News Securities Litigation

FirstEnergy Investors Certified Again in Bribery Case, After 6th Circuit Decertification

U.S. District Judge Algenon Marbley stood by his initial certification decision, finding that the Sixth Circuit remanded the case back to him to analyze the investors' damages methodology, not to further consider their presumption of reliance arguments.

May 01, 2026 at 02:29 PM By **Alyssa Aquino**

Credit: maurice norbert/Adobe Stock

An Ohio federal judge recertified an investor class that is suing FirstEnergy Corp. over the company's alleged involvement in a bribery scheme, saying his initial decision to certify the class still holds, even after the U.S. Court of Appeals for the Sixth Circuit decertified the class.

U.S. District Judge Algenon Marbley of the Southern District of Ohio first certified the class in March 2023, after determining that a group of investors—represented by Robbins Geller Rudman & Dowd; Murray Murphy Moul and Basil LLP—were entitled to the so-called *Affiliated Ute* presumption of reliance to prove that the whole class relied on the same misrepresentations or omissions to make their investment decisions.

But the U.S. Court of Appeals for the Sixth Circuit broke up the class, saying the investors needed to meet the more demanding *Basic* standard to prove class-wide reliance. With the case back before him, Marbley determined that the Sixth Circuit's remand order didn't cover "any further consideration of the *Basic* presumption of reliance."

"Plaintiffs are correct that the Sixth Circuit simply has not remanded for further consideration of this Court's prior holding regarding the applicability of the *Basic* presumption of reliance. Nothing in the Sixth Circuit's opinion suggests otherwise," Marbley wrote in a decision filed April 30.

Bob Giuffra, co-chair of Sullivan & Cromwell and lead counsel for FirstEnergy, said that his team is evaluating their appellate options.

"FirstEnergy respectfully disagrees with the court's decision … and believes that plaintiffs have not met their burden to certify a class under governing Supreme Court decisions," Giuffra said in a written statement.

Counsel for the investors didn't immediately respond to a Friday request for comment.

In securities class actions, the presumption of reliance to which investors are entitled hinges on whether they're alleging that they've been defrauded by misstatements of the truth or omissions. The more lenient *Affiliated Ute* standard applies to omissions cases.

The case against Akron, Ohio-based FirstEnergy was filed shortly after U.S. authorities arrested Larry Householder, former speaker of the Ohio House of Representatives, for allegedly accepting tens of millions of dollars in exchange for supporting legislation that would provide FirstEnergy a $1.3 billion bailout.

The case is a mixed one, involving allegations that company executives failed to disclose information about FirstEnergy's political contributions and that they misrepresented their activity. Marbley found the case was mostly about omissions but that, if the *Affiliated Ute* presumption was inapplicable, the investors would still be entitled to the *Basic* presumption.

A Sixth Circuit panel said "this case is all about misrepresentations" and separately faulted Marbley for failing "to conduct any analysis at all" of the investors' proposed damages methodology.

In his April 30 order, Marbley said that the remand didn't cover "any further consideration" of the *Basic* presumption.

“The Sixth Circuit made clear that it was remanding the case for an Exchange Act damages methodology analysis,” he wrote in his order.

The judge further approved of the damages methodology.

“It would be sufficient based on the class certification record as it existed when this Court first ordered the class certified, consistent with this Court’s approach to the Sixth Circuit’s limited remand,” the judge said. “Nothing changes in light of the parties’ post-remand argument.”

Judge backs class certification in suit over FirstEnergy corruption scandal

2026 SECDBRF 2236 • By Nicole Banas

WESTLAW Securities Enforcement & Litigation Daily Briefing • May 01, 2026

(May 01, 2026) - An Ohio federal judge has reaffirmed a class certification order in a securities fraud suit against FirstEnergy Corp. after a federal appeals court remanded it for further assessment of the plaintiffs' proposed damages model.

In re FirstEnergy Corp. Securities Litigation, No. 20-cv-3785, 2026 WL 1179398 (S.D. Ohio Apr. 30, 2026).

The investors, led by Los Angeles County Employees Retirement Association, presented a reliable method of assessing damages on a class-wide basis, U.S. District Judge Algenon L. Marbley of the Southern District of Ohio ruled April 30.

The judge's opinion followed a limited remand from the 6th U.S. Circuit Court of Appeals, which vacated a previous class certification order in August 2025. *In re FirstEnergy Corp. Sec. Litig.*, 149 F.4th 587 (6th Cir. 2025).

Bribery scandal

The lawsuit alleges that FirstEnergy concealed a $60 million bribery scheme to ensure the passage of Ohio legislation that provided a bailout for its failing nuclear power plants.

The scheme unraveled in July 2020 with the arrest of Ohio's then-House Speaker Larry Householder and several associates. FirstEnergy later entered into a deferred prosecution agreement, admitting it had conspired to pay millions to public officials in exchange for official action.

Householder is currently serving a 20-year sentence for racketeering conspiracy in connection with the FirstEnergy scheme.

The investors claimed that FirstEnergy's share price fell 45% after it was implicated in the scandal. The suit includes claims under Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C.A. § 78j(b), and Section 11 of the Securities Act of 1933, 15 U.S.C.A. § 77k.

The District Court certified an investor class in March 2023, ruling that the plaintiffs satisfied the predominance requirement of Federal Rule of Civil Procedure 23(b)(3). *In re FirstEnergy Corp. Sec. Litig.*, No. 20-cv-3785, 2023 WL 2709373 (S.D. Ohio Mar. 30, 2023).

'Rigorous analysis' needed

The defendants appealed, and the 6th Circuit vacated the order on two grounds.

First, the appellate panel said that the lower court should have applied the fraud-on-the-market presumption of reliance from *Basic Inc. v. Levinson*, 485 U.S. 224 (1988), rather than the presumption from *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972).

The FirstEnergy suit was "primarily based on alleged misrepresentations," and *Affiliated Ute* applies to cases that are primarily based on omissions, the opinion said.

Second, the panel determined that the District Court failed to conduct a "rigorous analysis" of the plaintiffs' proposed damages model for their Exchange Act claims, as required by *Comcast Corp. v. Behrend*, 569 U.S. 27 (2013).

The 6th Circuit remanded the case for an analysis of whether the model set forth a methodology for calculating damages that is capable of measurement across the entire class and satisfies the predominance requirement of Rule 23(b)(3).

'Viable' damages model

The District Court held an evidentiary hearing in December 2025 and heard testimony from the plaintiffs' damages expert, economist W. Scott Dalrymple.

Judge Marbley ruled that Dalrymple's proposed "event study" is a common and reliable method of measuring damages that is consistent with the plaintiffs' theory of liability.

He rejected the defendants' argument that the damages model failed to account for potential variations in the degree of artificial inflation of the stock price over time.

Even assuming that inflation varied at times, damages calculations "need not be exact" at the class certification stage, Judge Marbley wrote, quoting *Comcast*. As long as the methodology can be applied consistently across the class and ties back to the fraud allegations, it meets the legal standard — even if adjustments are needed later, he added.

The District Court also denied the defendants' motion to exclude Dalrymple as an expert, saying his testimony is reliable and grounded in sufficient facts.

The plaintiffs "presented a viable, consistent, and classwide approach to damages," Judge Marbley said.

Darren J. Robbins of Robbins Geller Rudman & Dowd LLP represents the plaintiffs.

Robert J. Giuffra Jr. of Sullivan & Cromwell LLP, and Paul J. Schumacher of Dickie, McCamey & Chilcote PC represent FirstEnergy.

By Nicole Banas

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Ed-Tech Backlash and Emerging Securities Litigation Risk

dandodiary.com/2026/05/articles/securities-litigation/ed-tech-backlash-and-emerging-securities-litigation-risk

Sarah Abrams May 4, 2026

According to industry reports, education technology companies experienced unprecedented demand during COVID-19, fueled by remote learning mandates and significant public investment in digital infrastructure. School districts rapidly deployed laptops, software platforms, and immersive learning tools while students were learning remotely. However, now that classrooms have largely returned to in-person instruction, a growing backlash against ed-tech has begun to emerge. In the last month, both the New York Times and Wall Street Journal have reported on the backlash from educators and parents, as well as study results showing the deteriorating effect of technology use in classrooms.

This recent reporting has coincided with certain ed-tech companies confronting tightening capital markets, operational challenges, and increasing scrutiny from investors and regulators. A complaint filed against zSpace, Inc (zSpace) and its directors and officers on April 23, 2026 (zSpace SCA), may demonstrate how these converging dynamics are now beginning to manifest in securities litigation. The following will discuss the zSpace SCA allegations, the company's purported financial pressures, and potential D&O exposure for companies in the ed-tech industry.

The zSpace Securities Class Action

The complaint against zSpace and certain of its directors, officers, and underwriters arises from the company's December 2024 initial public offering and asserts claims under Sections 11, 12(a)(2), and 15 of the Securities Act. As alleged, zSpace, which provides augmented and virtual reality educational tools, raised approximately $9.4 million in its IPO at $5.00 per share. Its stock price subsequently declined significantly, falling well below the offering price.

The zSpace SCA focuses on alleged material misstatements and omissions in the company's registration statement, including claims that the company failed to disclose a significant purchaser of its Series E and Series F preferred stock, despite representing that all major beneficial owners had been identified. Allegedly, this purchaser emailed company executives, including a named executive officer, regarding unmet financial obligations purportedly owed under a preferred stock purchase agreement.

The complaint further alleges that the company characterized the risk of litigation as hypothetical, even though disputes with this investor were already underway, and that subsequent litigation revealed discrepancies in the investor's ownership interest. According to the complaint, these issues rendered the offering documents materially misleading with respect to the company's capitalization, governance, and litigation risk.

Discussion

Of note, before it's December 2024 IPO, zSpace announced its intention to complete a SPAC merger with EdtechX Holdings Acquisition Corp. II, in the fourth quarter of 2022, in which zSpace was valued at approximately $195 million. However, the SPAC merger was later terminated following alleged breaches of the merger agreement. At the time of its IPO in December 2024 with shares priced at $5, and in early 2025, zSpace was reported to have a market capitalization of approximately $112.3 million. However, recent reporting indicated that zSpace has secured a relatively modest $3 million investment while simultaneously facing the possibility of Nasdaq delisting in January 2026.

The financial and litigation pattern faced by zSpace is not occurring in a vacuum. Pandemic-related securities cases involving education-adjacent companies provides additional context for how these risks may develop. For example, a securities suit was filed against Chegg, a provider of online tutoring and research services and other educational resources, following pandemic-driven growth and subsequent performance challenges. While not a traditional ed-tech platform in the classroom sense, the company's experience reflects how businesses tied to remote learning demand may face scrutiny when usage patterns shift. Similarly, litigation was filed against K12 Inc. (now Stride, Inc.), alleging misrepresentations regarding enrollment growth and educational outcomes during the pandemic. Although that case was ultimately unsuccessful, it demonstrates that plaintiffs have already tested theories linking pandemic-era demand, educational efficacy, and corporate disclosures.

These cases may be instructive in framing the potential trajectory of claims against ed-tech companies. Many companies in the sector scaled rapidly based on extraordinary, and arguably non-recurring, conditions. As those conditions recede, plaintiffs may examine whether offering documents and public disclosures adequately address the risk of declining demand, dependence on government funding, and the sustainability of pandemic-driven growth metrics.

Beyond pandemic normalization, artificial intelligence introduces an additional and evolving risk vector. As seen in the experience of Chegg, whose business model relied heavily on paid homework assistance, emerging AI tools such as ChatGPT have the potential to disrupt core revenue streams. Chegg's reported loss of users to AI-powered alternatives, without any corresponding securities litigation to date, nonetheless highlights an important point: D&O risk may arise not only from a company's use of AI, but from external AI-driven competitive pressures that alter market dynamics. This underscores that AI-related risk confined to implementation, governance, or disclosure of internal AI use, but extends to strategic displacement risk where technology erodes demand for a company's core product.

Add to the strategic displacement risk recent negative reporting surrounding use of ed-tech in classrooms. A [March 29, 2026, New York Times] article highlighted dissatisfaction among educators and parents with the outcomes of these ed-tech investments, including concerns about student distraction, overreliance on screens, and whether these technologies delivered meaningful educational value. And, [on April 29, 2026, the Wall Street Journal], in an article titled "How YouTube Took Over The American Classroom," reported that a survey touted by YouTube executives shows 94% of teachers use YouTube in their roles. The study further highlighted the integration of chrome books into American classroom, including granular data provided by parents indicating the scale of use on YouTube on classroom devices used by students. With a second grader in New York watching over 700 videos in two months during school hours and, on one day, a tenth grader in Oregon scrolling through more than 200 YouTube videos within an hour and half during the school day.

The WSJ article then cited multiple neuroscientists involved in studying the impact of ed-tech in education stating that "[t] he impact of 1:1 Chromebooks on learning is incredibly bad." Thus, with multiple studies and academic findings which question the effectiveness of education technology tools, questions about whether companies may have overstated the benefits of their products or relied on adoption metrics that do not necessarily correlate with improved educational outcomes may be raised. These issues can become fertile ground for misrepresentation claims if corporate disclosures are not carefully calibrated to reflect both opportunities and limitations.

In addition, the unique characteristics of the education market could introduce additional layers of risk. School districts can be highly budget-sensitive, politically influenced, and subject to public accountability, meaning that shifts in sentiment or policy can quickly affect purchasing decisions. As a result, disclosures relating to customer concentration, contract renewals, and public funding exposure may take on heightened importance.

From a D&O liability perspective, the zSpace SCA, when viewed alongside the Chegg and K-12 litigation examples, may underscore certain key considerations. First, the cases highlight the importance of accurate and contemporaneous disclosure, particularly where known issues, such as investor disputes or demand headwinds, may be characterized as hypothetical risks. Second, the litigation reflects the fragility of capital markets for smaller, publicly traded ed-tech companies, where stock price volatility and liquidity constraints can magnify the impact of adverse developments.

Third, these recent developments illustrate a potential disconnect between operational narratives and shifting market realities, particularly in a sector undergoing rapid reassessment. Companies that positioned themselves as beneficiaries of long-term digital transformation trends may now face scrutiny as those assumptions are tested. Finally, the emergence of AI as a disruptive force introduces a forward-looking disclosure challenge, requiring companies to assess and communicate not only current risks, but also the potential for technological displacement.

Taken together, the ed-tech sector appears to be entering a phase defined less by expansion and more by recalibration. The convergence of post-pandemic normalization, increased skepticism regarding educational outcomes, tighter funding conditions, and technological disruption may create an environment in which securities litigation becomes a more common response to business underperformance. The zSpace SCA may represent an early example of how these forces can intersect, transforming operational, financial, and strategic challenges into D&O exposure.

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Securities

DMC Investors Drop Suit Against Leaders Over Decking Unit Sales

May 1, 2026, 2:43 PM PDT

DMC Global Inc. investors have dropped their lawsuit alleging the manufacturing company's board and top executives caused a $142 million goodwill impairment charge tied to weak decking and railing sales.

The US District Court for the District of Colorado approved the voluntary dismissal Friday. The investors had told Chief Judge Daniel D. Domenico the previous day that it's appropriate to drop the suit on behalf of DMC because a parallel proposed securities class action was recently dismissed with finality. No settlement is involved, they said.

Michael Lewis and Lee Runey alleged DMC's stock suffered a series of shocks as news of the sales results and impairment emerged, subjecting the company to the class action and other costs

DMC obtained a dismissal and final judgment in the class action March 20

In light of the factual overlap between the suits, it makes sense to drop the derivative suit in "the interests of efficiency and conserving judicial resources," the investors said

Cody-Hopkins Law Firm, Rowley Law PLLC, and Rosen Law Firm PA represent the investors. Womble Bond Dickinson (US) LLP represents the directors and officers.

The case is Lewis v. Kuta , D. Colo., No. 1:25-cv-01779, motion 4/30/26 .

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Securities

Twist Bioscience Agrees to $17.1 Million Investor Settlement (1)

May 1, 2026, 11:48 AM PDT; Updated: May 1, 2026, 12:30 PM PDT

Twist Bioscience Corp. and two executives reached a nearly $17.1 million settlement to resolve allegations they misled investors about the company's synthetic DNA quality and automated manufacturing.

The proposed settlement class would include investors who acquired Twist stock in a 2020 offering or from Dec. 20, 2018, through Nov. 15, 2022, according to a motion seeking the deal's preliminary approval filed Thursday.

If approved in the US District Court for the Northern District of California, the accord would end more than three years of litigation started in the wake of a November 2022 short-seller report.

Twist's stock price plummeted almost 20% to close at $30.43 the day short seller Scorpion Capital LLC accused it of accounting fraud and hiding a "labor-intensive" manufacturing process.

The benefits fund leading the case sufficiently pleaded CEO Emily Leproust was aware of product issues and customer qualms, Judge Eumi K. Lee said last year, letting some securities fraud claims proceed.

The Policemen's Annuity and Benefit Fund of Chicago didn't meet the threshold to allege former chief financial officer Jim Thorburn's intent or recklessness on statements about the biotech company's products, Lee said. Nor did the fund adequately plead intent or recklessness on alleged financial-related misstatements by the executives or Twist, she ruled.

The fund brought liability and negligence claims under sections of the Securities Act of 1933 over paperwork filed in 2020 for stock offerings. It asserted fraud-based claims under provisions of the Securities Exchange Act of 1934.

"On behalf of the Lead Plaintiff, we are pleased with this excellent result for Twist investors and look forward to obtaining court approval," George N. Bauer, a partner at Bleichmar Fonti & Auld LLP, said in an email. The firm is lead counsel for the proposed class.

Orrick Herrington & Sutcliffe LLP and Munger, Tolles & Olson LLP represent Twist and the executives. None of those law firms nor Twist immediately responded to emails seeking comment.

The case is Peters v. Twist Bioscience Corp. , N.D. Cal., No. 5:22-cv-08168, 4/30/26 .

(Updates with comment from investor attorney in eighth paragraph.)

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Securities

Northwest Bio Settles With Canaccord in Stock Manipulation Suit

May 1, 2026, 1:55 PM PDT

Northwest Biotherapeutics Inc. and Canaccord Genuity LLC are seeking to settle claims the brokerage firm placed false stock sale orders to depress Northwest's stock price, according to a federal court filing.

Judge Gregory H. Woods on Friday asked for a revision to the parties' proposed court order for voluntary dismissal because the terms of the settlement weren't disclosed in their letter the previous day.

Six other broker-dealers, including Citadel Securities and Virtu Americas LLC, remain in the lawsuit in the US District Court for the Southern District of New York.

Attorneys for the settling and nonsettling parties didn't immediately respond to requests for information and comment about the development.

Bethesda, Md.-based Northwest, which develops cancer-treating vaccines, alleged the market-making firms "spoofed" its stock by submitting fictitious orders that induced traders to sell the stock and drive down the price.

They made "at least hundreds of millions" of dollars from late 2017 to mid-2022 by buying Northwest's artificially depressed shares, it said. According to the company, more than 49 million of its shares were sold at manipulated prices.

Woods allowed some of the suit's loss theories to proceed in a March 2025 ruling.

Northwest and Canaccord may reveal the settlement's terms or, if they wish to stipulate to dismissal without the need for court approval, they may alter their filing, Woods said Friday.

Kasowitz LLP represents Northwest. Morrison & Foerster LLP represents Canaccord. Counsel for the other defendants includes Quinn Emanuel Urquhart & Sullivan LLP and Paul, Weiss, Rifkind, Wharton & Garrison LLP.

The case is Nw Biotherapeutics, Inc. v. Canaccord Genuity LLC , S.D.N.Y., No. 1:22-cv-10185, letter 4/30/26 .

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Commentary

Arguing Class Actions: The 'Tort Reform' Myth

Arguing Class Actions is a monthly column for the National Law Journal.

May 04, 2026 at 05:00 AM By **Adam J. Levitt**


Adam J. Levitt founding partner of DiCello Levitt. Courtesy photo

For nearly 40 years, the tort reform movement has been built on the premise that America is drowning in lawsuits. The U.S. Chamber of Commerce, the insurance industry, medical trade associations, and defense-bar organizations like the Defense Research Institute (DRI) have repeated these warnings with remarkable consistency: Frivolous lawsuits are flooding the courts, juries are out of control, doctors are abandoning their practices, businesses can't innovate, and insurance premiums will keep rising unless legislatures step in and impose "tort reform."

It's a tidy story, but one that the evidence has never supported. Despite that, the movement persists with ever-bigger players jumping into the fray. Today, the rideshare company Uber is pouring tens of millions of dollars into statewide ballot initiatives and other state level legislative efforts under the guise of reducing insurance premiums for everyday citizens. In New York state, the Assembly and the governor's office are readily circulating unsupported talking points created by the Uber-backed group Citizens for Affordable Rates. Meanwhile, in Ohio, Uber and its counterparts are pushing state legislators to enact a bill that would insulate so-called "transportation network companies" from liability, even when their own systems contribute to a crash or when their vehicle operator violates state or federal law.

The remarkable thing about the tort reform campaign is not that it exists—corporations and insurers obviously want to reduce their liability exposure and restrict access to justice—but that its central empirical claims have been studied for decades and repeatedly fail to hold up. The litigation crisis that the movement overheatedly describes appears far more clearly in lobbying campaigns and advocacy reports than it does in the data.

The most obvious example is the argument that launched the modern tort reform movement: insurance premiums. For decades, insurers and their allies have insisted that lawsuits drive liability insurance costs upward. The logic is straightforward: If courts allow large verdicts and expansive liability, insurers must raise premiums to cover their exposure. Limit lawsuits and cap damages, the argument goes, and those savings will flow back to consumers in the form of lower premiums.

If that theory were correct, the results would be easy to see. States that adopt aggressive tort reform—damage caps, limits on claims, procedural barriers to litigation—should consistently experience lower insurance premiums than states that do not. But that's not what the data shows. Rather, insurance premiums have historically moved in response to cycles that track the economics of the insurance industry itself rather than tort reform measures. When the liability insurers' investment portfolios perform well, insurers can maintain or even reduce premiums. But, when investment markets perform poorly, insurers raise premiums to offset lost income. Indeed, premium spikes coincide with downturns in insurers' investment portfolios—not with sudden increases in litigation. In other words, what's often presented as a lawsuit crisis frequently turns out to be something far less dramatic: a bad year on Wall Street.

The medical malpractice insurance market offers perhaps the clearest example. For decades, insurers and medical lobbying groups have warned that malpractice lawsuits were driving physicians out of practice and forcing insurers to raise rates. State legislatures responded by enacting exactly the reforms those groups demanded: caps on damages, restrictions on lawsuits, and other liability limits. For example, in Ohio, damage caps were enacted in April 2005 with no consideration for future inflation adjustments. These rash policies have had grave consequences for victims of malpractice while still failing to accomplish their "goal" of decreasing malpractice premiums. Instead, malpractice premiums continue to rise and fall in the same cyclical patterns that they have always followed. If tort reform reliably lowered insurance premiums, insurers would be clamoring to show us the confirming data. Instead, however, the industry continues to rely on anecdotes and selective examples, because the broader empirical record doesn't support the claim.

The same evidentiary gap appears in another central pillar of the tort reform narrative: the claim that the American legal system is drowning in frivolous lawsuits. But the idea that the United States is experiencing a tidal wave of lawsuits simply doesn't align with the available evidence. Indeed, the facts show that civil filings in many courts have remained stable—or even declined—over time, despite significant population growth and economic expansion. For instance, data compiled by the National Center for State Courts through its Court Statistics Project shows that civil caseloads in state trial courts fell by approximately 6% between 2012 and 2024. Nor does the idea of a deluge of lawsuits align with the economics of litigation itself. Plaintiffs lawyers typically work on contingency fees, advancing substantial costs and recovering nothing if the case fails. Complex litigation can require hundreds of thousands—or even millions—of dollars in expert fees, discovery expenses, and attorney time. The suggestion that lawyers routinely invest those resources in meritless cases isn't just implausible, it's economically irrational.

In reality, the far more common problem is that injured people never sue at all. Research consistently shows that many individuals harmed by negligence never pursue legal claims because litigation is expensive, time-consuming, and intimidating. Many victims lack access to legal representation or conclude that the process simply is not worth the ordeal. If there's an access to justice problem in the United States, it doesn't involve too many lawsuits. Rather, it involves the enormous amount of wrongdoing that never results in one.

The legend of the "runaway jury" fares no better under scrutiny. Tort reform advocates frequently point to headline-grabbing "nuclear" verdicts as proof that juries have lost control of the civil justice system. These numbers appear regularly in advocacy reports and legislative hearings as evidence of a system in chaos. What those narratives rarely acknowledge, however, is everything that happens after the verdict. Post-verdict motions require trial judges to review awards for excessiveness. Then, appellate courts often review them again. Reductions are common, and some verdicts disappear entirely on appeal. The sensational numbers that fuel the tort reform narrative often bear little resemblance to the amounts ultimately paid. But they do reflect a jury's response to a set of facts in a given case. Correspondingly, the entire "nuclear verdict" contention, while catnip for journalists seeking sensational headlines, arises from the insurance industry's—and its allies'—reductive contention of "defense verdict, good; small verdict, bad; large verdict, 'nuclear'," while blithely ignoring the underlying facts and justifications for that verdict.

Moreover, “tort reform” advocates prefer to ignore the fundamental importance grounded in the guarantee to a civil jury trial afforded by the Seventh Amendment to the U.S. Constitution. Each “tort reform” enactment is another erosion of that very guarantee. The legal system already contains multiple layers of review designed to ensure that verdicts remain within reasonable bounds. Pretending that those safeguards don’t exist may make for effective advocacy, but it doesn’t accurately describe how the system operates. In truth, juries generally perform the function that they were designed to perform: evaluating evidence, weighing credibility, and deciding whether someone should be held responsible for harm.

The dirty little secret for corporations and their advocates, however, is that juries present a deeper challenge. Juries introduce uncertainty. When companies appear before juries, they can’t rely on lobbying budgets, regulatory relationships, or political influence. They must explain their conduct to ordinary citizens who weren’t invited into the boardroom. For institutions accustomed to controlling risk through contracts and regulation, that unpredictability is uncomfortable. “Tort reform” is the effort to eliminate it.

The argument that liability suppresses innovation follows the same familiar script. Businesses, we’re told, can’t develop new products or expand their operations because the threat of litigation hangs over every decision. But history suggests something very different. Civil litigation has repeatedly exposed dangerous products and unsafe practices that regulators failed to detect—or that corporations deliberately concealed. Discovery in tort cases has uncovered internal documents revealing defective product designs, hazardous pharmaceuticals, toxic industrial practices, and corporate decisions that prioritized profit over safety. Those revelations didn’t emerge because companies volunteered them; rather, they emerged because litigation forced companies to produce evidence and confront their own misgivings in a public forum. Liability didn’t suppress innovation in those cases; it forced companies to innovate more responsibly.

Which brings us to the central fact that the tort reform movement rarely acknowledges: When legislatures cap damages or restrict lawsuits, the cost of wrongdoing doesn’t disappear. It simply moves. Instead of being borne by the corporation responsible for the harm, the financial burden shifts to injured individuals, their families, and often the public.

Catastrophic injuries don’t vanish because recovery has been limited in court. Rather, they become the responsibility of healthcare systems, disability programs, and taxpayers. In that sense, tort reform frequently functions less as legal reform than as a form of corporate subsidy. The costs created by private misconduct are redistributed to the people least able to bear them.

None of this should be surprising. Corporations and insurers have rational economic incentives to reduce their liability exposure. What’s striking is how successfully they’ve been able to frame that objective as a public necessity, and how passively the public has fallen for it. Indeed, after decades of lobbying and repetition, the tort reform narrative has acquired the veneer of common sense. Many policymakers now speak of a litigation crisis as though it were an established fact. But when the empirical claims behind a policy agenda repeatedly fail—when insurance premiums do not fall, when lawsuits are not exploding, when juries are not unhinged, and when innovation is not stifled—the conclusion becomes difficult to avoid. The litigation crisis that tort reform was designed to solve exists largely in advocacy campaigns and press releases.

The civil justice system, imperfect though it may be, continues to perform one of its most important functions: allowing ordinary people to demand accountability from powerful institutions. And that, more than any mythical explosion of lawsuits, is what the tort reform movement has been trying to "fix" all along.

Adam J. Levitt *is a founding partner of DiCello Levitt, where he heads the firm's class action and public client practice groups. He can be reached at alevitt@dicellolevitt.com*

Thank you to DiCello Levitt associate Justin Abbarno for contributing to this column.

Purdue Pharma dissolves in bankruptcy, names board of nonprofit successor

reuters.com/legal/litigation/purdue-pharma-dissolves-bankruptcy-names-board-nonprofit-successor-2026-05-01

Dietrich Knauth May 1, 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

NEW YORK, May 1 (Reuters) - Purdue Pharma said on Friday that it has ceased operations and concluded its bankruptcy, re-emerging as a nonprofit focused on treating opioid addiction, overseen by a new board with government and health industry experience.

Purdue, which filed for Chapter 11 in 2019, had long planned the transition to a new entity called Knoa Pharma as part of a $7.4 billion bankruptcy settlement meant to devote all of the company's resources to addressing the harms of the opioid crisis. The company had been sued in thousands of lawsuits, opens new tab over its role in fueling the opioid epidemic in the U.S., and it has twice pleaded guilty to federal charges over its marketing for its painkiller OxyContin.

Purdue's criminal sentencing, completed earlier this week, removed the final hurdle to the company's bankruptcy plan going into effect.

Many victims of the opioid crisis shared stories of addiction, loss, and grief at Purdue's sentencing hearing on Tuesday. A Reuters review of court filings and interviews with opioid victims revealed deep frustration with the bankruptcy settlement's hurdles to payment for victims. About 40% of individual claims have already been rejected.

Purdue pleaded guilty in 2020 to charges that it misled federal regulators about its efforts to combat illegal use of its addictive painkiller OxyContin and admitted paying kickbacks to doctors to boost sales of the drug. The company previously pleaded guilty to misleading doctors and regulators about the addictive nature of OxyContin in 2007.

Knoa Pharma's trustees include Rahul Gupta, who led the White House Office of National Drug Control Policy under President Joe Biden; Paul Rothman, former CEO of Johns Hopkins University School of Medicine; and David Saltzman, co-founder of the Atria Health and Research Institute.

Knoa will sell medicine for overdose reversal and addiction treatment at or below its cost of production.

"Through not-for-profit access to overdose reversal medicines and treatments for opioid use disorder, Knoa Pharma is committed to providing care and saving lives in communities most affected by the opioid crisis," Rothman said in a statement.

Most of Purdue's settlement money will go to states and local governments that were forced to bear the costs of opioid addiction in their communities, and $865 million is earmarked for individual claimants who became addicted to opioids or lost loved ones.

Reporting by Dietrich Knauth, Editing by Alexia Garamfalvi and Aurora Ellis

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

LAW.COM

Analysis **Mass Torts**

Maryland Supreme Court Curtails Public-Nuisance Claims in Opioid Litigation

"This Court has never recognized a government entity's ability to recover damages for public nuisance," Maryland's top court state in a decision that served as the basis for tossing out Baltimore's $152.4 million judgment previously secured in opioid litigation against two major drug companies.

May 01, 2026 at 04:25 PM By **Sulaiman Abdur-Rahman**

Credit: Kimberly Boyles/Adobe Stock

The common litigation strategy of cities suing licensed opioid distributors on a public-nuisance theory seeking damages is apparently no longer viable in Maryland following two state high court decisions.

The Maryland Supreme Court in a two-page order on April 24 tossed out a $152.4 million judgment that Baltimore had secured in its yearslong opioid public nuisance litigation against defendants McKesson Corp. and Cencora Inc. The high court cited its recent doctrine that licensed opioid dispensing does not constitute an actionable public nuisance under Maryland common law.

“Maryland has not expanded the public nuisance doctrine beyond the traditional historical principles embodied in the common law,” Justice Brynja Booth wrote in the Supreme Court’s majority opinion filed March 23 in *Express Scripts v. Anne Arundel County*. “This Court has never recognized a government entity’s ability to recover damages for public nuisance.”

The state high court’s subsequent order in *Mayor & City Council of Baltimore v. McKesson* vacated the city’s nine-figure judgment and remanded the matter for further proceedings in a local trial court consistent with the *Express Scripts* case law.

Baltimore City Circuit Court Judge Lawrence P. Fletcher-Hill previously ordered Irving, Texas-based McKesson and Cencora, of Conshohocken, Pennsylvania, to pay $52 million in reduced damages plus $100 million in abatement funds after Susman Godfrey helped Baltimore win a $266 million damages award in a 2024 jury trial.

Covington & Burling, on behalf of McKesson, and Reed Smith, on behalf of Cencora, petitioned the Maryland Supreme Court to review Fletcher-Hill’s judgment, which the high court granted in its remand order.

“We appreciate Supreme Court of Maryland’s order vacating the judgment of the Circuit Court for Baltimore City, a decision supported by the law and record,” a McKesson spokesperson stated via email. “In Baltimore and across the United States, McKesson continues to maintain and enhance strong programs that detect and prevent opioid diversion within the pharmaceutical supply chain.”

Baltimore filed a public-nuisance lawsuit against multiple drug companies in 2018 seeking damages for the widespread harm caused by the opioid epidemic.

Several defendants—including Allergan, Cardinal Health, CVS, Johnson & Johnson, Teva Pharmaceuticals and Walgreens—reached settlements with the city resolving the opioid litigation, while McKesson and Cencora pressed forward, arguing against the plaintiff’s public-nuisance theory of liability.

Covington partner Andrew Stanner, who represents McKesson, declined to comment Friday.

Susman Godfrey partner Bill Carmody, the lead attorney representing plaintiff Baltimore as outside counsel, did not immediately respond to requests for comment.

Reed Smith counsel for Cencora, formerly known as AmerisourceBergen, also did not immediately respond to a request for interviews.

Class Action

Manage Newsletters

Prisoners' Damages Class OK'd in Suit Over Opioid Withdrawal

May 4, 2026, 9:13 AM PDT

Litigation over a prison healthcare provider's alleged deliberate indifference to opioid-addicted prisoners' medical needs can proceed as a class action, a federal appeals court said.

A class action appeared to be the best way to litigate claims that Wexford Health Sources Inc. violated opioid-addicted prisoners' Eighth and 14th Amendment rights by refusing to provide them with medication-assisted treatment, the US Court of Appeals for the Fourth Circuit, said Monday. Class members were easily identifiable through Wexford's medical records and shared common questions of fact and law, Judge Nicole G. Berner said in an opinion for the unanimous three-judge panel.

Wexford contracts with nearly 100 jails and prisons nationwide across 11 states to provide comprehensive medical services to prisoners. The company estimates that at least 35% of people incarcerated at these facilities qualify for medication-assisted opioid use disorder treatment, which is considered the national standard of care.

Three former prisoners sued Wexford on behalf of themselves and similarly situated inmates, saying they were forced to undergo painful withdrawals because Wexford's contracts excluded both screening and medication-assisted treatment for opioid use disorder. A federal district court certified two classes of plaintiffs, and Wexford appealed.

The appeals court found that one of the proposed classes, focused on damages, was readily ascertainable, and its members shared issues integral to the resolution of each claim, such as whether Wexford knew of substantial risks to prisoners caused by withdrawal. The district court didn't abuse its discretion in finding that differences between some members didn't "strike at the heart" of the deliberate indifference claims, the Fourth Circuit also said.

The named plaintiffs' interests didn't conflict with those of the proposed class members, making them adequate representatives for the class as a whole, the court said.

Additionally, the class members' deprivation-of-medical-care claim was both paramount and sufficiently linked to their damages theory—that each members should recover damages based on the number of days they were denied adequate medical care, the court said.

The court, however, sent the case back to the trial court to determine if the named plaintiffs had standing to represent the second class, which is seeking an order requiring Wexford to provide the screening and treatment.

Judge DeAndrea Gist Benjamin and John A. Gibney Jr., of the US District Court for the Eastern District of Virginia, sitting by designation, joined the opinion.

Bradley Arant Boult Cummings LLP and Bailey & Wyant PLLC represent Wexford. Forbes Law Offices PLLC, Tycko & Zavareei LLP, Berger Montague PC, and Calwll Luce DiTrapano PLLC represent the class.

The case is Spurlock v. Wexford Health Sources, Inc. , 4th Cir., No. 25-2038, 5/4/26 .

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LAW.COM

News Consumer Products

Gambling-Addiction Lawsuits Pile Up Against Sports-Betting Companies

The suits allege that the companies ratchet up marketing during periods when bettors are less likely to be clear-headed—late at night, for instance, or right after they've suffered a big loss.

May 01, 2026 at 07:20 AM By **Brendan Pierson**

Credit: Lori Butcher/Shutterstock.com

The companies behind leading online sports-betting apps are facing new lawsuits accusing them of knowingly fueling users' gambling addictions, illustrating a growing threat to the industry even as most states have legalized it.

Law.com Radar flagged three lawsuits targeting DraftKings, FanDuel and other gambling companies that were filed last month in the Massachusetts Superior Court of Suffolk County. The cases were brought by lawyers at the Public Health Advocacy Institute and Aylstock, Witkin, Kreis, & Overholtz on behalf of Massachusetts residents who wagered on the apps.

A FanDuel spokesperson said that the claims were without merit and that the company "adheres to strict state regulations and takes its compliance obligations seriously." The other companies did not immediately respond to requests for comment.

What Happened?

The new lawsuits allege that the defendants' apps' "dangerously addictive design exploits users' vulnerabilities through constant accessibility on smartphones, turning a simple tap into an unlimited gateway for compulsive betting."

The companies "bombard" users, including those who know or should know are problem gamblers, with notifications encouraging them to use the app when they are most susceptible, such as late at night or after they've suffered a big gambling loss, according to the lawsuits. The companies use promotions like "risk-free" wagers or bonuses to mask losses and encourage bigger bets, the plaintiffs allege.

As a result, according to the lawsuits, the plaintiffs have suffered serious financial and emotional damages. They allege breach of warranty, negligence, failure to warn and intentional misrepresentation.

How We Got Here

In 2018, the U.S. Supreme Court struck down a federal law that had effectively banned sports gambling. Since then, 39 states have legalized the pastime to some extent to bring in more tax revenue.

The latest lawsuits are part of a recent trend of consumers saying they were harmed by sports gambling companies' business practices.

"There's been a significant uptick in the last year or so in the number of lawsuits filed," said Martin Edel, who is of counsel at Goulston & Storrs and is an instructor of sports law at Columbia Law School.

What's Next?

Edel said that the lawsuits have been "couched in very traditional tort terms. Was there a wrong? Did it proximately cause injury? What was the amount of the injury?"

Showing proximate cause could be a "tough row to hoe," he said, as companies will likely argue that adult users of sports betting apps bear responsibility for their own decisions.

But Edel said that a $6 million verdict in California against Meta and Google last month in a social media addiction case may embolden attorneys to file additional suits. The Google/Meta suit and the suits against sports-gambling companies were built on "somewhat similar" legal theories, he noted.

Both zero in on design features of apps that tempt users into staying online for long periods —"infinitie scrolling" in the case of Meta's Instagram and autoplay in the case of Google's YouTube.

Keller Postman still fighting to DQ judge on Zantac cases

legalnewsline.com/pennsylvania-record/keller-postman-still-fighting-to-dq-judge-on-zantac-cases/article_7b6cdd7a-1b4e-4c67-83a8-86254d620b4c.html

John O'Brien, John O'Brien May 4, 2026

Philadelphia City Hall in Downtown Philadelphia, home to the Court of Common Pleas
Photo: Chris Krug / The Center Square

PHILADELPHIA – Lawyers pushing the theory Zantac causes cancer refuse to let a Philadelphia judge make a key ruling and are now asking the state Superior Court to throw him off their cases.

Keller Postman last week filed a notice of appeal of Judge Joshua Roberts' order denying their motion to recuse himself because his wife's law firm represents one of the defendants facing claims ranitidine in heartburn medicine morphs into cancer-causing NDMA in the human stomach.

Those claims are based on what other judges have found to be unacceptable science. Blank Rome represents Apotex in the Zantac litigation and brought in Roberts' wife Shannon McClure as a partner in February 2025.

The stakes are high. Judges in Delaware state court and Florida federal court have combined to toss more than 100,000 claims because they are based on expert testimony that is unreliable.

Apotex, meanwhile, faces only one lawsuit in Philadelphia out of the more than 500 filed there. When a colleague of McClure's testified on the recusal issue, he said he "can represent that her compensation has no direct relationship" to fees earned from Apotex.

Roberts said in a short order in April that Keller Postman waited eight months after he disclosed his wife's new job at Blank Rome and that there is no merit to its argument.

"I can manage the Zantac mass tort in an impartial manner free of personal bias or interest in the outcome," Roberts wrote.

"Management of the program ranges from case management, ruling on procedural motions, ruling on substantive motions, and positioning bellwether cases for trial. Through this process, I work with court-appointed liaison counsel

(Blank Rome is not liaison counsel).

“It is exceptionally rare that individual cases are discussed until the bellwether selection process, and I do not preside over the actual trials.”

Roberts has been celebrated by the American Tort Reform Association for keeping other lawyers from presenting certain evidence in Philadelphia’s Roundup program. Those cases claim the weedkiller causes cancer and are based on a 2015 International Agency for Research on Cancer study.

What evidence is allowed in the Zantac litigation will be key. Lawsuits are based on testing by the laboratory Valisure LLC, and its methods have been rejected by the FDA.

The litigation against GlaxoSmithKline and others began when Valisure created headlines in 2019 by claiming its testing showed Zantac and its generic equivalents contained ranitidine that changed to NDMA once ingested. Lawyers began spending on advertising for clients and cited the study in ensuing litigation, calling Valisure an "independent" lab.

Valisure had brought its findings in a citizen petition to the FDA, which ordered a short-lived recall. The FDA later said Valisure's methods were unreliable, saying the lab's "artificial stomach" was heated to 260 degrees and subjected to lethal levels of salt to create NDMA from Zantac.

Valisure detected no NDMA in the drug when testing it under normal human conditions. That didn't stop lawyers who, after a Florida ruling tossing their experts, moved on to courts in Delaware, California, Philadelphia and elsewhere.

In Philadelphia, Keller Postman says it has noticed a whiff of a “personal displeasure” with calls for an evidentiary hearing on whether Roberts should recuse himself.

“By suggesting that an evidentiary hearing would be appropriate, you would be seeking to impugn my credibility to me, because I’m the one who’s deciding the motion,” Roberts said at a November status conference.

“There is no ability for a party to conduct an evidentiary hearing in support of a motion to recuse,” he added, plus, “The decision is mine. The decision is mine and only mine. There’s no other evidence. You can’t cross-examine me.”

News Privacy

Meta Eyes Ending Service in New Mexico in Legal Clash Over Child Safety

A newly unsealed court filing said Meta believes it was unfeasible for the company to meet a proposed requirement for 99% accuracy in verifying that child users are at least 13 years old, among other demands.

May 01, 2026 at 01:47 PM By **Morgan Lee**

SANTA FE, N.M. (AP) — Meta is raising the prospect of shutting down its social media services in New Mexico in response to a push by state prosecutors for fundamental changes to the company's platforms, including Instagram, to protect the mental health and safety of children.

The possibility emerged amid legal gamesmanship in the runup to a bench trial next week on allegations that Meta poses a public nuisance. It's the second phase of a case that already resulted in $375 million in civil penalties on a jury's determination that Meta knowingly harmed children's mental health and concealed what it knew about child sexual exploitation on its platforms.

Prosecutors are asking the court to order a series of changes to child accounts on social media aimed at reining in addictive features, improving age verification and preventing child sexual exploitation through default privacy settings and closer oversight.

Meta executives have emphasized that the company continuously improves child safety and addresses compulsive social media use. The company says its being singled out among hundreds of apps that teens use.

In a court filing unsealed Thursday, Meta said it was unfeasible for the company to meet a proposed requirement for 99% accuracy in verifying that child users are at least 13 years old, among other demands.

“As a practical matter, this requirement effectively requires Meta to shut down its services — for all users in the state — or else comply with impossible obligations,” Meta said in the filing.

Such a shutdown across a population of 2.1 million residents in New Mexico could silence personal communication on Meta’s immensely popular platforms, which also include Facebook and WhatsApp, and also impact their use for commercial advertising.

By withdrawing from New Mexico, Meta would satisfy any concerns about harm to children, but the message could appear intentionally hostile and might lead to unintended consequences, said Eric Goldman, codirector of the High Tech Law Institute at Santa Clara University School of Law in California.

Eric Goldman, Santa Clara University. Courtesy photo

Goldman noted that Canadian authorities accused Facebook in 2023 of putting profits over safety after the platform blocked local news content during record-setting wildfires and evacuations. Facebook was responding to a newly enacted law that requires tech giants to pay publishers for linking to or otherwise repurposing their content online.

A Los Angeles jury last month found both Meta and YouTube liable for harms to children using their services, validated longstanding concerns about the dangers of social media.

New Mexico's case against Meta is the first to reach trial among more that 40 state attorneys general who have filed suit against the company on claims it contributes to a mental health crisis among young people. Most are pursuing remedies in U.S. federal court.

"I highly doubt that they're going to be willing and able to turn the lights off for their product all over the country," New Mexico Attorney General Raúl Torrez said in an online news conference.

Torrez disputed Meta's argument that proposed changes are impractical, describing "before times" in an ever-evolving social media landscape when "we didn't have infinite scroll and we didn't have auto-play." Torrez, a Democrat running for reelection to a second term in November, said he won't be "turning a blind eye to exploited children in the state of New Mexico because people have an advertising contract."

Beyond the U.S., other countries have implemented — or are planning — a bevy of restrictions on children's online activities, ranging from social media bans to requiring younger teens to link their accounts to a parent's. New Mexico also wants all child accounts on Meta platforms to have an associated parent or guardian, as well as a court-supervised child safety monitor to track improvements over time.

Goldman said there are some countries that Facebook “doesn’t directly support in part because it’s just not worth it.”

"The cost of maintaining the separate service is greater than any value from that territory,” he said. “And that could be the case with New Mexico as well.”

In the New Mexico litigation, Meta has been represented by Kevin Ruff of Kellogg, Hansen, Todd, Figel & Frederick in Washington, D.C.

The Recorder contributed to this report.

Meta faces New Mexico trial that could force changes to Facebook, other platforms

reuters.com/legal/government/meta-faces-new-mexico-trial-that-could-force-changes-facebook-other-platforms-2026-05-02

Diana Jones May 2, 2026

The logo of Meta is seen during the Viva Technology conference dedicated to innovation and startups at Porte de Versailles exhibition center in Paris, France, June 12, 2025. REUTERS/Benoit Tessier/File Photo/File Photo Purchase Licensing Rights, opens new tab

- New Mexico seeks billions in damages, sweeping platform changes to protect minors
- Meta argues changes are impossible, may force withdrawal from state
- Trial tests public nuisance claims as over 40 states pursue similar lawsuits

May 2 (Reuters) - A trial beginning in New Mexico on Monday could prompt a judge to order sweeping changes to how Facebook, Instagram and WhatsApp operate - a move Meta Platforms (META.O), opens new tab has warned could force it to withdraw from the state.

The case, which will be tried before a judge in Santa Fe, stems from a lawsuit filed by New Mexico Attorney General Raúl Torrez, a Democrat, accusing the social media giant of designing its products to addict young users and failing to protect children from sexual exploitation on its platforms.

At the heart of the trial is whether Meta's platforms have created a "public nuisance" under New Mexico law. That finding would allow the judge to order wide-ranging remedies aimed at curbing alleged harms to young users. The case is being closely watched as states, municipalities and school districts across the country pursue similar claims seeking to force changes at the industry level.

Monday's trial marks the second phase of New Mexico's lawsuit. A jury in March found Meta violated the state's consumer protection law by misrepresenting the safety of Facebook and Instagram for young users. It ordered the company to pay $375 million in damages.

Criticism of children's safety on social media has been mounting for years. On Wednesday, Meta warned investors that legal and regulatory blowback in the European Union and the U.S. "could significantly impact our business and financial results."

SWEEPING REMEDIES AT STAKE

Torrez’s office is expected to seek both billions of dollars more in damages and an order requiring Meta to make substantial changes to its platforms for New Mexico users, according to court filings.

Meta has said it has already addressed many of the state's concerns and taken extensive measures to ensure its young users are safe. The company said in court filings last week that many of the changes Torrez’s office is seeking are impossible for it to comply with and may force it to withdraw from the state entirely.

“The New Mexico Attorney General’s focus on a single platform is a misguided strategy that ignores the hundreds of other apps teens use daily,” a Meta spokesperson said in a statement ahead of the trial. “Rather than providing comprehensive protections, the state's proposed mandates infringe on parental rights and stifle free expression for all New Mexicans.”

A ‘PUBLIC NUISANCE’

The trial before Judge Bryan Biedscheid will examine whether Meta's conduct meets the standard for a public nuisance under New Mexico law, which would allow the court to impose remedies aimed at abating the alleged harm.

A public nuisance claim targets activities that unreasonably interfere with the health and safety of a community. Classic examples include blocking a public road, polluting a waterway or emitting noxious fumes. State governments have invoked public nuisance law in recent decades to pursue a broader range of industries, including litigation tied to tobacco, opioids, climate change, and vaping, said Adam Zimmerman, a professor at USC’s Gould School of Law.

New Mexico's case is among a growing number of lawsuits accusing Meta and other social media companies of intentionally designing products to be addictive to young people. While many cases have been filed by families over specific injuries to individuals, more than 40 other states and over 1,300 school districts have filed lawsuits seeking court-ordered changes and damages under public nuisance law.

New Mexico said it plans to ask the judge to order Meta to make changes including verifying users' ages; redesigning its algorithm to promote quality content for minors; and ending autoplay and infinite scrolling for minors.

“It will be an opportunity for us to explore more deeply the size and scale and effectively the monetary value of the public nuisance harm that was a product of this business's behavior for the last, you know, 10 or 15 years,” Torrez told reporters at a press conference on Thursday ahead of the trial.

The company has said in court filings that it cannot have created a public nuisance because it has not interfered with a public right. It also said there is no scientific evidence to support the idea that social media has caused mental health problems, and that many of the state's requests are "technologically impractical or completely impossible."

In a public nuisance case, the state can also seek money damages to abate the harm. That sum could be substantial when the impact is said to have affected large segments of the population. Torrez's office has not detailed the amount it will seek.

Meta said in court filings New Mexico plans to ask for $3.7 billion in damages to fund a 15-year mental health plan including new healthcare facilities and hiring providers, a request it said would require it pay for mental health care for all teens in the state regardless of the cause of their needs.

Reporting by Diana Novak Jones, Editing by Alexia Garamfalvi and David Gregorio

Diana reports on product liability, litigation, mass torts and the plaintiffs' bar. She previously worked at Law360 and the Chicago Sun-Times.

New Mexico seeks changes to Meta platforms in youth harm trial

reuters.com/legal/government/new-mexico-seeks-changes-meta-platforms-youth-harm-trial-2026-05-04

Diana Jones May 4, 2026

Flowers for victims of social media harms are seen left outside the New York City headquarters of Meta, in New York City, New York , U.S., September 17, 2025. REUTERS/Mike Segar Purchase Licensing Rights, opens new tab

- Judge to decide if Meta created public nuisance under New Mexico law
- Attorney General Raúl Torrez seeks billions in damages and major platform changes
- Meta argues safety measures exist, disputes link to youth mental health issues

May 4 (Reuters) - A trial is slated to begin in New Mexico on Monday that will test the state's claims that Meta's (META.O), opens new tab Facebook, Instagram and WhatsApp platforms harmed young users' mental health and its bid for a court order forcing the company to make changes.

The case, which will be tried before a judge in Santa Fe, stems from a lawsuit filed by New Mexico Attorney General Raúl Torrez, a Democrat, accusing the social media giant of designing its platforms to addict young users and failing to protect children from sexual exploitation on its platforms.

The trial marks the second phase of New Mexico's lawsuit after a jury in March found Meta violated the state's consumer protection law by misrepresenting the safety of Facebook and Instagram for young users and ordered the company to pay $375 million in damages.

During this phase, the judge will decide whether Meta's Facebook and Instagram platforms have created a "public nuisance" under New Mexico law — a finding that would allow him to order wide-ranging remedies aimed at curbing alleged harms to young users.

Torrez's office is expected to seek both billions of dollars more in damages and an order requiring Meta to make substantial changes to its platforms for New Mexico users, including adding age verification; redesigning its algorithm to promote quality content for minors; and ending autoplay and infinite scroll for minors, according to court filings.

Meta has said it has taken extensive measures to ensure its young users are safe.

New Mexico's case is among thousands of lawsuits accusing Meta and other social media companies of intentionally designing products to be addictive to young people, leading to a nationwide mental health crisis.

Meta warned investors last week that legal and regulatory blowback in the European Union and the U.S. "could significantly impact our business and financial results," after years of mounting criticism about children's safety on social media.

Torrez told reporters in a press conference ahead of the trial that his hope is that the case will “set a new standard, not only in the state of New Mexico but nationally and potentially globally, for a new set of expectations for how social media companies are expected to conduct themselves.”

The company said in court filings before the trial that there is no scientific evidence to support the idea that social media has caused mental health problems and that many of the changes Torrez is seeking will be impossible to implement and could force the company to leave the state altogether.

“The New Mexico Attorney General’s focus on a single platform is a misguided strategy that ignores the hundreds of other apps teens use daily,” a Meta spokesperson said in a statement ahead of the trial.

Reporting by Diana Novak Jones, Editing by Alexia Garamfalvi and David Gregorio

Diana reports on product liability, litigation, mass torts and the plaintiffs' bar. She previously worked at Law360 and the Chicago Sun-Times.

Meta faces US lawmaker scrutiny over removal of lawyer ads for social media addiction cases

reuters.com/legal/litigation/meta-faces-us-lawmaker-scrutiny-over-removal-lawyer-ads-social-media-addiction-2026-05-01

Courtney Rozen May 1, 2026

FILE PHOTO: Cars drive past a sign of Meta, the new name for the company formerly known as Facebook, at its headquarters in Menlo Park, California, U.S. October 28, 2021. REUTERS/Carlos Barria/File Photo/File Photo Purchase Licensing Rights, opens new tab

WASHINGTON, May 1 (Reuters) - Meta should not have removed advertisements from attorneys seeking clients that claim they were harmed by social media platforms, two U.S. senators said on Friday in a letter to CEO Mark Zuckerberg.

- Republican Senator Marsha Blackburn and Democratic Senator Amy Klobuchar wrote a letter to Zuckerberg criticizing his company's choice to purge the ads from its platforms after Axios first reported it and Meta confirmed it.
- The attorneys were trying to recruit new plaintiffs for ongoing lawsuits over social media addiction.
- "We're actively defending ourselves against these lawsuits and are removing ads that attempt to recruit plaintiffs for them," Meta spokesperson Andy Stone said in a statement. "We will not allow trial lawyers to profit from our platforms while simultaneously claiming they are harmful."
- The removal of the advertisements is "nothing more than an attempt to preserve a harmful business model at all costs," the senators wrote in the letter.
- Blackburn is running for governor in Tennessee and often touts her work on social media regulation to voters. Klobuchar is running for governor of Minnesota.

Courtney Rozen reports on the Trump administration's transformation of federal agencies and government spending. She previously worked at Bloomberg.

California Brief

401(k) Benchmark Standard Creates Bad Incentives, Justices Told

May 1, 2026, 10:16 AM PDT

Requiring workers challenging their 401(k) investment options to identify a “meaningful benchmark” in their complaints creates perverse incentives for retirement plan fiduciaries, multiple groups argued in a series of US Supreme Court briefs.

The friend-of-the-court briefs urge the justices to side with Intel Corp. employees and reject a rigid application of the meaningful benchmark standard, which has been used in varying iterations by the Sixth, Seventh, Eighth, Ninth, and Tenth circuits. The standard asks whether workers alleging fiduciary imprudence in their 401(k) plans have identified a better alternative that’s sufficiently similar to the fund being challenged.

The Supreme Court’s eventual ruling on the topic could change the trajectory of class litigation under the Employee Retirement Income Security Act, which is up significantly in 2026.

The briefs—including one filed by former US Labor Department officials—highlight the difficulties of requiring near-identical benchmarks at the outset of litigation.

Perverse Incentives

The meaningful benchmark standard forces district courts to resolve factual disputes without discovery and immunizes “broad categories of egregiously imprudent fiduciary decisions” by making it difficult to challenge investments for which there’s no ready comparison, the American Association for Justice said in its April 29 brief.

“Adoption of such a pleading requirement would set up a perverse incentive: the more imprudent the investment decision by the fiduciary, the more likely the victims will be denied the remedy Congress has provided,” the association said. This encourages employers to “experiment and gamble” with workers’ retirement savings, it said.

This is concerning given the increasing exposure of retirement assets to to venture capital and private equity, according to a Thursday brief by Americans for Financial Reform and Consumer Federation of America. The "secrecy" and complexity surrounding these investments make it difficult to identify meaningful benchmarks at the pleadings stage, the groups said.

"In fact, imposing such a requirement could encourage ERISA fiduciaries to seek out increasingly esoteric and inappropriate investments," they said.

A coalition of 20 business and law professors echoed these concerns.

"As investment vehicles become less transparent and their allocations more bespoke, comparisons become correspondingly more difficult," they said Thursday.

The justices also received a brief from Phyllis Borzi, who was the federal government's top benefits regulator under President Obama, and two other former high-ranking regulators, continuing their recent trend of pushback against the Trump administration's employer-friendly benefits positions.

Risky Investments

The Intel case stems from the 2008 financial crisis, which workers say spurred the company's retirement committee to move toward riskier investments like hedge funds and private equity in an effort to boost returns. A federal court dismissed most claims and the Ninth Circuit affirmed, saying the workers didn't allege the disputed investments underperformed funds with similar goals.

The case is expected to be argued during the Supreme Court's next term, which begins in October. The US solicitor general previously advised the justices to address the topic, voicing support for an employer-friendly meaningful benchmark standard in 401(k) investment performance disputes.

The case is Anderson v. Intel Corp. Investment Policy Comm., U.S., No. 25-498, amicus briefs 4/30/26 .

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California Brief

California Antitrust Overhaul Targets Predatory Pricing, Dealing

May 4, 2026, 2:00 AM PDT

California lawmakers aim to upend decades of legal precedent through a proposed expansion of the state's antitrust laws, threatening longstanding interpretations of predatory pricing and exclusive dealing, among other issues.

The bill (AB 1776) would expand the state's antitrust laws to cover conduct by individual companies, a shift from the current focus on two or more companies. It also would relieve plaintiffs of satisfying many of the legal tests that have long been key to advancing such cases.

Any company doing business in the world's fourth largest economy could see new, unexpected legal liability for common business practices.

The California Law Revision Commission, which crafted the measure, argued in a report to the legislature that the proposal would sharpen the teeth of antitrust laws narrowed by court rulings they contend have favored dominant companies and stifled competition.

"Rigid rules requiring specific fact patterns can unduly restrict enforcement," the commission said in a January report.

Businesses and the lawyers who advise them counter that the changes to California's Cartwright Act would unmoor the state's antitrust laws from the rest of the US.

"It becomes very hard to advise your clients when you can't look to the years and years of jurisprudence," said Karen Lent, partner in Skadden's antitrust practice.

Democratic lawmakers in the state Capitol want to steer California courts away from federal case law on antitrust policy and restore a state law passed over 100 years ago to its original goals.

"From 1907, it seems to me things have changed," said the bill's author, Assembly Majority Leader Cecilia Aguiar-Curry (D).

‘Laundry List’

The measure, also known as the COMPETE Act, lists 10 often-crucial elements of claims brought under the federal Sherman Act that plaintiffs pursuing a case under California’s Cartwright Act wouldn’t need to satisfy. Some lawmakers dub it the “laundry list.”

Two of those provisions target case law on predatory pricing, a company undercutting the prices of a rival by selling below cost with the aim of recouping those losses later if the rival is forced out of the market.

Under federal law, a plaintiff bringing a case over predatory pricing might have to prove a company’s price cuts are below cost. They also would need to show that the company has a chance of recouping those losses later. That precedent seeps into antitrust cases in state court.

The proposal in California wouldn’t require a plaintiff to satisfy tests, making it easier for a rival or regulator to sue over predatory pricing. That would open up companies—even firms that don’t dominate a market—to new liability when adjusting prices.

“Just say they’re a 20% player, and they’re lowering prices and a less efficient competitor says, ‘You’re driving me out of business, you’re lowering prices so much,’” said Joe Ostoyich, head of Clifford Chance’s US antitrust litigation practice.

The first company could argue that consumers are better off, but the proposed measure might still leave it open to lawsuits, he said. “Consumers are better off, but why would you lower your prices?”

Search Favorites

A separate provision would create new legal liability for major tech firms that give preference to their own products in search results and in app stores.

Consumer advocates and smaller tech companies have long complained about the practice, but it’s justified by major tech firms as simply providing consumers with the results and services they want.

Major tech companies united to kill a separate measure last month targeting the self-preferencing practice, but backers say the COMPETE Act covers much of the same ground in that it wouldn’t require plaintiffs to show that harm to competition outweighs benefits for others.

“COMPETE, in the plain language and certainly in what’s been contemplated, would address self-preferencing,” said Teri Olle, vice president of the consumer advocacy group Economic Security California Action.

Step Away From the Sherman Act

The laundry list has raised concerns from at least a few legislators that it would create uncertainty around common, long-settled business practices.

“It makes me really nervous because, you know, you want efficient firms that are going to reduce prices. And, frankly, if a firm reduces prices in order to get more business and you have a weaker firm out there, that’s not necessarily a bad thing because we want that competition,” state Assemblymember Rick Chavez Zbur (D) said during an April 7 hearing.

Backers argue that their goal is to make an antitrust law distinct from the federal Sherman Act. To wit, the legislature must provide clear guidance to state judges not to rely on how the Sherman Act has been interpreted.

“If I’m a busy judge and can see federal case law is instructive, then I’m going to rely on it,” said Abiel Garcia, partner at Kesselman Brantly Stockinger.

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Judge rejects bid to reopen $600M East Palestine derailment settlement

courthousenews.com/judge-rejects-bid-to-reopen-600m-east-palestine-derailment-settlement

Ryan Luetkemeyer May 1, 2026

Portions of a Norfolk Southern freight train that derailed the previous night in East Palestine, Ohio, remain on fire at midday on Feb. 4, 2023. (AP Photo/Gene J. Puskar, File)

(CN) — A federal judge on Friday shut the door on an attempt by East Palestine, Ohio, residents to overturn personal injury releases signed as part of a $600 million class settlement over the 2023 Norfolk Southern train derailment.

In a 29-page opinion, U.S. District Judge Benita Pearson ruled against nearly 200 residents who moved in Sept. 2025 to rescind their releases. The group claimed a "calculated strategy" between Norfolk Southern and class counsel rushed the settlement to conceal the true, long-term health risks following the accident.

Pearson, a Barack Obama appointee, found the residents failed to provide evidence required to prove they were defrauded into signing away their rights to future litigation.

"Movants, however, have not identified any conduct constituting fraud, let alone a pattern," the Barack Obama appointee said in the opinion. "Simply asserting that there may be conflicting opinions among professionals about the severity of the health risks does not result in fraud."

The ruling stems from a Feb. 3, 2023, train derailment in East Palestine, a village near the Ohio-Pennsylvania border, where at least 38 railcars released toxic chemicals into the air, soil and water.

In the aftermath, nearly 55,000 claims were filed within a 20-mile radius as residents raised concerns about health, water safety and environmental damage.

A $600 million class settlement was intended to resolve the litigation, but some residents later sought to void their agreements, claiming they were pressured into settling by attorneys and rail executives who downplayed long-term risks.

The settlement created three payment categories, including optional compensation for class members within 10 miles of the derailment who agreed to waive any personal injury claims tied to the incident.

The residents said they were steered into the agreement before seeing full expert reports on potential toxic contamination, and that Norfolk Southern and class counsel moved to settle before long-term risks were known.

Pearson said existing concerns about dioxins and long-term health risks were not concealed and had been discussed in public filings and news reports for months before residents signed their releases.

“Movants had every opportunity to educate themselves before voluntarily and individually signing a release,” she said in the order, noting even Norfolk’s attorneys were upfront about potential health risks that could appear decades down the line.

Central to the residents’ argument was a town hall presentation by toxicologist Dr. Chip Carson, who said long-term health risks were “much smaller than 1%.” Other experts disputed that, saying it was too early to predict long-term effects.

Residents also questioned Carson’s independence, saying he was a close associate of class counsel. Judge Pearson rejected that claim, noting Carson was not paid and his assessment was supported by other studies.

The residents sought relief under a federal rule allowing courts to set aside final judgments in “extraordinary circumstances,” but Pearson found the standard was not met.

“Rule 60 does not provide relief from the consequences of a deliberate choice, even if the subsequent events reveal the choice to have been unwise,” she said in the order, noting the residents — many of whom had already cashed their checks — always had the choice whether or not to sign the release.

“Movants had the individual autonomy to decide whether to participate in the ‘Personal Injury Payment’ part of the settlement; they were not required to release their personal injury claims, and it was up to each individual movant to decide whether to affirmatively take part,” she said in the order.

Pearson also cited a Sixth Circuit ruling that concluded allowing a tiny fraction of the 55,000 claimants to undo the deal would be unfair to the rest of the community and endanger the financial stability of thousands of households and businesses awaiting their share of the $600 million fund.

Norfolk Southern did not immediately respond to a request for comment.

News **Privacy**

Thomson Reuters Hit With Privacy Class Action in Michigan Over Display of Social Security Data on Research Platforms

Thomson Reuters America Corp. was hit with a class action Thursday that accused it of breaching a Michigan state privacy law by publicly displaying five sequential digits of individuals' Social Security numbers on its CLEAR and Westlaw PeopleMap platforms.

May 01, 2026 at 05:18 PM By **Kat Black**

Credit: wolterke/Adobe Stock

What You Need to Know

- Thomson Reuters was hit with a class action that claims it violated a Michigan state privacy law by publicly displaying five sequential digits of people's Social Security numbers via its Westlaw PeopleMap and CLEAR platforms.

- In February 2025, Thomson Reuters reached a $27.5 million settlement resolving claims that it illegally collected and sold California residents' personal data via the CLEAR platform without their permission.

- An expert who is not involved in the case says that it may be a potential "bellwether" for future litigation brought under the Michigan privacy statute.

Thomson Reuters America Corp. was hit with a class action Thursday that accused it of breaching a Michigan state privacy law by publicly displaying five sequential digits of individuals’ Social Security numbers on its CLEAR and Westlaw PeopleMap platforms.

A Michigan state resident, Anastasia Johnston, sued the American branch of the global tech conglomerate, based in Eagan, Minnesota, on April 30 in the U.S. District Court for the Eastern District of Michigan. Thomson Reuters operates the legal research platform Westlaw, which allows users to search for public records via its "PeopleMap" service, and CLEAR, an artificial intelligence-powered online investigative tool.

The complaint, backed by Bursor & Fisher in White Plains, New York, and The Miller Law Firm in Rochester, Minnesota, alleges violation of Michigan’s Social Security Number Privacy Act, which bars the public display of "all or more than 4 sequential digits" of a person's Social Security number, by Thomson Reuters' "people finder" services, WestLaw's PeopleMap and CLEAR.

The purported class includes "thousands" of members, it said, and encompasses "all Michigan residents who, at any point during the relevant limitations period, had [five] or more sequential digits of their social security number publicly displayed" on CLEAR and Westlaw PeopleMap.

Under the Michigan statute, a plaintiff may recover up to $1,000 per violation, but must provide written notice to a company 60 days in advance before filing a civil action against it.

Counsel has not yet appeared for Thomson Reuters. Bursor & Fisher and The Miller Law Firm did not immediately respond to requests for comment on Friday.

The suit is not the first privacy class action against Thomson Reuters implicating its CLEAR tool. In February 2025, a California federal judge approved a $27.5 million settlement resolving class action allegations that Thomson Reuters illegally collected and sold California residents' personal data via the CLEAR platform without their permission.

Tyler Bridegan, a partner at Womble Bond Dickinson in Houston, and the former director of privacy and technology enforcement for the Texas Attorney General’s Office, said in an interview that this lawsuit is the first filed under the Michigan privacy statute in "quite some time," despite the proliferation of privacy complaints brought nationwide by the plaintiffs bar under state laws such as California's Invasion of Privacy Act over the last few years. He anticipates that the Thomson Reuters suit may become a "bellwether" case for potential future privacy litigation under Michigan state law.

"If this case ... [succeeds] at the motion-to-dismiss stage with the federal district court, I would expect a lot more," he said.

"This law is pretty broadly applicable and applies to any person that has the Social Security number ... of someone from Michigan. So, obviously, Thomson Reuters has a lot of data. They're a giant repository of data of all types. This law could be used against a variety of companies and companies that don't have as much data and maybe aren't in the business of ... collecting this data, specifically. ... At a thousand dollars per violation, it could be a potentially very strong law."

Bridegan added that plaintiffs may encounter challenges in bringing the suit as a class action given the 60 days' notice provision of the Michigan statute.

"I would be surprised if a court agreed that you can loop in who knows how many people from Michigan based on that notice alone," he said. "... How a court handles that notice requirement will be very interesting."

The case has been assigned to U.S. District Judge Brandy R. McMillion. Plaintiffs are seeking an award of $1,000 per class member.

"Thomson Reuters places a high priority on privacy and keeping personal data safe," said a Thomson Reuters spokesperson in an emailed statement.

"We strongly dispute the allegations and intend to robustly defend the case."

This action was surfaced by [Law.com Radar](), which delivers real-time alerting on new litigation across more than 2,900 state and federal courts. Click here to get started and be first to act on opportunities in your region, practice area or client sector.

California bar pass rate falls to 30.8% for February exam

DJ **dailyjournal.com**/articles/391172-california-bar-pass-rate-falls-to-30-8-for-february-exam

School Type	First-Time Unadjusted	First-Time Adjusted	Repeat Unadjusted	Repeat Adjusted
ABA Accredited – California	62.3%	62.3%	36.2%	36.2%
ABA Accredited – Out-of-State	54.0%	54.7%	25.8%	25.8%
California Accredited	29.4%	29.8%	13.6%	13.8%
California Unaccredited	50.0%	50.0%	8.1%	8.1%
Not Registered/ Closed*	Less than 11 applicants	Less than 11 applicants	0.0%	1.5%
All Applicants	43.8%	43.9%	23.0%	23.1%

Courtesy of the State Bar of California

The State Bar of California announced Friday that 30.8% of applicants passed the February 2026 General Bar Examination, marking a slight decline from recent years and reflecting ongoing challenges for repeat test takers.

A total of 1,211 applicants passed the two-day exam, while 272 candidates passed the one-day Attorneys' Examination, which is open to licensed attorneys from other jurisdictions. The Attorneys' Exam recorded a 57.0% pass rate. Candidates who meet all remaining requirements will be eligible for admission to practice law in California.

The February 2026 pass rate was lower than February 2024 (33.9%) and February 2023 (32.5%), but far below the unusually high 63.6% pass rate in February 2025, when scoring adjustments were implemented following widespread technical issues. This year, 60 applicants received a limited scoring adjustment tied to a prior special session, resulting in five additional passes.

Of the 3,931 test takers, 37.1% were first-time applicants, who posted a 43.9% pass rate--slightly below prior years. Repeat test takers made up 62.9% of applicants and had a 23.1% pass rate, continuing a downward trend.

The State Bar was scheduled to release the full pass list at 6 on Sunday morning.

#391172

Securities

Insight

AI’s Risks to M&A Deals Require Early Planning and Model Testing

May 4, 2026, 1:30 AM PDT

Artificial intelligence has gone from a supporting feature to a primary driver of deal value. Yet many AI-heavy dealmakers still assume the classic software premise that code defects can be fixed after closing.

AI breaks that assumption.

In AI-driven mergers and acquisitions, the primary risk may not be damage that can be mitigated through indemnities, holdbacks, escrows, or insurance. The loss of the asset itself often is the most significant risk and the classic M&A toolkit of monetary risk allocation isn’t enough when the core asset may be irreparably impaired.

As the adage goes, a bandage can’t cure cancer.

Lately, we’ve observed a trend in AI-heavy deals where buyers are negotiating technical walk rights, allowing termination of the deal if a deep-dive audit reveals unverifiable model lineage or foundational licensing issues. Buyers increasingly require a forensic “pedigree log” of every dataset and fine-tuning weight, and if the target can’t produce a verifiable history of data sets and training logs, the asset may be treated as impaired from the outset.

These practices reflect an emerging standard: AI assets are treated not just as intellectual property, but as operationally material technology that requires validation before closing.

This is particularly true for large language models that inherently are data-hungry and require vast volumes of information for effective pre-training and meaningful outcomes. In practice, nearly all existing LLMs have relied on copyrighted materials obtained without consent or explicit licensing.

The prevailing developer mindset has been to “move fast and break things,” prioritizing rapid advancement over compliance. The belief was that missing out on the data rush posed a greater risk than facing potential legal claims for copyright infringement or breach of contract.

This sentiment is shifting, particularly following last year’s massive settlement in *Bartz v. Anthropic* , swiftly reached after the court pushed part of the case forward by denying the application of a fair-use defense. The landmark agreement included approximately $1.5 billion in monetary relief along with the destruction of the infringing datasets.

The substantial dollar amount—and the underlying destruction of the allegedly infringing datasets—has prompted more developers and deployers to ask thoughtful questions about the validity of their training datasets and how to ensure outputs comply with existing laws and emerging AI governance principles.

The rise of legal obligations in the AI space is pushing attention to these issues.

The EU AI Act, along with at least four states (California, Colorado, Texas, and Utah) have passed private sector AI governance laws. If and when they’ll be enforced is unclear, particularly after President Donald Trump’s executive order challenging the validity of state AI measures.

But these laws are still giving buyers and licensees pause as they look at their own legal exposure and whether they can mitigate that exposure.

When defects live in a model’s training provenance or foundational licensing, “fixes” may be technically possible but commercially unrealistic post-closing: Think wholesale retraining or re-papering core data rights at enterprise scale.

The bottom line for buyers is clear: A target’s development history and its data retention practices can create ongoing liability, risk of injunction, and forced destruction of the asset you are trying to buy.

The result is that sellers who can’t provide evidence of lineage, data rights, and risk controls consistent with developing risk frameworks (such as the NIST AI Risk Management Framework), regulations, and laws face significant risks of closing delays, carve-outs, and increased costs of risk transfer, all of which put downward pressure on valuation.

Conversely, verifying governance and tracing the origins of training data lessen problems with integration.The industry is moving toward documented data provenance, strong source data governance, and licensing for training datasets.

Buyers of AI technology must understand these risks and emerging trends as issues related to training data are extremely difficult to unwind after closing. Sellers must understand that their development practices early in their product lifecycle can ultimately crater a deal before it even gets started.

Buyers in particular should consider:

Assessing the legal use and retention of training data. Test for shadow-library sourcing and “forever” central libraries, confirming acquisition rights and destruction/retention practices that can withstand regulatory and litigation scrutiny, thereby preserving long-term asset value.

Mapping model components and intended uses. All data and model components should be mapped to their risk tier, and applicable jurisdictions before closing. Address transparency, labeling, deepfake obligations, and deployer disclosures, resolving any licensing conflicts prior to integration.Conduct deep-dive audits to confirm all datasets, sources, and libraries are lawful and well-documented.

Making verification a closing condition. License assessments and compliance documentation should be prerequisites for closing the deal, ensuring unresolved issues aren’t silently absorbed into the purchase price. Set clear covenants and closing conditions to resolve any identified conflicts.

Educating teams on AI-specific risks. Ensure legal, technical, and acquisition teams are familiar with AI risks, standards, and emerging governance requirements.

If you’re an AI developer, put yourself in a position to deliver up-to-date development, testing and training documentation with an eye toward applicable legal frameworks and regulatory standards. For example, confirm that the software meets applicable EU AI Act provider/deployer duties, Colorado documentation/impact-assessment/disclosure requirements, and California’s training-data transparency and risk-assessment mandates.

Buyers are seeking warranties regarding up-to-date model cards and compliance with recognized frameworks (such as NIST) and regulations. Stay alert to evolving statutory requirements and regulatory frameworks to ensure ongoing compliance.

In AI-driven M&A, the deal risk isn’t likely fines or monetary damages. It’s the real possibility that the key asset becomes unusable because origin, licensing, or governance can’t withstand enterprise-scale scrutiny.

The most valuable model isn’t the flashiest—it’s the one with lawful origins, verifiable lineage, and documentation that stands up to regulatory and customer audits.

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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Write for Us: Author Guidelines

US judge says senior lawyers must pay for mistakes by subordinates using AI tools

reuters.com/legal/litigation/us-judge-says-senior-lawyers-must-pay-mistakes-by-subordinates-using-ai-tools-2026-05-01

Mike Scarcella May 1, 2026

AI Artificial Intelligence words are seen in this illustration taken, May 4, 2023. REUTERS/Dado Ruvic/Illustration Purchase Licensing Rights, opens new tab

WASHINGTON, May 1 (Reuters) - A federal judge has sanctioned the manager of a California law firm over a junior attorney's artificial intelligence-assisted court brief that contained a false case citation, saying the responsibility for such errors extends to supervising lawyers.

U.S. Magistrate Judge Peter Kang in San Francisco in an order on Tuesday, opens new tab said the attorney, Lenden Webb, should have exercised greater oversight of a lawyer in his small law office who said she used AI to help craft the brief.

“Managers in law firms have an obligation to take reasonable steps to ensure all lawyers in the firm make ethical representations to the court,” the judge said.

Webb, managing partner of Southern California-based Webb Law Group, was admonished in the order, fined $1,001 and required to complete training on supervising attorneys and the ethical use of AI.

In a statement on Wednesday, Webb said "our firm has doubled down to continue to improve, and I believe we are at the forefront of creating value for our clients, which isn’t without the hiccups of issues such as a hallucinated citation."

Courts across the country are contending with lawyers' increasing use of AI programs for legal research and document drafting, which has led to sanctions and rebukes against attorneys who rely on the technology without fully vetting the results.

Kang's ruling addressed a more novel issue: the culpability of supervising attorneys when lawyers working under them use AI programs carelessly.

"At minimum, a supervising lawyer should read and understand the content of all pleadings and check citations to ensure their accuracy," the judge wrote.

The erroneous citation was contained in a July 21, 2025, filing related to gathering evidence in the underlying employment lawsuit. According to the judge, the citation included a real case name and a real case number, but the two were from different states and did not match, and the citation referred to a decision that did not appear in either case.

The junior lawyer who prepared the filing, Katherine Cervantes, told the judge at a hearing in August 2025 that she had used Thomson Reuters' artificial intelligence tool Westlaw AI. Cervantes at the hearing told Kang that "something messed up" when she was copying and pasting material from Westlaw into the brief. She said it was her first time using AI-assisted research in Westlaw.

The judge in a September 2025 decision sanctioning Cervantes said there appeared to be "some inconsistency" in the lawyer's explanations.

"While the record is less than clear as to the source of the fake citation, what is clear is that there was a breakdown and failure to check or even try to read the cited law," Kang wrote.

Reuters could not establish how the erroneous citation was produced.

A spokesperson for Thomson Reuters, the parent company of Reuters and Westlaw, in a statement disputed that its AI tools were responsible for the faulty material.

"Following an internal review, we found no evidence that the erroneous citations were generated by CoCounsel or Westlaw AI. Thomson Reuters designed CoCounsel to support lawyers, not replace their judgment. Our platform includes clear guidance that AI-generated outputs must be reviewed and verified by the attorney before use, because the responsibility for work product has always belonged to the lawyer, and always will."

Cervantes did not immediately respond to requests for comment.

At a hearing, opens new tab in the case in November, Webb acknowledged failing to vet the submission despite having read a Thomson Reuters disclaimer saying the "provision of content and software entails the likelihood of some human and machine errors."

Webb told the court he didn't collaborate with the junior lawyer on the brief or help draft it. Still, he was counsel of record, and his name appeared on the filing, the judge said.

US prosecutor who lost job over AI-generated errors is rebuked by judge

US judges weigh risks as AI seeps into judicial work

Top Alabama court tosses appeal over lawyer's AI filings

Lawyers should disclose when AI causes errors, appeals court says

Sullivan & Cromwell law firm apologizes for AI 'hallucinations' in court filing

Judge rebukes ex-DOJ attorney for AI-generated brief

courthousenews.com/judge-rebukes-ex-doj-attorney-for-ai-generated-brief

Sydney Haulenbeek April 28, 2026

The North Carolina Supreme Court building on the morning of January 29, 2025. (Sydney Haulenbeek/Courthouse News)

RALEIGH, N.C. (CN) — A federal magistrate judge officially reprimanded a former federal prosecutor Tuesday for an error-filled brief he admitted to using generative artificial intelligence on.

Rudy Renfer had a 30-year career as an attorney, and spent 17 years working in the U.S. Attorney's Office in the Eastern District of North Carolina before leaving the position in March.

"Renfer's professional reputation, both locally and nationally, is in tatters," U.S. Magistrate Judge Robert T. Numbers II wrote in his 18-page admonishment. "In this court, his name will be synonymous with a failure to uphold the basic duties of competence and candor expected of every attorney."

Numbers said Renfer "intentionally submitted a brief containing false materials to the court." The judge elected not to impose a fine and added Renfer is being investigated by the Department of Justice's Office of Professional Responsibility.

"The court also recognizes that Renfer's conduct cost him his job in the United States Attorney's Office," Numbers wrote. "His loss of employment imposes a financial burden well beyond the types of fines courts typically impose in connection with AI-related misdeeds."

Renfer had served as a lead attorney in a case filed by retired U.S. Air Force Col. Derence V. Fivehouse, a self-represented veteran who sued the U.S. Department of Defense over a change to his government health insurance that excluded coverage of GLP-1 medications.

As the case proceeded, Renfer filed a response brief, claiming a request made by Fivehouse to supplement the case record was based "on speculation rather than evidence." This filing misquoted a Fourth Circuit case, falsely attributed quotes to other cases and incorrectly described the court's decision in several cases that he relied upon to support his argument, Numbers said.

Fivehouse pointed out the errors in his reply. Renfer then asked to replace the brief with a substitute document and said he “inadvertently included incorrect citations to case law,” calling it a clerical error and said that a draft was inadvertently filed.

The court ordered Renfer to appear for a show cause hearing and explain why the government should not be sanctioned for the error. Renfer appeared in court in March along with the district’s U.S. Attorney, W. Ellis Boyle, and said under oath that the brief included inaccurate citations that he had not verified before submitting, and said he took “full responsibility” for not verifying the cases cited.

He told the court that he accidentally saved a new file over the original draft of the brief, “panicked,” and used artificial intelligence to catch up. He was juggling several filings at once, he told the court, and believed he had edited the draft for accuracy after using artificial intelligence. Renfer also told Numbers, who presided over that hearing, that he had submitted his resignation.

Boyle told Numbers during the hearing that he had not previously known Renfer used artificial intelligence on the brief. Renfer was reportedly terminated the next day.

“An attorney who outsources core research and writing obligations to generative AI assumes the risk that its output will contain fictitious authority,” Numbers wrote. “That attorney cannot rely on his own lack of diligence to verify the authority in that document to shield himself from the consequences of his actions.”

Renfer did not reply to a request for comment.

In the Western District of North Carolina — one of North Carolina’s three federal courts — attorneys and self-represented filers are required to file a document every time they submit a brief swearing that artificial intelligence was not used for research and that every citation has been confirmed by an attorney or a paralegal. The Eastern District of North Carolina, where this case takes place, does not have a similar requirement.

NewsRoom

5/4/26 Ins. J. (No Page)
2026 WLNR 12633217

Insurance Journal

May 4, 2026

Jury Can't Reach Verdict in Corruption Trial of Fired FirstEnergy Execs

By Julie Carr Smyth

Jurors failed to reach a verdict last month in the corruption trial of two fired FirstEnergy Corp. executives charged with alleged roles in a $60 million scheme to bribe politicians for a $1 billion nuclear bailout and other favors.

The declaration of an impasse came after more than eight days of deliberations following the six-week trial in Akron of former CEO Chuck Jones and former senior vice president Michael Dowling. Over that time, the jury had repeatedly sent clarifying questions to Summit County Common Pleas Judge Susan Baker Ross, who had once before sent them back into the deliberating room after they said they could not agree.

Baker Ross said she would allow lawyers to confer with jurors if desired, meet with the attorneys to discuss next steps and decide later whether to declare a mistrial.

In a video statement, Republican Ohio Attorney General Dave Yost said, "The state of Ohio can and will retry these defendants. Justice needs to be done."

The deadlock leaves Jones and Dowling in limbo for now, and comes as a rare blow to prosecutors — who long ago secured an admission from FirstEnergy that it underwrote the bribery scheme, and later saw former Ohio House Speaker Larry Householder sentenced to 20 years prison for orchestrating it.

The scheme involved Householder electing allies, securing legislative power, passing the nuclear bailout bill and then using a dirty-tricks campaign to defend it from a citizen referendum.

But the case against Jones and Dowling was more nuanced. The two were charged with felony corruption, bribery, conspiracy and aggravated theft for paying $4.3 million whose purpose was debated at trial to a man who was not yet in a position of influence — though he was well on his way.

Prosecutors had argued that Jones and Dowling bribed Public Utilities Commission of Ohio chair-to-be Sam Randazzo for legislative and regulatory favors, most notably his work championing House Bill 6, a $1 billion bailout for two aging FirstEnergy-affiliated nuclear plants at the center of the bribery scheme.

The defense, meanwhile, painted Randazzo as "a thief" and "a con man" who bore sole responsibility for the misuse of FirstEnergy money. Randazzo was initially charged alongside Jones and Dowling, but he died by suicide after pleading not guilty.

The highest profile witness to testify during the six-week trial was U.S. Sen. Jon Husted, a former Ohio lieutenant governor who confirmed to jurors that he was present at a key Dec. 18, 2018, dinner between himself, then-Gov.-elect Mike DeWine, Jones, Dowling and Josh Rubin, who doubled as an advisor to the governor's campaign and a lobbyist for FirstEnergy.

Rubin provided advice to the executives earlier that day on how to lobby DeWine to favor the company's preferences to chair the PUCO, according to a text contained in the criminal complaint.

Rubin cautioned them not to mention to DeWine that they would be meeting Randazzo at his residence after the dinner. Later in the day, Randazzo texted Dowling a list of figures for the years 2019 through 2024, "Total 4,333,333." "Got it, Sam," Dowling replied. "Good seeing you as well. Thanks for the hospitality. Cool condo."

The next day, Jones also texted Randazzo. "We're going to get this handled this year, paid in full, no discount," he wrote. "Don't forget about us or Hurricane Chuck may show up on your doorstep! Of course, no guarantee he won't show up sometime anyway."

Randazzo replied, "Made me laugh — you guys are welcome anytime and anywhere I can open the door. Let me know how you want me to structure the invoices. Thanks."

---- Index References ----

Company: FIRSTENERGY CORP; PUBLIC UTILITIES COMMISION

News Subject: (Crime (1CR87); Fraud (1FR30); Government (1GO80); Lobby & Pressure Groups (1LO18); Social Issues (1SO05))

Industry: (Electric Utilities (1EL82); Energy & Fuel (1EN13); Nuclear Electric Power (1NU69); Utilities (1UT12))

Region: (Americas (1AM92); North America (1NO39); Ohio (1OH35); U.S. Midwest Region (1MI19); USA (1US73))

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Other Indexing: (PUCO; FirstEnergy Corp.; Public Utilities Commission)

insurance

Word Count: 609

End of Document

California Brief

Insight

SEC Litigation Enforcement Should Give Firms Their Day in Court

May 4, 2026, 1:30 AM PDT

The Securities and Exchange Commission in February announced what it billed as significant updates to the manual that governs SEC investigations and litigation. These updates encourage staff to share evidence with those they propose to charge and aim to ensure parties can thoroughly explain to senior SEC officials why they shouldn't bring a case.

SEC Chairman Paul S. Atkins called the revisions an "important and long-overdue step" toward greater transparency, fairness, and due process.

The changes are welcome news for any corporation that has found itself in the SEC's crosshairs. In some ways, the amendments echo and complement *SEC v. Jarkesy* , the US Supreme Court's 2024 landmark decision guaranteeing those the SEC accuses of fraud the right to a jury trial before an impartial district court, rather than an administrative trial before the SEC.

This right to trial, the high court said, is "'of such importance and occupies so firm a place in our history and jurisprudence that any seeming curtailment of the right' has always been and 'should be scrutinized with the utmost care.'"

But these updates will fall short of giving companies a real opportunity to have their day in court unless the SEC or Congress revisits the securities laws' so-called "bad actor" provisions.

These rules bar individuals with certain disqualifying histories, such as felony convictions for securities fraud, from engaging in specified financial activities. When adopted, they often were presented as modest safeguards to protect investors from "criminals" and "fraudsters" by preventing proven rogue actors from engaging in activities that might endanger investors.

In practice, they operate far more broadly, and they effectively close the courthouse door to large corporations and financial institutions, leaving them little choice but to settle on terms dictated by the SEC's enforcement division. Two features drive that result.

First, the rules are sweeping. They apply to individuals and entire corporations—often defined to include the corporation that committed the violation, as well as all others under common control. They're triggered by serious misconduct as well as by minor and unintentional regulatory infractions. This means corporations can be barred from critical business activities if even one employee of one of their affiliates commits a single regulatory violation.

Second, the SEC generally controls the only escape hatch: discretionary waivers from bad-actor status. The result is a regulatory regime that heavily tilts the playing field in the SEC's favor, making it extraordinarily risky for corporations to challenge the agency in court regardless of the strength of their legal defenses.

Consider a recent example. Long before email or text messaging existed, the SEC adopted rules requiring regulated financial institutions to preserve business-related written communications. Today, the agency interprets those rules to cover all forms of text and instant messages.

Regulated firms typically require employees to conduct business communications only on firm-approved channels and preserve all communications.

But text messaging is now ubiquitous, and the line between personal and business communications is often blurred. Any stray business-related text messages can violate SEC rules—even if unrelated to any misconduct.

This expanded interpretation triggered one of the most aggressive SEC enforcement initiatives in history. Between 2021 and 2025, the agency collected more than $2.3 billion in fines from at least 95 firms. Major financial institutions each paid $200 million in combined penalties to the SEC and the Commodity Futures Trading Commission.

Many lawyers believed courts wouldn't impose penalties of that magnitude for conduct that involved no fraud or investor harm, especially given the practical difficulty of eliminating all off-channel communications. Looking back on the agency's work under prior leadership, Atkins has criticized the SEC's decision to pursue these cases.

Yet no company chose to test the SEC's theory in court. Why? Because doing so could trigger devastating collateral consequences, even if a company largely defeated the agency's claims. If a court found any securities law violation, one of the most routine remedies is an injunction prohibiting future violations.

But such injunctions automatically trigger bad-actor disqualifications that can bar companies from critical activities, such as managing or distributing mutual funds and exchange-traded funds or raising capital through private placements. For large financial institutions that depend on these lines of business, these restrictions are crippling or fatal. For other companies, such restrictions may cut off common avenues for funding operations.

That leaves firms with a stark choice: Settle on the SEC's terms and receive assurance that the agency will grant the waivers needed to preserve their businesses, or risk catastrophe by litigating.

A company theoretically could apply for waivers while contesting the SEC's claims in court, but that offers little comfort in practice. The SEC generally won't consider waiver requests before the triggering event—such as a court injunction—has occurred or is certain to occur.

Even then, there often is a fatal mismatch in timing. The disqualification takes effect immediately, while the SEC's waiver decision may take months. There is no fixed timeline. In the interim, the company would be required to shut down business lines that may be impossible to rebuild and withdraw vital services from clients who may never return.

The strategic optics are equally problematic. Few companies want to ask the SEC for discretionary relief while challenging the agency in court. And waiver decisions involving large institutions often become politicized.

Because bad-actor disqualifications operate automatically, commissioners who vote to grant waivers are portrayed as giving firms a break. Large companies can readily be branded "recidivists," because regulatory violations are virtually inevitable in organizations employing thousands of people.

These dynamics have played out in decisions involving prominent international banks and other companies. Some SEC decisions to grant waivers have produced sharp public dissent from opposing commissioners. Sen. Elizabeth Warren (D-Mass.), a member of the Senate committee responsible for SEC oversight, has similarly criticized the SEC's waiver practices, declaring that "big corporations should not get special treatment when they break the law" and warning that such waivers send "a dangerous signal."

Such criticisms are understandable if one assumes that barring entire corporations from critical business activities whenever any employee violates securities laws should be the default. But that assumption deserves reconsideration. If the SEC truly wants to encourage fairness and meaningful judicial review, it must reconsider how the bad-actor provisions operate.

Several reforms are available. Automatic disqualifications could be limited primarily to individuals rather than corporations and their affiliated entities. Corporate disqualifications could be triggered only by misconduct involving senior executives.

The rules could be restricted to violations involving fraudulent intent. Disqualifications could be tied more closely to the specific business activity involved—for example, only specified misconduct in managing mutual funds might trigger restrictions on the management of mutual mutuals.

The SEC also could adopt bright-line, judicially enforceable criteria that entitle companies to waivers as a matter of right when certain conditions are satisfied, reducing reliance on discretionary judgments.

Congress itself could play a role. Many corporate disqualifications embedded in the securities laws would make sense as court-imposed remedies after the SEC proves they're warranted. They make far less sense as automatic penalties triggered by almost any violation. Congress could amend these provisions to require the SEC to demonstrate that corporate disqualification is justified based on specific conduct.

Any of these reforms would help restore balance between regulators and the regulated. More importantly, they would strengthen the adversarial process, encourage principled enforcement decisions, and improve the administration of the nation's securities laws.

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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Write for Us: Author Guidelines

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Securities
Deep Dive

SEC Win on Core Enforcement Tool Would Still Leave Payback Gaps

May 4, 2026, 2:00 AM PDT

The SEC appears likely to retain its power to recover money snatched by fraudsters in a case before the US Supreme Court, but there's still a wide gap between what the Wall Street regulator collects and what it can return to any investors who end up on the losing end.

The specifics of how that money is actually clawed back and doled out to investors drew sharp questioning at oral arguments.

A "reasonably good collection agent" would make a concerted effort to get more money back in victims' pockets instead of a Treasury account, Justice Neil Gorsuch said, taking issue with the discrepancies he perceived in the Securities and Exchange Commission's annual disgorgement order amounts compared to distributions.

The task of distributing disgorged assets back to investors isn't straightforward, however, often requiring complex calculations, receivership structures, and time to locate eligible fraud victims, former SEC attorneys said.

"There are numerous scenarios where it is simply not feasible to take disgorged funds from a defendant and distribute them to an identifiable group of victims," said Mark L. Williams, a founding partner at Williams & Serio LLC and former SEC senior trial attorney.

The dispute central to last month's high court arguments go to the heart of the market cop's enforcement strategy.

'Bread-and-Butter' Enforcement

The SEC under Chairman Paul Atkins has pursued a narrower agenda than his predecessor, zeroing in on outright fraud and investor harm such as Ponzi-like schemes while stepping back from crypto-related litigation and disclosure infractions.

But the agency's also prioritizing insider trading cases, even when it's hard to identify any individual victims.

Going after insider trading "appears to be inside the bread-and-butter enforcement that an Atkins SEC believes in," said Lance Jasper, a partner at Akin Gump Strauss Hauer & Feld LLP and a former SEC senior counsel.

The agency can't easily quantify harm to individual shareholders in the type of alleged pump-and-dump and scalping schemes involving nearly 20 microcap companies at issue in last month's *Sripetch v. SEC* arguments, which focused on a circuit split over the agency's capacity to recoup assets lost to fraud.

A majority of justices appeared willing to side with the regulator that it doesn't need to prove investors directly lost money in order to pursue disgorgement.

A ruling for the SEC in *Sripetch* could also influence how enforcers pursue apparent fraud involving digital assets and event contracts that indirectly extracts value from token or wager holders.

"As the Supreme Court is addressing this remedy that has been used by the SEC for a long time, many of the kinds of cases that the SEC and other agencies like the CFTC are bringing will be new in their own way because they involve the blockchain or prediction markets," Jasper said.

The SEC declined to comment.

Complex Distribution

The delicate task of determining who should receive assets recovered from ill-gotten gains in an SEC enforcement action may drive the regulator to err on the side of caution, rather than distributing a sum that could be perceived as a windfall for investors.

"Ultimately the amount that ends up in investors' pockets ends up being a lot smaller than the amount ordered to be disgorged and the amount ultimately collected," said Urska Velikonja, a professor of business law at Georgetown University Law Center who specializes in SEC enforcement.

"I would be enormously surprised if the petitioner won on, 'Disgorgement has to be paid back to investors,'" she added.

The SEC often turns to receivers such as Jeff Schneider, founding partner and chair of the receivership practice group at Levine Kellogg Lehman Schneider & Grossman LLP, to handle particularly complex disgorgement and penalty distributions.

"Ultimately, what you're trying to make sure is that there's an equitable process to determine what an investor's claim amount is," he said. "Most receivership cases will do it similarly, just take money in, less money out, and come up with a net claim amount."

Even after disgorgement is ordered, the dissipation of defrauded assets can complicate the task of collecting and ultimately reuniting investors with all the money they lost.

"There are very few cases—and I've been doing this for over 25 years—where I could think of a hundred cents on the dollar recovery. It does not happen often," Schneider said. "Sometimes the protagonists will buy homes, cars, boats, airplanes, things that can be sold, but those things are not likely to fill up an eight- or nine-figure hole."

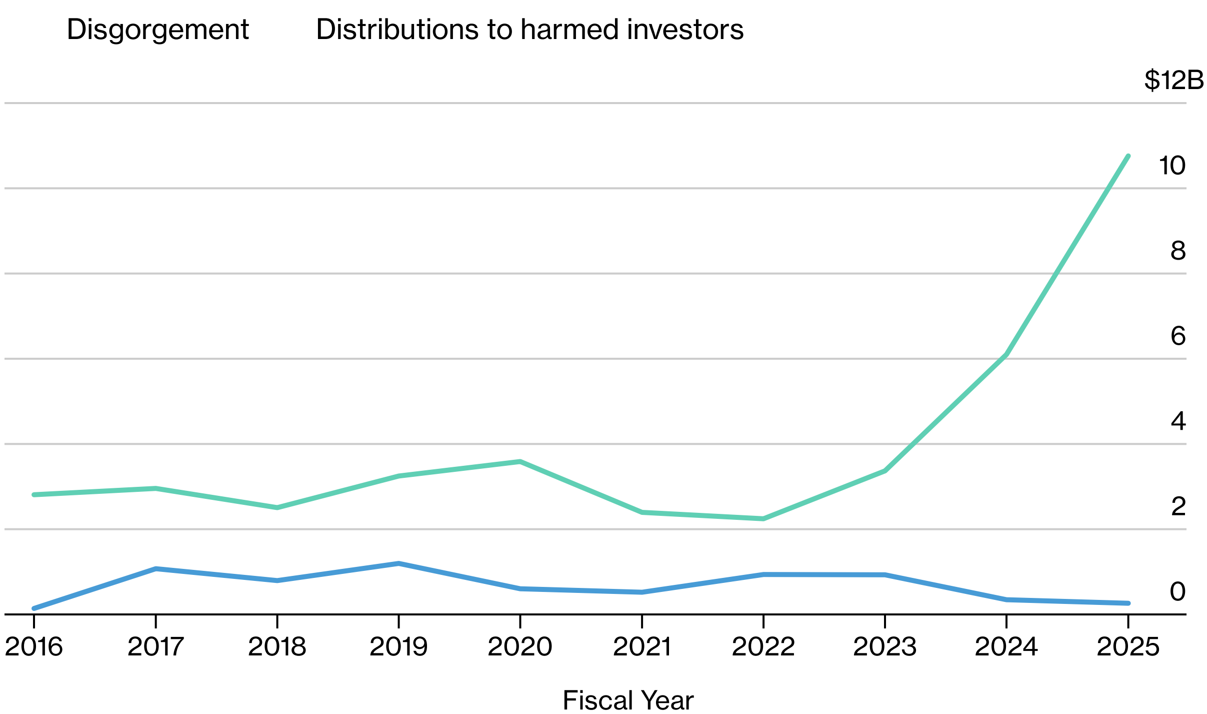
Payment Gap

Disgorgement is "programmatic for the SEC" and a crucial source of recoveries, said Kiersten Fletcher, a partner at Cahill Gordon & Reindel LLP and former assistant US attorney.

The SEC ordered $10.8 billion in disgorgement in fiscal 2025, portions of which were deemed satisfied by payments in parallel criminal proceedings brought by the Justice Department.

Minus those "deemed satisfied" amounts and judgments in a long-running case against R. Allen Stanford and others involved in a roughly $8 billion Ponzi scheme, the annual figure totaled $1.4 billion in disgorgement ordered with prejudgment interest, compared with $1.3 billion in civil monetary fines.

Harmed Investors Get Only a Fraction of SEC-Disgorged Funds



Source: SEC annual enforcement reports

Bloomberg Law

Meanwhile, just $262 million was returned to harmed investors in fiscal 2025, according to SEC data.

“Identifying victims, calculating amounts for a particular victim, potentially doing a distribution is something that the SEC does from time to time via its Fair Fund capabilities, but not something they do for all cases where they pursue disgorgement,” said Jim Lundy, co-leader of the securities enforcement subgroup and a partner at Foley & Lardner LLP.

The case is Sripetch v. SEC, U.S., No. 25-466, oral argument 4/20/26 .

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Securities

SEC Semiannual Reporting Proposal Clears White House Review (1)

May 1, 2026, 11:58 AM PDT

A Securities and Exchange Commission plan to let public companies cut quarterly disclosures to twice a year moved closer to reality after passing a White House review.

The review, completed earlier this week according to a government website posting, will allow the SEC to formally unveil the plan and take public feedback. After receiving that input, commissioners would then need to vote again, typically months later, on a final version for the rule to take effect.

The agency has been working on the plan to revamp corporate disclosure requirements after President Donald Trump called last year to shift to semiannual reports from quarterly ones. US public companies have been required to report on a quarterly basis since 1970.

Read More: End Quarterly Earnings Reports? Here’s the Debate: QuickTake

SEC Chairman **Paul Atkins** previously vowed to fast-track the plan and said the change could save companies significant time and money. But advocates of quarterly reporting argue transparency helps investors make crucial decisions and reduces the potential for companies to bury bad news.

Some trade groups have cautioned against the move as the agency looks to scale back the scope of the company disclosures.

The Managed Funds Association told the SEC that while there’s broad support for reducing the scope to make them more meaningful and effective for investors, doing so at the same time the agency looks to reduce the frequency of reporting risks curtailing investment.

“Inconsistent disclosure practices may undermine comparability and impair informed investment decision-making,” the group said in a comment letter to the agency.

MFA said studies on the European Union’s shift to semiannual financial reporting found companies traded on the Vienna stock exchange that made the change saw a significant reduction in liquidity, while those that retained quarterly reporting did not.

The Committee on Capital Markets Regulation also recently urged the SEC to retain requirements that material information be provided quarterly, saying it “enhances investor decision-making, increases market efficiency, and lowers the cost of capital.”

That group’s members include executives from JPMorgan Chase & Co., Fidelity Investments, Robinhood Markets Inc., Virtu Financial Inc. and DRW Holdings. A representative for Bloomberg LP, the parent company of Bloomberg News, is also a member of the CCMR.

(Updates with details beginning in fifth paragraph.)

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Ben Bain

California Brief
Column

Texas, Nevada Laws Can't Be Measured Against Delaware Benchmark

May 4, 2026, 1:30 AM PDT

Recent arguments over Nevada corporate law expose a deeper problem in corporate law scholarship that is now shaping how Texas is being evaluated as a corporate jurisdiction. Corporate law, which has for decades been taught and studied with Delaware as the default framework, has treated other jurisdictions largely as variations on that model.

That framing is convenient, but it is also wrong. When Delaware is treated as the default, jurisdictional competition becomes a debate about perception rather than substance.

A group of Nevada officials, practitioners, and academics late last month publicly responded to a draft academic article about their state's corporate law. They were joined by Nevada Gov. Joe Lombardo (R), Nevada Secretary of State Francisco Aguilar, and more than 20 lawyers and faculty.

Their core claim is straightforward: Widely circulated critiques of Nevada corporate law are based on incomplete analysis, selective use of authority, and in some instances, unsupported quotations. They're not trying to declare Nevada "better" than Delaware; they're insisting that investors, advisers, and corporate leaders make decisions based on an accurate account of the law.

Most US jurisdictions—36 states—draw heavily from the Model Business Corporation Act, or MBCA. Texas and Nevada sit within that broader ecosystem, but in different ways. Texas once adopted significant portions of the act before diverging through recodification and subsequent statutory reforms.

Nevada never formally adopted the MBCA, but its corporate statute reflects selective borrowing and influence from that model framework. By contrast, Delaware developed along a distinct, judge-driven path.

That baseline matters because many of the features now described as "alarming" in Texas or Nevada aren't innovative. Derivative suit barriers, inspection limits, exculpation provisions, and judicial deference to boards are standard features of MBCA-influenced systems. The difference is often architectural—default versus opt-in—rather than conceptual. What is being framed as deviation is often just unfamiliarity.

The Nevada response illustrates the point. It acknowledges meaningful differences between Nevada and Delaware—particularly around litigation exposure and director liability. But it rejects the claim that those differences amount to a "liability-free" regime or a breakdown in corporate accountability.

More importantly, it shows how those conclusions were reached: by omitting contrary cases, mischaracterizing doctrine, and treating Delaware as the implicit benchmark for what corporate law should look like. That methodology doesn't just distort Nevada. It distorts the market.

Texas is now encountering the same dynamic. Recent commentary on Texas corporate law—particularly after statutory reforms and high-profile reincorporations—has emphasized increased board discretion, limits on shareholder litigation, and expanded contractual flexibility. Those observations aren't wrong, but the framing often implies that Texas is uniquely departing from accepted corporate law norms.

But Texas is operating within the same MBCA-influenced ecosystem as most states—one that prioritizes predictability, statutory clarity, and contractual ordering. That approach differs from Delaware's equity-driven model, which relies more heavily on judicial refinement through litigation.

Difference isn't dysfunction, though. Many of the protections that critics view as distinctive in Texas or Nevada—particularly limits on director liability—are functionally available in other jurisdictions through exculpation provisions that corporations routinely adopt. The distinction is often one of form: statutory default versus private ordering.

That distinction matters for lawyers drafting governance documents and shouldn't be mistaken for a structural failure of corporate law. The deeper issue is how corporate law gets made—and how little attention that process receives outside Delaware.

The MBCA is developed by the American Bar Association's Committee on Corporate Laws through an iterative process involving practitioners, academics, and policymakers. It reflects a national consensus about corporate governance, not a single state's competitive strategy.

When Texas or Nevada adopts or adapts MBCA provisions, they are participating in that broader framework. Treating those choices as aberrational misunderstands both their origin and their prevalence—and creates risk.

Institutional investors, proxy advisers, and boards rely on external analysis and research to assess governance environments. When legal scholarship selectively engages with authority or applies inconsistent standards across jurisdictions, it doesn't just shape academic debate. It influences real capital allocation decisions.

The Nevada response is explicit on this point: Misperceptions about corporate law can lead market participants to rely on incomplete or inaccurate information when evaluating incorporation choices.

The emerging narrative now casts Texas as a management-friendly haven that weakens shareholder oversight. But like Nevada—and like other MBCA jurisdictions—Texas retains fiduciary duties and enforces statutory standards, while permitting liability where plaintiffs can overcome the business judgment presumption and establish bad faith, loyalty breaches, or knowing misconduct. The bar may be higher to overcome the presumption, but it isn't nonexistent.

Companies choose jurisdictions based on litigation risk, regulatory exposure, operational footprint, and governance preferences. Investors respond accordingly. But that system only works if the underlying information is reliable.

Corporate law doesn't belong to Delaware; it is a distributed system shaped across dozens of jurisdictions. Understanding that system requires more than fluency in Delaware doctrine. It necessitates engagement with the legal architecture that governs the majority of US corporations.

The Nevada response is a reminder of what happens when that engagement is missing, and Texas shouldn't have to issue its own correction for the same lesson to take hold.

Columnist Carliss Chatman is a professor at SMU Dedman School of Law. She writes on corporate governance, contract law, race, and economic justice for Bloomberg Law's Good Counsel column.

Read More Good Counsel

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World Liberty Financial

Trump family crypto venture sues major backer for defamation

World Liberty Financial accusation against Justin Sun comes after he sues firm over alleged fraud

World Liberty Financial alleged billionaire Justin Sun caused it 'substantial and ongoing harm' in a series of social media posts © Bloomberg

Jill R Shah and **George Steer** in New York

Published 2 HOURS AGO

A crypto venture backed by the Trump family has sued one of its biggest investors for defamation in the latest escalation of a public spat between the two parties.

World Liberty Financial alleged billionaire Justin Sun caused "substantial and ongoing harm" through a series of posts published on the social media platform X, according to a lawsuit filed in Florida state court on Monday.

The lawsuit from World Liberty, which was founded by Eric Trump and Donald Trump Jr and the sons of US special envoy Steve Witkoff, comes after Sun sued the firm for fraud last month. Sun has turned from one of the firm's biggest supporters to a vocal critic in a dramatic break playing out in public and now in the courts.

World Liberty raised hundreds of millions of dollars through tokens it issued. Sun claims the firm restricted his ability to sell his tokens and extorted him for more funds. The price of the token, WLFI, has fallen 80 per cent from its peak, despite its association with the Trump family.

Now the firm is firing back, alleging Sun "embarked on a scorched-earth pressure campaign" on social media that cost the firm "specific business opportunities" and harmed its reputation in the crypto community. The firm also accused Sun of hiring influencers and fake social media accounts to "amplify his lies".

"His actions were co-ordinated, deliberate and aimed at burning World Liberty to the ground," according to the lawsuit.

A spokesperson for Sun referred to a post on X for his comment, where he called the lawsuit "nothing more than a meritless PR stunt".

Sun is one of the biggest investors of World Liberty. President Donald Trump declared $57.3mn in personal income from World Liberty in 2024, according to his latest financial disclosure.

Soon after Trump's re-election in 2024, Sun invested roughly $45mn in digital tokens issued by World Liberty in part because of the Trump family's association with the project, he said in his lawsuit. Sun also bought more than $100mn worth of Trump's memecoin, which earned him a seat at an exclusive dinner with the president.

US securities regulators later settled a fraud case and dropped certain charges against Sun, one of several friendly moves towards the crypto industry during Trump's second term. Sun's relationship with World Liberty devolved soon after the investment.

News from Bloomberg Terminal

Trump-Linked World Liberty Sues Justin Sun for Defamation

May 4, 2026, 10:27 AM PDT

Summary by Bloomberg AI AI Generated

- World Liberty Financial is suing Justin Sun for defamation, accusing him of running a coordinated media campaign against the project.
- The lawsuit alleges that Sun embarked on a pressure campaign against World Liberty to try to extract hundreds of millions of dollars, and that he acquired tokens for undisclosed individuals through straw purchases.
- Sun has denied the allegations, calling the defamation lawsuit a "meritless PR stunt" and saying he stands by his actions and looks forward to defeating the case in court.

By David Pan and Olga Kharif

(Bloomberg) --

World Liberty Financial said it is suing Justin Sun for defamation, accusing the billionaire crypto entrepreneur of running a coordinated media campaign against the Trump-linked project after he filed his own lawsuit against it last month.

“Sun has launched a coordinated media smear campaign against World Liberty Financial and refused to stop even when confronted with the truth,” the project said in a statement on X. A World Liberty spokesperson confirmed the lawsuit.

The lawsuit accused Sun of improper transfers, conducting straw purchases, and shorting the tokens. It alleges that Sun acquired tokens for undisclosed individuals through straw purchases, in which one entity typically purchases an asset on behalf of another person.

“Sun embarked on a scorched-earth pressure campaign against World Liberty to try to extract hundreds of millions of dollars from World Liberty, including having his counsel threaten litigation designed to “light World Liberty on fire,’” the lawsuit said.

WLFI
@worldlibertyfi · Follow

Today, we are filing a lawsuit against Justin Sun for defamation. Sun has launched a coordinated media smear campaign against World Liberty Financial and refused to stop even when confronted with the truth.

Here's the story.🧵

5:17 AM · May 4, 2026

2.5K Reply Copy link

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"The alleged defamation lawsuit that World Liberty announced on Twitter today is nothing more than a meritless PR stunt. I stand by my actions and look forward to defeating the case in court." Sun said in a statement on Monday.

https://x.com/justinsuntron/status/2051289314009727120

H.E. Justin Sun
@justinsuntron · Follow

The alleged defamation lawsuit that World Liberty announced on X today is nothing more than a meritless PR stunt. I stand by my actions and look forward to defeating the case in court.

Last edited 6:14 AM · May 4, 2026

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The counter-suit escalates a legal dispute that has become one of the most public ruptures in crypto this year. Sun sued World Liberty alleging extortion and an illegal scheme to seize his tokens, charges the project's co-founders denied. The dueling lawsuits mark a new phase in a dispute that has become the most public unraveling of a Trump-linked business venture since the president took office.

"Rather than acting in good faith, Justin Sun chose to defame World Liberty — repeatedly, publicly, and to millions of followers. World Liberty filed this lawsuit as a last resort to correct the record and to protect its token holders, its employees, and all its stakeholders. We are eager to expose the falsity of Sun's statements in court and in public," said Tom Clare, attorney for World Liberty Financial.

Read more:

Trump Family Crypto Project Quietly Sold as Holders Got Stuck

Billionaire Sun Sues Trump-Linked Project Alleging Extortion

Trump-Linked Crypto Project's Clash With Investors Deepens

World Liberty was co-founded by President Donald Trump and his sons, as well as Steve Witkoff, the president's special envoy to the Middle East, and his family members. The Trump name isn't mentioned - outside of references to articles or tweets - in the World Liberty defamation lawsuit, which has many redacted parts. The co-founders' photos and names have also been removed from the project's website, which a World Liberty spokesperson said is always being updated. The company sold its WLFI tokens to investors in two public rounds in late 2024 and early 2025, and Sun bought $45 million worth of the tokens, per his statements.

Under the project's disclosures on its website, DT Marks DEFI LLC — an entity affiliated with Donald Trump and certain family members — is entitled to received 75% of WLFI token sale proceeds after deduction of agreed reserves and expenses. DT Marks and certain Trump family members also hold 22.5 billion WLFI tokens.

Sun is the founder of the Tron blockchain, and was at one time hailed as the president's biggest crypto benefactor. Sun also invested in the president memecoin, and attended a dinner with the president last year.

The Securities and Exchange Commission said in March that it ended its lawsuit against Sun, and a firm affiliated with him agreed to pay $10 million.

The case is World Liberty Financial LLC v. Sun, 2026-08955, 11th Florida Circuit Court (Miami).

(Adds information on World Liberty beginning in the eighth paragraph.)

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Trump U.S. Attorney Pick May Lack Trial Experience, But Was January 6 Protestor!

abovethelaw.com/2026/05/trump-u-s-attorney-pick-may-lack-trial-experience-but-was-january-6-protestor

Joe Patrice May 1, 2026

Donald Trump's nominee for U.S. Attorney for the District of Wyoming, Darin Smith, is an estate planning lawyer who has never tried a federal or state case. But he does boast the most important qualification — at least for this Department of Justice — to uphold law and order: he participated in January 6. While Todd Blanche and Kash Patel struggle to explain how Jim Comey building a seashell display on vacation amounts to a true threat to commit political violence, they are moving forward with installing a guy who marched with rioters who battered a cop and threatened to kill Mike Pence as the top federal law enforcement official in Wyoming. He's already the interim U.S. Attorney, and says he never entered the Capitol itself, so the Senate is poised to move ahead and make this permanent.

It's nice to hear that he didn't personally partake in smearing feces on the Capitol walls or build any gallows, but he did show up for a protest for the explicit purpose of disenfranchising voters, so… still not great.

But Smith is only one of a package of proposed prosecutors. Huffington Post explains:

> Another nominee in the mix is Phillip Williams, who is up for a U.S. attorney post in the Northern District of Alabama. Like Smith, he's never tried a criminal case. He previously criticized federal law enforcement for having "hunted down" Jan. 6 rioters, and accused them of "prosecutorial abuse, many, many times over." He also compared their prosecutions to the Salem witch trials of the late 1600s, when people were falsely accused of witchcraft.

See, now, the problem with that comparison is that we only had rumors about what Goody Proctor got up to, but WE ALL GOT PICS OF THIS SHIT:

(Photo by Samuel Corum/Getty Images)

Not to mention video of rioters busting through gates and pummeling police.

Rounding out a trio of election deniers up for plum assignments is former GOP congressman Dan Bishop, slotted for the a U.S. Attorney post in North Carolina. He was also at the Capitol on January 6, but on the inside, voting to overturn the election results despite the lack of any credible evidence that the results weren't true and valid. And, of course, when you want a law and order type, you obviously want someone who watched a mob attack the building threatening to murder officials and then goes ahead and votes to validate their antics. It's all right though, because Bishop has said that "the left" was behind January 6.

Which must be news to Smith.

The structural problem here is bigger than any of these three yo-yos personally. U.S. Attorneys wield enormous power because deciding who gets prosecuted with the full force of the federal government, and how aggressively, is the whole ball game for many defendants. It's a tremendous amount of discretionary power in the hands of lawyers better suited to setting up trust funds than running a prosecutorial office. And attending January 6 many not disqualify someone from being a citizen in a democracy, but it absolutely should disqualify them from passing judgment on who has and has not committed a crime.

The Trump administration has been normalizing these bottom of the barrel picks for over a year. From the early days of [January 6 fluffer Ed Martin]() through the [whole Lindsey Halligan debacle](), this Justice Department prizes loyalty over competence. And in Trumpland there's no greater badge of loyalty than January 6th bona fides.

Alas, HuffPo reports that GOP Senators "all but shrugged" when asked about the nominees. So, congratulations on your new jobs, guys!

Senate Moves Forward With 3 Wildly Unfit Nominees To Be Trump's U.S. Attorneys [Huffington Post]

Joe Patrice is a senior editor at Above the Law and co-host of Thinking Like A Lawyer. Feel free to email any tips, questions, or comments. Follow him on Twitter or Bluesky if you're interested in law, politics, and a healthy dose of college sports news. Joe also serves as a Managing Director at RPN Executive Search.

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Exxon Ex-CEO Tells Jury Company Didn't Mislead Investors

By **Spencer Brewer**

Law360 (May 1, 2026, 10:14 PM EDT) -- Former Exxon Mobil Corp. CEO Rex Tillerson testified Friday that the company followed rules dictating annual reports to investors when it came to detailing its Kearl Lake reserves, telling a jury in Texas federal court that the energy giant did not mislead investors.

The investors who launched the class action called Tillerson as a witness. Lead plaintiff Eastern Atlantic States Carpenters Pension Fund alleges Exxon and its executives, including Tillerson, knew certain operations — including Kearl Lake in Canada and the company's Rocky Mountain Dry Gas assets — were less profitable than the company told investors. The fund says Exxon **committed fraud by delaying** the release of this information.

The investors' attorney, Scott Saham of Robbins Geller Rudman & Dowd LLP, asked Tillerson if the company claimed its Kearl Lake operations as part of proved reserves it reported to shareholders, and counted it among the assets that would replace the reserves that the company had used that year.

When Tillerson answered in the affirmative, Saham asked if the U.S. Securities and Exchange Commission had changed its rules to allow companies to count alternative extraction methods, such as extraction of the bitumen found in Kearl Lake, among its proved reserves. Bitumen refers to a highly viscous component of petroleum, while proved reserves specify the amount of a natural resource a company expects to extract from a specific geological formation.

"I'm sure we followed whatever [the rules] were," Tillerson said.

The SEC changed its rule in 2008, according to a press release from the agency.

Saham wanted to know if Kearl Lake accounted for 88% of the company's bitumen reserves and about 15% of the company's proved reserves.

Tillerson answered in the affirmative.

Central to the investors' claim is an allegation that Exxon used the transportation costs reflective of shipping the bitumen extracted from Kearl Lake within Canada in its annual report to investors rather than to the Gulf Coast for refinement. Saham asked Tillerson why that was the information released to investors, and he answered that the company determined it was the most appropriate methodology.

The highest and best sales included those made within Canada that only factored in transportation costs within Canada, not those to different parts of the U.S., Saham said. He added that Exxon did not disclose that methodology in its annual 10-K. Tillerson said that was correct.

Tillerson also told the jury that while Exxon's investments in Kearl Lake and its Rocky Mountain Dry Gas assets were important, the company had a **lot of other assets** that factored into its overall financial health. Tillerson was CEO and chairperson of Exxon from 2006 to 2016.

The investors are represented by Darren J. Robbins, Michael J. Dowd, Spencer A. Burkholz, Scott H. Saham, Sam S. Sheldon, Jonah H. Goldstein, Nathan R. Lindell, Sara B. Polychron, Erika L. Oliver and

T. Alex B. Folkerth of Robbins Geller Rudman & Dowd LLP, Joe Kendall of Kendall Law Group PLLC and Balon B. Bradley of Balon B. Bradley Law Firm.

Exxon is represented by Theodore V. Wells Jr., Daniel J. Toal, Audra J. Soloway, Paul D. Brachman and Lyuba Shamailova of Paul Weiss Rifkind Wharton & Garrison LLP, Nina Cortell, Jason Bloom and Jason Neil Jordan of Haynes Boone, Thomas M. Melsheimer of King & Spalding LLP and Scott C. Thomas of Latham & Watkins LLP.

Tillerson is represented by D. Patrick Long of Squire Patton Boggs LLP.

The case is Ramirez v. Exxon Mobil Corp. et al., case number 3:16-cv-03111, in the U.S. District Court for the Northern District of Texas.

--Additional reporting by Elliot Weld and Katryna Perera. Editing by Jay Jackson Jr.

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How 'Spillover' Effects Can Skew AI Securities Class Actions

By **Erik Johannesson, Olivia Wurgaft and Nguyet Nguyen** (May 1, 2026, 2:18 PM EDT)

Erik Johannesson

Olivia Wurgaft

Nguyet Nguyen

From fiscal years 2019 to 2024, there has been an approximately 700% increase in artificial intelligence-related disclosures in Form 10-K filings from S&P 500 firms. By 2024, most AI-related discussions appeared under "Risk Factors," suggesting that firms increasingly view AI as a potential material source of risk as AI adoption proliferates across sectors.[1]

Consistent with this trend, securities litigation related to AI has also increased. In 2025, AI-related filings accounted for more than 40% of the "Current Trend" securities class action matters, according to Stanford Law School's Securities Class Action Clearinghouse report.[2]

Against this backdrop, recent events suggest that when AI-related news hits the market, it can shift expectations not only about the company at issue but also about related industries and, at times, the broader market.

For economists and litigators relying on event studies to isolate the price impact of news, spillover effects — i.e., when news about one company affects the value of others — introduce additional complexity: An industry or market index used as a return benchmark may reflect the market's reaction to the very information the event study seeks to measure.

Event study evidence is often central in securities litigation at class certification and beyond. In an environment where firm-specific news can have broader market implications, the task of parsing out the price impact of news or statements requires careful consideration; otherwise, estimated price impact may be over- or understated.

In this article, we use real-world examples to illustrate economic spillover effects, discuss their implications in the AI era and outline practical considerations for experts and litigation counsel.

Primer on Event Study Methodology

Event studies are widely used in securities cases to evaluate price impact and loss causation. In a typical event study, an expert first estimates how a company's stock typically moves with its industry and the broader market.

This is typically done through a regression analysis over an estimation period. The regression estimates the stock's sensitivity, on average, to movements in its industry and the broader market.

The relationships estimated from the regression analysis are then applied to the actual industry and market returns observed on the event date to calculate the company's predicted return. The predicted return reflects how the stock would be expected to perform based on market and industry forces, absent firm-specific news.

The difference between the predicted return and the observed return provides an estimate of the stock's abnormal return. Under certain conditions, this abnormal return can be used as a measure of the price impact of an event of interest.

Industry indices used in event studies typically include firms within the same sector or subindustry. Experts often include an industry index in the regression analysis to control for industrywide factors that affect all firms in the sector.

This approach rests on an assumption that the industry index on the event date primarily reflects sectorwide conditions — that is, factors unrelated to the event affecting the company being studied.

As we illustrate below, this assumption might warrant closer examination in settings where firm-specific news has broader market effects.

How Firm-Specific News Moves Industry Peers

Firm-specific events can have implications beyond the firm itself if the new information leads investors to reassess not only the affected firm, but also economically related companies.

Empirical research documents such spillover effects across a range of events and economic contexts. Studies show that one firm's earnings forecasts or results can affect the stock prices of industry peers,[3] that take-private announcements of a firm can increase the valuation of its industry rivals,[4] and that initial public offerings can affect the stock price of competing firms.[5]

To illustrate, consider Intel Corp.'s disclosure on July 23, 2020, of significant delays in its next-generation chip manufacturing technology.[6]

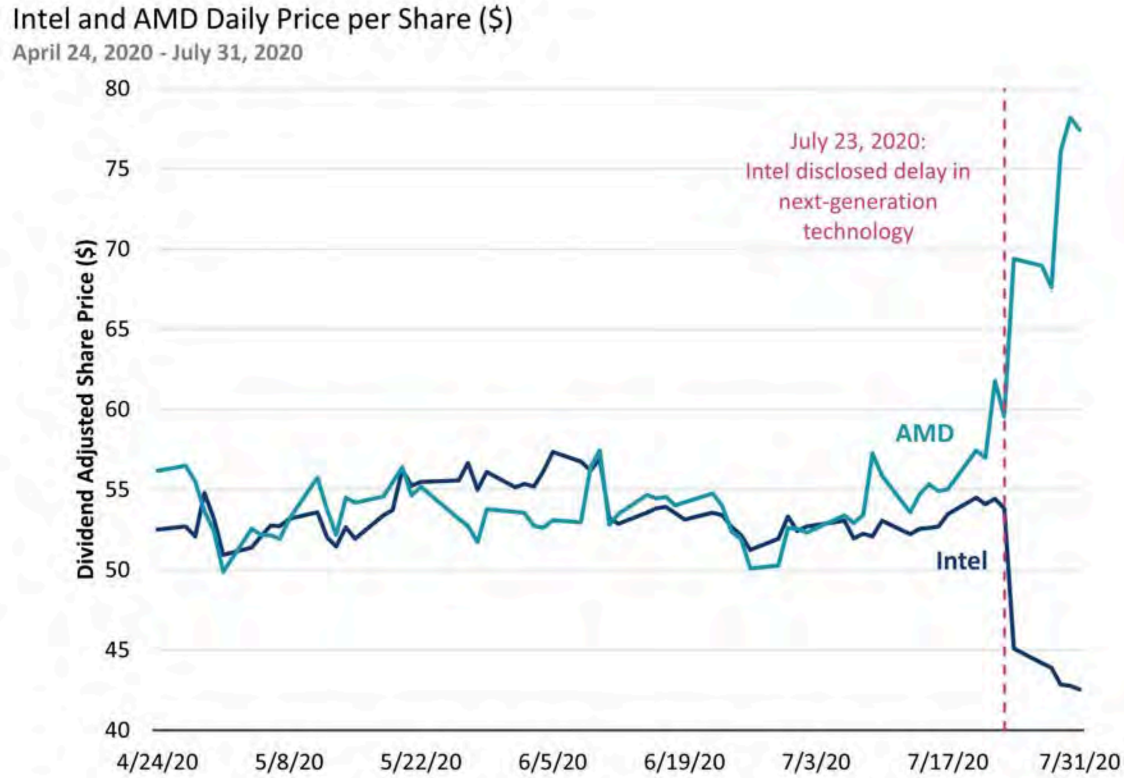
Intel's stock price fell sharply following the announcement. At the same time, the stock price of Advanced Micro Devices Inc., one of Intel's main competitors, rose, reflecting expectations that Intel's setback could strengthen AMD's competitive position.[7]

A contrasting dynamic is illustrated by Biogen Inc. and Eli Lilly & Co. in June 2021, whereby positive news for one company was followed by an increase in the stock price of its peer.

On June 7, 2021, Biogen's stock price surged following news that the U.S. Food and Drug Administration had approved its drug to treat Alzheimer's disease.[8] Eli Lilly, which was developing a similar Alzheimer's therapy, also saw its stock price rise, as investors viewed the FDA's decision to approve Biogen's drug as improving prospects for competing drugs.[9]

In both examples — Intel/AMD and Biogen/Eli Lilly — news concerning one firm conveyed information relevant to its peers. Figures 1 and 2 illustrate these spillover dynamics using daily[10] and intraday[11] data, respectively, showing that both the subject company and its peer responded almost immediately following the news.

Figure 1: Daily Price Per Share



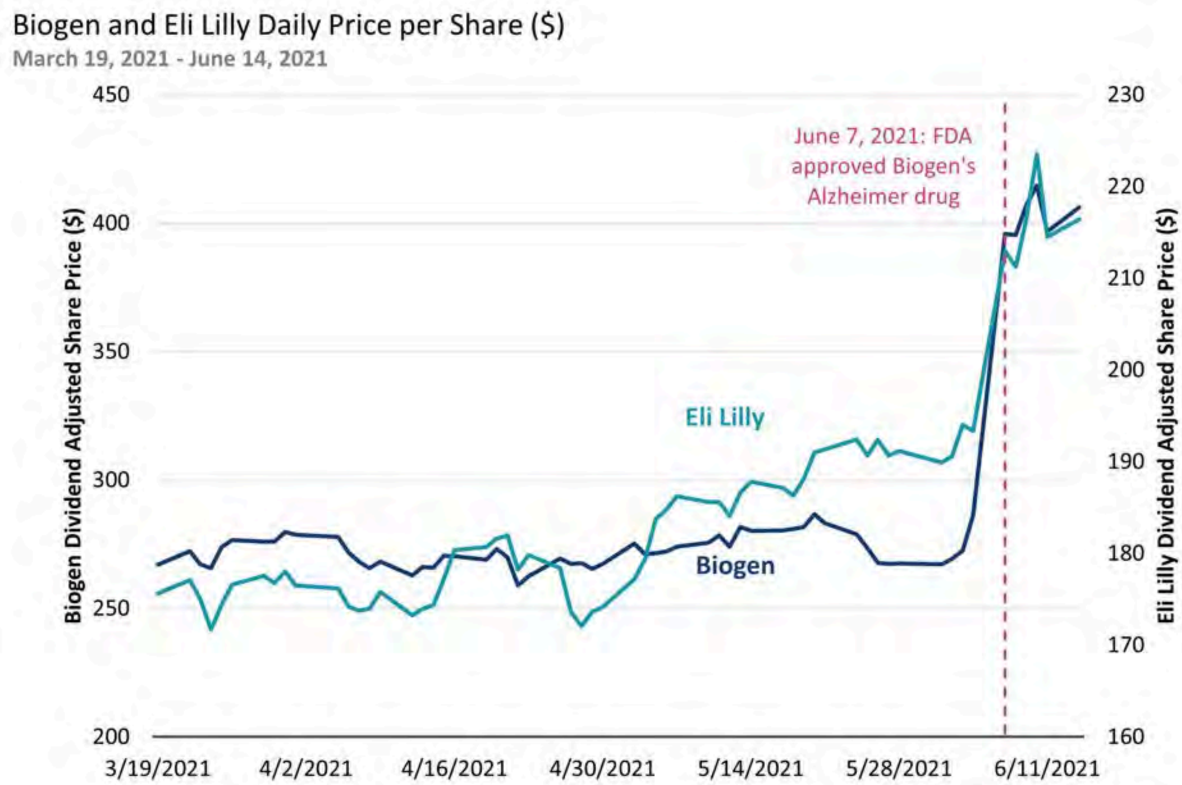
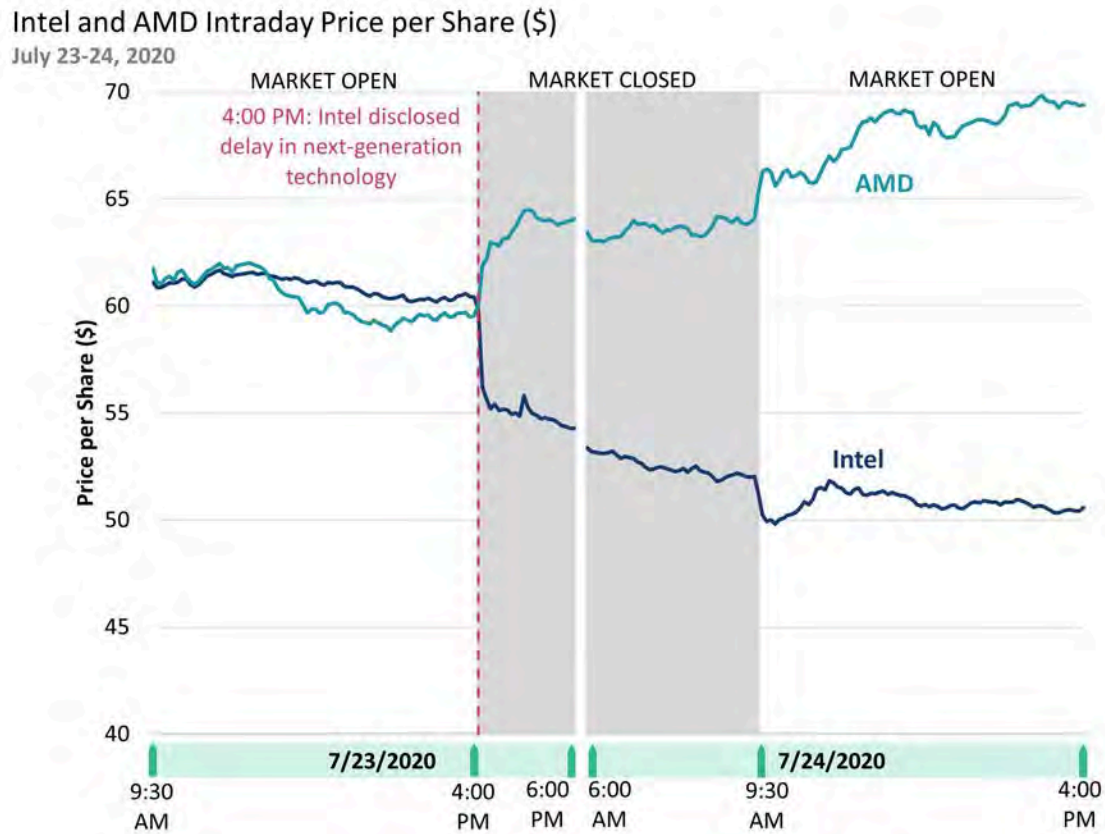
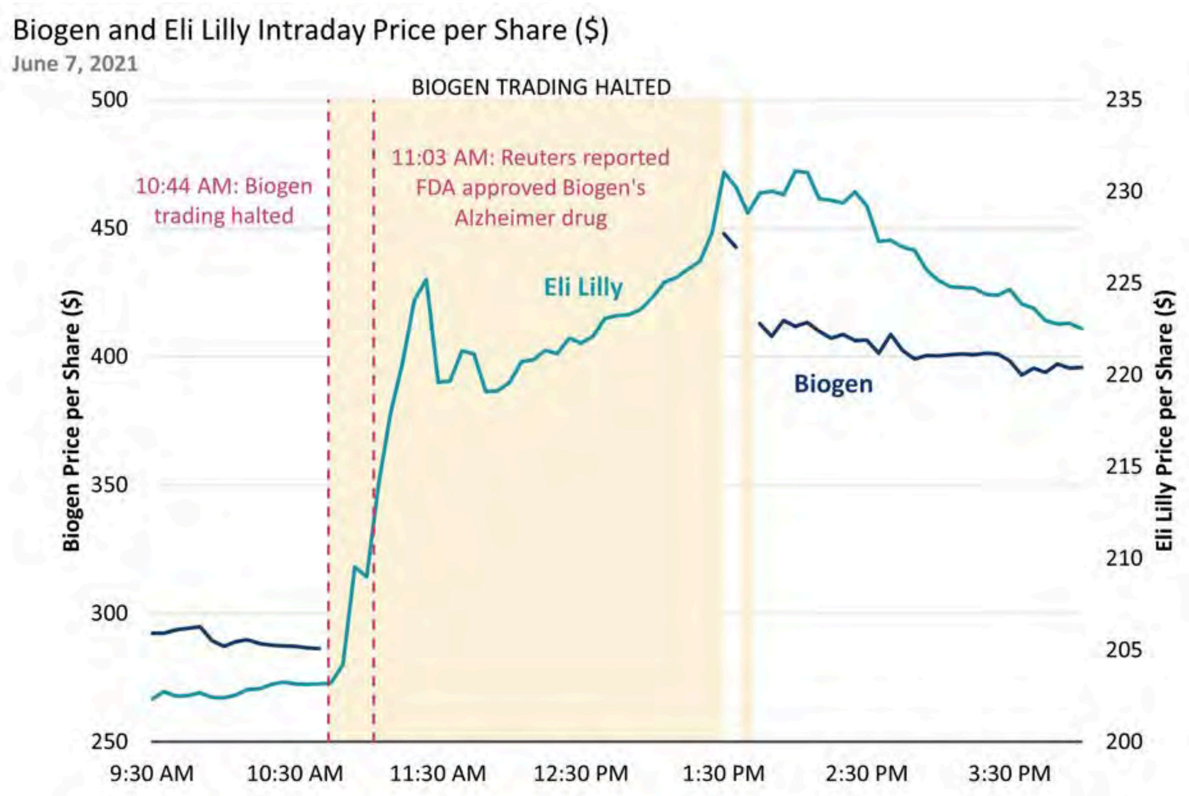


Figure 2: Intraday Price Per Share





These examples illustrate spillover effects in relatively more discrete settings, in which firm-specific news affects direct competitors. In some cases, spillover effects can be broader, extending to a wider set of firms, even across sectors. In the current AI era, this dynamic can be more amplified, as new developments often have implications across multiple firms and industries simultaneously.

For example, in early February 2026, Anthropic PBC introduced an AI-based legal workflow plugin for Claude/Cowork, aimed at tasks such as document review, risk flagging, nondisclosure agreement triage and compliance tracking.[12] Anthropic's announcement was followed by declines in the shares of Thomson Reuters, RELX and Wolters Kluwer, consistent with a reassessment of the competitive outlook for publishing and legal software companies.[13]

This example highlights that AI-related disclosures can have ramifications not only for direct peers, but also for firms connected through indirect or cross-industry channels.

Why This Matters in Securities Class Actions

When spillover effects such as those illustrated above are present, the task of isolating the price impact of news can become even more challenging. In such cases, failing to consider the unique circumstances of the case in an event study can distort the estimated abnormal returns, potentially overstating or understating the event's true price impact.

Returning to the Intel-AMD example, if Intel's negative news caused AMD's stock price to rise, the return of an industry index that includes AMD will be higher relative to a scenario in which AMD is unaffected by the Intel news. If Intel's stock historically exhibited a positive relationship with the industry index, the expected return model may produce a higher-than-warranted predicted return for Intel on the event date.

The estimated abnormal return for Intel in this scenario may appear more negative than it economically was. In other words, the abnormal return might be overstated.

The reverse can also occur. Positive news for a company may increase the price of peer firms, such as in the Biogen-Eli Lilly example, causing the industry index to increase. In that case, part of the true price impact of the news event might be incorrectly attributed to the industry index rather than to the news event itself. The estimated abnormal return might therefore be understated.

In the current AI environment, contamination issues arising from spillovers might be more salient and need to be assessed on a case-by-case basis.

AI-related developments, such as model releases, regulatory changes or shifts in competitive positioning, may carry implications that extend across firms and even across sectors. As a result, industry and market indices may increasingly reflect reactions to the same information that an event study seeks to isolate.

In such settings, treating these indices as unaffected benchmarks may warrant closer scrutiny, as doing so could lead to inaccurate estimates of price impact.

Conclusion

Event studies remain central to expert analyses of price impact, loss causation and damages in securities litigation. As this article illustrates, in some cases, careful consideration of industry and market dynamics — and how they affect event study model specification — can play a critical role in an expert's analysis aimed at isolating the price impact of company-specific news.

While spillover contamination is not a new issue, it can be more pronounced in the current AI environment. As AI-related developments increasingly reshape competitive expectations, information about one firm may be rapidly incorporated into the valuations of peers, raising the risk that commonly used benchmarks reflect part of the same price impact an event study analysis seeks to isolate.

Even when spillover effects are present, whether additional considerations and adjustments are necessary is a case-specific empirical question. Where appropriate, experts may consider sensitivity and robustness by evaluating alternative specifications, such as excluding affected peers, constructing different industry indices, developing an expected-return model for the industry index itself, testing a market-only model or examining intraday price movements.

Parsing out the price impact of firm-specific information is not a mechanical exercise but one that requires economic judgment. In settings where spillover effects are plausible, the challenge is not only selecting an appropriate benchmark but ensuring that the event study model meaningfully separates firm-specific effects from broader market and industry responses.

Addressing this issue proactively — through economic reasoning and sensitivity, and robustness analyses — can strengthen the credibility and reliability of the analysis. Experts and legal counsel alike should consider this issue at an early stage to reduce avoidable methodological disputes and ensure that the event study framework aligns with the economic realities of the case.

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Olivia Wurgaft is a senior research analyst at the firm.

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[1] Diana Connor and Adrienna Huffman, "SEC's 700% Increase in AI Disclosures Sets Stage for Litigation," Bloomberg Law, January 7, 2026, https://news.bloomberglaw.com/legal-exchange-insights-and-commentary/secs-700-increase-in-ai-disclosures-sets-stage-for-litigation.

[2] Stanford Law School Securities Class Action Clearinghouse, "Current Trends," accessed April 3, 2026, https://securities.stanford.edu/current-trends.html.

[3] See, e.g., Stephen P. Baginski, "Intraindustry Information Transfers Associated with Management Forecasts of Earnings," Journal of Accounting Research 25(2) (1987): 196–216.

[4] Myron B. Slovin, Marie E. Sushka, and Yvette M. Bendeck, "The intra-industry effects of going-private transactions," The Journal of Finance 46(4) (1991): 1537–1550.

[5] Hung-Chia Hsu, Adam V. Reed, and Jörg Rocholl, "The New Game in Town: Competitive Effects of IPOs," The Journal of Finance 65(2) (2010): 495–528.

[6] Intel Corporation, "Intel Reports Second-Quarter 2020 Financial Results," July 23, 2020, https://www.intc.com/news-events/press-releases/detail/1402/intel-reports-second-quarter-2020-financial-results.

[7] "AMD rockets 17% to record high after rival Intel delays next-generation chips," Business Insider, July 24, 2020, https://markets.businessinsider.com/news/stocks/amd-stock-price-jumps-record-high-intel-delays-chips-earnings-2020-7-1029429636; Jason Hall, "S&P 500 Falls: Intel Stock Crashes, AMD Stock Surges, Gold Price Breaks Record on U.S.-China Tension," The Motley Fool, July 24, 2020, https://www.fool.com/investing/2020/07/24/sp-500-falls-intel-stock-crashes-amd-stock-surges.aspx.

[8] "U.S. FDA approves Biogen Alzheimer's drug," Reuters, June 7, 2021, https://www.reuters.com/article/biogen-alzheimers-fda-idUKL3N2NP35O/; Julie Steenhuysen and Deena Beasley, "U.S. approval of Biogen Alzheimer's drug sends shares soaring, hailed as 'big day' for patients," Reuters, June 7, 2021, https://www.reuters.com/business/healthcare-pharmaceuticals/us-fda-set-rule-controversial-biogen-alzheimers-drug-2021-06-07/.

[9] Keith Speights, "Why Eli Lilly Stock Soared Today," The Motley Fool, June 7, 2021,https://www.nasdaq.com/articles/why-eli-lilly-stock-soared-today-2021-06-07; Joseph Walker, "FDA Approval of New Alzheimer's Drug May Boost Prospects of Other Treatments," The Wall Street Journal, June 8, 2021, https://www.wsj.com/health/pharma/fda-approval-of-new-alzheimers-drug-may-boost-prospects-of-other-treatments-11623179622.

[10] Source: S&P Capital IQ.

[11] Source: Tick Data.com.

[12] "Anthropic unveils Claude legal plugin and causes market meltdown," Legal Insider, February 3, 2026, https://legaltechnology.com/2026/02/03/anthropic-unveils-claude-legal-plugin-and-causes-market-meltdown/.

[13] Chibuike Oguh, Samuel Indyk and Danilo Masoni, "Anthropic's new AI tools deepen selloff in data analytics and software stocks, investors say," Reuters, February 3, 2026, https://www.reuters.com/business/media-telecom/ai-concerns-pummel-european-software-stocks-2026-02-03/.

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Pharma Co. Investor Sues Over Misleading Aurinia Deal

By **Lauraann Wood**

Law360 (May 1, 2026, 5:52 PM EDT) -- A Kezar Life Sciences investor has filed suit asking an Illinois federal judge to halt the company's planned acquisition by a Canadian biopharmaceutical company's U.S. unit unless Kezar fixes the "incomplete and misleading" regulatory filings it submitted regarding the transaction.

Blocking the planned transaction between Kezar and Aurinia Pharma U.S. Inc. is necessary because Kezar's U.S. Securities and Exchange Commission filings lack "vital details" regarding the extent to which Aurinia's offer was based on confidential company records CEO and board chair Kevn Tang obtained while pursuing an acquisition offer for another one of his companies, Concentra Biosciences LLC, shareholder Antonio Elkerson alleged in his April 30 complaint.

Kezar's recommendation statement to shareholders is also illegally deficient because it fails to elaborate on the identity and role of a "potential financial advisor" with whom the company's board of directors discussed Concentra's earlier proposal, including whether said adviser was paid any fees, Elkerson alleged. Nor is the filing clear enough regarding the underlying assumptions and inputs Kezar's eventual financial adviser TD Cowen used to determine the company had $48.3 million in cash available for distribution, Elkerson claimed.

The company should be required to "immediately" correct the SEC tender offer and recommendation statements it filed because the missing information is material for common stockholders, including Elkerson, to make informed decisions regarding whether to tender their shares in the transaction, the suit says.

The acquisition publicly proposed in March will have Aurinia acquiring Kezar for $6.955 in cash per share of Kezar stock and certain nontransferable contingent value rights, according to Elkerson's complaint.

Concentra, however, which is controlled by Tang and his life science-focused investment firm Tang Capital Partners LP, had submitted an unsolicited acquisition proposal to pay $11 per share for Kezar nearly 18 months earlier in October 2024 in a post-reverse stock split, Elkerson alleged. The investment firm also disclosed at the time that it owned 9.9% of Kezar's outstanding shares, he said.

Kezar's board initially rejected Concentra's offer and implemented a plan preventing the company from purchasing more than 10% of its stock without approval, according to the suit. But several months later, between late March and late April 2025, the board met to discuss Tang's request that the company wind down its operations and return cash to stockholders, the suit says.

The board met with its "potential financial advisor" that October as it announced plans to undertake a strategic review process, but then engaged TD Securities (USA) LLC in that role roughly a week later, Elkerson alleged.

TD contacted 40 potential reverse merger counterparties and 37 potential strategic parties, including Concentra, which was ultimately one of the seven strategic parties with whom Kezar entered confidentiality agreements for due diligence purposes, Elkerson alleged. The process led Concentra and a "Party E" to submit and revise multiple acquisition proposals, with Kezar initially deciding to enter exclusivity with Party E before ultimately letting that expire and engaging instead with Concentra's competing offer, the investor says.

TD met with Concentra to begin negotiations on March 21, after Kezar's contractual exclusivity with Party E expired, according to Elkerson's suit. But Kezar management and TD then met two days later to discuss Aurinia's acquisition interest with Tang, who by then had assumed his executive position with that company, and the companies executed a confidentiality and merger agreement within a week of that meeting, Elkerson claimed.

The merger agreement, however, contains "contains onerous and preclusive" protections that essentially make the proposed transaction a done deal and "all but ensure" it is consummated without the threat of any competing offers, Elkerson alleged. It also contains a $1.2 million termination fee in the event the deal falls through, he said.

And Kezar's recommendation statement "provides no details" regarding the extent to which Tang may have used nonpublic information he obtained through Concentra's acquisition proposal to help inform and shape Aurinia's proposal, Elkerson alleged.

"Such information is clearly material to the reasonable stockholder," the investor alleged. "Tang's prior access to confidential information, overlapping ownership in Concentra, Aurinia, and Kezar throughout the transaction process, and the role Tang had in steering Aurinia all may have influenced the merger consideration and/or resulted in the exclusion of other parties from competition in the acquisition of the company."

Kezar's recommendation statement should also be more forthcoming about the identity of the "potential financial advisor" it began working with as early as October 2024 before ultimately engaging TD, Elkerson alleged. The statement indicates the potential adviser reviewed Concentra's acquisition offer and provided other substantive financial advice, but does not disclose who that adviser was or whether they received any fees for their service, he said.

"The reasonable stockholder must be afforded the opportunity to consider whether the potential financial advisor had any relationships interested parties such as Concentra, Tang Capital, or Aurinia, and whether the potential financial advisor's financial analyses were influential in the Board seeking strategic alternatives in the first place," he alleged.

Elkerson is represented by Guri Ademi and John Blythin of Ademi LLP.

Counsel information for Kezar and its board could not immediately be determined Friday.

The case is Elkerson v. Kezar Life Sciences Inc. et al., case number 1:26-cv-05013, in the U.S. District Court for the Northern District of Illinois.

--Editing by Jay Jackson Jr.

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Twist Bioscience Investors Seek $17M Stock Fraud Deal OK

By **Bonnie Eslinger**

Law360 (May 1, 2026, 8:55 PM EDT) -- Twist Bioscience Corp. and two executives asked a California federal court to give preliminary approval to a $17 million deal they inked with investors to resolve class allegations the company misrepresented that its technology could produce synthetic DNA at higher quality and lower cost than competitors.

The $17.05 million settlement, which includes a proposed $4.26 million cut for the investors' attorneys, is "fair, reasonable and adequate," the investors told the court Thursday.

The motion also asks the court to preliminarily certify a proposed settlement class, comprised of investors who acquired Twist stock in a 2020 offering or from Dec. 20, 2018, through Nov. 15, 2022,

"This outstanding result did not come quickly or easily," the investors told the court, adding that the lead plaintiff and lead counsel "shouldered substantial risks" as they "vigorously prosecuted the litigation."

The suit was first filed in December 2022 and its operative complaint alleges that co-defendants Twist, CEO Emily Leproust and former Chief Financial Officer James M. Thorburn misled investors by claiming that the company had automated its workflow, enabling efficient manufacture of its products. The reality, however, is Twist faced significant production challenges and had received "rampant" customer complaints. The investors also claim that Twist improperly allocated some expenses to inflate the company's gross margins.

During the course of the litigation, lead counsel Bleichmar Fonti & Auld LLP defeated the Twist defendants' motion to dismiss in part, pursued extensive discovery, participated in depositions and filed the plaintiffs' motion for class certification, which included a supporting expert report, the motion for settlement approval underscores. Bleichmar Fonti also said that it conducted an extensive investigation into the case that included interviews with confidential witnesses and a comprehensive review of U.S. Securities and Exchange Commission filings, news articles, industry publications, analyst reports, academic literature and filings in other litigation.

"The settlement accounts for and avoids the risks of protracted litigation, including that defendants could prevail on one or all of their defenses at summary judgment, trial, or on appeal, defeating the class's ability to collect any recovery," the motion states.

In her September order partially denying the Twister defendants' motion to dismiss, U.S. District Judge Eumi K. Lee found that the investors plausibly alleged falsity related to the company's automation, noting that four former Twist employees have stated that Twist's production process was not fully automated, resulting in human errors, increased costs, and longer turnaround times. The judge also found that the investors' allegations held up related to product quality and customer dissatisfaction. Three former Twist employees provided information about significant customer complaints related to the quality of products received, including complaints about imperfect DNA, the judge noted.

"These allegations directly contradict assertions of shipping 'perfect DNA' and the customer experience being 'excellent,'" the judge stated in her ruling.

According to the complaint, Leproust made the "perfect DNA" statement at a 2019 healthcare conference, where she also made the assertion that "the customer experience is excellent."

In addition, Leproust had "hundreds" of conversations and meetings with a former employee about product failures, quality control errors and customer concerns, according to the complaint.

After discovery was conducted in the case, the parties began talks with a mediator and reached their deal in late March. The $17.1 million recovery represents approximately 3.5% to 7.7% of the estimated recoverable damages, "which is in line with comparable class actions" in the Ninth Circuit, the investors told the court.

Twist held its initial public offering in October 2018. By November 2022, it had raised over $1 billion, with the company's share price exceeding $207 during this period, according to the complaint.

The in November 2022 an investment firm put out a report targeting Twist's purported business and accounting practices. The report from Scorpion Capital claimed that Twist was inflating its gross margins, covering up its manual manufacturing and quality control issues, and misrepresenting customer satisfaction, among other concerns. Twist's stock plummeted, according to the complaint. Weeks later, a different analyst attributed the decline in Twist's stock value to the report, which the plaintiffs say served as a corrective disclosure, alerting investors to the false and misleading statements made by the company and its top executive.

About that time, Twist Bioscience's biotech "factory of the future" outside Portland, Oregon, **came under scrutiny** from investors and securities lawyers.

The Twist defendants did not respond to a request for comment. On Friday they filed a notice with the court stating that they do not oppose the investors' motion for preliminary approval of the class action settlement.

Lead counsel for the plaintiffs, George N. Bauer of Bleichmar Fonti & Auld LLP, told Law360 that on behalf of his clients "we are pleased with this excellent result for Twist investors and look forward to obtaining court approval."

In 2020, Twist **agreed to shell out** $22.5 million to put to rest a dispute with Agilent Technologies Inc. over proprietary DNA synthesis technology. Agilent had claimed in its 2016 suit that Twist and several of its current and former employees stole confidential information related to Agilent's DNA oligonucleotide synthesis technology. In 2019, Twist lodged a cross-complaint accusing Agilent of shifting blame for its "poor business decisions" and employee retention issues onto "convenient scapegoats."

The putative class and lead plaintiff Policemen's Annuity and Benefit Fund of Chicago are represented by Adam C. McCall, Joseph A. Fonti, Nancy A. Kulesa, George N. Bauer, Benjamin Burry and Thayne Stoddard of Bleichmar Fonti & Auld LLP.

Twist Bioscience, Emily M. Leproust and James M. Thorburn are represented by James N. Kramer and M. Todd Scott of Orrick Herrington & Sutcliffe LLP, and by James C. Rutten and Achyut J. Phadke of Munger Tolles & Olson LLP.

The case is Anthony Joseph Peters v. Twist Bioscience Corp. et al., case number 5:22-cv-08168, in the U.S. District Court for the Northern District of California.

--Additional reporting by Hailey Konnath. Editing by Bruce Goldman.

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Amazon Accused Of Selling Kids Sunscreen With Lead

By **Emily Field**

Law360 (May 1, 2026, 8:48 PM EDT) -- Consumers on Thursday hit Amazon with a proposed class action in Washington federal court alleging that children's sunscreens it sells are contaminated with heavy metals such as lead and that its artificial intelligence shopping assistant Rufus doesn't disclose details about the product ingredients.

Texan Lauren Wolf and Californian Elizabeth Correia said they bought name-brand sunscreens such as Coppertone and Sun Bum from Amazon's marketplace, but testing shows those sunscreens contain "alarmingly high levels" of heavy metals such as cadmium and lead. Amazon doesn't disclose the presence of heavy metals on its point-of-sale web pages for the products, the consumers said.

"Experts stress the importance of applying sunscreen every day when outdoors. And for infants and others with sensitive skin, they recommend mineral sunscreens whose active ingredient is titanium dioxide and/or zinc oxide," the consumers said. "Recent testing of sunscreen sold by retailers show that certain sunscreen products sold by Amazon are contaminated with heavy metals, including cadmium and lead."

There are no safe levels of human exposure to heavy metals and exposure can cause negative health effects such as brain damage and liver damage, the consumers said.

"The inclusion or real risk of high levels of cadmium and lead contradict and impede the central function of the sunscreen products," the consumers said. "The sunscreen products are intended to provide sun protection to infants and children. Cadmium and lead provide no such protection and instead pose health risks to infants and children."

The retail and technology giant also makes and sells one of the sunscreens at issue, the 365 Whole Foods Sport Mineral Sunscreen Lotion, according to the complaint.

Amazon controls what information is contained in the product listings and has requirements for manufactures' descriptions, according to the complaint.

The company also uses its AI technology Rufus to insert its own descriptions of the sunscreens into product listings, the complaint said. Rufus is powered by Amazon's proprietary technology and Amazon makes it appear on product detail pages, according to the consumers.

On the detail page for a Sun Bum children's sunscreen, Rufus poses the question "Is this sunscreen water resistant?" the consumers said.

But when a consumer clicks on the question, the response is that the product's information "does not provide explicit details about the presence or absence of additives or preservatives," the consumers said.

"No reasonable consumer purchasing sunscreen after seeing Amazon's point-of-sale disclosures would expect the sunscreen products to contain heavy metals," the consumers said. "Furthermore, reasonable consumers, like plaintiffs, would consider the inclusion of heavy metals a material fact when considering what sunscreen products to purchase."

Amazon sells goods as a first party and allows third parties to list goods for sale on Amazon's marketplace, according to the complaint. Those sellers have agreements with Amazon that allow the company to format product listings, control all communications about the products with consumers and process all payments, according to the complaint.

Additionally, Amazon doesn't require sunscreen sellers to test for heavy metals or include those results, according to the complaint.

The company also has a fulfillment service for third-party sellers with more policies and requirements, according to the complaint.

"Sales on Amazon's marketplace make up between 65% and 70% of all online marketplace sales in the United States and account for over 50% of all online retail sales revenue in the United States," the consumers said. "The vast majority of sales on Amazon's marketplace are of products that are either sold by Amazon as a first party or handled and shipped by Amazon via Fulfillment by Amazon."

Wolff and Correia both said they bought the sunscreens from Amazon numerous times in the past several years.

The consumers bring allegations that the company violated the Washington Consumer Protection Act and seek to represent a national class of sunscreen buyers from Amazon.

Representatives for the parties didn't immediately respond to request for comment Friday.

The consumers are represented by Brendan W. Donckers of Breskin Johnson Trial Lawyers PLLC, Rebecca A. Peterson, Krista K. Freier and Catherine A. Peterson of Hecht Partners LLP, Daniel E. Gustafson, Catherine Sung-Yun K. Smith and Adam Kolb of Gustafson Gluek PLLC and Jason Gustafson of Throndset Michenfelder LLC.

Counsel information for Amazon wasn't immediately available Friday.

The case is Wolf et al. v. Amazon.com, Inc., case number 2:26-cv-01479, in the U.S. District Court for the Western District of Washington.

--Editing by Stephen Berg.

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What To Watch For As Meta Stares Down NM Injunction Trial

By **Cara Salvatore**

Law360 (May 1, 2026, 7:33 PM EDT) -- The attorney general who convinced a jury to penalize Meta Platforms Inc. $375 million for teen mental health harms now faces a critical follow-up bench trial to fight for a suite of court orders that Meta claims would force "a different Instagram to exist in New Mexico."

Following a jury trial loss in New Mexico, Meta now faces a bench trial over design features alleged to harm teen mental health. (Photo by Jakub Porzycki/NurPhoto via AP)

A jury in Santa Fe **found on March 24** that Meta must pay $375 million over state attorney general Raúl Torrez's claims that the social media giant hid the full scope of harm its apps cause to minors and failed to adequately protect underage users from sexual predation, bullying, and harmful content like suicide and self-injury material.

The company also allegedly did nothing to keep out under-13 users and painted a rosier picture for the public than it discussed internally in chats and emails that sometimes lamented lack of action or protections.

After the unequivocal win in that six-week jury trial, the state will now return to the court of Judge Bryan Biedscheid for a bench trial to argue for court-ordered changes to Meta's practices and make the case that the company's apps constitute a public nuisance.

The state will argue Meta should be ordered to revamp or abolish many of the design features they say drive the harm. The proposed measures include pop-up safety warnings, minimum required detection levels for sexual abuse material, usage time limits, eliminating infinite scroll and hiding "like" counts on posts. It will also ask for a court-appointed child safety monitor.

"They're really asking for some sweeping changes," said Jess Nall of Withers, who defends tech company founders. "I think it's kind of wild what the attorney general is asking for," for a court to "step in and redesign Meta's products."

"In order to touch on regulating anything that involves speech, which this does, the courts really have to be careful" when it comes to First Amendment protections, Nall said.

First Amendment in the Spotlight

At a pretrial hearing in April, Meta argued the state was asking for "more than 50 different injunctions — depending how you count, as many as 100."

One request — that Meta use artificial intelligence to detect at least 99% of new, not-already-identified child sexual abuse material — is a "demand for close to perfection [that] ignores the real-world difficulties" of the technological problems that must be solved to make that happen, Meta lawyer Kevin Huff said at the hearing.

Judge Biedscheid acknowledged that any relief ordered would likely take time to implement because of the technological processes behind it, promising to allow reasonable time for implementation.

Huff pushed back on a request by the state that Meta, in the attorney's words, "implement a warning label that social media is associated with significant mental health harm for teens."

"That is a blatant violation of the First Amendment," he said. "It requires compelled speech."

Other asks include time limits on teens' usage based on a formula that benchmarks to national teen usage data, and an order blocking AI chatbots from engaging in "romantic or sexualized interactions" with under-18 users.

Nall said she believes the state and its counsel have an uphill climb because of the First Amendment, saying any orders about how Meta runs its platforms are required by the U.S. Constitution to be narrowly tailored to address a compelling state interest.

Judge Biedscheid made clear in the April 9 hearing that he had not yet decided whether to grant any injunctive relief — the purpose of the bench trial.

Broader Effects of Injunctive Relief

Joe McNally, head of emerging litigation at McNicholas & McNicholas, said the second-phase proceedings could represent a greater threat to Meta than the $375 million penalty.

"I believe that the second phase of this trial is potentially more costly and more challenging for Meta, when they're looking at potential injunctive relief," McNally said. "If the court were to adopt all of those remedies, I think that is very, very costly to Meta."

McNally predicted the case will land in the New Mexico Supreme Court with questions about the limits of public nuisance law, which is at issue in the bench trial, and said there is open "legal debate as to whether or not nuisance claims are a proper way to deal with what is really a product liability claim."

Product liability specialists Rachel Forman and David Kerschner of Arnold & Porter shared the same thought.

"This is not a traditional product case where plaintiffs are proving a specific design defect; they just have to show in this case that the design change is necessary to get the relief and abate the public harm," Forman said.

Ordering Meta to make such changes would be "broad, and we don't believe that's entirely practical, but it definitely has implications for other product liability cases that are not public nuisance cases, and a case like this has the potential to dictate what design features digital platforms have," Forman said.

That is all regardless of success on appeal, she said. Kerschner added that one effect of any decision to award injunctive relief would be encouraging plaintiffs — private plaintiffs, state attorneys general and any others — to file more suits.

"You could see in the future plaintiffs' lawyers in more traditional product liability cases using that as kind of a marker on ways that they think companies should be acting," Kerschner said.

Gearing Up for a Streamlined Trial

Though Meta argued hard for a delay, Judge Biedscheid has said that's neither necessary nor desirable for the three-week trial, with a two-day break in the middle for a state judicial conference the judge will be attending.

"I still have, I'm proud to say, quite a bit of the evidence and testimony from our jury in my mind as fresh now," the judge said in April. "I think that doing it while this is fresh in the court's mind is going to be a great aid to making sure that I understand phase-two witness testimony and how it relates to phase one."

David Ackerman, one of the Motley Rice lawyers representing Torrez, told the judge at the April 9 hearing that there are ways in which the bench trial will be much more streamlined. "We think we can hopefully avoid a lot of the sidebars that happened during the jury trial," he said.

"There's a lot of talk about this list of injunctive relief; the state has a public nuisance claim as well, and there can be no argument from Meta that it's somehow not prepared for that public nuisance claim or that the public nuisance claim is somehow a surprise to Meta."

Torrez and outside counsel from Motley Rice LLC told jurors in the phase-one trial that Meta declared it would "move fast and break things" — but hid that minors "are the collateral damage, what's broken when Meta moved fast."

An elementary school principal testified she emailed Instagram head Adam Mosseri, also a later witness, about all her students being on the network and got no response. Former Facebook senior director of engineering Arturo Béjar testified it took a sequence of seven screens to report an under-13 person posing as 13 or older, and required the reporter to give their real name and birth date.

The company was abundantly aware that users "feel like they're not in control because the algorithm is designed to make them lose control," Motley Rice's Linda Singer told the jury.

A Meta spokesperson said in a statement regarding the bench trial: "The New Mexico attorney general's focus on a single platform is a misguided strategy that ignores the hundreds of other apps teens use daily. Rather than providing comprehensive protections, the state's proposed mandates infringe on parental rights and stifle free expression for all New Mexicans. Regardless, we remain committed to providing safe, age-appropriate experiences and have already launched many of the protections the state seeks."

The state is represented by the Office of Attorney General Raúl Torrez as well as by Donald Migliori, Linda Singer, Michael Pendell and David Ackerman of Motley Rice LLC.

Meta is represented by Kevin Huff and Alex Parkinson of Kellogg Hansen Todd Figel & Frederick PLLC.

The case is New Mexico v. Meta Platforms Inc. et al., case number D-101-CV-2023-02838, in the First Judicial District Court of New Mexico.

--Editing by Philip Shea.

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How Data Center Accounting May Draw Enforcement Scrutiny

By **Grant Nichols, Yelena Kotlarsky and Alex Blumberg** (May 1, 2026, 4:00 PM EDT)

Grant Nichols

Yelena Kotlarsky

Alex Blumberg

To no surprise, the growth of the data center industry has accelerated,[1] and as a result, enforcement actions involving data centers — particularly those focused on export controls[2] — have started to emerge and public scrutiny has intensified.

We previously **discussed** this projected enforcement activity in a July 2025 guest article.[3]

Indeed, in December 2025, Sen. Elizabeth Warren, D-Mass., and other lawmakers informed a wide range of tech companies that they were opening an investigation into the "extent to which big tech data centers are driving up consumers' electricity costs."[4]

Data centers are also attracting legislative attention at the state level. In early 2026, Maine advanced legislation to become the first state to temporarily ban new large data centers — though it was **vetoed** by Gov. Janet Mills on April 24 — with similar moratorium proposals introduced in other states, including New York, South Carolina, Oklahoma and Vermont.[5]

We expect enforcement activity and public scrutiny to continue building through 2026 and beyond.

In this article, we highlight a specific and unique risk area for data centers that has just started to attract media and investor attention: accounting and securities risks. Due in part to the capital-intensive nature of data center buildouts, industry leaders have turned to various methods of financing the significant debt associated with data center development.[6]

For example, asset-backed securitizations — through which operators pool long-term lease revenues into tranches of debt securities sold to capital markets investors — and commercial mortgage-backed securitizations, through which lenders pool mortgage loans secured by the data center properties themselves into tranches of rated securities sold to fixed-income investors, have become common financing tools for data centers.[7] But other interesting financing methods are being leveraged as well.

In all, these relatively novel maneuvers carry distinct accounting and enforcement risks, and could attract enforcement attention given the increasing scrutiny of the industry as a whole, as shown in the two examples below.

Off-Balance Sheet Buildouts Through Joint Ventures and Variable Interest Entities

Because of the increasing demand for powering artificial intelligence and cloud computing, among existing infrastructure needs, some larger tech companies are funding their own multibillion-dollar data center buildouts. But, in order to avoid increasing liabilities on their books to the detriment of their financial statements, these companies have turned to structured finance to leverage creative accounting mechanisms.

The appeal is clear: Use outside capital, secure long-term capacity and keep reported lease liabilities lower on financial statements.

To achieve this, companies are leveraging joint ventures or other legal structures such as variable interest entities. The variable interest entity mechanism, in particular, could attract legal scrutiny from regulators.

At a high level, tech companies are moving data center projects into joint ventures that are majority-owned by institutional investors. The tech company then keeps a minority stake and signs some form of a lease agreement that keeps open a renewal option that allows the tech company to continue the lease for a longer time horizon. Under such an arrangement, these companies are then positioned to rent the data center under an operating lease, which indicates that the company does not own or control the asset.

While these types of agreements may comply with accounting and securities requirements at a technical level, one concern — especially considering the current media scrutiny swirling around data centers — is that government regulators or enforcement actors take the position that these accounting maneuvers are misleading. That is, regulators or enforcement entities could allege that by keeping significant data center buildout costs and associated debt off their primary financial statements, companies are obscuring the true extent of their financial commitments and risks.

This alleged lack of transparency could be held out in some circumstances to be a misrepresentation of the project's financial health, particularly if the associated debt becomes problematic in the event of a collapse of what many have speculated could be an AI bubble.[8]

While there is, of course, further nuance on the accounting and structured finance considerations at play in these agreements, the point here is that this type of maneuvering could attract interest from the U.S. Department of Justice, state attorneys general, the U.S. Securities and Exchange Commission, and other government agencies.

For companies considering or already implementing similar structures, aside from remaining cognizant of the potential for an enforcement inquiry or action, there are some practical considerations.

First, decisions about control and consolidation should be well supported — if a company clearly drives key decisions, bears cost-overrun risk and controls performance, nonconsolidation will be harder to defend.

Second, lease classifications and lease-term judgments should line up with credit supports. In other words, companies should avoid setting up a situation where renewals of a lease term are essentially automatic or expected, or are considered in isolation from other factors that would normally inform a renewal decision.

Third, disclosure controls should aim to make clear how the project is financed, what guarantees could require payment and how lease liabilities could change if renewals become likely.

These issues also connect back to our first article, where we provided that extra precautions should be taken to avoid any potential misstatements to government entities.

GPUs as Collateral

Another area that could lead to enforcement activity in the near future is the use of the data center's computing equipment — especially high-end GPUs — as collateral for construction and operating debt.

In one sense, this arrangement makes clear sense: GPUs drive the value of AI-focused campuses, and lenders prefer collateral that they can resell. But the same features that make GPUs valuable also make them potentially unstable collateral.

The state-of-the-art GPUs are coveted due to their ability to handle the intensive workloads demanded by data centers and AI in particular. However, they have an uncertain lifespan and could become obsolete in a matter of months or years — and predicting the depreciation rate of GPUs is inherently difficult given the rate at which new technical developments transform the industry.

Depending on the cost and speed at which new GPU technology overtakes these assets, a market disruption could leave lenders empty-handed. Indeed, the faster the technology cycle, the wider the gap can become between book value and what the hardware would actually fetch on the open market.

Observers have compared these dynamics to the 2008 mortgage-backed securities crisis.[9] The analogy is particularly apt given the data center industry's increasing reliance on the methods referenced earlier — asset-backed securitizations and commercial mortgage-backed securities.

Both of these financing mechanisms are structurally similar to the mortgage-backed securities at the center of the 2008 crisis: pooling revenue streams into rated tranches, distributing risk across investor classes, and depending on collateral valuations and market-liquidity assumptions that can deteriorate rapidly if underlying conditions shift.

Additionally, data center loans are increasingly backed by a single, volatile asset class — GPUs; financing structures likely involve borrowing against GPUs to acquire more GPUs; and valuation assumptions can become stale quickly when technology and liquidity conditions shift.

This potential mismatch creates several accounting and disclosure risks, and care should be taken to navigate those risks. From a securities perspective, overstated collateral values and optimistic assumptions about resale markets can potentially support actions premised on material misstatements or omissions. These assumptions create disclosure risks that also extend to statements about the value and ownership of GPUs and related data center assets.

Further, companies that finance GPU acquisitions with structures tied to collateral performance may face additional exposure if loan quality, default risk or recovery expectations are described in ways that prove misleading.

In projects that benefit from tax incentives; the mix of accelerated depreciation; sales, use and property tax exemptions; and clawbacks can magnify the impact if collateral values fall or assets must be sold. These issues also implicate the adequacy of internal controls over financial reporting, particularly valuation controls and asset verification, including controls over off-balance-sheet arrangements and third-party operators.

From an enforcement perspective, these accounting judgments become high risk if they are used to mask liquidity strain or to prop up borrowing capacity. In short, concentrated exposure to a rapidly evolving asset class — paired with leverage and optimistic market assumptions — creates a profile that enforcement authorities have scrutinized before and are likely to scrutinize again.

Conclusion

Companies should be mindful of these accounting, disclosure and enforcement risks, as well as media scrutiny that could lead to enforcement inquiries or congressional probes. Arrangements designed to optimize balance-sheet presentation or preserve borrowing capacity could quickly become liabilities when assumptions about control, asset values or market stability no longer hold.

As public and media scrutiny of the data center industry intensifies, regulators, enforcement authorities and Congress are likely to look past formal legal structures and focus instead on economic reality: who truly controls the assets, who bears the downside risk and whether public disclosures accurately reflect those realities. Accounting judgments that rely on aggressive assumptions, opaque financing structures or rapidly evolving collateral classes heighten the risk of investigations and inquiries.

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King & Spalding associates Joseph Hendricks and Sarah Nelson contributed to this article.

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[1] JLL, 2026 Global Data Center Outlook: Navigating AI Demand, Power Constraints and Global Opportunities in 2026 (last visited January 9, 2026), https://www.jll.com/en-us/insights/market-outlook/data-center-outlook.

[2] See, e.g., Department of Justice: Office of Public Affairs, U.S. Authorities Shut Down Major China-Linked AI Tech Smuggling Network (Dec. 8, 2025), Office of Public Affairs | U.S. Authorities Shut Down Major China-Linked AI Tech Smuggling Network | United States Department of Justice."

[3] Grant Nichols, Yelena Kotlarsky, and Alex Blumberg, Navigating Enforcement Risks Facing Data Centers, Law360 (July 8, 2025), https://www.law360.com/articles/2358788/navigating-enforcement-risks-facing-data-centers (summarizing anti-corruption, export control, data-handling and FCA risks across the data center life cycle).

[4] https://www.warren.senate.gov/newsroom/press-releases/senator-warren-lawmakers-open-investigation-into-big-tech-data-centers-role-in-driving-up-families-utility-costs.

[5] Ella Nilsen, Data centers are spreading around the country. Now, data-center bans are, too, CNN (Apr. 12, 2026), https://www.cnn.com/2026/04/12/climate/maine-data-center-ban-bill.

[6] See generally https://www.mastt.com/guide/data-center-construction.

[7] See, e.g., Nikit Sawjani, The infrastructure revolution: understanding data center securitization, RBC: Capital Markets (Jan. 13, 2026) ("Two significant trends are reshaping the securitization landscape. First, Asset-Backed Structures (ABS) and Commercial Mortgage-Backed Structures (CMBS) dynamics have shifted. Historically, ABS dominated at roughly 70% of deal volume, with CMBS representing just 30%. However, 2025 has seen this split closer to 50% / 50% as issuers have successfully accessed both markets to finance their growth.").

[8] Some investors have already brought suit involving the lack of transparency with how large companies deal with investments in data centers. See generally Reuters, Oracle sued by bondholders over losses tied to AI buildout (Jan. 14, 2026), https://www.reuters.com/sustainability/boards-policy-regulation/oracle-sued-by-bondholders-over-losses-tied-ai-buildout-2026-01-14/.

[9] See e.g., Karen Weise and Eli Tan, How Tech's Biggest Companies Are Offloading the Risks of the A.I. Boom, N.Y. Times (Dec. 15, 2025), https://www.nytimes.com/2025/12/15/technology/ai-risks-debt.html; Lucy Raitano, Five debt hotspots in the AI data centre boom, Rueters (Dec. 12, 2025), https://www.reuters.com/business/finance/five-debt-hotspots-ai-data-centre-boom-2025-12-11/; Neil Callanan and Paula Seligson, AI Data Center Boom Sparks Fears of Glut Amid Lending Frenzy, Bloomberg (Dec. 12, 2025), https://www.bloomberg.com/news/articles/2025-12-12/ai-data-center-boom-sparks-fears-of-glut-amid-lending-frenzy.

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Citron Founder Slips False Statement Charge In Calif. Case

By **Craig Clough**

Law360 (May 1, 2026, 7:26 PM EDT) -- A California federal judge has trimmed Citron Research founder Andrew Left's securities fraud case by throwing out one criminal count accusing him of making false statements to federal agents, finding the proper venue for the charge is in Florida where the statements allegedly were made.

U.S. District Judge Virginia A. Phillips' **order** Thursday cited the Ninth Circuit's 2023 decision that tossed the false-statements criminal conviction of former U.S. Rep. Jeff Fortenberry of Nebraska while finding the Central District of Califronia is not the right venue for the count because Left was in Florida when the statements were allegedly made by phone to U.S. Postal Inspector Services agents in California.

Fortenberry was **convicted** in 2022 at a Central District of California criminal trial on three counts of violating U.S.C. Section 1001 — the same statute Left was accused of violating by lying to federal agents. The Ninth Circuit **tossed Fortenberry's case** the next year, finding that because the statements were made in Nebraska and Washington, D.C., California is not the proper venue even though the agents investigating the then-Congressman were from an FBI field office in California.

"As previously stated, it is undisputed that defendant allegedly uttered the false statements — the essential conduct of a Section 1001 offense — when he was located in Florida," Judge Phillips wrote in the order. "That essential conduct was sufficient to constitute the offense … Under Fortenberry, then, venue for Count Eighteen of the [first superseding indictment] properly lies in Florida, not the Central District of California.'

Judge Phillips also rejected the government's arguments that the count was property brought due to the U.S. Supreme Court's 1961 opinion in Travis v. United States. The government argued that case held that under Section 1001, a "statement" made during a phone call is completed on both ends of the call and not only where the speaker makes the statement.

According to the judge's order, the Travis case "concerned a petitioner who was convicted in Colorado of a Section 1001 offense for the making and filing of false affidavits required by Section 9(h) of the National Labor Relations Act."

"In Travis, the court did not hold that venue was appropriate in both Colorado, where the false affidavits were executed, and Washington, D.C., where the false affidavits were received and filed," Judge Phillips wrote. "Rather, venue was only appropriate in Washington, D.C., because Section 9(h) of the Labor statute dictates that the statute's criminal penalty provisions are not invocable until 'there is on file with the board' a false affidavit."

"Travis thus appears to be specific to the National Labor Relations Act context," the judge continued. "The court therefore agrees with defendant that the government's reliance on Travis is misplaced because that case is distinguishable from the instant circumstances."

Left, the founder of the popular trading advice website Citron Research, was indicted in 2024 on allegations he used his platform to manipulate stock prices and earn $16 million through securities fraud by taking advantage of rapid price fluctuations that occurred shortly after he published reports on those same companies via Citron Research.

Prosecutors say Left took advantage of his hundreds of thousands of social media followers, as well as frequent guest appearances on various news programs, by making "sensationalized" claims about allegedly under- or overperforming companies, then trading the stocks contrary to his public advice based on market movements that occurred due to his statements.

The U.S. Securities and Exchange Commission also announced a lawsuit against Left in **July 2024**, accusing him and his investment advising firm, Citron Capital LLC, of making $20 million in ill-gotten profits based on reports and social media posts published between 2018 and 2020. Citron Capital was also named as a defendant.

The court denied a motion from Left to **dismiss the case**, and also denied a separate motion to dismiss for selective prosecution and a motion to strike surplusage, and denied in part a motion for a bill of particulars.

In February, the government filed a superseding indictment that included the same counts but with one fewer count for fraud in connection with the purchase and sale of securities. Left then filed a motion to dismiss the first count for securities fraud in violation of 18 U.S.C. Section 1348(1).

In April, Judge Phillips **rejected** Left's motion to dismiss first count as "duplicitous," finding it alleges a single market-manipulation scheme involving multiple misleading statements and does not need to be split into multiple counts.

The U.S. Attorney's Office for the Central District of California declined to comment. Counsel for Left did not immediately respond to a request for comment.

The government is represented by Alexander Schwab of the U.S. Attorney's Office for the Central District of California and Lauren Archer and Matthew Reilly of the U.S. Department of Justice Criminal Division's Fraud Section.

Left is represented by Eric S. Rosen and Yusef Al-Jarani of Dynamis LLP and Aaron M. Katz of Aaron Katz Law LLC.

The case is US v. Andrew Left, case number 2:24-cr-00456, in the U.S. District Court for the Central District of California.

--Editing by Amy French.

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SEC's Corp. Governance Shift Puts Onus On States, Cos.

By **Sarah Jarvis**

Law360 (May 1, 2026, 1:48 PM EDT) -- Lawyers who work with clients on corporate governance matters had a warm response to a recent pledge from U.S. Securities and Exchange Commission Chairman Paul Atkins to let states handle such issues, saying the shift marks a return to the agency's historical approach and may spur increased activity among state regulators.

Atkins told an audience at a Texas Stock Exchange event in April that as part of the agency's push toward "making [initial public offerings] great again," the SEC is "focused on ensuring that states, and not the SEC, regulate matters of corporate governance."

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

The corporate governance matters the SEC has handled include various rules related to executive compensation, proxy voting, cyber incident disclosures and when insiders can trade their own company's stock. Attorneys told Law360 it's possible that as the SEC increasingly defers to companies on what to disclose in those areas, states may be inclined to increase their enforcement or come forward with more related laws.

Gary Brown, a partner at Nelson Mullins Riley & Scarborough LLP, said he would "wholeheartedly applaud" Atkins' attempts to roll back what he said is unnecessary information in corporate proxy statements, pointing to the examples of CEO pay ratio and some pay-versus-performance information — which includes disclosures on the relationship between executive compensation and a company's financial performance.

The Securities Act of 1933, which governs the financial information investors receive, was initially focused on disclosure regulation, while state securities laws took a more merit-based approach, Brown said. But both Congress and the SEC have layered on more prescriptive and merit-based requirements over the years leading to modern proxy statements that Brown said are vastly larger than they were in decades past and include unnecessary information.

"What we've got here is a lot of things that have changed gradually over the years, where it's just one little brick here, one little brick there," Brown said. "Now that brick has become a wall, and sometimes that wall just needs to be taken down, and maybe we should start over with some things."

Potential Impact

Atkins' comments could add fuel to the fire for an ongoing pattern Brown described as a "race to the bottom," in which states change their corporate laws to entice more corporate formation, Brown said. Several major companies recently have decided to reincorporate outside their former Delaware home in hopes of doing business in more favorable regulatory environments — including **Tesla's** and **Coinbase's** moves to Texas and **TripAdvisor's** and **Dropbox's** moves to Nevada.

Brown added that while there is already a patchwork of state corporate governance regulations, he thinks it's speculative to say there will be an increase in state attorneys general going after corporations for allegedly harming residents.

While most corporate governance issues such as voting and shareholder rights are addressed by a state's corporate statute, governance requirements for publicly listed companies are generally addressed at the federal level in the listing standards of the exchanges on which they are traded, Brown said. The New York Stock Exchange and Nasdaq impose independence requirements, certain voting requirements and board committee requirements, for example, and some exchange listing standards are required either by law or SEC regulations.

Governance of publicly listed companies, therefore, will continue to be both a state and federal issue, he said.

Kevin Harnisch, head of white collar defense and investigations for the U.S. at Norton Rose Fulbright, said Atkins' comments reflect a refocus of the SEC's mission and authority under federal securities laws.

"I think this fits within the theme of having the SEC focused really on its bread-and-butter issues as articulated in the federal securities laws, and focusing on investor protection, combating fraud, protecting integrity of the markets — and when it comes to the inner workings of how a company is organizing itself and its internal workings, that that continue to be left as a matter of state law, as it historically has been," Harnisch said.

Harnisch, who is also a former branch chief in the SEC's Division of Enforcement, said state enforcers may step up to the plate by, for example, initiating additional, securities-related enforcement investigations through a state attorney general's office. In the meantime, he is working with clients on making plain-English securities disclosures — a focus he said underpins much of the commentary from Atkins and his colleagues.

The SEC didn't make Atkins available for further comment on his remarks.

Corporate Judgment Calls

Erin Martin, a Morgan Lewis & Bockius LLP partner and former legal branch chief in the SEC's Division of Corporation Finance, said prior administrations were wading much further into corporate issues than the SEC had in the past.

Martin, who left the SEC in late 2021, said Corporation Finance staff would issue comments on a range of topics in the process of reviewing corporate filings, including exclusive forum provisions, waiver of jury trials, fee-shifting provisions and mandatory arbitration. She said it seemed the staff was taking the position that those issues were inherently material to investors, often resulting in challenging reviews that would take up a lot of time and potentially hold up related filings and deals.

Now in private practice, she thinks that whether an issuer has to disclose any of those provisions in their corporate organizing documents hinges on whether they'd be material to investors, unless there is an explicit requirement to disclose.

"I do welcome Chair Atkins' position that seems to be that perhaps those are the kind of judgment calls that should be made by the company and their trusted counsel about whether or not disclosure would be warranted for certain provisions that may impact shareholder rights," Martin said, adding that Atkins coupled that with the position that the SEC's role "should not be aimed to evolve best practices in corporate governance," absent an explicit congressional directive.

Martin pointed to Atkins' **review of Regulation S-K**, which concerns corporate disclosure obligations, and said she anticipates current requirements for companies to make disclosures on hot topic issues will be removed.

One of those topics would be a Reg S-K requirement that calls for information on how a nominating committee or a board of directors considers diversity in identifying nominees for director, said Morgan Lewis' Celia Soehner, a former attorney-adviser in the SEC's Division of Corporation Finance.

Over the last decade, corporate governance guidelines and nominating committee board charters have evolved to specifically mention how they may consider diversity in composing their boards of directors. But in the last couple of years, there has been a shift away from "that level of explicit callout," Soehner said.

Martin added that Atkins has made it clear over the past year that he is "not a fan" of what he said are instances of the SEC using its disclosure rules to indirectly regulate companies and push them toward preferred policies. Soehner said the combination of the SEC's disclosure framework, private ordering and the influence of proxy advisory firms such as Glass Lewis & Co. LLC and Institutional Shareholder Services Inc. "creates this nudge to have companies go in a particular direction."

"The goal is to perhaps take some of that nudging away from the SEC's rulemaking and role," Soehner said, adding that Atkins' aim is to give a company the bandwidth to determine what is best for it and its stockholders within the framework of the corporate laws of their state of incorporation.

'Huge Activity Going Forward'

At least one former state AG predicted the SEC's shift on corporate governance will encourage states to take further action. Jerry Kilgore, co-chair of the state attorneys general practice at Cozen O'Connor and Virginia attorney general from 2002 to 2005, said he is anticipating an uptick in state activity related to corporate governance across political party lines.

Republican state AGs, he said, continue to be highly skeptical of the influence of proxy advisory firms, litigating against them and sending letters to companies that use their services. And blue states such as New York, California and Illinois may step into the fray to push their companies along "to do things that they want their companies to do" — as he noted they have done historically, pointing to the mortgage crisis and the opioid crisis.

"I think on both sides, you're going to see huge activity going forward," Kilgore said. "Maybe some of the blue states come forth with more enforcement, more laws directed towards corporate governance, while the red states will push back vehemently, and you'll have litigation going back and forth between these states."

Kilgore's advice to issuers is to ensure that the decisions they make are benefiting their shareholders, which can help them rebuff potential allegations that their choices as a company aren't supporting the company's value.

"As long as you can say, 'We made the decision because it brings value to our company,' I think you are on the road to success," he said.

--Editing by Orlando Lorenzo.

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Judge, Atty Get In Shouting Match At Fatal Overdose Trial

By **P.J. D'Annunzio**

Law360 (May 1, 2026, 9:25 PM EDT) -- Tensions boiled over in a Philadelphia courtroom Friday at the end of an emotionally fraught trial over a man's fatal opioid overdose, with a judge and lawyer shouting at each other about how to figure out an inconclusive verdict spurred by a seemingly confused juror.

The heated exchanges between Philadelphia County Court of Common Pleas Judge Craig Levin and attorney Aaron J. Freiwald of Freiwald Law PC, representing the family of Matthew Tarnopol in **its suit** against two doctors, came after the jury twice delivered its verdict without reaching a uniform 10 out of 12 majority on all the questions on the verdict sheet. One juror in particular apparently changed her mind multiple times in the jury box.

Tarnopol's estate accused Dr. Abhijeet Rastogi of updosing him on the painkiller Nucynta until he developed an opioid problem, and addiction specialist Dr. Jonathan Beatty of taking Tarnopol off the medication without prescribing a substitute to control his back pain, which prompted him to seek out and overdose on heroin, fentanyl and horse tranquilizers.

On Friday afternoon, the second day of deliberations at the conclusion of the nearly two-week trial, the jury returned its verdict clearing Beatty of liability, and assigned 35% negligence to Rastogi and 65% to Tarnopol. It became clear after the court polled the individual jurors that only nine of them agreed to the verdict.

Judge Levin sent them back to deliberate again. They returned later with the same verdict, but some of the jurors' answers as to who was negligent and whether that negligence caused Tarnopol's death appeared to change from the previous reading of the verdict.

The parties isolated one juror as especially confused, seeming to change her mind more than once and spend long, silent pauses considering her answers when asked to explain how she voted. The juror was sent out of the courtroom so that the parties could navigate what they agreed were uncharted legal waters.

Freiwald asked the judge to declare a mistrial, arguing the confused juror didn't know what she was doing, which tainted the rest of the jury.

"This is a disgrace to the jury system," he said.

Judge Levin disagreed that one juror's confusion should form the basis for a mistrial, at times speaking over Freiwald, who complained about not being able to complete a sentence without the judge interrupting.

"I'm telling you to stop talking," Judge Levin shouted. "I'm in control of this courtroom, not you."

Judge Levin then said it was clear that the juror was "mixed up," which prompted Freiwald to shout back, "If I can see it and you can see it, that's a mistrial, plain as day."

More loud arguing followed, escalating in intensity, with Judge Levin proclaiming he'd had enough as Rastogi and the visibly upset parents of Tarnopol looked on.

"I'm done with you," the judge said, yelling at Freiwald. "Maybe you don't understand the power dynamic in this courtroom."

The atmosphere cooled after a brief recess, followed by the court calling in each of the 12 jurors one at a time to clarify how they voted. While some jurors provided responses that seemed to contradict themselves, Judge Levin noted that one fact was clear: The jury agreed 11-1 that Beatty was not liable.

As for whether a mistrial was warranted, Judge Levin asked the parties to submit briefs on the issue by Tuesday with a hearing to follow, leaving the case in limbo until at least the end of next week.

Attorneys for Rastogi and the Tarnopols declined to comment on Friday's proceedings.

"The jury reached a fair and just decision after substantial and lengthy deliberations. Upon individual polling, a defense verdict was reached on both the question of negligence as to my clients and the overall apportionment of comparative negligence for the co-defendants," said Suzanne Utke of Marshall Dennehey, who represents Beatty and his practice.

The estate is represented by Aaron J. Freiwald and Zachary Feinberg of Freiwald Law PC.

Rastogi is represented by Kevin H. Wright and Julia Jacobelli of Kevin H. Wright & Associates.

Beatty is represented by Suzanne Utke and Tyler R. Price of Marshall Dennehey.

The case is Tarnopol v. Janssen Pharmaceuticals et al., case number 201102584, in the Court of Common Pleas of Philadelphia County, Pennsylvania.

--Editing by Melissa Treolo.

Update: this story has been updated to include comment from Beatty's counsel.
