

Boeing seeks severance of investor class in Fourth Circuit

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Joe Dodson

May 7, 2026



An Alaska Airlines Boeing 737-990(ER) flies into Newark Liberty International Airport. (Adam Moreira/Wikimedia Commons via Courthouse News)

RICHMOND, Va. (CN) —The Boeing Company [asked](#) a Fourth Circuit panel to sever a class of investors Thursday who claim the company lied about its increased safety efforts.

A class of [institutional investors](#), represented by the Rhode Island Office of the General Treasurer on behalf of the state's employee retirement system, claim the company defrauded investors in the wake of two plane crashes in a span of five months between 2018 and 2019 that left 346 passengers dead. Investigators blamed the company's flight control system for the tragedies.

Boeing entered into a deferred prosecution agreement with the Justice Department to improve safety and quality control practices. But the DOJ concluded the company violated the agreement in 2024 when a door plug blew away in the middle of an Alaska Airlines flight.

"Even as Boeing continued to tell investors and analysts that its manufacturing systems, safety processes, and compliance culture had been overhauled, internal documents and other evidence showed the opposite," the class members wrote in their brief. "In truth, Boeing continued to prioritize production speed over safety and quality, relying on many of the same dangerous 'shortcuts' and 'systemic quality-control issues' that it had relied on before the crashes.

Last year, U.S. District Judge Leonie Brinkema [ruled](#) that the plaintiffs satisfied the requirements for class certification. The Bill Clinton appointee found that the class includes thousands of investors who purchased stock between Sept. 30, 2019, and May 14, 2024, that the investors are all pursuing a common civil action focused on whether Boeing defrauded them regarding the safety of the company's aircraft and that the lead plaintiffs are institutional investors who will fairly protect the interests of the class.

However, Boeing argues the class members failed to offer proof that the classwide damages methodology is consistent with their theory of liability, as the Supreme Court ruled is required in *Comcast Corp. v. Behrend*.

The investors say they suffered damages when they purchased Boeing stock at inflated prices due to the company's fraud. The class is relying on an out-of-pocket methodology for calculating damages that economist Chad Coffman proposed, in which damages equal the artificial inflation per share at the time of purchase minus the artificial inflation per share at the time of sale. Boeing argues that the theory and the methodology aren't compatible.

"The district court erred in holding that *Comcast* is satisfied merely by invoking the generally applicable out-of-pocket standard for damages in securities cases," Boeing said in its brief. "Of course, defrauded investors should recover the amounts they are out of pocket, but plaintiffs need a methodology for determining how much that is for each investor — and the methodology must be consistent with their liability theory that the inflation in the stock price increased over time."

U.S. Circuit Judge Julius Richardson took issue with the lack of details on how the lower court would use the methodology.

"It doesn't show in any way how you would technically apply it in this case," the Donald Trump appointee said. "A promise of a future endeavor is sufficient in your view?"

The class members claim they aren't required to present detailed damage modeling at the class certification stage and that Coffman's rebuttal report is sufficient, regardless.

U.S. Circuit Judge Marvin Quattlebaum also expressed confusion about the methodology.

"It must be one that establishes damages are capable of measurement on a classwide basis," said Quattlebaum, a fellow Trump appointee. "That's the problem here, that there's no way to do those things that* Comcast* requires if you don't at least say what you're going to do."

Attorney Deepak Gupta of Gupta Wessler, representing the class members, said**the* Comcast*decision concerned a court's assessment of individualized damage.

"Boeing hasn't actually identified any individualized issues," Gupta said. "Here it's obvious that we have a single class."

U.S. Circuit Judge Allison Rushing, another Trump appointee, completed the panel. Attorneys representing the class and Boeing did not respond to a request for comment.

Class Action

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Boeing Wins Review of Investor Class Status in 737 Max Lawsuit

May 8, 2026, 9:52 AM PDT

Summary by Bloomberg AI

AI Generated



- Boeing Co. and its former CEO convinced an appellate court to review whether an investor lawsuit alleging misrepresentations of its 737 MAX's safety should've been certified as a class action.
- Boeing said investors failed to meet their burden for class certification with a generalized pledge to use an "out-of-pocket" formula for measuring damages, citing a 2013 US Supreme Court decision.
- The investors sought more than \$15 billion in damages, and Boeing argued that review was particularly important given that settlement would be practically inevitable.

Boeing Co. and its former CEO convinced an appellate court to review whether an investor lawsuit alleging misrepresentations of its 737 MAX's safety following deadly crashes should've been certified as a class action.

A panel of US Court of Appeals for the Seventh Circuit judges granted Boeing and ex-CEO Dennis Muilenburg's petition Thursday—the same day the aircraft maker argued to disband a different investor class for similar reasons in a case before the Fourth Circuit.

Seventh Circuit Judges Michael B. Brennan, Michael Y. Scudder, and Joshua P. Kolar approved the interlocutory appeal, in which Boeing said investors failed to meet their burden for class certification with a generalized pledge to use an "out-of-pocket" formula for measuring damages.

The investors' proposal fails to clear a threshold under a 2013 US Supreme Court decision, Boeing said. The high court's *Comcast Corp. v. Behrend* ruling said plaintiffs in an antitrust case needed evidentiary proof damages could be calculated classwide in line with the case's theory of liability.

Review was particularly important here given the investors sought more than \$15 billion in damages, making settlement practically inevitable, Boeing said.

The US District for the Northern District of Illinois correctly rejected Boeing's challenges, pension funds and other investors countered, because none of them suggested individual issues would predominate over classwide ones. The planemaker's main point of contention—that the damages model failed to account for allegedly escalating inflation—didn't match the plaintiffs' arguments in the case at hand, but rather was "lifted wholesale from a different Boeing case in the Fourth Circuit," the investors said.

Four securities law professors supported Boeing's Seventh Circuit bid, saying the investors' expert-devised model merely regurgitated the legal standard for damages. The same four along with another professor, citing *Comcast*, urged the Fourth Circuit to side with Boeing in its other pending shareholder class status challenge. That investor suit was filed after a 737 MAX 9 door panel blew out on an Alaska Airlines flight in 2024.

737 Max Suit

Investors in the case now before the Seventh Circuit alleged the aircraft company misrepresented the safety of its 737 MAX airplanes after two deadly crashes that killed 346 people. They moved for class certification after Judge Franklin U. Valderrama in 2024 let some securities fraud claims against Boeing and Muilenburg proceed past a motion to dismiss.

Boeing's troubled 737 MAX drew safety concerns after the 2018 crash of a Lion Air jet and an Ethiopian Airlines crash the following year, with the company enduring a slew of lawsuits and settlements.

In March, Valderrama certified a class of those who acquired Boeing stock, or bought call options or sold put options, from Nov. 7, 2018, to Oct. 18, 2019—shortening the period investors requested.

An event study with an "out-of-pocket" methodology proposed by the investors' expert was capable of measuring classwide damages and consistent with the theory of liability, Valderrama said. Event studies are widely accepted by courts and "endorsed by the Supreme Court," he added.

Class counsel Bernstein Litowitz Berger & Grossmann LLP declined to comment.

Kirkland & Ellis LLP and Sullivan & Cromwell LLP represent Boeing and Muilenburg. Neither of these law firms nor Boeing immediately responded to emails seeking comment.

The case is *Boeing Co. v. Pub. Emps. Ret. Sys. of Miss.*, 7th Cir., No. 26-08007, petition granted 5/7/26.

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SEC Moves to Reduce Company Reporting, but Experts Predict a Muted Initial Response

Critics argue that semiannual reporting would allow companies to hide adverse information from investors for a longer amount of time and incentivize fraud. But attorneys predicted that not everyone would immediately jump to semiannual reporting, as such a move wouldn't bode well with investors and debt issuers who want more data before they open their coffers.

May 07, 2026 at 04:38 PM By **Alyssa Aquino**



The US Securities and Exchange Commission headquarters in Washington, DC, US, on Monday, March 9, 2026. The US Securities and Exchange Commission announced new insider trade rules last month for executives in non-US companies who buy or sell stock in their firms. Photographer: Matt McClain/Bloomberg

Public companies may have the chance to opt out of quarterly reporting under a new proposal from the U.S. Securities and Exchange Commission, but legal experts expect a muted initial response amid outside pressure for executives to keep the information coming on a three-month basis.

On Tuesday the SEC released a [279-page proposal](#) that, if finalized, would give public companies the option to file semiannual reports to meet their reporting obligations under federal law. The proposal marks a potential sea change for the SEC, which has required quarterly reports from businesses since 1970.

Reactions to the proposal—a long-pursued initiative of President Donald Trump, who first floated the change during his first term in office—were fierce, with critics arguing that a semiannual reporting option would allow companies to hide adverse information from investors for a longer amount of time and incentivize fraud.

But attorneys predicted that not everyone would immediately jump to semiannual reporting, warning that such a move wouldn't bode well with investors and debt issuers who want more data before they open their coffers.

"I think everybody wants to oversimplify and say, 'Oh, we can do our 10-Qs every six months. Let's just do it.' And that's nice, and I think there are real pros to it, but there are other parties that are really important to you," said J. Eric Johnson.

Johnson is the co-chair of Winston & Strawn's public company advisory practice and an attorney who found the SEC's proposal to be well-crafted. But despite his general support for the proposal, he said that companies have many reasons to stay the course, especially companies that are constantly fundraising, like the growth and small-cap businesses he encounters in his homebase in Texas.

"Going dark for six months does not help them raise money," Johnson said.

The need for information is especially high in this current informational age, where investors are getting information "in all shapes and sizes" from all over, said Michael Canty, a partner at Labaton Keller Sucharow.

"They want to hear from the company more," Canty said.

The SEC's proposal has been brewing for a while. In 2018, Trump announced via tweet that he had instructed the agency to study semiannual reporting, based on the advice of "some of the world's top business leaders" on what could help businesses.

That social media message was posted nearly eight years ago, before Twitter was rebranded as X and, crucially, before the rise of artificial intelligence, which more investors are using to synthesize corporate data. Sarah Haan, a corporate governance professor at the Brooklyn Law School, said that this particular technological advance has heightened the need for good data.

“This is a very strange moment to be scaling back corporate reporting,” Haan said. “What artificial intelligence wants or needs to function in an accurate, trustworthy way ... is lots of data.”

She later clarified that she didn’t expect these machines to stop making predictions about corporate performance.

“It just won’t use actual, reliable performance data. It’ll go out and look at news reports or whatever other patterns it can discern in social media,” Haan said.

While some people emphasized the external pressure on companies to stay the course, attorneys at Robbins Geller Rudman & Dowd were dubious.

Robert Rothman, a partner at Robbins Geller, pointed to Goldman Sachs’ study of the United Kingdom, which adopted a six-month reporting cycle in 2014. A decade after that change was adopted, most companies moved to semi-annual reporting.

In its proposal and in statements, the SEC said a six-month reporting cycle would encourage investors to take a long-term outlook on companies’ prospects and spare executives the costs of preparing more frequent reports.

But Rothman, alongside his colleague, Luke Brooks, countered that quarterly reporting helps companies discover and correct errors in a timely manner.

“By waiting six months, before they have to report, will only increase the pressure on them to try and cover the errors. It’s much harder to stop a snowball that’s already halfway down a hill than it is to stop it before it crosses the ridge,” said Rothman.

Canty also said that semiannual reporting could lead to volatility, as the markets could “overreact” to a report disclosing an issue from five months ago.

“If you're shooting at a target and you stand at five meters and you miss by three degrees, you're off by a little bit. But if you stand at 100 feet and you shoot at a target and you're off by three degrees ... it's such a bigger miss,” Canty said.

In its proposal, the SEC said that companies can adopt a hybrid approach and opt into semiannual reporting, but voluntarily release other information on a quarterly basis, such as earnings announcements.

But Brooks stressed that the quarterly reporting comes with important requirements. Removing those strictures just gives companies incentive to choose what they’re presenting to the public, he said.

“You’re going to wind up potentially with problems of consistency, accuracy ... a lot of issues that can arise when you don’t have a formal structure around the disclosures,” Brooks said.

He also said that the quarterly reporting gives companies the chance to look at things closely, an opportunity to nip problems in the bud sooner.

And if investors lose out, retail investors lose out more.

“Some sophisticated institutions that might be involved in these companies may be able to demand facetime or private updates or other things that retail wouldn’t see,” said Johnson.

Page printed from: <https://www.law.com/nationallawjournal/2026/05/07/sec-moves-to-reduce-company-reporting-but-experts-predict-a-muted-initial-response/print/>

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Securities

Graphic Packaging Investor Brings Lawsuit Over Inventory, Demand

May 7, 2026, 12:24 PM PDT

An investor sued Graphic Packaging Holding Co. and two former executives Thursday for allegedly misleading shareholders about inventory problems and business challenges.

Michael Thurber filed the proposed class action seeking damages on behalf of investors who bought Graphic Packaging stock between Feb. 4, 2025, and Feb. 2, 2026, according to The complaint, filed in the US District Court for the Southern District of New York, targets the consumer packaging company, former CEO Michael P. Doss, and former CFO Stephen R. Scherger.

The complaint alleges the defendants made false statements about the company's ability to manage inventory and weather market challenges while concealing significant problems. The filing claims Graphic Packaging faced inventory management issues, reduced demand, higher costs, and declining volumes that executives downplayed in public statements.

The company's stock price fell sharply on three occasions when problems became public—dropping 15.57% on May 1, 2025; 8.66% on Dec. 9, 2025; and 15.97% on Feb. 3. During the alleged fraud period, Doss sold nearly 1.6 million shares for over \$7 million while Scherger sold 65,529 shares for nearly \$1.8 million, the complaint says.

The company didn't immediately respond to a request for comment.

Pomerantz LLP represents Thurber.

The case is Thurber v. Graphic Packaging Holding Co. , S.D.N.Y., No. 1:26-cv-03790, complaint filed 5/7/26 .

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Securities

Investor Suit Leadership Fights Get Clarified 9th Cir. Standard

May 7, 2026, 2:39 PM PDT

A California walnut producer that invested in Super Micro Computer Co. lost its bid to lead a proposed class action but prompted a federal appeals court to clarify the standard for choosing a lead investor.

Rivals seeking to unseat the shareholder with the greatest investment losses from the presumed leadership role must counter that presumption by a preponderance of evidence, the US Court of Appeals for the Ninth Circuit said Thursday.

That's the standard the US District Court for the Northern District of California ultimately used to boot the nut company, Crain Walnut Shelling LP, from the top spot, the appeals court said. The panel rejected Crain Walnut's request to force district court action through a so-called mandamus petition.

But the district court mistakenly used a lower standard for rebutting the presumption when it first addressed the leadership fight in the securities fraud suit over Supermicro's accounting, Judge N. Randy Smith said for the Ninth Circuit.

The standard of proof for rebutting the presumption is an issue that comes up "often" for district courts, Smith said.

The district court judge, Edward J. Davila, found that Crain Walnut's \$49 million in losses from its Supermicro investment significantly exceeded the losses of other plaintiffs seeking to lead the suit. That earned it the presumption of adequacy and typicality, but Davila ordered the production of documents and testimony before making a decision. Two aspects of CEO Charles Crain Jr.'s deposition and filings related to company ownership and Crain's personal financial records gave Davila pause, according to the appeals court.

Davila "adopted a lowered 'genuine and serious doubt' standard for rebutting a presumption of adequacy" under the Private Securities Litigation Reform Act and appointed Universal-Investment-Gesellschaft MBH as lead plaintiff, Smith said.

Crain Walnut asked for reconsideration. In response, Davila said Crain Walnut was inadequate under either the "genuine and serious doubt" standard or the preponderance-of-evidence standard.

The latter is the correct standard, the Ninth Circuit said. “We have not expressly specified the governing standard of proof for adequacy determination under the PSLRA, nor have the parties identified other circuit law settling the issue,” Smith said. “However, neither Supreme Court precedent, our precedent, nor a balancing of the interests give us reason to deviate from the ‘default’ burden of proof in civil litigation—preponderance of the evidence—for rebutting the loss leader’s presumption of adequacy and typicality under the PSLRA.”

Since the district court used the preponderance standard in its reconsideration order, there wasn’t a clear error requiring the appeals court to force the judge’s hand, he said.

Judges Jacqueline H. Nguyen and Gabriel P. Sanchez joined the opinion.

Zimmer Citron & Clarke LLP, Hagens Berman Sobol Shapiro LLP, and Schall Law Firm represented Crain Walnut. Bernstein Litowitz Berger & Grossmann LLP represented Universal. Counsel for other plaintiffs included Berger Montague PC. Freshfields represented Supermicro.

The case is Crain Walnut Shelling, LP v. U.S. District Court for the N. Dist. of Calif., San Jose , 9th Cir., No. 25-5435, 5/7/26 .

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Securities

Sprinklr Shareholders Drop Board Suit Over Core Product Shift

May 7, 2026, 10:51 AM PDT

Sprinklr Inc. stockholders released the communication software company's leaders from a lawsuit alleging they concealed shifting resources away from its main line of business.

The shareholders said they were voluntarily dismissing their derivative claims after the US District Court for the Southern District of New York tossed the proposed class action they were based on. Judge Lorna G. Schofield signed the order dropping the derivative suit Wednesday—over a month after she dismissed the related proposed class action, saying the investors leading that case failed to allege misstatements or omissions tied to Sprinklr reprioritizing resources toward its contact-center-as-a-service offering.

Sprinklr properly disclosed the realignment of resources, risks, and financial results, the judge said in March, ruling that the challenged statements in context wouldn't have misled reasonable investors about its business. Schofield said those investors could ask to replead, but they declined to file an amended complaint. Current and former board members and executives harmed Sprinklr's reputation and finances by causing it to misrepresent the success of both business lines, leading to stock drops on disappointing fiscal news, the derivative suit said.

The Rosen Law Firm PA and Levi & Korsinsky LLP represent the shareholders. Cooley LLP represents the current and former Sprinklr leadership. None of these law firms nor Sprinklr immediately responded to emails seeking comment.

The case is *In re Sprinklr, Inc. Derivative Litig.*, S.D.N.Y., No. 1:25-cv-02513, 5/6/26.

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Securities

Chip Designer Monolithic Must Litigate Investor's Nvidia Suit

May 7, 2026, 2:40 PM PDT

Monolithic Power Systems Inc. and top executives must contend with allegations of downplaying issues with its chips used for artificial intelligence hardware that ultimately turned its largest customer, Nvidia Corp., toward competitors.

Chief Executive Officer Michael Hsing and former Chief Financial Officer Bernie Blegen's stock sales during the proposed class period were plausibly suspicious as alleged, bolstering an inference of their intent to defraud, the US District Court for the Western District of Washington said Wednesday. Judge James L. Robart mostly let the suit proceed over the defendants' motion to dismiss.

Hsing sold 6% of his Monolithic holdings during this period for more than \$44 million, while Blegen sold 33% of his for almost \$22 million, according to the complaint.

The investor leading the case alleged most of the trades weren't made in connection with a tax obligation and that the volume greatly exceeded that of the two years before the class period, which Robart said the executives didn't contest. Robart pushed back on the executives' arguments that the sales weren't suspicious given they were pursuant to a Securities and Exchange Commission trading plan or for routine tax withholdings.

Investor Mirko Dardi seeks to represent a class of those who acquired Monolithic stock from Feb. 8, 2024, to Nov. 11, 2024. During that time, Monolithic and the executives allegedly misrepresented the quality of its chips being sold to Nvidia when they contained flaws impacting its customer's servers, souring their business relationship.

As Nvidia updated to its Blackwell servers for AI data centers in 2024, it started shifting orders to competitors, with Monolithic's stock price dropping on disappointing financial news and an investment research firm's report, the suit said.

Most of the alleged misstatements during that time period were actionable, Robart said, with the exception of Hsing's October 2024 comments about Monolithic's products being the "best solution" and similar opinion statements.

Hsing's February 2024 comments about having resolved chip quality issues were actionable as they could be proven true or false at the time they were made, Robart said.

Blegen's affirmations of Monolithic being integrated into the next-generation of servers was plausibly misleading given allegations the company knew Nvidia was sourcing chips from competitors, the judge said. And Blegen's statement about demand for its products was plausibly misleading given it omitted the company's damaged relationship with Nvidia and chip quality issues, potentially creating an image of Monolithic's business that differed from its current affairs.

"We are pleased with the Court's decision and are looking forward to prosecuting the case on behalf of our client," said Jeffrey C. Block, a managing partner at Block & Leviton LLP, lead counsel for Dardi.

Jones Day and Fennemore Craig PC represent Monolithic and the executives. Neither law firm's spokespeople nor Monolithic's investor relations contact immediately responded to emails seeking comment.

The case is *Waterford Twp. Gen. Emps. Ret. Sys. v. Monolithic Power Sys.*, W.D. Wash., No. 2:25-cv-00220, 5/6/26.

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Securities

Estée Lauder Would Pay \$210 Million Under Proposed Settlement

May 7, 2026, 2:23 PM PDT

Estée Lauder Cos. has agreed to a \$210 million settlement in a proposed securities class action over its Chinese gray-market sales messaging.

The institutional investors suing the company filed an unopposed request in the US District Court for the Southern District of New York Thursday, asking a federal judge to approve the deal with the cosmetic giant. The settlement amount would be one of the 100 largest securities class action settlements of all time, according to a brief supporting the deal.

The plaintiffs told Judge Arun Subramanian that the pact between investors and the New York-based beauty company is fair because of the big money involved but uncertainty of the litigation.

The company contends plaintiffs had yet to achieve class certification, and believes investors couldn't prove a company stock price impact was tied to omissions in company statements about a Chinese crack-down on the company's gray-market sales during the Covid-19 pandemic. The plaintiff investors' damages expert rebutted that, saying damages could reach up to \$4.6 billion tied to a plummet in share value due to corporate omissions, according to the brief.

"Although Lead Plaintiffs and Lead Counsel believe the claims to be strong, they acknowledge that Defendants could advance several substantial arguments that could have reduced, or altogether eliminated, any recovery for Estée Lauder investors," the investors said in their brief.

Subramanian rejected a company effort to dismiss those claims last year. Yet one key hurdle, the plaintiffs acknowledged, was making their case that the gray-market sales debacle harmed the bottom line.

Daigou—the practice of individuals purchasing luxury goods outside of China and carrying them into the country to avoid taxes and ensure authenticity—is a commonly recognized phenomena. The company could argue that the market knew about this Estée Lauder business strategy, weakening or potentially defeating the elements of statement falsity and scienter needed for investors to win their case, the investors said in their brief.

“Defendants also would have argued that the alleged false statements touting the success of the Travel Retail segment and sales in the APAC region were literally true and that there was no duty to disclose the existence of daigou to counteract any allegedly false impression made by those statements because Estée Lauder’s exposure to daigou was already known to investors—thereby undercutting any inference that Defendants acted with scienter when making public statements to investors,” the plaintiffs said.

Labaton Keller Sucharow is lead counsel for the lead plaintiffs: Macomb County Employees Retirement System, Macomb County Retiree Health Care Fund, and Wayne County Employees’ Retirement System. Gibson, Dunn & Crutcher represents Estee Lauder.

The case is In re The Estée Lauder Co. Inc. Secs. Litig. , S.D.N.Y., No. 1:23-cv-10669, motion for preliminary approval of class settlement 5/7/26 .

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Crooked Crap Game

 [businesslawprofessors.com/2026/05/crooked-dice-game](https://www.businesslawprofessors.com/2026/05/crooked-dice-game)

Ann Lipton

May 7, 2026



So, the SEC is out with its proposal to allow companies to choose whether to [provide interim reports quarterly or semi-annually](#). The Commission currently consists of three Republican members, two of whom seem pretty committed to the idea, so I suspect the “request for comments” is pro forma and the rule will be finalized soon.

Previously, [I posted about how this new rule might affect securities fraud litigation](#); now that the rule is out, I’ll point out it allows registrants to shift to between quarterly reporting and semi-annual reporting – back and forth – every year, by checking a box on the 10K. Since the 10K is usually filed around 3 months into the following fiscal year, registrants will *already know* what the first quarter of the new fiscal year looks like when they make the election to report semi-annually or quarterly. Which ... I mean, [Rule 10b5-1 was just changed to add a cooling-off period](#) after amending the plan, you’d think *reporting frequency* could be at least as rigorous. I’m sure market norms will develop around sudden changes, but, well, it seems to me to be a recipe for abuse.

Meanwhile, [there are already a bunch of comments posted](#), most of which are from retail traders or individual investment advisers (my guess is institutions will take a little longer to get their thoughts out). And most of *those* are opposed, with the most frequently cited objection being, retail traders are already at an informational disadvantage relative to large institutional traders, and a switch to semi-annual reporting will further uneven the playing field. Which is kind of a funny thing to say, since most securities theorists, I suspect, would argue something like, retail traders are *always* at a disadvantage relative to institutional

traders, there can *never* be a level playing field, so retail traders should not rely on public information to beat the market and instead should accept the market return, which reflects the judgments of informed professionals.

And *that* makes me think of – prediction markets! Lately there have been a lot of stories about evidence, implicit or explicit, that [insiders are cleaning up](#), despite attempts by the platforms to police that sort of thing. And yet, these platforms remain extremely popular, even among naïve ~~gamblers~~ *bettors* ~~commodities traders~~. Which, if you think about it, pretty much gives the lie to [the Supreme Court's pronouncement](#) that it is necessary to police insider trading because “[a]lthough informational disparity is inevitable in the securities markets, investors likely would hesitate to venture their capital in a market where trading based on misappropriated nonpublic information is unchecked by law.” Or, more simply, it seems plenty of people would [knowingly roll the dice in a crooked crap game](#).

And another thing. New [Shareholder Primacy podcast is up!](#) Me and Mike Levin talk about the latest decision from [the Delaware Supreme Court regarding advance notice bylaws](#), and about a [new “zero contest” proxy contest](#). [Here at Apple](#); [here at Spotify](#); and [here at YouTube](#).

Securities

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Cushman & Wakefield Decries Novel 401(k) Climate Risk Lawsuit

May 8, 2026, 7:32 AM PDT

Cushman & Wakefield US Inc. is fighting back against a novel lawsuit claiming its 401(k) plan is overly exposed to climate-related risks, saying the case looks “flashy” but “fails at every level of analysis.”

There’s no indication Cushman employees were harmed in any way by the alleged climate risks of a single investment option in their 401(k) plan, the commercial real estate firm told the US District Court for the Western District of Washington in a Thursday motion asking that the case be dismissed.

The lawsuit’s narrow focus on environmental, social, and corporate governance goals is “at odds with settled case law holding that ERISA does not require fiduciaries to prioritize any one factor above all else,” it said.

The proposed class action, which is assigned to Judge John H. Chun, is the first federal lawsuit attempting to use the Employee Retirement Income Security Act to impose liability on retirement plan fiduciaries based on the purported climate risks of their investments. It centers on Cushman’s decision to offer workers the Westwood Quality Small Cap Fund, which plaintiff Renee Kvek describes as having significant exposure to “sectors disproportionately vulnerable to physical and transition climate risks.”

Cushman called these allegations “all style and no substance.”

The plaintiff “devotes over twenty pages of her fifty-page Complaint to espousing the importance of considering climate risk in managing 401(k) plans,” but she “never alleges that climate related risks have or imminently will impact the Westwood Fund,” Cushman said, adding that the fund’s returns have been largely positive.

Fewer than 4,000 of the Cushman plan’s 23,448 participants are currently invested in the Westwood fund, and it holds only about \$39 million of the plan’s \$1.7 billion in assets, Cushman said. The company also sought to move the case to federal court in Illinois and prevent it from being tried by a jury.

Cohen Milstein Sellers & Toll PLLC and ClientEarth USA Inc. represent Kvek and the proposed class. Willkie Farr & Gallagher LLP and Byrnes Keller Cromwell LLP represent Cushman.

The case is Kvek v. Cushman & Wakefield US Inc. , W.D. Wash., No. 2:26-cv-00736, motion to dismiss 5/7/26 .

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Securities

Evergry 401(k) Target-Date Fund Lawsuit Settles for \$2.6 Million

May 7, 2026, 7:22 AM PDT

Evergry Inc. workers challenging the target-date funds in their 401(k) plan negotiated a \$2.6 million class settlement resolving claims against their employer and the plan's investment adviser.

The proposed deal, announced Wednesday in the US District Court for the Western District of Missouri, includes a \$1.7 million payment by the Evergry defendants and a \$900,000 payment by SageView Advisory Group LLC, which provided investment advisory services to the Evergry plan. It would resolve a certified class action covering "at least hundreds" of participants in Evergry's plan.

The year-old lawsuit challenges a suite of American Century target-funds tapped to serve as the default investment option in Evergry's retirement plan. These funds, which held more than a third of the plan's assets, dramatically underperformed their own stated benchmarks and other major target-date funds from competitors, according to the lawsuit.

Target-date funds, which are designed to gradually shift investment strategies as workers approach retirement, have fueled a significant surge in litigation under the Employee Retirement Income Security Act, with more than a dozen recent cases centering on target-date funds from American Century.

The case is assigned to Judge Stephen R. Bough, who ruled last year that the Evergry workers' claims against SageView were viable. Bough hasn't ruled on the merits of their claims against Evergry.

Evergry is represented by Morgan, Lewis & Bockius LLP and Dentons US LLP. SageView is represented by Faegre Drinker Biddle & Reath LLP. The workers are represented by Brady & Associates; Walcheske & Luzi LLC; Schneider Wallace Cottrell Kim LLP; and Don Bivens PLLC.

The case is Doll v. Evergry, Inc. , W.D. Mo., No. 4:25-cv-00043, settlement motion 5/6/26 .

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Class Action

Manage Newsletters

Ace Hardware Accused of Using Store Sales Data to Jack Up Prices

May 8, 2026, 9:08 AM PDT

Summary by Bloomberg AI

AI Generated



- Ace Hardware Corp. is accused of conspiring to raise retail prices across its member stores, causing consumers to pay more for products.
- The company allegedly exploited its image as a trusted brand of locally-owned neighborhood hardware stores to conceal cooperation between stores behind the scenes.
- The plaintiff seeks to represent a class of people who purchased from Ace member stores and seeks treble damages and relief under Section 1 of the Sherman Act.

Ace Hardware Corp. conspired to raise retail prices across its member stores, causing consumers to pay millions of dollars more for products, according to a customer's proposed class action.

The case, filed Thursday in the US District Court for the District of Northern Illinois, accuses the hardware retail cooperative and its software provider, Epicor Software Corp., of a roughly decade-long scheme that forced stores to charge identical prices across their range of products.

The consumer plaintiff also accuses Ace of exploiting its image as a trusted brand of locally-owned neighborhood hardware stores. Ace traces its roots to the 1920s when a group of retailers incorporated their business in Illinois as Ace stores, in honor of the World War I fliers dubbed "aces."

"The Ace Cooperative's cultivated image as a cooperative of independent small businesses that compete in local markets leads customers to believe that if one Ace Member Store tries to overcharge them, they will be able to find a lower price at another," the suit alleges. "This is at odds with the reality of cooperation between these stores behind the scenes."

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

According to the suit, Epicor collects sensitive data about the prices that each Ace member store charges for products, the quantities they sell, and their inventory. Stores then allegedly receive monthly reports, along with weekly “hot sheets,” showing how much their nearby competitor stores charge for the same products, whether the products are stock, as well as guidance to profitably raise prices on particular items.

“This practice alone constitutes a classic illegal information sharing conspiracy,” the suit said.

Ace also organizes member stores into locally defined geographic “price zones” and then directs the stores in each zone to uniformly increase prices for specified items, “ensuring that prices at Ace Member stores move in unison with prices at their nearby competitors,” the complaint says.

If stores don’t follow Ace’s pricing guidance, Epicor issues “critical price change” alerts that direct stores to raise prices on particular items, according to the plaintiff.

Ace also allegedly restricts new stores from opening in locations where they would compete on price with existing Ace member stores, therefore discouraging owners from selling their stores to entrepreneurs not affiliated with Ace.

The plaintiff seeks to represent a class of people in the US who between May 7, 2022 and the present purchased directly from a store that was a member of the Ace Hardware Corp. retail cooperative or an affiliated store.

The proposed class, whose members are likely in excess of 5 million, seeks treble damages and relief under Section 1 of the Sherman Act, which prohibits agreements that restrain trade.

The consumer plaintiff is represented by Korein Tillery LLC and MoloLamken LLP.

The case is Twomey v. Ace Hardware Corp. , N.D. Ill., No. 1:26-cv-05320, complaint 5/7/26 .

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DOJ antitrust head warns dealmakers not to mislead on AI

 [reuters.com/legal/litigation/doj-antitrust-head-warns-dealmakers-not-mislead-ai-2026-05-07](https://www.reuters.com/legal/litigation/doj-antitrust-head-warns-dealmakers-not-mislead-ai-2026-05-07)

Jody Godoy

May 7, 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](#)

May 7 (Reuters) - The U.S. Department of Justice's antitrust head on Thursday warned companies against trying to misleadingly use artificial intelligence disruption as a defense in merger reviews without providing evidence. Acting Assistant Attorney General Omeed Assefi oversees the DOJ's work reviewing mergers and said that merging parties are welcome to engage with his division at any point in the process.

However, "we know when you are trying to mislead us," he said at an event at New York University.

"We know you will be tempted to tell us that AI is replacing your industries. We get it. We hear that a lot. For us to take it seriously, we expect it to be backed up with actual evidence," he said, according to a copy of prepared remarks.

Reporting by Jody Godoy in New York; Editing by Bill Berkrot

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

Jody Godoy reports on tech policy and antitrust enforcement, including how regulators are responding to the rise of AI. Reach her at jody.godoy@thomsonreuters.com

Penalties phase of Live Nation ticket monopoly trial will stretch into 2027

 [courthousenews.com/penalties-phase-of-live-nation-ticket-monopoly-trial-will-stretch-into-2027](https://www.courthousenews.com/penalties-phase-of-live-nation-ticket-monopoly-trial-will-stretch-into-2027)

Josh Russell

May 7, 2026

Gene Simmons, from left, Eric Singer, Paul Stanley and Tommy Thayer of Kiss perform at the Riverbend Music Center in Cincinnati on Aug. 29, 2019. (Photo by Amy Harris/Invision/AP, File)

MANHATTAN (CN) — A New York federal judge said Thursday he likely won't hear arguments on whether to break up Live Nation and Ticketmaster's monopoly over concert ticketing until as early as February 2027.

While a New York City federal jury found Live Nation and Ticketmaster [liable for antitrust violations](#) last month, the second phase of the trial — litigating structural remedies and financial penalties — will be a separate bench trial that could last until spring of next year before U.S. District Judge Arun Subramanian. A coalition of 33 states and the District of Columbia are pushing the Joe Biden appointee for a full structural separation of Live Nation and Ticketmaster rather than partial divestment of specific business lines or venue agreements.

"We've come 90% of the way," Subramanian told the parties at a scheduling conference Thursday. "The only question is when the discovery will kick off."

Other remedies on the table include mandatory multi-vendor ticketing access, fee caps, open-platform requirements and licensing requirements for ticketing technology.

Subramanian asked the coalition of states to file a letter to the case docket indicating what types of remedies they intend to request so that Live Nation and Ticketmaster have an idea of how to prepare for briefings in the next stage of the trial.

"Isn't it kind of obvious what you're going to say in the remedies proceedings?" Subramanian remarked to Live Nation's defense attorneys on Thursday morning.

In addition to the remedies phase, Subramanian will also preside over a Tunney Act fairness review for approval of the Justice Department's tentative antitrust settlement with Live Nation. He said he expects to have a decision ready by mid-September or October.

Live Nation [settled](#) with the Justice Department in March, allowing the company to retain ownership of Ticketmaster, a blow to the companies' competitors and many concertgoers who hoped the case would force them to separate.

The deal included a \$280 million fund for state damages claims, the divestiture of 13 amphitheater booking agreements and a cap on service fees at 15%.

Passed in 1974, the Tunney Act requires federal courts to review and approve settlements in civil antitrust cases brought by the DOJ to ensure they serve the public interest. It mandates public notice, a 60-day public comment period and a competitive impact statement to prevent "rubber-stamping" of settlement.

During the conference, Subramanian asked the states if there had been any substantial settlement discussions between the parties since the jury verdict.

Elinor Hoffmann, chief of the antitrust bureau at Office of the New York Attorney General, said there were currently there are no ongoing settlement talks.

"As far as the states are concerned, right now we are entirely razor-focused on the remedies proceedings," she told the judge.

In May 2024, New York Attorney General Letitia James, a coalition of 40 other states and the Justice Department [jointly sued](#) Live Nation, claiming its control over almost every aspect of the live event business — from venue ownership to event promotion to ticketing services through Ticketmaster — allowed it to suppress competition and raise costs for both fans and artists.

While the Justice Department settled its claims, 34 states and the District of Columbia advanced their claims to trial in the Southern District of New York.

After four days of deliberating, a jury of nine New Yorkers reached a unanimous verdict against Live Nation and Ticketmaster. They agreed that Ticketmaster wielded a monopoly over live event ticketing, causing anticompetitive effects in that market. The jury also agreed that Live Nation monopolized large amphitheaters throughout the country, and that the company unlawfully tied artists' use of those venues to the use of its promotional services.

Jurors sided with the states' assessment that this behavior caused concertgoers to be overcharged for shows at a rate of \$1.72 per ticket. Live Nation says that figure only applies to tickets sold at 257 venues in certain states over the past five years. As a result, the company expects the damages figure to be less than \$150 million, but that would be tripled in accordance with the federal antitrust statute.

Live Nation announced in an earnings call Wednesday that its first quarter revenue climbed 12% to \$3.8 billion despite the company's legal troubles. Ticketmaster reported revenue of \$765 million, up 10% compared to first quarter of 2025.

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Plaintiff Lawyers Are Winning ERISA Cases, Causing Litigation to Soar

"Of all the areas where the plaintiff's bar is filing class actions, they're having the most success in the ERISA space," said Gerald L. Maatman Jr. of Duane Morris in Chicago, chair of the firm's class action defense team.

May 07, 2026 at 04:07 PM By  **Charles Toutant**



(l-r) Charles Field of Sanford Heisler, Anne Green of Saul Ewing, and Gerald L. Maatman, Jr. of Duane Morris. Courtesy photos

The high probability of success for plaintiff-side lawyers is generating rapid growth in employee benefits litigation.

Almost every proposed class action under the Employee Retirement Income Security Act, or ERISA, won certification last year.

And that makes it less risky for plaintiff lawyers to take these cases to court—and settle long before trial.

"Of all the areas where the plaintiff's bar is filing class actions, they're having the most success in the ERISA space," said Gerald L. Maatman Jr. of Duane Morris in Chicago, chair of the firm's class action defense team.

'The Holy Grail'

Law.com Radar reported 90 ERISA class action suits filed in 2025—a leap from the 65 filed in 2024 and 39 in 2023.

And the trend is continuing this year.

For instance, Bloomberg reported 68 ERISA class actions filed in the first quarter of 2026—nearly double the 38 filed during the same period in 2025, and soaring past the 26 filings in the comparable time in 2024.

A key factor in that growth is a high rate of class certification.

For instance, Duane Morris reports that 95% of motions for class certification in ERISA cases were granted in 2025, up from 67% in 2024 and 82% in 2023.

Data breach class actions had a 33% certification rate in 2025, and the number was 50% for discrimination cases and 40% for consumer fraud, Duane Morris' Maatman said.

ERISA cases tend to have a high rate of typicality and commonality, which are valued in the class action world, Maatman said.

And once a case is certified, it usually settles, Maatman said.

"Given that certifying your case is the holy grail, it allows you to then settle," he added. "It explains the migration, to me, of very talented plaintiff lawyers really looking at the ERISA space, and then that would explain why more ERISA cases are being filed, because that's a very successful area."

Hundreds of Millions in Settlements

In addition, plaintiff lawyers are reaping hefty settlements of ERISA suits.

Maatman says the top 10 ERISA settlements in 2025 amounted to \$680 million, compared to \$413 million in 2024.

And the case law gives plaintiff counsel a high probability of getting certified in high-dollar litigation.

"And when you throw all those things in the hopper, it explains why in 2026 more ERISA class actions are being filed as compared to past years. In essence, success begets copycats. Lots of lawyers are looking at the ERISA space," Maatman said.

ERISA suits take on a variety of subjects, including the manner in which employers handle forfeited money in 401(K) plans and performance of so-called target date funds and stable value funds, as well as allegations of excessive fees charged.

Defenses

Another category behind the surge in ERISA filings is a jump in suits against employers charging tobacco users more for health insurance. Such terms are generally lawful, but employees generally argue their employer improperly implemented the plan.

"You've got to realize that the world's changing, and you have to adapt to this new world. And so you're trying out new defenses," Maatman said. "You're trying to stretch the arbitration defense with a class action waiver into the ERISA space. And so you're seeing success by defense firms in doing that. So it's not like defense lawyers are asleep at the wheel. And so you're seeing very creative lawyering on both sides of the v in this new, wild, wild west of ERISA litigation."

Maatman said for the defense, spending on compliance is a wise investment, and that defending ERISA cases takes creativity and thinking outside the box.

Anne Greene of Saul Ewing in Pittsburgh agrees.

Greene, who counsels clients on ERISA matters, found the uptick in litigation has brought a corresponding increase in requests from plan sponsors seeking legal advice to stay out of trouble.

Like Maatman, Greene cites the role of new and inventive causes of action in driving the current uptick in ERISA suits.

For instance, she cites *Barbich v. Northwestern University*, filed last year in the Northern District of Illinois.

That case alleged Northwestern breached its fiduciary duties by mismanaging its employee group health plan, specifically by offering a high-cost health option that provided no better benefits than lower-cost options.

ERISA litigation often focuses on plan fiduciaries who were not paying attention to what was going on, and the processes they use, or lack of process, Greene said.

"ERISA doesn't say that every investment has to be a winner. It just says that it has to be sound. So we're always focused on the process to help protect that plan sponsor," Greene said.

Positive Effect?

Meanwhile, a plaintiff lawyer who helped fuel the trend said it has a positive impact.

Charles Field of Sanford Heisler Sharp McKnight has a role in the ERISA litigation boom: He helped obtain a record-setting \$69 million settlement in 2025 in an ERISA case in Minnesota called *Snyder v. UnitedHealth Group*.

That suit alleged the company breached its fiduciary duties by keeping poorly performing Wells Fargo target-date funds in its 401(k) plan to protect a business relationship. It also claimed this cost employees hundreds of millions in potential gains.

Field was also part of the team that won a \$61 million settlement in another ERISA case, *In Re G.E. ERISA Litigation*, in Massachusetts in 2024.

His firm said the settlement is believed to be the largest in an ERISA case stemming from allegations that a corporation's 401(k) plan improperly directed employees to invest in its own, underperforming, proprietary funds.

Field worked in institutional money management for 25 years before leaving to form a practice at Sanford Heisler assisting clients with their retirement plans. He said in his 10 years at Sanford Heisler, he became increasingly aware that poorly performing investments could derail a client's retirement.

He's also only filed about 10 to 15 suits in the past decade, which suggests that poorly-performing funds are "not as prevalent as as you would think," Field said.

His experience filing ERISA suits has shown Field that this litigation is worthwhile.

"The purpose that I wanted to fulfill is that I wanted to bring about a positive change to the way that fiduciaries manage these plans. And over the years—10 years—I have actually seen an improvement in the quality of the plans and the fiduciary attention to how they manage. So it's had a positive effect," Field said.

Fields thinks the recent surge in ERISA litigation has pushed fiduciaries to do a better job.

"There have been some successes. I don't know if it's the success of others that have caused people to jump in, or has the legal profession caught up with fiduciaries who are not doing their job," he said. "And if fiduciaries would just do what they're supposed to do, pay attention to the investments in the plan, pay careful attention to the performance and to the fees and do their own research, it'd be fine. But what you see is that the fiduciaries, some fiduciaries, just go through the motions. But if they were to take this very seriously and investigate the way they're supposed to, there wouldn't be an issue."

California Brief

Merck's Gardasil Vaccine in RFK Jr.'s Sights Faces Court Clash

May 8, 2026, 4:00 AM PDT

Robert F. Kennedy Jr. and a group of personal injury lawyers have long accused Merck & Co. of “disease mongering” to boost sales of its Gardasil vaccine that mainstream medicine has heralded as safe and effective for decades.

These steadfast opponents of Gardasil, which is used to prevent human papillomavirus (HPV) infections, have gained little traction in their years-long battle. The vaccine against the sexually transmitted virus that can cause cervical and other cancers has been approved in about 150 countries since it was introduced 20 years ago and the company says more than 900 million doses have been distributed worldwide.

But now lawyers suing Merck are aiming to convince a jury that the vaccine is “dangerous and defective.” The plaintiff lawyers face hurdles, but a win could lead to the drug company paying significant compensation to hundreds of young women who claim that one of Merck's top-selling products left them sterile or with a crippling auto-immune condition that can affect the heart.

Merck says it's ready to back Gardasil's safety in court with a trial fast approaching in Los Angeles. The company is also in talks to resolve the litigation, according to people familiar with the discussions who asked not to be identified because the negotiations are private.

In its annual report in February, the company disclosed it “entered into a proposed agreement” in October to end the litigation that required additional steps for the deal to become final. Merck representatives and Michael Baum, a plaintiffs' lawyer, declined to comment on the progress of continuing talks.

“The stakes are high for Merck,” said Dorit Reiss, a University of California law professor in San Francisco who specializes in vaccines. “Taking this case to trial puts the company at risk of facing more of these lawsuits if they lose, so they have to be thinking about a settlement. But a settlement could have the same effect of bringing in more cases.”

Merck said in its February disclosure that the agreement to resolve the litigation would require unspecified “participation thresholds,” meaning that a certain minimum number of Gardasil users who are suing and are eligible for the settlement would need to commit for it to take effect.

In mass-injury litigation like the Gardasil cases, companies can agree to pay a group of people claiming a product harmed them to resolve a case without agreeing that the product was indeed harmful.



Merck's Gardasil vaccine

Photographer: J B Reed/Bloomberg

Kennedy, a veteran plaintiffs' lawyer, helped prepare the case heading to trial before he began serving last year as US secretary of Health and Human Services. He worked on a court presentation on the science underlying the claims that Gardasil is risky.

The lawyers spearheading the suit said in court filings that they plan to prove Gardasil poses an increased risk of auto-immune diseases. One of their key witnesses is a former Yale professor of pathology who studies cervical cancer and DNA sequencing.

They also will argue Merck rushed Gardasil to market without proper safety testing to get ahead of a rival's product.

Stephen Amato, a regulatory affairs expert hired by the plaintiffs' lawyers to testify at trial, contends in a report that the drive to make Gardasil a blockbuster led Merck to use "misleading promotional materials to increase profits rather than inform consumers and doctors about the true safety of Gardasil."

Read More: RFK Jr. Downplays Benefits of Vaccines in Testy Senate Hearing

Merck has long denied wrongdoing in the marketing and testing of Gardasil. "An overwhelming body of scientific evidence, including more than 30 years of research and development along with real world evidence generated by Merck and by independent investigators, continues to support the safety and efficacy profiles of our HPV vaccines," the company said in a statement.

But it's a tricky time for vaccine manufacturers as they face unprecedented scrutiny under Kennedy. In March, a federal judge temporarily blocked Kennedy's effort to scale back childhood vaccinations, including the new recommendation to get one HPV shot instead of as many as three. Kennedy is seeking to appeal the ruling, as is Children's Health Defense, the non-profit he formerly led that has promoted his skepticism of vaccines.



Robert F. Kennedy Jr.

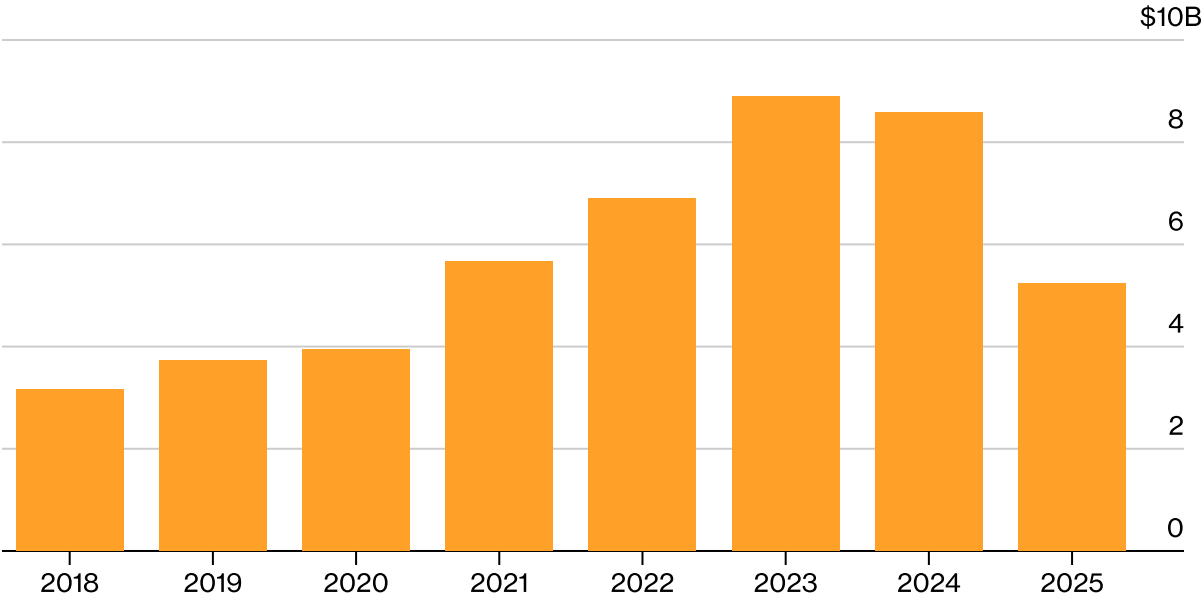
Photographer: Stefani Reynolds/Bloomberg

The vaccine has been hailed as a clinical success. The number of precancerous cervical lesions detected in US women aged 20 to 24, the group most likely to have been vaccinated, plunged about 80% between 2008 and 2022, according to a Centers for Disease Control and Prevention report published last year. Other observational studies cited by Merck have found the immunization prevents invasive cervical and some head-and-neck cancers.

Gardasil's commercial triumph also is indisputable. From its inception, it's been a consistent big seller for Merck and recorded dramatic growth in the early 2020s. It hit \$8.9 billion in 2023 sales before the introduction of low-cost rivals in China led to a decline over the last two years. That trend continues, according to Merck's first-quarter results announced April 30.

Gardasil's Growth Trajectory
Demand dropped as Chinese rivals emerged

MRK US Equity > Revenue: Gardasil / Gardasil 9



Source: Bloomberg, Company filings

Bloomberg

Merck avoided a showdown over Gardasil in North Carolina when a federal judge dismissed a group of more than 200 cases in March 2025 that he concluded were preempted by the US Food and Drug Administration's approval of the vaccine's labeling.

The judge also found "no scientist could reasonably conclude" the vaccine caused the alleged maladies "based on this paucity of evidence" offered by the plaintiffs' expert witnesses. The ruling is on appeal.

The California trial scheduled to begin July 27 originally kicked off in February 2025. But it was halted about three weeks into testimony after lawyers and the judge agreed that media coverage of the controversy over Kennedy's appointment to President Donald Trump's cabinet might influence jurors.

The suit was filed a decade ago by Jennifer Robi, whose claims that Gardasil shots she got as a teenager left her confined to a wheelchair with a weakened heart were previously rejected by a government-administered vaccine injury program in 2015. Kennedy, who is no longer involved in the case, posted about it in 2019.

The case moved slowly in Los Angeles Superior Court. The docket, with almost 1,500 chronological entries, shows that at least nine judges were involved in various aspects of the case before it landed with Judge Elaine Lu in 2024.

In contrast to the North Carolina judge, Lu rejected multiple requests by Merck to exclude reports by Robi's expert witnesses as scientifically unsupported and cleared her case for trial.

While much of the evidence Robi's lawyers have gathered has been criticized by Merck's experts, it hasn't yet been reviewed by jurors. If they find it credible, they could award her millions of dollars and put pressure on the company to settle other cases.

Robi, now 31, is represented by the Los Angeles law firm of Wisner Baum, whose attorneys worked with Kennedy on at least five other Gardasil suits from 2020 to 2022. One of Kennedy's sons, Conor, is now a lawyer at the firm, but does not work on Gardasil cases.

Kennedy, who once stood to receive 10% referral fees on successful Gardasil lawsuits, has waived his right to collect the fees, according to people familiar with the matter who weren't authorized to speak publicly about it. Kennedy didn't respond to a request for comment.

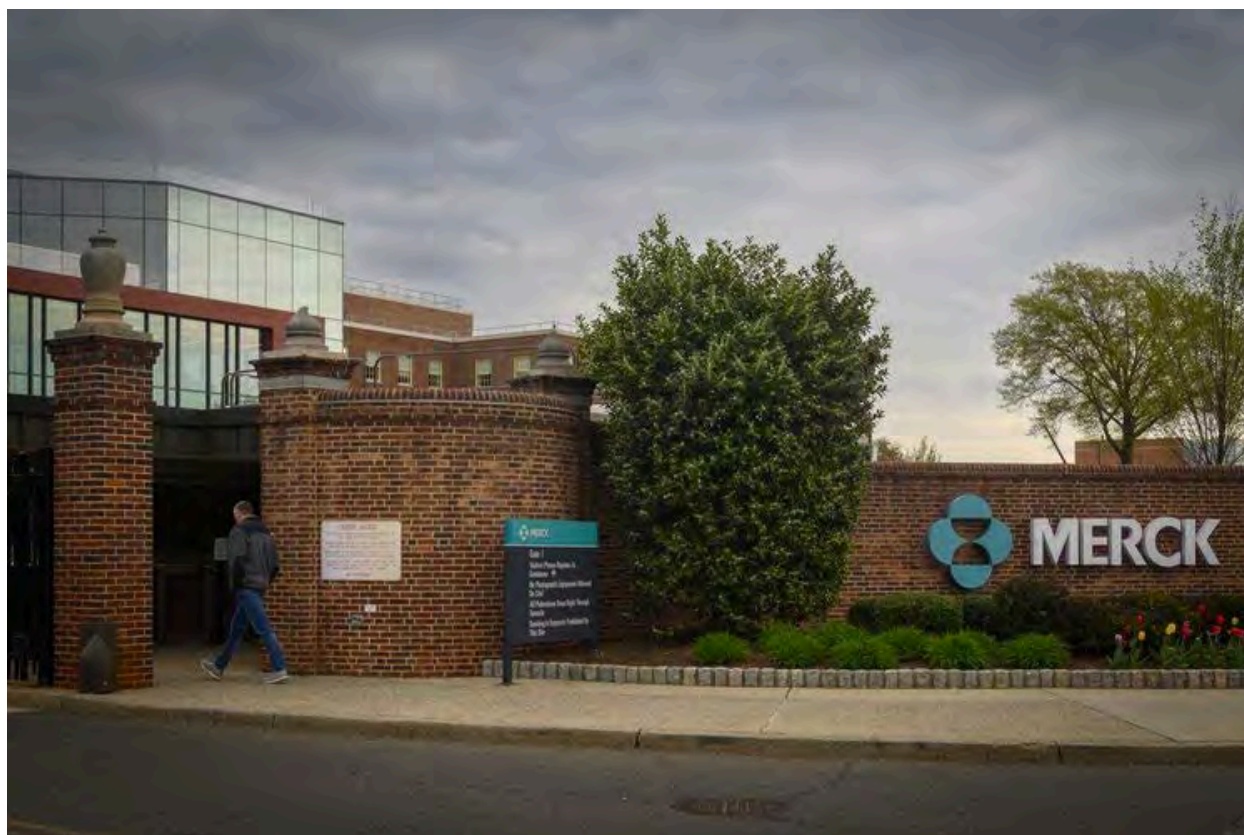
[Read More: Merck Vaccine Trial Delayed Amid Concern About Jury](#)

Thousands of documents Merck produced during the pretrial information exchange process have been made public as part of Robi's case.

That material — reviewed by Bloomberg News — includes details of Merck's internal strategizing over how to win favor for Gardasil with federal regulators and the public.

The files reveal employee communications in the late 1990s that delved into the challenge of marketing an HPV immunization at a time when cervical cancer was on a steep decline in the US due to the success of gynecological screenings known as Pap smears.

Robi's lawyers have signaled they plan to focus on those communications as part of their case and argue Merck overhyped the need for the vaccine and exploited the FDA's priority review process.



Merck's headquarters in Rahway, New Jersey.

Photographer: Christopher Occhicone/Bloomberg

In his 2024 report commissioned by Robi's team, Amato concluded the company's urgency behind promoting Gardasil, including a \$182 million marketing campaign, was less about protecting health than getting a leg up on GSK Plc, which was developing an HPV vaccine that came to market in 2009. Amato is a former executive at medical-device maker Smith & Nephew who now teaches at Northeastern University.

Plaintiffs lawyers can use such material in an effort to convince jurors that companies are more motivated by financial considerations than patient-care concerns.

Read More: RFK Jr.'s Vaccine Panel Includes Paid Witnesses Against Merck

Typically, vaccines work by exposing people to a virus, often just an inactivated or tiny portion, which spurs the immune system to produce antibodies in case of a future infection. Gardasil, however, is made with virus-like particles that mimic the outer shell of HPV, not with the virus itself.

The former Yale professor, Sin Hang Lee, is expected to testify about how he thinks Robi's condition was caused by the vaccine. Lee launched his research at the behest of SaneVax, an anti-vaccine group that has long been critical of Gardasil.

In 2011, Lee said he documented the presence of genetically modified HPV DNA fragments in 16 Gardasil samples from countries including the US, France, Australia, Spain and Poland. Lee said such fragments can prompt the immune systems of some patients — like Robi — to attack not just the virus but also healthy tissue like their hearts.

Court filings show that when Merck's chief medical officer at the time, Carlos Sattler, responded to Lee's allegations, he told colleagues in a 2011 email that there was "no evidence" that small amounts posed any risk and there were no plans to conduct any testing for DNA fragments.

In 2016, a World Health Organization vaccine advisory committee criticized Lee's theory that the DNA fragments in Gardasil presented a health threat. The group said regulatory authorities have faulted research linking the fragments to patient deaths as "flawed in both clinical and laboratory methodology."

A trial could take three to four weeks.

The case is Robi v. Merck & Co., BC628589, California Superior Court, County of Los Angeles.

--With assistance from **Rachel Cohrs Zhang**.

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The Brief - Top News of the Day From Bloomberg Law

Prosecutors Suggest Goldstein Gambled While on Pretrial Release

May 7, 2026, 1:38 PM PDT

Supreme Court lawyer Tom Goldstein, convicted earlier this year on tax and other charges related to years of high-stakes gambling on poker, reported more than \$1.7 million in 2025 gambling income—calling into question whether he was still gambling after being indicted last January, prosecutors said in a court filing.

After his trial wrapped earlier this year, Goldstein filed his 2025 tax return, “reporting over \$3 million in taxable income, and over \$1.7 million in gambling income,” prosecutors said in the Wednesday filing. “Those numbers call into question his repeated claims that he could not pay his attorneys, and also his compliance with release conditions barring gambling and engaging in financial transactions without first notifying Pretrial Services.”

Even if Goldstein didn’t technically mislead the court or violate bond conditions, prosecutors say his decision to file a return for 2025, when he was barred from gambling, but not for tax years 2022, 2023, 2024, when he was actively gambling, is telling.

The SCOTUSblog co-founder stipulated at trial to winning more than \$21 million in 2022 alone.

Goldstein has been trying to postpone his sentencing, now scheduled for June 16, but prosecutors said continuing the hearing will only “amplify the risk that he flees,” suggesting he’s violated release conditions.

In a supplemental motion, also filed in the US District Court for the District of Maryland on Wednesday, Goldstein said he has been “fully compliant with his release conditions since the jury verdict” and that a continuance won’t increase the risk of flight.

Goldstein was found guilty in February on one count of tax evasion, one count each of willful failure to timely pay taxes for four tax years, three counts of making a false statement on a loan application, and four out of eight counts of aiding and assisting in preparation of a false tax return. He was found not guilty on the other four counts.

His convictions for making a false statement on a loan application carry a maximum of 30 years for each count. Goldstein also faces a maximum sentence of five years' imprisonment for tax evasion, three years for each count of assisting in the preparation of false tax returns, and one year on each count of willful failure to pay taxes.

Goldstein has asked for the sentencing delay to give the court adequate time to resolve post trial motions and to resolve his objections to the draft pre-sentence investigation report. He also says his lead attorney has a conflict on the day the hearing is scheduled.

The case is before Judge Lydia Kay Griggsby.

Liu Shur Kravis LLP and Munger, Tolles & Olson LLP represent Goldstein.

The case is United States v. Goldstein , D. Md., No. 8:25-cr-00006, government's opposition 5/6/26 .

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California Brief

ANALYSIS: Five AI Legal Ethics Risks That Aren't Fake Citations

May 8, 2026, 2:00 AM PDT

Nearly three years after *Mata v. Avianca*, courts have issued hundreds of sanctions related to “hallucinated” citations, and state disciplinary bodies have followed suit.

Hallucinated citations likely dominate current attorney generative AI-misuse cases because courts and opposing counsel can readily spot these errors. However, there are other less-visible risks that are just as ethically fraught.

Below are five everyday AI-related risks that go beyond checking for false citations and that lawyers must consider:

1. Failing to Keep Up With Evolving AI Capabilities.

American Bar Association Model Rule of Professional Responsibility 1.1, comment 8 requires lawyers to be aware of the risks and benefits of technology that's relevant to legal practice. Generative AI is constantly evolving, and ethics authorities are issuing more targeted guidance as new functionalities appear (for example, on agentic AI and AI-generated transcripts). Lawyers should monitor developments and new ethics opinions to understand how emerging features affect their duties.

2. Mishandling Client Confidences and Data Security.

Protecting confidential information as required by Model Rule 1.6 remains paramount when working with AI. Lawyers must familiarize themselves with terms of service, privacy policies, and how AI tools store or share inputs. Lawyers should also be aware that some AI programs, even those custom-built for a particular firm, rely on underlying tools that could present confidentiality risks.

Finally, lawyers should exercise extreme caution when submitting inputs that contain client information. While “anonymizing” client information in AI inputs can help lawyers protect confidentiality, they should still consider that AI tools may be able to re-identify anonymized data.

3. Using AI as a Substitute for Professional Judgment.

It's indisputable that lawyers should carefully check AI-generated citations, and they should do the same for any AI-produced legal analysis or recommendations. AI output should be reviewed like the work product of human nonlawyer assistants under Model Rule 5.3, independently confirming the accuracy and soundness of the reasoning.

4. Ignoring the Impact of Unsupervised AI Use.

Supervisory duties under Model Rules 5.1 and 5.3 require oversight of subordinate lawyers and nonattorney staff's use of AI tools. Lawyers should also be cognizant of client AI use. Cases show disciplinary consequences when supervisors sign filings containing AI errors, and waiver of attorney-client privilege when clients disclose privileged materials to a public AI platform.

5. Failing to Account for AI's Effect on Fees.

Hourly billing must reflect actual time spent on a client matter, even if AI speeds up some tasks. Alternative fee arrangements are an option for some matters, and the effective use of generative AI for legal matters is a skill that may be factored into value-based fees, according to a November Virginia Supreme Court ethics opinion.

Bloomberg Law subscribers can find related content on our Legal Ethics: AI & Tech Competency page.

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"Broken Windows Securities Enforcement"

 fcpaprofessor.com/broken-windows-securities-enforcement

May 8, 2026

At a recent conference, SEC Commissioner Mark Uyeda offered [remarks](#) on the "effectiveness of the broken windows policy in the securities enforcement context."

As Uyeda explained, "the broken windows hypothesis, as described in a seminal article published in *The Atlantic* by James Q. Wilson and George Kelling, posits that visible signs of disorder, when left unaddressed, create an environment that encourages more serious crime."

Uyeda then commented on a paper titled "[Broken Windows Securities Enforcement](#)" and stated:

"The empirical literature on this theory remains contested, but its migration into securities is not merely academic. The paper focuses on a period in the past when the Commission explicitly implemented a broken windows policy, about which concerns have been expressed. Whether the broken windows theory translates effectively in the securities enforcement context is an interesting question, particularly as this theory was implemented by prior Commission leadership.

This particular paper asserts that it "provides the first empirical evidence consistent with a broken windows securities enforcement policy reducing the incidence of severe financial misconduct." The paper does, however, recognize that such a policy may not be effective overall in a white-collar setting because enforcing minor violations could divert limited resources and attention away from pursuing the more serious violations.

I appreciate the efforts to use various metrics in empirical studies in this field. My reactions to the paper are based on nearly twenty years of service at the SEC, half of which has been spent on the executive staff. During that period, I have reviewed thousands of recommendations from the Division of Enforcement.

When it comes to "broken windows," Wilson and Kelling identify two separate, but related, fears. The first is the fear of being a victim of crime, especially crime involving a sudden, violent attack by a stranger. The second is the fear of being bothered by disorderly people. As Wilson and Kelling describe this group, they are "not violent people, nor, necessarily, criminals, but disreputable or obstreperous or unpredictable people."

Wilson and Kelling further describe a neighborhood as being made up of "regulars" and "strangers." Rules regulating order were defined and enforced in collaboration with the "regulars" on the street – and not necessarily by the rules established exclusively by law.

In other words, to achieve order, there was a set of regularly expected behaviors among participants in a neighborhood. In a certain sense, that regular expectation of rules and norms exists in the securities markets as well. Leaking material non-public information to a golfing buddy with the expectation that your friend can trade profitably on such information – definitely prohibited behavior. But requiring monitoring and retention of all texts on personal mobile devices by persons working for broker-dealers and

investment advisers? Is that a violation of the technical meaning of the laws and regulations? Perhaps. However, given the reaction to the SEC's sweep effort on off-channel communications, communicating on personal devices was not the type of behavior that was viewed as unambiguously impermissible.

When it comes to regulatory enforcement, one should also be considering the incentives and metrics designated by agency leadership for that program. If the metrics being stressed focus on the number of enforcement actions being brought and the amount of dollars collected in the form of disgorgement and civil penalties, then agency personnel will act in accordance with such instructions and incentives.

The SEC's rulebook has expanded dramatically in volume and complexity over the decades, which leaves significant ground for the Commission staff to exercise discretion in making and recommending enforcement decisions. Without limitations on the exercise of such discretion, there are many violations and novel legal interpretations that can be asserted as the basis for sanctions against virtually any asset class or market participant.

However, random acts of regulatory enforcement dressed up as broken windows enforcement are unlikely to succeed at achieving behavioral conformity with widely-accepted norms intended to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. Abusing our discretionary authority undermines the regulatory predictability that efficient markets require or chills market activity that may be socially valuable.

The author finds that sweep investigations opened during the broken windows era were 8-9% more likely to result in an enforcement action, which can be partially explained by strict liability violations that do not require proving negligence or scienter. The author also divides SEC enforcement actions based on the tenure of various SEC chairman. However, the paper does not appear to make adjustments to reflect that SEC enforcement investigations, particularly for complex accounting cases, can take years between initiation and the bringing of any actual action. Thus, the enforcement actions taken during the early tenure of any chairman often reflects investigations initiated under the prior chairman – and enforcement initiatives undertaken by one chairman may only come to fruition, if at all, during the tenure of his or her successor.

Nonetheless, I appreciate the efforts of researchers to study the actions of regulatory agencies. Their efforts play a role in holding the government accountable to the people."

Opinion **Lex**

While AI pumps up portfolios, some companies sound the alarm

The clout of Big Tech groups is obscuring the precarious state of others



Whirlpool says a 10% fall in the demand for kitchen appliances in March resembled the sentiment from the global financial crisis © AP

Published 52 MINUTES AGO



Private equity boss Marc Rowan likes to quip that America has levered its entire retirement system to the performance of Nvidia. With the chipmaker sporting a market capitalisation of more than \$5tn, the Apollo Global Management chief executive is not entirely wrong. What's more, Big Tech's heft is obscuring emerging weaknesses elsewhere.

According to a recent UBS analysis, [42 stocks](#) are driving the bulk of the S&P 500's returns; typically, around 100 do. The index is up 12 per cent since the end of March on the back of AI-fuelled tech blue-chips, which also include Alphabet, Microsoft, Apple, Meta Platforms and Broadcom. The equal-weighted version of the benchmark, which in effect turns down the volume on those giant stocks, is up half as much.

The more precarious state of some companies is borne out by a trio of quarterly earnings this week. Take burger chain Shake Shack, which said its like-for-like revenue — which it calls “same-Shack sales” — turned negative in April, as tourism in New York City and other big markets disappointed. An aggressive growth plan amid a softening top line spooked investors, and the shares dropped by almost a third.

Top heavy

Index performance, rebased



Source: LSEG

The same day, budget gym chain Planet Fitness shares plunged by a similar amount after it missed its growth targets, saying that lower-income consumers were facing “mounting pressures”. That’s easy to believe, amid sustained high interest rates, persistent inflation and petrol prices almost 45 per cent higher than a year ago owing to the Iran war.

Finally there was Whirlpool, the maker of dishwashers and refrigerators. It said a 10 per cent fall in the demand for kitchen appliances in March resembled the sentiment from the global financial crisis. This development was grave enough for the Michigan company to suspend its quarterly dividend. Whirlpool shares are down roughly 40 per cent this year.

The S&P will be untroubled: the three companies together are worth less than \$10bn, one-five-hundredth the size of Nvidia. Yet they suggest the appearance of not just a “K-shaped economy” with winners and losers, but two separate economies: AI and non-AI. Potential stock market debuts of AI giants SpaceX, Anthropic and OpenAI later this year would skew these benchmarks further.

A stock index weighted by value, as the S&P is, still makes more sense than an equal-weight index, or a price-weighted index like the Dow Jones Industrial Average. And while AI continues to outperform, who would want anything else? After all, the S&P’s top-heavy nature may be shielding investors from cracks in other areas. If expectations for AI moderate, though, investors will end up with the worst of both worlds.

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Trump sons back \$1bn vehicle targeting sectors championed by US president

Eric Trump and Donald Trump Jr invest in entity channelling money into companies in AI and drone industries



Eric Trump, left, and Don Jr own about 12% collectively of Dominari Holdings, which owns 90% of American Ventures, according to regulatory filings © Spencer Platt/Getty Images

George Steer in New York

Published YESTERDAY



Eric Trump and Donald Trump Jr have contributed to a \$1bn war chest assembled by a New York brokerage that has poured money into US companies in industries that are being championed by the White House.

Donald Trump's sons have invested in vehicles launched by a unit of Trump Tower-headquartered financial group Dominari Holdings called American Ventures, according to two people familiar with the matter.

Dominari told the FT that American Ventures' investment thesis "is to target and invest in US-based leaders in new technologies that create American jobs and reduce US dependence on foreign resources".

Palm Beach, Florida-based American Ventures has set up dozens of entities over the past 10 months to channel hundreds of millions of dollars from family offices and wealthy individuals into struggling small-cap stocks and private companies in sectors such as drone manufacturing, crypto and AI.

Donald Trump has during his second term as president pledged to make the US the "crypto capital" of the world, promoted the AI boom and signed an executive order to accelerate domestic drone production as he attempts to reshape the world's biggest economy.



American Ventures is based near the Trump National Golf Club Jupiter in Florida where the Trump sons' principal business office is located © Emanuel Tanjala/Alamy

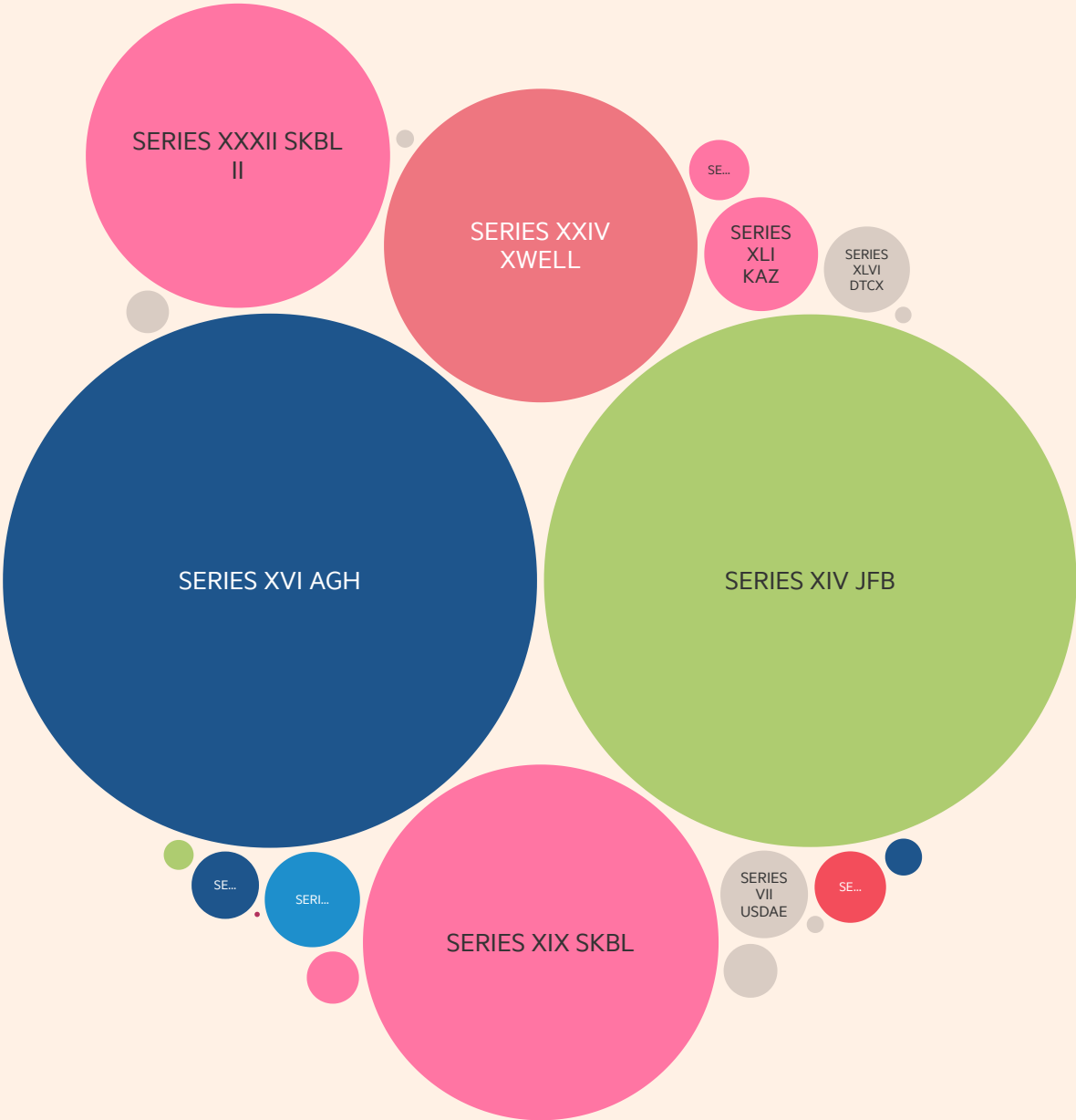
The brothers' involvement in American Ventures — which is based near the Trump National Golf Club Jupiter, the pair's principal business office — underscores the close ties the president's family has to businesses that stand to gain from the Trump administration's policy agenda.

“The future is in developing new technologies here [in the US],” one of the people familiar with Dominari’s thinking said. “We’re not trying to rebuild the steel industry. That’s fucking dead.”

American Ventures' \$1bn in private asset funds spans 21 special purpose vehicles

Name and \$ size of each SPV

Sector: ☐ Drone systems ☐ AI robotics ☐ Mining ☐ Healthcare ☐ Nuclear energy ☐ Cryptocurrencies ☐ Logistics ☐ Unknown



Eric Trump and Don Jr own about 12 per cent collectively of Dominari, which owns 90 per cent of American Ventures, according to regulatory filings. The two Trump sons have also contributed to most of American Ventures' vehicles, according to the two people familiar with the matter, although it is not known specifically how much they invested.

American Ventures managed a total of \$1.04bn in assets spread across 21 vehicles backing businesses ranging from a chain of Florida waxing salons to a Bermuda-based crypto lender and a nuclear energy start-up, filings with US securities regulators to early April show.

Donald Trump Jr's spokesperson said he is a "passive investor in American Ventures and has no operational involvement in the company".

He added: "He does not interface with the federal government on behalf of any company he invests in or advises."

A spokesperson for Eric Trump said he "is a passive investor in American Ventures and does not have any management, oversight or visibility in the day-to-day operations of the vehicle".

Dominari has orchestrated several deals between the private companies that received investments from American Ventures and publicly listed entities, often listed on Nasdaq.



President Donald Trump during his second term has signed an executive order to accelerate domestic drone production © Stephanie Amador/USA Today Network/Reuters

Often, the transactions are structured in such a way that the publicly listed entity is used as a shell company, shutting down its main business operations after its combination with the private group is completed.

The transactions allow the privately held groups to secure coveted Wall Street listing without the large investment banking fees and the lengthy regulatory review typically required for an IPO.

“When we make our first investment, we’re not thinking about drones et cetera . . . American Ventures pivots towards where the puck is going,” said one of the people familiar with American Ventures. “We have great vehicles that can go in any direction.”

Dominari said: “We collaborate with the public entity to clean up the ownership table and eliminate toxic debt or other similar issues that might impact shareholder value. We then fund the vehicle and initiate the process of identifying compelling private American companies to merge into the public entity.”

Since last June, American Ventures has invested in public companies including toy maker SRM Entertainment, Florida golf course operator Aureus Greenway and meme-coin group DogeHash Technologies.

The trio have agreed to merge with crypto billionaire Justin Sun's blockchain platform Tron, drone manufacturer Powerus and marketing group Thumzup Media, respectively. Thumzup later rebranded as a data centre company.

Sun is separately a major investor in Trump family-backed crypto venture World Liberty Financial. The two parties are engaged in a high-profile [dispute](#).

Eric Trump and Don Jr joined Dominari's advisory board in late 2024 after befriending chief executive Kyle Wool, who last year told the FT that the broker — whose name is Latin for “to dominate” — owed much of its success to “superior products in a superior structure created by me”.

American Ventures has since become one of the Trump brothers' key investment vehicles as the pair have aggressively expanded their business empires — focusing on crypto last year when digital asset prices were at record highs before pivoting to AI and defence — during their father's second term as US president.

“Eric Trump and Don Jr are anchor investors in most of [American Ventures'] deals. Then a lot of Republican types affiliated with them . . . throw in half a million or so dollars,” said an investor who worked closely with the broker-dealer on one of its recent merger agreements.

American Ventures was one of several major investors in a \$1.5bn deal, announced in February, between Nasdaq-listed JFB Construction and “AI-driven autonomous defence robotics” group XTend.



A close-up view of the XTend Scorpio 500 drone

XTend in April said it secured a \$1.7mn contract with the Israeli Ministry of Defence. Other investors in the JFB-Xtend deal include [Unusual Machines](#), a US drone manufacturer backed by Don Jr that last year won a contract from the Pentagon.

American Ventures in August invested in behind Skyline Builders, a construction group Dominari took public in the US in early 2025.

Skyline last week agreed to [merge](#) with Cove Kaz Capital, a US firm that in November secured access to a huge tungsten mine in Kazakhstan. The US Export-Import Bank and the US Development Finance Corporation, two federally funded agencies, have issued letters of interest for a combined \$1.6bn in project financing for the mine.

There is no suggestion that Don Jr and Eric Trump knew that Cove was on the cusp of securing a contract from their father's US administration when they made their initial investments in Skyline, or that they influenced the awarding of the contract.

Skyline, which is based in Hong Kong, was one of several Dominari-linked companies named in a [letter sent to the broker](#) in March by the House committee on China, requesting information about its role facilitating the IPOs of Chinese stocks implicated in suspected pump-and-dump schemes.

Skyline's shares plunged almost 90 per cent in a single trading session last July. The company did not respond to a request for comment. Dominari last month said it intends to co-operate with the House Committee.

Aureus Greenway's transformation from lossmaking Florida golf course operator to partner of drone maker Powerus provides a glimpse into how Dominari itself has transformed from a prolific underwriter of small-cap IPOs into an advisory and venture capital firm specialising in takeovers and private placements.

Dominari acted as lead underwriter for Aureus's IPO in February 2025. Aureus agreed to merge with Powerus in March 2026. In late April, Powerus said the US Air Force had placed a limited procurement order for its Guardian-2 Interceptor systems.

One investor who has backed at least three American Ventures vehicles, who asked to remain anonymous, described how he had been wooed by the values espoused by Dominari executives.

"I'm bullish on companies that defend western civilisation. That's important to them, too," the person said.

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Litigation

NY Appellate Court Allows Fox Corp. to Probe Impact of Criminal Case in \$2.7B Smartmatic Lawsuit

The Manhattan-based Appellate Division, First Department on Thursday ruled that the corporate parent of Fox News may conduct limited discovery into allegations raised by federal prosecutors against Smartmatic, solely to assess the potential impact of the criminal case on the voting technology company's business.

May 07, 2026 at 03:30 PM By  Emily Saul



Credit: rawpixel.com/Adobe Stock

A mid-level New York appellate court on Thursday ruled that Fox Corp., the corporate parent of Fox News, may investigate claims by federal prosecutors that Smartmatic USA Corp. illegally diverted contract funds as part of ongoing litigation in the voting technology company's pending \$2.7 billion defamation suit.

The ruling, from the Appellate Division, First Department, said the media company could conduct limited discovery into allegations in Smartmatic's criminal case, with the sole purpose of determining the impact of the criminal action on the company's business. Discovery is permitted regarding "the effect on Smartmatic's business" of the allegations, "but not regarding the truthfulness of the allegations therein," per the order.

Federal prosecutors in Florida last year alleged that proceeds from a deal with Los Angeles County were diverted into a "slush fund" controlled by Smartmatic's co-founder, Roger Pinate, that was

used for bribing foreign officials. Pinate, who no longer works at the company, has pleaded not guilty to allegations he bribed foreign officials.

Prosecutors brought a superseding indictment against the company itself in October, alleging violations of the Foreign Corrupt Practices Act and conspiracy to commit money laundering. Lawyers for the election tech company have argued Smartmatic is a target of vindictive prosecution.

Neither the company nor its executives have been accused of any fraud relating to election results or the technology itself, and Los Angeles County is not accused of any wrongdoing.

The voting technology company sued Fox Corp. and other defendants in 2021, saying Fox News broadcast false claims alleging Smartmatic helped rig the 2020 U.S. presidential election.

Fox Corp. previously asked a Manhattan judge to stay the defamation action pending the criminal matter and reopen discovery in the civil case. Manhattan Supreme Court Justice Joel Cohen denied the request.

The First Department on Thursday said that the Note of Issue should be vacated, given that the indictment of Smartmatic could not be predicted.

“The filing of the superseding indictment, which added Smartmatic as a defendant, was both an unusual and unanticipated circumstance, and defendants would be substantially prejudiced by the disallowance of discovery with respect to the impact of the superseding indictment,” the panel wrote.

The panel agreed the lower court had properly denied Fox's request to stay the case.

The appellate court previously ruled that information regarding the impact of the criminal case on Smartmatic was “plainly relevant” to the company’s current and lost future profits.

Smartmatic is represented in the action by Benesch, Friedlander, Coplan & Aronoff.

Fox Corp. is represented by Kirkland & Ellis.

Fox News Media lauded the decision in an emailed statement.

“We are pleased with the court’s decision to grant our request to conduct discovery into the impact on Smartmatic’s business of its indictment and allegations in the criminal case involving Smartmatic’s business activities in Los Angeles County,” a spokesperson wrote.

Smartmatic also celebrated the decision as a rebuke of Fox's "latest attempt" to delay a trial.

"For years, courts have repeatedly rejected Fox's efforts to avoid accountability," a spokesperson said via email. "The facts have not changed: Fox knowingly spread false claims about Smartmatic, causing severe harm to the company and undermining public trust in elections, and has never apologized. We look forward to continuing toward trial and presenting the truth before a jury."

Page printed from: <https://www.law.com/newyorklawjournal/2026/05/07/ny-appellate-court-allows-fox-corp-to-probe-impact-of-criminal-case-in-27b-smartmatic-lawsuit/print/>

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Firm Sanctioned For Misleading Merchants In Swipe-Fee Case

By **Hailey Konnath**

Law360 (May 7, 2026, 10:17 PM EDT) -- A New York federal judge on Thursday sanctioned personal injury firm Betz & Baril PLC and its referral partner ClickFunds for misleading would-be class members in long-running antitrust litigation against Visa and Mastercard, ordering the firm and ClickFunds to notify clients about the misinformation.

U.S. District Judge Brian M. Cogan adopted a magistrate judge's report and recommendation in full, rejecting the firm's argument that the report was clearly erroneous. Rather, the recommended sanction "is a prototypical curative order necessary to protect the class members that also happen to be Bertz & Baril clients," the judge said.

The merchants reached a **\$6 billion settlement** with Visa and Mastercard in 2018.

Specifically, Betz & Baril must notify all of its affected clients about the misinformation regarding the settlement and estimated recoveries, as well as offer the clients the opportunity to cancel their contracts, the judge said.

"Moreover, should any class members cancel their contracts with Betz & Baril, the claims-filing period will be reopened for those class members, and they will be allowed to re-file their claims with the court-appointed claims administrator," Judge Cogan said. "Lastly, the associated fees and costs will be shifted to respondents."

The merchant plaintiffs are in a long-running dispute with Visa, Mastercard and several banks over rules set by the credit card companies that they say reduced choice and forced merchants to accept higher-fee cards without the ability to refuse them or direct customers to cheaper ones.

In their February sanctions motion, the merchants argued that Betz & Baril and ClickFunds had **repeatedly misled** would-be class members about the case's settlement and the amount of recovery they might receive, and it's not the first time the respondents have engaged in such misconduct. There have been issues since 2019, the merchants said.

According to the motion, a class member reported to class counsel in November that he was given false information by Betz & Baril and ClickFunds "regarding when he would receive payment [from the settlement] and the payment amount, a figure that at this time is not available to anyone, and was given incorrect information regarding his transactions."

Discovery eventually revealed that Betz & Baril knew class members were receiving false and misleading information from ClickFunds and that the firm continued to work with the referral partner even after representing that it had ceased the partnership, the merchants said.

Betz & Baril and ClickFunds **pushed back later that month**, arguing that the merchants were seeking "drastic relief" without showing that any class member was harmed by allegedly misleading information the firm gave them. They said the sanctions bid is based on "conjecture about 'confusion' and 'misleading' communications, but it does not identify any actual monetary loss, forfeited claim, missed deadline, or other concrete prejudice suffered by the class."

In Thursday's order, Judge Cogan pointed to the earlier issues, saying it was "not the first time that the court's involvement was needed to police the conduct of an entity connected to Jason Baril, an

attorney and partner/principal of Betz & Baril."

"This time, however, the alleged misinformation propounded by Betz & Baril was not designed to garner clients for Betz & Baril," the judge said. "Rather, it appeared that Betz & Baril was incorrectly telling class members that sales volume data from transactions involving Square Inc. (now known as Block Inc.) could not be considered as part of their claims."

Betz & Baril and ClickFunds have recognized that "for at least one class member, this meant a difference of \$2.3 million in sales volume previously omitted from its claim," the opinion said.

While the plaintiffs had requested punitive sanctions preventing Betz & Baril and ClickFunds from receiving "any portion of any class member's settlement benefits," Judge Cogan agreed with U.S. Magistrate Judge Joseph A. Marutollo that remedial sanctions were more appropriate.

He added that the argument against adopting the report "is a repackaging of arguments previously raised in opposition to class counsel's motion for sanctions." The firm and ClickFunds' other arguments cite the All Writs Act and the due process clause of the Fifth Amendment, neither of which are specifically aimed at any of the report and recommendations findings, he said. Thus, their objections are repetitive, conclusory or general objections, he said.

"The kind of sanctions issued here have previously been issued to other nonparties under practically identical circumstances," Judge Cogan said. "It thus strains credulity for respondents to now argue that Judge Marutollo's recommendation 'cannot be located within the range of permissible decisions.'"

According to the plaintiffs, the issues with Betz & Baril began after a federal magistrate judge ordered the firm to remove allegedly false and misleading class member recruitment marketing language from its website. At the time, class counsel argued that Betz & Baril had set up a website and social media presence under the banner of "Business Refunds of America" to attract would-be class members and that the website falsely implied Betz & Baril was involved in the case.

After that 2019 incident, the merchants said the issues seemed to end. But in 2024, class counsel was alerted to five separate incidents relating to agents or referral partners of Betz & Baril who were allegedly soliciting merchant class members, with them claiming to know how much settlement recovery they could expect to receive, among other things.

More specifically, the court was alerted to videos by ClickFunds that included misleading statements about the number of settlement claims filed, expected payouts and the claim-filing process, the plaintiffs said.

Class members have also filed complaints with class counsel, saying Betz & Baril falsely represented that it would take 40% of any recovery and that this figure was "regulated by the federal court."

Counsel for the parties didn't immediately respond to requests for comment late Thursday.

The class is represented by Alexandra S. Bernay of Robbins Geller Rudman & Dowd LLP, Patrick J. Coughlin of Scott + Scott Attorneys at Law LLP, K. Craig Wildfang and Thomas J. Undlin of Robins Kaplan LLP, and H. Laddie Montague Jr., Merrill G. Davidoff and Michael J. Kane of Berger Montague PC.

Betz & Baril and ClickFunds are represented by James J. DeCristofaro of DeCristofaro Law.

The case is In re: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, case number 1:05-md-01720, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Katryna Perera and Byran Koenig. Editing by Nick Siwek.



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4th Circ. Questions Class Cert. Ruling In Boeing Investor Case

By **Jessica Corso**

Law360 (May 7, 2026, 8:26 PM EDT) -- The Fourth Circuit indicated on Thursday it may send an investor lawsuit against Boeing back to a lower court for a second look at class certification, with one judge saying the district court "told us nothing" about what liability theory was being relied on to certify the class.

Boeing is attempting to unwind a class action accusing the company of hiding ongoing safety issues with its 737 Max fleet from investors by reassuring them it was taking safety seriously in the wake of two deadly crashes in 2018 and 2019.

Jeffrey Wall of Gibson Dunn & Crutcher LLP, representing Boeing, told a three-judge panel of the Fourth Circuit on Thursday that the class was certified even though investors were not able to meet the requirements of the Supreme Court's 2013 ruling in [Comcast Corp. v. Behrend](#) because they didn't provide a methodology for calculating classwide damages.

Wall also said the theory that investors relied on to calculate damages was not the same one they depended on throughout the rest of the case.

But Circuit Judge Julius Richardson said he wasn't even sure which liability theory U.S. District Judge Leonie M. Brinkema relied on **when certifying the class** last year.

"The district court told us nothing, right?" Judge Richardson said in a back-and-forth with Wall. "Maybe you have the best reading of the briefing, but without some guidance from the district court, it seems really hard for me to know that that's true."

He wasn't the only judge on Thursday's panel who seemed perplexed by the lower court's ruling.

"The district court said zip about what she thought their theory was, and so we don't have a theory of liability to compare to the damages model," Circuit Judge Allison Jones Rushing said at one point.

And Circuit Judge A. Marvin Quattlebaum asked Deepak Gupta of Gupta Wessler LLP, representing the investors, which liability theory investors relied on at class certification.

"It is impossible for me to understand what the plaintiffs' actual liability theory is, perhaps until you get to the briefs in this case," Judge Quattlebaum said.

Gupta said the plaintiffs' theory is that Boeing's misstatements about taking safety seriously kept the stock price artificially inflated until news that the door plug blew off one of its jets in 2024 caused the price to plunge.

"I think we were clear in the complaint ... that that was the theory," he said.

Wall said the original theory of liability put forth by the plaintiffs was not that inflation was constant throughout the class period, but that repeated statements about quality and safety at the company became more material to investors over time.

He said they shouldn't "get a do-over" after doing a "bait and switch" on their liability theory. He also said that if the case is sent back for a recertification hearing, it will run into the same Comcast ruling

problems and probably end up before the Fourth Circuit yet again.

"Then you're just right back here, and we'll have that discussion again," Judge Richardson told Wall. "You apparently understand how to appeal these issues."

The plaintiffs allege Boeing committed securities fraud by misleading investors about purported strides in the safety of its 737 Max fleet in the wake of a deferred prosecution agreement over the two deadly crashes, only to have the stock price tumble when a 737 Max door plug blew out midair during an Alaska Airlines flight from Oregon to California in January 2024 and safety problems came to light as a result.

The Fourth Circuit's decision in the case could **determine a path forward** for companies looking to defeat class certification by relying on Comcast, which requires lower courts to consider whether a class' proposed damages model demonstrates classwide reliance.

Wall told the judges that upholding Boeing investors' class damages model would render Comcast "effectively meaningless," while Gupta said a ruling against the investors threatens a split with the Second Circuit.

The investors are represented by Deepak Gupta and Gregory Beck of Gupta Wessler LLP, Carol Villegas, Christine Fox and Jake Bissell-Linsk of Labaton Keller Sucharow LLP, and Douglas Wilens, Andrew Love, Steven Hubachek and Mark Conover of Robbins Geller Rudman & Dowd LLP.

Boeing is represented by Jeffrey Wall of Gibson Dunn & Crutcher LLP and Benjamin Hatch of McGuireWoods LLP.

The case is In re: The Boeing Company Securities Litigation, case number 25-1492, in the U.S. Court of Appeals for the Fourth Circuit.

--Additional reporting by Linda Chiem and Jared Foretek. Editing by Emily Kokoll.

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9th Circ. Backs Lead Choice In Super Micro Investor Fraud Suit

By **Rachel Riley**

Law360 (May 7, 2026, 8:29 PM EDT) -- A Ninth Circuit panel has refused to undo a California federal court order rejecting Crain Walnut Shelling's bid to lead a securities class action against Super Micro Computers Inc., concluding Thursday the lower court properly determined other investors had shown the nut processor wasn't fit to spearhead the case.

The three-judge panel for the Ninth Circuit denied Crain Walnut Shelling LP's **petition** for a writ of mandamus to vacate the decision, finding the district court followed the process for picking lead plaintiffs under the Private Securities Litigation Reform Act.

Pursuant to that process, the district court first identified Crain Walnut as having the largest financial interest of the investors, then considered challenges that other investors raised regarding the firm's fitness to serve as the lead plaintiff, the panel explained in Thursday's **published opinion**.

While the lower court applied the wrong analysis in its initial decision finding the nut processor was not qualified to lead the class, it later relied on the correct standard when denying the company's subsequent bid for reconsideration, U.S. Circuit Judge N. Randy Smith wrote for the panel.

"Preponderance of the evidence is the correct standard for rebutting the presumption of adequacy afforded to a presumptive lead plaintiff under the PSLRA," Smith wrote. "The district court applied that standard in its reconsideration order and did not clearly err in determining that Crain Walnut's presumption of adequacy had been rebutted based on the available evidence."

In the underlying consolidated securities litigation, investors **claim** Super Micro's shares plummeted 20% in the wake of a short-seller report accusing the tech company of violating a settlement with the U.S. Securities and Exchange Commission over accounting improprieties.

Represented by Hagens Berman Sobol Shapiro LLP, the California nut company had sought to lead the class action, claiming Super Micro's alleged misconduct cost it more than \$49 million — the most in losses claimed by any of the investors.

U.S. District Judge Edward J. Davila **denied** Crain Walnut's bid for appointment as the lead plaintiff in June and stood by that decision in the August decision on the company's motion for reconsideration.

Judge Davila reasoned that another investor vying to lead the case, Universal-Investment-Gesellschaft mbH, had pointed to inaccuracies in court filings and problematic testimony that cast doubt on Crain Walnut's credibility. The judge ultimately appointed Universal to lead the class action.

The Ninth Circuit panel said Thursday that the district court "relied on two discrete areas of evidence that directly implicated Crain Walnut's adequacy." The company made inaccurate statements in court documents about its ownership structure and later failed to correct them after Universal flagged the discrepancies, the opinion says.

"While such misrepresentations may be immaterial to the underlying claims of securities fraud, the representations nonetheless constitute evidence of inadequacy because they demonstrate a lack of credibility and ability to work with the court," the opinion states.

A Crain Walnut representative also said during a deposition that he would not produce personal

financial records if required by the court, according to the opinion.

Counsel for the nut company has contended that the representative misunderstood the question and that the district court judge misconstrued his answer when reading the deposition transcript.

But the federal appellate panel concluded that those arguments "effectively amount to a disagreement with the district court's factual conclusions, which falls short of establishing that the district court made the 'clear error' required for a writ of mandamus to be granted."

Counsel for Crain Walnut and Universal did not immediately respond to requests for comment on Thursday. Counsel for Super Micro declined to comment.

U.S. Circuit Judges N. Randy Smith, Jacqueline H. Nguyen and Gabriel P. Sanchez sat on the panel for the Ninth Circuit.

Crain Walnut is represented by David J. Zimmer of Zimmer Citron & Clarke LLP, Lucas E. Gilmore, Reed R. Kathrein and Steve Berman of Hagens Berman Sobol Shapiro LLP.

Universal is represented by John Rizio-Hamilton, Avi Josefson, Scott R. Foglietta, Preethi Krishnamurthy, Gerald H. Silk and Jonathan D. Uslaner of Bernstein Litowitz Berger & Grossmann LLP.

Super Micro is represented by Boris Feldman, Carl P. Hudson, Elena Hadjimichael, and Doru Gavril of Freshfields US LLP.

The case is Crain Walnut Shelling LP v. U.S. District Court for the Northern District of California, case number 25-5435, in the U.S. Court of Appeals for the Ninth Circuit. The underlying case is Joseph Averza et al. v. Super Micro Computer Inc. et al., case number 5:24-cv-06147, in the U.S. District Court for the Northern District of California.

--Additional reporting by Dorothy Atkins and Lauren Berg. Editing by Amy French.

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Chip Co. Must Face Suit Over Apple Biz Loss, Judge Says

By **Sydney Price**

Law360 (May 7, 2026, 7:21 PM EDT) -- Semiconductor manufacturer Skyworks must face a proposed shareholder class action accusing it of downplaying the financial impact of its diminished business relationship with Apple, with the court finding the investors plausibly show the company concealed relevant information before revealing last year it would pull back its revenue expectations.

In his Wednesday order, U.S. District Judge David O. Carter determined that the plaintiffs have alleged the essential elements of securities fraud, including scienter. Even though Skyworks Solutions Inc. argues in its motion to dismiss the suit that the investors have not shown a financial motive for fraud, Judge Carter said the complaint "otherwise asserts compelling and particularized facts showing fraudulent intent of deliberate recklessness."

"Plaintiffs have alleged particularized facts regarding defendants' conduct, including the timing and content of public statements and defendants' access to internal information," the order stated. "Plaintiffs' allegations, when considered collectively, support an inference of scienter that is at least as compelling as any opposing inference."

In the consolidated complaint filed in July 2025, the investors claim Skyworks did not adequately warn them that Apple Inc. would decrease the supply of chips it bought from Skyworks for the iPhone 16 and iPhone 17.

According to the complaint, Skyworks saw trading prices for its shares fall over 24% from about \$87 to below \$66 in February 2025 after the company lowered its revenue expectations for its upcoming fiscal quarter. At the time, the company announced its content position in the release of the iPhone 17 was expected to drop 20% to 25%, according to the suit.

Former Skyworks CEO Liam Griffin announced his resignation the same day as the revenue disclosure, and former Chief Financial Officer Kris Sennesael left the company the next quarter, according to the suit.

Judge Carter said the departures support an inference of scienter "when considered holistically" with comments made by the former executives regarding Skyworks' relationship with Apple, as well as current CEO Philip Brace's statements that the company had not been "performing that well" the past three years.

"The context and timing of the defendants' statements, in conjunction with the timing of their departure, and the new CEO's statements supports an inference of scienter that is cogent and at least as compelling as any opposing inference," the order stated.

The order also said the testimonies by former employees, who were both involved in Skyworks' manufacturing process, support the scienter allegations. They claim, among other things, that the defendants knew by at least March 2023 that Apple would no longer use Skyworks as its sole supplier for certain chip components for the iPhone.

"Defendants argue that [the former employees] should be deemed uncredible by the court because they left Skyworks prior to the release of the iPhones," the order stated. "However, this does not mean that either former employee is not knowledgeable about the procurement process that would have been in place with Apple prior to the release of the phones."

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

The investors are represented by Jonathan D. Uslaner, Abygail Kritta, John Rizio-Hamilton and Robert Kravetz of Bernstein Litowitz Berger & Grossmann LLP.

Skyworks and the individual defendants are represented by Sara Beth Brody, Jaime A Bartlett and Madison J. Ferraro of Sidley Austin LLP.

The case is Nunez v. Skyworks Solutions Inc et al., case number 8:25-cv-00411, in the U.S. District Court for the Central District of California.

--Editing by Kristen Becker.

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Estée Lauder Investors Reach \$210M Deal Over Share Inflation

By Lauren Berg

Law360 (May 7, 2026, 9:47 PM EDT) -- Estée Lauder investors on Thursday asked a New York federal judge to greenlight a \$210 million settlement resolving their proposed class claims that the cosmetics company and its top brass announced unrealistic expectations for growth amid the ongoing effect of the COVID-19 pandemic on its business.



Estée Lauder has agreed to a deal with investors to settle claims that the company announced overly rosy predictions between August 2022 and May 2023. (AP Photo/Pat Wellenbach, File)

In a **motion** for preliminary approval, the lead plaintiffs — Macomb County Employees' Retirement System, Macomb County Retiree Health Care Fund and Wayne County Employees' Retirement System — told the court that the proposed settlement provides "significant and certain benefits" to investors "in light of 'the costs, risks and delay of trial and appeal.'"

"Although lead plaintiffs and lead counsel believe the claims to be strong, they acknowledge that defendants could advance several substantial arguments that would have reduced, or altogether eliminated, any recovery for Estée Lauder investors," the motion said, adding that "it is well known that 'securities class actions present hurdles to proving liability that are particularly difficult for plaintiffs to meet.'"

The investors **filed the suit** in 2023, claiming shares of Estée Lauder Companies Inc. were artificially

inflated between August 2022, when the company announced sales growth for its most recent fiscal year and predicted more growth for the coming year, and May 2023, when the company was forced to concede that its initial sales projections were overly rosy.

The suit further alleges that Estée Lauder, CEO Fabrizio Freda and Chief Financial Officer Tracey T. Travis covered up the company's reliance on prohibited "gray market" or "daigou" sales of its products in China. When China eventually cracked down on the illicit activity, Estée Lauder sales and stock prices cratered, the investors claim.

After the three Michigan-based retirement funds were appointed lead plaintiffs in the consolidated litigation, the defendants moved to dismiss the case.

But U.S. District Judge Arun Subramanian in April 2025 found that the investors **adequately alleged** Estée Lauder made several misleading omissions and statements, as well as opinions "mired in half-truths."

With discovery ongoing, the parties began trying to negotiate a resolution, and with the help of a mediator, last month they reached an agreement in principle to resolve all claims classwide for \$210 million.

According to Thursday's motion, the proposed settlement provides significant relief to the investors, as they would have faced hurdles at the summary judgment and trial phases of the case related to proving falsity and scienter, or knowledge of wrongdoing. They would also have still needed to secure class certification.

What's more, "the \$210 million recovery is within the top 100 securities class actions of all time," the investors said, "... twelve times greater than the median reported recovery in securities class actions in 2025, which was \$17.3 million."

While the settlement doesn't contemplate any specific award of attorney fees and litigation costs, lead counsel said it will not seek more than \$875,000 in expenses and 32% of the settlement amount, or about \$67 million.

Representatives for the parties did not immediately return requests for comment Thursday evening.

The investors are represented by Michael P. Canty, James T. Christie and Jacqueline R. Meyers of Labaton Keller Sucharow LLP and Thomas C. Michaud of VanOverbeke Michaud & Timmony PC.

Estée Lauder is represented by Monica K. Loseman, Barry H. Berke, Mary Beth Maloney, Laura K. O'Boyle, David M. Kusnetz and Megan R. Murphy of Gibson Dunn & Crutcher LLP.

The case is In re: The Estee Lauder Co. Inc. Securities Litigation, case number 1:23-cv-10669, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Emilie Ruscoe and Katryna Perera. Editing by Brian Baresch.



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Monolithic Must Face Most Nvidia-Linked Investor Claims

By **Katryna Perera**

Law360 (May 7, 2026, 9:07 PM EDT) -- A Washington federal judge has largely denied Monolithic Power Systems Inc.'s bid to dismiss an investor suit accusing it of hiding critical defects in power modules used by its largest customer, Nvidia Corp., rejecting the company's argument that the suit's claims amount to "fraud-by-hindsight."

U.S. District Judge James L. Robart issued an **order** on Wednesday stating that most of the suit's challenged statements regarding Monolithic's relationship with Nvidia are actionable and adequately pled.

According to the order, at the start of the class period in February 2024, Monolithic's CEO, Michael Hsing, assured investors during an earnings call that the company had resolved a "quality issue" with components it supplied to Nvidia.

However, lead plaintiff Mirko Dardi alleges Hsing's statements were false and misleading because the company knew at the time of unresolved performance issues and that these issues had affected Monolithic's relationship with Nvidia.

On Wednesday, Judge Robart said Hsing's statements are actionable because they contain an "embedded, objectively verifiable fact." Whether Monolithic had resolved the performance issues can be proven true or false, the judge said.

The idea of objective verification can also apply to a May 2024 statement by Monolithic Chief Financial Officer Bernie Blegen, who the plaintiffs say falsely represented that the company was "at the front of the design cycle" and poised to be a market leader with the next generation of products, according to the order.

Viewing the allegations in the plaintiffs' favor, the judge said it is reasonable to infer that Blegen knew his statement was false when he made it.

"Mr. Dardi specifically alleges that the May 1, 2024 statement is misleading because, contrary to Mr. Blegen's claims, Monolithic's products were not being integrated into Nvidia's Blackwell architecture and the executive defendants knew of this development at least a 'couple of quarters' before Mr. Blegen made the statement," the order states.

Judge Robart also found that Dardi plausibly pled that the individual defendants acted with scienter based on their stock sales during the proposed class period.

"The executive defendants sold a substantial amount of stock," the order states. "The executive defendants do not contest, that most of [their] trades during the proposed class period were not made in connection with a tax obligation [or that] the volume of trades ... greatly exceeded the volume of trades in the two years preceding the proposed class period, when executive defendants' rarely, if ever, sold shares except to cover tax liabilities attendant to their acquisition of more stock."

The suit also plausibly alleges a financial motive for the individual defendants to commit securities fraud, the judge said, as the executives "stood to gain a substantial profit by engaging in deceptive behavior and sold personal shares before Monolithic disclosed negative information."

Despite allowing these and other claims to proceed, Judge Robart on Wednesday dismissed as corporate optimism remarks made by Hsing during an October 2024 earnings call.

"The court agrees with defendants that Mr. Hsing's statements referring to Monolithic's products as the 'best' constitutes corporate puffery and therefore are not actionable," the order states.

Hsing's remarks are subjective and therefore not capable of objective verification, and they are protected opinions, the judge added.

"[The investors fail] to allege that Mr. Hsing did not actually hold the stated beliefs; the statement does not contain an embedded statement of untrue fact; and the opinion was not misleading by omission," the order states. "Thus, the court concludes that Mr. Hsing's ... statements referring to Monolithic's products as the 'best solution' and using other similar language are not actionable."

The suit, most recently amended in November, alleges Monolithic falsely assured investors that it had resolved a "quality issue" with components it supplied to Nvidia. However, several months later, in October 2024, the company revealed that customer orders had fallen materially below recent historical trends and would limit segment revenue growth in the upcoming quarter to the low single digits.

Analysts reported the same day that Monolithic's "lackluster" sales were due to shipment delays at Nvidia, according to the complaint.

When this news came to light, shares of Monolithic fell \$160 each, or about 17%, to close at \$759.30 on Oct. 31, 2024, the suit states.

The following month, financial research firm Edgewater Research reported that Nvidia had canceled half of its outstanding Monolithic orders, and engineers had "lost confidence" in Monolithic's products and turned to the company's competitors as primary suppliers. The report said some of Monolithic's competitors had received rush orders from Nvidia in recent weeks, according to the complaint, and Monolithic's stock price fell again, this time by 30%.

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

Dardi and the proposed class are represented by Kim D. Stephens and Rebecca L. Solomon of Tousley Brain Stephens PLLC and Jeffrey C. Block, Jacob A. Walker, Brendan T. Jarboe and Zoe van Vlaanderen of Block & Leviton LLP.

Monolithic and the individual defendants are represented by Stephen C. Willey of Fennemore Craig PC and Geoffrey J. Ritts and Marjorie P. Duffy of Jones Day.

The case is Waterford Township General Employees Retirement System v. Monolithic Power Systems Inc et al., case number 2:25-cv-00220, in the U.S. District Court for the Western District of Washington.

--Editing by Michael Watanabe.



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Rakoff Expands On Coinbase Securities Suit Dismissal Ruling

By **Katryna Perera**

Law360 (May 7, 2026, 9:13 PM EDT) -- U.S. District Judge Jed Rakoff on Thursday explained his ruling last month dismissing securities fraud claims against cryptocurrency exchange Coinbase, brought by investors in a digital asset associated with the now-failed Terraform blockchain ecosystem, stating in a new opinion that the suit fails to plead falsity, among other things.

Last month, Judge Rakoff of the Southern District of New York issued a "bottom-line" order **dismissing** the investors' securities fraud claims and sending the remaining claims in the suit to arbitration. At the time, the judge did not disclose his reasoning, though he noted that he would issue an opinion explaining the decision "in due course."

That explanation came on Thursday in a newly issued **order and opinion** in which the judge stated that the suit's securities claims fail to meet the heightened pleading requirements of the Private Securities Litigation Reform Act.

The plaintiffs are purchasers of the Wrapped Luna token, also known as WLUNA, a token on the Ethereum blockchain that was designed to track the LUNA cryptocurrency on the Terra blockchain. Both LUNA and WLUNA were created and controlled by blockchain company Terraform Labs, the suit states.

Investors of WLUNA alleged in the suit that the defendants falsely represented that WLUNA was tied or pegged, one-to-one, to LUNA and that a later suspension of WLUNA would be temporary. The suit also claimed investors were provided with inaccurate account statements, according to the opinion.

However, on Thursday, Judge Rakoff noted that there are no facts in the suit establishing a guarantee made to investors that WLUNA would always be tied to LUNA or track its price.

Additionally, the judge said no reasonable investor would have believed that the suspension of WLUNA trading "signaled a temporary pause."

"As the second amended complaint itself acknowledges, Coinbase Cloud announced on May 20, 2022 that it would 'no longer support the Terra Ecosystem' and 'would not be participating in any future token offerings' by Terraform," the opinion states. "A reasonable investor confronted with Coinbase's disavowal of the entire Terra ecosystem could not plausibly have interpreted a separate announcement ... as promising a resumption of WLUNA trading."

Finally, on the plaintiffs' allegations of inaccurate account statements, Judge Rakoff said the theory is "self-defeating" because the alleged inaccuracy is so patent on the face of the statement that any reasonable investor would immediately recognize it as an error.

Turning to the suit's scienter claims, which were also dismissed, Judge Rakoff said the plaintiffs' motive theory — that Coinbase had a financial stake in bolstering LUNA's price — is not particular enough to allege knowledge of wrongdoing, as a "desire to profit" is shared by "virtually every corporate actor."

The judge further stated that even if the plaintiffs had stated any actionable claims, they would be time-barred because they filed suit three years after discovering the facts giving rise to their allegations, which is one year beyond the statute of limitations.

Finally, regarding the claims sent to the arbitration, Judge Rakoff said the relevant arbitration clause in Coinbase's user agreement is clear that all non-securities claims must be arbitrated.

April's bottom-line order dismissing the securities claims and sending the remainder of the suit to arbitration came after Judge Rakoff told the plaintiffs in March that they could amend an earlier version of their suit to cure deficiencies, though he noted at the time the non-securities claim "would, on the current record, likely be referred for arbitration."

The claims to be arbitrated include those brought under the federal RICO statute, breach of contract and breach of fiduciary duty, as well as fraud and unjust enrichment.

The suit, initially filed in May 2025, **alleged** that Coinbase unfairly withheld certain tokens from investors following Terraform's **collapse**.

After the collapse, the investors said, Terraform executed a so-called fork, altering its blockchain protocol. It issued a new token, also called Luna, and distributed it to those who held the old Luna tokens, but not to WLUNA holders, the suit said.

The investors alleged that Coinbase received a distribution of the new forked Luna coins but "chose not to participate" in distributing the "new Luna" tokens to WLUNA holders, instead absorbing those assets itself.

According to the investors, the exchange's decision "unfairly benefited Coinbase at the direct expense of retail investors, who were deprived of millions of dollars of potential gains."

Terra has since filed for **bankruptcy** and, in September 2024, said it would wind down.

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

The plaintiffs are represented by Mario Tafur of Bulldog Law PC and Philip R. Berwisch of Berwisch Law.

Coinbase and the other defendants are represented by Randall Scott Luskey, Paul D. Brachman, Kristina A. Bunting and Michael J. Pisem of Paul Weiss Rifkind Wharton & Garrison LLP.

The case is Heabeart et al. v. Coinbase Inc. et al., case number 1:25-cv-09197, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Emilie Ruscoe. Editing by Vaqas Asghar.



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Financial Cos. Say Atty Can't Represent Self In Securities Suit

By **George Woolston**

Law360 (May 7, 2026, 3:13 PM EDT) -- A group of financial services companies fighting an attorney's proposed securities class action has urged a New Jersey federal court to disqualify the attorney from serving as class counsel, arguing that precedent and ethical obligations prevent him from serving as both class counsel and the proposed class's named representative.

Acadia Wealth Management LLC, its owners Aaron P. Sevigny and Tennille Sevigny, United Planners' Financial Services of America and others filed a **motion** Wednesday to disqualify Matthew Kalman from serving as counsel for his proposed class action against them.

The financial services firms said "there is a clear conflict of interest" barring Kalman from representing the class, pointing to the 1976 Third Circuit decision in [Kramer v. Scientific Control Corp.](#), which barred such a dynamic when a class action seeks monetary damages and a fund could be created to pay for legal fees.

"The Kramer decision controls the present disqualification issue and clearly says that an attorney, whether directly or via his law firm or employee, may not serve as both class counsel and lead representative in the same case," the defendants' brief said, adding that the Kramer decision further held that the prohibition applies even if the attorney agrees not to take attorney fees.

The defendants further argued that New Jersey's ethics rules also bar Kalman from serving as both class counsel and its named representative. Under the state's Rules of Professional Conduct 1.7(a) (2), the defendants said, an attorney's continued representation of a client creates a conflict of interest if there is a significant risk that the personal interests of the lawyer will limit the lawyer's representation of one or more clients.

"The financial interest of Mr. Kalman may have an adverse effect on his representation of the putative class, and it is this potential risk that the Kramer decision correctly identifies to be sufficient to merit disqualification," the defendants said.

Kalman, a licensed attorney in New Jersey and Pennsylvania, filed his proposed class action against Acadia, the Sevignys, United Planners' Financial Services of America, Tenaron LLC — a holding company controlled by the Sevignys — and the estate of Tennille Sevigny's father in January.

Kalman alleges that the defendants engaged in a systematic scheme to solicit investments from retirees and conservative clients, recommending and selling high-risk alternative investments driven by high commissions and undisclosed conflicts of interest.

He claims that the Sevignys and Acadia held themselves out to be trusted fiduciaries but routinely directed their clients into speculative investments that led to "catastrophic losses, tax liabilities, penalties, and illiquidity."

United Planners' Financial Services of America, which was the Sevignys' supervised FINRA-member broker-dealer, failed to adequately supervise Aaron Sevigny despite several red flags, Kalman alleged. And Aaron Sevigny's father-in-law, the late Leo J. Hertzog Jr., convinced Kalman to use Sevigny's services despite the risks involved, the suit said.

Kalman claims that he entrusted his retirement savings with Acadia in 2015 after Hertzog's

recommendation, and the investments made have resulted in "substantial losses, far below prudent benchmarks, due to high fees, illiquidity, outright fraud, and unforeseen tax liabilities."

The proposed class action alleges racketeering and Exchange Act violations, violations of the New Jersey Consumer Fraud Act, common law fraud and breach of fiduciary duty, among other causes of action.

He is seeking to represent all persons who invested funds with or through the defendants in unsuitable alternative investments from Jan. 1, 2013, to the present. Kalman is also seeking \$2 million in unliquidated damages and \$5 million in the aggregate, as well as treble damages under the Racketeer Influenced and Corrupt Organizations Act and the New Jersey Consumer Fraud Act, punitive damages and counsel fees.

Counsel for the estate of Hertzog declined to comment Thursday. Counsel for the other defendants and Kalman did not immediately respond to requests for comment.

Kalman is representing himself.

Acadia, the Seignys, Tenaron and United Planners' Financial Services are represented by Samuel E. Cohen of Marshall Dennehey Warner Coleman & Goggin.

The case is Kalman v. Seigny et al., case number 1:26-cv-00619, in the U.S. District Court for the District of New Jersey.

--Editing by Rich Mills.

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J&J Feared FDA's 'Disturbing Proposal' To Test Talc, Jury Told

By **Craig Clough**

Law360 (May 7, 2026, 9:30 PM EDT) -- A former U.S. Food and Drug Administration commissioner testifying Thursday in a Los Angeles bellwether trial over claims Johnson & Johnson's talc products caused three women's deadly ovarian cancer described an internal document showing J&J feared the FDA's "disturbing proposal" to test the talc instead of relying on industry self-testing.

Dr. David A. Kessler, who was FDA commissioner from 1990 through 1997, continued his testimony as the trial's first witness, with much of it spent discussing and analyzing internal J&J documents from decades ago to support his contention that the company "misled the FDA for over the last half century."

Kessler told the jury that after J&J and the Cosmetic, Toiletry and Perfumery Association, a trade association it was heavily involved in, convinced the FDA in the 1970s that the industry could self-test its talc products, it still feared the agency would change its mind and start conducting its own testing.

In one 1976 memo Kessler discussed, a J&J executive wrote that the company got ahold of an FDA proposal to test its talc. The executive called it a "disturbing proposal" due to it being an "ultra sophisticated" test and said, "chances are that this FDA proposal will open up new problem areas with asbestos and talc minerals."

The FDA never did start testing talc in the '70s because it ultimately trusted Johnson & Johnson's assurances its testing was sufficient, Kessler said.

Kessler also discussed documents from J&J about an asbestos test it began using in the 1970s. The company began using the test after convincing the FDA the company could conduct its own testing. The commissioner said previously the FDA does not generally test cosmetic products but relies on self-reporting of tests from companies.

The J4-1 test, which J&J convinced the FDA it should use, was not accurate enough to be safe, and the company knew it, Kessler said. The test did not measure for chrysotile asbestos and could not detect any asbestos below .5%, which still could leave millions of particles, Kessler stated.

He also told the jury about documents showing J&J began using a chemical method on its mined talc in an effort to reduce levels of asbestos the company had previously detected. It never informed the FDA it was using a chemical to try and remove asbestos, he added.

During his time at the FDA, talc was not considered a problem because the agency relied on the company's repeated assurances it had never found any asbestos in its talc, Kessler said.

In 2016, the FDA asked J&J for all data the company had regarding any asbestos found in its talc, but the company told the agency in a letter that "no asbestos-forming structures have ever been found" in its talc, Kessler said. He contended that statement was untrue.

Kessler spent parts of Tuesday, Wednesday and Thursday on the witness stand, with much of that time spent discussing J&J internal documents from the 1960s and '70s. Those documents were uncovered in talc litigation last decade and have fueled the tens of thousands of talc-related lawsuits filed against J&J. The plaintiffs argue those documents are a smoking gun proving the company knew

for decades that its talc in contained deadly asbestos.

Under cross-examination by Shaila Diwan of Kirkland & Ellis LLP, who represents J&J and its subsidiary, Kessler agreed with her comment that he is "no stranger to the courtroom" and has testified as an expert witness around 60 times, making over \$10 million in the process. He also agreed he is not a geologist or expert on mining.

Diwan said that when it comes how talc is tested for asbestos, "I think you'd agree that what the jury should do is, please listen to the geologists and mineralogists, correct?"

Kessler pushed back, saying the jury should listen to all the experts "carefully and thoughtfully."

He was still undergoing cross-examination when the proceedings ended for the day. The trial is expected to continue Friday.

Mary Owens, Bonnie Tienken and Geneva Williams, the three deceased women at the center of the trial, all used J&J's talc products for feminine hygiene and other purposes for decades because they believed the company's assurances it was safe, the attorneys told the jury during opening statements Monday. Relatives of the women are now representing them.

The trial is the second ovarian cancer bellwether out of hundreds of consolidated cases in Los Angeles Superior Court to go before a jury since J&J last year abandoned its effort to use Chapter 11 bankruptcy to resolve the thousands of talc cases it is facing nationwide. Kessler also **appeared as a witness** in the first ovarian cancer trial.

In the first bellwether trial, a Los Angeles jury hit J&J with a **\$40 million verdict**, finding its talc products were a substantial factor in causing two women's ovarian cancer while declining to award punitive damages. The Los Angeles cases are among tens of thousands pending nationwide.

Accusations that talc can cause mesothelioma and ovarian cancer have dogged J&J for years, leading the company to spin off its talc unit into a separate entity and seek bankruptcy protection for it in a so-called Texas two-step maneuver, a request the bankruptcy court rejected three times.

Johnson & Johnson developed baby powder using the mineral talc and started selling it in the United States in 1894. The ingredients were reformulated in 2020 in the United States and in 2023 for international markets, with cornstarch powder replacing talc as the main ingredient.

The hundreds of coordinated Los Angeles cases resulted in at least one trial in 2017; in that case, a Los Angeles jury reached a **\$417 million verdict** concluding Johnson & Johnson was liable for a woman's ovarian cancer. The judge then overturned the verdict.

In October 2025, a Los Angeles jury hit J&J with a **\$966 million** verdict after finding it liable for an 88-year-old woman's death from mesothelioma although a Los Angeles judge cut the award to **\$16 million**, saying the estate's counsel had failed to sufficiently show that the pharmaceutical giant acted maliciously.

Plaintiff John Owens is represented by Daniel S. Robinson of Robinson Calcagnie Inc.

Plaintiffs Kimberly J. Hedrick, Eric D. Tienken and Kevin Tienken are represented by Ari S. Friedman of Wisner Baum.

Plaintiff Harold Williams Jr. is represented by Andy Birchfield of Beasley Allen Law Firm and Daniel S. Robinson of Robinson Calcagnie Inc.

J&J and Red River Talc LLC are represented by Shaila Diwan and Julia E. Romano of Kirkland & Ellis LLP.

The individual cases are Mary Owens et al. v. Johnson & Johnson et al., case number CIVDS1618507, Bonnie Tienken et al. v. Johnson & Johnson et al., case number 18CECG01553, Harold Williams Jr. v. Johnson & Johnson et al., case number CIVDS1807370, and the coordinated proceeding is Johnson & Johnson Talcum Powder Cases, case number JCCP4872, all in the Superior Court of the State of

California, County of Los Angeles.

--Editing by Kristen Becker.

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Judiciary Panel Punts AI Rules, Mulls Judges' Survey Results

By **Jeff Overley**

Law360 (May 8, 2026, 12:07 AM EDT) -- Buckle up: Efforts to modernize evidentiary rules amid artificial intelligence fears are getting bumpy, as judiciary advisers Thursday agreed to dramatically delay action while digesting an AI survey of nearly 1,000 judges and organizing a symposium of litigators and tech pros.

Thursday's decision to postpone action on **two draft rules** occurred at a semiannual meeting of the Advisory Committee on Evidence Rules, where critics of the rule language said the problem is not just text — it's why the efforts are even happening.

"We don't think the rule's ready for publication," Betsy Shapiro, a U.S. Department of Justice representative on the committee, said of a "deepfakes" rule at Thursday's meeting. "We can talk about the advisability of going forward at all ... but if we're wordsmithing [the draft text], part of the issue we have is we don't think this has been thoroughly thought through with how it's going to apply to criminal cases."

Deepfakes in the Courtroom

A new federal survey found that few judges have had to deal with challenges alleging phony audiovisual evidence. But the survey also found considerable support for a rule governing challenges to such evidence.

Click to view:

Judicial role response

Deepfake challenges

What is your judicial role?

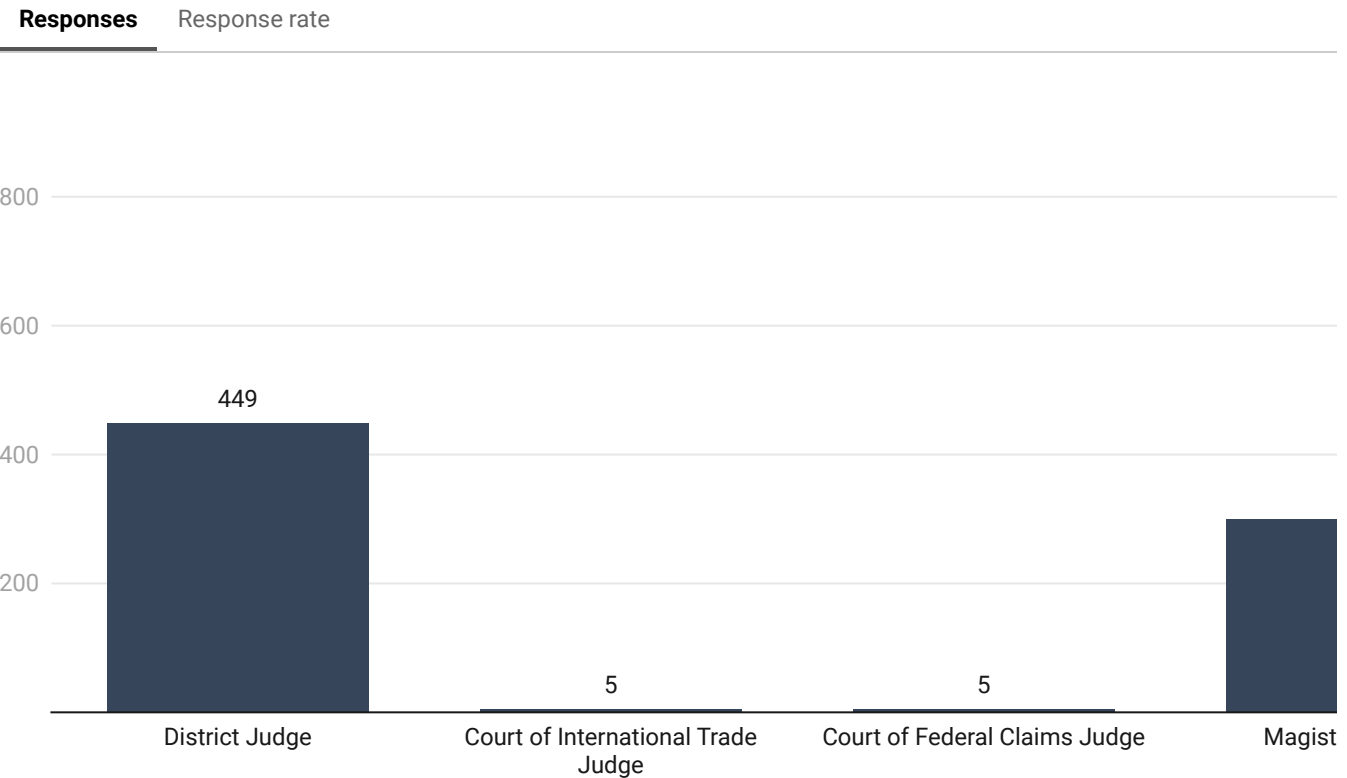


Chart: Jason Mallory • Created with [Datawrapper](#)
Shapiro's assertion happened 15 minutes into Thursday's AI discussion. Other committee members soon followed her opening salvo by also taking aim at draft additions to the Federal Rules of Evidence: Rule 901(c), which would target phony audiovisual materials known as deepfakes, and Rule 707, which would apply so-called Daubert standards of reliability in **Rule 702** 🚫 to AI-derived evidence.

"I have to say, I am sympathetic to Betsy's argument," U.S. District Judge Valerie E. Caproni told fellow committee members, referring to Shapiro's skepticism of the deepfakes rule. "I feel like we're trying to write a rule for a situation that hasn't come up much. ... If this is going to become a problem, it's going to become a problem, presumably, pretty soon, and we'll have real-life examples that will help us figure out all of this."

Thursday's developments were not entirely surprising. Committee members hadn't extensively discussed the draft rule for deepfakes, nor had they extensively debated newly unveiled versions of Rule 707; endorsing drafts for public comment without ample discussion would be unconventional.

The committee's chair, U.S. District Judge Jesse M. Furman, accepted Thursday's consensus to postpone action. But he also reiterated that AI's novelty is spurring the committee to try to stay ahead of the curve, or at least not fall too far behind.

"Technology is moving very, very, very quickly," Judge Furman said at Thursday's meeting in

Washington, D.C. "We don't usually act proactively — which is to say, we're [typically] dealing with problems that we've seen showing up in court. But this is an area where, to some extent, there's an argument for being a little bit more proactive."

The committee, which advises the Judicial Conference of the United States, began dipping its toes into AI waters in 2023, not long after OpenAI Inc.'s ChatGPT, Google's Gemini and other large language models started their meteoric rises in popularity. Its project is distinct from the legal profession's now-familiar scourge of phony citations and quotes in chatbot-authored briefs. It is also unrelated to AI clichés that tell users to "buckle up" for ostensibly eye-popping information, or that utilize "it's not X, it's Y," as an explanatory format.

By pushing back further consideration to the committee's fall meeting, any amendments can't be published sooner than August 2027. There would then be a six-month public comment period, one or more public hearings, and at least one committee meeting to consider whether amendments should actually be adopted.

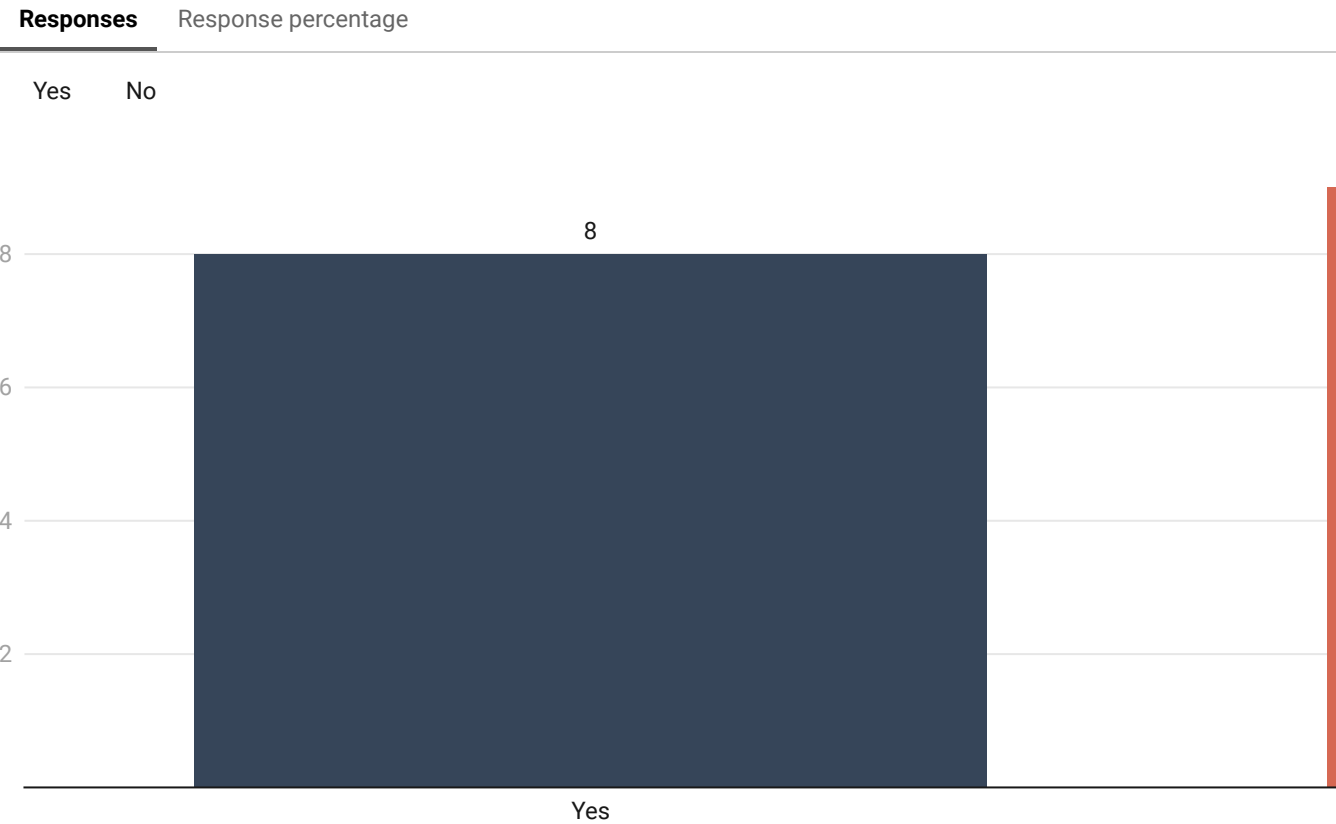
Support for a wide assortment of views can be found in the **newly released results of a deepfakes survey** that the Federal Judicial Center, in response to an advisory committee request, recently sent to every federal trial judge. More than 930 jurists responded, and only 15 of them said they'd had litigants allege that a video, photograph or audio clip was a deepfake. One-third of the 15 respondents supported the idea of amending authenticity rules to address deepfakes, but that support grew to 55% among roughly 900 judges who hadn't experienced deepfake challenges, according to the FJC survey.

Initial Showing

Click to view by judges who:

- Have experienced deepfake disputes
- Have not experienced deepfake disputes

If you have encountered deepfake challenges, did you require an initial showing of the basis for a challenge before further inquiring?



Note: Total responses may vary among certain questions because some respondents did not answer all applicable questions.

Chart: Jason Mallory • Source: Federal Judicial Center: Advisory Committee on Evidence Rules • Created with [Datawrapper](#)
That polling ultimately didn't sway panelists, some of whom expressed reservations about rushing a rule, even if it's essentially just a discussion draft.

"I'm a little uncomfortable with the notion that we float rules that we haven't really thought that carefully about, or are not really sure about," U.S. Circuit Judge Richard J. Sullivan, a committee member who presides at the Second Circuit, said Thursday. "If we want to get more feedback on things like this, there are other ways to do it."

Thursday's conclusion that more feedback is necessary underscores the complexity of the topic, because the committee has already conducted in-depth research. After it began studying AI rules, the committee held an AI symposium in 2024. It later **approved a draft rule** that attracted roughly 60 comment letters — many of them lengthy and detailed — and this year, it **heard expert testimony at two public hearings**.

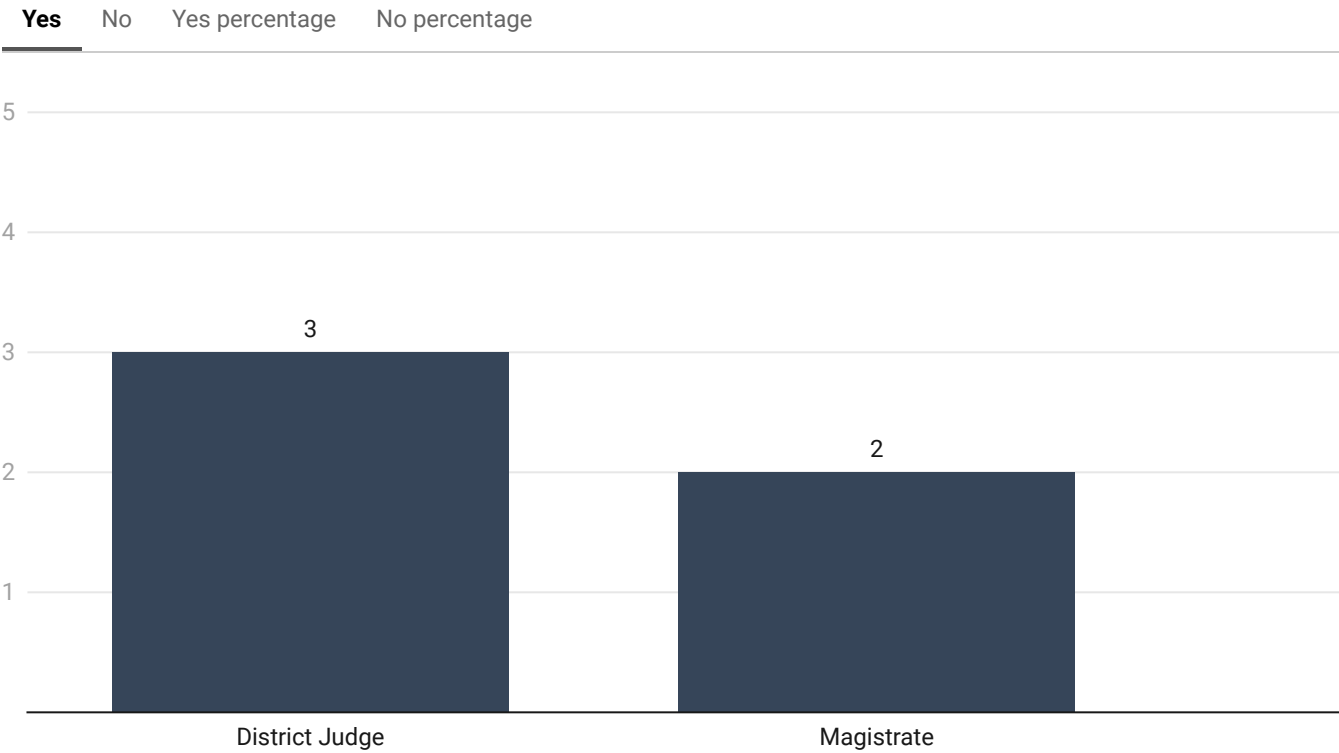
Authenticity Rules

Click to view by judges who:

Have experienced deepfake disputes

Have not experienced deepfake disputes

If you've encountered deepfake challenges, should the evidence authenticity rules be amended to address them?



Note: Total responses may vary among certain questions because some respondents did not answer all applicable questions.

Chart: Jason Mallory • Source: Federal Judicial Center: Advisory Committee on Evidence Rules • Created with [Datawrapper](#)
But the prior symposium mainly featured academics and computer scientists from the National Institute of Standards and Technology. Several officials Thursday said that more input is needed from practitioners on the front lines.

"I would like to hear from lawyers to [ask], 'Are you seeing this? Is this a problem in your practice? How are you encountering it? How are you dealing with it?'" Judge Caproni said. "That is the thing that I feel like we're lacking."

U.S. District Judge James C. Dever III, chair of the judiciary's so-called Standing Committee, which signs off on advisory panel recommendations, expressed a similar desire Thursday.

"Deliberation is a feature and not a bug of this whole process," Judge Dever said. "If you get the right people at that mini-conference, you just learn so much more. ... Getting input from folks [across the board] is critical."

Although the panel isn't starting from scratch, its efforts to craft AI rules are now shrouded in significant uncertainty. As it stands, Rule 901(c) would create a burden-shifting framework; the framework would require someone who contends that evidence is a deepfake to adequately explain the basis for their allegation. Then, the evidence proponent would need to show that the evidence is "more likely than not authentic."

As for Rule 707, the panel has moved on from its original concept — a simple proposal spanning just 50 words — to three drafts that are relatively elaborate. A committee researcher Thursday indicated

that the leading contender is a version dubbed "Redraft Two," which contains criteria borrowed from Rule 702.

During much of Thursday's meeting, there was palpable tension between the DOJ's Shapiro and the committee's lead researcher, Fordham University School of Law professor Daniel J. Capra. But after the agreement to delay the rules and research them further, Shapiro stressed that the DOJ — which has been **a leading critic** of the AI rules — would work diligently to make the fall symposium successful.

"I really support that idea. ... We would be happy to participate and move that forward as efficiently as we can," Shapiro said. She added, "I really appreciate the quality of work," referring to Capra's written research.

The committee's next meeting is set for Oct. 15 in Boston. It's expected that the first portion of the meeting will have the symposium format, and that the remainder will have a traditional format of discussion among committee members.

--Editing by Emily Kokoll. Graphics by Jason Mallory.

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SEC Fines Ex-BigLaw Atty For Insider Trades On Apollo Deal

By **Hailey Konnath**

Law360 (May 7, 2026, 11:42 PM EDT) -- A former Buchalter PC shareholder has agreed to pay \$71,625 to settle the U.S. Securities and Exchange Commission's allegations he purchased stock ahead of Apollo Global Management's \$1.5 billion acquisition of Bridge Investment, which the commission said he was representing in an unrelated matter at the time.

The SEC on Thursday issued an order instituting cease-and-desist proceedings against Douglas P. Farr, 44, of Lehi, Utah. The order doesn't name Buchalter, but Farr's LinkedIn profile indicates that he was working there at the time. Buchalter is not a party to the dispute and is not accused of any wrongdoing.

Specifically, the commission said Farr purchased Bridge Investment Group Holdings Inc. securities ahead of Apollo's February 2025 acquisition after Bridge's in-house counsel "communicated material nonpublic information" concerning the deal to Farr. That information was related to Farr's work representing Bridge in a loan dispute with a former employee, according to the filing.

"Following that communication, in breach of a fiduciary or similar duty owed to Bridge's shareholders, as well as a duty of trust and confidence owed to his law firm, Farr purchased Bridge securities in advance of the Announcement, generating illicit profits of \$35,185," the SEC said.

Farr was with Buchalter from 2022 until August 2025, per his LinkedIn profile.

The SEC said Bridge retained Farr in January 2025. On Feb. 20, 2025, Farr met with Bridge's in-house counsel as well as its acquisition counsel to discuss the loan dispute as part of due diligence for the transaction, the commission said. It was during this meeting that Farr got the nonpublic information about the acquisition, the SEC said.

"Less than an hour after the February 20, 2025 meeting, Farr purchased: (i) 100 Bridge call options with a strike price of \$10 and an expiration date of July 18, 2025 at a price of \$0.25 per contract; and (ii) 21 Bridge call options with a strike price of \$7.50 and an expiration date of July 18, 2025 at a price of \$1.20 per contract, for \$5,020 total," the SEC said.

The following day, he purchased even more, it said.

"Farr knew or was reckless in not knowing that his purchases of Bridge options were made in breach of the fiduciary or similar duty that he owed to Bridge and its shareholders," the commission said. "Farr knew or was reckless in not knowing that his purchases of Bridge options were made in breach of the duty that he owed to his law firm."

On Feb. 24, 2025, **the acquisition was announced**. At the time, the all-stock transaction carried an equity value of about \$1.5 billion. And after the announcement, "Bridge's share price increased by \$7.92 to \$10.60, a nearly 34% increase from the prior trading day's closing price," the SEC said.

Later that day, Farr sold his Bridge call options, generating \$35,185, the agency alleged.

As part of the settlement, Farr has agreed to pay disgorgement of \$35,185, prejudgment interest of \$1,255 and civil penalties of \$35,185, according to the order.

Farr is now self-employed, according to his LinkedIn profile. Before Buchalter, he spent more than 11 years at Snell & Wilmer LLP in Salt Lake City, Utah.

Farr, Buchalter and Apollo didn't immediately respond to requests for comment late Thursday.

Counsel information for the parties wasn't immediately available.

The case is In the Matter of Douglas P. Farr, case number 3-22637, before the U.S. Securities and Exchange Commission.

–Additional reporting by Al Barbarino. Editing by Michael Watanabe.

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