Securities

Adobe Investor Sues Board Over AI Training Copyright Accusations

April 27, 2026, 12:57 PM PDT

Adobe Inc. officers and directors unlawfully had the software company use copyrighted material to train its artificial intelligence model, a shareholder lawsuit said.

Instead of using clean data, Adobe leadership followed an "ask forgiveness not approval" approach in using a dataset with pirated literary works to develop its AI services, according to the stockholder derivative complaint filed by a pension fund April 24.

By adopting an unlawful strategy to train its SlimLM model, executives and board members exposed Adobe to potentially massive liability in copyright infringement lawsuits, the SEIU Pension Plans Master Trust told the US District Court for the Northern District of California. The software company's stock price took hits after two proposed class actions with copyright infringement claims were filed in December and February.

Adobe's SlimLM is trained on a dataset called SlimPajama-627B, a duplicated version of another containing two problematic collections of data—one that has "hundreds of thousands of copyrighted books that were pirated without the authorization or consent of the authors" and another that holds unauthorized materials, the suit said.

Multiple AI companies have been tied up in similar copyright litigation, including OpenAI Inc. and Anthropic PBC. Adobe's top brass should've known that relying on copyrighted information to train its AI would expose the company to harm because of lawsuits impacting other developers, including Anthropic's $1.5 billion settlement over pirated book claims from September.

"This tidal wave of litigation filed against AI developers like Adobe served as blazing red flags alerting Defendants of the need to prevent Adobe from committing and continuing to commit the same unlawful conduct," the pension fund said.

CEO and Board Chairman Shantanu Narayen's decision to transition out as its top executive was linked to the problematic AI strategy, the fund said.

The officers and directors exposed Adobe to harm by causing it to violate copyright and federal securities laws, the pension fund said. They also caused Adobe to release misleading statements over the legality of the company's AI dataset-training to the public and the Securities and Exchange Commission, the fund said. Directors wasted corporate assets, and the directors and executives breached their fiduciary duties, the suit said.

The pension fund seeks declarations that directors, Narayen, and chief financial officer Daniel Durn violated different portions of the 1934 Securities Exchange Act. The fund also seeks corporate governance reform, damages, restitution, and disgorgement for Adobe.

Adobe didn't immediately respond to an email seeking comment.

Grant & Eisenhofer PA represents the pension fund.

The case is SEIU Pension Plan Master Trust v. Adobe Inc. , N.D. Cal., No. 3:26-cv-03521, complaint filed 4/24/26 .

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Securities

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Innodata Defeats Investor Suit Over ‘Rudimentary’ AI Offerings

April 28, 2026, 8:02 AM PDT

Innodata Inc. bested investor allegations that the data engineering company overhyped its artificial intelligence capabilities before a short seller accused the company of having “rudimentary” software.

The investor leading the case undercut his own allegations that Innodata lacked AI completely, Judge Jamel K. Semper said, dismissing the lawsuit Monday without prejudice, giving the plaintiff an opportunity to replead. Former employees acting as confidential witnesses admitted Innodata had at least one functional AI product.

Regardless, former employee testimony was vague and insufficiently detailed to plead Innodata and executives falsely touted its AI capabilities, the US District Court for the District of New Jersey judge said.

Short-seller report statements accusing Innodata of “AI washing” similarly missed the mark, Semper said. The former employees quoted in the report aren’t identified, nor are their roles or the time periods of their tenure at Innodata specified. Therefore the bases of their knowledge aren’t “established in conformity with the ‘who, what, when, where, and how’ requirements” of the the Private Securities Litigation Reform Act, which sets pleading standards for this type of suit, the judge said.

The investor failed to allege stock sales made by CEO Jack Abuhoff and interim Chief Financial Officer Marissa Espineli were unusual or suspicious for an inference of intent to defraud, Semper said. And a pleading that executives delayed disclosure of regulatory investigations for an inference of intent or recklessness fell short, given the investor failed to allege Innodata had a duty to disclose these inquiries.

Nor did the suit adequately allege an inference of intent or recklessness by former chief financial officer Mark Spelker with the “bare assertion” that his “position as part-time CFO would have apprised him of the alleged falsity of Innodata’s statements about AI,” Semper said. “This is not enough to sustain a securities fraud claim.”

Stock Drop

Innodata’s stock price plunged more than 30% to close at $8.52 on Feb. 15 after Wolfpack Research published its report accusing Innodata of being a “manual data-entry business driven by offshore labor.” That was then the stock’s steepest one-day dive since 2012, according to data compiled by Bloomberg.

Wolfpack’s report prompted regulatory investigations into Innodata’s practices, the suit said. Innodata said in 2025 those inquiries closed without agencies recommending enforcement actions.

The proposed class action is one of many investor suits levying “AI washing” claims, a trend which surged in recent years with rising interest in the technology, according to data collected by organizations tracking securities cases. New filings targeting AI promises plateaued in 2025, with attorneys saying public companies had become more cautious about AI statements due to the rising threat of litigation.

Block & Leviton LLP is lead counsel for the proposed class of those who acquired Innodata stock from May 9, 2019, through Feb. 14, 2024. Morgan, Lewis & Bockius LLP represents Innodata, Abuhoff, and Espineli. Dechert LLP represents Spelker. None of these law firms nor Innodata immediately responded to emails seeking comment.

The case is D’Agostino v. Innodata Inc. , D.N.J., No. 2:24-cv-00971, unpublished 4/27/26 .

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California Brief

Snap's $65 Million Investor Settlement Gets Final Court Approval

April 28, 2026, 6:20 AM PDT

Snap Inc.'s $65 million settlement garnered a federal judge's final blessing, ending allegations the technology giant misled investors about how Apple Inc. privacy changes would impact its advertising business.

The settlement class covers those who acquired Snap securities or call options, or sold put options, from Feb. 5, 2021, through Oct. 21, 2021, according to US District Court for the Central District of California Judge George H. Wu's final approval order entered Monday. The deal ends more than four years of litigation involving Snap, CEO Evan Spiegel, and former Chief Business Officer Jeremi Gorman.

The deal comes after a US Court of Appeals for the Ninth Circuit revival of claims Gorman intended to mislead in 2021 comments about advertisers' adoption of an alternative tracking tool in preparation for Apple's change

Snap's share price plunged more than 26% on Oct. 22, 2021, the day after the Snapchat owner revealed it missed revenue estimates in the third fiscal quarter; executives said the Apple update that summer impacted its ad business more than expected

Wu separately awarded the lead investor's counsel 30% of the settlement sum—$19.5 million—in attorneys' fees and more than $602,000 for litigation expenses

Saxena White PA is lead counsel for the settlement class. Paul, Weiss, Rifkind, Wharton & Garrison LLP and Bird, Marella, Rhow, Lincenberg, Drooks & Nessim LLP represent Snap and the executives. None of these law firms nor Snap immediately responded to emails seeking comment.

The case is Black v. Snap Inc. , C.D. Cal., No. 2:21-cv-08892, final approval entered 4/27/26 .

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Fifth Circuit probes whether spin-off shareholders actually 'bought' their stocks

courthousenews.com/fifth-circuit-probes-whether-spin-off-shareholders-actually-bought-their-stocks

Gabriel Tynes April 27, 2026

Named after former circuit court judge John Minor Wisdom, the Fifth Circuit Court of Appeals in New Orleans hears federal appellate cases from Louisiana, Mississippi and Texas. (Chris Marshall/Courthouse News)

(CN) — Fossil fuel investors claim they were handed shares in a new oil and gas company with $47 million of key assets, only for those same assets to be written down to zero.

A three-judge panel for the Fifth Circuit heard arguments Monday afternoon on whether those shareholders ever "paid value" for the stock in the first place, a question that could determine whether they can sue under the 1933 Securities Act.

At issue is whether shareholders who received Next Bridge stock in a December 2022 distribution from Meta Materials "purchased" those shares for "value," a threshold requirement.

A ruling in favor of the investors could expand the reach of liability in spin-off transactions, potentially exposing companies and executives to strict liability claims whenever shareholders receive new shares in a subsidiary. On the other hand, a ruling for Next Bridge would reinforce limits on who qualifies as a "purchaser" in corporate reorganizations.

Lead plaintiffs Todd Targgart, Mohammed Limon and Steven Martinez say Next Bridge's registration statement falsely valued certain oil and gas assets when they were actually worthless. U.S. District Judge Mark Timothy Pittman, a Donald Trump appointee, dismissed the case at the pleading stage, ruling the automatic spin-off exchange involved no "value" given by shareholders and therefore no statutory standing.

Arguing for the investors, attorney Adam M. Apton told the panel the lower court erred.

"The shares acquired by my clients were received in exchange for shares held in a previous company," Apton said. "They were required to tender their shares in order to receive the new shares in Next Bridge Hydrocarbons. Without that tender, there would be no case here."

Apton repeatedly invoked court precedent and SEC Rule 145, which treats certain securities-for-securities exchanges as "sales." He argued that multiple appellate decisions support treating the exchange as a purchase for value.

U.S. Circuit Judge Kurt D. Engelhardt pressed Apton on the mechanics of the transaction, asking specifically where the complaint claimed that preferred stock was canceled and shareholders were "dispossessed of their interests." The Trump appointee pointed to the registration statement itself, which he said made clear the preferred shares were to be canceled. He also noted language describing the exchange as a "sale" for tax purposes.

The panel appeared particularly interested in whether the spin-off was truly an arm's-length exchange or merely a bookkeeping change. Engelhardt asked: "Isn't the point of the plaintiffs' claim that a swap occurred? Isn't that an exchange of value?"

Attorney LaDawn H. Nandrasy, arguing for the Next Bridge defendants, responded that the pool of underlying assets never changed. The oil and gas assets had already been transferred to Next Bridge months earlier, in June 2022. The spin-off, she said, was an automatic distribution under the terms of the preferred stock.

"Before the spin-off and after the spin-off, the plaintiffs held the exact same interest in this exact same pool of assets," Nandrasy emphasized. She further argued there was no fundamental change in the shareholders' proportionate ownership or bundle of rights, the key test for whether "value" was given.

U.S. Circuit Judge Carl E. Stewart described the case as involving a "fairly complex commercial set of dealings." The Bill Clinton appointee voiced concern about the procedural posture, noting the case was dismissed on a Rule 12(b)(6) motion and wondering whether the lower court had jumped too quickly to the merits.

"This is dismissed at the 12(b) stage," Stewart observed. "I'm one of those curmudgeons that, you know, when I see a 12(b) jettison, I'm like, you know, okay, take a good look."

He asked Nandrasy whether the plaintiffs might be entitled to further factual development. Nandrasy replied that the critical facts, that shareholders' proportionate interest in the identical pool of assets remained unchanged, "will never change" and are clear from the pleadings themselves.

Securities

New Delaware Chancery Magistrate Has US Bankruptcy Skill Set

April 27, 2026, 9:12 AM PDT

A trial attorney from the US Department of Justice office that oversees bankruptcy cases has been named as a new Magistrate in Chancery, a judicial officer who helps manage the Delaware business court's burgeoning caseload.

Timothy J. Fox Jr. joined the Delaware Chancery Court on Monday, with chambers in Wilmington, according to a statement issued by the court. Fox spent 12 years with the Office of the US Trustee in Delaware "with responsibilities in all matters arising under the United States Bankruptcy Code, primarily Chapter 11 cases."

"His extensive trial experience will serve him well as a member of the court," said Chancellor Kathaleen St. J. McCormick. "In particular, his experience in insolvency proceedings brings a helpful skillset to the court and will enhance the court's ability to handle receivership, custodian, and dissolution proceedings, as well as petitions for the assignment for the benefit of creditors."

The court's chief judge appoints seven magistrates to manage a caseload involving trusts, estates, and guardianships, as well as books-and-record demands and advancement actions, among other corporate and contract disputes.

Fox's legal training included a summer internship at Bloomberg BNA's Corporate Practice Series in Arlington, Va. The company is now known as Bloomberg Industry Group, and includes Bloomberg Law.

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Purdue Pharma to be sentenced, paving way for opioid settlement

reuters.com/business/healthcare-pharmaceuticals/purdue-pharma-be-sentenced-paving-way-opioid-settlement-2026-04-28

Dietrich Knauth April 28, 2026

Bottles of prescription painkiller OxyContin made by Purdue Pharma LP sit on a shelf at a local pharmacy in Provo, Utah, U.S., April 25, 2017. REUTERS/George Frey/File Photo Purchase Licensing Rights, opens new tab

- Most of the fines will go unpaid as part of $7.4 bln bankruptcy deal
- Purdue assets will go to states, local governments, and opioid victims
- Sentencing clears the way for bankruptcy settlement to proceed

NEW YORK, April 28 (Reuters) - Purdue Pharma will be sentenced on Tuesday in New Jersey federal court for deceiving government regulators and paying kickbacks to doctors to boost opioid sales, completing a plea deal that clears the way for the company to dissolve in bankruptcy and use its assets to fund a $7.4 billion settlement intended to compensate people harmed by the opioid epidemic.
The company agreed to $5.5 billion in criminal fines, most of which will go unpaid under a 2020 agreement with the U.S. Department of Justice in which the agency will collect just $225 million. That deal allows Purdue to direct its remaining assets to repaying creditors, mostly state and local governments, which were left to deal with the cost and consequences of the opioid crisis in their communities.
Purdue had been scheduled to be sentenced last week, but U.S. District Judge Madeline Cox Arleo postponed the hearing to allow greater public participation from people who wanted to speak up about the company's marketing of its painkiller OxyContin and its role in fueling the opioid epidemic in the United States.
"We recognize the importance of ensuring that victims can be heard, and we respect the court’s decision," Purdue said in a statement ahead of Tuesday's hearing.
Several victims of the opioid crisis sent letters to the court with personal stories of suffering, loss and addiction, some of them urging the judge to reject the plea deal and insist on prison time for the company's executives and its owners.
The sentencing comes as people harmed by opioids say the company’s long-running bankruptcy has left them frustrated. The $7.4 billion settlement, which includes an $865 million fund for individuals affected by the crisis, has been hailed by Purdue and plaintiffs’ lawyers as a victory for victims, but a recent

Reuters examination shows how the process has created daunting hurdles for many people seeking compensation.

Arleo is expected to accept Purdue's plea deal at Tuesday's hearing in Newark, New Jersey, imposing a $3.5 billion criminal fine and $2 billion in criminal forfeiture.

Purdue's bankruptcy case is coming to a close after more than six years in court, following a lengthy series of appeals which went all the way to the U.S. Supreme Court.

The sentencing is one of the final hurdles before the bankruptcy settlement can proceed. Purdue said it remains on track to emerge from bankruptcy on May 1, ceasing its previous operations and emerging as a new nonprofit company that will make opioid addiction treatment and overdose reversal medicines.

As part of the plea agreement, Purdue admitted to paying kickbacks to doctors to fuel OxyContin sales and to deceiving federal regulators about its efforts to prevent illegal drug use. No company executive or owner was charged as part of the latest criminal case.

The company previously pleaded guilty to misbranding and fraud charges related to its marketing of OxyContin in 2007, admitting it falsely marketed OxyContin as less addictive, less subject to abuse, and less likely to cause withdrawal symptoms than rival pain medications.

Reporting by Dietrich Knauth, Editing by Alexia Garamfalvi and Lincoln Feast.

Remand clears path for public nuisance claims against food giants

DJ **dailyjournal.com**/articles/391043

A federal judge Thursday remanded San Francisco's lawsuit against nine major food manufacturers to state court, returning the ultra-processed foods case to its original forum and allowing public nuisance and unfair competition claims to proceed.

U.S. District Judge Jon S. Tigar ruled from the bench after a venue hearing, sending the case to San Francisco Superior Court. Defendants removed the action to the Northern District of California in January, about a month after San Francisco City Attorney David Chiu filed suit. The *People of the State of California v. The Kraft Heinz Co. et al.*, 4:26-cv-00183-JST, (N.D. Cal., filed Jan. 7, 2026)

In a same-day written order, Tigar held that "the nature and specificity of the state interests, the relevant statutory provisions, the scope of the alleged injuries, and the nature of relief sought all support finding the state to be the real party in interest." Citing Nevada v. Bank of America Corp., he rejected defendants' argument that the state's interests were too "quasi-sovereign" to bar removal.

The remand to San Francisco Superior Court restores the city's access to a lower standard for injunctive relief.

"Civil penalties collected by San Francisco used for future consumer enforcement and consumer protection statutes, which serves a state interest, means that's money the state doesn't have to spend pursing that exact same interest," Jesse Lanier of the San Francisco City Attorney's Office said. "That is one of the reasons why the Legislature expressly granted local prosecutors the concurrent authority to bring cases just like this one before the court today."

The complaint names Kraft Heinz Co. and others, alleging "unfair and deceptive" marketing of ultra-processed foods -- including candy, chips, processed meats, sodas, energy drinks and packaged meals -- in violation of California's Unfair Competition Law and public nuisance statute. *The People of the State of California v. The Kraft Heinz Co. et al.*, CGC-25-631189, (S. F. Super. Ct., filed Dec. 2, 2025)

Chiu alleges the companies engineered products to be "cheap, colorful, flavorful and addictive," shifting health care costs to the public. He seeks injunctive relief barring "deceptive marketing," abatement and civil penalties under Business and

Professions Code Section 17204.

Tigar held the statewide injunctive request -- not San Francisco-specific abatement -- drives the case.

"The vast majority of the allegations in the complaint are not San Francisco-specific, but statewide," he wrote, noting the San Francisco-focused section spans 15 of 256 paragraphs. Defendants argued the statewide request was "tack[ed] on" to claims aimed at local harms. Tigar disagreed, finding the local injunction "appears in practical effect to largely duplicate the statewide requests."

He also rejected defendants' argument that civil penalties flowing to San Francisco under Business and Professions Code Section 17206(f) undermine state-party status. Because the funds must be used to enforce consumer protection laws, he wrote, they "advance[s] the interests of the State." He further dismissed defendants' claim that the absence of the California attorney general defeats remand, finding no supporting authority beyond a 1910 Ninth Circuit case and a dissent in Department of Fair Employment and Housing v. Lucent Technologies.

Sidley Austin Los Angeles partner Adriane Kayoko Peralta represents Kraft Heinz; Hogan Lovells LLP partner Lauren S. Colton represents Nestle USA Inc.; Perkins Coie San Francisco partner David T. Biderman represents General Mills Inc.; Weil, Gotshal & Manges Washington, D.C. partner Joshua M. Wesneski represents PepsiCo Inc.; Alston & Bird Atlanta partner Angela M. Spivey represents Coca-Cola Inc.; Kirkland & Ellis San Francisco partner Laura Elizabeth Vartain Horn represents Mondelez International Inc.; and Faegre Drinker Biddle & Reath Minneapolis partner Sarah L. Brew represents Post Holdings Inc. None were available for comment.

The 62-page complaint casts the case as a tobacco-style dispute, tracing a corporate lineage from Philip Morris and R.J. Reynolds to the defendants and describing Kraft Heinz, Mondelez and Post Holdings as successors to tobacco companies that entered the food market in the 1980s. Chiu cites a 1962 R.J. Reynolds memo stating the company was "in the flavor business," and a Philip Morris director's ambition to "control all of the pleasure drugs that are not regulated."

The claims rely on the NOVA classification system, developed by epidemiologist Carlos Monteiro, which categorizes foods by processing level. Chiu focuses on NOVA Group 4 -- ultra-processed foods, or UPF -- and Assembly Bill 1264, the

Real Food, Healthy Kids Act, signed Oct. 8, 2025. He cites a National Institutes of Health randomized trial finding "consumption of UPF itself, irrespective of excess caloric intake, is detrimental to human health."

The complaint advances an addiction theory using the 1988 surgeon general's tobacco criteria: compulsive use, psychoactive effect and reinforcement. It quotes Food and Drug Administration Commissioner Robert Califf's December 2024 Senate testimony that ultra-processed foods are "probably addictive" and involve "the same neural circuits that are involved in opioid addiction." Chiu alleges 14% to 20% of adults and 12% to 15% of children are functionally addicted.

To plead scienter, Chiu cites a 1999 speech by Michael Mudd, then a vice president at a Kraft Heinz predecessor, warning executives "we cannot pretend food isn't part of the obesity problem" and that "change will have to be forced -- by public pressure, media attention, and litigation." Executives from several defendants or their predecessors attended but did not act, the complaint alleges.

The pleading details marketing practices, including packaging tied to "PAW Patrol," Super Mario, "Despicable Me" Minions, Marvel Avengers and Disney franchises. Chiu alleges the industry spends more than $2 billion annually marketing ultra-processed foods to children and that Black children see 70% more such advertising than white children. He quotes former Coca-Cola U.S. marketing chief Todd Putman asking, "How can we drive more ounces into more bodies more often?" and stating that "when they would turn twelve, we'd suddenly attack them like a bunch of wolves."

The first cause of action alleges violations of Business and Professions Code Section 17200, predicated in part on the Consumer Legal Remedies Act, Civil Code Section 1770, subsections (a)(5), (a)(7), (a)(8) and (a)(9). The second alleges public nuisance under Civil Code Sections 3479 and 3480, asserting conduct that "unreasonably interfered with the People's right to be free from a substantial injury to the health, safety, peace, comfort, and convenience of the general community."

The complaint closes with localized allegations: 9% of San Francisco residents have diabetes, 18% are obese, and Black residents face diabetes hospitalization rates three to six times higher than other groups. Chiu seeks abatement that may include consumer education, "honest marketing," subsidized access to whole foods and limits on advertising to children.

#391043

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News | **Privacy**

Federal Judge Steers Forward Sweeping Class Action Against GM's OnStar

Senior U.S. District Judge Thomas Thrash of the Northern District of Georgia allowed most of the claims to go forward against General Motors and its OnStar subsidiary, as well as to credit reporting agencies.

April 28, 2026 at 12:15 PM By **Amanda Bronstad**

Judge Thomas Thrash Jr., Senior Judge U.S. District Court for the Northern District of Georgia.

What You Need to Know

- The 627-page complaint alleged GM gathered data about drivers without their knowledge, then sold that information to third parties, such as insurance companies, which then raised their rates.
- The ruling also allowed claims to go forward against the credit reporting agencies that received driver data from GM: LexisNexis Risk Solutions and Verisk Analytics.

- The claims were brought under the Federal Wiretap Act, the Stored Communications Act, the Computer Fraud and Abuse Act and the Fair Credit Reporting Act, as well as various common law claims, including invasion of privacy and unjust enrichment and several state consumer and wiretapping statutes.

General Motors Co. will have to face an expansive consolidated class action alleging it gathered data about drivers without their knowledge, then sold that information to third parties, such as insurance companies, which then raised their rates.

Senior U.S. District Judge Thomas Thrash, who is overseeing the multidistrict litigation against GM in the Northern District of Georgia, left intact most of the 65-count complaint, which alleged GM began collecting data on drivers through its OnStar Smart Driver service on Chevrolet, Buick, GMC and Cadillac vehicles. The data includes actions such as a driver's braking habits and average speeds but, according to the complaint, much of it was misleading or incorrect.

“We’re still analyzing the order, but appreciate the court’s careful consideration of these novel issues and look forward to continuing to move the case to trial,” Norman Siegel of Siegel Stueve & Hanson in Kansas City, Missouri, who is co-lead the multidistrict litigation, told Law.com in an email.

Thrash, in his April 22 ruling, addressed issues of first impression. In allowing Federal Wiretap Act claims to go forward, he rejected defendants’ arguments that operating a vehicle was not an “electronic communication” as defined under the statute, but a “tracking device” that was exempted. The U.S. Court of Appeals for the Eleventh Circuit hadn’t yet addressed whether the drivers were sending “contents” as defined under the Federal Wiretap Act, he wrote, but they were more than geolocation or phone site data.

“Here, the data at issue involves granular details of the vehicle’s operation,” Thrash wrote. “Instead, each driver of a GM vehicle is actively communicating his or her driving behavior to the GM vehicle onboard system in order to obtain data regarding his or her driving behavior while driving to a specific destination.”

GM’s interception of such information, he wrote, was intentional.

King & Spalding partners David Balser and Susan Clare, both in Atlanta, who represent GM and OnStar, the telematics system that collected the data from inside vehicles, did not respond to a request for comment, nor did a GM spokesperson.

The ruling also allowed claims to go forward against the credit reporting agencies that received driver data from GM: LexisNexis Risk Solutions Inc. and Verisk Analytics Inc.

Ronald Raether at Troutman Pepper Locke in Irvine, California, who represents LexisNexis Risk Solutions, and Jasmeet Ahujaat of New York's Hogan Lovells, representing Verisk Analytics, did not respond to requests for comment.

Verisk spokesperson Ali Herbert declined to comment, and a LexisNexis Risk Solutions representative did not respond to a request for comment.

What The 202-Page Ruling Says

Since 2015, GM has installed OnStar in its vehicles, initially for first responder assistance, then expanding it to other capabilities such as steering control and vehicle diagnostics. GM later launched OnStar's Smart Driver, which could track drivers' actions, such as "hard braking" or speeding, and partnered with Verisk Analytics, which handed the data over to insurance companies. In 2019, GM started working with LexisNexis Risk Solutions. Rather than offer OnStar's Smart Driver as an optional subscription service, GM began requiring dealers to install the program in vehicles.

The lawsuits were filed two years ago after The New York Times reported that automakers were surreptitiously collecting driver data from internet-connected vehicles. Attorneys general in several states, including Texas, Nebraska and Indiana, sued GM, which discontinued OnStar's Smart Driver and severed ties with LexisNexis Risk Solutions and Verisk Analytics "based on consumer feedback."

Last year, the Federal Trade Commission announced a proposed order under which GM and OnStar would be banned for five years from disclosing geolocation and driver behavior data to consumer reporting agencies.

"GM monitored and sold people's precise geolocation data and driver behavior information, sometimes as often as every three seconds," then-FTC Chairwoman Lina Khan said in a statement at the time. "With this action, the FTC is safeguarding Americans' privacy and protecting people from unchecked surveillance."

In a 627-page complaint filed last year, plaintiffs attorneys brought claims under the Federal Wiretap Act, the Stored Communications Act, the Computer Fraud and Abuse Act and the Fair Credit Reporting Act, as well as various common law claims, including invasion of privacy and unjust enrichment and several state consumer and wiretapping statutes.

Thrash, who also oversaw the data breach multidistrict litigation against Equifax, approving a $1.4 billion settlement in 2019, heard oral arguments on Sept. 5 in the GM privacy cases. He concluded in his 202-page ruling that vehicles could be considered “facilities,” as defined in the Storage Communications Act, and that driving data plausibly are “electronic storage.”

Norman Siegel, with Stueve Siegel Hanson. Photo: John Disney/ALM

And he concluded that some of the claims were preempted under the Fair Credit Reporting Act. He tossed injuries based on the diminished value of one’s personal information—but not loss of privacy or potential for future harm.

As to the Computer Fraud and Abuse Act, all but 10 of the 47 named plaintiffs adequately pleaded that GM acted “without authorization,” he wrote.

“The plaintiffs demonstrate, on multiple occasions, that the data taken by GM is private data,” he wrote.

But they failed to assert actual losses of at least $5,000, prompting Thrash to dismiss that count.

Supreme Court looks to shut down $1.25M labeling suit against Roundup

courthousenews.com/supreme-court-looks-to-shut-down-1-25m-labeling-suit-against-roundup

Kelsey Reichmann April 27, 2026

Protesters gathered outside the Supreme Court ahead of oral arguments on April 27, 2026, over dispute involving cancer warnings on Roundup weedkiller. (Kelsey Reichmann, Courthouse News)

WASHINGTON (CN) — The Supreme Court appeared ready to overturn a $1.25 million verdict against the maker of Roundup weedkiller, Monsanto, on Monday, seeming to think a cancer patient's personal injury lawsuit was barred by federal law.

Over the last decade, there's been an intense debate over the safety of Roundup's key ingredient glyphosate. But the high court showed little interest in weighing in on any new research connecting the weedkiller to non-Hodgkin lymphoma, appearing content to let the Environmental Protection Agency's assessment carry the day.

"The way you account for new science is on a process that changes the requirements going forward, not on a process that retroactively tells you that what you did yesterday as ordered by EPA is somehow illegal," Justice Brett Kavanaugh, a Donald Trump appointee, said.

The Federal Insecticide, Fungicide, and Rodenticide Act, or FIFRA, sets rules for selling pesticides. Manufacturers submit safety data and proposed labeling to the EPA, which checks that the pesticide doesn't create an unreasonable risk of adverse effects on human health.

The EPA administrator also reviews the product's label for compliance with FIFRA. Misbranding, such as not containing a warning or caution statement necessary to protect health and the environment, is strictly prohibited. This process repeats every 15 years to consider any labeling changes under new information.

Since 1974, the EPA has repeatedly concluded that glyphosate doesn't warrant a cancer warning. But a Missouri jury held otherwise, finding Monsanto liable for not warning John Durnell of Roundup's risks.

Durnell was diagnosed with an aggressive form of non-Hodgkin lymphoma in 2018, at which point he'd been using Roundup for over two decades. In 2019, he filed a failure-to-warn claim against Monsanto in Missouri, and a jury awarded him $1.25 million in damages.

Monsanto asked the Supreme Court to review Durnell's case, arguing his state-law claims were barred by FIFRA. Because the statute prohibits manufacturers from making label changes without approval, Monsanto claims the EPA's pesticide-specific labeling determinations are a mandate that manufacturers must adhere to under federal law.

"We go through that entire registration process," Paul Clement, an attorney with Clement & Murphy representing Monsanto, said. "The way I would understand that is the agency is giving us a green light that we can then go forward and mark it a pesticide or a herbicide as labeled and not have to worry about a misbranding offense."

Under the court's precedents, Durnell argued a herbicide could be registered but still misbranded. He said FIFRA made it unlawful to sell pesticides without meeting certain conditions, and Monsanto had to comply with those requirements regardless of its registration approval.

"Monsanto now asks you for the opposite holding, that Roundup cannot be misbranded as a matter of law because EPA found for the first time 50 years ago as a matter of fact that it is safe, based on information Monsanto submitted," Ashley Keller, an attorney with Keller Postman representing Darnell, said.

Protesters gathered outside the Supreme Court ahead of oral arguments on April 27, 2026, over dispute involving cancer warnings on Roundup weedkiller. (Kelsey Reichmann, Courthouse News)

Several justices seemed concerned about foreclosing any path to review outside of the EPA. Chief Justice John Roberts, a George W. Bush appointee, questioned whether the state could review updated research if the agency was slow to do so.

"It's not necessarily the case that they're doing something inconsistent with what EPA would do," Robert said. "It's simply a fact that they're responsive to the new information more quickly than the federal government is."

The Trump administration said states couldn't require different warning labels, but they could take other actions, like banning the products altogether.

Justice Neil Gorsuch, a Trump appointee, seemed to see a mismatch in the government's answer.

"If we say it's so hazardous we can ban it, why can't we say it's so hazardous that there can be tort recoveries for it?" Gorsuch asked.

The federal government said other state claims are still available alongside the EPA labeling regime, including a defective design suit.

In February, President Trump issued an executive order invoking the Defense Production Act to protect the manufacturing of glyphosate-based herbicides.

The EPA faces an October 2026 deadline to reexamine glyphosate's safety. Monsanto says it has no reason to believe the agency will diverge from its consistent findings that glyphosate can be used safely and does not warrant a cancer warning.

Late last year, a landmark study touting Roundup's safety was retracted by the scientific journal that published it a quarter century ago. The journal said concerns were raised about the validity of its findings after potential conflicts of interest among its authors and misrepresentation of their contributions came to light, thanks to lawsuits against Monsanto.

Monsanto said glyphosate has been extensively studied over the last five decades, stating that thousands of studies have validated its safety. The company said it had no involvement in the vast majority of those published studies.

In February, Monsanto proposed a nationwide class settlement to resolve current and future Roundup claims for non-Hodgkin lymphoma injuries. The company agreed to make annual payments for 21 years totaling up to $7.25 billion.

Monsanto said the proposed class combined with Durnell's case before the Supreme Court "are independently necessary and mutually reinforcing steps in the company's multipronged strategy designed to significantly contain the Roundup litigation."

A favorable ruling from the justices would only apply to those who claim exposure to Roundup after Feb. 12, opt outs from the settlement and certain limited exceptions.

News | United States Supreme Court

Supreme Court Seems Open to Monsanto's Plea to End Roundup Lawsuits

The high court expressed concern with allowing state juries to deliberate over cancer warnings on herbicide labels in light of extensive federal regulation over the products.

April 27, 2026 at 04:57 PM By Jimmy Hoover

Protesters demonstrate outside the U.S. Supreme Court before oral arguments Monday in Monsanto v. Durnell. Photo: Jimmy Hoover/ALM

The U.S. Supreme Court seemed open to throwing out lawsuits claiming that Monsanto failed to warn about the risks of cancer from its high-selling "Roundup" weed killer during oral arguments in the company's high-stakes appeal Monday.

Justices across the ideological spectrum voiced concerns about letting state juries decide whether herbicides, pesticides and other agricultural products should bear cancer warnings in light of extensive regulation over those substances by the federal government through the U.S. Environmental Protection Agency.

The case could help Monsanto beat back a tide of litigation from plaintiffs alleging significant health problems, including cancer, from regular exposure to the product.

Monsanto's lawyer, the veteran Supreme Court litigator Paul Clement, argued that such state claims are preempted by federal law, and several justices appeared to agree. Clement said the EPA specifically registered pesticides containing Roundup's active ingredient, glyphosate, thereby "giving us a green light that we can then go forward and market a pesticide or a herbicide as labeled and not have to worry about a misbranding offense."

Clement, of Clement & Murphy, added that state tort claims fail because Monsanto was explicitly forbidden from changing its labeling by existing EPA regulation, making it "impossible" to uphold a state jury's finding that the label failed to include a cancer warning.

While its Supreme Court appeal pending, Monsanto has entered into a $7.25 billion class action settlement over Roundup claims. It has said that a favorable Supreme Court decision is critical to resolving the claims of plaintiffs who opt out of the settlement, which provides $10,000 to $160,000 for current and future claimants for the next 21 years.

During Monday's hearing, Justice Elena Kagan said the Federal Insecticide, Fungicide, and Rodenticide Act is explicitly aimed at creating "uniformity" in labeling requirements for products like Roundup and questioned an attorney for the plaintiffs bringing state failure-to-warn claims against the company.

"What uniformity would your regime achieve?" Kagan asked Ashley Keller, of Chicago’s Keller Postman. Keller is representing John Durnell, who alleges he contracted cancer after years of using the product, and other plaintiffs suing the company in state court. Durnell won a 2023 Missouri jury award of $1.25 million, which the company is appealing.

Keller said FIFRA only requires "uniformity in law."

"It does not require fact finders to find the facts the same way," he added.

But Justice Brett Kavanaugh appeared unpersuaded that allowing different state juries to reach different conclusions about the adequacy of pesticide labels satisfied Congress' goal. "

That's uniformity?" he asked.

Keller responded that's "just the consequence of our civil jury system where you have individual cases or controversies."

"I'd agree with you—absent a clause that says uniformity in federal law," Kavanaugh said.

Keller argued to the court that Monsanto was seeking to use an outdated EPA approval as a shield against all state tort liability for misbranding a toxic product.

The agency's registration of the product should be considered no more than "a thumb on the evidentiary scales that can be rebutted," Keller said. "And a reasonable jury has rejected that evidence."

The Supreme Court is expected to announce its ruling in the case by July.

The case is *Monsanto v. Durnell,* No. 24-1068.

Commercial Litigation

‘Be Careful’: Judge Warns Critics of Swipe Fee Antitrust Deal That a Trial May Not Fix Everything

After hearing Walmart's objection to the settlement, U.S. District Judge Brian Cogan said that if the case did go to trial, he would approach the matter with the perspective of "carving away" at Visa's and Mastercard's honor-all-cards programs, not taking a "meat cleaver" to the allegedly anticompetitive policies.

April 27, 2026 at 03:54 PM By **Alyssa Aquino**

U.S. District Judge Brian M. Cogan of the Eastern District of New York

Walmart, Circle K and other merchants opposed to a settlement that would resolve an antitrust suit over Visa's and Mastercard's credit card swipe fees were warned by a Brooklyn federal judge that they may not get everything they wish for if the case went to trial.

U.S. District Judge Brian Cogan for the Eastern District of New York gave his warning after hearing from Emery, Celli, Brinckerhoff, Abady, Ward & Maazel’s Debra Greenberger that her clients, the

National Retail Federation and the Retail Industry Leaders Association, would be better off trying the case, than accepting a settlement negotiated by Nussbaum Law Group, Hilliard & Shadowen, Grant & Eisenhofer and Freed, Kanner, London & Millen, counsel for a proposed mandatory class of 12 million merchants.

The deal marks the third time that class counsel has attempted to settle a more than twenty-year-old lawsuit alleging an antitrust conspiracy between Visa and Mastercard to charge high interchange rates, the so-called swipe fees paid by merchants. Lead counsel says the deal could potentially provide $224 billion in benefits over the course of its life, but Greenberger argued the deal leaves intact the heart of the alleged anticompetitive conspiracy, including Visa and Mastercard's "honor all cards" requirement for merchants to accept all of the issuers' cards.

We'd be better off with a trial loss, Greenberger said during a more than three-hour settlement hearing on Monday.

"Be careful what you wish for," Cogan responded.

Cogan is just the latest judge within the Eastern District of New York to be pulled into the case, which was filed in 2005. The parties have already settled their damages claims for $5.5 billion, but figuring out injunctive relief has been trickier. Chief Judge Margo K. Brodie rejected an earlier settlement in 2024. The case was later reassigned to Cogan.

If approved, this new deal would have Visa and Mastercard lowering their swipe fees by 0.1% for five years and capping standard consumer rates at 1.25% throughout the life of the deal. But the deal does not allow merchants to opt out of the injunctive relief and opposition has coalesced around various aspects of the deal.

Steve Shadowen, founding partner at Hilliard Shadowen and class counsel, defended the agreement, saying it achieves "nearly all the major reforms this case set out to achieve." Under the settlement, merchants may decline credit cards carrying high fees, such as rewards cards, and can offer incentives for customers to use low-fee cards, Shadowen said.

Holwell, Shuster & Goldberg's Michael Shuster and Paul, Weiss, Rifkind, Wharton & Garrison's William Michael, counsel for Visa and Mastercard, respectively, argued that the proposed revisions to honor-all-cards were unprecedented for their clients.

But the objectors—and there were six groups of objectors present at the Monday hearing—argued that the proposed changes would give merchants the burden of explaining to customers why they could use some credit cards, but not others. Based on the popularity of high-cost rewards cards, merchants may avoid that issue altogether, the objectors argued.

Boies, Schiller, Flexner's Jesse Panuccio, counsel for Walmart, further explained that under the deal, merchants would have to accept credit cards from all issuers, in order to accept cards from any one bank.

Imagine if Walmart couldn't do business with Coca-Cola unless it had to do business with PepsiCo, Panuccio asked.

Throughout the hearing, Cogan offered few observations about the deal, remarking that he "still [didn't] like" the surcharge proposal. But to Panuccio, Cogan said that if objectors were to and peel off from the settlement and try their own antitrust case, they'd have a hard time doing away with "honor-all-cards" entirely.

If I were assigned to that matter, I'd look at it from the perspective of "carving away" at the honor-all-cards programs, not "going at it with a meat cleaver," he said.

Cogan reserved his decision, but said he would quickly issue his ruling on the settlement.

In the Southern District of New York, District Judge Alvin Hellerstein is overseeing a separate antitrust case over the swipe fees from merchants who splintered off from the Brooklyn case. Hellerstein approved a settlement resolving that matter last week.

Judge seats jury in Musk-OpenAI trial after bias challenges

DJ **dailyjournal.com**/articles/391047-judge-seats-jury-in-musk-openai-trial-after-bias-challenges

U.S. District Judge Yvonne Gonzalez Rogers

OAKLAND - After rejecting for-cause dismissal challenges from Elon Musk's attorney, who read aloud insulting comments about the plaintiff from jurors' questionnaires, U.S. District Judge Yvonne Gonzalez Rogers impaneled nine to decide whether Sam Altman and OpenAI duties of a charitable trust when the organization was converted to a for-profit entity.

"The reality is people don't like him. ... But that doesn't mean that Americans cannot, nevertheless, have integrity for the judicial process," U.S. District Judge Yvonne Gonzalez Rogers said after one of the challenges of a juror who called Musk "garbage." *Musk v. Altman et al.*, 4:24-cv-04722 (N.D. Cal., filed Aug. 5, 2024).

"It says, 'Elon Musk is a greedy, racist, homophobic piece of garbage,''' Steven Molo of MoloLamken said, reading the juror's questionnaire after Gonzalez Rogers denied his for-cause challenge. Molo ended up using one of his five peremptory challenges on the juror.

Another questionnaire, Molo pointed out, said, "Elon Musk is a world-class jerk." But Gonzalez Rogers gave him the same response.

The judge dismissed one juror sua sponte. His fault: being an "avid news junkie" who said he couldn't shake his opinions about Musk -- something he brought up voluntarily after the judge didn't sound sympathetic to his plea that jury service would get in the way of his plans to help his son move.

When examined by Gonzalez Rogers, the judge asked him for his "strongest opinion" on Musk. "Elon doesn't care about people, much like our president," the prospective juror replied.

The judge dismissed eight prospective jurors in all: three for financial hardships, two because they had difficulty understanding English, one who had a surgery coming up and one for a hardship she didn't specify.

Musk, who donated $38 million to OpenAI during its early days as a nonprofit committed to harnessing AI, alleges breach of a charitable trust and unjust enrichment stemming from its decision to convert to a for-profit. OpenAI is represented by Wachtell, Lipton, Rosen & Katz, and Morrison & Foerster LLP. Microsoft, which bought a stake in OpenAI at the time it became a for-profit, is named as a defendant as well for allegedly aiding OpenAI's breach of duty. It's represented by Dechert LLP.

Opening statements are slated for Tuesday.

Gonzalez Rogers questioned 40 prospective jurors Monday, largely about their opinions on Musk, Altman, ChatGPT and AI in general, but also on their careers, teamwork skills and potential hardships their service could cause.

The judge was also slow to dismiss jurors for any reason, not just their views on the parties.

"What makes you so special that the person to your left or right should serve but not you?" Gonzalez Rogers said before she began questioning the pool.

From the start, Gonzalez Rogers told the courtroom that a juror's opinion of either party wouldn't be reason alone for their dismissal.

"What I am looking for is jurors with an open mind," Gonzalez Rogers said.

"It's a hard question," one prospective juror said. "I can try, of course, but I'm very aware of my potential bias regarding his way to do business."

The same prospective juror said he'd followed OpenAI's transition to a for-profit closely and was "hoping for a different outcome and for the company to keep operating to benefit society."

The bulk of the negative opinions targeted Musk. But the vast majority of jurors who had indicated negative feelings toward Musk, Altman or AI in general said they could set those views aside to decide the case fairly.

Several jurors said they had no opinion of Musk or Altman, with some going as far as to say they hadn't heard of either.

Microsoft came up just a few times over the course of Monday's proceedings.

"Have you ever worked in teams before?" Gonzalez Rogers asked one prospective juror.

"The application?" the juror responded.

The conversation began to focus on Musk's politics only after Gonzalez Rogers ceded the floor to his attorneys to question the jury pool.

"I get it. People didn't like DOGE. ... This case isn't about DOGE," Molo said, before asking the prospective jurors if any of them would have a problem making that distinction.

William Savitt of Wachtell, Lipton, Rosen & Katz didn't have as many questions as his counterpart, but pressed a few jurors about their preferred news sources. OpenAI declined to make any for-cause challenges, before the sides took turns making their five peremptory challenges each.

Once the nine jurors were sworn in, the judge instructed them to avoid any outside sources of information that could influence their judgment. They'll decide liability before Gonzalez Rogers presides over the damages phase of the trial.

"You are the most important people in this room right now," Gonzalez Rogers told the jury.

#391047

Daniel Schrager

Jury selection commences in Musk-Altman feud

courthousenews.com/jury-selection-commences-in-musk-altman-feud

Carly Nairn April 27, 2026

A Muni metro train drives past OpenAI headquarters on Third Street in San Francisco's Mission Bay neighborhood on April 24, 2026. (Margaret Attridge/Courthouse News)

OAKLAND, Calif. (CN) — Jury selection began Monday in what may be one of the most consequential trials about the future of tech companies working on artificial intelligence, with two billionaires claiming a lion's share of the responsibility for the advent of a nonprofit originally intended to create artificial general intelligence for the benefit of humanity.

In 2024, Elon Musk, the world's richest person, sued Sam Altman, co-founder of OpenAI, and its for-profit enterprise that started after Musk acrimoniously left the startup in February 2018.

Musk claims Altman deceived him after Musk brought in technical talent and bankrolled the project with millions of dollars, while Altman made deals with other investors to ultimately make the nonprofit into a public benefit corporation, a for-profit entity, behind his back.

Musk brings breach of charitable trust and unjust enrichment claims and seeks $150 billion in compensatory and punitive damages from OpenAI and Microsoft. In 2019, Altman partnered with Microsoft after the software company agreed to invest $1 billion as OpenAI made plans for its for-profit arm. Musk claims OpenAI has diverted from its original mission and would like the company to revert to a nonprofit. Microsoft is a co-defendant in the case over a claim of aiding and abetting, with Musk claiming the company benefited from his early donations.

U.S. District Judge Yvonne Gonzalez Rogers, a Barack Obama appointee, instructed a courtroom full of potential jurors Monday that they were there to "honor their citizenship" and set aside any biases they may have regarding Musk or the defendants to render a fair verdict. Nine jurors will be selected.

When individually asked by Rogers, several people brought up their negative or strong views about Musk, but most said they would be willing to not let their personal opinions affect their position as a possible juror.

"I believe the facts are the facts. I do not like him, but I can separate my feelings from the facts of this case," one potential juror said about Musk.

Rogers is no stranger to high-profile tech cases. She presided over a bench trial during the Covid-19 pandemic for *Epic Games Inc. v. Apple Inc.* in 2021, with Epic challenging Apple's restrictions on apps purchased outside its App Store.

A who's who of the Silicon Valley tech world is scheduled to testify at the trial, including Microsoft CEO Satya Nadella; Mira Murati, a former OpenAI chief technology officer; Greg Brockman, Altman's OpenAI number-two and a co-defendant in the case; and Shivon Zilis, a former OpenAI board member and the mother of four of Musk's children through IVF and surrogacy.

In 2023, Murati became the interim CEO of OpenAI for five days after the company's chief scientist, Ilya Sutskever, released a memo documenting concerns about Altman's leadership and was ousted by its board. With the help of tech insiders, Altman remains CEO.

Musk's attorney Steven Molo asked a few of the potential jurors to explain some of their negative thoughts on Musk, especially one man who said he had been following the case for "years" and was hoping "the quest for AI would shift" to benefit humanity.

Would you be interested to hear that Musk shares some of your views, Molo asked the man.

Rogers excused several potential jurors for financial hardship or language barrier reasons, but denied Molo's request to excuse jurors who said in a questionnaire that Musk was "greedy, racist and homophobic" and a "world-class jerk."

"The reality is people don't like him," Rogers said.

Musk and Altman, who cofounded OpenAI in 2015, later clashed over who should run it, leading to a long-running feud over the startup's direction ever since Musk stepped down from the company board.

Musk sought a court order in 2024 to prevent OpenAI from going through with for-profit restructuring. Musk claimed the move violated OpenAI's nonprofit mission and breached the terms of his previous donations to the company, approximately $45 million.

The court denied Musk's bid for an order that would have blocked OpenAI's conversion from a nonprofit in March 2025. It also further thinned Musk'sclaims against OpenAI last May.

In the lawsuit, Musk also accused OpenAI of violating multiple antitrust laws, including the Sherman Act, through its close partnership with Microsoft, as well as other noncompetitive behaviors such as exclusivity agreements with investors that prevent them from funding other competitors in the AI market.

In counterclaims upheld by the court in August, OpenAI accused Musk of unlawfully disrupting the ChatGPT developer's business relationships during the lawsuit by orchestrating a "sham bid" to buy the company for about $97.4 billion in February 2025. Altman claims Musk is trying to stop OpenAI and other tech companies investing large in AI from competing with xAI, a for-profit company Musk started after leaving OpenAI.

Ahead of the trial, OpenAI said in a post on X, "The truth and the law are on our side. This lawsuit has always been a baseless and jealous bid to derail a competitor."

Altman's attorney William Savitt asked several potential jurors what kind of news sources they trusted. Many responded they relied on "independent" or "not mainstream" news.

One juror said they were worried about the future of artificial intelligence, but said his concern was more general — "it could be made by Elon Musk, Sam Altman or Google" — and wasn't tied to one company.

Opening statements for the trial begin Tuesday.

California Brief

Musk v. Altman Jurors 'Rose Up to the Plate,' Judge Seats Nine

April 27, 2026, 5:17 PM PDT

Nine jurors were seated Monday in the AI industry's closely watched trial between Elon Musk and OpenAI chief **Sam Altman** from a pool of San Francisco Bay Area residents who are expected to hear three weeks of testimony in federal court.

The jury selection process started with a pool of 40 prospective jurors that was whittled down over five hours of close questioning by US District Judge Yvonne Gonzalez Rogers and attorneys for both parties. Altman and his co-defendant, OpenAI President **Greg Brockman**, attended the selection process, an unusual move for well-known tech executives who rarely make courtroom appearances unless required to testify.

Altman Versus Musk: How the Biggest Feud in Tech Landed in Court

Though pulling a panel of jurors who promised to be fair to both Musk and Altman seemed like it would be a difficult task, only juror one said he couldn't put aside his feelings about Musk, specifically. Others said under questioning that they could isolate their personal beliefs from the trial.

Gonzalez Rogers, a veteran of big-name Silicon Valley trials, dismissed that juror "for cause" but denied other requests by Musk and Altman's legal teams to strike jurors for personal biases. The judge said she was convinced the prospective jurors showed great respect for the judicial process and appeared willing to put aside their biases.

"The reality is that people don't like him," Gonzalez Rogers said of Musk, noting also that many don't like Altman either. "Every one of these individuals who I questioned rose up to the plate."

Read More: Musk v. Altman Case Will Test Jury Process for Rich and Famous

People wait to enter the US District Court in Oakland, California, on April 27.
Photographer: David Paul Morris/Bloomberg

But outside the courtroom, tensions were higher.

Musk wasn't present, but he threw jabs at Altman and Brockman on his social media platform X Monday morning: "Scam Altman and Greg Stockman stole a charity. Full stop," he wrote in one post.

Musk also appeared to amplify an April 6 post from **Ronan Farrow** about *The New Yorker* reporter's lengthy investigation into Altman, by featuring it in many users' feeds on the platform.

And about 25 protesters appeared outside the Oakland courthouse, some from a group called Tesla Takedown that has overseen demonstrations against Musk across the country and others from Quit GPT, the group that's been protesting at OpenAI's offices. The Monday protest targeted both Musk and Altman, with organizers titling the event "Everyone Sucks Here."

'Advisory' Verdict

The jury will hear from a parade of VIP witnesses and will be asked to wade through years-old emails, text messages and corporate documents from OpenAI's founders to determine whether Altman and Brockman betrayed Musk and the company's founding principles by converting to a for-profit and taking billions in investment from Microsoft Corp. But the jury's verdict on liability will ultimately be "advisory," meaning Gonzalez Rogers will have the final say on the matter.

Prospective jurors voiced mostly negative or neutral opinions about the feuding AI titans, with a number of jurors expressing special acrimony toward Musk for his work on the Trump administration's Department of Government Efficiency.

Read More: Musk and Altman Head to Trial in Feud Over Future of OpenAI

The group had mixed views about AI technology. One man, an insurance underwriter and recent college graduate, said he had begun using ChatGPT instead of Google for general search inquires, and another woman, a research biologist, said she uses AI to write code and craft emails.

Others said they had concerns the technology would cause mass job displacement. One nurse said AI has increased her workload because she has had to double check its work when it reviews medical records. Another man said he was worried about the current pace of AI advancement and questioned the motives of the industry broadly.

Each party used their five strikes that allowed them to eliminate jurors without needing to provide a specific reason.

OpenAI's attorney **William Savitt** told reporters outside the courthouse that he believes it's a fair jury that "will do what they're supposed to do and put any preconceptions aside." Musk's attorneys didn't comment when exiting the courthouse.

The case is Musk v. Altman, 4:24-cv-04722, US District Court, Northern District of California (Oakland).

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News | **Legal Ethics and Attorney Discipline**

As AI Blunders Pile Up, Law Firms Address Ethics Implications of New Technology

"The rules haven't really changed, but we're just having trouble following them when the output of some AI is so seductively good," said Adams & Reese legal ethics expert Lucian Pera. "And it's hard. It's hard to convince people to do it."

April 27, 2026 at 02:48 PM By **Jon Campisi**

Credit: aniqpixel/Adobe Stock

What You Need to Know

- Lawyers are not just being trained on how to actually use artificial intelligence platforms, they're also increasingly being given training on the ethical considerations of using AI in legal work.
- Many Big Law firms incorporate ethics training into their technology instruction, as the industry recognizes more and more lawyers will be using AI in their daily workflow.

Learning precisely *how* to use an artificial intelligence platform in the course of legal business is obviously going to be a part of law firm AI training, but knowing when—and for that matter, when not—to use AI technology is a sometimes overlooked, but crucial, component of technology training.

As the legal industry continues to embrace AI within legal workflow, many firms are enhancing their professional development around the ethical considerations of AI use, since lawyers are bound by a strict code of ethics.

While training on the actual use of AI technology for legal work is a given—lawyers clearly must know how these programs and platforms function—more firms are now focusing more heavily on the ethical implications of using AI in client matters, given client confidentiality and regulatory oversight.

The focus on ethical AI use couldn't come at a more apt time; just last week, Sullivan & Cromwell made headlines after learning one of its lawyers had filed a brief that included AI hallucinations, or nonexistent case citations. The discovery that one of the most prestigious law firms in the world made such a seemingly rudimentary error led to a attorney having to apologize to a federal bankruptcy judge.

The practice of law is highly regulated and governed by a slew of ethics rules to ensure lawyers are servicing clients properly, so it should come as no surprise that firms are making a concerted effort to ensure attorneys are up to speed on the proper use of AI so as to avoid any unethical practices, and to stave off any serious mistakes like the one made by Sullivan & Cromwell.

“We don't think safe and responsible use is a constraint on AI transformation. We actually think it's the foundation,” said Wendy Curtis, chief innovation officer of Orrick Herrington & Sutcliffe. “If you teach lawyers to use AI safely and responsibly, you don't just manage risk, you amplify the lawyer's ability to drive real change, and so that's why our strategy is to go all in on training.”

Like other Big Law firms, Orrick offers both in-person and online AI training and professional development sessions, and training can be done either individually or in a group setting. A total of 150 hours were dedicated in 2025 to AI training, Curtis said.

“The reality of any kind of training is the longer time between when you took the training and you do the task, the less helpful it is, and so we have a multi-layered approach,” Curtis said.

This is especially pertinent today, as some experts have noted that AI is a technology that seemingly changes by the minute.

The ethics component of law firm training addresses the ways in which lawyers should use AI in legal workflow, but also on the ways in which they should avoid it.

“While we want to train on what to do, we also want to remind people what not to do,” said Kristen Baylis, Orrick’s senior technology counsel. “This goes broader, not just training, but in your messaging. On everything we message when we roll out a tool, there’s also the risk reminder.”

Baylis said when lawyers are being trained on newer technology use, it’s important to move beyond just live and recorded formal trainings to individual risk reminders on a daily basis, whether that’s in the form of messages to lawyers’ web portals or in their individualized educational materials.

An example of cautionary use would be an attorney opening up a chat bot and asking it for legal research assistance.

“That’s not where you perform legal research,” Baylis said. “You need to go to traditional legal research tools, reminding people about cite checking and verifying your cases and quotes. That’s just some examples of where we remind them what not to do in certain tools and your ethical duties to oversee the output and verify accuracy.”

Hallucinations, a Cautionary Tale

Most negative headlines around attorney misuse of AI always seem to be centered around the concept of hallucinations, which is when AI makes up a fake case citation.

Stradley Ronon Stevens & Young puts a heavy emphasis on AI and technology training for lawyers of all tiers, offering a robust professional development program that touches heavily on the ethical considerations of using AI in legal work.

“That is something that we take exceedingly seriously because the duties that we have as lawyers and our professional responsibilities require us to have competence,” said Sarah Hirebet, Stradley’s director of knowledge management. “And competence extends to technological competence.”

First and foremost, Hirebet said, ethics training for lawyers must begin with ensuring that individuals understand how large language models work.

“I regularly walk into training spaces and discover that—whether we’re chatting with clients, whether I’m chatting at an industry event with people across different firms and different spaces, or whether I’m walking into a group of our lawyers—people don’t know why and how these answers are being produced,” Hirebet said.

Legal experts say while AI is creating a need for enhanced education, the concept of checking your work as a lawyer has been there since day one of lawyering, regardless of how one is obtaining the information.

Even tried and true legal industry tools such as Westlaw and LexisNexis require an element of fact-checking to ensure the case citations they produce are accurate, said Lucian Pera, an Adams & Reese partner who specializes in legal ethics.

“The rules haven’t really changed, but we’re just having trouble following them when the output of some AI is so seductively good,” Pera said. “And it’s hard. It’s hard to convince people to do it.”

While the Sullivan & Cromwell AI hallucination issue can certainly serve as a cautionary tale for other law firms, the reality is that most law firms are already offering in-depth training on these new tools and the ethical implications of their use, experts say.

‘Check Citations, Check Your Work’

“When we’re in these training sessions, either at the beginning or at the end, we sort of repeat the mantra of ‘check the citations, check your work,’” said Andrew Sprogis, chief innovation officer at Katten Muchin Rosenman. “From our perspective, anybody using AI has to let their supervising attorney know they’ve been using AI. Whether that’s a long-term, practical thing, I don’t know. But while it’s early days, we make people do that.”

“It’s sort of a belt and suspenders thing,” he added. “While training is important, I think the next level of making sure people sort of have the backstops, or someone watching over their shoulder is great too.”

Back at Stradley Ronon, Hirebet, the director of knowledge management, said the firm has been engaged in “extensive training” when it comes to AI platforms used for legal work so attorneys have a clearer picture of how the technology can be used for legal work, especially from an ethics standpoint.

But AI, she noted, is not the first technology that has disrupted the legal industry and raised ethical eyebrows.

“There were many ethics boards and committees who said, well, we don’t understand what we’re doing if we’re using email,” she said. “And now it’s unimaginable to us that we would not do that.”

Hirebet said she would hope that today all law firms are having a “very in-depth dive into the rules of professional responsibility,” when it comes to things like AI use.

Stradley, she said, has the six ‘C’s’ when it comes to the ethical responsibilities that lawyers have when using the technology: candor, client consent, collaboration, communication, competence and confidentiality.

And like at other firms, it's not just lawyers who receive training on AI.

"That training is for every member of the firm because although the ethical responsibilities fall on lawyers, all of our legal teams are responsible for them," she said. "Lawyers also have a duty of supervision and that includes every member of their team, whether they're a lawyer or not, and so in order to help the lawyers who do the supervisory work, we're making sure that the baseline training, you don't touch these tools until you have taken the legal ethics training."

Credentialing, Continuing Education

Meanwhile, Morgan Lewis & Bockius' multi-layered, evergreen training program designed to enhance digital literacy and proper use of legal AI even has credentialing component.

"Think of it as a license to drive, as it relates to using any of these tools in connection with legal service delivery," said chief AI and knowledge officer Colleen Nihill.

Morgan Lewis requires attorneys to pass a proficiency exam upon completion of their training, which includes a chapter strictly around governance and ethical use of AI.

The ethical training, Nihill said, is viewed as "part of the fabric and the culture of the firm."

The firm even has a group called the Morgan Lewis AI Core Team, which is comprised of 13 partners who are leaders from various practice groups firmwide, who work directly with Nihill when the firm is considering purchasing or putting into use a new AI tool. Ethical considerations are part of this process.

The ethical component of Morgan Lewis trainings is not some add-on, but inherently part of attorney instruction.

"We teach professional skills as well as substantive practice skills," said chief legal talent officer Noelani Walser. "And this is just part of all of it. It's not a one-off."

The ethics training at Morgan Lewis extends to all members of the firm, not just the attorneys.

"Governance, responsibility and ethics are something that everybody in the law firm has to adhere to," Nihill said. "So, it's woven in."

California Brief

Insight

AI Is Taking Over Audit Functions. Accounting Needs to Get Ready

April 28, 2026, 1:30 AM PDT

KPMG's rollout of advanced artificial intelligence agents is the start of something structurally significant: a "K-shaped" remodeling of professional services, in which the top accelerates, the bottom collapses, and the distance between them becomes the competitive question.

Last week's news that KPMG is cutting roughly 10%of its US audit partners is the K-shape made literal. The average partner whose economics rested on leverage rather than origination is being removed. The pyramid is being compressed from both ends at once. Graduate hiring is being switched off at the bottom, and the average partner is being asked to leave at the top.

Thomas Mackenzie, KPMG's audit chief technology officer, recently said that within two to three years there will be "next to no human beings" performing routine audit testing at KPMG. This is the most honest thing any Big Four leader has said about the direction of the profession this year. Vouching, transaction testing, and other tasks that for decades defined early-career life in public accounting are being absorbed by AI agents.

But what does this do to the pipeline that produced every audit partner currently signing opinions? Audit has always developed judgment through repetition—exposure to hundreds of small misstatements before forming a view on a material one. Remove this type of apprenticeship and you have removed the mechanism by which the profession reproduces itself.

Mackenzie's own framing was telling. He said he will no longer hire a college graduate to create workpapers. That is a reasonable shift in job design and a complete rewrite of the conditions under which professional judgment has historically been developed.

K-shaped Remodeling

It's useful to think about what replaces the pyramid as being K-shaped rather than linear. The two arms of the K diverge from a single point, which is the old partnership model of uniform growth and predictable leverage.

The upper arm accelerates. Exceptional partners do more because clients buy them rather than the firm behind them, and AI amplifies their output rather than substituting for it. The lower arm collapses due to commoditized delivery work, time-and-materials billing, standardized compliance output, and the average partner whose economics rested on leverage rather than origination. AI actively widens the gap between the two because the tools that amplify the top are the same tools that substitute for the bottom

This plays out at a firmwide level, and we are seeing it in real time. Looking at the first-quarter 2026 data, firms that have already made the shift to their operating models are clearly outgrowing those that haven't.

This is a pricing reset. The bottom half of the market becomes cheaper, faster, and harder to differentiate. The top becomes more expensive, more concentrated, and more dependent on individuals rather than institutions.

The most useful frame I have seen for role-level exposure within this comes from global consulting firm BCG's labor classification, which separates roles into three categories:

- Amplified, where AI materially enhances individual output but the role remains human-led
- Divergent, where AI fundamentally changes what the role is and what it produces
- Substituted, where AI replaces the role entirely

In audit, the partner is amplified, the senior manager is divergent, and the associate is substituted. Each category carries a different economic, organizational, and talent implication. The firms that are planning workforces at firm-average level rather than role-by-role are going to find themselves with the wrong people in the wrong places by 2028.

What Survives

What will survive at the top of the K?

- Deep industry experience, not rotational coverage, but 20 years in a sector
- Trust, earned through having been right in difficult situations in front of boards that remember
- Judgment, the ability to form a view when the data is incomplete and the politics are charged
- Personal brand, a reputation that exists independently of the firm's logo
- Charisma, the presence to walk into a client's offices and command the room

These have always been the differentiators for the top decile. In the emerging model, they are the entire product.

A realistic read of the firm's own position on the K—and what we see repeatedly when running AI risk diligence for private equity sponsors—is what's missing from most firm narratives. The most revealing data point is almost always the delta between external and internal sentiment.

Partners tell the outside market the firm is leading on AI. The workforce inside tells us something very different about utilization, about leadership literacy, about whether the tools being demonstrated to clients are actually being used in delivery. A firm where 95% of mid-level staff use AI weekly, but where only 41% percent of leadership do, is a governance gap waiting to become an execution problem.

One Competitive Question

The KPMG news signals a deeper shift: that the old assumption about professional services growing as a tide that lifts every firm equally is over. The firms pulling ahead share a recognizable profile.

They are private equity-backed or well-capitalized; their leadership that has translated conviction into decisions rather than working groups. They are already rebuilding workflows around AI, creating proprietary intellectual property on top of foundational models and restructuring compensation to attract the partners the emerging model requires.

The firms standing still are largely legacy partnerships in which the partners closest to retirement hold the most influence and the least incentive to act. The technology gap and the talent gap are the same gap.

The private equity community has moved past the question of whether AI disrupts professional services. It is underwriting assets on how seriously and how early management acted. If a firm is still in the monitoring phase, it has already answered the question—just not in the way leadership thinks it has.

The K-shape is what connects the dots. The bottom arm determines cost structure and pricing power today. The top arm determines who still has a product worth selling in 2035. The firms only having the productivity conversation will discover both in sequence.

The firms already having all four—productivity, regulatory exposure, talent succession, and competitive positioning—will look by the end of this cycle like a different kind of business. What sits at the top of that business is narrower, rarer, and more expensive than anything the profession has priced for before.

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

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California Brief

Exclusive

Legalist Closes $415 Million Legal Fund, Stays 'True to Mission'

April 28, 2026, 3:00 AM PDT

Legalist closed a $415 million fund dedicated to backing lawsuits, the tech-powered litigation funder said Tuesday.

California-based Legalist's fourth and largest fund deepens its investment in commercial legal assets, continuing to focus on single cases and portfolios. The funder also nearly doubled its assets under management in the past year, now managing $2 billion across all of its strategies.

"When we launched in litigation finance, we were very much a niche underdog, and I like to think that we have preserved that status over the years, even though we've grown and our strategy has grown as well," said Legalist co-founder and general partner Eva Shang.

The company, which has around 40 full-time employees and also operates a $500 million government receivables fund aimed at contractors, is celebrating 10 years in the litigation finance space. After dropping out of Harvard, Shang co-founded Legalist in 2016 with the help of a $100,000 grant from billionaire Peter Thiel's foundation. She passed the bar exam following four years of an apprentice-style legal education—called "reading the law"—and is now also a licensed attorney.

Legalist specializes in funding low- to mid-range value cases ranging from $50,000 to $5 million in investment, which Shang says have fewer issues with lengthy case durations. Its prior fund was $300 million and had more than 250 positions in single and portfolio cases. The company's book right now is nearly a 50/50 split between single cases and portfolios.

The 'Truffle Sniffer'

Legalist has always been an avid user of technology for case origination. Its has a proprietary algorithm, known as the "truffle sniffer," used to locate commercial plaintiff cases for investment.

“The truffle sniffer does identify single cases, but it’s important to know that that sparks a conversation with our team,” said David Jang, litigation finance portfolio manager. “Sometimes that conversation will lead to a single case investment, sometimes to a portfolio investment and portfolios are becoming a bigger part of our business in recent years.”

David Jang
Legalist

Legalist has been using the truffle sniffer since its inception but it is under a process of continuous refinement. The latest developments in generative AI have helped the company unlock a lot of value from a decade of its own proprietary data. The tool uses data from realized cases to better assess outcomes and underwriting of potential candidates.

It’s also led Legalist away from patent infringement cases, which are high cost and have more binary outcomes, and toward funding more class action cases.

‘Tight Niche’

Despite a difficult market for capital in illiquid private investments including litigation finance, Shang says Legalist had success fundraising.

Legalist’s investors don’t invest with other litigation funders and there are lot of repeat investors in the fourth fund from prior funds, she said. Those investors were interested in Legalist specifically, not litigation finance as a whole. Though she couldn’t name the investors, they include endowments, foundations, hospitals, and universities.

“Because we have such a tight niche within litigation finance and we have a track record of doing exactly what we’ve been doing for the last 10 years, investors really saw our product offering as distinct from whatever else is going on in the market,” she said.

Legalist has had 248 realizations across its four litigation finance funds, with two thirds resulting in wins.

Shang said the funder has stayed away from alternative business structures, which allow non-lawyer ownership in law firms, because they seem complicated and don’t fit the company’s mandate of small commercial litigation finance investments. Management service organizations have become another popular structure for non lawyer investment, but Shang said she needs to look into it more before investing.

“One thing that has helped us to fundraise and has helped us to garner investor interest over the years is that we are very true and consistent to our mission,” she said. “If we just keep the current thing going in another 10 years, there will likely be a different batch of trendy players and hopefully we’ll still be around.”

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News from Bloomberg Terminal

The Robots Make the Predictions

April 28, 2026, 11:05 AM PDT

By Matt Levine

(Bloomberg Opinion) --

Polymarket bots

I wrote last week that, in investing, "There's no magic, no dark matter, no other source of gains. Everyone's gains come from (1) economic growth and (2) other people's losses." In the aggregate, everyone gets the market return, which comes from allocating capital to economic growth. Some people get more and others get less, but they necessarily cancel each other out. People invest anyway, though, because allocating capital to economic growth is a good long-term proposition.

Prediction markets don't have that. People put $1 into a prediction market event contract, and at resolution it pays out $1 to the winner. There is no investment in economic growth, no source of long-term returns; everyone's winnings come from someone else's losses.

In the stock market, there are big high-frequency trading firms that make markets for retail investors, selling to investors who want to buy and buying from investors who want to sell. Those firms tend to make a lot of money. As a first cut, the money they make comes *from* the regular investors. (Who else could it come from?) Retail investors regularly get angry about this. But retail investing is still, you know, good. It is still positive-sum: Retail investors are in aggregate putting their money into companies and profiting from overall economic growth. It is possible, likely even, that (1) big electronic market making firms make billions of dollars off of retail stock investors and (2) those retail stock investors also make billions of dollars themselves. It is nice to play a positive-sum game.

Stock options, I don't know, man.

Big electronic trading firms also increasingly make markets in prediction markets. What conclusion can you draw from that? *The extremely obvious one*, surely? "Big electronic trading firms are not idiots or charities, they reasonably plan to make a lot of money in prediction markets, that money has to come at the expense of regular retail traders on prediction markets, and since there is no other source of profits in prediction markets, that means that prediction markets are a negative-sum game for retail traders." It is embarrassing to type this. "Sports gamblers lose money on average," yes, duh.

Anyway Bloomberg's Carolyn Silverman, Nathaniel Popper and Marie Patino report:

Over 100,000 accounts lost at least $1,000 on Polymarket, one of the largest prediction markets, according to a Bloomberg News analysis of every wallet active since the beginning of 2025. That is almost twice the number that made at least that much.

Among the winners, a majority of the profits were raked in by a tiny slice of what look to be automated bots, based on the Polymarket trade records compiled by the data firm Dune. Everyone else, in aggregate, lost $131 million. …

While prediction markets have been described as peer-to-peer, the Polymarket records suggest the role of the sportsbook is now largely being played by the sort of automated, high-frequency traders that have long dominated other financial markets. The most active accounts on the site were a small proportion of wallets, but accounted for most of the trading volume.

Right. Two points here. First, it's not totally clear to me that the large money-making wallets are all actually traditional market making firms. These days individual hobbyist traders can and do vibe-code automated prediction market trading bots. (See below.) Maybe some of them are good at it? Don't get your hopes up or anything, but it's at least possible that the automated market makers in prediction markets are not *all* well-capitalized professional firms that make markets in traditional financial markets. It is still early days.

Second, I'm being a little bit unfair when I say that prediction markets are necessarily zero-sum (or negative-sum after the market maker's cut). One important argument for them is that they are *hedging* markets, *insurance*, that people buy event contracts to hedge some real-world risk. In that context, losing money on an event contract is *fine:* It means that your real-world risk didn't come true, you are better off than you otherwise would be, and the prediction market allowed you to responsibly take a risk you otherwise might not have taken. I am sure that this has happened once or twice on prediction markets, though it is always worth emphasizing that "prediction market" means mostly sports betting.

People aren't *that* worried about private credit liquidity

Never mind then:

Investors in a Blue Owl Capital Inc. fund tendered less than 1% of shares to Boaz Weinstein's Saba Capital Management and Cox Capital Partners, which had offered to buy them out at a steep discount, according to people familiar with the matter.

The tender offer for shares in Blue Owl Capital Corp. II, one of the firm's non-traded business development companies, expired at the end of last week with limited take up and wasn't extended, said the people, who asked not to be named because the information isn't yet public.

The scant sales to Saba and Cox suggest that the malaise in the $1.8 trillion private credit has its limits, with investors preferring to hold onto their shares rather than cash out now at far less than full value.

We have discussed Weinstein's tender offer before, including with him on the Money Stuff podcast. Basically Blue Owl Capital Corp. II, a non-traded business development company usually called "OBDC II," normally offers to buy back up to 5% of its shares each quarter. But as people have started worrying more about private credit, OBDC II got more redemption requests, and rather than meet them it has announced a plan to return all of its capital gradually. Investors who wanted out are stuck for longer than they expected to be. So Weinstein offered to buy them out, at about 65% of net asset value.

And they mostly said no. There are two possible explanations. One is that his price was too low. On the Money Stuff podcast, Weinstein argued that 65 cents on the dollar was not a particularly conservative price, all things considered. But public BDCs tend to trade at closer to 80% of NAV than 65%, and Blue Owl's own public BDC — Blue Owl Capital Corp., or OBDC — trades at about 76%. [1] If the assets are worth 76 cents on the dollar, you can't get them for 65.

The other possibility is that, structurally, investors in non-traded BDCs really do not want to sell at *any* discount. Last year, Blue Owl itself tried to get OBDC II's shareholders to exchange into shares of OBDC, and the shareholders revolted. If they got OBDC shares, they could have sold them freely at any time, but they would immediately realize a 20%+ discount to NAV. If they keep their OBDC II shares they can continue to assume they're worth 100 cents on the dollar. And then eventually OBDC II will cash them out, over time, at NAV.

The fact that the market-clearing price of private credit funds is about 80 cents on the dollar is *of no interest* to most holders of non-traded BDCs: *They* want 100 cents on the dollar. They were sold an investment that is not supposed to fluctuate with market prices. The advantage and the disadvantage of a non-traded BDC is that it never has to trade at the market-clearing price. If you are in a non-traded BDC and looking to get out, this can be annoying: You can't get all your money out at once. But it can also be nice: Nobody will ever tell you that you can't get all your money out. You have to wait, but you'll get all of it. Market fluctuations are of no concern to you. You are pleasantly insulated from volatility.

Anyway yesterday Saba "announced a significant expansion of its investment activities into both public and private BDCs and interval funds," disclosing stakes in some publicly traded funds and noting that it "is considering providing bids on a number of additional products, including the Cliffwater interval fund and Blue Owl's OCIC – one of the largest private BDCs in the market." It apparently doesn't plan to raise its bids, though; its "strategy targets entry points at discounts of 30-40% or greater to NAV."

Disclosure: Through a financial adviser, I have a little money in Blue Owl Credit Income Corp. I haven't tried to redeem or anything. I'd be a little tempted to sell it to Weinstein just to have something to talk about. But we'll see what he offers.

Elsewhere:

Money managers at Pacific Investment Management Co., Janus Henderson Group Plc and Baird Asset Management say retail clients have been receptive to their simple pitch on the merits of bond funds: solid yields, asset-price transparency and no restrictions on pulling money out.

Right, I mean, that is a different product.

Rivian pay

In November 2021, Rivian Automotive Inc. went public at a stock price of $78 per share, valuing the company at about $67 billion. Rivian's chief executive officer, Robert Scaringe, owned stock and options worth more than $1 billion at the initial public offering price. A few months before the IPO, Rivian's board of directors also gave him a moonshot pay package that would grant him 20.4 million more options if the stock hit certain price targets: He would earn some shares if the stock hit $110, and he'd get all of the shares if the stock hit $295. At that price, those options would be worth some $5.6 billion, but of course at that price he would have created about $188 billion of value for shareholders, so good deal. [2]

Rivian's stock actually got to $172 a week after the IPO, but it fell below the IPO price by January 2022 and never got back; none of those options vested. [3] The stock closed yesterday at $16.72, for a market capitalization of about $20 billion. In fact Rivian has destroyed about $47 billion of shareholder value since the IPO, ah well.

Scaringe, Rivian's founder, remains the chief executive officer, but that 2021 moonshot pay package is way underwater. What should Rivian do about it? On the one hand, they were paying for performance, they didn't get the performance, so they shouldn't pay. On the other hand, he's still the CEO. They still want to encourage him to do good work and pursue ambitious goals, though now an ambitious goal would be getting back to the IPO price. The problem of how to compensate a deep-underwater manager is not easy. Going forward, you want to motivate him by giving him targets he can hit: moonshots, but reasonable moonshots. But if the market expectation is "if you don't hit the targets, we will give you easier targets," then perhaps he will not be sufficiently motivated to hit the targets.

And so Bloomberg's Kara Carlson reports:

Rivian Automotive Inc.'s top executive earned a whopping $402.6 million for 2025 after the electric-vehicle maker approved a moonshot compensation package that could pay out billions of dollars in the coming years.

Chief Executive Officer RJ Scaringe's compensation included $373.5 million in option awards, more than $26.6 million in stock awards and about $1.12 million in salary, according to a regulatory filing Monday.

The total package likely ranks among the biggest annual CEO payouts ever, reflecting ever-greater compensation for leaders seen as essential to their companies. Scaringe founded Rivian in 2009 and took the company public in 2021, growing it from a scrappy startup into an automaker with national scale.

Rivian in November awarded the executive a compensation package worth as much as $4.6 billion over a decade. …

In connection with last year's award, the company's compensation committee canceled a 2021 plan for the CEO, saying it contained goals that were unlikely to be attained, according to a filing.

He didn't really get paid $402.6 million last year; that number is an artifact of pay-package accounting. The new package is described on pages 26 and 27 of Rivian's proxy statement. What happened is that the board tore up the 2021 options grant because of "the lack of incentive provided by the 2021 CEO Performance Award due to the unlikeliness of attainment of the associated performance goals," oops, and gave him a new moonshot grant of 36.5 million options that he will earn if he hits various stock-price, income and cash-flow targets. If he hits all of the targets, those options will be worth about $4.6 billion. The lowest stock-price target is $40, a bit more than half of the IPO price. The highest is $140, a little below where Rivian was trading a week after the IPO. Ah well.

Elsewhere in bots

At Bloomberg Opinion, computational hydrologist Darri Eythorsson writes about the automated prediction-market trading system he built in six days using Claude Code. "I described what I wanted in plain language," he writes. "The AI wrote the code":

Thousands of people, independently building autonomous trading agents in days, all powered by the same small family of AI models, all deploying across the same markets. This is not hypothetical. It is happening now. …

The actors driving correlated AI behavior in financial markets are software engineers, data scientists, Ph.D. students and, well, hydrologists. We have no reporting obligations. No compliance departments. No capital requirements. No circuit breakers. We are invisible to every monitoring framework. ...

The barrier that once separated retail hobbyists from institutional-grade trading infrastructure has collapsed. The dynamics I am describing scale directly — as will the risks on a global scale. …

The aggregate outcome is a system that nobody designed, nobody governs, and that concentrates correlation risk in a way no previous financial technology has achieved.

We talked a few weeks ago about agentic retail investing: A retail brokerage has rolled out pre-built agentic tools to let its customers automate their trading, and I wrote:

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

This sort of combines those two possibilities: If the stereotypical retail behavior is "I will ask a large language model to automate my trading," then increasingly the market will reflect the approaches and methods and biases and blind spots of Claude Code.

Which honestly is a little bit cool? I mean, bad, whatever, correlated and predictable and manipulable. But also, like, everyone who runs the big frontier artificial intelligence labs is going around saying that in a few years they will build a superintelligence. What if one good use of superintelligence is deciding how to allocate capital throughout the economy? What if Claude becomes all-wise and all-knowing? What if we just delegated all economic decisions to Claude; what if it wisely decided what projects to fund and what businesses to pursue? How would that *happen*? How would "we," collectively, delegate all our economic decisions to Claude? Maybe like this? Maybe all the retail investors will delegate their investing decisions to Claude.

This rhymes a little bit with some stuff I have written about index funds: If all the investors delegate their investing decisions to index providers or Larry Fink, then, you know, the index does all the capital allocation. I wrote a decade ago about a famous Inigo Fraser-Jenkins research note calling indexing "Worse Than Marxism." In a flight of fancy, I wrote:

The market is the best algorithm ever developed for allocating capital. So far! But it also creates incentives for someone to build a better algorithm. …

[Maybe], in the long run, financial markets will tend toward perfect knowledge, a sort of central planning — by the Best Capital Allocating Robot — that is better than Marxism because it is perfectly informed and ideally rational. And once you have that, you can shut down the market: The game is over, and the Best Capital Allocating Robot won.

Maybe that's Claude! I mean. I was kidding then, and I'm kidding now. But maybe a little?

World Liberty

Broadly speaking, crypto has become more respectable over the years. In the early days, crypto was for hackers and outlaws and online drug dealers; now it is for banks and retirement funds. Along with the industry, a lot of individual crypto *companies* — or, you know, projects or decentralized ecosystems or whatever — have gone on their own journeys from scruffiness to respectability.

Still some scruffiness. If you run a crypto project that is on a journey from scruffiness to respectability, but you are still at heart an outlaw, there is an interesting business opportunity. I first proposed it back in 2023, in a somewhat different form, but the basic idea is:

1. You start a scruffy crypto project and raise money from scruffy people in scruffy ways. You do not do rigorous know-your-customer checks; you deal only with anonymous crypto wallets, not verified people. You forbid US investors from putting in money, but winkingly encourage them to use a VPN.
2. Time passes and you become respectable and successful.
3. Your investors or customers are like "hey great, the project we funded is respectable and successful, now it is time to cash out our profits."
4. You are like "yes, super, as a respectable and successful company we have all your money, here are our audited financial statements, and our efficient team will give you your money back with your profits."
5. "Of course," you add, "as a respectable company, we will need you to fill out certain standard know-your-customer forms and legal certifications. We wouldn't want to send money to criminals or sanctioned people or otherwise undermine our sterling reputation!"
6. Some of your customers cheerily fill out those forms, and you cheerily give them their money back.
7. Others don't, for reasons, and you keep it.
8. If you executed Step 1 scruffily enough, you keep a lot of money in Step 7.

I more or less stole this idea from a Guy Ritchie movie. Anyway we have talked about Justin Sun, the crypto entrepreneur, and his feud with World Liberty Financial Inc., a Trump family crypto project. Sun put some money into World Liberty in 2024, when (1) he was under investigation by the US Securities and Exchange Commission and (2) World Liberty was, you know, whatever. Now it is 2026, Sun wants to sell his tokens, and World Liberty won't let him. The Wall Street Journal reported last week:

Last September … World Liberty said it would allow 20% of their holdings to be traded. Sun's tokens, however, were blocked from sale. ...

The company told Sun privately that identification information he submitted when he bought the WLFI tokens was inadequate, according to the lawsuit, but World Liberty later refused to provide Sun additional information on the matter.

Here is his complaint, which argues that World Liberty changed the rules after taking his money:

[World Liberty's] August 22, 2025 X.com post stated for the first time that token holders would have to agree to additional terms imposed by World Liberty to have their tokens unlocked. In a statement about "[e]ligibility," the post stated that "[o]nly persons that affirmatively make required certifications and accept and agree to the unlock agreement and terms and conditions will be eligible for unlock."

The agreement referenced in the post was the "WLFI Token Unlock Agreement," which was initially published on World Liberty's website on or about August 25, 2025. Among other things, that agreement revealed for the very first time that World Liberty would have the power to selectively freeze users' tokens. Specifically, the agreement provided in Section 6 that World Liberty may, "in its sole discretion, decline to unlock, restrict access to, or freeze any wallet if it determines that such action is necessary to comply with applicable law, enforce its policies, or protect the integrity of the WLF Protocol."

These conditions were not included in the TPA, the gold paper, marketing materials, or the governance proposal, and the WLFI Token Unlock Agreement was the first time World Liberty publicly purported to have these powers—none of which Plaintiffs agreed to when purchasing their tokens. In other words, World Liberty collected investors' money on the promise of giving them tokens and only afterward announced that investors would need to agree to give World Liberty sweeping blacklisting and freezing powers as a condition to unlocking their tokens.

Yeah, I don't know, doesn't it *sound* reasonable to say "we can restrict your trading if such action is necessary to comply with applicable law or protect our integrity"? And yet.

Boardy

I wrote yesterday:

I will be impressed when a hedge fund uses AI agents to raise money from investors without human involvement. Trading the stocks is the easy part!

Someone sent me "Boardy," which appears to be agentic AI for introducing people in tech to other people in tech? Which is pretty close? Boardy "just closed an $8M seed round ON HIS OWN," tweeted its (his?) creator last year? Sure? I do feel like pod shop investor relations must be harder than raising a seed round for an agentic AI for introductions. I feel like there are venture capitalists who get an email like "hello I am an agentic AI" and just send a check immediately without reading the rest.

Things happen

Polymarket Seeks CFTC Blessing to Bring Main Exchange Back to US. OpenAI Misses Key Revenue, User Targets in High-Stakes Sprint Toward IPO. OpenAI-Linked Stocks Slump on Report It Missed Key Targets. UAE to Leave OPEC in May as Iran War Reshapes Oil Market. Iran Is Flooded With So Much Unsold Oil That It's Stashing It in Derelict Tanks. Wall Street banks boost Treasury holdings to highest level since 2007. Will Bill Ackman's Legion of Social-Media Fans Show Up for His IPO? Paramount Requests FCC Approval for Hefty Middle East Ownership. 'Half-amused, half-ashamed': the employees facing phone bans at work. Meet the Comedian Poised to Oversee Right-Wing Infowars.

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1. That is, a closing price yesterday of $11.19, divided by the most recent reported NAV, as of Dec. 31, of $14.81. (That's a pretty stale NAV but the first-quarter number won't be out until May.)

2. That is: The 2021 pay plan involved "a performance-based option to purchase up to 20,355,946 shares of our Class A common stock" at an exercise price of $21.72, so the value to him at the $295 target price would be 20,355,946 x (295 - 21.72). There were about 868 million shares outstanding at IPO, so the shareholder value creation from the $78 IPO price to the $295 target price would be about 868 million x (295 - 78). I am simplifying a bit, describing only the price-based portion of the options grant.

3. The measurement dates were months or years after the IPO, not days.

Securities

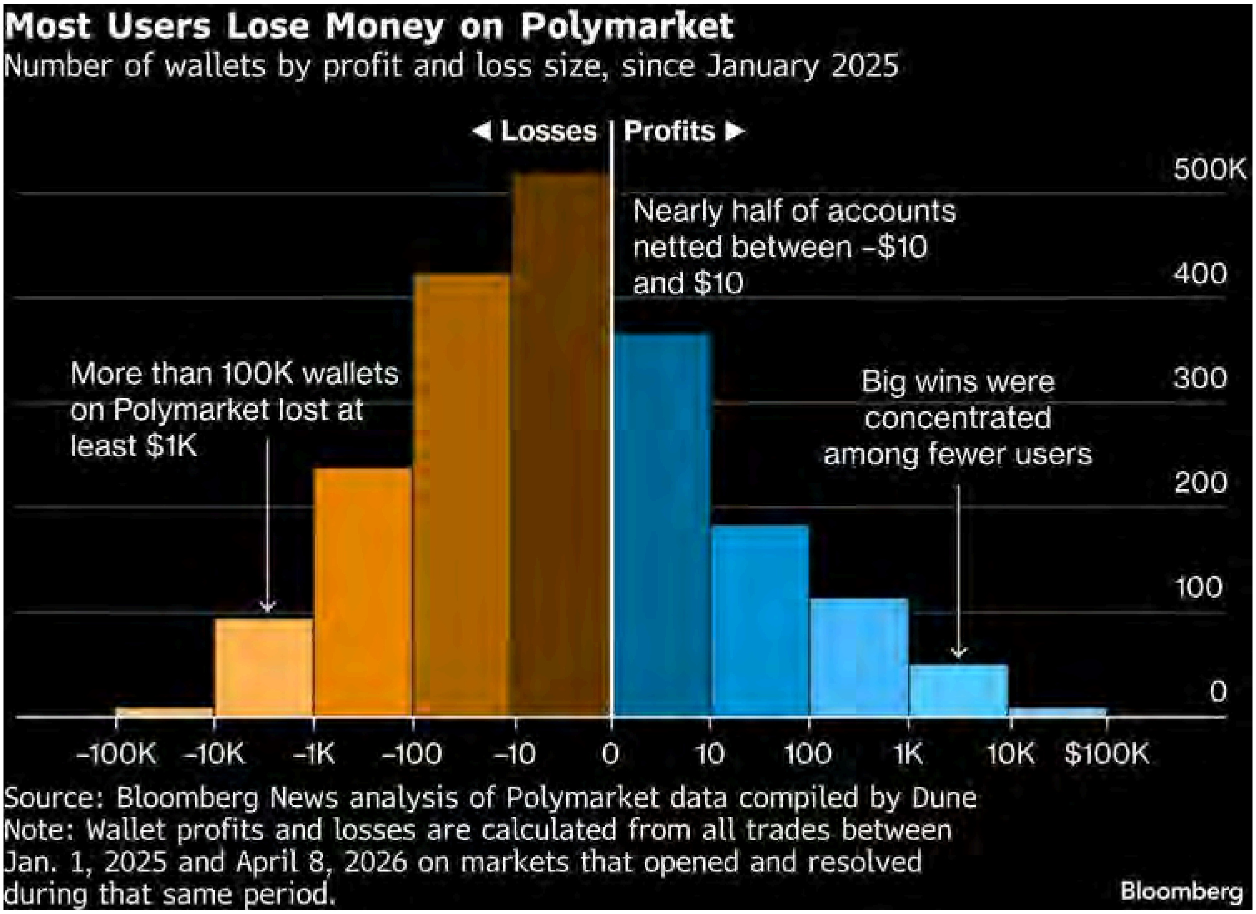
Prediction Market Users Suffer Broad Losses as Bots Reap Gains

April 28, 2026, 3:00 AM PDT

Prediction markets are being touted on social media as a lucrative side hustle for young Americans squeezed by rent and student loan bills. In reality, most traders are losing money, and a significant amount in many cases.

Over 100,000 accounts lost at least $1,000 on Polymarket, one of the largest prediction markets, according to a Bloomberg News analysis of every wallet active since the beginning of 2025. That is almost twice the number that made at least that much.

Among the winners, a majority of the profits were raked in by a tiny slice of what look to be automated bots, based on the Polymarket trade records compiled by the data firm Dune. Everyone else, in aggregate, lost $131 million.



Polymarket's blockchain ledger, which offers a public record of every wallet on the exchange, gives an unusual window into the financial fortunes of the millions of people who have begun trading on prediction markets over the last year as the nascent industry has exploded, opening up betting on everything from the elections to the Super Bowl to regime change in Iran.

Almost half of the two million wallets active since early 2025 made or lost less than $10, indicative of people experimenting with this new form of betting. Even among this group, most ended up in the red.

"If you want to participate and you want to make a living out of this, you better be pretty darn good," said Charles Martineau, a professor at the University of Toronto's business school.

Martineau recently co-authored a paper that found that since 2022 around 69% of traders on Polymarket lost money, while the top 1% captured three-quarters of the profits. Martineau said that his students, who have been obsessed with prediction markets over the last year, were taken aback by his findings.

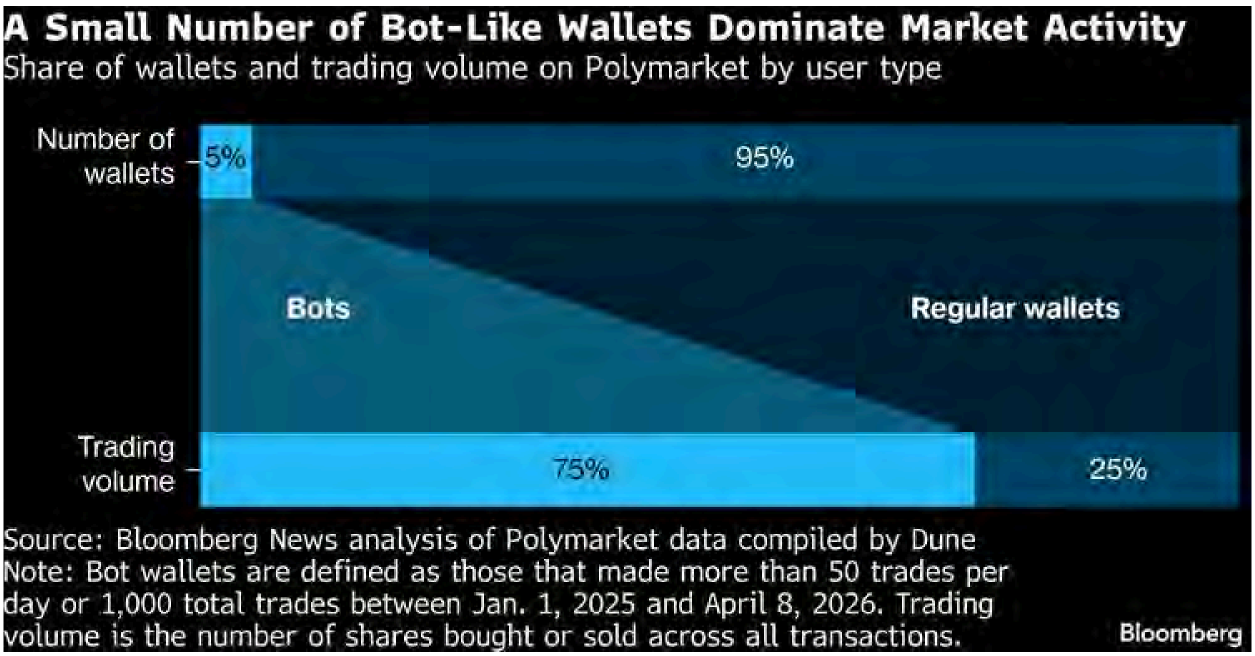
"You'd be surprised how many of them did not anticipate that you would see such concentrated gains — that so few make money," he said.

A spokesperson for Polymarket declined to comment on the recent research findings.

There is no indication that Polymarket customers are doing worse than those on Kalshi or other event betting platforms. Polymarket is just the biggest venue to offer a public blockchain record of all accounts. A report from analysts at Citizens earlier this year suggested that users are losing proportionately more on Kalshi than they do on sports betting apps, though Kalshi rejected that analysis.

One of the main selling points of event betting exchanges is that, unlike on sports gambling apps, there is supposedly no sportsbook or house that makes money when customers lose. The key innovation of prediction markets is that they allow buyers and sellers to meet on an exchange to bid on the odds of an event occurring, rather than relying on a house to set odds.

While prediction markets have been described as peer-to-peer, the Polymarket records suggest the role of the sportsbook is now largely being played by the sort of automated, high-frequency traders that have long dominated other financial markets. The most active accounts on the site were a small proportion of wallets, but accounted for most of the trading volume.



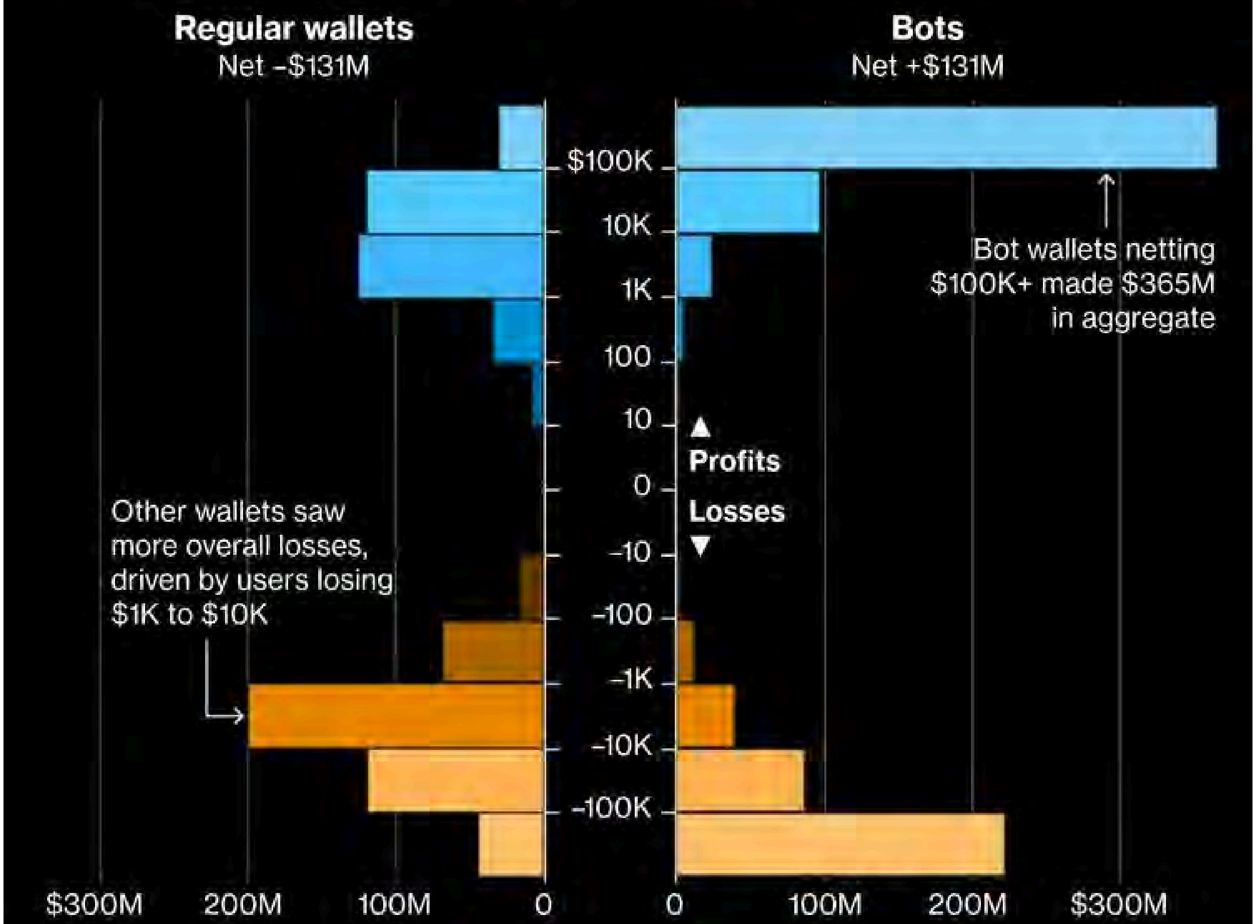
Joshua Della Vedova, a professor at University of San Diego's business school, constructed a method for categorizing traders that labeled any wallet as a bot if it traded an average of at least 50 times on any day it was active or 1,000 times over the course of the data.

Using Della Vedova's definition, Bloomberg's analysis found that since the beginning of 2025 the typical bot averaged 89 trades on each active trading day — compared to 2.2 for non-bots — with trades spread across a greater diversity of markets.

These high-volume accounts collectively turned a profit of $131 million, mostly concentrated among 823 users that netted more than $100,000 each. The less active traders, meanwhile, lost the equivalent amount when all their wins and losses were added up.

Bots Netted $131M at the Expense of Other Polymarket Users

Total amount won or lost, by user type and wallet profit or loss size



Source: Bloomberg News analysis of Polymarket data compiled by Dune
Note: Bot wallets are defined as those that made more than 50 trades per day or 1,000 total trades between Jan. 1, 2025 and April 8, 2026.

Bloomberg

Della Vedova found that the bots did not outperform because they were better at predicting outcomes, but rather because they got into markets earlier and at better prices.

The accounts that Della Vedova identified as retail traders actually picked the right outcome more frequently, but they ended up losing much more money — tens of millions of dollars in aggregate — because they traded late, at bad prices.

“Retail investors, despite being correct, are losing money,” he said. “The execution edge is an underrated aspect of trading.”

Even among the bots, in both Della Vedova’s research and the Bloomberg analysis, a majority lost money. But the gains from the winners were so large that, as a group, they came out on top.

The Polymarket findings echo a long history of research on the underperformance of retail traders in an array of traditional financial markets. But while retail stock traders generally do worse than the overall market, their results are cushioned by the fact that few stocks end up worthless. Not so in prediction markets, where the consequence of a bad bet is losing 100% of your money.

Despite the unparalleled transparency it provides, the Polymarket data still only offers a partial picture of how customers are faring. The blockchain does not provide information on who owns each wallet, so one trader might control multiple wallets pursuing different strategies, potentially taking both sides of the same contract at various points.

Polymarket has also faced allegations that it hosts a high volume of so-called wash trading, coming from customers who are seeking cryptocurrency rewards, rather than a return on their trading. This sort of activity, though, would be unlikely to influence statistics on profits and losses because it would come from people who are trying to rack up lots of trades without taking long-term positions.

The University of Toronto researchers found that the profits in the system flowed mostly to so-called market makers, who offer to trade at a given price rather than just taking the prices that are already available on the exchange. The market makers did particularly well on sports wagers, with the winnings on certain categories, like weather, distributed more evenly, they found.

Pat Akey, one of the co-authors of the study, said that profitable traders generally have a clearly defined trading strategy and money to leave sitting on the exchange — not the sort of thing you'd expect from an inexperienced bettor looking to cover their monthly bills.

“I don't think prediction markets are bad — they can serve a role,” said Akey, a professor at ESSEC Business School. “I just don't think they can be viewed as a good way to supplement your rent.”

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Securities

Leech Gets Wamco Trader 'Parlor Game' Excluded From Fraud Trial

April 27, 2026, 2:19 PM PDT

Former Western Asset Management Co. Co-Chief Investment Officer Ken Leech succeeded in getting testimony about an alleged "parlor game" among his fellow traders excluded from his upcoming fraud trial.

Leech is scheduled to face a jury in June over charges that he assigned $600 million in winning trades between 2021 and 2023 to favored clients while sticking others with losses. Federal prosecutors had hoped to introduce evidence that other Wamco traders engaged in a game more than a decade earlier in which they allegedly tried to "reconstruct" Leech's allocations.

But US District Judge Gregory Woods on Monday agreed with Leech's lawyers that the alleged game was irrelevant to the charges and could confuse the jury. "Office gossip is not evidence of malfeasance," Woods said.

It's not clear how much the exclusion of that evidence will help Leech's case. He's pleaded not guilty to five criminal charges, including investment adviser fraud and securities fraud. Each of those counts carries a maximum sentence of 20 years in prison.

Wamco, which is owned by Franklin Resources Inc., has said it's cooperating with investigators. The company hasn't been accused of wrongdoing.

'Winners' and 'Losers'

Leech allegedly placed his daily bets, then let hours lapse before assigning them to client portfolios. Prosecutors say Leech favored those clients who generated higher fees for Wamco and was motivated partly by a career slump that had seen assets at the marquee fund he ran fall to under $3 billion.

Leech has claimed that he acted in good faith, believing that his allocations benefited all of the portfolios he managed. The defense tried to block the characterization of trades as "winners" or "losers," claiming the terms were inaccurate would mislead the jury. The judge denied that request on Monday.

Woods also ruled that prosecutors can't introduce evidence of Leech's reallocation of an unrelated 2011 trade or of personal investments he made in 2011. The government argued that those actions and the "parlor game" evidence would show Leech intended to favor certain accounts and rebut any claim he was acting in good faith.

The trial, set to begin June 15, may take six weeks, Woods said.

The judge on Monday addressed claims by Leech's team that the government had mishandled evidence protected by legal privileges. Woods, who held a hearing on the matter over several days this month, said he hasn't yet decided, but told the parties not to expect him to dismiss the charges against Leech when he does issue a ruling.

Read More: Ken Leech Concerns Were First Raised by Junior Wamco Analyst

In October 2023, Wamco began reviewing about 17,000 trades conducted by Leech between 2021 and 2023 after a company insider flagged abnormalities in the allocations, Bloomberg previously reported. Investors pulled tens of billions of dollars from Wamco funds after the firm disclosed in 2024 that the Justice Department and Securities and Exchange Commission were also probing Leech's actions.

The case is: US v. Leech, 24-cr-00658, US District Court, Southern District of New York (Manhattan).

--With assistance from Chris Dolmetsch.

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Rick Green

California Brief

Media Sector, Ballooning Stock Drive Double-Digit CEO Pay Bumps

April 27, 2026, 1:39 PM PDT

The S&P 500's top company officers saw their pay grow more last year than it had in 2024 , with media and entertainment chief executives getting the biggest bump, a study released Monday found.

Median CEO compensation increased 10.6% in 2025, an uptick from the 7.5% increase seen in 2024, according to a study from ISS-Corporate, a data and analytics provider for corporations. The study examined 318 companies with shareholder meetings on or after Jan. 1, and where the CEO had been in their role for the current and previous filings years.

Stock awards and options drove the pay package growth. Though shareholders approved 99% of executive compensation proposals last year, current circumstances could drive more skepticism.

"In a more uncertain macro environment marked by tariff risk, geopolitical tensions, and softer growth outlooks, investors are likely to scrutinize whether elevated pay outcomes remain well-aligned with long-term performance," Roy Saliba, managing director at ISS-Corporate, said in a press release.

Median CEO pay across sectors stood at $17.7 million for 2025 and base salaries grew less than stock awards and stock options, according to ISS-Corporate. Twenty-seven CEOs saw their pay grow by more than $10 million in 2025—and 21 saw it double.

Media and entertainment companies drove the change most significantly, with the median CEO pay package more than doubling.

Some pay bumps were more dramatic. Sports and entertainment company TKO Group Holdings Inc., for instance, more than tripled its CEO's compensation to $67.4 million last year.

Others were more modest. Comcast Corp.'s top officer brought in $35.1 million last year, just shy of a 4% bump from 2024, and Walt Disney Co.'s chief executive garnered an 11% raise. CEOs at media giants like Netflix Inc. and Live Nation Entertainment Inc., meanwhile, saw their pay fall year-over-year, according to proxy statements.

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Judge Flags Lead Plaintiff Issues In McDermott Merger Suit

By **José Luis Martínez**

Law360 (April 27, 2026, 10:52 PM EDT) -- A Texas federal judge Monday questioned whether a shareholder group is too large and whether a late-buying individual investor could represent a subclass of investors in a suit accusing energy industry engineering giant McDermott International Inc. of misleading investors during its $6 billion merger with Chicago Bridge & Iron Co. NV in 2018.

In an hourlong virtual hearing, U.S. Magistrate Judge Andrew Edison shared his concerns regarding the 17-member size of a group of shareholders and class representative eligibility of an individual investor in determining the lead plaintiff for investors who directly purchased McDermott stock. The initial proposed class was **split** into two subclasses in 2024 after Judge Edison said that lead plaintiff for investors whose CB&I shares converted into McDermott stock via the merger has a fundamental conflict with class members who directly purchased the company's stock.

Among the contestants for lead plaintiff of the purchasers subclass are the City of Pontiac Reestablished General Employees' Retirement System claiming a $419,000 loss, the 17-member Coligado Shareholder Group claiming a combined $1.8 million loss, and individual investor Majid Alghaslan claiming a $1.7 million loss.

Judge Edison first took issue with the Coligado group's 17-member size, saying that under the current legal landscape a group must be "small and cohesive." The group's counsel, Malcolm Brown of Wolf Haldenstein Adler Freeman & Hertz LLP, told the jurist that unless there is a specific concern tied to the statutory language of securities law or cases interpreting it, size shouldn't be an issue.

The judge also pointed out that the investors' only relation to each other is shared investment losses, to which Brown responded that the group formed itself as early as McDermott's bankruptcy proceedings beginning in 2020 and that there is nothing to indicate it was a lawyer-driven decision.

Counsel for another proposed lead plaintiff, one of the city of Pontiac's pension funds, chimed in to push back on the group's size.

"I think you'd only have to think about the field day that [McDermott counsel David D. Sterling of Baker Botts LLP] and his colleagues would have with that group to realize that it's too big. Seventeen sets of document requests and interrogatories. Seventeen depositions. Seventeen sets of discovery fights," Christopher Wood of Robbins Geller Rudman & Dowd LLP told the judge.

Later in the hearing, Judge Edison asked the attorneys on potentially appointing as lead plaintiff only one of the seventeen members, Christopher Coligado, since his roughly $586,000 loss is larger than Pontiac's pension fund's $419,000 loss.

Coligado's counsel told the judge that he wouldn't give a definite posture without speaking to his client. Pontiac's counsel said that it's not the court's role to change a group that's making moves collectively.

The judge also cited concerns with appointing individual investor Alghaslan because he bought shares after Nov. 5, 2019, the date he previously recommended as the cutoff because it marked the last corrective disclosure.

"What am I supposed to do? Should I turn a blind eye to this potential problem?" Judge Edison asked.

Alghaslan's counsel, Ivy Ngo of Freedman Normand Friedland LLP, said that case law requires the court to consider the full class period extending past the cutoff date and that Alghaslan would likely seek to add a separate class representative depending on the merits of the case.

Counsel for the Nova Scotia Health Employees' Pension Plan, Matthew Tuccillo of Pomerantz LLP, which is lead plaintiff for the other subclass of investors whose CB&I shares converted to McDermott shares via the merger, told the judge that class would be better served by having a lead plaintiff who can also be a class representative.

The judge said his initial reaction was to agree with him on that issue.

Amy Pharr Hefley of Baker Botts LLP, representing McDermott, stepped in at one point to cite concerns with Pontiac's retirement fund, highlighting its shifting role in the case and warning of potential conflicts "derailing things down the road." Pontiac's counsel told the judge that McDermott's concern about them is a "ringing endorsement" for the capability of their group to be lead plaintiff.

The City of Pontiac's pension fund is represented by Christopher M. Wood and Joseph J. Tull of Robbins Geller Rudman & Dowd LLP.

Alghaslan is represented by Ivy T. Ngo and Velvel Devin Freedman of Freedman Normand Friedland LLP and Brian J. Schall of The Schall Law Firm.

The Coligado Shareholder Group is represented by Malcolm T. Brown and Thomas H. Burt of Wolf Haldenstein Adler Freeman & Hertz LLP and Michael K. Oldham and Jean C. Frizzell of Reynolds Frizzell LLP.

The Nova Scotia Health Employees' Pension Plan is represented by Matthew L. Tuccillo, Jeremy A. Lieberman and Zachary Denver of Pomerantz LLP.

McDermott International is represented by David D. Sterling, Amy Pharr Hefley, J. Mark Little, Anthony J. Lucisano and Frank Mace of Baker Botts LLP.

The case is Edwards et al. v. McDermott International Inc. et al., case number 4:18-cv-04330, in the U.S. District Court for the Southern District of Texas.

--Editing by Jay Jackson Jr.

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BREAKING: Jury Clears Armistice Capital, Execs Of Securities Fraud

By **Bonnie Eslinger**

Law360 (April 28, 2026, 1:42 PM EDT) -- A California federal jury on Tuesday cleared Armistice Capital and two of its executives on class action claims it pumped-and-dumped $250 million in Vaxart stock during the COVID-19 pandemic and violated federal securities law with insider trading.

The jury deliberated for less than four hours over two days before reaching their verdict in the class action brought by Vaxart Inc. investors alleging improper insider trading and stock manipulation in shares of the vaccine biotech company, which began efforts to develop a COVID-19 vaccine in 2020.

The investors claimed hedge fund Armistice Capital LLC, Armistice Capital Master Fund Ltd, Armistice founder Steven Boyd and managing director Keith Maher manipulated the market through false and misleading Vaxart press releases so they could sell Armistice's shares of the company at artificially inflated prices. The plaintiffs also claimed Boyd and Armistice had material nonpublic information about Vaxart when they sold their shares.

The defendants denied the allegations and the case went to **trial** on April 14.

A lawyer for the investors, Steve Berman of Hagens Berman Sobol Shapiro LLP told Law360 on Tuesday that they respect the jury but "we're obviously disappointed" in the verdict.

Counsel for the Armistice defendants did not immediately provide a comment on the verdict.

During **closing arguments** on Monday, a lawyer for the investors, Jimmy McBirney of Scott + Scott Attorneys at Law LLP, told jurors the case, "is about greed, plain and simple" and "the defendants' scheme to exploit the global pandemic to the tune of a quarter of a billion dollars."

Counsel for the Armistice defendants, Charles Connolly of Akin Gump Strauss Hauer & Feld LLP, countered that his clients didn't have any involvement in the Vaxart press releases, which, in any event, were true and accurate. Connolly underscored that Vaxart's founder and chief scientific officer, Sean Tucker, had testified to the accuracy of the two press releases at issue.

Armistice owned 65.2% of Vaxart shares by October 2019, purchased at prices between 33 cents and 37 cents a share, according to trial evidence.

After Vaxart announced on June 25, 2020 that it had entered into a "memorandum of understanding" with biomedical manufacturer Attwill Medical Solutions, "enabling production of a billion or more tablet COVID-19 vaccine doses per year," Vaxart common stock closed at $6.26 that day, a 96% gain against the prior day's closing price, according to the investors.

The next day, Vaxart announced the company's COVID-19 vaccine had been selected for the federal government's Operation Warp Speed program which aimed to provide "substantial quantities of safe, effective vaccine for Americans by January 2021." Vaxart's stock price that day climbed to an intraday high of $14.30 and closed at $8.04. On June 26 and June 29, 2020, Armistice sold almost all of its shares, according to evidence presented at trial.

The Vaxart announcement was misleading because the company was not a finalist for federal funding, but had been asked to test its COVID-19 vaccine candidate on nonhuman primates, McBirney said Monday.

Investors thought Vaxart was receiving "a huge infusion of government cash to develop a vaccine," like pharma giants Pfizer Inc., AstraZeneca plc, Johnson & Johnson and Moderna Inc., McBirney said.

"They didn't understand it as a monkey study," he added.

Enabling the scheme, the lawyer for the investors said, was Vaxart's board and its CEO, Andrei Floroiu, who previously worked at Armistice. The majority of board members include Boyd and people Armistice recommended, McBirney underscored.

Armistice counsel Connolly said Monday the investors were trying to prove their case by cherry-picking headlines and words in the press releases and that a "reasonable investor does not just read the headlines."

The press releases were accurate and true and there's no evidence that Armistice, Boyd or Maher knew anything about the information in the press releases until after they were issued, Connolly said.

Further, if the jurors still think the press releases are misleading, that's Vaxart's fault, not the Armistice defendants, the lawyer said.

The original complaint also named Vaxart and its current and former executives as defendants, but they settled in 2022 for $12 million.

On Monday, Judge Chhabria only told jurors that Vaxart and its officers and directors are not parties to the case.

"This fact should have no bearing or influence on your verdict," the judge said.

The investors are represented by Steve W. Berman, Reed R. Kathrein, Lucas E. Gilmore and Raffi Melanson of Hagens Berman Sobol Shapiro LLP, and William C. Fredericks, John T. Jasnoch, Jimmy S. McBirney, Jessica M. Casey, Mandeep S. Minhas and Jeffrey P. Jacobson of Scott + Scott Attorneys at Law LLP.

The Armistice defendants are represented by Joshua A. Rubin, Lillian J. Rand, Charles F. Connolly, Stacey H. Mitchell, Kaitlin D. Shapiro and David M. Giller of Akin Gump Strauss Hauer & Feld LLP.

The case is In re: Vaxart Inc. Securities Litigation, case number 3:20-cv-05949, in the U.S. District Court for the Northern District of California.

--Additional reporting by Katryna Perera, Lauren Berg and Dorothy Atkins.

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Did Hedge Fund 'Greed' Hurt Vaxart Investors? Jury To Decide

By **Bonnie Eslinger**

Law360 (April 27, 2026, 10:59 PM EDT) -- Armistice Capital and two of its executives used misleading press releases to pump and dump $250 million in Vaxart stock during the pandemic through misleading press releases in an act of pandemic-era "greed," investors' counsel told a California federal jury during closing arguments Monday, while the hedge fund defendants' lawyer countered Vaxart's announcements were "true and accurate."

The closing arguments capped an eight-day trial that **began April 14** for a class action brought by Vaxart Inc. investors alleging improper insider trading and stock manipulation in shares of the vaccine biotech company, which began efforts to develop a COVID-19 vaccine in 2020.

The investors claimed hedge fund Armistice Capital LLC, Armistice Capital Master Fund Ltd, Armistice founder Steven Boyd and managing director Keith Maher manipulated the market through false and misleading Vaxart press releases so they could sell Armistice's shares of the company at artificially inflated prices.

The plaintiffs also claimed Boyd and Armistice had material nonpublic information about Vaxart when they sold their shares. The defendants have denied the allegations.

"This case is about greed, plain and simple," a lawyer for the investors, Jimmy McBirney of Scott + Scott Attorneys at Law LLP, told jurors at the start of his closing arguments Monday. "And about the defendants' scheme to exploit the global pandemic to the tune of a quarter of a billion dollars."

The fraud came at the expense of everyday investors like the plaintiffs, McBirney said.

They "had no way of knowing about the deceptive PR campaign designed to launch a small pharmaceutical company's stock up like a rocket and allow defendants to dump all their shares based on inside information," McBirney said.

Counsel for the Armistice defendants, Charles Connolly of Akin Gump Strauss Hauer & Feld LLP, countered that his clients didn't have any involvement in the Vaxart press releases, which, in any event, were true and accurate.

Connolly underscored that Vaxart's founder and chief scientific officer, Sean Tucker, had testified to the accuracy of the two press releases at issue.

"We urge you to review the press releases. We urge you to focus on what Sean Tucker believed and testified to," Connolly said. "We urge you to end this case against Steve Boyd, Keith Maher and Armistice."

Armistice owned 65.2% of Vaxart shares by October 2019, purchased at prices between 33 cents and 37 cents a share, according to trial evidence.

After Vaxart announced on June 25, 2020, it had entered into a "memorandum of understanding" with biomedical manufacturer Attwill Medical Solutions, "enabling production of a billion or more tablet COVID-19 vaccine doses per year," Vaxart common stock closed at $6.26 that day, a 96% gain against the prior day's closing price, according to the investors.

The next day, Vaxart announced the company's COVID-19 vaccine had been selected for the federal government's "Operation Warp Speed," a program "aiming to provide substantial quantities of safe, effective vaccine for Americans by January 2021." Vaxart's stock price that day climbed to an intraday high of $14.30 and closed at $8.04. On June 26 and June 29, 2020, Armistice sold almost all of its shares, according to evidence presented at trial.

Vaxart was not a finalist for federal funding, but had been asked to test its COVID-19 vaccine candidate on nonhuman primates, McBirney said Monday. He reminded jurors the U.S. Department of Health and Human Services had posted a tweet on July 25, 2020, clarifying Vaxart had not been selected for a funding agreement as the HHS had with other vaccine manufacturers as part of Operation Warp Speed.

McBirney later reminded the jury Monday that U.S. District Judge Vince Chhabria had given them an instruction that a statement may be misleading, "even if literally true, if the context in which the statement was made would have caused a reasonable investor to remain unaware of the actual state of affairs."

Investors thought Vaxart was receiving "a huge infusion of government cash to develop a vaccine," like pharma giants Pfizer Inc., AstraZeneca plc, Johnson & Johnson and Moderna Inc., McBirney said.

"They didn't understand it as a monkey study," he added.

The Attwill press release, McBirney said, uses the fuzzy language of "enabling production" of a billion or more COVID-19 doses.

"Does it mean enabling production maybe at some time, months or years in the future, if a lot of different things go right?" McBirney asked rhetorically.

Enabling the scheme, the lawyer for the investors said, was Vaxart's board and its CEO, Andrei Floroiu, who previously worked at Armistice. The majority of board members include Boyd and people Armistice recommended, McBirney underscored.

"This scheme kicks off with Floroiu installed as CEO" in April 2020, McBirney told jurors, pointing to a message where Boyd tells Floroiu in mid-June to "Focus on the PR plan," and Floroiu replies, "We're launching a rocket! Buckle Up!"

Months later, on June 25, 2020, after Floroiu told Boyd that Vaxart had decided against issuing a press release about the Operation Warp Speed-sponsored monkey study, Boyd pushed back and said Armistice might make the announcement, according to emails shown to jurors. The press release went out the next morning before the market opened.

"Mr. Boyd insisted, and Mr. Floroiu felt the pressure and released the press release," McBirney told the jury.

Connolly said Monday the investors were trying to prove their case by cherry-picking headlines and words in the press releases.

"A reasonable investor does not just read the headlines," Connolly added.

The investors are also trying to suggest the press releases mean something they don't actually convey, the lawyer for the defendants said.

The press releases were accurate and true, Connolly said.

The Attwill release is clear that the agreement "was not a promise of a billion doses tomorrow, but an announcement of future potential plans," Connolly said. And the June 26, 2020, press release "makes clear that the program Vaxart was selected for was an OWS-funded nonhuman, primate study."

There's no evidence that Armistice, Boyd or Maher knew anything about the information in the press releases until after they were issued, Connolly said.

In order to find the Armistice defendants liable, the jurors have to find "that they knew, or must have known, the press releases were misleading, and they sold their Vaxart stock anyway," Connolly said.

The lawyer for the defendants reminded jurors that during trial, they were provided testimony from Ashish Jha, who was the White House COVID-19 response coordinator. Jha had explained that in June 2020, "no one knew which [vaccine] candidates, if any, would be successful," Connolly said.

Jha also had highlighted a May 15, 2020, press release that said 14 promising candidates had been chosen from 100-plus vaccines currently in development and that Vaxart was on that list, Connolly said.

Connolly told the jurors the monkey study Vaxart signed up to conduct under Operation Warp Speed had not been a dead end.

"The monkeys were dosed, and there was testimony the clinical trials started [and] …Attwill did start making tablets," Connolly said. "These things all happened."

Even if jurors think the press releases could have been worded differently, they still "adequately informed investors of the actual state of affairs," Connolly said. Further, if the jurors still think the press releases are misleading, that's Vaxart's fault, not the Armistice defendants, the lawyer said.

Near the end of his closing arguments, Connolly told jurors that Tucker started Vaxart in his garage 20 years ago.

"He was not going to risk his legacy by issuing false and misleading press releases so Armistice could sell their stock," the lawyer for the Armistice defendants said.

Boyd took the stand for two days, starting April 20. He told jurors he **accidentally deleted** text messages with Maher that the investors **said are key** to the case.

During his Monday instructions, Judge Chhabria told jurors they could consider the evidence of the deleted text messages, and they could infer that Boyd's deleted text messages "would have been favorable to the plaintiffs."

Connolly told the jury Boyd had come clean as soon as he realized he had deleted a text thread between him and Mayer. But Connolly called the issue a "side show" to distract from the press released that Vaxart "drafted, edited and approved."

The original complaint also named Vaxart and its current and former executives as defendants, but they settled in 2022 for $12 million.

On Monday, Judge Chhabria only told jurors that Vaxart and its officers and directors are not parties to the case.

"This fact should have no bearing or influence on your verdict," the judge said.

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The case is In re: Vaxart Inc. Securities Litigation, case number 3:20-cv-05949, in the U.S. District Court for the Northern District of California.

--Additional reporting by Katryna Perera, Lauren Berg and Dorothy Atkins. Editing by Lakshna Mehta.

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Battery Co. Hit With Investor Action Over 'Phantom Deals'

By **Katryna Perera**

Law360 (April 27, 2026, 9:00 PM EDT) -- Investors in a company that develops artificial intelligence-enhanced rechargeable batteries filed suit on Monday, claiming the company made misleading statements about its partnerships with other companies and its growth prospects, seeking damages for falling stock prices after the truth came to light.

Plaintiff Ramesh Patel filed a **complaint** in Massachusetts federal court against SES AI Corporation and its CEO, Qichao Hu, on behalf of a proposed class of individuals and entities that purchased or acquired publicly traded SES AI stock between Jan. 29, 2025, and March 4, 2026.

According to the complaint, SES AI describes itself as a developer and manufacturer of AI-enhanced lithium rechargeable battery technologies and materials that are used for drones, robotics, energy storage systems and electric cars, among other things.

Patel alleges that throughout the proposed class period, the defendants made several misleading statements about SES AI's business prospects and overstated the expected results of partnerships or deals it had entered into with other companies. Patel claims that many of the partnership companies had limited or no operations.

Patel further alleges that SES AI misled investors about the level of revenue it was generating and failed to disclose that the company's growth was being affected by "material logistics constraints."

The complaint states that the truth began to emerge in December 2025 when Wolfpack Research issued a report alleging that SES AI had been announcing "phantom deals" with companies that seemed to have no operations, and promoting an AI product that "looks to us like a Chat GPT wrapper to distract from its impending loss of two major customers, Honda and Hyundai, at the end of 2025."

The report further stated that to make up for the loss of Honda and Hyundai, SES AI had purchased UZ Energy, a Chinese energy storage system provider, "whose US-based related entity used a registered agent who settled a bankruptcy-related case brought against him for allegedly participating in a $1 billion Ponzi scheme."

A few months later, in March 2026, SES AI held an earnings call and disclosed that its full year revenue for 2025 was impacted by logistics constraints. Additionally, a press release that same day stated that SES AI's revenue projections for 2026 were below market expectations, and it "confirmed the allegations of the [Wolfpack] report to the extent that it alleged that SES AI was materially overstating its growth prospects."

On this news, the complaint states that SES AI's stock price fell $0.63 per share, or 36.8%, to close at $1.08 on March 5, 2026.

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

Patel is represented by Joshua Baker, Phillip Kim and Laurence M. Rosen of The Rosen Law Firm PA.

Counsel information for the defendants was not immediately available.

The case is Patel v. SES AI Corporation et al., case number 1:26-cv-11894, in the U.S. District Court for the District of Massachusetts.

--Editing by Vaqas Asghar.

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Bioscience Co. Allegedly Hid Volatility Risks From Investors

By **Emilie Ruscoe**

Law360 (April 27, 2026, 4:27 PM EDT) -- A company purportedly focused on using traditional Chinese medicine to treat conditions including autism spectrum disorder faces a proposed investor class action alleging it downplayed the risk it would be probed in connection with unusual volatility affecting the market for its shares.

Investor Joseph Matassa took aim at Regencell Bioscience Holdings Ltd. and two of its executives in a complaint filed in Maryland federal court on Friday. Matassa alleged that they failed to warn investors that the company might land in the crosshairs of regulators and enforcement agencies because of what the company itself has described as "extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of our company."

"At all relevant times, defendants downplayed the likelihood and severity of, and/or risks related to, volatility in the market for Regencell's ordinary shares, or else downplayed the potential role of market manipulation in generating said volatility," the suit said.

The lawsuit alleges those risks materialized on Nov. 3, when trading prices for Regencell fell more than $3, or nearly 19%, from $16.65 to $13.56, after the company disclosed that the U.S. Department of Justice was investigating trading of the company's shares.

Regencell describes itself as an early-stage bioscience company that aims to develop and commercialize traditional Chinese medicine, or TCM, treatments for "the fundamental cause" of conditions including autism spectrum disorder and attention-deficit/hyperactivity disorder.

More specifically, Regencell's website states its product candidates are based on "TCM Formulae" developed by a practitioner named Sik-Kee Au, who invented something called Sik-Kee Au TCM Brain Theory. The company's public filings with the U.S. Securities and Exchange Commission identify Sik-Kee Au as the father of Regencell founder and CEO Yat-Gai Au, who is a co-defendant in the action along with the company's financial controller Michelle Chan.

The lawsuit says that during its proposed class period of Oct. 28, 2024, to Oct. 31, 2025, the company saw a "meteoric" rise in trading prices for its shares with "no evident connection to any public disclosures regarding its underlying business fundamentals."

Last May, the investor claimed that risky volatility manifested when trading prices for the company's shares "skyrocketed" by an approximate 900% during that month alone.

The company saw trading prices fly up again in June, when the company announced it aimed to enhance its liquidity with a 38-for-one forward stock split, the suit states.

In the weeks following the stock split announcement, Regencell trading prices peaked at about 48,650% of the company's trading price at the beginning of the putative class period before slumping significantly, the investor claimed.

Throughout the proposed class period, the investor alleged, those peaks and valleys didn't appear to reflect information about the company that was publicly available to the markets.

For example, the complaint states, Regencell has "only twelve employees, no approved or salable products, no revenue, and has incurred operating losses since its formation," and its stated research and development costs for two recent fiscal years fell far short of the company's own approximation of how much it might typically cost to bring a new medicine to market.

The company also references recent public filings showing that nearly 89% of Regencell shares are controlled by insiders, "with the vast majority of those shares still presumably in the hands of Defendant Au."

Trading price volatility like Regencell's is sometimes described as a characteristic of a social fueled so-called meme stock, and certain media reports, including a January story in the Wall Street Journal, have described Regencell as a meme stock.

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

Matassa is represented by Daniel S. Sommers and S. Douglas Bunch of Cohen Milstein Sellers & Toll PLLC and Jeremy A. Lieberman and J. Alexander Hood II of Pomerantz LLP.

Counsel information for the defendants wasn't immediately available.

The case is Matassa v. Regencell Bioscience Holdings Ltd. et al., case number 1:26-cv-01602, in the U.S. District Court for the District of Maryland.

--Editing by Nicole Bleier.

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Exxon Investors Seek Class Cert. On Permian Basin Claims

By **Katryna Perera**

Law360 (April 27, 2026, 5:49 PM EDT) -- Exxon investors accusing the oil and gas company of overvaluing its Permian Basin holdings by billions of dollars have asked a Texas federal judge to grant them class certification, arguing that doing so "will provide a critical step to ensuring the ability of investors to recover their losses."

The investors filed a renewed **motion** for class certification on Friday in Texas federal court, and shortly afterward, Exxon and the suit's individual defendants filed objections to the request.

The investors argue that certification should be granted because the class action presents "strong claims" that Exxon and the individual defendants misled them "into believing that Exxon would be able to extract, develop and market more natural resources from its assets located in the southwestern United States than was possible based on data available to Exxon."

The proposed class would include all investors who purchased Exxon common stock between March 5, 2019, and Jan. 15, 2021, and according to Friday's motion, the class meets all the requirements for certification.

The class is numerous, with thousands of proposed class members; there are common questions of law and fact that predominate over individual issues; the suit's claims are typical; and a classwide damages methodology is available, the motion said.

Additionally, the proposed class representatives — Amalgamated Bank and Rhode Island's Office of the General Treasurer, on behalf of the Employees' Retirement Systems of Rhode Island — and proposed class counsel from Grant & Eisenhofer PA and Bernstein Litowitz Berger & Grossmann LLP are adequate, the motion states.

"Lead plaintiffs' selected counsel are qualified and experienced [and] capable of vigorously prosecuting this action," the motion said. "Both G&E and BLB&G have extensive experience litigating complex securities fraud class actions on behalf of injured investors."

In their filed **objections**, the defendants challenged the adequacy of the lead plaintiffs, arguing that Rhode Island has not proved it suffered any damages, as it sold almost twice as many shares as it purchased during the class period and netted a profit of nearly $670,000.

Additionally, the defendants claim that Amalgamated Bank is an "anti-fossil fuel activist shareholder that manages funds that hold ExxonMobil stock and directs transactions in ExxonMobil stock not for its value but to promote a 'transition away from fossil fuels.'"

"Amalgamated's anti-fossil fuel activism makes it atypical of, and subject to different defenses than, members of the proposed class, who are alleged to have purchased ExxonMobil stock on the promise that it would increase its production of fossil fuels," the response states.

The defendants also argued that class certification should not be granted because the plaintiffs have not "linked" the alleged scheme to investors.

"In short, no class can be certified in this case because the extensive discovery plaintiffs insisted upon has debunked the 'scheme' on which their claim is premised. Nor can plaintiffs link their pleaded scheme to any misstatement," the defendants said.

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

Exxon investor Mendi Yoshikawa initially **sued the oil giant** in 2021, saying the overvaluation of its Permian Basin holdings caused Exxon's stock price to drop after reports circulated that federal securities regulators were looking into the valuation.

The suit claims Exxon misled investors about the value of one of its most promising oil and gas assets — its properties located in the Permian Basin in northwest Texas, which is the company's top-producing domestic oil reserve.

After The Wall Street Journal reported that the U.S. Securities and Exchange Commission launched an investigation into a whistleblower's claim that workers were coerced into overestimating the speed at which wells could be drilled in the area to make the properties seem more valuable, Exxon's share prices fell by close to 5%, the investors said.

The investors allege that Exxon's actions leading up to the price drop **violated federal securities laws** and injured potentially thousands of investors.

The plaintiffs are represented by Caitlin M. Moyna and Lauren J. Salamon of Grant & Eisenhofer PA, John Rizio-Hamilton, Rebecca E. Boon, John Esmay, Michael M. Mathai, Thomas Z. Sperber and Stephen Boscolo of Bernstein Litowitz Berger & Grossmann LLP, and Lewis T. LeClair of McKool Smith.

Exxon and the individual defendants are represented by Noelle M. Reed, Wallis M. Hampton and Michelle L. Davis of Skadden Arps Slate Meagher & Flom LLP.

The case is Yoshikawa v. Exxon Mobil Corporation et al., case number 3:21-cv-00194, in the U.S. District Court for the Northern District of Texas.

--Editing by Melissa Treolo.

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Altria, Juul Can Appeal Class Cert. Decision In Antitrust Suit

By **Craig Clough**

Law360 (April 27, 2026, 8:49 PM EDT) -- The Ninth Circuit on Monday granted Altria and Juul's request to appeal a ruling certifying several classes of e-cigarette buyers in an antitrust case alleging the companies schemed to have Altria exit the e-cigarette market.

The **two-page order** does not explain the Ninth Circuit's reasoning in granting the interlocutory appeal, only that it was granted.

The order comes after the defendants — the companies and two members of Juul's board — argued to the Ninth Circuit that U.S. District Judge William H. Orrick III of the Northern District of California made two errors in **certifying classes** of **direct and indirect purchasers** of Juul's product, including he applied California's Cartwright Act to multistate classes.

"The court's decision to apply the Cartwright Act to multi-state classes deepened intra-circuit divisions on two interrelated questions this court has never resolved: (1) whether courts can apply the act extraterritorially to out-of-state purchases, and (2) whether California's purported interest in applying its law outside its borders trumps other states' interests in regulating commercial transactions within their own borders under their own laws," the defendants argued in a petition to the circuit filed March 12.

"The answer to both these questions should be 'no,' and allowing the court's contrary ruling to stand would turn California law into the de facto rule for indirect purchaser antitrust suits across the country, regardless of the policy judgments of other states," the defendants continued.

The antitrust litigation centers on Altria's 2018 investment in Juul — a **$12.8 billion deal** for a 35% stake — which the buyers allege induced Altria to exit the e-cigarette market by shuttering its Nu Mark division. The suit alleges the investment led to a reduction in the variety of products on the market and higher prices.

The Federal Trade Commission had also challenged the agreement, but **dropped its case** in 2023 after Altria fully unwound its investment in Juul.

The indirect purchaser classes cover those who purchased Juul pods, excluding devices or kits containing devices, indirectly from Juul for personal use between Oct. 25, 2018, and March 29, 2024. Indirect reseller classes cover those who purchased Juul pods indirectly for resale between Dec. 1, 2018, and March 31, 2025. These classes also include a multistate Cartwright Act class and separate classes of buyers from several states.

The direct purchaser class certified by Judge Orrick covers wholesalers and others that purchased e-cigarette products directly from Juul between Oct. 5, 2018, and the present. The court also certified several indirect purchaser classes, covering purchases of Juul pods, excluding devices, for personal use between Oct. 25, 2018, and March 29, 2024.

This includes a class of buyers from 27 states bringing claims under California's antitrust law, the Cartwright Act, as well as separate classes of buyers from states including Florida, Hawaii and Massachusetts.

Judge Orrick also certified several indirect reseller classes for those who purchased Juul pods indirectly between Dec. 1, 2018, and March 31, 2025. These classes also comprise a multistate Cartwright Act class and separate classes of buyers from several states.

The judge did exclude buyers from Arkansas, South Carolina, Tennessee and Virginia from the indirect purchaser classes, saying those states do not allow class actions for the antitrust claims at issue.

"The petition is not a model of clarity because it lumps in the direct purchaser class and the indirect purchaser classes certified by the court," Joseph Saveri of the Saveri Law Firm LLP, who represents some of the plaintiffs, said in an email to Law360 on Monday.

"We are looking forward to getting clarity. Speaking only for the direct purchaser class, this case is about a straightforward horizontal antitrust agreement," Saveri continued. "Judge Orrick's careful order was supported by four admissible expert opinions, thousands [of] pages of deposition testimony, hundreds of documents and a long line of case law. We look forward to addressing the merits to the Ninth Circuit."

Counsel for the defendants did not respond to requests for comment Monday.

The buyers are represented by Betsy C. Manifold and Thomas H. Burt of Wolf Haldenstein Adler Freeman & Herz LLP, Merle C. Meyers of Meyers Law Group PC, Robin F. Zwerling of Zwerling Schachter & Zwerling LLP, C. Andrew Dirksen of Cera LLP, Elana Katcher of Kaplan Fox Kilsheimer LLP, and Joseph R. Saveri and David Seidel of the Saveri Law Firm LLP.

Juul Labs is represented by David I. Gelfand, Jeremy J. Calsyn and Nowell D. Bamberger of Cleary Gottlieb Steen & Hamilton LLP.

Altria is represented by Beth A. Wilkinson, James M. Rosenthal, Daniel Epps, David R. Friedman, Jenna P. Swarbrick, and Guus Duindam of Wilkinson Stekloff LLP, and Lisa S. Blatt, Charles L. McCloud and Edward Pickup of Williams & Connolly LLP.

Juul board members Nicholas Pritzker and Riaz Valani are represented by Beth A. Wilkinson of Wilkinson Stekloff LLP, and Mark C. Hansen, Michael J. Guzman, Andrew Skaras, Stephanie E. Levin and David L. Schwarz of Kellogg Hansen Todd Figel & Frederick PLLC.

The case is In re Juul Labs Inc. Antitrust Litigation, case number 26-1519, in the U.S. Court of Appeals for the Ninth Circuit.

--Additional reporting by Matthew Perlman. Editing by Lakshna Mehta.

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Meta Seeks A Rally As Instagram Addiction Suit Losses Mount

By **Chris Villani**

Law360 (April 27, 2026, 10:59 PM EDT) -- After a run of litigation losses, Meta Platforms Inc. will have to rethink its strategy in and out of court in an effort to beat back suits from coast to coast claiming that it is illegally hooking kids on Instagram, experts said, with everything from aggressive litigation to a global settlement on the table.

In the company's latest setback, the Massachusetts Supreme Judicial Court unanimously ruled this month that a suit by the state is not barred by either the First Amendment or Section 230 of the Communications Decency Act.

That followed two trial verdicts in March against the company: a $6 million finding against Meta, along with Google LLC, in Los Angeles and a $375 million verdict in New Mexico over that state's bellwether claims.

"They are in trouble," said Jeffrey Robbins, a litigation attorney at Saul Ewing LLP.

Even the relatively small California verdict for a woman who says she got addicted to their social media platforms as a child is significant when considering that there are thousands of similar claims nationwide, Robbins said.

"You take 2,400 cases times $6 million, and pretty soon you're talking real money," he said. "If you are them, you are looking at throwing the kitchen sink at these cases."

Scrolling in Search of a Legal Win

Meta is facing suits from state attorneys general, parents and school districts, among other plaintiffs. The factual allegations are similar: The plaintiffs claim that the company uses various features like infinite scroll, autoplay, intermittent variable reward features and ephemeral content, all aimed at keeping kids from closing the app.

Meta has argued that Section 230 should bar the claims because the company is merely acting as a publisher of content. But the suit brought by Massachusetts Attorney General Andrea Joy Campbell, like other suits, says it is Meta's own conduct that is problematic, and not the content posted by third-party users.

Robbins said one potential avenue for Meta is to try to win favorable rulings in other states.

"If you can stop some lawsuits in states by getting rulings from their highest state court, you can, at least, protect yourself in those states," he said. "Part of the strategy has to be to get rulings different from the SJC in as many states as possible to cabin your potential losses."

Meta has said it plans to appeal its losses in New Mexico and California. Generating conflicting rulings from courts of last resort could not only limit liability but also draw the attention of the U.S. Supreme Court.

The company has expressed optimism in its ability to flip the state verdicts and has argued that, fundamentally, much of the evidence introduced at trial focused on the specific content that users are exposed to, and that holding Meta liable for that would cut against what Section 230 is designed to prevent.

Christopher Herbert, an associate in Goodwin Procter LLP's appellate and Supreme Court litigation practice, said the case to watch will be the pending Ninth Circuit ruling over whether Meta is protected under Section 230.

In that case, argued in January, parents and school districts pressed the federal court to reject Meta's immunity claims, and a group of states, led by Colorado, made many of the same arguments.

Meta and TikTok LLC asked the Ninth Circuit to flip part of an October 2024 ruling that dismissed failure-to-warn allegations relating to certain website features but allowed others in the multidistrict litigation to proceed. There is a lot hinging on that ruling for Meta, Herbert said.

"As the losses pile up, I can't imagine that they are thinking they are going to have success elsewhere in these individual state cases," he said. "I think they are banking on the Ninth Circuit to do something favorable."

Anthony Panebianco, a litigator at Davis Malm & D'Agostine PC, said the potential for a split on how Section 230 applies is the most obvious lifeline for Meta.

"That's really the big question that could give them inoculation," Panebianco said. "That argument has failed, but the facts of a particular case or the application of the law might be different."

Both Robbins and Panebianco said that disparate rulings on Section 230 immunity could give Meta a path to the pro-business Supreme Court. A ruling knocking down the Instagram suits would be a potential showstopper, bringing thousands of cases to a halt. Of course, a loss at the high court means game over for Meta, Panebianco said.

"Then it becomes the nail in the coffin," he said. "It's not just the law of a circuit, it's the law of the land."

New Approaches Before Juries

Strategy shifts are likely in court as well, attorneys said, if Meta's typical playbook of relying on federal law immunity proves fruitless. Dean Elwell, a business litigator at McCarter & English LLP, said "it's probably high time" Meta leans into the argument that the way Instagram is designed cannot meet the standard of being unfair and deceptive.

Meta says it should not be effectively punished for making a product that people like, pushing back on plaintiffs who call the elements that generate more users a "design defect" and saying that it is a stretch to suggest that people are somehow being duped by features that make Instagram more popular.

Meta argues that it is a high-tech version of what legacy media and other means of publication have done for centuries: making decisions about which content to highlight and which content not to. During oral arguments before the Massachusetts high court, one justice likened Meta boosting its users' content to a book publisher putting an enticing cover on the 1928 D.H. Lawrence novel, "Lady Chatterley's Lover."

"I think they have good arguments," Elwell said. "Designing a product or service to be used often, or very often, may not fit within those traditional notions of unfairness. After all, isn't that what all companies do? They design their products to be used."

Star Kashman, a plaintiff-side tech lawyer and founder of Cyber Law Firm PLLC, said that big tech companies have rarely felt the need to change strategies in the past, as Section 230 and the First Amendment have provided strong liability shields.

"We're beginning to see some creativity from these platforms and their legal strategies as well," Kashman said, citing the recent California trial in which the plaintiff claimed her mental health suffered as a result of her addiction to social media. Meta argued she could not tie her mental health struggles specifically to Instagram.

"Increasingly, I'm seeing them push a narrative that mental health is complex and there are other potential contributing factors when individuals struggle," Kashman said. "It no longer seems possible to ignore that there is a mental health epidemic, so they're trying to place blame elsewhere."

Kashman said that breaking causation and shifting blame can be more than a legal strategy; it can also deter other plaintiffs from bringing similar lawsuits.

A Verdict Worth Posting

The eye-popping $375 million verdict in New Mexico shows the threat Meta faces from state attorney general suits, Kashman said, noting that states can often overcome some of the evidentiary challenges that private litigants face.

"These cases are traditionally dismissed due to Section 230 or free speech, which throws a private case out before evidence can even be produced, or an investigation can begin," Kashman said. "In these cases, evidence is everything. Because of this, AGs have a better time handling cases because they can obtain information and investigate beforehand, which might reveal the information necessary to succeed in these cases."

Citing her suit against Meta at the American Bar Association Litigation Section's annual conference in Boston on Friday, Massachusetts' Campbell said that "these are the issues of our generation and our time."

"When you think about the mental health epidemic, not just in Massachusetts, but in this country, as a mom engaging with other parents, you have tech companies that obviously designed a product that they had to sell to somebody to make a profit — kudos to them, I'm all for profit — but they didn't go after our seniors, who are lonely, and I think would love an app, or something to engage with," Campbell said. "They went after young people."

Following the Massachusetts Supreme Judicial Court's opinion, a Meta spokesperson said the ruling "is procedural and doesn't address the merits of the case." The company also announced its plans to appeal the trial verdicts.

"Reducing something as complex as teen mental health to a single cause risks leaving the many, broader issues teens face today unaddressed and overlooks the fact that many teens rely on digital communities to connect and find belonging," a Meta representative said. "We remain committed to building safe, supportive environments for young people and will defend our record vigorously."

Even a Settlement May Not Delete All Claims

As the momentum in court continues to swing against Meta, Panebianco said the company should be looking for some sort of an off-ramp.

"You're definitely smelling blood in the water if you're a plaintiff's counsel," he said. "But if I am counsel for Meta, I would try to see if I could consolidate this into some kind of global restitution and resolution for all of the different cases."

But even a wide-ranging settlement may not end Meta's legal problems. Goodwin Procter's Herbert noted that the platform itself is always being updated, and every change could bring with it a new wave of litigation if there are not more controls within the platform to make it less addictive.

"It's not going to be as simple as it was in the tobacco cases where you get these warnings on there, everyone really knows the problems, tobacco is what it is and it's not changing all of the time, so you know what you're getting into this day and age," Herbert said. "For Meta to get to a place like that, they are going to have to do more."

McCarter & English's Elwell noted that big settlements in tobacco and other toxic tort cases did not end that litigation. Dozens of suits over cigarettes or asbestos continue to be filed in Massachusetts alone.

"How do they get a definitive end? Section 230 would be a good one, and maybe they can find a path to the Supreme Court," Elwell said. "Otherwise, you're in the nitty-gritty of class action releases and settlements with dozens of state AGs at the same time. But we saw all that with tobacco, and those cases are still going on."

Saul Ewing's Robbins said Meta would be wise to press Congress to clarify and expand protections under Section 230, which could bring a sweeping end to the litigation. Elwell echoed the thought, saying a full-scale lobbying effort could allow Meta to turn the page in a way that litigation cannot.

"Case by case is not the way," Elwell said, "with no end in sight."

--Additional reporting by Carolyn Muyskens and Cara Salvatore. Editing by Brian Baresch and Dave Trumbore.
