version of Tesla's Full Self-Driving (Supervised) software.

By all appearances, the company is closer than ever to its goal. Its new robotaxi ride-hailing service offers a small number of driverless rides in Austin, Texas. Tesla claims it will come to more cities in the coming months. The company has also said it plans to start production on the Cybercab, a two-seat coupe that Musk has said won't need a steering wheel or pedals.

Still, for drivers like LoSavio, it isn't clear how or when Tesla will make good on the most ambitious of its promises: that most Teslas on the road today will one day be capable of autonomy.

"You want to believe that you're not a fool," LoSavio said.

Full Self-Driving, eventually



Tom LoSavio is the lead plaintiff in a class-action lawsuit against Tesla.

LoSavio, 80 years old, lives in a tony suburb on the San Francisco Peninsula. He is seeking a refund for himself and other Tesla customers who bought or leased new Teslas between 2016 and 2024, and paid extra for add-ons with the expectation that the cars would eventually become autonomous. The lawsuit also aims to bar Tesla from marketing its products as self-driving.

LoSavio won class-action status for his lawsuit in September. The class represents approximately 3,000 people in California, a figure that excludes the many Tesla owners who have signed arbitration agreements with the company that prevent them from suing.

Now Tesla is appealing the suit's class-action certification, leaving it up to a Ninth Circuit judge as to whether LoSavio can represent the class as is, with modifications, or whether he will have to pursue the lawsuit alone.

At the center of the lawsuit are the hardware within Tesla vehicles that automates certain driving tasks such as steering, braking and acceleration under close human supervision and the claims Tesla made for years about those capabilities.

Tesla's vehicles are equipped with cameras and onboard computers—and previously, ultrasonic sensors and radar—that enable those functions. Today, Tesla's most advanced driver-assist features are sold as a \$99 monthly subscription under the name Full Self-Driving (Supervised). FSD can navigate most streets, change lanes and park while supervised by a driver who must keep eyes on the road and periodically touch the steering wheel.

Tesla started including early versions of this tech in its vehicles in 2014. By 2015, Musk was publicly claiming that Tesla vehicles could drive themselves entirely within two years.

Then in 2016, Tesla announced that all new cars built from then on had the hardware required for full self-driving. Musk told the press that a Tesla would drive itself from Los Angeles to New York City by the end of 2017.

“I feel pretty good about this goal,” he said. “We’ll be able to do a demonstration drive of full autonomy all the way from L.A. to New York.”

That prediction didn't come true. Eventually Tesla's plans required a more sophisticated computer and cameras than were installed in LoSavio's car. In 2020 and 2021, it started offering customers upgrades to the third edition of its computer and camera set. Some customers like LoSavio, who paid upfront for lifetime access, got complimentary upgrades from Tesla. Others who wanted to use FSD but paid monthly could pay \$1,000 for the upgrade.

Then in 2023, it upgraded its hardware for the fourth time and started selling new cars with its latest chip. That meant that customers like LoSavio, who got updated to the third edition computer a few years prior, once again had outdated equipment.



Tesla offered Tom LoSavio complimentary upgrades to his car's computer and cameras but he soon had outdated equipment once again.

'I believed they would make it happen'

Tesla faces a similar class action in the Australian federal court, where it is accused of marketing and selling defective vehicles "incapable of supporting fully autonomous or close to autonomous driving," according to the law firm's website.

Last week, after the Netherlands approved the use of FSD in the country for the first time, a Dutch Tesla owner named Mischa Sigtermans announced his own campaign to organize European drivers for a legal fight against the carmaker.

Sigtermans, the head of product at a venture studio in the Netherlands, paid €68,000 in 2019 for a Model 3 Performance, and an additional €6,400 for the upgraded Full Self-Driving capability. He said he still can't use FSD in his car because Dutch regulators only approved its use for the latest version of Tesla's hardware.

"Why did I buy it? Because I believed they would make it happen," Sigtermans said. "I just didn't think it would take them seven years, and still they wouldn't deliver."

The company hasn't made any moves since January 2025, when Musk told investors that the company would have to upgrade the computer for customers who bought the lifetime Full Self-Driving package.

"That is the honest answer and that's going to be painful and difficult. But we'll get it done," Musk said on the earnings call. "Now, I'm kind of glad that not that many people bought the FSD package."

The matter came up again on the earnings call in October, when Tesla executives said they wanted to finish the unsupervised version of the company's software before updating the hardware on older vehicles. They also discussed releasing different versions of the software to accommodate vehicles with the older hardware.

Earlier that month, Tesla had released its first major update to FSD in a year. Musk teased further updates to the software, saying that soon "your car will feel like it is sentient." The update, however, only worked on cars with the latest hardware, leaving some U.S. customers with older versions of the system.

Already, Musk has started talking up the potential of new generations of hardware.

Becky Peterson is a Pulitzer Prize-winning reporter for The Wall Street Journal, where she covers Tesla and Elon Musk from New York. She previously reported for the Information covering Musk's greater empire, including rocket company SpaceX and AI startup xAI. She started her career at Business Insider covering tech, M&A and venture capital from Sa...

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Tesla's energy storage division to pick up slack as car margins drop and credits fade

 [reuters.com/sustainability/climate-energy/teslas-energy-storage-division-pick-up-slack-car-margins-drop-credits-fade-2026-04-20](https://www.reuters.com/sustainability/climate-energy/teslas-energy-storage-division-pick-up-slack-car-margins-drop-credits-fade-2026-04-20)

Akash Sriram

April 20, 2026

Item 1 of 3 Tesla electric vehicles are pictured at one of the company's delivery centers in Valenton, near Paris, France, April 24, 2025. REUTERS/Benoit Tessier/File Photo

[1/3] Tesla electric vehicles are pictured at one of the company's delivery centers in Valenton, near Paris, France, April 24, 2025. REUTERS/Benoit Tessier/File Photo

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- Energy division now key growth driver as robotaxi and AI projects remain in early stages
- Energy storage revenue and profit expected to offset declining regulatory credits
- Tesla expands battery storage, plans new Megapack and solar manufacturing facilities

April 20 (Reuters) - Tesla's [\(TSLA.O\)](#)  [, opens new tab](#) solar and energy business is likely to outshine the EV maker's challenged core business when it reports quarterly results this week, a sign of resilience as Tesla progresses slowly in its turn to robots and self-driving technology.

CEO Elon Musk's plans to build new assembly lines and produce robots are expected to cost \$20 billion this year and drive Tesla to its first quarter of negative cash flow in two years.

Tesla's vehicle profitability has shrunk from its peaks, while high-margin regulatory credits, once a key profit driver, have declined following policy changes in the United States under CEO Elon Musk's ally, President Donald Trump.

But the energy business is faster growing and roughly twice as profitable as Tesla's ageing lineup of cars, thanks to demand for large-scale battery systems to power data centers.

"The honest summary: energy storage is cushioning the blow but not yet large enough to fully offset the combined pressure from both the (regulatory) credit cliff and automotive margin erosion. The trajectory is encouraging; the current magnitude is still insufficient," said Adrian Balfour, founder and chairman of advisory firm Envorso.

Wall Street estimates the unit will generate about \$18.3 billion in revenue in 2026, up from \$12.8 billion in 2025, with gross profit rising to roughly \$5.3 billion and

margins holding near 29%, according to Visible Alpha data.

The unit's revenue will account for about a fifth of expected total revenue this year.

Tesla's energy storage division deployed 8.8 gigawatt-hours of energy storage products in the first quarter, down 15.4% from a year earlier.

For the quarter that Tesla is reporting on after markets close on April 22, analysts estimate that the energy business will grow 25%, beating a 12% rise in automotive revenue and a 23% increase in services. Negative cash flow, or cash burn, is expected to be \$1.44 billion.

Column chart showing expected revenue growth for Tesla's segments this year, including automotive and energy generation and storage

NO MORE A SIDE BUSINESS

Tesla's roughly \$1.5 trillion valuation rests on products that don't yet exist, including robots and fully self-driving cars.

Grouped column chart showing expected gross profit from Tesla

Still, quarterly sales for the energy division remain uneven.

"That tends to be a lumpy business, so it is hard to read too much into it until we get more detail on the next earnings call," said Matt Britzman, senior equity analyst, Hargreaves Lansdown, who personally owns Tesla shares.

Line chart showing Tesla's energy storage deployment growth.

In the first quarter of 2026, energy storage deployments were 8.8 gigawatt-hours, down 15% from a year earlier. However, revenue for the segment is expected to rise as Tesla focuses on selling more profitable products.

"A growing percentage of deployments is coming from large utility-scale Megapacks, which are much more lucrative than smaller residential Powerwalls or lower-priced systems," said Scott Acheychek, COO of ETF-issuer REX Financial. Investors will want to hear how the energy business is responding to industrywide challenges. "While growth beyond the first quarter is likely to stay strong, margins may come under pressure due to pricing competition and delays in passing on higher tariff costs," Morgan Stanley analysts said.

Reporting by Akash Sriram in Bengaluru; Editing by Pooja Desai and Peter Henderson

Our Standards: [The Thomson Reuters Trust Principles](#).  , [opens new tab](#)

Akash reports on technology companies in the United States, electric vehicle companies, and the space industry. His reporting usually appears in the Autos & Transportation and Technology sections. He has a postgraduate degree in Conflict,

The insider trading suspicions looming over Trump's presidency

*** [bbc.com/news/articles/cge0grppe3po](https://www.bbc.com/news/articles/cge0grppe3po)

Nick Marsh

April 19, 2026

Throughout US President Donald Trump's second term in office, traders have been betting millions of dollars just before he makes major announcements.

The BBC has examined trade volume data on several financial markets and matched them to some of the president's most significant market-moving statements.

It found a consistent pattern of spikes just hours, or sometimes minutes, before a social media post or media interview was made public.

Some analysts say it bears the hallmarks of illegal insider trading, whereby bets are made by people based on information that is not available to the general public.

Others say the picture is more complicated and that some traders have become more adept at anticipating the president's interventions.

Here are five of the most significant examples.

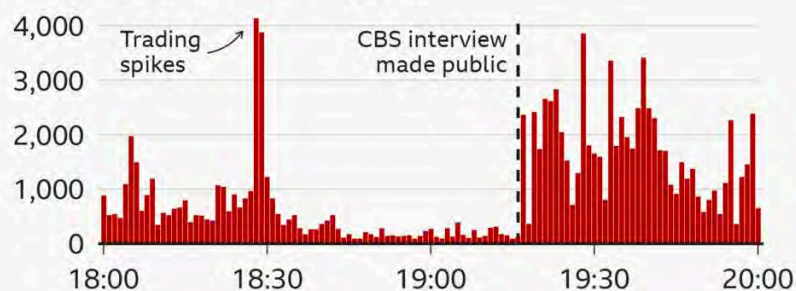
9 March 2026: 'The war is very complete, pretty much'

Some of the biggest movements have been in oil trades on the futures market.

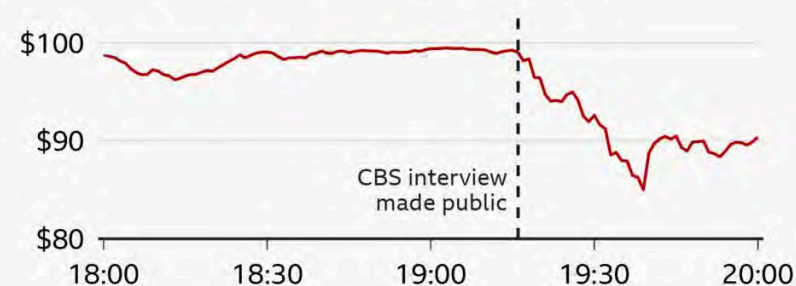
Nine days into the US-Israel war with Iran, Trump told CBS News in a phone interview that the conflict was "very complete, pretty much".

Oil trading volumes spike shortly before CBS interview sends price tumbling

Futures contracts traded for Brent crude oil from 18:00-20:00, 9 March 2026



Price of Brent crude futures in \$US per barrel



Note: Times on x-axis are GMT; each contract represents 1,000 barrels of oil

Source: Bloomberg

BBC

- **18:29 GMT:** Oil bets surge
- **19:16 GMT:** Trump says war is nearly complete
- **19:17 GMT:** Oil drops by 25%

The first time the public would have known about the interview was at 15:16 Eastern Time (19:16 GMT) when the reporter posted about it on X.

Oil traders reacted to this news that the conflict could end much sooner than expected by selling oil, with the price plunging by around 25%.

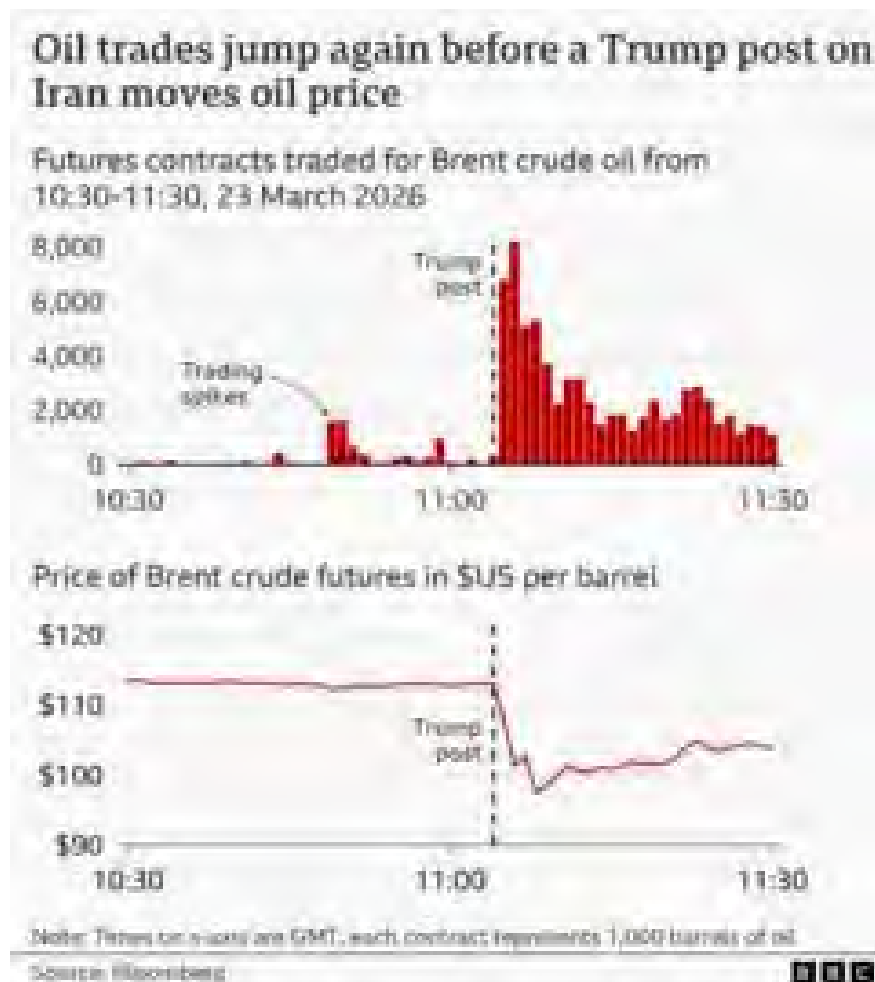
However, market data shows a huge surge of bets were placed on the price of oil falling at 18:29 GMT - a full 47 minutes before the reporter's post.

The traders who placed those bets will have made millions of dollars from the movement in oil prices.

23 March 2026: 'Complete and total resolution to hostilities'

On 23 March, just two days after threatening to "obliterate" Iran's power plants, Trump posted on Truth Social that Washington had held "VERY GOOD AND PRODUCTIVE CONVERSATIONS" with Tehran over a "COMPLETE AND TOTAL RESOLUTION" to hostilities.

It was a major surprise to diplomatic observers and to traders.



- **10:48-10:50 GMT:** Oil bets surge
- **11:04 GMT:** Trump posts about "total resolution" to hostilities
- **11:05 GMT:** Oil drops by 11%

Immediately, stocks rose and the US benchmark price of oil - which had been climbing - fell sharply.

[As the BBC reported at the time](#), 14 minutes before the president's post there were an unusually high number of bets on the US oil price.

The same pattern was seen in traders buying contracts for Brent crude, the other major oil benchmark.

The trades appeared "abnormal, for sure," one oil analyst told the BBC at the time.

9 April 2025: 'Liberation Day' pause

Away from the war in the Middle East, there are other examples of trading activity that have raised eyebrows.

On 2 April last year, Trump announced what he called Liberation Day - a sweeping set of tariffs on goods from practically every country in the world.

Stock markets around the globe plunged.

But a week later when Trump announced a 90-day "pause" on the levies for all countries, except China, stock markets soared.

The benchmark S&P 500 index jumped by 9.5% - one of its largest single-day gains since the Second World War.

- **18:00 BST:** Traders start making big bets on stock market going up
- **18:18 BST:** Trump announces tariffs pause
- **18:19 BST:** Stock market begins historic surge

Again, a pattern of unusual trading preceded these events with an unusually high number of bets ahead of the announcement on one fund that tracks the S&P 500.

The number of contracts traded jumped to over 10,000 per minute just after 18:00 BST. Earlier in the day the number had been in the hundreds.

Some traders bet over \$2m on the stock market increasing that day, even though it had gone through seven days in a row of losses. The huge surge could have generated them a profit of almost \$20m.

Later that week, several senior Democrats in the US Senate wrote to the Securities and Exchange Commission (SEC) urging the financial regulator to investigate whether the president's announcements "enriched administration insiders and friends at the expense of the American public".

When asked by the BBC whether it had looked into these allegations, a spokesman for the SEC declined to comment.

The White House, meanwhile, did not respond to a BBC request for comment on any of the unusual trading activities analysed in this report.

3 Jan 2026: Maduro seized



Reuters

One user won \$436,000 betting on Nicolás Maduro being out of office by the end of January

- **Dec 2025:** Burdensome-Mix account created
- **2 Jan 2026:** Account puts \$32,000 on Maduro being ousted
- **3 Jan 2026:** Maduro is seized and Burdensome-Mix wins \$436,000

The recent growth of online predictions markets has also drawn scrutiny from observers.

Blockchain-powered platforms such as Polymarket and Kalshi offer users the chance to speculate on anything from the weather to baseball to US foreign policy.

President Trump's son, Donald Trump Jr, is an investor in Polymarket and sits on its advisory board. He also acts as a strategic advisor to Kalshi and has been contacted by the BBC for comment.

In December 2025, one user created an account on Polymarket called Burdensome-Mix. On 30 December, it placed its first bet on Venezuela's President Nicolás Maduro being out of office by the end of January 2026.

Between 30 December and 2 January Burdensome-Mix placed a total of \$32,500 on the position.

When Maduro was seized by US special forces and ousted the following day, Burdensome-Mix won \$436,000.

Shortly afterwards, the account changed its username and has not placed any bets since.

28 Feb 2026: Strikes on Iran

- **Feb 2026:** Six accounts created on Polymarket
- **28 Feb:** Accounts win \$1.2m between them

According to the blockchain analysis website Bubblemaps, six accounts were created on Polymarket in February.

All placed wagers on a US strike on Iran happening by 28 February. When the attacks were confirmed by President Trump in the early hours of that day, the accounts earned \$1.2m between them.

Five of those six users have placed no more bets since, but one of the account's [recent activity](#) shows it has subsequently made \$163,000 by correctly betting on a US-Iran ceasefire by 7 April, which was announced by Washington and Tehran on that day.

Polymarket told the BBC it "sets, maintains, and enforces the highest standards of market integrity", adding that it "proactively" works with regulators and law enforcement to do so.

In March this year, both Polymarket and Kalshi outlined new rules to crack down on insider trading.

Predictions markets come under the jurisdiction of the Commodity Futures Trading Commission (CFTC).

The CFTC did not respond to a BBC request for comment, but its chair recently told a Congressional committee that his organisation had "zero tolerance" for fraud and insider trading.

It has also surfaced that the White House sent an [internal email to staff](#) last month, warning them not to use insider information to place bets on predictions markets.

Spokesman Davis Ingle told the BBC at the time that "any implication that Administration officials are engaged in such activity without evidence is baseless and irresponsible reporting".

Hard to prove

Insider trading has been illegal for most Americans since the Securities Act was passed in 1933.

It was extended to cover US government officials in 2012, although to date no-one has been prosecuted under the law.

Paul Oudin, a professor who specialises in financial regulation law at the ESSEC Business School, says the rules are difficult to enforce.

"The financial authorities will not carry out a prosecution if they can't figure out who the source of information is," says Oudin.

None of the US financial authorities contacted by the BBC acknowledged any of the allegations of insider trading.

"You can have massive trades on a financial instrument that clearly show that someone was privy to what Donald Trump was about to declare," says Oudin.

"Yet there is a strong chance that no-one will be prosecuted," he adds.

Charts by Tommy Lumby

Follow the twists and turns of Trump's second term with North America correspondent Anthony Zurcher's weekly [US Politics Unspun](#) newsletter. Readers in the UK can [sign up here](#). Those outside the UK can [sign up here](#).

Inside the Supreme Court's Risky New Way of Doing Business

[nytimes.com/2026/04/18/us/politics/supreme-court-shadow-docket.html](https://www.nytimes.com/2026/04/18/us/politics/supreme-court-shadow-docket.html)

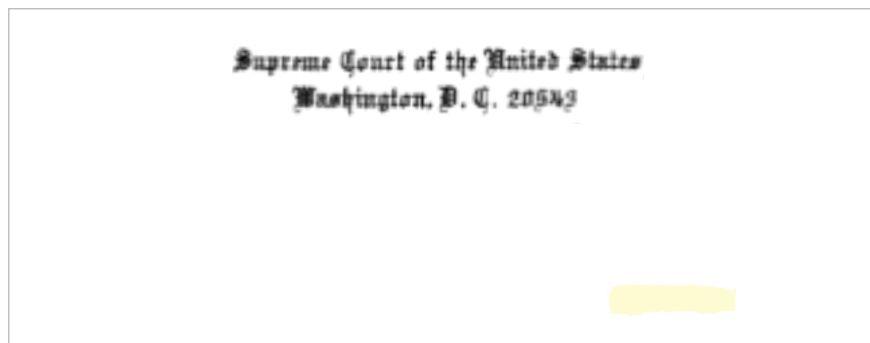
Jodi Kantor, Adam Liptak

April 18, 2026



The birth of the Supreme Court's shadow docket has long been a mystery.

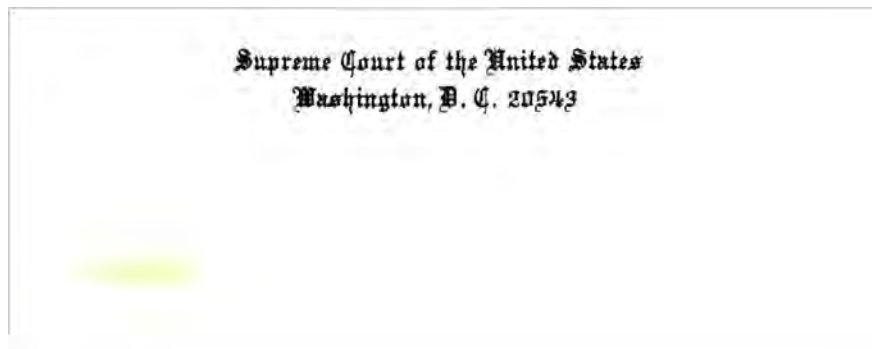
Until now.



I recognize that the posture of this stay request is not typical.

Chambers of The Chief Justice

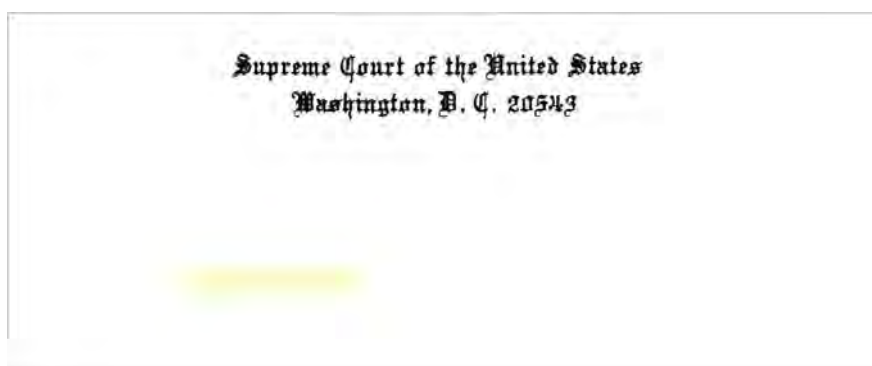
February 6, 2016



It is unusual for this Court to issue a stay of an agency's order during the time that the Court of Appeals is considering its lawfulness.

Chambers of Justice Stephen Breyer

February 5, 2016



It would be unprecedented for us to second-guess the D. C. Circuit's decision that a stay is not warranted.

February 7, 2016

Chambers of Justice Elena Kagan

the shadow papers

The Inside Story of Five Days That Remade the Supreme Court

Secret memos obtained by The New York Times illuminate the origins of the court's now-routine "shadow docket" rulings on presidential power.



By [Jodi Kantor](#) and [Adam Liptak](#)

Jodi Kantor and Adam Liptak's work sheds light on the Supreme Court. They welcome tips at [nytimes.com/tips](https://www.nytimes.com/tips).

Just after 6 p.m. on a February evening in 2016, the Supreme Court issued a cryptic, [one paragraph ruling](#) that sent both climate policy and the court itself spinning in new directions.

For two centuries, the court had generally handled major cases at a stately pace that encouraged care and deliberation, relying on written briefs, oral arguments and in-person discussions. The justices composed detailed opinions that explained their thinking to the public and rendered judgment only after other courts had weighed in.

But this time, the justices were sprinting to block a major presidential initiative. By a 5-to-4 vote along partisan lines, the order halted President Barack Obama's Clean Power Plan, his signature environmental policy. They acted before any other court had addressed the plan's lawfulness. The decision consisted of only legal boilerplate, without a word of reasoning.

At the time, the ruling seemed like a curious one-off. But that single paragraph turned out to be a sharp and lasting break. That night [marks](#) the birth, [many legal experts believe](#), of the court's modern "shadow docket," the secretive track that the Supreme Court has since used to make many major decisions, including granting President Trump more than 20 key victories on issues from immigration to agency power.

Since that night a decade ago, the logic behind the Supreme Court's pivotal 2016 order has remained a mystery. Why did a majority of the justices bypass time-tested procedures and opt for a new way of doing business?

The answer would remain secret for generations, legal experts predicted. "We'll never know (at least, until our grandkids can read the justices' internal papers from that time period)," Stephen Vladeck, a law professor at Georgetown, wrote in [a newsletter](#) in February marking the anniversary of the order.

The New York Times [has obtained those papers and is now publishing them](#), bringing the origins of the Supreme Court's shadow docket into the light.

The 16 pages of memos, exchanged in a five-day dash, provide an extraordinarily rare window into the court, showing how the justices talk to one another outside of public view.



[A Breakdown of Five Days of Secret Supreme Court Memos](#) [April 18, 2026](#)

Writing on formal letterhead, but addressing one another by their first names and signing off with their initials, they sound notes of irritation, air grievances and plead for more time. In addition to the usual legal materials, they cite a blog post and, twice, a television interview. They sometimes engage with one another's arguments. But they often simply talk past each other.

In public, Chief Justice John G. Roberts Jr. has cultivated a reputation for care and caution. The papers reveal a different side of him. At a critical moment for the country and the court, the papers show, he acted as a bulldozer in pushing to stop Mr. Obama's plan to address the global climate crisis.

When colleagues warned the chief justice that he was proposing an unprecedented move, he was dismissive. "I recognize that the posture of this stay request is not typical," he wrote. But he argued that the Obama plan, which aimed to regulate coal-fired plants, was "the most expensive regulation ever imposed on the power sector," and too big, costly and consequential for the court not to act immediately.

In the Trump era, he and the other conservative justices have repeatedly empowered the president through their shadow docket rulings. By contrast, the papers reveal a court wielding those same powers to block Mr. Obama. Justice Samuel A. Alito Jr. warned that if the court failed to stop the president, its own "institutional legitimacy" would be threatened.

The court's liberals pushed back, but compared with their recent slashing dissents, they were not especially forceful, mostly confining their arguments to procedures and timing.

The papers expose what critics have called the weakness at the heart of the shadow docket: an absence of the kind of rigorous debate that the justices devote to their normal cases.

After obtaining the papers, The Times confirmed their authenticity with several people familiar with the deliberations and shared them with a spokeswoman for the court. The Times posed detailed questions to the justices who wrote the memos; they did not respond.

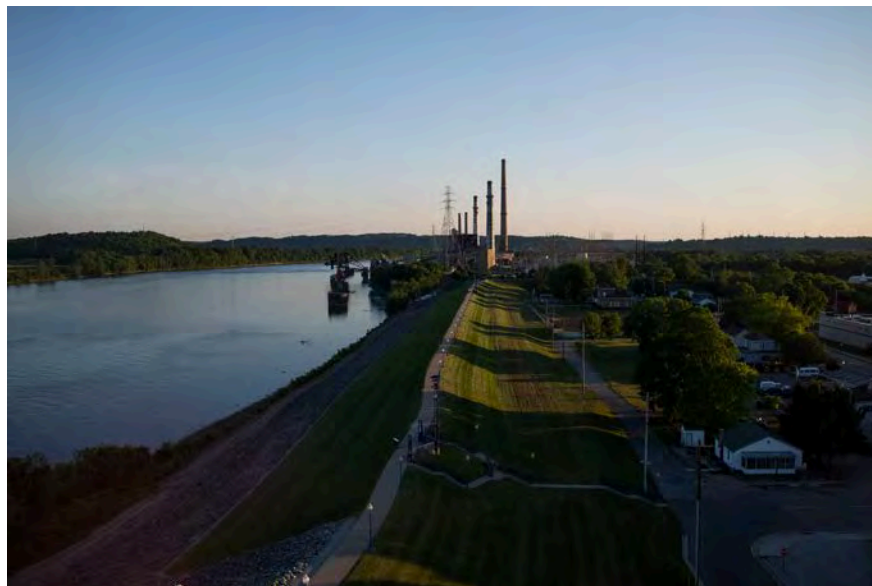
Since that breakneck February 2016 exchange, the emergency docket has swelled into a major part of the court's business, as the justices have short-circuited the deliberations of lower courts. The decisions are technically temporary, but are often hugely consequential.

Rulings with no explanation or reasoning, like the sparse paragraph from that February night, have become routine. The emergency docket is now a central legacy of the court led by Chief Justice Roberts.

Read a decade later, the memos suggest that none of the justices fully appreciated what they were doing: embarking on a questionable new way of operating.

A Constitutional Collision

Image



A coal-fired power plant in Lawrenceburg, Ind., in 2016. At the end of 2015, President Barack Obama was trying to put his signature environmental policy, the Clean Power Plan, into effect. Credit...Ty Wright for The New York Times

The 2016 case was a collision between the principles and personalities of Mr. Obama and Chief Justice Roberts.

The president was under enormous pressure to address the global climate crisis. He had campaigned on that promise, then for eight years as the planet heated, he failed to get major environmental legislation through Congress. With his term about to end, this was his last chance to act.

The chief justice was eager to assert his institution's authority and to rein in Mr. Obama's Environmental Protection Agency, which he believed had sidestepped a recent ruling.

The two men, both cerebral, polished Harvard Law graduates, had long posed a puzzle: How could such smooth personalities create so much friction?

Mr. Obama had been one of just 22 senators to vote against Chief Justice Roberts's confirmation in 2005, saying that the nominee had "far more often used his formidable skills on behalf of the strong in opposition to the weak." Four years later, the two men [managed to botch](#) the simple task of reciting the presidential oath at Mr. Obama's first inauguration.

True, Chief Justice Roberts had cast the decisive vote in 2012 to save the centerpiece of the Affordable Care Act, Mr. Obama's signature legislative achievement. But that was approved by Congress.

After Republicans won control of Congress, Mr. Obama responded by pushing the boundaries of presidential authority, promising that his administration would act on pressing problems "with or without Congress." He tightened gun regulations and granted deportation relief to millions of undocumented immigrants.

The chief justice and some of his colleagues were watching warily, concerned the president was going past what the Constitution allowed him to do on his own. In a 2014 [opinion](#) written by Justice Antonin Scalia, the court warned Mr. Obama that he needed to tread carefully in setting environmental policy without congressional approval.

That statement was one of the early articulations of what would come to be known as the major questions doctrine, saying that on important matters, executive branch agencies could act only with clear direction from Congress.

Image



When more than two dozen states, along with business groups, quickly sued to stop Mr. Obama's program, administration lawyers readied for an extended fight. Credit...Doug Mills/The New York Times

Then, in June 2015, the court [ruled against the Obama administration](#) in a case involving mercury emissions. The next day, an E.P.A. official, Janet McCabe, made what now looks like a tactical error. She issued a statement that, according to the

papers, offended the chief justice and struck him as an attempt to sideline the court.

She asserted that the court's ruling had come too late to matter.

"The majority of power plants are already in compliance or well on their way to compliance," Ms. McCabe [wrote on the agency's website](#).

In a recent interview, Ms. McCabe said she had not meant "to be disrespectful of the Supreme Court or the judicial system" and was merely stating a legal reality. Indeed, over more than three years of litigation, no court had stayed the mercury regulation and power plants had already taken major steps to conform.

With the clock ticking down on Mr. Obama's presidency and the global Paris climate accords looming, the White House tried to craft a signature piece of environment legislation that could survive the court's scrutiny.

In October 2015, [the E.P.A. issued](#) Mr. Obama's [Clean Power Plan](#), which aimed to shift the power sector from reliance on coal to natural gas, wind and solar. The goal was an "aggressive transformation in the domestic energy industry," according to a White House fact sheet.

Its legal basis was open to question. The agency said it was authorized by a seldom-used provision of an old law, the Clean Air Act of 1970. Critics responded that it was unlikely that Congress would have authorized a sweeping overhaul of the nation's power supply in such an obscure provision.



Adam Liptak
Supreme Court reporter

"I try to make the Supreme Court accessible to readers. I strive to distill and translate complex legal materials into accessible prose, while presenting fairly the arguments of both sides and remaining alert to the political context and practical consequences of the court's work."

[Learn about how Adam Liptak approaches covering the court.](#)

When more than two dozen states, along with business groups, quickly sued to stop the program, Obama administration lawyers readied for an extended fight, they said in recent interviews. The case was surely going to wind its way to the Supreme Court eventually, and given the tension between the conservative justices and the Obama administration, they knew it might not survive.

The challenge to the regulation went straight to the D.C. Circuit, which set it down for a prompt argument, but refused to halt the plan in the meantime. At that point the challengers, led by West Virginia, tried to take a shortcut. Instead of waiting for the appeals court to hear the case, they went straight to the Supreme Court, asking the justices to pause the plan for the duration of the litigation, including an eventual possible return trip to the Supreme Court.

Both sides agreed that it was an unusual request.

"This had never been done," Elbert Lin, who was West Virginia's solicitor general, acknowledged in an interview.

At the Justice Department, lawyers involved with the case said they were not terribly worried. To be sure, the court sometimes granted emergency applications from death row inmates and in fast-moving election disputes. But the court had never intervened on an emergency basis to shut down a major presidential initiative.

"In football parlance," said Avi S. Garbow, the E.P.A.'s general counsel at the time, "we would call it a Hail Mary."

A Five-Day Sprint

Image



When the Supreme Court halted the Clean Power Plan, the justices acted before any other court had addressed its lawfulness. Credit...Zach Gibson for The New York Times

West Virginia's [emergency request](#) landed with Chief Justice Roberts on Jan. 26, 2016, just as the Supreme Court was scattering into vacation mode for an annual midwinter break.

Justice Clarence Thomas [retreated to Florida](#) to teach a law school class. Justice Stephen G. Breyer delivered a lecture in Paris. Justice Ruth Bader Ginsburg [gave a talk](#) in Italy billed as a conversation with "the Notorious RBG." Justice Antonin Scalia sped through Asia, where he promoted a book, met with the prime minister of Singapore and schmoozed with local lawyers over drinks at a rooftop bar.

In the meantime, Chief Justice Roberts worked speedily, ordering the Obama administration to respond in just eight days.

To better understand what happened next, The Times spoke to 10 people, liberals and conservatives, who were familiar with the deliberations over the pivotal emergency order and who spoke on the condition of anonymity because confidentiality was a condition of their employment.

At the court, word was passing among the clerks, who serve as brokers among the nine chambers: Some of the conservative justices were taking the long-shot application seriously.

It was initially hard to tell how the vote would fall, people familiar with the discussions said. The Supreme Court felt less predictable back then, more alive with debate. The court was technically divided 5 to 4 between justices appointed by Republicans and Democrats, but Justice Kennedy, appointed by President Ronald Reagan, was a true swing vote, "a persuadable person," as one of those people put it. The term before, he had written [the majority opinion](#) to establish [a constitutional right to same-sex marriage](#).

Image



Chief Justice John G. Roberts Jr. in 2015. At a critical moment for the country and the Supreme Court, he pushed to stop Mr. Obama's plan for addressing the global climate crisis. Credit...Richard Perry/The New York Times

On Feb. 5, the internal correspondence obtained by The Times shows, the chief justice circulated a blast of a memo, insisting that the court halt the president's plan.

His arguments were forceful, quick, and filled with confident predictions. The court was going to give the case a full hearing eventually, he forecast. At that point, the justices would vote to overturn the Obama plan, he said, because it went beyond the boundaries of the Clean Air Act.

For now, the chief justice contended that the court had to act immediately because the energy industry "must make changes to business plans today."

"Absent a stay, the Clean Power Plan will cause (and is causing) substantial and irreversible reordering of the domestic power sector before this court has an opportunity to review its legality," he wrote.

In his final paragraph, the chief justice again told colleagues that the E.P.A. had done an end run around the court with the mercury regulation just months before and said the agency had signaled that it was planning to do the same thing again.

The chief justice cited an unusual source for that last point, one that would not ordinarily figure in a Supreme Court opinion: [an interview with the BBC](#) in which the E.P.A. administrator at the time, Gina McCarthy, had said "we are baking" the Clean Power Plan "into the system."

"The comments of the E.P.A. administrator herself indicate that without immediate action from this court, this rule will become functionally irreversible."

Chief Justice John G. Roberts Jr.

In the memo, he weighed no potential downsides of his proposal and considered no alternatives.

Justice Breyer responded later that day to the chief's memo but did not address all its points. Such stays were unusual, he wrote, stating his objections mildly.

He skipped over the question of whether the plan was lawful, asking only: Why the rush? The circuit court had already set a date to hear the case in June. The first deadline for power plants to reduce their emissions was six years away; full compliance was not required until 2030. That was plenty of time for the case to play out through the legal system.

The chief wrote right back the next day sounding irritated and blunt.

Speed was vital, he said, because environmental regulation was going to be very expensive for states and the power industry. The sums involved could approach \$480 billion, he asserted, and industry groups would have to start preparations immediately.

"Without a stay of the E.P.A.'s rule, both the states and private industry will suffer irreparable harm from a rule that is — in my view — highly unlikely to survive," he wrote. He was predicting the ultimate outcome of a case that had barely begun to be litigated.

Seeing how little headway Justice Breyer had made, Justice Elena Kagan sounded an alarm. In a memo on Feb. 7, she warned the chief justice that he was departing from the court's long-established way of doing business.

"The unique nature of the relief sought in these applications gives me real pause."

Justice Elena Kagan

Court action at this point in the process would be "unprecedented," she added. She mentioned that she was inclined to find that the Obama plan was lawful, but she said the thin briefing made it difficult for her "to determine with any confidence which side is ultimately likely to prevail."

Justice Alito issued a salvo on the same day as Justice Kagan, with neither of them addressing the other. Echoing the chief justice's sense of insult and suspicion about the Obama administration, he wrote that the E.P.A. appeared to be trying to render the court irrelevant.

"A failure to stay this rule threatens to render our ability to provide meaningful judicial review — and by extension, our institutional legitimacy — a nullity."

Justice Samuel A. Alito Jr.

The chief justice and Justices Scalia, Thomas and Alito wanted to halt the Obama plan, according to people familiar with the deliberations. Justices Breyer, Ginsburg, Sotomayor and Kagan were opposed. (It is not clear whether Justices Scalia, Thomas or Ginsburg set out their reasons in writing.)

As usual, the decision would come down to Justice Kennedy.

On Feb. 9, he dashed off a quick, three-sentence note. He believed that the Supreme Court would ultimately stay the Clean Power Plan soon anyway, and that there was no reason to put off the inevitable. He was voting with the chief justice.

Over just five days, the justices had decided the issue. Even as they debated the Obama plan's possible burden on the power industry, in the entire chain of correspondence obtained by The Times, not a single justice, conservative or liberal, mentioned the dangers of a warming planet as one of the possible harms the court should consider.

At 6:20 p.m. on Tuesday, Feb. 9, the court alerted the public to its decision, releasing the cryptic one-paragraph order.

To the public, the White House tried to [downplay](#) the speed and starkness of its loss, calling it merely “a bump in the road” on a call with reporters. But behind closed doors, officials were astonished that the court had intervened so quickly, they said later. Mr. Garbow, the E.P.A.’s general counsel, was meeting with Ms. McCarthy about the water crisis in Flint, Mich., when the order landed. An aide interrupted, handing him a note that he said he read with “utter shock and surprise.”

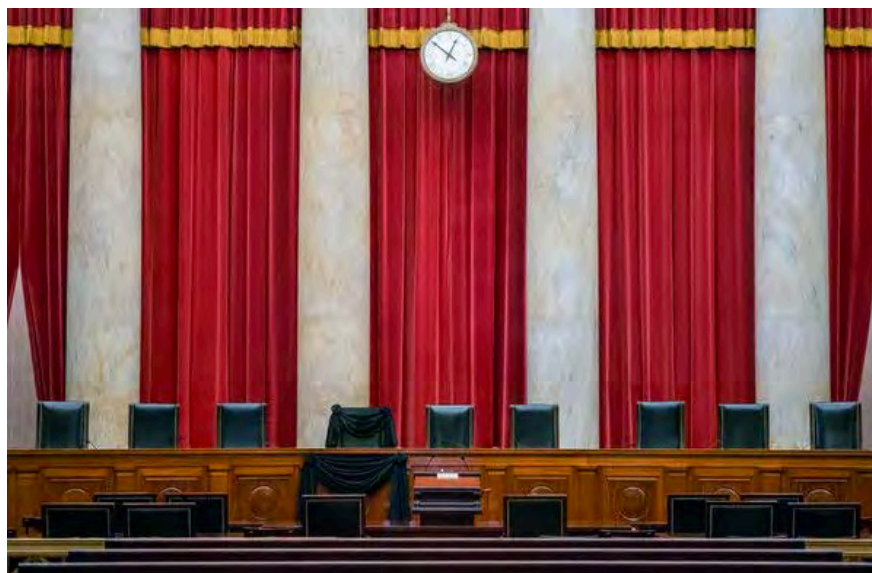
These days, justices who disagree with emergency orders often protest in vigorous written dissents. In 2016, the four liberal justices merely noted they had voted against the order. Although their private memos included extended arguments against the majority’s approach, they said nothing more in public.

In the moment, the case looked like an outlier, not a turn toward a new way of operating, according to people involved. Nor did it look like a final decision on climate policy. Hillary Clinton was the strong favorite to win the presidency later that year. With her election, the court would be poised to take a step to the left.

Then, just four days after the court’s decision, many of the certainties, projections and assumptions that the justices had made in those rushed memos started to collapse.

The New Normal

Image



Justice Antonin Scalia's seat at the Supreme Court was draped in black after his death in February 2016. Since the court's ruling that month on the Clean Power Plan, emergency applications have proliferated, swamping its ordinary work. Credit...Zach Gibson/The New York Times

The following Saturday morning, Justice Scalia failed to appear for breakfast at a weekend hunting retreat in Texas. Hours later he was found dead. As far as the public record reveals, the vote on the Clean Power Plan was his last. Had the court not acted with exceptional speed, the case would have ended in a deadlock and the Obama plan would have stayed in place.

But not for long. With Mr. Trump's election that November, the plan was doomed as a practical matter.

In the end, the legacy of those five days was more about the transformation of the court than it was about the fate of the Obama effort to confront climate change.

The litigation continued but became a ghost ship of a case after Mr. Trump replaced it with his own regulation. In 2022, this time following normal procedures, the Supreme Court concluded that the Clean Air Act did not authorize the E.P.A. to issue sweeping regulations across the power sector to address climate change.

Since then, even as [the court's approval ratings dropped](#), applications like the one it confronted a decade ago have proliferated, swamping the court's ordinary work.

This is partly a consequence of a gridlocked Congress and presidents willing to push the boundaries of executive power, particularly Mr. Trump.

But it is also the result of the justices' decision to entertain emergency requests like the one in 2016, warping procedures that had developed over centuries.

In an appearance this month at the University of Alabama, Justice Sonia Sotomayor reflected on the unceasing flood of emergency applications.

"We've done it to ourselves," she said.

Julie Tate contributed research. Ann E. Marimow contributed reporting.

Produced by Jenni Lee, Matt Ruby and Tina Zhou.



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High Court Won't Hear 3rd Circ. J&J Class Cert. Appeal

By Jarek Rutz

Law360 (April 20, 2026, 10:51 AM EDT) -- The U.S. Supreme Court on Monday said it won't review a class certification challenge in a securities class action over Johnson & Johnson's cancer-related talc products in the latest development in a closely watched dispute over how courts evaluate class certification in shareholder suits.



The justices denied Johnson & Johnson's request for review of a ruling the company argued conflicted with precedent by allowing class certification based on disclosures reflecting already public information or litigation developments rather than specific corrective revelations. (Photo by AaronP/Bauer-Griffin/GC Images)

The justices made the decision in a case that centers on whether the Third Circuit misapplied the Supreme Court's 2021 decision in [Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System](#) when it upheld certification of a class of investors alleging the company inflated its stock price by failing to disclose cancer risks tied to its talc products.

Johnson & Johnson **has argued** the Third Circuit weakened a key defense at the class certification stage by allowing plaintiffs to rely on disclosures that did not meaningfully correct earlier statements, but instead merely related to the same general subject matter.

The investor plaintiffs, led by the San Diego County Employees Retirement Association, have countered that the lower courts properly found that certain disclosures, including developments tied to talc-related litigation, conveyed new, value-relevant information to the market and contributed to stock price declines.

The dispute turns on how courts should apply the "mismatch" test articulated in Goldman, which requires judges to examine whether there is a disconnect between alleged misstatements and later disclosures said to have caused stock price drops.

The underlying case stems from claims that Johnson & Johnson misled investors by making statements about the safety of its talc-based products while failing to disclose potential cancer risks, allegedly inflating its stock price.

A New Jersey federal judge certified a class of investors in 2023, and in July 2025, a divided Third Circuit **panel affirmed** that decision. The majority found that several disclosures related to talc litigation could have introduced new information to investors, while a dissenting judge said the court failed to adequately analyze whether those disclosures truly corrected prior statements.

Johnson & Johnson has urged the Supreme Court to overturn that ruling, arguing it conflicts with Goldman by allowing certification based on disclosures reflecting already public information or litigation developments rather than specific corrective revelations.

Multiple amici, including business groups, former U.S. Securities and Exchange Commission officials and legal advocacy organizations, have backed the company, warning the decision could expand securities class actions by lowering the bar for showing that alleged misstatements affected stock prices.

Those groups have also cautioned that the Third Circuit's reasoning could carry significant weight because relatively few appellate courts have interpreted Goldman, increasing the likelihood that other courts may follow its approach if left undisturbed.

Johnson & Johnson is represented by Sidley Austin LLP.

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

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

Amicus curiae of former SEC officials and law professors are represented by Sullivan & Cromwell LLP.

Amicus curiae of the Manhattan Institute is represented by Torridon Law PLLC.

Amicus curiae of Washington Legal Foundation is represented by Allen Overy Shearman Sterling.

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

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

--Editing by Amy French.



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Norfolk Slams Investors' Cert. Bid In Rail Safety Claims Suit

By **Gina Kim**

Law360 (April 17, 2026, 6:27 PM EDT) -- Norfolk Southern opposed a class certification bid in Georgia federal court Thursday by investors alleging it misrepresented safety practices up until the fiery train derailment in East Palestine, Ohio, arguing the lead plaintiffs' claims are atypical and, accordingly, are inadequate representatives for those who bought company stock after the derailment.

In a 50-page brief, Norfolk Southern Corp. and its top brass challenged the investors' motion **seeking to certify a class of** individuals and entities who bought or acquired Norfolk Southern common stock from Oct. 28, 2020, through March 3, 2023. The investors alleged Norfolk Southern and its current and former executives misled them about the company's safety, highlighting over 30 alleged misstatements about safety standards even as the company was allegedly slashing staff, training and inspections, and made trains longer and more dangerous.

Stock prices, allegedly pumped by these promises of safety without reducing profitability, took a plunge when a rail car bearing failed, and several chemical-laden cars derailed on Feb. 3, 2023, in a village new along the Ohio-Pennsylvania border, the investors alleged.

On Feb. 6, the company's contractors conducted a controlled "vent and burn" of the cars as ordered by a local fire chief. The plaintiffs further alleged the company made additional false statements about the vent and burn, hiding that it wasn't necessary to prevent the cars from exploding.

On Thursday, the defendants argued that the claims of the lead plaintiffs are not typical and would be inadequate representatives for the proposed class, as both only bought company stock before the derailment and the challenged vent-and-burn statements.

"Under lead plaintiffs' theory of the case, proposed class members who purchased Norfolk Southern stock after the East Palestine derailment are situated very differently than those proposed class members who purchased pre-derailment," the opposition argued. "The gravamen of lead plaintiffs' case is that the East Palestine derailment triggered a fundamental shift in how the market viewed the safety of Norfolk Southern's operations, revealing as false all of the pre-derailment safety statements."

Additionally, the specific timing of a lead plaintiff's purchases could post unique defenses and conflicts within the class, even if they have standing, Norfolk Southern added. Almost all the purported corrective disclosures the company made have to do with the derailment's effect and concerns it raised for commentators and government officials, the opposition said.

"Under lead plaintiffs' logic, those who purchased the company's stock after the derailment had significantly different information about Norfolk Southern's safety practices, which makes them subject to unique defenses," Norfolk Southern argued.

The railroad also argued that stock prices showed no increase on any of the days that it made any challenged statements as to its safety practices, except for three, which were caused by other confounding news.

Norfolk Southern further contended that the generic statements about safety had nothing to do with any stock price dips following the derailment on Feb. 3, 2023. Rather, prices dove because the

market appropriately recognized the possibility of an expensive cleanup process and personal injury and environmental lawsuits that could follow.br />

Thursday's opposition to class certification comes more than a year after the investors' suit **survived dismissal**. In March 2025, U.S. District Judge Steven D. Grimberg ruled the investors' claims were specific enough to be material for investors and that Norfolk Southern executives' promises about safety — especially when contrasted with its adoption of "precision scheduled railroading," job and training cuts and reports of increased incidents and accidents even before the fiery derailment at the Pennsylvania border — were enough to sustain claims that Norfolk knew it was deceiving people.

Norfolk Southern's **arguments** that the investors couldn't sue over statements about the safety of a "vent-and-burn" operation to dispose of chemicals in the derailed cars — ostensibly to prevent an explosive chemical reaction that never came — were also rejected. Judge Grimberg said that while those statements made after the derailment could not have influenced investment decisions made by the plaintiffs before the crash, they could be part of the overall "scheme to defraud" and keep the stock price inflated a little longer.

On Thursday, Norfolk Southern further pointed out that the lead plaintiffs lack standing to pursue claims based on the vent-and-burn statements, and the relevant inquiry is whether the company hid that the vent-and-burn wasn't needed to stop the cars from exploding.

The judge already decided that they lack standing to assert claims based on those statements in their own right, since they couldn't have been deceived into buying stock through statements that haven't been made yet, the opposition argued.

Demonstrating the falsity of those statements call for an analysis that has nothing to do with the company's "safety" practices and operations — which involve staffing levels, inspections, train lengths, and other issues — before the derailment, the opposition said.

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

The investors are represented by Nathan A. Hasiuk, Daniel A. Friedman, Vanessa M. Milan and Alec S. Garber of Kessler Topaz Meltzer & Check LLP, Jason C. Davis, Ashley M. Price, Peter Ko, Mark Conover, Jack Abbey Gephart and Evelyn Sanchez Gonazalez of Robbins Geller Rudman & Dowd LLP, Michael A. Caplan, Cameron B. Roberts and Annie Boring of Caplan Cobb LLC, John C. Herman of Herman Jones LLP, and Joseph F. Murray of Murray Murphy Moul + Basil LLP.

Norfolk Southern and the other defendants are represented by Hilary Houston Adams of Hall Bloch Garland & Meyer LLP and Michael G. Bongiorno, Tamar Kaplan-Marans, Ripley B. Shiarella and Denise Tsai of WilmerHale.

The case is Bucks County Employees Retirement System et al. v. Norfolk Southern Corp., case number 1:23-cv-04175, in the U.S. District Court for the Northern District of Georgia.

Editing by Jay Jackson Jr.



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Justices Won't Review Class Cert. In \$12B VRDO Suit

By **Katryna Perera**

Law360 (April 20, 2026, 9:47 AM EDT) -- The U.S. Supreme Court on Monday declined to review a Second Circuit decision upholding class certification in a \$12 billion municipal-bond antitrust lawsuit after a group of major banks argued the district court erred in not resolving an expert witness evidence dispute before granting certification.

The high court denied a petition for a writ of certiorari filed by several banks, including Merrill Lynch, Barclays Capital Inc. and Goldman Sachs & Co., in a case involving a tax-exempt bond known as a variable rate demand obligation, or VRDO.

The banks **claimed** the Second Circuit erred in **upholding** the district court's decision not to resolve a dispute over whether the plaintiffs' expert evidence could distinguish between injured and uninjured class members, which affects whether the predominance requirement for certification can be met.

The banks had urged the high court to take up their petition due to a circuit split over whether district courts must resolve expert disputes bearing on the predominance requirement at class certification.

According to the petition, the Third and Seventh circuits have held that a district court must resolve expert disputes before certification. Meanwhile, the Ninth and D.C. circuits have held, similar to the Second Circuit, that the plaintiff's expert evidence need only be admissible, but, unlike the Second Circuit, have affirmed certification orders only after district courts resolved expert disputes.

The banks also argued that the Second Circuit's decision "flouts over a decade" of Supreme Court jurisprudence regarding class certification and the predominance requirement and said that a class cannot be certified if the court only determines that a plaintiff's expert evidence could be "believed" by a juror.

"If that were the law, any plaintiff could obtain class certification just by 'hiring a competent expert,'" the petition stated.

However, in a March **response**, the class said resolving a dispute between the sides' opposing experts is not necessary at the class certification stage, and that the appeals court "expressly applied" the Supreme Court's standard for evaluating expert evidence to determine there were common issues that could be decided on a classwide basis.

"Accordingly, the court of appeals identified no error — let alone abuse of discretion — in the district court's conclusion that common issues predominated," the response said.

The class further argued that the district court's role is to thoroughly vet expert evidence for admissibility. The court's view about which side would eventually win a "battle of the experts" has no bearing on the jury and is irrelevant to whether the issues can be decided on a classwide basis, the class said.

A New York federal judge **granted certification** in 2023 to a class of municipalities and other entities that directly paid interest expenses on VRDOs that had rates reset by the banks at any point from Feb. 1, 2008, to Nov. 30, 2015.

VRDOs are often used to finance large municipal projects and the suit accuses financial institutions

that acted as remarketing agents for the bonds of conspiring to rig the rates. The suit alleges that as a result, the banks raked in hundreds of millions of dollars in fees, while state and local issuers were forced to pay billions of dollars in inflated interest rates.

A Second Circuit panel affirmed the class certification ruling in August last year, finding the district court applied the correct legal standard when assessing whether the class met its predominance requirement, which asks if the class members' claims raise "common issues."

Counsel for the class declined to comment on Monday. Counsel for the banks did not immediately respond to requests for comment.

The class is represented by Quinn Emanuel Urquhart & Sullivan LLP, Wollmuth Maher & Deutsch LLP and Susman Godfrey LLP.

The banks are represented by Covington & Burling LLP, Jones Day, WilmerHale, Skadden Arps Slate Meagher & Flom LLP, Paul Weiss Rifkind Wharton & Garrison LLP, O'Melveny & Myers LLP and Allen Overy Shearman Sterling.

The case is Banc of America Securities LLC et al. v. City of Philadelphia Pennsylvania et al., case number 25-639, in the Supreme Court of the United States.

--Additional reporting by Matthew Perlman. Editing by Michael Watanabe.

Update: This story has been updated to include comment from class counsel.

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Judge Resets Investors' Lead Counsel In Globe Life Suit

By **Sydney Price**

Law360 (April 17, 2026, 10:02 PM EDT) -- A Texas federal judge has reset the leadership structure in consolidated shareholder derivative litigation involving Globe Life Insurance Inc., granting the Plymouth County Retirement Association's bid to serve as sole lead plaintiff and appointing Scott + Scott Attorneys at Law LLP and Bleichmar Fonti & Auld LLP as sole co-lead counsel.

The suit, initially launched in 2024 by plaintiff Jui Cheng Hsiao — who also submitted a competing bid with the Catherine M. Sugarbaker Family Trust to change the suit's leadership — alleges that Globe Life's leadership allowed a hostile work environment and fraudulent underwriting activities revealed by a short-seller report two years ago.

On Friday, U.S. District Judge Amos L. Mazzant of the Eastern District of Texas rejected a competing bid from Hsiao and Sugarbaker Family Trust jointly proposing that Robbins LLP and Sbaiti & Co. PLLC — counsel for the Sugarbaker trust — serve as co-lead counsel, and that the Rosen Law Firm PA and Glancy Prongay & Murray LLP — Hsiao's counsel and current co-lead counsel — serve on an executive committee.

Rosen Law and Glancy Prongay were previously appointed to lead the suit unopposed less than two months after it was initially filed, but since then, several other law firms have asked the court to consider a new leadership structure, according to Friday's order.

Judge Mazzant said his decision was "a close call," but Plymouth's application is strongest. In addition to the new co-lead counsel, Steckler Wayne & Love PLLC will join the suit as liaison counsel, the order states.

When evaluating the applications, the judge said, he considered, among other things, the proposed leadership structures presented by the parties and counsel's competence and experience.

The judge also said that when considering performance in the litigation to date, the factors weigh in favor of Plymouth.

"Plymouth acted more vigorously by filing suit in Delaware to enforce its demand and obtaining a settlement," the order states.

Judge Mazzant also said the now-co-lead counsel's experience working together in **other shareholder actions**, including litigation against Boeing Co., "bears on whether a team can function effectively."

"In contrast, Sugarbaker's briefing does not specify whether and when Robbins and Sbaiti have litigated together or tell the story of how they joined forces in this case," the order states.

In addition to nominal defendant Globe Life, the suit's individual defendants include co-CEOs Frank M. Svoboda and James Matthew Darden, former CEOs Gary L. Coleman and Larry M. Hutchison, Chief Accounting Officer M. Shane Henrie, Chief Financial Officer Thomas P. Kalmbach and several directors.

When considering the quality of the pleadings, however, the Sugarbaker trust's arguments are most convincing, though not enough, Judge Mazzant said.

"Sugarbaker highlights that its complaint makes specific demand-futility allegations against each director by name, while Plymouth's does not," the order states. "On one hand, this argument is persuasive because the demand-futility analysis applies 'on a director-by-director basis.'"

But overall, Plymouth's proposed counsel is most well-qualified to lead the suit, Judge Marrant said.

Scott + Scott recently secured a **\$190 million settlement** resolving stockholder claims that Meta Platforms Inc. mishandled user privacy and board oversight in the wake of the Cambridge Analytica scandal. The settlement is "the first Caremark oversight claim to make it to trial in Delaware history," the order said, referring to a 1996 Delaware Court of Chancery case regarding director and officer oversight liability.

"The court finds that this unique achievement puts Scott + Scott's track record above that of its competitors," the order states. "But because all firms have demonstrated they are competent and experienced enough to prosecute the case, the court gives only moderate weight to this factor."

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

The Plymouth County Retirement Association is represented by Maxwell R. Huffman, Justin O. Reliford, Donald A. Broggi and Melissa May of Scott + Scott Attorneys at Law LLP, by Derrick Farrell, Matthew Miller, Robert Lackey and Thayne Stoddard of Bleichmar Fonti & Auld LLP, and by Bruce W. Steckler and Austin P. Smith of Steckler Wayne & Love PLLC.

Globe Life is represented by Paul Richard Bessette and Cheri Grosvenor of King & Spalding LLP.

The case is Hsiao v. Globe Life Inc., formerly known as Torchmark Corp. et al., case number 4:24-cv-00993, in the U.S. District Court for the Eastern District of Texas.

--Editing by Karin Roberts.



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Rocket Lab Beats Investor Suit Over Launch Timeline For Good

By **Katryna Perera**

Law360 (April 17, 2026, 9:18 PM EDT) -- A California federal judge has permanently tossed a proposed shareholder class action alleging that Rocket Lab USA Inc. and its top brass intentionally concealed issues that would delay the test and commercial launches of a vehicle it developed, finding that the suit did not adequately allege a motive for fraud by the defendants.

U.S. District Judge George H. Wu of the Central District of California issued a **tentative ruling** on Tuesday and **finalized** and adopted it on Thursday.

According to the order, the court previously dismissed the suit for deficiencies with its scienter allegations, and the judge said the same issues persisted with the operative complaint.

There is no "strong inference" of scienter, the judge said; the plaintiff, Douglas Bray, is asking the court to "take a leap across a chasm," which is "not what the Private Securities Litigation Reform Act has in mind."

"As the court explained in its prior dismissal order, under the [litigation reform act] it is simply not the case that all scienter inferences are necessarily drawn in favor of the plaintiff," the order states. "Even ignoring plaintiff's failure to connect the future, post-class period, [at-the-market] offering and acquisition with the statements made leading up to and during the class period, these — and the basic interest in driving one's stock price — are 'routine corporate objectives.'"

Routine corporate objectives, on their own, are insufficient to allege scienter, the judge added, because otherwise a finding of scienter would exist "for any company that seeks to enhance its business prospects."

Lacking scienter or motive, the plaintiff is left with a "theory of fraud that simply does not make much sense," the judge said, and the more compelling inference is that the defendants had "sincere hopes that their expressed timeline would be achievable while also knowing that meeting that timeline would not be without challenges."

Judge Wu also declined to allow Bray to amend the claims, noting that he "has not given any indication in his papers about anything that he now knows he could add, let alone in a way that might conceivably make a difference to the court's analysis."

The judge also dismissed the suit's loss causation claims.

The suit, filed last year, **claimed** that Rocket Lab's stock price plunged 10% on Feb. 25, 2025, after a short seller's report alleged that the company misled investors and that it would not meet its plan to test-launch its Neutron launch vehicle in mid-2025 due to equipment issues.

Rocket Lab CEO Peter Beck and Chief Financial Officer Adam Spice were also named as defendants.

The proposed class period began on Nov. 12, 2024, the day Rocket Lab issued its third-quarter 2024 earnings results. Rocket Lab told investors that day that it was still planning a mid-2025 launch of its Neutron vehicle, according to the suit.

However, a few months later, on Feb. 25, 2025, Bleecker Street Research published a report stating

that Rocket Lab had a potable water problem that was not scheduled to be fixed until January 2026, which delayed preparation of the launch pad, creating a "significant risk" that the Neutron rocket would not launch in mid-2025.

Bleecker Street said in the report that rocket experts, who included industry experts and former Rocket Lab engineers and executives, predicted a one- or two-year launch delay, according to the complaint.

The report also claimed that Rocket Lab had a singular contract with "unreliable startup" E-Space, which is described as a "risk item," the suit stated.

On this news, Rocket Lab's stock price fell \$2.21, or about 10%, to close at \$20.28 per share on Feb. 25, 2025, according to the suit.

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

Bray is represented by Robert V. Prongay, Leanne H. Solish and Charles H. Linehan of Glancy Prongay Wolke & Rotter LLP.

Rocket Lab and the individual defendants are represented by Peter B. Morrison and Zachary Faigen of Skadden Arps Slate Meagher & Flom LLP.

The case is Bray v. Rocket Lab USA Inc. et al., case number 2:25-cv-01733, in the U.S. District Court for the Central District of California.

--Editing by Karin Roberts.

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Justices Won't Review Vegas Hotel Algorithmic Pricing Suit

By **Matthew Perlman**

Law360 (April 20, 2026, 9:53 AM EDT) -- The U.S. Supreme Court on Monday rejected a petition seeking to revive a proposed class action accusing casino-hotel operators on the Las Vegas Strip of using software from Cendyn Group to illegally inflate room rates.

The justices denied the petition from Las Vegas hotel guests in an order list Monday without explanation, as is customary. **The petition** sought review of the first appellate decision in a string of recent cases targeting allegations of **algorithmic collusion**, or the use of a common software platform by multiple rivals in an industry to set prices.

The Las Vegas casino case **centers on software** developed by The Rainmaker Group Unlimited Inc., and acquired by Cendyn in 2019, to provide hotel operators with recommendations for room rates. The guests allege Cendyn's contracts for the software with the operators, including Caesars Entertainment Inc., Treasure Island LLC and Wynn Resorts Holdings LLC, collectively restrain competition, violating Section 1 of the Sherman Act.

The Ninth Circuit **refused to revive** the case in August last year, finding that the guests only allege the competing hotels independently decided to use the same software to get price recommendations. The panel noted a lack of allegations about an agreement among the hotels to use the software and said the hotels are also free to reject the price recommendations.

The petition for review, lodged in March, argued that the lower courts have refused to even analyze the guests' claims under the proper framework and instead tossed the case because Cendyn does not require its hotel customers to accept the room rates its revenue management software recommends.

By forgoing the analysis, the petition said the courts have not addressed the alleged anticompetitive effects, the market power of the casino-hotels or the alleged injury to the guests.

The petition noted the U.S. Department of Justice's support for the allegations through **an amicus brief** that argued the joint use of pricing algorithms can have anticompetitive effects even when the algorithms' prices are not binding. The petition says the ruling is already **having an impact**, with Apple citing the decision in a motion seeking to toss a monopolization case being brought by consumers, which the DOJ has also **weighed in on**.

Cendyn is also fighting an appeal in the Third Circuit where guests of casino-hotels in Atlantic City, New Jersey, are trying to **revive similar claims** that were dismissed.

The Las Vegas guests are represented by Steve Berman, Rio Pierce and Ted Wojcik of Hagens Berman Sobol Shapiro LLP.

Cendyn is represented by Sadik H. Huseny, Brendan A. McShane, Melissa Arbus Sherry, Anna M. Rathbun, Christopher J. Brown and Graham Haviland of Latham & Watkins LLP.

The Rainmaker Group is represented by Alicia Rubio-Spring and Arman Oruc of Goodwin Procter LLP and Nicholas J. Santoro of Spencer Fane LLP.

Caesars is represented by Boris Bershteyn, Ken Schwartz, Michael Menitove and Sam Auld of Skadden Arps Slate Meagher & Flom LLP.

Treasure Island is represented by Patrick J. Reilly, Arthur Zorio and Eric D. Walther of Brownstein Hyatt Farber Schreck LLP.

Wynn is represented by Mark C. Holscher and Tammy Tsoumas of Kirkland & Ellis LLP.

Blackstone Inc. and Blackstone Real Estate Partners VII LP are represented by Matthew L. McGinnis of Ropes & Gray LLP.

JC Hospitality LLC is represented by Kasey J. Curtis and Charles P. Hyun of Reed Smith LLP.

The case is Gibson et al. v. Cendyn Group LLC et al., case number 25-1109, in the U.S. Supreme Court.

--Additional reporting by Isaac Monterose, Bryan Koenig and Elaine Briseño. Editing by Daniel King.

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High Court Rejects Kenvue's Review In 'Oil-Free' Suit

By **Mike Curley**

Law360 (April 20, 2026, 12:49 PM EDT) -- The U.S. Supreme Court on Monday rejected a bid from a Kenvue Inc. unit to review class certification in a suit alleging it falsely advertised its products as being "oil-free."

In an order Monday, the high court denied a petition for certiorari filed by Johnson & Johnson Consumer Inc., a J&J spinoff that now operates as a subsidiary of Kenvue Inc. under the name Kenvue Brands LLC, and left standing a Ninth Circuit decision affirming certification of a class led by plaintiff Narguess Noohi.

As is customary, the justices did not explain their reasoning for denying the petition. Justice Samuel Alito did not participate in the decision, according to the order.

Noohi initially filed the suit in April 2020, alleging she bought the company's Neutrogena Oil Free Moisture Sensitive Skin based on the advertising's promise that it contained no oil products, only to find out it contained several oil ingredients. Noohi alleges the misrepresentations violate California's Unfair Competition Law and asserts claims of common law fraud and false advertising.

The company is facing a **similar suit** alleging false advertising of its "oil-free" products in Illinois federal court.

In November 2022, U.S. District Judge Terry J. Hatter Jr. **certified** a class of California consumers in the case, and the defendant company appealed to the Ninth Circuit, which last year **decided** to leave the certification alone, rejecting JJCI's argument that economic expert Wade Roberts' damages calculation was faulty, saying its concerns were speculative at this stage.

Kenvue Brands then took the case to the high court, **arguing** in January that there was a split among the circuits on whether testimony like Roberts' was sufficient for class certification, with the Eighth and Ninth circuits disagreeing with the Third, Fifth, Sixth, Seventh and Eleventh circuits.

According to the petition, the other circuits have all found that, at class certification, expert testimony must pass muster under evidentiary rules and the test laid out in the 1993 ruling in *Daubert v. Merrell Dow Pharmaceuticals Inc.*, while the Eighth and Ninth circuits conduct a more "limited" analysis that involves less scrutiny at the class certification stage.

Adam R. Pulver of Public Citizen Litigation Group, representing Noohi, said Monday, "We are pleased that the court denied the petition and that this long-running case will continue to progress toward trial."

Representatives for JJCI could not immediately be reached for comment Monday.

JJCI is represented by Matthew D. Powers, Rebecca Shore, Jason Zarrow, Hannah Y. Chanoine, Martha F. Hutton and Noah B. Bokak-Lindell of O'Melveny & Myers LLP.

Noohi is represented by Adam R. Pulver and William H. Gomberg of Public Citizen Litigation Group and Todd M. Friedman, Adrian R. Bacon and Meghan E. George of Law Offices of Todd M. Friedman.

The case is *Johnson & Johnson Consumer Inc. v. Noohi*, case number 25-874, in the Supreme Court of the United States.



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GMO Trust To Pay \$6.8M In Yen Stablecoin Loss Settlement

By **Sydney Price**

Law360 (April 17, 2026, 6:39 PM EDT) -- GMO-Z.com Trust has agreed to pay \$6.8 million to end a class action from buyers of the GYEN stablecoin who say they suffered losses when the coin was "de-pegged" from the Japanese yen, according to a motion for final settlement approval.

The plaintiffs say in their Friday filing that class members' reaction to the settlement, which was preliminarily approved in January, has been "overwhelmingly positive."

"While the opt-out and objection period does not expire until April 30, 2026, as of the date of this filing, there have been zero requests for exclusion and zero objections from settlement class members," the motion for final approval states.

Class counsel says it will seek up to one-third of the settlement fund, or about \$2.3 million in fees, and approximately \$86,000 in expenses.

If finally approved, the deal would end claims that the class members, who say that they purchased GYEN based on GMO-Z.com Trust Co. Inc.'s representations, were damaged shortly after GYEN began trading on Coinbase in November 2021. The coin "quickly lost its peg" and surged to over seven times the yen's value due to low liquidity, according to the settlement motion. GYEN then dropped back to its peg within a few days, the plaintiffs say.

Named plaintiff Kenneth Donovan claims he lost over 90% of the more than \$335,000 he put into GYEN when it listed on Binance.

The buyers initially sued Coinbase and GMO-Z.com Trust in California federal court in May 2022, but Coinbase had the claims against it transferred to arbitration shortly after. The remaining claims against GMO-Z.com Trust were severed from the case and sent to New York federal court in 2023.

In February 2025, U.S. District Judge Analisa Torres **trimmed** a securities claim from the suit. The buyers had argued that GYEN amounted to an unregistered security under U.S. Supreme Court precedent known as the Howey test, which defines investment contracts as an investment of money in a common enterprise made with the reasonable expectation of profits brought about by the efforts of others.

But Judge Torres agreed with GMO-Z.com Trust's argument that it never led buyers to expect a profit brought about by its efforts.

Buyers couldn't have reasonably expected to make a speculative profit off the asset through the growth of the issuer since GMO-Z.com Trust said it marketed GYEN as maintaining a stable value pegged to the yen, the 2025 order stated. No matter how many purchased the asset, its value would "be wholly dependent on the value of [the yen], a fiat currency subject to market forces and national and international monetary policy," rather than any entrepreneurial or managerial effort by GMO-Z.com Trust or other third parties, said Judge Torres.

The plaintiffs note in Friday's settlement motion that GMO-Z.com Trust's success dismissing the securities claim illustrates that victory on the remaining claims was "far from guaranteed," and the settlement is warranted.

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

The class is represented by Elizabeth A. Kramer, Julie C. Erickson and Kevin M. Osborne of Erickson Kramer Osborne LLP, and Daniel E. Barenbaum, Steven J. Buttacavoli and Christina L. G. Fitzgerald of Berman Tabacco.

GMO-Z.com Trust is represented by Nowell D. Bamberger, Heather S. Nyong'o and Samuel Levander of Cleary Gottlieb Steen & Hamilton LLP.

The case is Donovan et al. v. GMO-Z.com Trust Company Inc., case number 1:23-cv-08431, in the U.S. District Court for the Southern District of New York.

--Editing by Kristen Becker.

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