

\$100 Million Settlement Caps Years of Litigation Over Wells Fargo Oversight Failures

DJ [dailyjournal.com/articles/391210](https://www.dailyjournal.com/articles/391210)



\$100 Million Settlement Caps Years of Litigation Over Wells Fargo Oversight Failures

Himstreet et al. v. Scharf et al.

Shareholder derivative action

David A. Knotts, Randall J. Baron, Taeva C. Shefler, Lion Wintemute, Robbins Geller Rudman & Dowd LLP; George C. Aguilar, Michael J. Nicoud, Craig W. Smith, Shane P. Sanders, Robbins LLP

In July 2025, a Robbins Geller team, together with co-counsel from Robbins LLP, secured final approval of a record-breaking \$100 million cash payment to Wells Fargo & Co. It was the culmination of a long-running, multi-jurisdictional shareholder derivative action alleging certain bank officers and directors breached their fiduciary duties. *Himstreet et al. v. Scharf et al.*, CGC-22-599223 (S.F. Super. Ct., filed Dec. 10, 2020).

David Knotts and Randall Baron led the litigation effort for Robbins Geller; George Aguilar and Michael Nicoud headed up the Robbins team. The case involved more than a dozen individual defendants and, in discovery, required the navigation of

complex governmental privileges, confidentiality issues, and a myriad of regulations and objections from federal agencies.

"It took years of litigation to get to this outstanding result," Nicoud said. Added Knotts, "It definitely took a lot of work."

A series of Wells Fargo banking scandals led the institution to agree to numerous reforms, including consent orders and settlements with various government agencies. After regulators realized that enterprise-wide management problems persisted, the plaintiffs came forward with claims for breaches of fiduciary duty by certain officers and directors.

A central problem in the case was the so-called "Caremark claims," a name derived from a 1996 Delaware case, involving difficult-to-prove allegations that fiduciary breaches result from bad faith activities by defendants.

"There were management failures and ineffective oversight of consumer abuses," Knotts said. "The government flagged many of them, but that fell far short of what it took to prove them in a court of law."

"We had a unique intersection of Caremark claims with the complex corporate structure of Wells Fargo," Nicoud said.

The defendants frequently pointed out that the claims at issue are possibly the most difficult theory in corporation law upon which a plaintiff might hope to win a judgment. Despite those challenges, the plaintiffs kept the pressure on by moving to compel the production of even more documents and by establishing a massive document review process that uncovered further evidence to back its claims.

The \$100 million payment to Wells Fargo is the largest cash payment made directly to a company in connection with a derivative action in California state court.

In addition to the cash payment, Wells Fargo has adopted several corporate governance reforms including improvement to the bank's risk structure, programs, policies, and procedures, additional training for employees, expanded and enhanced oversight of risk management by the board of directors, and changes to the board's composition.

#391210

Investor accuses FS KKR Capital of duping public amid yearslong losses

 [courthousenews.com/investor-accuses-fs-kkr-capital-of-duping-public-amid-yearslong-losses](https://www.courthousenews.com/investor-accuses-fs-kkr-capital-of-duping-public-amid-yearslong-losses)

Jackson Healy

May 5, 2026

Traders work on the floor at the New York Stock Exchange on Aug. 10, 2022. (AP Photo/Seth Wenig, File)

PHILADELPHIA (CN) — FS KKR Capital Corp., one of the world's largest business development companies, is facing a securities class action after an investor accused the company of artificially inflating its value while it incurred steep and consistent investment portfolio losses.

"Defendants materially misled the investing public, thereby inflating the price of FS KKR Capital's securities, by publicly issuing false and/or misleading statements and/or omitting to disclose material facts necessary to make defendants' statements ... not false or and/or misleading," wrote Calvin Stuart, a KKR Capital investor who initiated the suit, [in his complaint](#) filed Monday.

On May 8, 2024 — the start of Stuart's proposed class period — the company announced its first quarter results and touted purported successes.

In that news release, the company asserted it had "made significant progress restructuring certain nonaccruing investments," claiming the "long-term earnings power of FSK continues to be healthy and we have confidence in our ability to continue to reward shareholders with attractive distributions."

Throughout 2024 and into 2025, Stuart says the firm claimed it was continuing to improve its portfolio credit profile, and that restructuring would solve any concerns about legacy investments that weren't bringing in interest.

But Stuart asserts that by Aug. 6, 2025, a different reality began to emerge.

In second quarter earnings reports for 2025, FS KKR Capital revealed its net asset value had declined from \$23.37 to \$21.93 per share — down 6.2% from the previous quarter — with its total fair value of investments falling by \$474 million.

The firm's share prices fell 8.2% on the news, dropping \$1.66 to close at \$18.58 per share on Aug. 7, 2025.

Still, the firm insisted its portfolio remained foundationally sound, asserting its lackluster operating results and corresponding net asset value could be pinned on “company specific issues affecting four portfolio companies, each of which have been discussed on prior earnings calls,” Stuart says.

Then, on Feb. 25 — the end of Stuart’s proposed class period — he says “the truth fully emerged.”

Announcing its fourth quarter and full year 2025 earnings, FS KKR Capital said its net asset value had continued to decline to \$20.89, down 5% from its prior quarter valuation of \$21.99. Furthermore, its total fair value of investments had fallen another \$406 million, Stuart says.

With losses continuing to mount, FS KKR Capital’s chief investment officer Daniel Pietrzak said in an earnings call the credit firm’s woes reflected “challenges in certain legacy investments ... as well as challenges in certain current adviser originated investments,” pinpointing four such companies: Medallia, Cubic Corp, KBS and 48forty.

However, the difficulties went further, as Pietrzak added those investments accounted for about half the company’s losses. He added that the firm’s nonaccrual rate remained above the long-term industry average, Stuart claims.

Following the news, the firm’s stock price fell 15.24%, dropping \$2.03 to close at \$11.29 per share on Feb. 26.

“These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the company and its financial and well-being and prospects, thus causing the company’s securities to be overvalued and artificially inflated,” Stuart wrote in his complaint.

Stuart is seeking class certification and compensatory damages for himself and other class members.

FS KKR Capital is managed by FS/KKR Advisor, a joint venture partnership between global investment firms Future Standard and KKR.

An FS KKR Capital spokesperson declined to comment on pending litigation.

Litigation

Manage Newsletters

Arbor Realty Trust Sheds Investor Lawsuit Over Loan Portfolio

May 6, 2026, 7:29 AM PDT

Arbor Realty Trust Inc. defeated proposed class allegations of overstating to investors the value of its loan book by disregarding its underwriting standards.

The investors leading the suit failed to allege Arbor or top executives thought their stated opinions on the strength of its loss reserves were inaccurate, among other issues with the pleadings, the US District Court for the Eastern District of New York said in March. Judge Pamela K. Chen gave the investors a chance to try again, but she ordered the case closed Tuesday after they didn't file an amended complaint by the deadline.

The investors didn't adequately plead any actionable misstatements on how Arbor's loans were underwritten, and none of the challenged statements about how its loans were performing were sufficiently alleged as false or misleading, Chen said in the March dismissal order.

The investors didn't provide sufficient pleadings that Arbor or executives manipulated its policies and practices for loan ratings or that it had paltry internal controls—the complaint pointed to an independent audit deeming them effective, Chen had said. The investors tried to retroactively infer CEO Ivan Kaufman and Chief Financial Officer Paul Elenio knew their alleged misstatements about Arbor's internal risk controls were false when they made them, based on corporate disclosures and statements made later.

Investors sued after short sellers attacked the REIT's loan book and news of federal probes rattled share prices.

Arbor touted its internal controls, loan-underwriting standards, and book valuation while it was actually overriding its internal controls and offering sub-par lending, investors said. Short-seller Viceroy Research accused Arbor loans of being distressed, following up by saying it overstated its portfolio's value with undisclosed, off-balance sheet, related party transactions.

Arbor's stock price fell 17% to close at \$12.89 a share on July 12, 2024, after a Bloomberg report said the Manhattan-based US attorney's office and the Federal Bureau of Investigation were looking into its lending practices and claims about its loan book performance.

Levi & Korsinsky LLP represents the proposed class, which aimed to cover those who acquired Arbor securities from May 7, 2021, through July 11, 2024. Dechert LLP represents Arbor and the executives. Neither law firm nor Arbor immediately responded to emails seeking comment.

The case is Martin v. Arbor Realty Tr., Inc. , E.D.N.Y., No. 1:24-cv-05347, closed 5/5/26 .

To contact the reporter on this story: Gillian R. Brassil in Washington at gbrassil@bloombergindustry.com

Glancy Prongay Secures \$433.5 Million Settlement Against Alibaba in Landmark Securities Fraud Case

DJ [dailyjournal.com/articles/391204](https://www.dailyjournal.com/articles/391204)



Glancy Prongay Secures \$433.5 Million Settlement Against Alibaba in Landmark Securities Fraud Case

In re: Alibaba Group Holding Ltd. Securities Litigation

Securities class action

Kara M. Wolke, Robert V. Prongay, Melissa C. Wright, Glancy Prongay Wolke & Rotter LLP

In March 2025, the investor-side securities litigators at Glancy Prongay Wolke & Rotter LLP -- acting as sole lead counsel -- obtained a \$433.5 million settlement in a securities fraud class action against Alibaba Group Holding Ltd., the China-based multinational e-commerce giant.

Kara M. Wolke, the co-chair of Glancy Prongay's securities litigation practice group and the firm's general counsel, led the charge for the plaintiffs. She and name partner Robert V. Prongay faced one of the world's largest corporations, whose U.S. IPO in 2014 had raised \$25 billion -- at that point, the largest IPO in history.

Yet the company had vulnerabilities. "We knew they had misrepresented their business practices and that the Chinese government had told them to stop," Wolke said. "In the simplest terms, we alleged they said they would stop, but did

not."

Alibaba allegedly misled investors about regulatory risks related to its Ant Group affiliate, whose IPO collapsed days before its scheduled 2020 launch when regulators revealed it had bypassed banking laws in expanding its services.

The plaintiffs alleged that Alibaba's securities prices were artificially inflated due to false and misleading statements to investors. In re: Alibaba Group Holding Ltd. Securities Litigation, 1:20-cv-09568 (S.D.N.Y., filed Nov. 13, 2020).

News of investigations into Alibaba's business practices led to a large one-day stock price drop and further scrutiny by regulators.

The claim in the original complaint was simply stated, but difficult to substantiate. "As a result of defendants' wrongful acts and omissions, and the precipitous decline in the market value of the company's securities, plaintiff and other class members have suffered significant losses and damages."

"We had a team of Chinese-language speaking lawyers to comb through Alibaba's U.S. and Chinese filings, and later we went to China to conduct interviews," Wolke said.

The litigation extended over four years. Getting Alibaba to the settlement table wasn't easy because the company sought to shield itself behind the complexities of Chinese corporate law.

In the end, "In big securities cases, there is a lot of risk in going to trial," Wolke said. "After all the litigation as we worked our way through their defenses, we were in position to promote a strong settlement."

The settlement is the largest securities class action settlement ever attained against a Chinese issuer and ranks among the 50 largest U.S. securities class action settlements of all time, as tracked by Institutional Shareholder Services.

#391204

Securities

Manage Newsletters

Vnet's Settlement with US Investors Gets Preliminary Court Nod

May 6, 2026, 8:32 AM PDT

Vnet Group Inc.'s \$5.88 million settlement inched closer to resolving investor allegations that the data center company hid a controlling shareholder's loan default and the default's potential effect.

The settlement class includes those who acquired Vnet American depositary shares from March 23, 2022, to Feb. 17, 2023, Judge Dale E. Ho said, entering an order preliminarily certifying it and the deal Tuesday. If finally approved in the US District Court for the Southern District of New York, the accord would end claims Vnet knew but covered up founder Josh Sheng Chen defaulted on a loan agreement and that it threatened his controlling voting stake, potentially risking change of control provisions that could spur the company's demise.

Sheng Chen—Vnet's executive chairman who had almost 29% of Vnet's aggregate voting power—obtained a more than \$50 million loan through his personal holding company, using his Vnet shares as collateral, the suit said

US investors adequately alleged statements about the agreement were misleading and the level of intent by executives for securities fraud claims, Ho said, mostly letting the suit proceed last year

"We look forward to completing the approval process and distributing this very favorable settlement to investors," said Christopher Tourek of Pomerantz LLP, lead counsel for the investors, in an email

Skadden, Arps, Slate, Meagher & Flom LLP represents Vnet. Neither the firm nor Vnet immediately responded to emails seeking comment.

The case is In re VNET Grp., Inc. Sec. Litig. , S.D.N.Y., No. 1:23-cv-11187, entered 5/5/26 .

To contact the reporter on this story: Gillian R. Brassil in Washington at gbrassil@bloombergindustry.com

To contact the editor responsible for this story: Rob Tricchinelli at rtricchinelli@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Expert Opinion **Corporate Entities**

Parallel Plenary and Section 220 Actions Defeat Stockholder Plaintiff's Proper Purpose

In *O'Neill v. Summit Materials*, Vice Chancellor Bonnie W. David resolved exceptions taken to a magistrate's post-trial report that held that the plaintiff failed to state a proper purpose for inspection. The magistrate's ruling turned on the fact that the plaintiff had already filed a plenary action challenging the same purported wrongdoing that he sought to investigate in his demand.

May 06, 2026 at 07:00 AM By **Kaan Ekiner**



Kaan Ekiner of Cozen O'Connor. Courtesy photo

In *O'Neill v. Summit Materials*, 2025 WL 3688741 (Del. Ch. Dec. 19, 2025), Vice Chancellor Bonnie W. David resolved exceptions taken to a magistrate's post-trial report that held that the plaintiff failed to state a proper purpose for inspection. The magistrate's ruling turned on the fact that the plaintiff had already filed a plenary action challenging the same purported wrongdoing that he sought to investigate in his demand.

The plaintiff, Michael O'Neill, was a stockholder of Summit Materials, Inc., a Delaware corporation that produced and supplied asphalt-related products. In January 2024, Summit combined with Argos North America Corp. in a transaction through which Grupo Argos S.A. received \$1.2 billion in cash and approximately 31% equity in the combined entity. Summit and Grupo Argos entered into a stockholder agreement under which Grupo Argos obtained certain consent rights and was entitled to nominate three directors to Summit's 11-member board of directors. Several months later, in November 2024, Summit and Quikrete Holdings, Inc. entered into a merger agreement whereby Quikrete acquired Summit in an all-cash merger for \$52.50 per share of Summit common stock.

On Jan. 14, 2025, the plaintiff served a books and records demand on Summit's board of directors pursuant to 8 Del. C. Section 220 to investigate possible wrongdoing in connection with the merger. Shortly thereafter, plaintiff and Summit entered into an agreement preserving plaintiff's standing to seek books and records after the merger with Quikrete closed (standing agreement). The merger closed on Feb. 10, 2025.

Delaware legislators introduced Senate Bill 21 in the Delaware General Assembly on Feb. 17, 2025, proposing amendments to Sections 144 and 220 of the Delaware General Corporation Law. The proposed amendment to Section 144 provided a statutory definition for a "controlling stockholder."

On Feb. 25, 2025, or eight days after S.B. 21 was introduced, plaintiff initiated a plenary action alleging claims for breach of fiduciary duty in connection with the merger. The case was filed in an attempt to outrun the effect of the new legislation. But on March 1, 2025, Delaware legislators introduced Senate Substitute 1 for S.B. 21, which made it clear that the amendments would have retroactive effect for proceedings commenced after Feb. 17, 2025; the day that S.B. 21 was first introduced.

The plaintiff dismissed the plenary action without prejudice and refocused on his books and records request. In June 2025, plaintiff initiated a books and records action to enforce his demand. A trial on a paper record was held on Sept. 23, 2025. The magistrate found that plaintiff lacked a proper purpose for inspection, relying on the well-worn notion that a stockholder does not act with a proper purpose under Section 220 to investigate matters that have already been placed at issue in a plenary action. The rationale being that a stockholder has effectively conceded that the books and records were necessary or essential to his stated purpose of investigating mismanagement or wrongdoing given the filing of a plenary action. The magistrate found that none of the narrow exceptions to the general rule applied, and that the plaintiff was the architect of his own problems by rushing to file a plenary action and the sequence of events that transpired afterwards.

In resolving plaintiff's exceptions, Vice Chancellor David confronted three primary arguments. First, plaintiff argued that the case law relied upon by the magistrate was implicitly overruled by the Delaware Supreme Court in *AmerisourceBergen v. Lebanon County Employees' Retirement Fund*, 243 A.3d 417 (Del. 2020). There, the Supreme Court clarified that when a stockholder states a proper purpose for inspection by demonstrating a credible basis to investigate possible wrongdoing, he was not required to state in the demand all the ways he might use the documents uncovered in his investigation. *AmerisourceBergen* did not overturn the proposition of law relied upon by the magistrate in the post-trial report.

The plaintiff's second argument was that the facts presented were exceptional and supported a different outcome. The plaintiff relied on two cases that Vice Chancellor David found distinguishable. In one, a judicial determination was made in a subsequent plenary action that the claims, as alleged, were insufficient, and leave to amend was granted. That, according to the Vice Chancellor, eliminated the inconsistency in the simultaneous filing of two related actions. And in the second case, the stockholder plaintiff filed a Section 220 enforcement action and then brought a class action and derivative action out of concern that his claims would be time-barred. Importantly, any overlap was attributed to the defendant's failure to comply with its obligations under Section 220. In the case before the court, Summit's delay in producing books and records did not cause plaintiff to run up against a statute of limitations; Summit was not responsible for the pressure that the plaintiff may have felt after S.B. 21 was introduced.

Alternatively, plaintiff argued that the circumstances justified a new exception to the general rule, in that the law changed after his plenary action was filed, so any concession that he had enough information to state a claim under the old law did not mean that he had enough information after the change. The Vice Chancellor rejected this argument because the plaintiff did not explain why codification of the definition of a controlling stockholder required further factual investigation into the merger when he concluded that the public record was sufficient to investigate possible breaches of fiduciary duty previously. Notably, even under the old law, Grupo Argos held just 31% of the company's voting power and appointed only three of 11 directors to the board.

Third, and finally, the plaintiff asserted that the magistrate overlooked the standing agreement, which separately preserved his right to books and records. Vice Chancellor David rejected this argument, finding that although the standing agreement preserved plaintiff's standing to seek books and records after the merger closing by contractually replicating his statutory inspection right, it did not include a waiver by Summit of its right to argue that the plaintiff lacked a proper purpose for seeking books and records based on his later decision to pursue a plenary action.

Key to Vice Chancellor David's decision is the implicit certification by a plaintiff stockholder that he has information sufficient for his purpose of investigating potential wrongdoing when a plenary

action on that issue has been filed. As a general rule, with limited exceptions, this means that the plaintiff stockholder has no further need for books and records to investigate the same alleged misconduct. Most often, an impending statute of limitations—a factor that the court discussed—presents as the catalyst for a plaintiff stockholder to feel pressure to file a plenary action. But as *O'Neill* makes clear, there are other circumstances that litigants must consider, as well as consequences, in reaching a fact-dependent decision.

Kaan Ekiner, *a member with Cozen O'Connor, focuses his practice on litigating corporate and commercial matters in Delaware's state and federal courts.*

Page printed from: <https://www.law.com/delbizcourt/2026/05/06/parallel-plenary-and-section-220-actions-defeat-stockholder-plaintiffs-proper-purpose/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

News **Mass Torts**

Critical Mass With Law.com's Amanda Bronstad: 2nd Bellwether Trial Opens in LA Over J&J Talc, Federal Judge Calls \$7.25B Roundup Settlement 'Mind-Boggling'

This week: The second bellwether trial in the coordinated California state court cases alleging Johnson & Johnson's baby powder causes ovarian cancer opened in Los Angeles Superior Court. U.S. District Judge Vince Chhabria refused to intervene in a proposed \$7.25B settlement in Missouri state court. Find out who was appointed to lead lawsuits against claims administrators such as Epiq and Angeion.

May 06, 2026 at 09:59 AM By  **Amanda Bronstad**



Credit: JHVEPhoto/Adobe Stock

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

This week: The second bellwether trial in the coordinated California state court cases alleging **Johnson & Johnson's** baby powder causes ovarian cancer opened on Monday in **Los Angeles Superior Court**. U.S. District Judge **Vince Chhabria**, who oversees the **Roundup** multidistrict

litigation in **California's Northern District**, refused to intervene in a proposed \$7.25B settlement in Missouri state court. Find out who was appointed to lead lawsuits against claims administrators such as **Epiq** and **Angeion**.

I'm **Amanda Bronstad**. Feel free to reach out to me with your input. My email is amanda.bronstad@alm.com. Follow me on [LinkedIn](#) or X: [@abronstadlaw](#).



Andy Birchfield principal with Beasley Allen Law. Courteys photo

Five Opening Statements, Three Women in 2nd Talc Bellwether Trial

The second bellwether trial in California state courts alleging **Johnson & Johnson's** baby powder causes ovarian cancer opened on Monday.

[Here's my report](#) on the opening statements of five lawyers: [Andy Birchfield](#) (**Beasley Allen**), [Dan Robinson](#) (**Robinson Calcagnie**) and [Ari Friedman](#) (**Wisner Baum**) for the families of Geneva Williams, Mary Owens and Bonnie Tienken, respectively, who all died of ovarian cancer, and **Kirkland & Ellis** partners [Shaila Diwan](#) and [Julia Romano](#) for Johnson & Johnson.

Los Angeles Superior Court Judge Theresa Traber, who is managing California's Judicial Council Coordinated Proceedings, where hundreds of similar talc cases have been brought against

Johnson & Johnson, combined the three cases into a single trial, anticipated to last about a month. The first bellwether trial, involving two ovarian cancer survivors, ended in a [\\$40 million verdict](#) on Dec. 12.

Side note: Birchfield, who, along with his firm, was disqualified from the talc multidistrict litigation in New Jersey, was able to participate in the trial because Traber, unlike state court judges in Florida, Pennsylvania and Illinois, refused to revoke his pro hac vice status or those of other lawyers at Beasley Allen.

By the way: The talc trial wasn't the only one that opened in Los Angeles Superior Court. **Walmart** and one of its suppliers, **Vi-Jon**, faced a trial in a case brought by a woman with mesothelioma over its **Equate** body powder. The case settled on April 30, one day after opening statements, handled by [Nick Novack](#) (**Maune Raichle**) for plaintiff Carolyn Wyatt, [Jenny Hergenrother](#) (**Alston & Bird**) for Walmart and [Edward Hugo](#) (**Hugo Parker**) for Vi-Jon. In opening statements, Hergenrother told jurors that the plaintiff had stomach cancer, not mesothelioma. Hugo said Vi-Jon's products didn't contain asbestos and that Wyatt, about 25% of the time, used Johnson & Johnson's products, according to a Courtroom View Network livestream of the trial.

In an email, Hugo told me the terms of the settlement were confidential, but added:

"The case did resolve after the cross-examination of plaintiff (the second day of trial)."



Judge Vince Chhabria of the U.S. District Court for the Northern District of California.

Chhabria: ‘In Other Words, It Was Filthy’

A federal judge overseeing the **Roundup** multidistrict litigation in the **Northern District of California** blasted a \$7.25 billion proposed class action settlement in Missouri state court—but [refused a request](#) from co-lead counsel [Robin Greenwald](#) (**Weitz & Luxenberg**) and [David Dickens](#) (**The Miller Firm**) for him to intervene prior to the July 9 final approval hearing.

At an April 30 hearing, four days after the **U.S. Supreme Court** heard arguments in a high-profile Roundup case, **U.S. District Judge Vince Chhabria** agreed that the settlement was “mind-boggling” and had “bizarre” opt-out provisions, but he rejected co-lead counsel’s claims, backed by law professors such as [Erwin Chemerinsky](#) (**University of California, Berkeley**) and [Norman Silber](#) (**Hofstra University**), that he could intervene in a matter before a Missouri state court judge.

Still, that didn’t stop Chhabria from grilling class counsel [Chris Seeger](#) (**Seeger Weiss**) about the procedural background of the deal, in which **22nd Judicial Circuit Judge Timothy Boyer** appeared to have held a prearranged Feb. 17 hearing that wasn’t transcribed with class counsel on the day their class action was filed and the settlement announced, with no potential objectors aware of it.

“In other words, it was filthy,” Chhabria said.

After the hearing, Seeger and **Monsanto** released these statements:

Seeger: *“After hard-fought negotiations, we reached a settlement that provides real compensation to Roundup victims diagnosed now or in the coming years at a time when the [U.S.] Supreme Court case and a potential Monsanto bankruptcy threaten to leave plaintiffs with nothing. We look forward to answering objections and securing approval for the Roundup settlement in the proper venue, which is Missouri state court.”*

Monsanto: *“The class settlement is supported by plaintiffs’ counsel representing tens of thousands of claimants and does not include the approximately 250 plaintiffs with claims pending before the MDL court as of the settlement date unless they choose to join.”*



Christopher Seeger of Seeger Weiss. Courtesy photo

Who Got the Work?

U.S. District Judge John Bates, in the **District of Columbia**, appointed six lawyers to lead the multidistrict litigation [alleging racketeering and antitrust claims](#) against claims administrators **Epiq Systems**, **Angeion Group** and **JND Legal Administration** and banks **Huntington National Bank** and **Western Alliance Bank** in class-action settlements. The judge last month named [Chris Seeger](#) (**Seeger Weiss**) as lead counsel, followed by an executive committee chaired by [David Boies](#)

(**Boies Schiller Flexner**), with members [Bryan Aylstock](#) (**Aylstock, Witkin, Kreis & Overholtz**), [Kiley Grombacher](#) (**Bradley/Grombacher**), [Eric Lechtzin](#) (**Edelson Lechtzin**) and [David Stone](#) (**Stone & Magnanini**). He also ordered the creation of a leadership development committee, whose members are: [Brooke Alexander](#) (**Boies Schiller Flexner**), [Alison Anderson](#) (**Boies Schiller Flexner**), [Robert Garcia](#) (**PEM Law**), [Darla “Shay” Persall](#) (**Shay Persall Law**), [Caleb Liang](#) (**LTL Attorneys**), [Rajiv Parikh](#) (**PEM Law**) and [Eric Cohen](#) (**Stone & Magnanini**).

Here’s what else is happening:

Meta Trial: The state of **New Mexico** [opened the second phase](#) of its groundbreaking trial against **Meta Platforms** on Monday, asking **First Judicial District Chief Judge Bryan Biedscheid**, in Santa Fe, for injunctive relief under public nuisance law and a \$3.7 billion abatement fund. [David Ackerman](#) (**Motley Rice**) told the judge the state was in a teen mental health crisis fueled by social media. But Alex Parkinson (**Kellogg, Hansen, Todd, Figel & Frederick**), an attorney for Meta, which owns **Instagram** and **Facebook**, called the proposed abatement fund an “unprecedented demand for money” and the requested injunctive relief “overbroad, vague, unworkable, dangerous and in conflict with other laws.” A jury in the first phase of the trial awarded the state [\\$375 million in civil penalties](#) under New Mexico’s consumer fraud statute.

Westlaw Suit: **Thomson Reuters America** was [hit with a class action](#) alleging it breached a Michigan state privacy law by publicly displaying five sequential digits of individuals’ Social Security numbers on its CLEAR and Westlaw PeopleMap platforms. 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.

Bursor & Fisher and **The Miller Law Firm** in Rochester, Michigan, filed the suit in **U.S. District Court for the Eastern District of Michigan**. In 2025, a California federal judge approved a \$27.5 million class action settlement resolving allegations that Thomson Reuters illegally collected and sold California residents’ personal data via the CLEAR platform without their permission.

Opioid Reversal: The **Maryland Supreme Court** tossed out a [\\$152.4 million judgment](#) that the city of **Baltimore** had obtained against **McKesson** and **Cencora**, citing its March 23 decision in [Express Scripts v. Anne Arundel County](#) that concluded licensed opioid dispensing does not constitute a public nuisance. **Baltimore City Circuit Court Judge Lawrence Fletcher-Hill** previously ordered the defendants to pay [\\$52 million in reduced damages](#), plus \$100 million in abatement funds, after Baltimore, represented by **Susman Godfrey**, won a \$266 million damages award in a [2024 jury trial](#). **Covington & Burling**, for McKesson, and **Reed Smith**, for Cencora, formerly AmerisourceBergen, had petitioned the Maryland Supreme Court after the *Express Scripts* ruling.

Thanks for reading Critical Mass! I’ll be back next week.

News **Mass Torts**

‘Where Is the Actual Evidence of Asbestos?’: Johnson & Johnson Returns to Calif. Court in 2nd Bellwether Talc Trial

The trial features the family members of three women who died of ovarian cancer after decades of using Johnson & Johnson's baby powder.

May 05, 2026 at 02:48 PM By  **Amanda Bronstad**



Photo: Raihana Asral/Shutterstock.com

What You Need to Know

- The families of three women who died of ovarian cancer had their cases combined into a single trial.
- The first bellwether case in the California state court cases ended on Dec. 12 with a \$40 million verdict.
- In the past month, Beasley Allen's lawyers had their pro hac vice applications revoked in talcum powder lawsuits against Johnson & Johnson in state courts in New Jersey, Florida, Pennsylvania and Illinois—but not California—after a federal magistrate judge in New Jersey disqualified them from the multidistrict litigation.

In 1973, Johnson & Johnson's executives circulated a memo discussing how to address reports that found asbestos in talc mines. Andy Birchfield, holding up the 1973 memo to a Los Angeles jury, said Johnson & Johnson considered safer alternatives, such as corn starch. But, instead, the company opted to keep talc in its baby powder while telling its consumers and federal regulators that its product was safe.

It would be one of many internal documents Birchfield said he planned to show jurors during a bellwether trial that opened on Monday.

"And we're going to show you just how far back Johnson & Johnson knew about these problems," said Birchfield of Beasley Allen in Montgomery, Alabama, according to Courtroom View Network's livestream of the trial. "And they continued to sell their talc-based products with asbestos in these fibers for more than 47 years. Forty-seven years after this. And never, ever, not once, put a warning of a cancer risk on these products."

The trial is the second bellwether in the California state court cases alleging Johnson & Johnson's baby powder caused ovarian cancer. The families of three women who died of ovarian cancer had their cases combined into a single trial, which follows the first bellwether case that ended on Dec. 12 [with a \\$40 million verdict](#).

Both trials are in Los Angeles Superior Court, where hundreds of similar cases have been coordinated before Judge Theresa Traber as part of California's Judicial Council Coordinated Proceedings against Johnson & Johnson.

Birchfield, along with Beasley Allen principal Leigh O'Dell and Margaret Thompson, of counsel, in Montgomery, Alabama, represent Harold Williams, the husband of Geneva Williams, who died in 2011 at age 62.

"Harold was right there by her bed side," Birchfield told jurors about the night Williams died, according to the Courtroom View Network livestream. "He was holding her hand."

He said scientific studies and government agencies have found talc in the tissue of ovarian cancer patients. Plaintiffs' experts will testify about how cosmetic talc, when used in the genital area, can migrate through a woman's body to the ovaries.

Although he didn't give a figure, Birchfield said his team plans to ask the jury for punitive damages.

"We think J&J's conduct here is they need to be held accountable," he said, according to the livestream. "There needs to be a message that will deter them or other companies from taking similar actions in the future."

Dan Robinson, Paul Dagostino and Genevieve Outlaw of Robinson Calcagnie in Newport Beach, California, represent John Owens, the son of Mary Owens, who died in 2021.

Robinson played the jury an old television ad for Johnson & Johnson's baby powder that told women to use it every day in your "underthings," according to the livestream. Johnson & Johnson particularly targeted African American and obese women, especially those who lived in hot or humid climates, he said.

Wisner Baum partner Ari Friedman and associate Elizabeth Loranger, both in Los Angeles, represent Kimberly Hedrick, Eric Tienken and Kevin Tienken, the family of Bonnie Tienken, who died in 2018.

Johnson & Johnson's advertising referred to baby powder as "gentle," "soft" and "safe," he told jurors.

"Only thing Bonnie had was a promise," he said, according to the livestream. "She bought the trust, and she used this product her entire life."

Johnson & Johnson's lawyers, Kirkland & Ellis partners Julia Romano in Los Angeles and Shaila Diwan in New York, told jurors that plaintiffs' lawyers were mixing up different types of talc, not all of which contains asbestos, and that the science was on Johnson & Johnson's side. None of the women were found to have asbestos in their ovarian tissue.

"Plaintiffs are trying to make this an asbestos case," Diwan told jurors, according to the livestream. "But where is the actual evidence of asbestos in these women?"

She cast doubt on the plaintiffs' scientific studies and their experts' theory that talc migrates to the ovaries.

'She Was Fighting for Her Life'

The three cases headed to trial after Traber denied Johnson & Johnson's motions for summary judgment in each of them. She granted summary judgment in a fourth case on behalf of Kathaleen Harrison after concluding it was time-barred.

Melanie Palmer of Kiesel Law in Beverly Hills, California, who is on the leadership team of the talc cases coordinated in California state courts, said the bellwether trial is expected to last through June 4.

The first trial, handled by Birchfield and Robinson, was on behalf of two women, Deborah Schultz and Monica Kent. Kent, 52, was diagnosed with ovarian cancer in 2014 after using Johnson & Johnson's baby powder every day for 41 years. Schultz, 64, a former nurse, used it every day from 1965 until 2018, when she was diagnosed with ovarian cancer.

Each obtained a jury award for compensatory damages. Jurors did not award punitive damages.

In the first trial, the two plaintiffs had personal injuries but survived their cancers, Palmer said.

“All three of these plaintiffs are family members of a decedent who passed of ovarian cancer,” she said of the second bellwether trial. “That’s probably the substantial difference.”



Andy Birchfield principal with Beasley Allen Law. Courteys photo

In the case of Williams, Birchfield used props to tell the story of his client’s cancer battle, which involved multiple rounds of chemotherapy and surgeries to remove a mass. The props included a large bottle of Coca-Cola, which represented the amount of fluid taken out of his client, and a grapefruit and an orange to convey the size of the mass before and after chemotherapy.

“She was fighting for her life,” he told jurors, according to the Courtroom View Network livestream.

In the past month, Birchfield and his firm had their pro hac vice applications revoked in talcum powder lawsuits against Johnson & Johnson in state courts in New Jersey, Florida, Pennsylvania and Illinois after a federal magistrate judge in New Jersey [disqualified them](#) from the multidistrict litigation, concluding that he violated several of New Jersey’s Rules of Professional Conduct when partnering with a former Johnson & Johnson attorney to propose a \$19 billion talc settlement.

But Traber, in an April 10 decision, refused to disqualify Beasley Allen, stating that “there is no evidence that this alleged wrongdoing would have any effect on the litigation going forward.” She also chastised Johnson & Johnson’s lawyers for raising the issue after the first bellwether trial—a move she concluded was done for an “improper tactical purpose.”

On Monday, Robinson told jurors that Owens was diagnosed in 2015 at age 72, undergoing several rounds of chemotherapy and surgeries.

“It was a blow,” he said, according to the livestream. She did not carry any genes for ovarian cancer. “The only thing she found was exposure to Johnson’s baby powder.”

Romano, addressing the specific stories of each plaintiff in a Tuesday opening statement, said Tienken's husband will testify the Johnson & Johnson's baby powder in their house had a blue top, which was a version with corn starch that consumers could purchase starting in 1980. Two of Owens' sisters and Williams' daughter also recalled bottles with blue and pink tops, both of which contained corn starch, she said. And two of the women used douches, which have been associated with ovarian cancer.

Tienken also had a past history of breast cancer, Owens had a tubal ligation in 1974 and Williams had a hysterectomy in 1982, Romano told jurors, according to the livestream.

"There's no dispute that what these women and their families went through battling this horrible disease was awful," she told jurors. "But Johnson & Johnson is here today because the evidence, the facts, the science, will show that Johnson & Johnson's talcum powder did not cause or contribute to these women's cancers."

Page printed from: <https://www.law.com/therecorder/2026/05/05/where-is-the-actual-evidence-of-asbestos-johnson-johnson-returns-to-calif-court-in-2nd-bellwether-talc-trial/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

Litigation

Manage Newsletters

TikTok Ruled Not Immune From Massachusetts' Addiction Claims

May 6, 2026, 7:39 AM PDT

TikTok Inc. isn't protected by a federal legal shield from Massachusetts' allegations that the video platform designed itself to addict young users and contributed to a mental health crisis among teens, a state court ruled.

The design features challenged by Massachusetts Attorney General Andrea Joy Campbell (D) mirror ones in state's case against Meta Platforms Inc. for its Instagram app, an enforcement action the state's Supreme Judicial Court greenlit in March, Suffolk Superior Court Judge Peter Krupp said.

The justices said Meta's claim to immunity under the federal Communication Decency Act's protection for internet publishers of third-party content doesn't extend to Meta's design decisions.

"I see no meaningful distinction between this case and the arguments presented and rejected by the SJC in *Meta*," Krupp said in his brief order posted Tuesday, rejecting TikTok's argument that the output of its video-recommendation algorithm amounted to protected speech.

The ruling advances the state social media crackdown to discovery, as others in the industry are weathering multi-million-dollar jury verdicts in other youth addiction cases. More than a dozen states have sued TikTok for deceiving users about child safety tools and maximizing profits through tools to keep young users hooked.

The Massachusetts action claims TikTok designed its platform to addict users through infinite scrolling, autoplay design, constant push notifications, and ephemeral features.

Representatives for the parties weren't immediately available for comment Wednesday.

The state is represented by its attorney general's office. O'Melveny & Myers LLP and Campbell Conroy & O'Neil PC represent TikTok.

The case is Commonwealth v. TikTok Inc. , Mass. Super. Ct., No. 2484CV02638, motion to dismiss denied 5/4/26 .

To contact the reporter on this story: Brian Dowling in Boston at bdowling@bloombergindustry.com

To contact the editor responsible for this story: Adam M. Taylor at ataylor@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

California Brief

Apple Agrees to \$250 Million Deal Ending AI Feature False Ad Row

May 5, 2026, 2:23 PM PDT

Apple Inc. will pay consumers \$250 million to resolve claims that the technology company exaggerated “Apple Intelligence” features to promote the iPhone 16 in a landmark case over AI marketing claims, according to a Tuesday filing.

Consumers can receive between \$25 and \$95 dollars per device, according to a motion for preliminary settlement approval filed in the US District Court for the Northern District of California.

“We resolved this matter to stay focused on doing what we do best, delivering the most innovative products and services to our users,” a spokesperson for the company said.

The lawsuit centered on Apple’s advertising campaign for “Apple Intelligence,” which promised a suite of AI features in the next line of iPhones.

Consumers who bought any iPhone 16 model and certain iPhone 15 models between June 2024 and March 2025 are eligible for the settlement.

“We are proud to secure a historic settlement on behalf of consumers who should feel confident and protected when deciding where to spend their hard-earned dollars,” said Ryan Clarkson, founder and managing partner of Clarkson Law Firm, which represents the plaintiffs.

“We are at an inflection point with AI, and the choices companies and regulators make now will shape how this technology impacts everyday people,” Clarkson said.

The company spokesperson said that Apple has introduced dozens of daily-use features across company platforms in multiple languages since the launch of Apple Intelligence, including Visual Intelligence, Live Translation, Writing Tools, Genmoji, and Clean Up.

The settlement will resolve claims related to the availability of two additional features, the spokesperson said.

The deal will give consumers relief sooner than additional litigation would allow, the motion said.

“There would also be risks at each successive phase of litigation due to the novelty of AI-related claims, unsettled legal questions surrounding how reliance and damages should be evaluated for AI-integrated products marketed through a multiplicity of non-traditional channels, and the rapidly evolving technological landscape,” the motion said. The settlement “eliminates these risks and ensures that consumers receive meaningful compensation now.”

In addition to Clarkson Law Firm PC, Cotchett, Pitre & McCarthy LLP and Kaplan Fox & Kilsheimer LLP represent the consumers.

Apple is represented by Covington & Burling LLP.

The case is *Landsheft v. Apple Inc.*, N.D. Cal., No. 5:25-cv-02668, 5/5/26 .

To contact the reporter on this story: Shweta Watwe in Washington at swatwe@bloombergindustry.com

To contact the editor responsible for this story: Kiera Geraghty at kgeraghty@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Apple reaches \$250M settlement over iPhone AI claims

DJ [dailyjournal.com/articles/391231-apple-reaches-250m-settlement-over-iphone-ai-claims](https://www.dailyjournal.com/articles/391231-apple-reaches-250m-settlement-over-iphone-ai-claims)

Brian Danitz of Cotchett, Pitre & McCarthy LLP

Three plaintiffs' firms reached a \$250 million settlement with Apple Inc. Tuesday to resolve federal class actions accusing the technology giant of misleading consumers that its then-new iPhone included AI advances in its Siri voice assistant.

Under the terms of the proposed settlement, consumers who bought the Apple iPhone 16 and some models of the iPhone 15 between June 2024 and March 2025 with the promised AI feature will receive up to \$95, depending on the size of the settlement fund, according to Brian Danitz, a partner with Cotchett, Pitre & McCarthy LLP in Burlingame.

Apple touted the Siri feature with advertising in which actor Bella Ramsey - known for her roles in "Game of Thrones" and "The Last of Us" -- interacted with it. When the AI enhancements were not included in the iPhone, consumers filed several lawsuits against the Cupertino-based company.

U.S. District Judge Noel Wise of San Jose consolidated the false advertising class actions in federal court.

Apple and the consumer attorneys - including Ryan J. Clarkson of Clarkson Law Firm PC and Laurence D. King of Kaplan Fox & Kilsheimer LLP - reached a settlement in principle in December and finalized an agreement this week before a class certification hearing was held.

Wise must approve the deal. *Landsheft v. Apple Inc.*, 25-cv-02668 (N.D. Cal., filed March 19, 2025).

In a settlement agreement signed by Heather Grenier, Apple's vice president of litigation, the company said it "anticipates delivering additional Siri Apple Intelligence features in future software updates at no additional cost."

The company denied wrongdoing.

"Since the launch of Apple Intelligence, we have introduced dozens of features across many languages that are integrated across Apple's platforms, relevant to what users do every day, and built with privacy protections at every step," company spokesperson Marni Goldberg wrote in a statement.

"We resolved this matter to stay focused on doing what we do best, delivering the most innovative products and services to our users," she added.

Danitz hailed the agreement.

"This settlement is getting a significant recovery to our class members in a short period of time without them having to wait for years and years," he said in a phone interview.

Covington & Burling LLP partner Emily Johnson Henn represents Apple.

#391231

Craig Anderson

Apple settles lawsuit over late Siri AI features for \$250 million

 [reuters.com/legal/litigation/apple-settles-lawsuit-over-late-siri-ai-features-250-million-2026-05-05](https://www.reuters.com/legal/litigation/apple-settles-lawsuit-over-late-siri-ai-features-250-million-2026-05-05)

Stephen Nellis

May 5, 2026

A view of Apple iPhones displayed at an Apple Store at Grand Central Terminal in New York City, New York, U.S., October 16, 2024. REUTERS/Kent J. Edwards

[Purchase Licensing Rights, opens new tab](#)

SAN FRANCISCO, May 5 (Reuters) - Apple ([AAPL.O](#), [opens new tab](#)) on Tuesday settled for \$250 million a shareholder lawsuit brought after the company delayed artificial-intelligence upgrades to its Siri voice assistant.

The lawsuit, filed by Peter Landsheft in U.S. federal court in California in 2024, arose after the iPhone maker announced - and started running advertisements for - a [bevy of AI upgrades](#) at its annual software developer conference in 2024, saying they would become available with new iPhones that fall.

The iPhones launched without those features, which the plaintiffs claimed harmed shareholders. In 2025, Apple said that the AI overhaul of Siri [would not come until this year](#), and executives have now confirmed that the new Siri features will be unveiled at Apple's annual developer conference next month.

Apple did not admit to any fault in the settlement, which still needs approval from a judge. In a statement, Apple said it released numerous other AI features since the launch of what it calls Apple Intelligence in 2024.

"Apple has reached a settlement to resolve claims related to the availability of two additional features. We resolved this matter to stay focused on doing what we do best, delivering the most innovative products and services to our users," the company said in a statement.

Reporting by Stephen Nellis in San Francisco; Editing by Matthew Lewis

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

Judge approves \$100M borrowers fund, \$85M settlement in Wells Fargo diversity quota scandal

 [courthousenews.com/judge-approves-100m-borrowers-fund-85m-settlement-in-wells-fargo-diversity-quota-scandal](https://www.courthousenews.com/judge-approves-100m-borrowers-fund-85m-settlement-in-wells-fargo-diversity-quota-scandal)

Quinn Welsch

May 6, 2026

FILE - This July 14, 2014 file photo shows Wells Fargo offices in Oakland, Calif. (AP Photo/Ben Margot, File)

(CN) — A federal judge granted final approval of settlement agreements for two cases against Wells Fargo on Tuesday in relation to [claims it conducted fake interviews](#) to meet diversity requirements in 2022.

The lawsuits both arose from a [New York Times article](#) that revealed the bank was conducting job interviews with women and people of color for positions that paid more than \$100,000 per year in an effort to diversify the upper echelons of its workforce. However, they never intended to offer the candidates a position, the newspaper reported.

The reporting caused Wells Fargo shares to drop in value, and investors filed subsequent securities lawsuits. Shareholders also [filed derivative lawsuits](#) that accused directors and officers of breaching fiduciary duties.

U.S. District Judge Trina Thompson heard settlements for both types of lawsuits on Tuesday.

Thompson, a Joe Biden appointee, approved a settlement agreement between Wells Fargo and its shareholders that established a \$100 million borrowers program for people with low to moderate income.

The lawsuit, *In re Wells Fargo & Company Hiring Practices Derivative Litigation*, was a win-win for the bank and its shareholders, attorney Marlon Kimpson, representing the plaintiffs, told the court. The litigation would add to the bank's efforts to create a more inclusive housing system by helping borrowers in low- to moderate-income census tracts, Kimpson said.

"Wells Fargo has some unsavory history with certain communities and demographic groups," he said. "Because of this negative history, Wells Fargo has had a significant hill to climb to regain the trust of those communities. The \$100 million borrowers assistance fund is a significant step in that direction. It will help improve Wells Fargo's reputation."

The borrowers fund will go toward down payment assistance and closing cost assistance. Borrowers can receive up to \$10,000 for down payment assistance as well as up to \$5,000 for closing costs.

"Home ownership, your honor, is the pillar of the American Dream, bringing financial opportunity to consumers and stability for communities nationwide," Kimpson told the court. "Owning a home is also one of the best pathways to wealth creation, providing families with a foundation for improving their financial standing across generations. By empowering Americans to achieve their dream, this borrowing program will bring prospective mortgage customers to Wells Fargo and strengthen the company's relationship with them."

Additionally, the program would include fees and interest that would also benefit the bank, Kimpson said.

Thompson applauded the establishment of the program from both parties, describing it as the gold standard for settlements.

"This program provides an exceptional amount of hope for a lot of people who did not think that the American Dream would be available to them under these times," Thompson said. "It may be the model for other institutions to follow. It may have its own synergy as we move through what can be characterized as a very difficult time for those who don't have the type of means to place a down payment on a home."

Although the derivative cases against Wells Fargo were in relation to discriminatory hiring practices, one of them was related to discriminatory lending before it was consolidated.

Lesley Weaver, an attorney representing plaintiffs in both cases against Wells Fargo, said the settlement was unusual in how far it went to create meaningful results.

"Usually, in a derivative case, the kind of recovery we can hope to get goes back to the corporation alone — hopefully, we get something significant," Weaver told the judge. "The outcome here is extraordinary because its reach is beyond helping the corporation."

In the other settlement hearing, Thompson also approved an [\\$85 million settlement](#) against [Wells Fargo](#) that was filed by investors. Plaintiffs' attorneys in the class action requested about \$21.2 million to cover fees, as well as an

additional \$3.5 million for litigation costs. The remaining \$59 million will be disbursed to class members.

Compensation will be available for class members who lost money due to the fluctuations in the bank's stock prices during the class period.

Wells Fargo attorney Brandon Cullen did not comment on either settlement except to agree to its terms. A Wells Fargo corporate spokesperson did not respond to requests for comment.

Thompson praised the attorneys in both cases for their professionalism in reaching the settlement agreements.

Federal judge denies class certification in Calico Critters toy lawsuit

DJ [dailyjournal.com/articles/391219-federal-judge-denies-class-certification-in-calico-critters-toy-lawsuit](https://www.dailyjournal.com/articles/391219-federal-judge-denies-class-certification-in-calico-critters-toy-lawsuit)

A federal judge in Los Angeles has denied renewed class certification in a consumer lawsuit alleging that certain children's toys sold by Epoch Everlasting Play LLC and Amazon.com Services LLC violate federal safety laws, delivering a significant win for the defendants and wiping out all class claims.

U.S. District Judge Otis D. Wright II of the Central District of California ruled that plaintiff Williene Jackson-Jones failed to meet the requirements for class certification after the 9th U.S. Circuit Court of Appeals determined she lacked standing to seek injunctive relief. Jackson-Jones had sought to proceed with a narrower, restitution-only class, but the court found that approach created conflicts with other potential class members.

The case centers on "Calico Critters," a line of flocked animal figurines marketed with accessories and playsets. Jackson-Jones alleges that some of the products contain small parts that pose choking hazards and therefore qualify as "banned hazardous substances" under federal law when intended for children under three.

Jackson-Jones initially sought both restitution and injunctive relief under California's Unfair Competition Law and a theory of unjust enrichment. A district court previously certified a class of California purchasers dating back to 2019, but the 9th Circuit later vacated that order in a September 2025 interlocutory appeal under Rule 23(f), finding she lacked standing to pursue forward-looking relief. On remand, she attempted to proceed on behalf of the same class while limiting the requested remedy to restitution.

Wright rejected that approach, holding that Jackson-Jones's inability to seek injunctive relief rendered her an inadequate class representative under Rule 23. Because the proposed class still included members who could pursue injunctive relief, the court found her interests diverged from those of absent class members.

"A class representative must be part of the class and possess the same interest and suffer the same injury as the class members," the court wrote, concluding that Jackson-Jones could not adequately protect the interests of those who might benefit from injunctive relief.

The court also found that limiting the case to monetary recovery would improperly split the class's claims, raising concerns under the doctrine of res judicata. A judgment in the case could potentially bar absent class members from later seeking injunctive relief based on the same alleged misconduct, the court said.

In addition, Wright noted that injunctive relief is a central remedy under the Unfair Competition Law and rejected the plaintiff's attempt to minimize its significance. The court found that her litigation strategy--focused solely on restitution--could disadvantage class members with broader claims.

The court denied the motion for class certification with prejudice, concluding that Jackson-Jones had already been given sufficient opportunity to address the deficiencies in her proposed class and foreclosing any future certification attempts.

A team from Arnold & Porter represented Epoch Everlasting Play in the case, securing the class action defense victory. The team included partners James Speyer, Ian Hoffman and William Perdue; senior counsel Eric Rubel; senior associate Henry Morris; and associate Zach Woodward.

Gillian L. Wade of Wade Kilpela Slade LLP in Santa Monica was lead attorney for the plaintiff.

Neither plaintiff nor defense attorneys could be reached for comment.

The case is *Jackson-Jones v. Epoch Everlasting Play LLC et al.*, No. 2:23-cv-02567-ODW (C.D. Cal.).

#391219

FT PROFESSIONAL

UK financial regulation**PayPal, Mastercard and Visa probed over alleged UK antitrust breaches**

Move is rare exercise of Financial Conduct Authority's competition law powers



The FCA said it was investigating potential breaches of rules that prohibit companies from agreeing to practices that may distort competition © Charlie Bibby/FT

Laith Al-Khalaf and **Martin Arnold** in London

Published 4 HOURS AGO | Updated 08:18

PayPal, Mastercard and Visa are being investigated by the UK's financial regulator for alleged anti-competitive behaviour in a rare antitrust probe by the watchdog.

The [Financial Conduct Authority](#) said on Wednesday that it was investigating three of the world's largest payments companies because of concerns that the use and funding model of PayPal's digital wallet may break competition rules.

The regulator said it was investigating the three companies for potential breaches of the UK Competition Act 1998, which prohibits companies from agreeing to practices that may distort competition or trade.

[Mastercard](#) and Visa are also being investigated for potentially breaching rules that bar abuse of a dominant market position, the FCA said.

Paypal's customers in the UK can upload and manage as many as 24 different cards on its digital wallet without having to pay extra fees for the service. They can earn cashback from certain payments, send money internationally and pool funds with other clients.

The FCA was given the power to open enforcement investigations into breaches of competition law in 2015, giving it the power to fine companies up to 10 per cent of their annual global turnover.

The watchdog said it was "currently gathering evidence". Based on what this shows, it will then decide whether to issue a statement of objections outlining why it thinks there has been a breach of competition law.

The companies will then be able to respond orally and in writing before the watchdog's final decision on whether the law has been broken.

The watchdog said it "has reached no conclusions nor made any findings with regard to competition law having been broken".

Visa said the FCA had opened an investigation into "contractual provisions regarding the PayPal digital wallet".

Mastercard also confirmed that the FCA had requested details of its "contractual relationship with PayPal", adding that it "works to ensure we meet the highest standards of competition law".

Visa, Mastercard and PayPal all said they were co-operating with the FCA.

Since 2015, the FCA has opened nine competition investigations, including those into PayPal, Mastercard and Visa that it announced on Wednesday.

It has only taken enforcement action twice over alleged breaches of competition law. In 2019, it issued its [first fine under its competition powers](#) over rule breaches by UK asset managers. In 2023, it fined three money transfer companies for price fixing in Glasgow.

Visa and Mastercard have clashed with UK regulators before. In January, the two US card companies and UK fintech Revolut [lost a legal battle](#) over a proposed regulatory cap on fees they charged on international transactions.

[Copyright](#) The Financial Times Limited 2026. All rights reserved.

Follow the topics in this article

US companies

Financial services

UK financial regulation

Technology

Visa Inc

News **Litigation Strategy**

No Class Certification? No Problem. Attorneys Put 86 Plaintiffs in 1 Complaint

The move—to coalesce nearly 90 individuals in a single action without class status—is rare.

May 05, 2026 at 02:18 PM By **Annie Mayne**



(l-r) Jorge Piedra, Benjamin Widlanski, and Ofir Besharim, with Miami's Kozyak Tropin & Throckmorton. Courtesy photos

After a court denied class certification to a group of plaintiffs, the lawyers hired for the second round of litigation needed a Plan B.

Plaintiffs counsel Benjamin Widlanski, partner at Kozyak Tropin & Throckmorton, said the legal team's successful pivot serves as a reminder for attorneys to think outside the box when overcoming courtroom setbacks.

Now, their litigation strategy means the claims will proceed in unison, despite pushback and a failed bid to bring a class action.

Widlanski and his colleagues represent homeowners suing Florida Power & Light Co., alleging the electricity provider opened an especially noisy energy center near their property.

The Miami attorneys brought onto the ongoing litigation used a workaround to keep their clients' claims in a single action.

"Just because the way isn't exactly clear, doesn't mean it doesn't make sense," Widlanski told Law.com in a phone interview.

Widlanski and partner Gail McQuilkin filed Kozyak Tropin's first appearance in July, the day after Broward Circuit Judge David A. Haimen denied plaintiffs' motion for class certification. Haimen ruled the homeowners' claims were too varied to be packaged in one class.

All plaintiffs reside across a canal from the Dania Beach Clean Energy Center. The center underwent a modernization project completed in 2022, transforming it from the oldest plant run by Florida's largest power company into an energy center that FPL [touts](#) as the "cleanest, most efficient power plant of its kind in the world," projected to save customers hundreds of millions in energy costs.

But Widlanski argued anyone within earshot of the facility can attest its turbines produce an irritating, omnipresent buzz; alarms are often blaring; and the steam emitted at random is accompanied by a piercing hiss, among other disturbances.

Plaintiffs' claims include inability to enjoy their private property, as well as negative effects on sleep, work productivity—even their children's behavior.

The homeowners' [amended complaint](#) alleges FPL misrepresented the disruption the facility would have on their lives at every stage of the project. It seeks damages for the alleged harm the noise has caused, for reported diminutions in property values and injunctive relief to stop the apparently incessant sound.

"These are homeowners who purchased property on a waterway so they could enjoy the outdoors," Widlanski said. "And now, being outside their house is very, very difficult, if not downright painful."

The case sat on appeal for months before plaintiffs decided to drop that and make a slightly unusual request: a motion for leave to file a second amended complaint that would include all 86 plaintiffs' claims.

It's not a novel move, but it's rare.

Widlanski said it's not often nearly 90 individuals coalesce in a single action without class status.

He said [Haimes' April 29 order](#), which granted their motion, is the best path for all parties.

"It's relatively rare to find a case where so many people were harmed in a similar way by the same defendant that isn't structured as a class. ... We looked for a route that would provide the greatest efficiencies for our clients, for the court, and frankly, for the defendants as well," he said.

FPL asked Haimes to deny the plaintiffs' request for one complaint, arguing the move was untimely, prejudicial and negated the court's previous order.

"Plaintiffs should not be permitted to circumvent the class certification decision through joinder, especially because there is no fair way to litigate dozens of individual claims as part of the same case, at the same trial," the filing in opposition to the plaintiffs' motion to amend reads.

FPL attorneys include Boies Schiller Flexner managing partners Sigrid McCawley and Stuart H. Singer, partner Evan Ezray, and Heise Suarez Melville shareholder Luis E. Suarez. None returned Law.com's requests for comment by publishing time Tuesday.

Widlanski's co-counsel listed in filings are McQuilkin, Kozyak Tropin managing partner Jorge Piedra, of counsel Rachel Sullivan, associate Ofir Besharim and Balazs Vigh, of The Legal Way PA.

Page printed from: <https://www.law.com/2026/05/05/no-class-certification-no-problem-attorneys-put-86-plaintiffs-in-1-complaint/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

News **Artificial Intelligence**

New Suit Claims Zuckerberg Personally Directed Copyright Infringement of Published Works to Train AI Models

The suit brought by five publishers and author Scott Turow is unusual in its attempt to hold an individual company executive responsible for the alleged infringement.

May 05, 2026 at 05:48 PM By **Michelle Morgante**



Mark Zuckerberg, chief executive officer of Meta Platforms Inc., center, arrives at Los Angeles Superior Court in Los Angeles on Feb. 18, 2026. Photo: Kyle Grillot/Bloomberg

Five major publishing companies and legal thriller author Scott Turow claim Meta Platforms Inc. knowingly stole their copyrighted works to train its Llama artificial intelligence products and attempted to hide the theft, with CEO Mark Zuckerberg personally directing employees to do so.

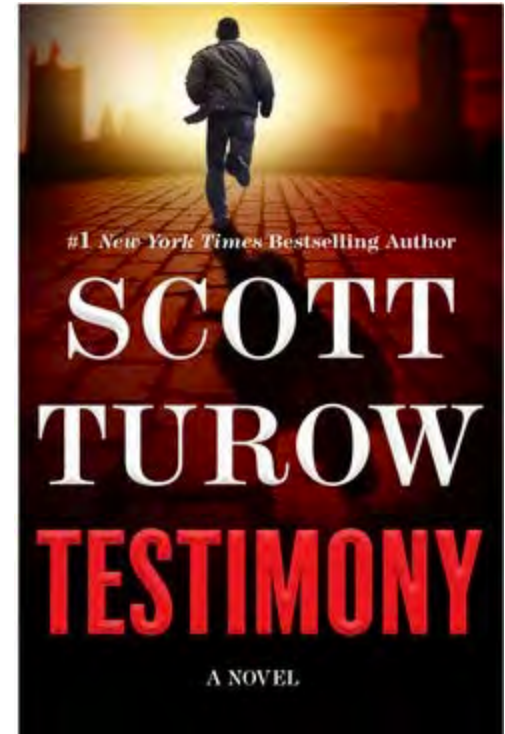
Their lawsuit filed Tuesday in the U.S. District Court for the Southern District of New York is one of the few among [dozens of copyright claims](#) against artificial intelligence companies to name an individual executive as a defendant.

Plaintiffs in the [proposed class action](#) include Elsevier, Cengage Learning, Hachette Book Group, MacMillan Publishing Group, McGraw Hill and Florida-based author Turow, whose novels include "Presumed Innocent" and "Testimony."

"All Americans should understand that the bold future promised by AI has been, to paraphrase the investigative writer Alex Reisner, created with stolen words," Turow said in a statement. "It is all the more shameful that these violations of the law were undertaken by one of the richest corporations in the world."

The plaintiffs are represented by Oppenheim + Zebrak of Washington and New York; Debevoise & Plimpton of New York; and Keller Rohrbach of Seattle.

In January, a copyright claim against Anthropic and two of its executives was brought by Oppenheim + Zebrak, Coblenz Patch Duffy & Bass and Cowan, Liebowitz & Latman on behalf of Concord Music Group and other music publishers. Anthropic is represented by Wilmer Cutler Pickering Hale & Dorr, while Conrad Metlitzky Kane represents the two executives, CEO Dario Amodei and Benjamin Mann, a founder and member of Anthropic's technical staff. The claim is pending in the U.S. District Court for the Northern District of California before Judge Eumi Lee.



One of the first such claims to name individual executives came in October, a [proposed class action](#) against Apple and two senior vice presidents that was filed by Cotchett, Pitre & McCarthy of Burlingame, California and Seattle and Bleichmar Fonti & Auld of Oakland, California. The case was consolidated in November with another claim, *Grady Hendrix et al. v Apple Inc.*, before U.S. District Court Judge Yvonne Gonzalez Rogers in Oakland.

The suit filed Tuesday alleges Meta and Zuckerberg "followed their well-known motto: 'move fast and break things'" as they "illegally torrented millions of copyrighted books and journal articles from notorious pirate sites and downloaded unauthorized web scrapes of virtually the entire internet." They then copied the stolen works to train Meta's Llama system and deliberately removed copyright management information, or CMI, in an attempt to hide the origins of the materials, it said.

"Defendants engaged in one of the most massive infringements of copyrighted materials in history," it said.

Defendants, the suit claims, were fully aware that their conduct violated copyright law. “Zuckerberg himself personally authorized and actively encouraged the infringement,” it said.

In response to a request for comment from [Law.com](https://www.law.com), a Meta spokesman sent an emailed statement that read: “AI is powering transformative innovations, productivity and creativity for individuals and companies, and courts have rightly found that training AI on copyrighted material can qualify as fair use. We will fight this lawsuit aggressively.”

Counsel for Meta has yet to appear.

Plaintiffs allege Meta and Zuckerberg made deliberate choices to illegally reproduce and distribute the copyrighted works, creating an AI system that produces verbatim and near-verbatim copies that compete with the originals and deprives the rights-holders of potential revenue from licensing.

“The scale and speed at which Llama can create written works and compete with human writers is unprecedented, and it can only do that because defendants copied plaintiffs’ and the class’s work to train their LLM,” the complaint said.

“All of defendants’ infringement was willful,” it said. “Defendants understood the value of those written works but simply chose not to pay for them.”

The defendants, it said, hid their activity by masking Meta’s IP addresses. They also developed and deployed scripts designed to delete CMI from the works torrented to the pirate website LibGen and from works contained in its Books3 pirated dataset.

After an employee warned the knowing use of pirated datasets could hurt its negotiating position with regulators, Meta ceased publicly identifying its training data sources after releasing Llama 1, it said. Meta also programmed Llama “to deny, when prompted by users, that it had been trained on pirated or copyrighted data.”

Notably, it said, Meta did not remove CMI from public-domain works, despite training Llama on both datasets at the same time, underscoring that “Meta’s actions were deliberate and meant to conceal its wrongdoing.”

Meta and Zuckerberg, it said, had at one point considered obtaining valid licenses, with Meta approaching publishers directly to discuss doing so. “On Zuckerberg’s personal instruction, however, Meta abandoned licensing negotiations altogether and stole the works instead.”

The theft of the copyrighted works has helped boost Meta’s profits, it said, noting that Meta predicts that, by 2035, it will reap \$460 billion to \$1.4 trillion of revenue from its AI products. “That

increased revenue," it said, "will be earned off the backs of creators whom Meta has refused to compensate."

David Shelley, CEO of Hachette Book Group, said in an emailed statement that copyright is "the bedrock of all creative industries."

"Meta and Mark Zuckerberg chose not to compensate rights holders for the use of their works and, instead, downloaded pirated works to train their models in contravention of the long-standing copyright principle that creators must be compensated for their works," he said. "Sanctioning such a wholesale theft would be devastating to all authors and to the entire publishing industry."

Page printed from: <https://www.law.com/therecorder/2026/05/05/new-suit-claims-zuckerberg-personally-directed-copyright-infringement-of-published-works-to-train-ai-models/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

The \$4 Billion Settlement That Rewrote Disaster Litigation

DJ [dailyjournal.com/articles/391203](https://www.dailyjournal.com/articles/391203)



Rebuilding Lahaina: The \$4 Billion Settlement That Rewrote Disaster Litigation

In re: Maui Wildfire Litigation

Mass tort

Nabilah A. Hossain, Frank M. Pitre, Donald J. Magilligan, Julie L. Fieber, Andrew W. Britton, John P. Thyken, Makena-Kala A. Kershaw, Cotchett, Pitre & McCarthy, LLP; Cynthia K. Wong, of counsel, Cotchett, Pitre & McCarthy LLP and founding partner, Cynthia K. Wong, Attorney at Law LLLC

The August 2023 Lahaina Fire in Maui destroyed more than 2,000 structures and killed at least 102 people, displacing families, wiping out generational wealth and permanently altering an entire community.

Experienced, creative and relentlessly forward-thinking lawyers from Cotchett, Pitre & McCarthy, LLP teamed with a savvy local practitioner to achieve one of the most significant mass-tort resolutions in U.S. history by securing a \$4.037 billion tentative global settlement for victims.

Reached within one year of the catastrophic wildfire, the settlement is unprecedented both in size and speed, setting a new benchmark for disaster litigation nationwide.

Nabilah A. Hossain led the Cotchett Pitre team alongside name partner Frank M. Pitre. They enlisted Wailuku attorney Cynthia K. Wong, a veteran of 28 years' practice on the island.

"I was on the firm's Kinkade and Dixie fire teams, that's where I got my feet wet, but they were nothing like the size of this one," said Hossain, naming two of the wildfires that scorched Northern California in 2019 and 2021. "One of the vital lessons learned was the vital need to get money into the hands of victims a lot quicker than happened in those North Bay fires."

The coordination task was massive. "There were more than 150 individual plaintiff firms involved, and we had to get them all on the same page and manage ourselves as a consortium," Hossain said.

Added Pitre, "Pursuit of the Maui Fire cases was akin to taking on the Lernaean Hydra. It seemed that once you figured out a solution to one problem, another two materialized. We had to deal with everything from liability and causation issues to financial constraints on damages recoveries; insurer subrogation issues, claims processes and then allocation and distribution concerns."

"Frank Pitre brought the big picture together for us," Hossain said. "He knew how we should position ourselves and what the minefields would be. He made my work smoother, and I made his vision work well." In the Matter of the Petition for the Coordination of Maui Fire Cases, 2CSP-2-0000057 (Hi. 2d Cir., filed Aug. 18, 2024).

Wong was central to the effort, Hossain said. "She is a hero, a force to be reckoned with, and the defense would tell you that. She did no other work for two years."

Hossain, Wong, Pitre and their team coordinated complex, multi-defendant litigation involving thousands of claimants, overlapping insurance interests and parallel governmental investigations. They developed liability theories capable of supporting early global resolution, worked across firm and jurisdictional lines and prioritized a structure that balanced speed, fairness, and long-term community recovery over cutthroat litigation.

The team credited the judge on the case, Peter T. Cahill, for fast, intensive work. "He and we all wanted to rebuild Lahaina and get the community's sense of ohana back as quickly as possible," Hossain said.

#391203

Securities**Column**

Aspiring Plaintiffs' Lawyers Should Forgo 'Default' Career Steps

May 6, 2026, 1:30 AM PDT

When I was in law school more than 25 years ago, the idea of graduating from a top law school and then working as a plaintiffs' lawyer was largely unheard of. Representing plaintiffs was viewed as somehow... déclassé. So even though most of my classmates were liberal or progressive in their politics, they flocked to Big Law—despite the tension between their political sensibilities and large firms' work in defending wealthy and powerful corporations.

Since then, law students' views of plaintiffs' lawyers and their work have shifted dramatically. Students at elite schools are increasingly interested in plaintiff-side work, as Roy Strom recently reported. The student-run National Plaintiffs' Law Association, which educates law students about the opportunities available on the left side of the "v," now has chapters at more than 60 law schools—including 13 out of the top 14.

What advice would leading plaintiffs' lawyers give to law students and young lawyers who are interested in plaintiff-side litigation? Along the lines of my past columns offering advice to new law clerks and Big Law associates, here are some tips.

1. Resist the gravitational pull of Big Law while in law school.

One of the biggest challenges for would-be plaintiffs' lawyers comes early: resisting the siren call of Big Law. Despite increased interest in plaintiffs' work, it's still fair to describe working at a large firm as the default post-graduate employment option for students at highly ranked schools.

In "Fighting Bullies: The Case for a Career in Plaintiffs' Law," plaintiffs' attorney William "Bill" Reid of Reid Collins & Tsai writes that "law school doesn't teach you how to build a legal career—it just sets you up to be recruited by Big Law." In his view, many schools function simply as a "conveyor belt to Big Law."

So if you're an aspiring plaintiffs' lawyer, "the first thing you need to do is to reject the received wisdom about what you're supposed to do with your career," said plaintiff-side appellate advocate Deepak Gupta, founding principal of Gupta Wessler. "There's this hydraulic pressure that pushes people into the big-firm interview process, even if it has nothing to do with why they went to law school in the first place."

Not pursuing Big Law might be easier said than done. With some firms recruiting first-semester 1Ls, it can be difficult for anxious, debt-saddled law students to decline that option while their classmates secure lucrative summer gigs that will likely turn into post-graduate jobs paying \$225,000 a year.

But it can be done—and an increasing number of law students are doing it. According to Gupta, organizations such as the NPLA “can be helpful to students in resisting that pressure, by letting them know that some of their peers are resisting that pressure too.”

“I encourage students to see law as a site for creativity and entrepreneurialism,” Gupta told me. “Just as you can be entrepreneurial about the kind of litigation you bring, you can be creative about your career path. And I find that current law students, who are generally more skeptical of existing institutions, are really receptive to that message.”

2. Educate yourself about—and expose yourself to—the world of plaintiffs’ firms.

Plaintiffs’ firms don’t have the large recruiting staffs and budgets of Big Law, which large firms use to promote themselves by hosting cocktail receptions and dinners at top schools. Instead, it’s incumbent upon law students and young lawyers who are interested in plaintiff-side work to take initiative in educating themselves about this world.

You can start with something as simple as reaching out to a plaintiffs’ lawyer to express interest in and admiration for their work—as well as a desire to learn more.

“Don’t be shy about writing emails to lawyers to ask if they might be willing to chat,” said Alexandra Walsh, a shareholder at Anapol Weiss. “When a young person starting out in their career reaches out to me, I’m flattered. I never ignore those emails—and even if I’m pressed for time, perhaps because I’m in trial, I’ll find a colleague who can help.”

If what you learn piques your interest, then seek out opportunities to work for plaintiffs’ firms while still in law school.

“The best way to get into plaintiffs’ work is by gathering as many touchpoints as you can,” Reid urged. “Try to work for as many firms as you can—starting in your first year, even if it means working for free—just to see the actual practice of law.”

3. Seek out opportunities to be “on your feet.”

Standing up and arguing in court, especially to a jury, is a much bigger part of plaintiff-side practice compared with briefing-heavy Big Law litigation. If you’re interested in representing plaintiffs, get experience being on your feet, early and often.

Clinics are an excellent opportunity for law students. When I was in school, I participated in the landlord-tenant clinic and tried a case. It was only a one-day bench trial, but it gave me the chance to argue in open court and examine witnesses as a 2L.

"There are clinical programs available at almost every law school," Reid said. "And candidly, I don't think the subject matter is that important. What students need is on-their-feet experience."

What if you're already in Big Law, but hoping to jump to a plaintiffs' firm? Speaking opportunities in cases for paying clients can be hard to come by—because as Walsh explained, "If things go south, in-house lawyers want the ability to say, 'I had the senior partner argue it.'" But pro bono cases, which tend to be more leanly staffed, often provide excellent opportunities to get into a courtroom and on your feet.

4. If you want to go down the plaintiff-side path, feel free to bypass Big Law.

In the past, it was common for would-be plaintiffs' lawyers to do a stint in Big Law first, gaining experience and paying off loans, before moving over to a plaintiffs' firm. But as an increasing number of high-end plaintiffs' firms focus on recruiting law students and early-career lawyers, to the point of establishing their own summer associate programs, working at a large firm first isn't necessary—or maybe even desirable—for someone committed to plaintiffs' work.

"A lot of people think it's the safest route, but I'm skeptical of the idea that you should launch your career in Big Law and then go over to the plaintiffs' side," said Jay Edelson, founder and CEO of Edelson PC. "We'll get an application from someone who went to Harvard and worked at Kirkland, and their résumé says they 'second-chaired a deposition.' What does that mean—you handed pieces of paper to somebody? We don't think that's good training to become a trial lawyer."

Similarly, Reid scoffed at the notion of preparing for a career as a plaintiffs' lawyer by working at a large firm first: "Going to Big Law to 'learn the defense playbook'? The playbook is pretty obvious: delay, obfuscate, and settle."

Reid acknowledged that while some Big Law partners excel at trying cases, "90% are not trial lawyers—they're litigators. And I use that term negatively: Litigators push paper, and trial lawyers try cases."

5. Your career isn't all about the benjamins.

A growing number of plaintiffs' firms, including Edelson and Reid Collins, pay starting salaries at or near Big Law levels. But working for a plaintiff-side firm is still generally less lucrative than working for a large, defense-oriented firm.

At the very least, the economic rewards from doing plaintiff-side work can be more unpredictable. Aspiring plaintiffs' lawyers tend to be—and need to be—more open to risk than their Big Law counterparts.

"On the plaintiffs' side, there are years when the firm might not make much money, or when it needs to invest," Walsh said. "So we don't guarantee bonuses at a certain level; they depend on how much money we have."

There's much more variation in compensation among plaintiff-side firms. So recruits shouldn't be afraid to drill down into what a firm pays (perhaps after getting an offer first).

And Big Law isn't the only point of comparison. Plaintiffs' firms can be a financially appealing alternative to working in government or for a public-interest organization.

"Plaintiffs' work might not pay as much in salary as Big Law, at least in the short term, but it does pay better than nonprofits," Gupta said. "So it provides a kind of middle path, where lawyers can make a decent living while also finding their work meaningful."

When it comes to career choices, law students and young lawyers need to consider factors other than dollars and cents. The plaintiffs' lawyers I interviewed cited many non-monetary virtues to their work—including the ability to pick cases and clients they care about, the sheer fun of being in court so frequently, and the opportunity to advance the public interest and seek justice for wronged parties.

"No rational person should decide on their career path based just on starting salary," said Reid. "If you prioritize experience over salary, you'll end up with a far better, more enjoyable career."

David Lat, a lawyer turned writer, publishes Original Jurisdiction. He founded Above the Law and Underneath Their Robes, and is author of the novel "Supreme Ambitions."

Read More Exclusive Jurisdiction

To contact the editors responsible for this story: Daniel Xu at dxu@bloombergindustry.com; Jessie Kokrda Kamens at jkamens@bloomberglaw.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

US Law Week

Exclusive

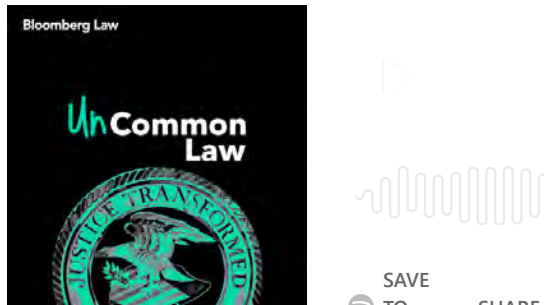
DOJ Offers Lawyers \$25,000 Signing Bonuses as Hiring Lags (2)

May 5, 2026, 9:00 AM PDT; Updated: May 5, 2026, 3:32 PM PDT

The Justice Department is taking a new tack to overcome hurdles in attracting qualified legal talent and to prevent current lawyers from leaving: offering signing and retention bonuses throughout the Civil Division.

New vacancy postings show signing bonuses of \$25,000 are newly available to staff offices investigating youth transgender treatments and litigating the Trump administration's immigration agenda.

Further, the head of the Civil Division—which plays a crucial role advancing and protecting the president's policies in court—informed all his attorneys Monday that they'll begin receiving a "retention incentive allowance" ranging from around \$60 to \$220 every pay period through Thanksgiving, according to an internal email reviewed by Bloomberg Law.



Listen to the season trailer

The financial enticements are an apparent first for a department that in previous years would be inundated with resumes from lawyers willing to take significant salary reductions compared to private sector legal practice. Padding lawyers' biweekly paychecks signals a division growing more desperate to stave off further departures of valuable legal minds, including those who've expressed discomfort with defending the president's policies from a slew of lawsuits.

Trial attorney vacancies posted on DOJ's website Tuesday for the Civil Division's recently created enforcement and affirmative litigation branch describe in bold print "a signing bonus of up to \$25,000" that may be awarded to "well-qualified candidates." The job advertisements, which would support a DOJ team that's been repeatedly losing in court over efforts to subpoena pediatric hospitals for sensitive data on minors prescribed drugs for gender dysphoria, instruct applicants that time is of the essence.

"Applicants are strongly encouraged to submit their completed application as soon as possible," as the financial incentives are "contingent upon the availability of funding," states one of the two Civil Division vacancy postings—both of which offer the signing bonus.

A separate civil section focused on immigration litigation, which has been managing legal challenges to the department's policies of swiftly deporting immigrants to countries unfamiliar to them and detaining noncitizens without offering bond hearings, promoted identical bonuses for new hires Monday. The federal programs branch, which litigates on behalf of all federal agencies, also began offering the bonus to applicants Tuesday.

"This Department of Justice is always looking for talented and qualified attorneys to advance President Trump's priorities and protect the American people," Brett Shumate, assistant attorney general of the Civil Division, said in a statement. "Under the leadership of Acting Attorney General Blanche, the Civil Division will continue to hire hardworking patriots from across the country and offer appreciation bonuses to our loyal attorneys who remain committed to our mission and upholding the rule of law."

The Civil Division, consistent with other DOJ offices since President Donald Trump retook office, has struggled to replace a mass exodus of experienced lawyers.

This particular branch of the division, launched as part of DOJ reorganization last fall, has been deployed to probe medical providers nationwide over their gender care programs—an initiative that judges have thwarted by condemning the department for operating in “bad faith” or attempting to “intimidate and harass.” The office’s affirmative litigators last month sued New Jersey for providing in-state tuition to noncitizens, and recently the branch has played a hand in the Trump administration’s broader push to denaturalize Americans born overseas.

The denaturalization efforts are being led by the separate immigration litigation office that’s also started providing bonuses.

Shumate, whose division also defends executive branch regulations and policies that are challenged in federal court, wrote to his legal staff Monday that their retention bonuses would vary and be computed as a flat percentage of their salary.

“It has been my privilege to work alongside you over the past year,” he said in the email. “While I wish I could do more to fully express my appreciation for all that you do, I hope this incentive provides some tangible recognition of your efforts and the value we place on your continued service to the Civil Division.”

The bonuses come as the department in March revoked its longstanding requirement that newly hired prosecutors have at least one year of experience practicing law. The same Civil Division vacancies that entice applicants with extra money also note that new hires must have “up to one” year of legal experience, although there are openings at higher grade levels that demand more legal practice.

The Department of Homeland Security has offered similar signing bonuses for immigration enforcement agents.

(Updated in 7th paragraph to note federal programs branch also offering signing bonuses)

To contact the reporter on this story: Ben Penn in Washington at bpenn@bloomberglaw.com

To contact the editor responsible for this story: Ellen M. Gilmer at egilmer@bloomberglaw.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Litigation

Manage Newsletters

Lawyer Who Misused AI Issued Non-Monetary Sanctions for Errors

May 6, 2026, 9:11 AM PDT

Summary by Bloomberg AI

AI Generated



- A lawyer, Kelly Guagenty, has been sanctioned for submitting case citations from a generative AI program without checking their accuracy in filings to a federal district court.
- Judge Stacey D. Neumann ordered Guagenty to attend a continuing legal education course on generative AI and create "clear procedures" to prevent such errors from happening again.
- The judge emphasized that generative AI "is not inherently improper" but its use does not abdicate an attorney's duties of responsibility and candor to the Court.

A lawyer has been sanctioned for submitting case citations from a generative AI program in filings to a federal district court without checking their accuracy.

Judge Stacey D. Neumann in a Tuesday opinion ordered Kelly Guagenty of the Justice Law Collaborative LLC, an all-women-owned and led plaintiffs firm, to attend a continuing legal education course on the topic of generative AI in the legal field and submit proof she attended.

The judge, of the US District Court for the District of Maine, also ordered Guagenty to create "clear procedures" at her firm "to prevent such errors from happening again," and to explain those procedures to the court.

Neumann said Guagenty has already taken "concrete steps" to educate herself about the risks of AI in legal practice, including enrolling in CLE courses focused on GenAI and its "proper use" in litigation.

"These actions weigh in favor of a sanction focused on education, process improvement, and public admonition, rather than a severe monetary or disciplinary penalty," the judge said.

Neumann said the lawyer cited several cases for unsupported propositions, and used quoted language that couldn't be located in the cited sources, and other quotations that contained inaccurate pincites. The underlying case involved a woman represented by Guagenty who alleges the Hyde School and other institutional defendants committed child exploitation of students.

After defendants identified "significant errors" in the original filing, she didn't promptly withdraw or correct it, the judge said.

But Guagenty later apologized and accepted responsibility, while disclosing that she or someone on her team had used either Claude or ChatGPT in the drafting process. She also acknowledged that she hadn't conducted a line-by-line citation check, Neumann said.

Guagenty expressed "genuine remorse, rather than attempting to deny the inaccuracies or shift blame to others," the judge said. Moreover, she has no history of prior disciplinary violations, and there's nothing in the record to suggest her conduct "was willful, repeated, or undertaken for strategic advantage."

Neumann emphasized "that generative AI is not inherently improper and may, when used responsibly, assist attorneys with drafting and research—but its use does not abdicate an attorney's duties of responsibility and candor to the Court."

Guagenty didn't immediately respond to a request for comment.

Justice Law Collaborative and Fitzgerald Law Group represent Fuller. Verrill Dana LLP represents Hyde School and the other defendants.

The case is Fuller v. Hyde School , 2026 BL 164179, D. Me., No. 2:25-cv-00354, order 5/5/26 .

To contact the reporter on this story: Sam Skolnik in Washington at sskolnik@bloomberglaw.com

To contact the editor responsible for this story: Patrick L. Gregory at pgregory@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Securities**Insight**

AI Hones Bet-the-Company Cases Early, Scaling Back Discovery Woes

May 6, 2026, 1:30 AM PDT

Large-scale litigation historically has followed a familiar pattern: gather everything, review everything, argue everything, and trust that exhaustive effort would produce advantage. That model is now too expensive, too slow, and too blunt for the demands facing modern legal departments.

General counsel no longer are asked merely to win motions or survive discovery. They must protect enterprise value, reduce volatility, preserve management attention, and create clarity in matters that can threaten earnings, reputation, and strategy at once.

That is why artificial intelligence's real significance in litigation isn't speed. It's strategic compression—getting to the point of decision faster, with better information, under rigorous pressure. The strongest legal departments use AI to identify the key set of facts, documents, witnesses, and pressure points that will drive the outcome of a dispute.

This won't replace lawyers with machines; it will replace waste with judgment. The mandate for the modern GC is to know earlier, and with greater confidence, which 20% of the case will determine 80% of the risk rather than know about every document in a file.

The rule is simple: Use AI to apply the 80/20 rule, then concentrate legal and business resources on those critical facts with ruthless discipline.

Every outside team should be able to answer one question: What are the five pieces of evidence, testimony, or analysis most likely to control outcome and cost—and why are we spending money anywhere else?

Compression, Not Efficiency

Litigation has always suffered from a scale problem. The modern lawsuit arrives wrapped in millions of emails, contracts, board materials, and chat logs.

Traditional discovery treats this mass as something to be processed. AI allows it to be treated as something to be interpreted. Processing data is expensive housekeeping. Interpreting data is strategy.

When deployed correctly, AI doesn't simply reduce review hours—it accelerates the drive toward a pressure-tested, trial-ready theory. In complex litigation, teams once spent weeks mapping the factual terrain and stress-testing their narrative. AI compresses those weeks into days. Speed matters here not as an end but as a means: the faster you have the facts, the more time you have to pressure-test the your case theory before it is finalized.

The best litigation teams don't pick a theory on day one and cling to it. They take a theory and test it, using AI to challenge assumptions and surface what the other side is most likely to exploit. Moving faster with a bad theory doesn't improve the theory. Speed amplifies mistakes as readily as insights.

A GC who understands the factual center of gravity of a dispute in the first 30 days occupies a fundamentally different position from one receiving a sprawling update after six months of document review. The former shapes settlement posture and reserve analysis with discipline. The latter casts about in the dark.

Prioritization, Not Preservation

The old playbook prized optionality above all else: Keep every argument alive, pursue every claim, take every deposition that might matter. There was comfort in abundance. There also was staggering inefficiency.

AI exposes a harder truth. Most cases turn on a narrow cluster of decisive facts and human behaviors. A handful of emails shapes the intent narrative. A small group of witnesses defines credibility. One or two damages assumptions drive exposure. A few business decisions explain why the dispute exists at all.

The right question no longer is what we can do in this case, but what must be true for this case to resolve on acceptable business terms. That shift moves litigation from activity to architecture.

It forces counsel to identify the moves that matter—the document set that frames the opening demand, the deposition sequence that exposes weakness in the opposing theory, the early motion that can reset leverage. AI is the force multiplier for strategic discipline, not the strategist.

Enterprise Risk Implications

The legal department's audience extends well beyond trial counsel and courts. It includes the CEO, CFO, board, investor relations, and sometimes the public. Litigation decisions must therefore be measured both on their legal merits and by impact on the enterprise.

A targeted, AI-informed strategy improves that broader performance in three ways. It reduces uncertainty, protects executive attention, and strengthens reputation management. When a GC can explain—with evidence—the few facts most likely to control liability or settlement range, the business can plan. Reserve discussions improve. Leadership avoids overreaction.

A focused strategy keeps senior executives engaged where their judgment creates leverage rather than concerned that their calendars will be consumed by the litigation process. And where litigation can become a public narrative overnight, early identification of reputational flashpoints lets the company manage the case in alignment with its values.

Absence of Judgment, Exposed

AI can't read a jury, negotiate a settlement, or build trust with a client. It can't tell a CEO which path creates the least long-term damage or weigh whether a trial victory is worth the cost to a commercial relationship. These remain human functions—and the margin of advantage in hard cases still lives there.

But AI will expose weak lawyering faster. It will reveal which teams hide behind volume, which strategies lack a unifying theory, and which firms bill clients to find answers that should have surfaced months earlier.

AI is a powerful tool that demands supervision, governance, and a lawyer willing to own the judgment call. And it's increasing, not eliminating, the premium on legal talent.

An immaterial amount of this content was drafted by generative artificial intelligence.

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.

Author Information

Trey Cox is co-chair of Gibson Dunn's global litigation practice group and co-partner in charge of the firm's Dallas office.

Write for Us: Author Guidelines

To contact the editors responsible for this story: Jessie Kokrda Kamens at jkamens@bloomberglaw.com; Rebecca Baker at rbaker@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

Securities

Manage Newsletters

AI Bots Auditioning for Wall Street Trading Are Mostly Losing

May 6, 2026, 5:14 AM PDT

Summary by Bloomberg AI

AI Generated



- Most AI systems in trading contests lose money, trade too much, and make wildly different decisions when given identical instructions.
- The Alpha Arena contest, which pitted eight major AI systems against each other, resulted in the portfolio as a whole losing about a third of its capital, with a model finishing in profit only six times out of 32 sets of results.
- Experts say LLMs are not yet ready to replace human fund managers, as they tend to mistime trades, incorrectly size positions, and buy and sell too often, and require a sophisticated harness and scaffolding to even have a chance at making money.

AI isn't ready to replace your fund manager – and the public experiments testing it are showing why.

Across a series of new trading contests between the world's leading AI models, the verdict so far is unflattering. Most of the systems lose money. They trade too much. They make wildly different decisions when given identical instructions. And no one yet knows if these shortcomings will fade with more powerful iterations – or if they reveal something fundamental about the gap between large language models and how markets actually work.

Take Alpha Arena, run by tech startup Nofl. It pitted eight major frontier AI systems – including Anthropic's Claude, Google's Gemini, OpenAI's ChatGPT and Elon Musk's Grok – against each other in four separate competitions. Each was handed \$10,000 per contest before being turned loose on US tech stocks for two weeks. The challenges involved trading on a variety of signals, acting defensively, reacting to the competition, and using high leverage.

The portfolio as a whole lost about a third of its capital. Across all 32 sets of results, a model finished in profit only six times. Grok 4.20 delivered the best performance during the challenge in which it was aware of its rivals' performance. It placed only 158 trades; under the same prompt, Alibaba's Qwen traded 1,418 times.

Alpha Arena is one of a growing number of experiments testing whether LLMs can do the hardest job in finance: beat the market. While these contests are far from academically rigorous, they're the most public demonstration yet of what happens when the systems try to take on some of the most lucrative and high-stakes work on Wall Street.

The early results matter because trading is one job the financial industry has been cautious about handing entirely to AI. Over the past few years, heavyweights from JPMorgan Chase & Co. to Balyasny Asset Management have put the technology to work nearly everywhere else. LLMs now [parse news](#) at quant shops, [draft](#) memos at hedge funds, and [detect](#) fraud at big banks, among other tasks. But "human in the loop" remains the motto when it comes to trading real money. Perhaps for good reason.



Jay Azhang

Photographer: Gili Benita/The New York Times/Redux

"LLMs can't really make money by themselves," said Jay Azhang, founder of Nofl. "You need basically a very sophisticated harness and scaffolding and data platform in order to even give them a chance."

LLMs are good at doing research and finding and deploying the correct tools for certain tasks, he said. But they don't yet know how much each of the many variables that swing stocks – including things like analyst ratings, insider transactions, and sentiment shifts – actually matters. They tend to mistime their trades, incorrectly size positions and buy and sell too often.

The AI blog Flat Circle tracked 11 markets-related arenas, and all had at least one model that made money. But in only two of the arenas was the median model profitable, showing how most struggled to beat the market.

That outcome mirrors human performance, since a majority of actively managed funds famously also lag the broad market. And just like people, the models can be prone to obvious bias. The arenas show the AI systems making very different decisions with identical instructions, which has big implications for any firm deploying them. For instance, Azhang said that in Alpha Arena's latest run, Claude mostly wanted to go long, Gemini had no problem being short, and Qwen was comfortable taking risks with big leverage.

Bot Arenas

AI trading experiments have shown a wide range of results

Arena	Team	Universe	Winning model	Winning model profitable?	Median model profitable?
Alpha Arena (Season 1.5)	Nofl	US tech stocks	Grok 4.20	Yes	No
AI Investing Arena	Bobby Dhungana	ETFs	Qwen3 235b	Yes	Yes
Rallies Arena	Rallies.AI	US stocks	GPT 5.5	Yes	Yes
Okbet Arena	Okbet	Polymarket	GPT 5.1	Yes	No
Prediction Arena	Arcada Labs	Kalshi and Polymarket	Gemini 3.1 Pro on Kalshi; Claude Opus 4.6 on Polymarket	Yes	No
TradeRank AI (Season 3)	TradeRank.AI	Crypto	MiniMax M2.5	No	No

Note: Rallies and Prediction Arena are live with results as of May 6 while the rest are closed. The examples are a mix of real and paper trading.
Source: Arena websites as compiled by Bloomberg News

Bloomberg

“They have personalities that you have to manage almost like a human analyst,” said **Doug Clinton**, who runs Intelligent Alpha, a firm with an LLM-driven fund that publishes its own benchmark for how well AI predicts corporate earnings. Results can be improved by letting the model know it’s showing some bias, he said.

Intelligent Alpha’s benchmark gives 10 AI models access to financial filings, analyst forecasts, earnings transcripts, macroeconomic data and up to 10 web searches. With its narrower focus, the results are more positive for LLMs. In the fourth quarter of 2025, OpenAI’s ChatGPT correctly predicted the direction of earnings estimates 68% of the time – the best results yet. And the models, Clinton said, tend to improve with every new release.

Hedge Fund Secrets

Evaluating any of this is hard. Design choices in everything from how often the models run to what assets they trade makes a big difference. And the default test for a trading strategy – running it backward through history to see how it would have performed – doesn’t really work for AI.

A model asked in 2026 how it would have traded in March 2020 already knows what March 2020 looked like. That contamination, known as lookahead bias, has challenged the frameworks underlying academic and quantitative finance for decades. LLMs have to be assessed in live markets instead, hence the proliferation of benchmarks and arenas.

Perhaps because they mostly lose money, AI trading arenas tend to run for only short periods of time. With the low barriers to entry, many are set up by individuals or startups using the platforms as a launchpad for other products.

Nofl is preparing season two of Alpha Arena, which will give each AI model the ability to search the web, ponder for longer, access more data sources and take multiple steps. But ultimately the firm’s business is a system enabling retail traders to build AI trading **agents** for their own strategies.

"Giving an LLM money right now and just having it go – that's not a thing yet," said Azhang.

Most of the public experiments are still too short and too noisy to support firm conclusions, reckons Jim Moran, who writes the Flat Circle blog and who previously co-founded alternative-data provider YipitData. These arenas also have natural disadvantages, including limited access to proprietary stock research and inferior execution.

"If you took one of these agents from one of these arenas and you just moved it over to operate inside of a high-end hedge fund, they should perform better," he said.

Alexander Izydorczyk, formerly head of data science at the hedge fund Coatue Management and now at NX1 Capital, recently wrote that no AI trading bot he tracks has yet shown a lasting edge. He argued the arenas are limited by what they cannot see in their training data: the practical quant techniques used inside secretive trading shops.

He suggested the same secrecy is also a preview of where any AI that does begin to work will eventually go.

"But beginners sometimes see things incumbents cannot," Izydorczyk wrote on his personal blog. "The outsiders, if successful, will also learn quickly that success in liquid, competitive markets pays better than the marginal X follower. When LLM agent trading strategies start working, you will not hear about it for a while."

--With assistance from **Emily Nicolle**.

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

To contact the reporter on this story:

Justina Lee in London at jlee1489@bloomberg.net

To contact the editors responsible for this story:

Sid Verma at sverma100@bloomberg.net

Sam Potter

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

AI errors in US murder case lead to discipline for Georgia prosecutor

 [reuters.com/legal/government/ai-errors-us-murder-case-lead-discipline-georgia-prosecutor-2026-05-05](https://www.reuters.com/legal/government/ai-errors-us-murder-case-lead-discipline-georgia-prosecutor-2026-05-05)

Mike Scarcella

May 5, 2026

AI (Artificial Intelligence) letters are placed on computer motherboard in this illustration taken, June 23, 2023. REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights, opens new tab](#)

WASHINGTON, May 5 (Reuters) - The Georgia Supreme Court on Tuesday disciplined a prosecutor in the U.S. state, finding her misuse of artificial intelligence tools led to fake and misleading case citations appearing in a murder case ruling.

The state's high court barred Deborah Leslie, a Clayton County assistant district attorney, from appearing before the justices for six months and ordered her to complete additional legal education on ethics, brief writing and proper AI use. The court [found, opens new tab](#) that "numerous fictitious or misattributed case citations" appeared in a lower court's 2025 order denying a murder defendant's bid for a new trial.

"Citing cases that do not exist or do not support the proposition for which they are cited is a violation of this Court's rules and falls far beneath the conduct we expect from Georgia lawyers," Justice Benjamin Land wrote.

SOME ATTORNEYS FAIL TO VET AI RESULTS

State and federal courts across the country have disciplined attorneys for using generative AI tools for legal research and drafting without vetting the results. The Georgia case is among the rarer [instances involving a prosecutor's use of AI](#), and stands out because the lawyers' AI errors were repeated in a court opinion. Leslie and the Clayton County District Attorney's Office did not immediately respond to requests for comment. Leslie apologized in an earlier court filing for failing to independently verify the AI-generated citations.

The sanction came in the appeal of Hannah Payne, who was sentenced to life in prison plus 13 years for the murder and false imprisonment of Kenneth Herring. Leslie's AI-generated false citations appeared in a proposed order she prepared, urging the trial judge to deny a request for a new trial. The judge adopted much of the proposed order, including fabricated citations, in denying Payne's request, the Georgia Supreme Court said.

The state justices on Tuesday urged trial judges to review proposed orders "with the understanding that artificial intelligence software, with all of its potential risks and benefits, may have been used."

The justices vacated the earlier ruling and sent the case back to the trial judge, directing that a new order be issued without fictitious citations.

"Hannah Payne has strong issues for appeal. It is a shame that the State's misconduct is now delaying her opportunity to have those issues be decided," her lawyer, Andrew Fleischman, said in a statement.

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

Analysis **Artificial Intelligence**

AI Transforming HR Faster Than Companies Can Set Up Processes to Contain Risks

Between an increasingly active patchwork of state laws and unresolved liability questions in light of new federal policy proposals, employers will likely remain on the hook for how these tools are used," said Niloy Ray, co-chair of Littler Mendelson's AI and Technology Practice Group.

May 06, 2026 at 06:56 AM By **Michael Gennaro**



Credit: YouraPechkin/Adobe Stock

Four of five employers expect AI-driven workplace disruption in the coming year, and most say their governance frameworks aren't ready for it, according to Littler Mendelson's 14th Annual Employer Survey released Wednesday.

The survey, which drew on responses from more than 300 U.S.-based C-suite executives, in-house lawyers and human resources professionals, found that 84% of respondents expect business

impacts from policy or regulatory changes relating to AI use in the workplace over the next 12 months, double the percentage in the 2025 survey.

Marko Mrkonich, who co-chairs the AI and Technology Practice Group, said the pace of change demands a fundamentally new approach.

"AI is opening new frontiers, redefining job responsibilities, changing the way we hire and modifying staffing patterns," Mrkonich said. "Meeting the moment requires understanding and adapting to a new legal environment, with the right combination of technical knowledge, business judgment around the use of new tools and focus on compliance. The old way of doing things is no longer good enough."

On AI, the survey found that employers are beginning to translate efficiency expectations into workforce decisions. Thirty-seven percent of respondents said their organizations have reassessed or are reassessing job responsibilities in light of expected AI-driven efficiency gains, while 20% reported reducing or planning to reduce hiring. Fifteen percent said the same about workforce reductions.

Governance, however, has not kept pace with adoption. While 68% of respondents said their organizations have a formal policy governing AI use in the workplace—nearly double the 38% reported in last year's survey—only about half reported having a formal review or approval process for AI tools (55%) or restrictions on the information that can be entered into them (54%).

Thirteen percent said they have not implemented any AI governance measures at all, and only one-quarter said they have risk-based employee training addressing legal, compliance or ethical considerations concerning AI.

"AI adoption is moving quickly, but governance is still playing catch-up," said Niloy Ray, the other co-chair of Littler's AI and Technology Practice Group. "That mismatch could leave employers vulnerable to significant risk, especially given the complexity around compliance. Between an increasingly active patchwork of state laws and unresolved liability questions in light of new federal policy proposals, employers will likely remain on the hook for how these tools are used."

Nearly 4 in 5 respondents—79%—said they are concerned about AI-related litigation over the next 12 months, with data privacy (49%), discrimination or bias (45%) and compliance with state and local AI laws (43%) emerging as the leading areas of focus

The sharp rise in AI-related concerns has come at the expense of issues that dominated employer attention in the first months after President Donald Trump returned to the White House in January 2025. Concern about immigration-related impacts fell to 49% from 75% in 2025, while concern over DEI dropped to 38% from 84%.

"The shifts in this year's survey relating to immigration and DEI do not mean that these issues have dissipated," Littler's James Paretti Jr. and Shannon Meade said in a statement. "Rather, businesses appear to be adjusting to a 'new normal' in the second year of the Trump administration and turning their attention to what's coming next—particularly AI—as the workplace policy and regulatory landscape continues to evolve."

Paretti is co-chair and Meade is executive director of the Littler Workplace Policy Institute, the government relations and public policy arm of Littler Mendelson.

Beyond AI, the survey found that complying with "reasonable accommodations" laws has emerged as a growing source of litigation anxiety. The Americans with Disabilities Act requires employers to make reasonable accommodations to enable workers with disabilities to perform their job duties. Similarly, the Civil Rights Act of 1964 requires employers to make reasonable accommodations to allow workers to practice religion.

Sixty-seven percent of respondents expressed concern about litigation stemming from accommodation disputes, up from 50% last year. Littler said that increase coincides with a surge in mental health-related leave and accommodation requests, with 67% of employers saying such requests have risen over the past year, continuing a multiyear trend.

On employee departures, more than half of respondents who saw workers leave for competitors said some form of restrictive covenant or confidential information violation occurred, and most of those employers said they took legal action in response.

One area of concern highlighted by Littler is that employers are not closely monitoring the bevy of state and local labor laws adopted over the past year. States and municipalities stepped up to fill a perceived void in labor regulation after the National Labor Relations Board was sidelined by a lack of quorum for almost all of 2025.

Only 15% of respondents said they are monitoring that activity to a large extent. Littler said the low level of engagement suggests the issue is a potential blind spot for employers navigating an increasingly fragmented legal landscape.

The survey was completed in March of this year by 303 professionals, 62% of them in-house lawyers or legal department leaders, including chief legal officers, general counsel and deputy general counsel.

Page printed from: <https://www.law.com/corpcounsel/2026/05/06/ai-transforming-hr-faster-than-companies-can-set-up-processes-to-contain-risks/print/>

Companies Could Opt Out of Quarterly Reporting Under SEC Proposal

Critics of the proposal say reducing the frequency of public disclosures threatens investor protection and greatly reduces transparency on Wall Street.

May 05, 2026 at 03:51 PM By  **Dan Novak**



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

Public companies would have the option of filing financial reports just twice a year under a U.S. Securities and Exchange Commission proposal released Tuesday.

The SEC currently requires quarterly reports under rules adopted in 1970.

“Public companies have an obligation under the federal securities laws to provide information that is material to investors,” SEC Chair Paul Atkins said in a statement. “Yet, the rigidity of the SEC’s rules has prevented companies and their investors from determining for themselves the interim reporting frequency that best serves their business needs and investors.”

Less reporting would also ease regulatory burdens and allow companies to focus on long-term strategy rather than short-term earnings, the SEC said.

In deciding how often to report, companies should consider factors such as costs and labor needed to file quarterly reports versus semiannual reports, investor expectations, other means of disclosure like earnings calls and company business models, “all without undermining fundamental investor protections,” Atkins said.

Reducing the reporting burden aligns with the Trump administration’s goal to push more companies to go public, Atkins added.

The SEC, in its proposal, said giving companies the option to report information semi-annually “could” reduce the burden on companies, which “could potentially influence a company’s decision” to go and remain public.

SEC rules now require companies to file three quarterly reports under Form 10-Q each fiscal year, and one annual report under Form 10-K. The proposal would change SEC rules to allow companies to file semiannual reports on a new Form 10-S. The information disclosed under the new 10-S form would largely mirror that in the 10-Q, the commission said.

Critics of the proposal say reducing the frequency of public disclosures would threaten investor protection and greatly reduce transparency on Wall Street.

“Disclosure is the bedrock of investor protection, providing critical financial information so that investors can make informed investment decisions,” Benjamin Schiffrin, securities policy director of the SEC watchdog group Better Markets, said in a statement. “The agency charged with protecting investors should be making it easier, and not harder, for investors to receive the material information that they need so they can invest their hard-earned money safely.”

The SEC, in its proposal, acknowledged several risks could emerge with less frequent financial reporting.

Semi-annual reporting could result in “information asymmetry” between managers and investors, securities prices that deviate for longer periods of time from their issuers’ fundamental value, larger price swings and less market oversight and corporate accountability overall, the SEC stated.

Atkins and the SEC have signaled a potential change to reporting frequency since September, when President Donald Trump called on the agency to eliminate quarterly reporting.

The SEC's proposal is the first step in the commission's comprehensive to review its rules governing reporting obligations for public companies, Atkins said.

“Over the next few months, I expect that the commission will be considering a series of proposals that, if adopted, will not only redefine what it means to be a public company, but will make being public attractive again,” he added.

The SEC will accept public comments on its proposal for 60 days following its publication in the Federal Register.

Page printed from: <https://www.law.com/nationallawjournal/2026/05/05/companies-could-opt-out-of-quarterly-reporting-under-sec-proposal/print/>

NOT FOR REPRINT

© 2026 ALM Global, LLC, All Rights Reserved. Request academic re-use from www.copyright.com. All other uses, submit a request to asset-and-logo-licensing@alm.com. For more information visit [Asset & Logo Licensing](#).

Securities

End Quarterly Earnings Reports? Here's the Debate: Explainer

May 5, 2026, 1:50 PM PDT

For more than 50 years, public companies in the US have been required to report earnings on a quarterly basis. That would change if a proposal by regulators allowing twice-yearly financial disclosures is adopted.

The US Securities and Exchange Commission said on May 5 that allowing semi-annual reporting would reduce some of the burdens of being a public company, a move that would, in the words of SEC Chairman Paul Atkins, "Make IPOs Great Again." Companies could still choose to report quarterly.

But transparency is a hallmark of financial markets, and some analysts and investors would object to having less information from US companies.

What are the current reporting requirements for US public companies?

Publicly traded companies in the US are required to file financial reports with regulators both quarterly and annually. The SEC first mandated quarterly reports, called 10-Qs, in 1970.

Generally, quarterly reports include information on financial performance; market, legal and regulatory risks; changes to internal controls; and analysis of risks and opportunities in the company's future.

What would need to happen for the quarterly practice to change?

The SEC has the authority to revise financial reporting requirements without involving Congress or the president. To move this measure forward, the agency will hold a 60-day public comment period, conduct additional analysis and research as needed, and decide whether to vote on a final rule. The proposal needs a simple majority of commissioners to pass.



SEC Chairman Paul Atkins speaks on April 27 during the Bitcoin 2026 conference in Las Vegas.

Photographer: Ian Maule/Bloomberg

What's the history of quarterly reporting?

US public companies have been required to report on a quarterly basis since 1970. The SEC's regulatory system is built atop disclosures and the belief that they drive transparency and efficiency in capital markets. However, the debate over how to balance investors' desire for information with companies' ability to plan for the long term has been waged for decades.

President Donald Trump initially called on the SEC to study switching from a quarterly to a six-month financial reporting schedule during his first term. Then-SEC Chairman Jay Clayton responded by launching a request for public comment. The agency received feedback and held a three-hour public roundtable, but the idea of fundamentally changing financial reporting never gained steam.

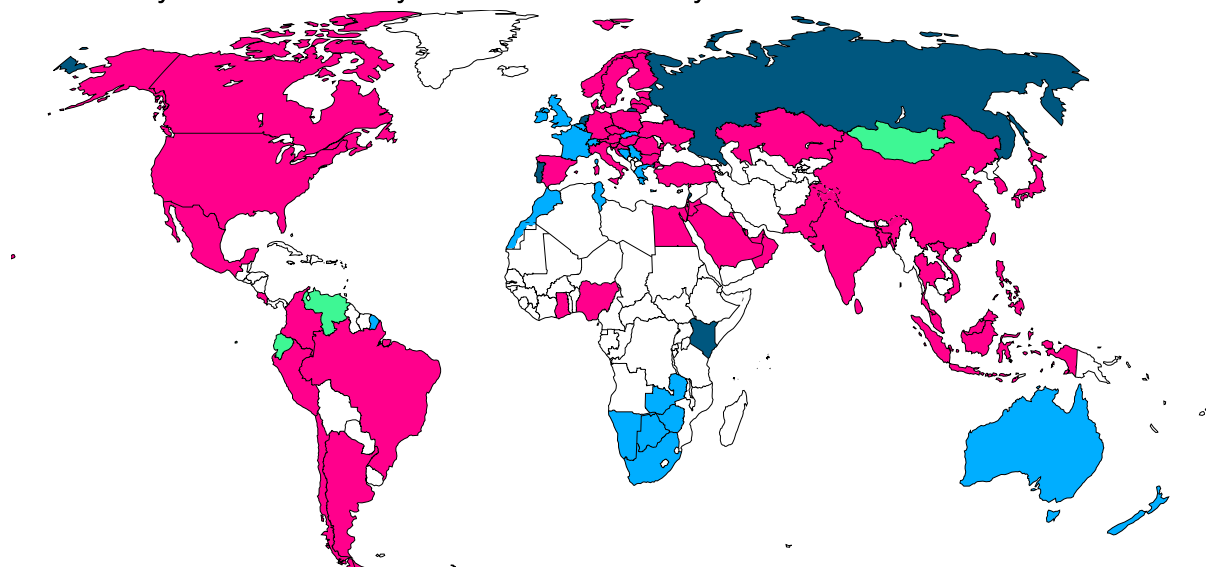
How does it work in other countries?

Countries including Canada and Japan require companies to publish quarterly financial reports. The European Union requires twice-yearly financial reports, but some countries within the bloc require more frequent updates. The UK eliminated quarterly reporting in 2014, but some companies still voluntarily report every quarter.

In a September social media post, Trump seemed to embrace China as a model, writing “Did you ever hear the statement that ‘China has a 50 to 100 year view on management of a company, whereas we run our companies on a quarterly basis???’” However, most Chinese companies report quarterly, according to data compiled by Bloomberg.

How Often Companies Report Results in Global Markets

■ Quarterly ■ Semi-Annually ■ Mixed ■ Annually



Source: Bloomberg

Note: Based on primary periodicity for reporting of the substantial majority of members in each market's main stock index or, if unavailable, search results for equities that trade there. Data as of September 2025.

Bloomberg

What's the difference between 10-Q filings and earnings releases?

Public companies are required to file 10-Q reports. They have zero obligation under US securities law to issue press releases about earnings, hold publicly accessible conference calls or provide forecasts about future performance, but most large companies do so anyway.

The 10-Q quarterly financial reports submitted to the SEC are far longer than the press releases companies issue on earnings, and largely look backward, summing up what happened in the last three months and offering in some sections a peek at risks companies face.

Even if the requirement to file 10-Q reports were dropped, companies might elect to continue to issue earnings releases and performance outlooks to keep investors engaged.

What are the arguments for reporting quarterly?

Advocates of quarterly reporting say transparency helps investors make crucial buy-and-sell decisions. While plenty of analysts make those calls based on non-formal earnings releases, others dig deep into the details of quarterly financial statements. In addition, information filed in a 10-Q is reviewed by an outside auditor, a layer of oversight that in theory gives financial-statement readers a higher degree of confidence in what's reported. Waiting six months between formal reports could feel like a lifetime in a dynamic economy.

Then there is the potential for companies to bury bad news. Less frequent reports could also increase the risk of insider trading, as it would lengthen the time insiders could hold on to confidential information and potentially make illicit stock trades.

Some of the country's most prominent business figures, including JPMorgan Chase & Co.'s Jamie Dimon, Berkshire Hathaway Inc.'s **Warren Buffett** and BlackRock Inc.'s Larry Fink, have said they support sticking to the quarterly pace for earnings disclosures. But when the issue has arisen previously, they have focused on the convention of issuing revenue and profit forecasts each quarter. Forecasts, they say, lead executives to focus on short-term gains at the expense of planning for the future.

What are the arguments against reporting quarterly?

The main criticism of quarterly reporting requirements is that the schedule causes companies to organize their businesses around hitting quarterly targets to appease Wall Street.

Another complaint is that companies spend a lot of time and money compiling formal financial reports. When the books close on one quarter, they are gearing up for the next one. Auditor review costs also add up. The number of publicly traded firms in the US has fallen by around 40% in recent years, and some market watchers suggest the costs of being a public company — including publishing quarterly reports — deters businesses from going public.

President Trump has encouraged adopting semi-annual reporting. Changing the current rules, he has said, would allow companies to focus on long-term growth without the pressure of quarterly deadlines and investor expectations. "This will save money, and allow managers to focus on properly running their companies," the president said in the September social media post.

Securities

SEC Unveils Plan to Let Companies Move to Semiannual Reports (2)

May 5, 2026, 11:04 AM PDT

US companies could choose to report earnings semiannually instead of quarterly under a proposal released by the Securities and Exchange Commission, potentially reducing how much information publicly traded firms must share with investors.

The SEC has mandated quarterly reports, known as 10-Qs, for more than half a century in a bid to provide more transparency. While this proposal would drop that requirement for publicly traded companies, firms might choose to continue issuing earnings releases and performance outlooks every three months.

"Today's proposed amendments, if ultimately adopted, would provide companies with increased regulatory flexibility," said SEC Chairman **Paul Atkins** in a statement.



Paul Atkins, chairman of the US Securities and Exchange Commission
Photographer: Ian Maule/Bloomberg

Atkins had vowed to fast-track the semiannual disclosure plan after President Donald Trump called to end mandatory quarterly reporting. Historically, agency rulemaking can take around 18 months to two years to complete.

Under the proposal, companies that elect to file semiannual reports would file one such report and one annual report for each fiscal year in lieu of three quarterly reports and one annual report. An agency official said nothing in the proposed changes would disrupt companies' ability to continue quarterly earnings calls and guidance.

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

"There's a universe of companies for whom this will be attractive, but at least initially it'll be more small to mid-cap companies," said Erik Gerding, a partner in Freshfields' capital markets group who previously led the SEC Division of Corporation Finance.

Proponents of the measure, including Nasdaq Inc., have said it could save publicly traded companies time and money in addition to allowing managers and boards to focus on longer-term results rather than hitting quarterly financial targets.

But critics argue there is the potential for companies to bury bad news and that less frequent reports could increase the risk of insider trading. Companies may favor keeping quarterly reporting because it offers executives more frequent trading windows, Gerding said. Those windows are linked to plans for corporate executives to help avoid insider trading allegations.

Some investors have also been reticent about the idea of losing data from issuers, particularly as the SEC looks to trim the scope of disclosures currently required of companies.

The Investment Company Institute, an industry group, emphasized the quality of the information is more important than the frequency of reports.

"It is important to strike a balance between reducing unnecessary compliance burdens and preserving the quality disclosure framework that underpins investor confidence," ICI said in a statement.

The regulator's proposal is the first step in a more "comprehensive effort to review and reshape the current SEC rules governing public companies with respect to their ongoing reporting obligations and their ability to raise capital in the public markets," Atkins said in his statement.

Managed Funds Association President Bryan Corbett said the SEC should review changes to the overall disclosure regime "holistically to avoid creating information gaps that harm investors and market efficiency." MFA is a trade group representing hedge funds and private equity.

The agency will take public feedback on the semiannual reporting proposal for 60 days.

(Updates with SEC background comment and additional information starting in eighth paragraph.)

To contact the reporter on this story:

Lydia Beyoud in Washington at lbeyoud2@bloomberg.net

To contact the editors responsible for this story:

Megan Howard at mhoward70@bloomberg.net

Elizabeth Wasserman

© 2026 Bloomberg L.P. All rights reserved. Used with permission.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

News from Bloomberg Terminal
ChatGPT Can't Pick the Stocks
May 6, 2026, 10:59 AM PDT

By Matt Levine

(Bloomberg Opinion) --

AI bots

I often write around here that there are two fundamental ways to use artificial intelligence to trade stocks:

1. You build a machine learning model for stock prices, you train it on historical data, and you use it to predict future stock prices. You buy the stocks that it says will go up.
2. You subscribe to ChatGPT. You prompt it, like, "You are a brilliant hedge fund portfolio manager. What stocks will go up?" You buy the stocks that it says will go up.

The first model is, approximately, a "quant hedge fund." People have been doing some form of this for a long time, and some of them (Renaissance Technologies comes to mind) have had a great deal of sustained success. This model works. Not always, not for everyone, and you might reasonably worry about risk or crowding or regime changes or whatever. But hiring really good machine learning engineers to build models to predict stock prices makes sense both theoretically and empirically.

The second model ... I mean, when I started writing about these two models, I was *joking* about the second model. The second model is a joke! Come on! Like:

- Training a model on historical financial data to predict future financial data makes sense. Training a model on a corpus of, like, books and Reddit to write coherent prose, and then asking it to predict future financial data, is a non sequitur. "If we use all of the world's electricity and microchips, we can train a model that is smarter than the smartest Ph.D.," but the smartest Ph.D. is not necessarily good at picking stocks! In some obvious sense an omniscient superintelligence should be good at picking stocks, but that seems like *way too high a standard* for picking stocks. Just, you know, regress some historical stock prices against some historical data and see what you get.
- You can get ChatGPT for like \$20 a month? And everyone does? And everyone is like "hey ChatGPT what stocks should I buy"? Why would you expect to get *alpha* from doing an easy thing that everyone else does?

But, though I was joking about this, nobody else is. People keep trying it! For intuitive reasons: It is *hard* to build a machine learning model to predict stock prices, but it is easy to ask ChatGPT what stocks to buy. The frontier AI labs have done the hard work, and now by far the most accessible way to use artificial intelligence to pick stocks is by asking a chatbot. So people do. As far as I know, no big hedge fund actually has a strategy of “we ask ChatGPT what stocks to buy and then buy them,” but we are getting perilously close. Anyway Bloomberg’s Justina Lee reports:

AI isn’t ready to replace your fund manager – and the public experiments testing it are showing why.

Across a series of new trading contests between the world’s leading AI models, the verdict so far is unflattering. Most of the systems lose money. They trade too much. They make wildly different decisions when given identical instructions. And no one yet knows if these shortcomings will fade with more powerful iterations – or if they reveal something fundamental about the gap between large language models and how markets actually work.

Take Alpha Arena, run by tech startup Nofl. It pitted eight major frontier AI systems – including Anthropic’s Claude, Google’s Gemini, OpenAI’s ChatGPT and Elon Musk’s Grok – against each other in four separate competitions. Each was handed \$10,000 per contest before being turned loose on US tech stocks for two weeks. The challenges involved trading on a variety of signals, acting defensively, reacting to the competition, and using high leverage.

The portfolio as a whole lost about a third of its capital. Across all 32 sets of results, a model finished in profit only six times. ...

“LLMs can’t really make money by themselves,” said Jay Azhang, founder of Nofl. “You need basically a very sophisticated harness and scaffolding and data platform in order to even give them a chance.”

LLMs are good at doing research and finding and deploying the correct tools for certain tasks, he said. But they don’t yet know how much each of the many variables that swing stocks – including things like analyst ratings, insider transactions, and sentiment shifts – actually matters. They tend to mistime their trades, incorrectly size positions and buy and sell too often.

It would be crazy if it was otherwise! If you could just go to ChatGPT and type “hey tell me what stocks will go up” and it told you, then everyone would do it, and how could everyone beat the market? I definitely see the intuition here – “if AI agents can do a lot of the work of lawyers and accountants and marketing consultants, why can’t they do the work of hedge fund investors?” – but it has to be wrong. The work of investors is fundamentally adversarial; we can’t all beat the market.¹

Meanwhile, at the Wall Street Journal, Gunjan Banerji asked ChatGPT for investing advice and got, you know, investing advice:

ChatGPT lucidly laid out the risks associated with any trade war. It suggested making shifts to my portfolio, such as potentially adding bonds or, once again, options.

It also spat out a list of companies including defense stocks like Lockheed Martin it thought might outperform. The basket has risen around 5.5% since mid-October, lagging behind the S&P 500's roughly 8% gain.

This was market timing again, something advisers didn't recommend. ...

At times, it felt like ChatGPT responded with what I wanted to hear, which would be risky if I were putting real money to work.

Right, like, ChatGPT's job is to (1) convincingly mimic what a human would do in the relevant situation and (2) keep you engaged and entertained and feeling good about using ChatGPT. If you asked a financial adviser for trading advice, and she said "buddy just put the phone down and take a walk, you don't need to do anything about a trade war," that would be *probably very good advice* but also sort of not what she's there for. She's there to make you feel good about yourself and about the service she provides. Not answering the phone is often the best service a retail adviser can provide, but it doesn't *feel* that way. What *feels* like good service is doing stuff. Doing stuff maximizes ChatGPT's reward function, and probably your financial adviser's reward function, but it probably does not maximize your portfolio.

Also, just like your retail broker, ChatGPT has no earthly idea what stocks will go up, come on. If your retail broker knew that, she'd be managing a hedge fund. If ChatGPT knew that, it would be managing Renaissance.

Daily private prices

I have been more or less entirely won over to Cliff Asness's view that not having real-time prices is a *feature* of private markets, not a bug. Some days the stock market goes up and some days it goes down; your stock portfolio probably goes up in the long run but with a lot of fluctuations along the way, and each time it goes down you are sad and nervous and inclined to sell. Meanwhile your portfolio of private investments pays you some steady money and rarely changes price; when it does, it's usually because the price has gone up. Far more pleasant.

Of course intellectually you might say "this portfolio of private stocks has the same fundamental economic risk factors as the public stock market, so if the public market is down 1% today then my private stocks would probably fetch 1% less today too." But nobody makes you think about that, so mostly you don't.

For long-term private investments this is simply a pleasant situation. You invest in a startup or a private credit fund, you wait a few years, eventually the startup goes public or the fund returns capital, and you cash out at a large profit. The value of the startup or the fund in the intervening years simply does not concern you very much: You made a long-term investment, you had no plan or ability to cash out before it concluded, so getting a daily statement of its value would be pointless. You cash out at the end and are happy.

But for short-term private investments it is untenable. If you invest in a startup or a private credit fund thinking "I'm gonna park this money here for a bit but I might change my mind at any time," then you need to know the price each day so you know whether to change your mind. If you buy at \$40 and the price goes to \$45 next week, you might say "hey that's a nice quick profit, I'm selling." If you buy at \$40 and the price goes to \$38 next week, you might say "ooh I can't sell here, that would mean taking a loss, I'm sure it will rebound." Or vice versa or whatever. The important thing is that, if you do sell in a week, you have to sell *for a price*. You need to know what the price is, and whoever is buying from you – maybe a secondary investor, maybe the fund – has to pay you that price. The fund or startup can't just raise money once at one price, wait five years, and conclude the trade at another price. It needs to have lots of interim prices along the way.

Historically an important distinction between public and private markets was precisely that private markets locked up investor capital for the long term, and "I'll park money in a private asset for a week" would have been an absurd thing to think. But private markets are the new public markets, and alternative asset managers are trying to sell private equity and private credit to retail investors who want daily liquidity. Which means that private assets also need daily prices. So:

Apollo Global Management Inc. said that more than \$830 billion of its credit assets will be priced daily by the end of September, a move to bring more transparency to opaque credit markets.

The firm, which manages more than \$1 trillion in assets, announced the initiative on its first-quarter earnings call on Wednesday. Apollo has been increasing its efforts to provide liquidity and price transparency in the \$1.8 trillion private-credit market, where assets don't typically change hands, Bloomberg News previously reported.

"That essentially means the totality of our credit business will be 100% daily pricing," Apollo Chief Executive Officer Marc Rowan said on the firm's first-quarter earnings call with analysts.

If you are a retail investor in an Apollo business development company, that is probably helpful. If you're an institutional investor in private credit funds, though, being blithely ignorant about the value of your portfolio was kind of nice, and now you are stuck knowing the price.

Fake margin loan

The way secured lending works is that I lend you \$100 and you give me, say, \$105 or \$120 or \$200 or \$500 worth of your stuff as collateral. When you pay me back the \$100 with interest, I give you back your collateral. The collateral is generally worth more than the money I lend you, because:

1. I want to protect myself from the risk that you don't pay me back, the value of the collateral goes down, and I end up selling the collateral for \$90. (These risks are correlated: You don't pay back your mortgage at the exact time house prices collapse, you don't pay back your stock margin loan at the exact time stock prices collapse, etc.) So I take extra collateral as a cushion against that risk.
2. You came to me. Like: I am in the business of lending money to people against collateral, and you need the money. I don't need the collateral. So if you want \$100 and I say "give me \$200 of collateral" you'll be like "yeah that's fair." Whereas if you give me \$50 of collateral and say "lend me \$100 against this" I'll be like "what, no, I don't want that."

Occasionally this is reversed. Treasury repurchase transactions are often roughly "you borrow \$100 of cash secured by \$102 of Treasuries," but sometimes they are "I borrow \$100 of Treasuries secured by \$102 of cash," because I might need the Treasuries (to sell short) more than you need the cash. You will lend me the Treasuries, but you want to protect yourself against the (correlated) risk that (1) I won't give them back and (2) Treasury prices will go up and you'll end up having to buy them back for \$104.

The thing to notice is that the risk is symmetrical: If I lend you money and you give me collateral, I take the risk that you won't pay me back, and you take the risk that I won't give you back your collateral. But the transaction is, almost always, asymmetrical: I only give you \$100 of cash, but you give me like \$200 of collateral.

In the real world, part of the reason for this is that you "give" me the collateral only in some approximate sense. If I give you an \$800,000 mortgage loan against your \$1,000,000 house, you don't give me your house to keep in a drawer. You live in the house. If you don't pay me back, I can seize and sell the house, but it will take a long time and be a huge pain. And if you do pay me back, there is no practical way for me to run off with your house.²

But in modern financial markets, things are closer to the theoretical ideal. If I give you a \$100 margin loan against \$200 worth of stock, I do "take" the stock in a somewhat real sense. I can "rehypothecate" it, giving the stock to someone else who lends *me* money against it. If you don't pay me back, I can blow out the stock in minutes. I have fairly real control of the collateral.

And so a trade that might occur to me is: "Wait, I gave you \$100 for \$200 of stock. Good trade for me. Later, you will give me back \$100, and you will expect me to give you back \$200 of stock. But *that's* a *bad* trade for me. What if I just don't do that? What if I just keep the \$200 of stock? You can keep the \$100, whatever. Then I'd have \$200 of stock for which I paid \$100, which is a good deal."

This is not in fact a very good trade, because I'd go to jail, but still, you can see how someone might come up with it. The Financial Times reports:

An indictment unsealed on Tuesday alleges that Val Sklarov, a Ukrainian-born American, ran an "Astor"-branded company that promised a cash loan to an unnamed victim after inducing the victim to pledge as collateral hundreds of millions of dollars in shares that were then sold.

It comes months after the FT published an investigation into a dispute between Mexican billionaire Ricardo Salinas Pliego and Sklarov.

The indictment, filed in the Southern District of New York on April 30, matches Salinas's allegations to the FT about Sklarov's business. Astor Asset Management in July 2021 promised Salinas – whose Grupo Salinas has interests spanning media, telecommunications, banking and retail – a cash loan of up to \$150mn secured against shares in his company Elektra worth roughly three times that amount. ...

"The guy took my stock, sold it, and gave me the money as a loan," Salinas, who took out the loan in order to buy bitcoin, had told the FT. "Jesus, that's as bad as it gets." Sklarov had denied Salinas's allegations, saying: "I certainly do not consider myself to be a fraudster, but there's a saying: 'It takes one to know one'."

Rather than holding the shares as collateral, prosecutors allege that Sklarov and others sold them shortly after they were deposited with the custodians. Any loan payments to the victim were funded using proceeds from the sale of the victim's own shares, prosecutors said, while "hundreds of millions of dollars" in remaining proceeds were kept by the scheme.

Here is the indictment, which charges both that Sklarov lied about his own identity and also that "SKLAROV agreed to lend Victim-1 at least approximately \$115 million and Victim-1 agreed to post the Company Shares as collateral, on the understanding that the Company Shares would not be sold or transferred absent a default." But he then allegedly sold all the shares – some \$450 million worth – immediately, used some of the money to fund the loan, and kept the rest.

TD3C

Libor, the London interbank offered rate, was for a long time "the most important number in the world," the main reference interest rate for loans and derivatives. Libor was calculated by asking a panel of banks what rate they would have to pay to borrow money in the London interbank market. It collapsed in scandal after the 2008 financial crisis. For our purposes there were two big problems with Libor:

1. The simpler problem is that the interbank lending market that set Libor was not that active, so that by 2008 Libor was "the rate at which banks don't lend to each other." Banks had to guess at their Libor submissions, because they were not actually borrowing in all of the tenors and currencies that Libor used.
2. The subtler problem is that Libor was narrowly a measure of bank borrowing costs, but was loosely a measure of "the cost of money" generally. Libor was "the interest rate," and for many applications, if you needed to plug a risk-free interest rate into some pricing model, you'd just use Libor. For much of recent history, the price that banks paid for money was a reasonable proxy for the *cheapest* price of money; the big Libor panel banks were approximately risk-free. And then in 2008 they weren't, and Libor went up. And so if some perfectly fine creditworthy company had floating-rate debt, or an interest-rate swap, *its* interest rate went up. And the company might reasonably say: "Wait, no, I'm fine; I did nothing wrong; *my* credit is great. Why do I have to pay more interest just because some banks blew themselves up?" Libor was in an important sense the wrong index. It tied trillions of dollars of economic activity to the idiosyncratic risks of a handful of banks that everyone had casually assumed were risk-free benchmark borrowers, but that turned out to be quite risky.

Here's a story about shipping charters:

Mercuria Energy Group Ltd. is suing the Baltic Exchange, Bloomberg reported on Thursday, alleging that it has suffered losses in the hundreds of millions of dollars as a result of distortions in a key benchmark for the cost of shipping oil from the Middle East to China. ...

At the heart of the dispute is the rate for hiring a tanker to ship oil from the Middle East to China, which for years has been calculated based on the cost of shipping oil from Saudi Arabia's Ras Tanura port. Crucially, it is located inside the Persian Gulf, and can only be accessed via the Strait of Hormuz.

Each day, shipbrokers convened by the Baltic Exchange submit their assessments of the price, which are used to create a rate known as TD3C. That rate is then used across the global oil industry as a benchmark to set the rate of tanker contracts, as well as to underpin a multibillion-dollar derivatives market.

The Baltic Exchange, which is now owned by Singapore Exchange Ltd., stirred controversy in March when it told brokers that the TD3C rate should continue to be calculated based on the cost of shipping oil from Ras Tanura – even though shipments had all but ceased due to the war.

The TD3C rate soared as a result, rising to as much as \$600,000 a day compared to more typical rates between \$40,000 and \$100,000.

For traders and shipowners who have contracts and derivatives positions linked to the index, it has caused turmoil. In one example, Norwegian shipping company Hunter Group ASA said last month that a customer had paid it \$8.3 million less than it was due for ship charters during the month of March. The customer involved was Mercuria, and it was refusing to pay charter rates that were pegged to TD3C, according to a person familiar with the matter.

Right, the benchmark for lots of shipping charter rates is based on a standard shipping product that now (1) rarely trades and (2) is idiosyncratically risky. If you've chartered a ship on some entirely different route, you don't have those idiosyncratic risks. But you might have to pay for them anyway.

Paul Anka

I wrote yesterday about investment banking without a license, and I asked:

If I am some random celebrity or politician and I get hired by an investment bank to glad-hand clients, can I glad-hand the clients before passing my licensing exams?

A reader pointed out that the US Securities and Exchange Commission has addressed a related point: In 1991, it allowed Paul Anka to get a finder's fee for giving a company a list of potential investors (but not contacting them himself), even though he was not licensed as a securities broker. Apparently this exemption – that even without a license, you can collect a finder's fee for referring a company to investors – is still called the Paul Anka Exemption. So, yes, some amount of random celebrity unlicensed investment banking is allowed.

Things happen

SEC Proposes to Eliminate Quarterly Reporting Requirement for Public Companies. Nvidia Inks \$500 Million Deal for Shares in Fiber Maker Corning. Crypto Exchange Bullish Strikes \$4.2 Billion Deal for Transfer Agent in Tokenization Push. Morgan Stanley Debuts Crypto Trading, Undercuts Rivals on Price. Watchdog Calls Out SRT 'Circles of Risk' as Banks Hunger for Default Protection. BNPL SRT. Victoria's Secret Rebukes Major Shareholder in Proxy Fight. Viral \$100 Kids Landline Startup Tin Can Debuts Bulk Order Program. James Murdoch in Talks to Buy Vox's New York Magazine and Podcast Division. Is Insider Sports Betting a Federal Crime? The NBA Player and the Gambler Who Needed Him. What Happened When the Pope Had to Call Customer Service.

If you'd like to get Money Stuff in handy email form, right in your inbox, please subscribe at this link. Or you can subscribe to Money Stuff and other great Bloomberg newsletters here. Thanks!

To contact the author of this story:

Matt Levine at mlevine51@bloomberg.net

To contact the editor responsible for this story:

Michael Newman at mnewman43@bloomberg.net

1. "But the work of lawyers is also fundamentally adversarial": Discuss. I actually think that's not true. For instance, if ChatGPT could tell you with perfect accuracy what the law was and who would win any dispute, that would be beneficial to you even if it told you you would lose. (You wouldn't bring the dispute!) The work of lawyers is practically often adversarial but a world in which everyone could predict legal outcomes with perfect accuracy would be less adversarial and also more prosperous. Though arguably in some loose sense that is true of investing too. If a superintelligent AI model could just tell everyone where to allocate capital, we could just do that; no one would "beat the market," but economic growth would be higher than in our current imperfect competitive system. I wrote last week: "What if Claude becomes all-wise and all-knowing? What if we just delegated all economic decisions to Claude; what if it wisely decided what projects to fund and what businesses to pursue?" Again, I am mostly kidding about this stuff, but nobody else is.
2. There are probably some "zombie mortgage" foreclosure stories that fit this pattern, but they are rare.

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved

SpaceX IPO gives Musk sweeping power and curbs shareholder rights

 [reuters.com/sustainability/boards-policy-regulation/spacex-ipo-gives-musk-sweeping-power-curbs-shareholder-rights-2026-05-06](https://www.reuters.com/sustainability/boards-policy-regulation/spacex-ipo-gives-musk-sweeping-power-curbs-shareholder-rights-2026-05-06)

Anirban Sen, Ross Kerber, Suzanne McGee

May 6, 2026

Item 1 of 4 Elon Musk, founder, CEO and lead designer at SpaceX and co-founder of Tesla, speaks at the SpaceX Hyperloop Pod Competition II in Hawthorne, California, U.S., August 27, 2017. REUTERS/Mike Blake/File Photo

[1/4]Elon Musk, founder, CEO and lead designer at SpaceX and co-founder of Tesla, speaks at the SpaceX Hyperloop Pod Competition II in Hawthorne, California, U.S., August 27, 2017. REUTERS/Mike Blake/File Photo [Purchase Licensing Rights, opens new tab](#)

- Filing reveals strict limits on shareholder rights, including forced arbitration and supervoting shares
- Musk's control enabled by Texas incorporation, bypassing many standard governance protections for investors
- Some investors and experts warn of risks, but strong demand may override governance concerns

NEW YORK, May 6 (Reuters) - SpaceX has adopted corporate governance policies that will erode typical shareholder protections in unprecedented ways, giving founder [Elon Musk](#) virtually unchecked executive authority when the rocket maker goes public later this year.

Excerpts of SpaceX's IPO registration statement reviewed by Reuters show the company is combining supervoting shares, mandatory arbitration, stricter rules on shareholder proposals and Texas corporate law to give Musk and other insiders broad control. At the same time, it sharply limits investors' ability to challenge management, sue in court and force votes on governance issues.

And the [only person who can fire](#) Musk is Musk, who will retain majority control through supervoting shares.

"It closes the voting door, the courthouse door and the proposal door simultaneously. It's unprecedented in terms of creating a total lack of accountability," said Bruce Herbert, CEO of Seattle-based sustainability-focused wealth management firm Newground Social Investment, which challenged Musk at his electric-vehicle company, Tesla ([TSLA.O](#)), [opens new tab](#), with a shareholder proposal that won 49% of the vote in November.

For all of Musk's controversies, many investors see him as a visionary able to achieve impossible things. At Tesla, the board recently awarded him a 10-year pay

package [worth close to \\$1 trillion](#), saying the company would lose significant value "without Elon." At SpaceX, much of his [pay is tied to](#) launching massive data centers in space and colonizing Mars.

SpaceX did not respond to a request for comment.

PRICE OF ENTRY

The restrictions may not stop investors from piling in.

Some investors see relinquishing some of their rights as the cost to buy in to what is expected to be the biggest initial public offering in history as SpaceX eyes up to \$75 billion in proceeds and a \$1.75 trillion valuation. Many investors fear missing out, especially if the billionaire entrepreneur can generate returns similar to those of Tesla. The EV maker's shares have risen to about \$397.55 as of Wednesday afternoon compared with their [2010 debut at \\$17](#). With stock splits, Tesla has given investors annualized returns of about 42%, according to LSEG data.

"SpaceX is going to be such a huge part of the market that for most portfolio managers it's very difficult not to buy, because it's going to be driving the price of everything," said Ann Lipton, a professor of law at the University of Colorado Law School. "And if SpaceX soars, and you don't have a piece of it, then you're going to look like you're underperforming the market by comparison."

Musk is structuring SpaceX to protect the company from the kind of shareholder criticism aimed at Tesla, according to corporate governance experts. The EV maker's investors have challenged Musk on issues ranging from his pay package to the acquisition of his solar energy company, SolarCity.

There is a risk for investors, the experts added, that Musk sets a precedent for other high-profile, founder-led IPOs expected to come to market later this year or next, including artificial-intelligence companies Anthropic and OpenAI.

"They are all complicated, potentially controversial figures that are also creating history in real time," Dishmi Capital co-founder Shang Chou said of Musk, OpenAI founder Sam Altman and other founders. "You focus less on valuation and more on the fact that you've been offered a seat on a rocket ship."

MUSK CONSOLIDATES POWER

Musk will stay on as CEO, chief technology officer and chairman of SpaceX's nine-member board of directors after the company's stock starts trading later this year. He has a firm grip with 42.5% of the company's equity and 83.8% of the voting control, according to a May 4 filing with federal regulators.

SpaceX plans to use a dual-class equity structure that gives Class B shareholders 10 votes for every Class A share available to everyday investors, [concentrating](#)

[power with Musk](#) and a handful of other insiders with supervoting shares. Musk's Class B stock, which will not be available to the public, will allow him to retain more than 50% of the voting power in the company after it goes public, handing him and other insiders the power to pick a majority of the board of directors. That will also give Musk the power to "elect, remove or fill any vacancy" among those directors, the company said. It also hands to him the power to control other issues requiring shareholder approval, including M&A transactions, potentially making it easier to merge with Tesla later if he wants.

The supervoting shares will be immediately converted to Class A shares if the stock is sold, further consolidating power among the remaining Class B holders. Although the company can issue more Class B shares, only Musk, his family and "certain entities" will be eligible to receive them, the filing shows.

'CONTROLLED COMPANY'

Musk's voting power will make SpaceX a "controlled company" under securities rules, the filing shows. It is not uncommon for founder-led companies in media and tech to hand control to their charismatic CEOs, as happened with Mark Zuckerberg at Meta Platforms ([META.O](#)), [opens new tab](#) and at News Corp ([NWSA.O](#)), [opens new tab](#) with former CEO Rupert Murdoch. That designation allows them to bypass certain corporate-governance requirements so they can make big, bold moves fast.

While most publicly traded companies are required to have independent directors make up a majority of their nominating and compensation committees, controlled companies do not have to and SpaceX said it does not plan to.

"You will not have the same protections afforded to shareholders of companies that are subject to all of the corporate governance requirements," the company warned in a list of potential risk factors for investors.

FORCED ARBITRATION

The company significantly limits shareholders' rights to sue. SpaceX's bylaws will make it clear that anyone who owns shares "irrevocably and unconditionally" waives all rights to pursue a jury trial. Shareholders will also be prohibited from bringing class actions against the company, its directors, officers, controlling shareholders or bankers tied to the IPO, according to the filing.

Instead, shareholders will be subject to mandatory arbitration, which had long been illegal in the U.S. The [Securities and Exchange Commission reversed its position, opens new tab](#) in September, allowing companies to adopt mandatory arbitration policies, which are private proceedings overseen by arbitrators.

TEXAS VERSUS DELAWARE

SpaceX is taking full advantage of its decision to [move its incorporation](#) in 2024 from Delaware to business-friendly Texas and the largely untested new governance laws there. The Lone Star State adopted a series of amendments to the Texas Business Organizations Code last year that significantly curtail investor protections. Musk abandoned Delaware after a judge there ruled to strip him of a 2018 Tesla pay package worth \$56 billion - a ruling that was [recently reversed](#). The Texas incorporation gives the company extra protection from [activist investors and hostile takeovers](#). The state's securities laws also make it harder for challengers to make an unsolicited tender offer, run a proxy contest or remove officers, directors and management.

Shareholders will also have a harder time getting their proposals to a vote. They will need to own at least \$1 million in stock, or 3% of the company, to force a vote under a new Texas rule.

"It's definitely one of the most restrictive IPOs. He (Musk) is taking advantage of this ownership structure and the Texas provisions," University of Pennsylvania law professor Jill Fisch said.

Joel Shulman, founder and chief investment officer of ERShares, which manages the \$993 million Private/Public Crossover ETF ([XOVR.O](#)), [opens new tab](#), said he has no issues with the restrictions as a SpaceX investor.

"I would rather have him making these decisions and be in control," he said. "He may be controversial and polarizing and he does some crazy, bizarre things sometimes, but he's a brilliant guy when it comes to building something completely new and building wealth" for himself and shareholders.

Reporting by Anirban Sen, Suzanne McGee, Echo Wang and Milana Vinn in New York; Ross Kerber and Svea Herbst-Bayliss in Boston, Joey Roulette in Washington and Akash Sriram in Bengaluru; Editing by Dawn Kopecki and Matthew Lewis

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

FT PROFESSIONAL

KKR

KKR at 50: 'It used to be easy in the old days'

As the original private equity barbarian reaches milestone, the FT interviews its founders and their successors



Co-founders George Roberts and Henry Kravis ringing the New York Stock Exchange opening bell on Friday © Richard Drew/AP

Antoine Gara in New York

Published MAY 5 2026

KKR's 50th birthday celebrations last week were not short on self-celebratory grandeur.

After its co-founders Henry Kravis and George Roberts rang the New York Stock Exchange opening bell on Friday morning, the private capital group hosted dinner for 100 or so partners and their families in the evening in the "whale room" of Manhattan's American Museum of Natural History.

Accompanied by cellist Yo-Yo Ma, the cousins paid tribute to their decades-long evolution, presenting KKR's seminal moments as different eras akin to geologic ages on display within the museum. This year will mark the start of another: the post-Kravis and Roberts era, as the pair relinquish their voting control and become ordinary shareholders.

In half a century, [KKR](#) has transformed from an upstart corporate raider set up with \$120,000 of savings to a staid Wall Street conglomerate worth \$100bn. The duo immortalised in the book *Barbarians at the Gate* pioneered a more aggressive version of dealmaking that forced US capital markets to embrace leverage and helped turn the country into the world's exporter of high-octane finance to the Middle East, Europe and Asia.



Henry Kravis, left, and George Roberts started KKR with \$120,000 of savings © Mike Blake/Reuters

But KKR's big birthday comes at a time when the industry they helped create faces a reckoning, after an influx of capital and a logjam of \$3.8tn in unsold investments raised questions about the value private equity creates for investors.

Kravis told the FT in an interview that he believed the company had remade Corporate America, as KKR wrested the ownership of large conglomerates from complacent professional managers. When Roberts and Kravis give up their special voting rights, it will finally expose KKR to the same governance standards they championed decades ago as corporate rebels.

“It used to be that I’ll be on your board and you’ll be on my board. We’ll play golf every weekend and I won’t ask too many questions,” said Kravis. “We saw that companies could be run so much better, particularly if you could change the mindset of being a renter of a corporate asset versus being an owner.”

Roberts said KKR had also changed how companies were valued on Wall Street. When they started striking large leveraged takeovers, the price of a company was based on its assets. KKR instead focused on corporate cash flows, tapping state pension funds for equity cheques and banks for debt raised against current and future corporate earnings streams: an approach which is now standard.

“We were the first people to say let’s look at cash flow investing, not what’s on the balance sheet,” said Roberts.

The duo conceded that the private equity industry had become brutally competitive. Roberts said that KKR had changed its investment approach in recent decades, globalising its investment operations and pushing into markets such as India, Japan and Europe, where valuations are lower and deal opportunities often stem from relationships instead of competitive auctions.



KKR shares were traded for the first time on the New York Stock Exchange in 2010 © Lucas Jackson/Reuters

“It used to be easy in the old days. Companies were trading at 10 times their earnings and they were mismanaged and had lots of businesses that didn’t make sense. That was pretty simple to figure out. It’s a lot harder now. So you need different tools,” he said.

Kravis and Roberts have already stepped back from operational management, making Scott Nuttall and Joseph Bae co-chief executives in 2021. Kravis is the firm’s emissary to business leaders and heads of state, while Roberts prefers to tend to investments from KKR’s Menlo Park offices.

Bae, who made his name at the firm building its investment operations across Asia, said large corporate carve-outs and joint ventures in Asia and Europe presented attractive new opportunities. Nuttall, who has spearheaded an effort to build an internal debt and equity underwriting unit and a \$40bn corporate balance sheet at the firm, emphasised the lessons learned from the financial crisis about consistency.

Then the firm had overextended itself on megadeals including Toys R Us and Texas utility TXU. Some of KKR's bets were wiped out, forcing it to pace its investments to guard against overinvesting in overheated markets — like the takeover frenzy of 2021 that has derailed some firms.



The 1989 KKR deal for RJR Nabisco was immortalised in 'Barbarians at the Gate' © KKR

“I think this backdrop is starting to reveal investment acumen through a cycle. We had a long period of time from 2010 through 2020, where everybody looked reasonably intelligent. That’s when we said internally, ‘Don’t confuse a bull market with brains’,” said Nuttall.

While private equity remains KKR’s most profitable business, Nuttall and Bae oversee an increasingly diversified group that has grown quickly in infrastructure and through the acquisitions of insurer Global Atlantic and sports and secondaries investment platform Arctos.

It is also a business that has sought to shake off the perception that the industry has created immense wealth for the very few, fuelling inequality. Roberts acknowledged that in *Barbarians*, published in 1989, the firm was portrayed in a “less than savoury way”. It now gives shares in private-equity portfolio companies to rank-and-file employees, and has paid out more than \$2bn in profits to workers from recent successful deals.

But the firm faces many tests. Its real estate and credit businesses have struggled to grow as quickly as rivals such as Blackstone, with leadership changes and some investment struggles. Its private equity operations have also endured challenges: some international markets are less lucrative; profits last year were crimped by clawbacks paid to investors in Japan; and there is a US probe into its antitrust disclosures ongoing.

Still, KKR has lined up more than \$15bn in private equity asset sales this year, a 50 per cent increase from a year ago, putting it on track to return a record amount of capital to investors. On Tuesday, it reported first-quarter earnings that showed adjusted net income had risen 21 per cent in the first quarter from this time last year, surpassing analyst forecasts.



Cousins Kravis and Roberts were at college together in the 1960s

Kravis and Roberts insisted that the wider turmoil sweeping private markets — much of it linked to concerns about software valuations — could play into KKR's hands as rivals struggle with troubled portfolios and lukewarm investor interest. KKR recently raised a record \$23bn for its latest North American buyout fund, exceeding its target by more than \$1bn.

The 2021 dealmaking bonanza meant many firms overpaid for assets, loading them up with debt that is no longer sustainable. "There are really some good software companies with bad balance sheets," Roberts said. "So we can put some money into those companies to get a major stake and get them growing."

"George and I would like to be given \$10 for every article we've read over the years that says private equity is dead. We'd be rich just off that alone," said Kravis. "There's a zillion firms that don't give any money back to investors. They can't and they haven't, and they'll become zombie firms. But nine out of the last 10 years, we have given more money back to investors than we've invested, and as we keep doing that, we'll find opportunities everywhere."

Kravis added: “The best time for us is when everybody’s looking at their feet and saying, ‘Woe is me, the world’s coming to an end’.”

[Copyright](#) The Financial Times Limited 2026. All rights reserved.

Follow the topics in this article

US companies

Mergers & Acquisitions

Financial services

Private equity

KKR

Litigation

Manage Newsletters

Exclusive

New Litigation Fund Shows Investor Desire for Stock Alternatives

May 6, 2026, 3:00 AM PDT

Summary by Bloomberg AI

AI Generated



- Corbin Capital Partners is intensifying its push into litigation finance with the closing of its first fund dedicated to the practice, which has deployed 26 investments.
- The \$342 million fund targets areas including mass tort cases, antitrust, business disputes, and intellectual property, with just under 30% going to mass tort cases.
- Corbin is pursuing a credit-style strategy with the new fund, which is able to avoid concerns investors had with private credit's exposure to software companies, according to Cesar Bello, Corbin's director of litigation finance.

Corbin Capital Partners is intensifying its push into litigation finance with the closing of its first fund dedicated to the practice, showing the growing popularity of lawsuit investing on Wall Street.

The \$342 million fund has deployed 26 investments, with just under 30% going to mass tort cases. The other areas the fund targets include antitrust, business disputes, and intellectual property.



Making Millions Off Other P

Bloomberg Law



Watch on

WATCH: How litigation funding works.

"We can really differentiate ourselves from the type of sponsored lending, direct lending stuff that has say more exposure to software or other sectors that people think are vulnerable," said Cesar Bello, Corbin's director of litigation finance. "It's a nice reminder of why people like the asset class."

Alternative asset managers such as Corbin have been increasingly looking to litigation finance as a way to reap returns uncorrelated to stocks. While lawsuit investments carry risk and can take years to pay out, the practice has become increasingly popular, with \$16.1 billion of assets under management as of mid-2024, up from less than \$10 billion five years earlier, according to Westfleet Advisors.

San Francisco-based Legalist last week closed on its fourth and largest litigation finance fund worth \$415 million that focuses on single cases and portfolios of matters. JPMorgan Chase & Co.'s asset management division advanced two mass tort law firms money tied to expected attorneys' fees, filings from 2024 and 2025 show.

Corbin is pursuing a credit-style strategy with the new fund and is able to avoid the type of concerns investors had with private credit's exposure to software companies. Some asset managers capped redemptions of private credit funds after investors attempted withdrawals because of the software concerns.

Litigation funding "is very different than the things that are giving folks problems now on the private credit side," Bello said. "The risk is legal risk, and hopefully you're playing it the way we are—diversified across a bunch of different type of legal risks."

Tough Build

Corbin, with \$10 billion in assets under management, has been investing in litigation finance since 2018 as part of its broader credit strategies. The firm deploys investments in portfolios of cases and through loans to law firms to pay the cost of bringing cases.

Corbin spent nearly two years building the \$342 million fund, Bello said. Institutional investors, high-net-worth individuals and family offices are among the backers, he said.



Cesar Bello

The firm attracted investors at the beginning and end of the process though hit a rough patch in the middle, Bello said. Corbin had to educate some investors on the sector, and those who ultimately joined were impressed by the performance of firm portfolios, he said.

"This stuff is not for everybody," Bello said. "But the folks who understand it and get it—a lot of 'em tend to be super users."

The new fund will put some proceeds into sexual abuse cases, which are often filed against government institutions, religious organizations and school districts. Corbin has previously helped finance a law firm litigating against the Boy Scouts of America.

"Those are compelling investment opportunities that actually let us do a lot of good with our money kind of writ large," Bello said.

Even though the firm is growing its exposure to litigation finance, it's unlikely that such investments will ever grow to be the majority of its assets, he said. Legal assets are harder to scale and don't lend themselves well to multi-billion dollar funds, he said.

"We're thinking about different ways we can continue to grow smartly," Bello said. "But it's not 'Let's push all of our chips in on litigation finance.'"

To contact the reporter on this story: Emily R. Siegel at esiegel@bloombergindustry.com

To contact the editors responsible for this story: John Hughes at jhughes@bloombergindustry.com; Alessandra Rafferty at arafferty@bloombergindustry.com

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved



Portfolio Media. Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

BellRing Derivative Suits Consolidated, Stayed In Delaware

By **Katryna Perera**

Law360 (May 5, 2026, 7:15 PM EDT) -- A Delaware federal judge on Tuesday consolidated two shareholder derivative suits accusing the top brass of protein-shake maker BellRing Brands Inc. of misleading investors about the sales growth of "convenient nutrition" products like energy bars and protein powders, and has put the consolidated action on hold until a dismissal motion in a related securities suit is resolved.

U.S. District Judge Maryellen Noreika issued an **order** stating that Joshua Green's March suit against BellRing President and CEO Darcy Horn Davenport and several company directors will be consolidated with another derivative suit, also filed in March, by investor William Miller.

"The parties agree that the derivative actions should be consolidated for all purposes into a single consolidated action to avoid duplication of effort and potentially conflicting results, and to conserve party and judicial resources," the order states.

The judge also appointed Weiss Law and Brian Murray Law PLLC as co-lead counsel and stayed the consolidated action due to a parallel securities class action that is ongoing in New York federal court.

According to the order, a dismissal motion is pending in the class action. Therefore, the judge stayed the consolidated derivative action until 21 days after the court rules on the dismissal bid.

Robbins Geller Rudman & Dowd LLP was **named class counsel** in the class action last month despite a filing glitch with their bid to lead the action.

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

According to Green's complaint, BellRing is a former subsidiary of Post Holdings Inc., the consumer-packaged goods company known for brands like Bob Evans, Honey Bunches of Oats and Weetabix. BellRing spun off from Post in 2022, and its main brand is Premier Protein, a ready-to-drink protein shake sold in major stores, including Walmart and Costco, the complaint states.

Green **claims** that from October 2024 to August 2025, Davenport and the other defendants misrepresented that BellRing's sales growth was due to increased end-consumer demand and downplayed any competition for the company's products, claiming BellRing had a "competitive moat" due to the "highly complex" nature of the ready-to-drink product category and the difficulty in formulating its products.

According to Green, in reality, BellRing's sales grew because stores had stockpiled inventory "as a safeguard against product shortages that had previously plagued the company." And with the company's increased manufacturing capacity, stores soon reduced inventory and new orders, "revealing that competitive pressures were materially weakening demand," the suit says.

The complaint says the truth came to light Aug. 4, 2025, when BellRing reported its financial results for the third quarter of fiscal 2025 and narrowed its outlook for net sales. Green says the market viewed this move as a "negative signal" about BellRing's sales momentum, and shortly afterward, it was further revealed that competition was to blame for the narrow sales outlook.

On this news, Green says the price of BellRing stock fell \$17.46 per share, or nearly 33%, from

\$53.64 on Aug. 4, 2025, to \$36.18 on Aug. 5, 2025.

Green is represented by Brian Murray of Brian Murray Law PLLC and Shane T. Rowley and Danielle Rowland Lindahl of Rowley Law PLLC.

Miller is represented by David C. Katz, Mark D. Smilow and Joshua M. Rubin of Weiss Law, and Blake A. Bennett of Cooch & Taylor PA.

The defendants are represented by Peter E. Kazanoff, Meredith D. Karp and Patrick K. Barry of Simpson Thacher & Bartlett LLP, and Raymond J. DiCamillo of Richards Layton & Finger PA.

The cases are Green v. Davenport et al., case number 1:26-cv-00341, and Miller v. Davenport et al., case number 1:26-cv-00294, in the U.S. District Court for the District of Delaware.

--Editing by Michael Watanabe.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Exelon Shareholders Fight Objectors' Fee Bid On Bribery Deal

By **Lauraann Wood**

Law360 (May 5, 2026, 10:09 PM EDT) -- Exelon shareholders seeking an Illinois federal judge's approval on a derivative settlement addressing subsidiary Commonwealth Edison's legislative bribery scheme argued Tuesday that shareholders who've opposed the deal should not receive attorney fees because their three-year fight against approval has not substantially benefited the litigation.

Should U.S. District Judge John Blakey give the proposed settlement his final blessing, the opposing shareholders should not be awarded fees because the deal's governance reforms drew from settling shareholders' proposals, and any contribution that helped bring a \$30 million payment into the deal is "severely discounted" because they ultimately rejected it, Melinda Nicholson of Kahn Swick & Foti LLC, representing the settling shareholders, argued.

The opposing shareholders not only rejected the monetary component, they have fought its approval for three years, and they still assert it is an "illusory" payment that had already been committed before shareholders ever sought preliminary approval in the derivative action, Nicholson told the court.

And even though all the shareholders who either tendered litigation and settlement demands or filed suit over ComEd's bribery scheme had previously worked together in the case, "that was a very brief period in time," Nicholson said. The cooperation occurred shortly before the parties attended a February 2023 mediation, but that was still nearly a year after the settlement demands proposing governance reforms had already been sent, she said.

"We all participated in mediation ... [and] were presented with the same mediator's proposal" to settle the case for governance reforms, a \$40 million payment that includes \$10 million in attorney fees and a \$4.2 million reduction in compensation payable to former Exelon CEO Christopher Crane, Nicholson said. Exelon's special litigation committee had thought the settlement should consist solely of governance reforms, and so "the whole reason why there is a \$40 million payment ... is because we agreed to that settlement," she argued.

"If it is up to them, the company would have seen none of the \$40 million, and they did not contribute to the governance," Nicholson told Judge Blakey. "It's our position they did not contribute to this ultimate settlement."

The proposed settlement looks to end Exelon's dispute with several shareholders who say ComEd's **bombshell bribery scandal**, in which the company admitted to steering benefits to former Illinois House speaker **Michael Madigan** in exchange for favorable legislation, **hurt the company** and constituted a significant fiduciary breach. Governance reforms in the proposal include changes to Exelon's board of directors, as well as the way the company interacts with public officials and vendors for at least five years after the deal receives final approval.

Arguing for the objectors, though, Stephen Oddo of Robbins LLP said Tuesday that while some governance reforms may result from Judge Blakey's final approval, he's essentially been left in the dark regarding what reforms the company has already implemented and what sort of value they hold in 2026 compared to when they were negotiated years ago.

Oddo also highlighted the unusual path the shareholders' case took to settlement, saying it was the first time he's experienced a special litigation committee negotiating on behalf of the plaintiffs, who

Oddo contends were "mostly kept in the dark" through the process. The case also presents the first time Oddo said he's seen an entire group of plaintiffs reject a mediator's settlement proposal, "only to have a subset of that group turn around and immediately agree to that same proposal."

The parties were still working together when they rejected a governance-only settlement, which then led to the proposal that included a \$40 million payment, Oddo said. If Judge Blakey approves the deal before him and decides attorney fees are warranted, "we believe that we contributed to that benefit," he argued.

The opposing shareholders rejected the mediation proposal that included the monetary payment because they thought the payment should be higher, and believed they had the leverage to achieve that had the settling shareholders not accepted the deal, Lawrence Eigel of Bragar Eigel & Squire PC told Judge Blakey on behalf of the opposing shareholders.

But objecting to the deal has not been to the company's detriment, he argued. Exelon has benefited from Judge Blakey scrutinizing the proposal and conducting a "full and fair hearing of what's occurred," Eigel said. The opposing shareholders did what they felt was necessary to benefit the company, and although things turned out different than they anticipated, "I don't think the company has suffered because of that," he told the judge.

"Because we did do this together, we got the best deal from the mediator we could get," Eigel said.

Exelon's counsel, however, took a different stance on that issue. Although some of the negotiated governance reforms have been implemented by way of time passing or them just being good ideas, many others have not and will be prompted by the court's final settlement approval, Edmund Polubinski III of Davis Polk & Wardwell LLP told Judge Blakey.

The delay in obtaining that approval "has created problems, and it has been a detriment," Polubinski said. Exelon has also had to continue paying legal fees as the opposing shareholders have continued fighting the proposed settlement, and insurance covers only some of that cost, he said.

Pressed to take a stance on the issue, counsel for Exelon's litigation committee offered a similar perspective. Opposing shareholders offered a similar benefit as the settling shareholders toward the beginning of the case and pursued the settlement with "remarkable vigor," Joni Jacobsen of Dechert LLP told the court earlier in the hearing.

But since the mediation and their proposal rejection, "I would say the opposing plaintiffs have spent a lot of time energy — and the company's money — opposing the settlement, and I don't think that was necessarily in the company's best interest," she said.

Judge Blakey called for additional briefing as he considers final approval but said he will endeavor to issue his ruling promptly.

Law firms representing Exelon's settling shareholders include Kahn Swick & Foti LLC, The Weiser Law Firm PC and Pomerantz LLP.

Law firms representing the opposing shareholders include Robbins LLP, Scott + Scott Attorneys at Law LLP, Cafferty Clobes Meriwether & Sprengel LLP and Bragar Eigel & Squire PC.

Exelon is represented by Davis Polk & Wardwell LLP and Riley Safer Holmes & Cancila LLP.

Exelon's special litigation committee is represented by Dechert LLP

The consolidated case is In re: Exelon Corporation Derivative Litigation, case number 1:21-cv-03611, in the U.S. District Court for the Northern District of Illinois.

--Editing by Michael Watanabe.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Amylyx Investors To Get \$6.5M In ALS Drug Settlement

By Carolyn Muyskens

Law360 (May 5, 2026, 6:00 PM EDT) -- Amylyx Pharmaceuticals and a class of shareholders are seeking judicial approval for a \$6.5 million settlement to resolve allegations that the drugmaker overstated the commercial potential of a treatment for amyotrophic lateral sclerosis, or ALS, that was ultimately shelved.

The class **filed a motion Monday** in Massachusetts federal court saying the deal is a fair outcome for thousands of Amylyx investors who relied on alleged misrepresentations made by executives when they bought common stock in the class period between Nov. 11, 2022, and Nov. 8, 2023.

The litigation, led by plaintiff Oliver Shih, centers on executives' statements about Amylyx's only commercial product, Relyvrio, a treatment for ALS.

The U.S. Food and Drug Administration approved Relyvrio for commercial sale in September 2022 while the drug was still in Phase III clinical trials due to pent-up demand for a treatment for the fatal neurodegenerative disease. The drug went to market in October that year.

In a complaint in February 2024, the investors said Amylyx executives touted the success and growth potential of Relyvrio during its commercial launch while concealing the limitations of the market for new patients and early negative indicators in the sales data.

Amylyx reported strong demand for the drug and "tremendous" growth opportunities, but the investors claimed the company was aware that the initial surge of new subscribers had already waned within the first three to four months of the launch and there was little opportunity for further growth.

Additionally, the investors said Amylyx hid from the investing public early information about patient discontinuation rates, focusing instead on net patient numbers in its disclosures.

The investors claimed the truth emerged Nov. 9, 2023, when Amylyx said it had failed to meet its third quarter earnings forecast and disclosed a slowdown in net patient additions. The company revealed in an earnings call that only 60% of patients remained on Relyvrio after six months.

Amylyx's stock price fell 31.89%, or \$5.74 per share, to \$12.26 a share that day.

The drug was pulled from the market in 2024 after it failed to show meaningful results compared to a placebo in its Phase III trials.

Amylyx, in court filings, said it made clear to investors that there would be an initial surge of demand for the treatment because of pent-up patient need and there was a risk the treatment would not gain traction with doctors or patients.

"Amylyx worked exceptionally hard to deliver a smooth commercial rollout, but consistently warned investors of the risks inherent in launching a novel treatment," Amylyx said.

U.S. District Judge Nathaniel M. Gorton ruled in September that several of the statements the investors challenged in the complaint, including the statements about the initial strong demand for the drug, were either not misleading or were "statements of cautious optimism about the future of the company" and not actionable.

However, the judge found that statements made in May and August 2023 plausibly misrepresented the growth opportunities for the drug and denied Amylyx's motion to dismiss the complaint.

On April 10, Amylyx and the class notified the court that they had reached a settlement in principle and were finalizing the terms.

The \$6.5 million proposed cash settlement represents 5.5% of the \$118.4 million in total estimated damages for the class, the investors said in Monday's motion seeking approval.

The settlement "is an excellent result for the settlement class and well within the range of reasonableness for settlements of this type," the plaintiffs said, pointing to a Cornerstone Research report that found the overall median securities class action settlement in 2025 recovered 7.3% of potential investor damages.

"While the Amylyx settlement falls modestly below that median, a below-median recovery is entirely consistent with settlements routinely approved by courts and is directly explained by the particular risks and circumstances of this litigation," including the difficulties establishing liability, loss causation and damages at trial, the investors said.

The investors said they intend to seek up to one-third of the settlement amount in attorney fees.

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

The investors are represented by Samantha Daniels and Jeremy A. Lieberman of Pomerantz LLP.

Amylyx is represented by Caroline H. Bullerjahn and Courtney D. Orazio of Goodwin Procter LLP.

The case is Shih v. Amylyx Pharmaceuticals Inc. et al., case number 1:24-cv-12068, in the U.S. District Court for the District of Massachusetts.

--Editing by Stephen Berg.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Chemours Investor Suit Over Financial Metrics Axed, For Now

By **Bonnie Eslinger**

Law360 (May 5, 2026, 10:33 PM EDT) -- A Delaware federal judge on Friday dismissed a proposed class action brought by Chemours investors alleging that the chemical company's executives manipulated financial metrics for personal gain, saying the plaintiffs didn't show the existence of a material misrepresentation.

U.S. District Judge Richard G. Andrews granted the motions to dismiss from The Chemours Co. and the four individual defendants but without prejudice, leaving the door open for the investors to file an amended complaint.

The action stems from allegedly misleading statements issued by Chemours and its executives, which resulted in the value of Chemours' common stock price plunging, the investors say.

The suit names as defendants the company and four people who served as Chemours' executive officers throughout the class period: former CEO Mark Newman, former Chief Financial Officer Jonathan Lock, former Chief Accounting Officer Camela Wisel and former CFO Sameer Ralhan.

On Feb. 13, 2024, Chemours postponed the release of its 2023 financial results, saying "it needed additional time to complete its year-end reporting process and was evaluating its internal control over financial reporting with respect to maintaining effective controls related to information and communications."

In response to this news, the value of Chemours common stock dropped by about 12%, the investors' complaint said.

Two weeks later, on Feb. 29, 2024, Chemours announced that it had placed Newman, Lock and Wisel on administrative leave "pending the completion of an internal review" that was being overseen by the audit committee of the company's board of directors. The judge noted that Ralhan was not referenced in the disclosure, "presumably because he ceased to serve as Chemours's CFO" in June 2023.

In response to that news, the value of Chemours common stock fell by about 31%, the complaint said.

In March 2024, Chemours disclosed that Newman, Lock and Wisel were found to have "engaged in efforts" in the fourth quarter of 2023 and 2022 to delay payments and accelerate the collection of receivables. Chemours added that the three executives "engaged in these efforts in part to meet free cash flow targets" that the company set for determining incentive compensation for executive officers, according to the complaint.

Chemours also said at the time that Newman, Locke and Wisel had violated Chemours' code of ethics relating to the promotion of "full, fair, accurate, timely and understandable disclosure."

In his Tuesday ruling, Judge Anderson sided with the defendants in finding that the claims related to the alleged "free cash flow" misstatements they made in disclosures or communications regarding the financial metrics were not actionable material misrepresentations.

The investors had argued that Chemours' disclosures were misleading because they did not indicate

that changes to the timing of payments were made intentionally.

"I think plaintiffs have failed to make a good argument as to why defendants' disclosure regarding the effects of the variable timing of payments and collections would have required a concomitant disclosure that the variable timing was caused by 'intentional shifting,'" the judge said in his order.

At issue in the case are also Sarbanes-Oxley Act certifications, in which CEOs and CFOs sign off on the accuracy of their company's financial reports and the effectiveness of internal controls.

The defendants argued that the certifications concerning Chemours' internal controls are "statements of opinion or belief" and said the investors had to provide facts showing that the statements were not believed when made, the judge noted.

The judge sided with the company and its former executives.

"This makes sense: if there is no adequately pleaded fraud found in Chemours's financial statements, it is difficult for me to see how attestations that Chemours had in place adequate internal controls could be fraudulent," the judge said.

Finally, the investors pointed to Chemours' code of ethics, saying the defendants should have disclosed that they engaged in a "scheme to make misleading disclosures to investors," the judge noted.

The judge was not persuaded.

"I have already found that the complaint fails to plead the existence of an underlying materially misleading disclosure," the judge said.

In a complaint filed in March 2024, plaintiff Robert H. Taylor Jr. claimed Chemours investors saw losses as trading prices for the company's shares sank following announcements about a probe related to the alleged manipulation.

Most significantly, Taylor said, Chemours shares fell by more than 31%, from nearly \$38 to under \$29, at the end of February, when the company announced that three of the named executives would be on administrative leave as the board's audit committee finished an internal review, the scope of which included the company's "practices for managing working capital, including the related impact on metrics within the company's incentive plans."

Taylor said the company's free cash flow — which is how much money it has on its books after its operating expenses are paid and its capital expenditures are balanced — was the metric at issue.

Taylor said the company's public criteria for executive compensation included annual incentive plans, which entitled senior executives to cash compensation for meeting certain free cash flow targets, and long-term incentive plans that entitled the same executives to stock compensation for meeting certain free cash flow conversion targets.

According to the complaint, a week after its administrative leave announcement, the investigating board committee found that the executives on leave had made moves to delay payouts to some vendors while speeding up collection of certain receivables so that the company would have more money on its books when the third quarter of 2023 ended.

The investor cited the audit committee's finding that "these individuals engaged in these efforts in part to meet free cash flow targets that the company had communicated publicly, and which also would be part of a key metric for determining incentive compensation applicable to executive officers," the complaint said.

The proposed class would include those who purchased shares of the company between Feb. 10, 2023, and Feb. 28, 2024.

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

Taylor is represented by Brian E. Farnan and Michael J. Farnan of Farnan LLP and Phillip Kim, Laurence M. Rosen and Brian B. Alexander of the Rosen Law Firm PA.

The Chemours Co. is represented by Jonathan M. Moses and Canem Ozyildirim of Wachtell Lipton Rosen & Katz and Peter J. Walsh Jr. and Tyler E. Cragg of Potter Anderson & Corroon LLP.

Lock is represented by David A. Gordon, Geeta Malhotra and Jacqueline Pruitt of Sidley Austin LLP and Raymond J. DiCamillo, Christine D. Haynes and Gabriela Z. Monasterio of Richards Layton & Finger PA.

Ralhan is represented by Michael S. Schachter, Todd G. Cosenza and Samantha G. Prince of Willkie Farr & Gallagher LLP and D. McKinley Measley and Alec F. Hoeschel of Morris Nichols Arsht & Tunnell LLP.

Newman is represented by Michael Busenkell of Gellert Seitz Busenkell & Brown LLC.

Wisel is represented by Kelly A. Green of Smith Katzenstein & Jenkins LLP and James J. Benjamin Jr. and Parvin D. Moyne of Akin Gump Strauss Hauer & Feld LLP

The case is Taylor v. The Chemours Co. et al., case number 1:24-cv-00361, in the U.S. District Court for the District of Delaware.

--Additional reporting by Emilie Ruscoe. Editing by Nick Siwek.

All Content © 2003-2026, Portfolio Media, Inc.



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

BlackRock, State Street Push To Trim Red State AGs' Suit

By **Katryna Perera**

Law360 (May 5, 2026, 6:17 PM EDT) -- BlackRock and State Street have further urged a Texas federal judge to trim down antitrust claims from Republican state attorneys general accusing the asset managers of driving up coal prices, arguing that the chain from their investment activity to retail electricity prices "stretches through multiple intervening markets and countless nonparties."

The asset managers filed a **reply** brief on Monday in support of their March **motion** for partial judgment on the pleadings. The Republican enforcers allege that the financial giants drove up coal prices by pressuring publicly traded energy companies to lower their output to meet carbon emission reduction goals.

Last month, the plaintiffs, a coalition of 13 attorneys general, **opposed** the bid for partial judgment, arguing that the firms' assertion that the suit cannot get past the U.S. Supreme Court's decision on federal antitrust damages claims is incorrect.

On Monday, however, the firms said that the "remote damages theory" asserted by the attorneys general is foreclosed by the Supreme Court's 1983 ruling in *Associated General Contractors of California Inc. v. California State Council of Carpenters*, which held that antitrust standing cannot be established for injuries that are not directly caused by a defendant's anticompetitive actions.

More specifically, BlackRock and State Street said Iowa and Nebraska lack antitrust standing because they are attempting to assert damages claims on behalf of their resident electricity consumers but cannot establish proximate causation due to the "distance between the asset manager defendants and the relevant coal markets."

"Defendants do not mine coal, sell coal or make day-to-day output decisions," the Monday filing states. "These confounders make it impossible to reliably trace defendants' conduct to electricity prices several markets downstream. So, as in many other cases, the fact that consumers '[are]n't even an indirect purchaser of' defendants' products defeats standing."

According to the brief, the attorneys general argued that the Supreme Court's AGC ruling should not apply to state enforcers. However, BlackRock and State Street noted Monday that the states "do not seriously dispute that another set of parties, the power companies, have 'injuries ... [more] direct' than those of electricity consumers."

The asset managers further argue that Iowa should not be allowed to recover civil penalties in the case, since the state caps civil penalties "at a percentage of the sales 'in the relevant market ... by the [defendant] enterprise.'"

The relevant market in the case is coal, which BlackRock and State Street don't sell, so there can be no recovery of civil penalties, the brief states.

"Iowa does not explain how it may recover penalties consistent with this [legislative] text. Instead, it asks the court to look past the text to supposed legislative intent. But courts construing Iowa law 'do not inquire what the Legislature meant; [they] ask only what the statute means' and follow its 'express terms,'" the brief said.

Last month, the attorneys general argued that the suit has "sufficiently demonstrated" that damages

resulted from the asset managers' alleged scheme to restrict coal output.

The states have acknowledged that the alleged conspiracy is "atypical" since the defendants themselves are not directly involved in the coal industry. However, the attorneys general have said that the defendants' lack of involvement bolsters the suit's standing arguments because it is unlikely that a competitor will file suit to remedy the misconduct.

The suit, filed in 2024, accuses the asset managers of running an **"investment cartel"** that uses their large holdings in publicly traded energy companies to drive up coal prices.

The lawsuit claims that the asset managers teamed up to pressure the nation's largest coal producers, including Peabody Energy and Arch Resources, into reducing their output in order to meet carbon emission reduction goals.

Last year, the Trump administration **threw its support** behind the attorneys general as Republican enforcers at the state and federal levels increasingly turn to antitrust law to target investing strategies, environmental collaborations and diversity programs they've cast as collusive agreements restraining trade, including for energy and hiring.

The attorneys general scored their first win in February, when Vanguard Group Inc. agreed to pay nearly **\$30 million to settle** the claims and, for the first time, consented to offer proxy voting to investors in funds that account for at least 50% of assets invested in U.S. equity funds Vanguard advises.

A trial with the remaining defendants, including BlackRock and State Street, is currently set for January 2028.

State Street declined to comment on Tuesday, and representatives for the other parties did not immediately respond to requests for comment.

Texas is represented by Anthony G. Buzbee and Christopher J. Leavitt of the Buzbee Law Firm, Ken Paxton, Brent Webster, Ralph Molina and Austin Kinghorn of the Texas Office of the Attorney General, and David H. Thompson, Peter A. Patterson, Harold S. Reeves, Brian W. Barnes, Clark L. Hildabrand and John Ramer of Cooper & Kirk PLLC.

The other states are represented by their respective attorneys general.

Montana is represented by David H. Thompson, Peter A. Patterson, Harold S. Reeves, Brian W. Barnes, Clark L. Hildabrand and John Ramer of Cooper & Kirk PLLC.

BlackRock is represented by Gregg Costa, Prerak Shah and Rachel Brass of Gibson Dunn & Crutcher LLP, and David Gringer, Lauren Ige, Thomas Mueller, Jennifer Milici, Perry Lange and John O'Toole of WilmerHale.

State Street is represented by Jason M. Powers, Stacey Neumann Vu, George M. Kryder, Megan Cloud and Stephen M. Medlock of Vinson & Elkins LLP.

The case is Texas et al. v. BlackRock Inc. et al., case number 6:24-cv-00437, in the U.S. District Court for the Eastern District of Texas.

--Editing by Melissa Treolo.