Investor sues tech company Supermicro for records after executive indictment

2026 CORPGDBRF 2525 • By Taylor Kase

Westlaw Corporate Governance Daily Briefing • May 19, 2026

(May 19, 2026) - A Chicago pension fund has sued Super Micro Computer Inc., seeking to compel it to produce corporate records involving the federal indictment of a company executive accused of diverting billions of dollars' worth of artificial intelligence servers to China.

Public School Teachers' Pension and Retirement Fund of Chicago v. Super Micro Computer Inc., No. 2026-0615, *complaint filed* (Del. Ch. May 13, 2026).

The Public School Teachers' Pension and Retirement Fund of Chicago's complaint, filed May 13 in the Delaware Chancery Court, seeks a court order for Supermicro to produce books and records under Section 220 of the Delaware General Corporation Law, Del. Code Ann. tit. 8, § 220.

The complaint says the pension fund needs the materials to investigate possible self-dealing, insider trading and failures of corporate governance by Supermicro's directors and officers, and to assess director independence.

Supermicro, headquartered in San Jose, California, designs and builds high-performance servers for AI and cloud computing applications. The company has faced governance scrutiny since Aug. 28, 2024, when it disclosed it could not timely file its annual report for fiscal year 2024 due to an ongoing review of its internal controls.

On Oct. 30, 2024, the company's then-auditor Ernst & Young LLP resigned, citing its inability to "rely on management's and the audit committee's representations," the complaint says.

The fund served its Section 220 demand on Supermicro on Feb. 13, 2025, according to the complaint. The company initially declined the request six days later, though it subsequently made rolling document productions on a dozen occasions throughout 2025 and into January, the complaint says.

On March 19, the U.S. Justice Department indicted Yih-Shyan "Wally" Liaw, a co-founder and then-board member of Supermicro, along with two other company-affiliated individuals, accusing them of conspiring to divert billions of dollars' worth of AI servers to China in violation of U.S. export control laws, the complaint says.

Despite Supermicro's partial productions, the fund says the company has still not produced special committee materials, board minutes or other officer-level records. On April 22, Supermicro produced a "special committee privilege log" that is insufficient to support any privilege claim under Delaware law, the complaint says.

Robbins Geller Rudman & Dowd LLP represents the fund.

By Taylor Kase

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Attorney profiles

Christopher H. Lyons and Jason M. Avellino; Robbins Geller Rudman & Dowd LLP, Randall J. Baron, David A. Knotts and Erik W. Luedeke; Robbins Geller Rudman & Dowd LLP for Plaintiff

Companies

Super Micro Computer Inc.

News from Bloomberg Terminal

Apollo Restructuring Judge Responds to Recusal Request (Correct)

May 19, 2026, 10:48 AM PDT

Summary by Bloomberg AI

AI Generated

- A Delaware judge expressed skepticism about a legal filing suggesting her ties to a major law firm should disqualify her from litigation over a $570 million payout to the founders of Apollo Global Management Inc.
- Vice Chancellor Bonnie W. David responded by letter, quoting Delaware's code of judicial conduct, and suggested the disqualification motion is a stretch.
- David gave the shareholder attorneys a May 22 deadline for disclosing when they became aware of Skadden's potential role in the dispute and whether they believe any other case "raises an appearance of bias based on a Skadden representation."

By Mike Leonard

(Bloomberg Law) --

A Delaware judge expressed skepticism Monday about a legal filing suggesting her ties to a major law firm should disqualify her from litigation over a $570 million payout to the founders of Apollo Global Management Inc.

Vice Chancellor Bonnie W. David responded by letter to the second recent filing targeting her past job at Skadden, Arps, Slate, Meagher & Flom LLP, which advised Apollo on a restructuring related to a case she's overseeing. The lawsuit alleges the private equity giant's conversion from an umbrella partnership to an ordinary corporation was at least partly about facilitating the exit of co-founder Leon Black, whose connections to the sex-trafficking financier Jeffrey Epstein had become a major headache.

David stepped away May 4 from parallel litigation involving KKR & Co., part of a wave of shareholder suits filed in Delaware's Chancery Court that say influential insiders manipulated similar restructurings to seize a disproportionate share of savings stemming from changes to the tax code in 2018. But the judge said she was recusing herself only out of an "overabundance of caution," warning lawyers against selectively wielding judicial ethics rules to gain a perceived edge.

Monday's letter in the Apollo case doubled down on the admonition against judge shopping. The letter, quoting Delaware's code of judicial conduct, suggested David views the Apollo-related disqualification motion as a stretch, given that Skadden's role in a transaction related to the corporate conversion—merging Apollo with an affiliate, Athene Holding Ltd.—had barely come up in three years of litigation.

"Plaintiff's counsel now believes that defendants or the special litigation committee will make the merger 'a centerpiece of their defense,'" the judge wrote. "It is not evident to me how a representation never before mentioned in any pleading, briefing, or hearing has now become the centerpiece of the case."

David didn't work on either restructuring during her time at Skadden, which is directly involved in defending the KKR transaction but not the Apollo deal.

'No Similar Issues'

Both requests cited a month-old American Bar Association opinion discussing the ethical duty of lawyers "to disclose information reasonably likely to require recusal." David gave the KKR case to Chancellor Kathaleen St. J. McCormick, completing a delayed swap after McCormick in April stepped away from the last batch of Delaware litigation against Elon Musk in response to his bias allegations.

David swiftly dismissed the Musk suits, effectively sending them to Tesla Inc.'s new home, Texas, where corporate cases are much harder for shareholders. The outcome immediately sparked fears that rewarding the world's richest person for years of attacks on McCormick could inspire other aggrieved businesses, billionaires, or investors to follow his lead.

The judge's letter Monday gave the shareholder attorneys leading the Apollo case, led by an offshore pension fund, a May 22 deadline for disclosing when they became aware of Skadden's potential role in the dispute and whether they believe any other case "raises an appearance of bias based on a Skadden representation."

"I studied the nearly 200 cases on my docket and found no similar issues," David said.

The Anguilla Social Security Board is represented by Friedlander & Gorris PA, Robbins Geller Rudman & Dowd LLP, and Shobe & Shobe LLP. Black is represented by Quinn Emanuel Urquhart & Sullivan LLP.

Apollo's other founders and board members are represented variously by Richards, Layton & Finger PA, Young Conaway Stargatt & Taylor LLP, Weil, Gotshal & Manges LLP, Morris, Nichols, Arsht & Tunnell LLP, Mintz, Levin, Cohn, Ferris, Glovsky & Popeo PC, O'Melveny & Myers LLP, and Friedman Kaplan Seiler Adelman & Robbins LLP.

The private equity firm is represented by Potter Anderson & Corroon LLP and Fried, Frank, Harris, Shriver & Jacobson LLP. Its special litigation committee is represented by Ross Aronstam & Moritz LLP and Willkie Farr & Gallagher LLP.

The case is *Anguilla Soc. Sec. Bd. v. Black*, Del. Ch., No. 2023-0846, 5/18/26.

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(Corrects Friedman Kaplan Seiler Adelman & Robbins LLP firm name in 12th paragraph of May 18 story.)

News | Litigation

Exxon Jury Finds No Securities Fraud in Decades-Old Lawsuit

A decade-long legal battle came to an end when a jury found in favor of ExxonMobil in a securities litigation case.

May 18, 2026 at 05:04 PM By **Laura Lorek**

Exxon gas station in Washington, D.C. October 21, 2021. Photo: Diego M. Radzinschi/ALM

A federal jury in Dallas found in favor of ExxonMobil Corp. and three of its former executives on May 13, rejecting all claims of securities fraud brought by a pension fund representing a class of shareholders.

The jury answered "no" on all three questions put to it, finding that plaintiffs failed to prove their fraud claims regarding statements in Exxon's 2015 Annual Report on Form 10-K related to: proved bitumen reserves at Exxon's Kearl operations in Canada, average production prices and costs at the Kearl operations, and nonimpairment of Exxon's Rocky Mountain Dry Gas operations.

Judge Ed Kinkeade presided over the 14-day trial in the District Court of the Northern District of Texas.

The class action, filed in 2016, alleged that Exxon, former CEO Rex W. Tillerson, CFO Andrew P. Swiger, and Controller David S. Rosenthal made materially false or misleading statements that artificially inflated the company's stock price between Feb. 24 and Oct. 28, 2016.

Lead plaintiffs were Pedro Ramirez, Jr., and the Eastern Atlantic States Carpenters Pension Fund, formerly the Greater Pennsylvania Carpenters Pension Fund.

The Latham team representing ExxonMobil and its officers was led by Scott Thomas, Heather Waller, Sarah Tomkowiak, and Taz Jones, together with co-counsel at King & Spalding and Paul Weiss, and local counsel from Haynes Boone. Squire Sanders represented Rex Tillerson. They did not respond to a request for comment.

The plaintiff's lawyers included Balon B. Bradley in Dallas and Darren J. Robbins with Robbins Geller Rudman & Dowd in San Diego. They did not immediately respond to a request for comment on Monday.

Rare Securities Suit Trial Results in Defense Verdict in ExxonMobil Case

dandodiary.com/2026/05/articles/securities-litigation/rare-securities-suit-trial-results-in-defense-verdict-in-exxonmobil-case

Kevin LaCroix May 18, 2026

It is a well-established fact that securities class action lawsuits rarely go to trial. In most cases, the lawsuits are either dismissed or settled. However, there has been an interesting recent uptick in the number of securities suits going all the way to a jury verdict. In the latest example of this development, on May 14, 2026, a federal court jury entered a defense verdict following trial in the long-running ExxonMobil securities class action lawsuit. As discussed below, this verdict is the latest of several post-trial verdicts entered in securities suits this year. A May 14, 2026, *Law360* article about the verdict can be found here.

As discussed here, a plaintiff shareholder first filed this action in the Northern District of Texas against ExxonMobil and certain of its directors and officers in November 2016. The lawsuit as originally filed raised a number of allegations, including in particular that the defendants misrepresented the profitability and valuation of the company's operations at Kearl Lake in Canada and its Rocky Mountain dry gas assets. In August 2018, the defendants' motion to dismiss was largely denied, as discussed in detail here.

Trial in the matter commenced in late April 2026. The trial proceeded for three weeks. The jury delivered its verdict on May 14, 2026. The jury found for the defendants and against the plaintiffs on all counts. A May 15, 2026, statement from Exxon's defense firm about the verdict can be found here.

Discussion

Though securities class action lawsuits rarely proceed all the way through trial, there recently has been a rash of jury verdicts in securities suits. By my count, this case is the third securities suit to proceed through trial to verdict so far in calendar year 2026. As discussed here, the Armistice Capital case went to verdict in April 2026, and the Elon Musk/Twitter Acquisition case went to verdict in March 2026, as discussed here.

The three jury verdicts so far this year are noteworthy if for no other reason than that such verdicts are so rare. There have been over 7,000 securities class action lawsuits filed in the U.S. since the beginning of 1996, and by my count only about

30 cases have gone to trial (inclusive of the three cases that went to trial this year). That is, only about one-half of one percent of all securities suits go to trial. All the rest are dismissed or settled (or are currently in process).

It is also noteworthy that this case resulted in a defense verdict, as did the Armistice Capital case in April. I have long thought that if more securities suits went to trial, fewer cases would be filed. The two recent defense verdicts might help advance this prospect. However, it should be noted that the Elon Musk/Twitter Acquisition case resulted in a partial verdict in plaintiffs' favor. So the potential messages from recent verdicts is at best mixed.

There is another noteworthy thing about the recent ExxonMobil verdict and that is that this case as originally pitched was built in significant part on climate change-related allegations, as detailed in my post about the plaintiff's initial complaint (here). In essence, the asset valuation issues the plaintiff raised had to do with questions surrounding the valuation of hydrocarbon assets whose economic value might not be realized due to changing regulation and cultural views arising in response to climate change.

From the publicity surrounding the recent trial of this case, it appears that as this case progressed the plaintiff lawyers de-emphasized the climate change-related allegations. It does not appear that the climate change-related allegations were a particular focus at the trial, which is interesting since at the outset the climate change related allegations were a major point of focus.

In any event, for observers of directors' and officers' liability issues, the fact that three cases have gone to trial this year is interesting and potentially significant. To be sure, the trial in this ten-year-old case was a long time coming, and it arguably is only coincidental that it happened to go to trial now. But nevertheless there is something very interesting about the fact that so many securities suit have recently gone to trial. The question is whether the recent rash of trials represents an indication that we might need to anticipate that more cases may go to trial than has been the case in the past.

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Ann M. Lipton @annmlipton.bsky.social · 7h

I don't know if anyone's noticed but, defendants are using calculation of damages as the new frontier in preventing securities actions from being certified as classes under Rule 23(b)(3) -

1 2 7

Ann M. Lipton
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A Boeing case is pending in CA4; another Boeing case is pending in CA7 (though there's a chance it will be dismissed on jurisdictional grounds), and FirstEnergy is seeking review on damages in CA6.

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FirstEnergy Urges 6th Circ. To Again Nix Investors' Class Cert. - Law360

FirstEnergy Corp. is once again asking the Sixth Circuit to curb a class action alleging it defrauded investors by hiding its involvement in a $1.3 billion bribery scandal, urging ...

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When Comcast came out I thought it was going to be the end of Federal class actions, but it turned into a big nothing nothingburger. Interesting to see the concept applied this way now.

2

Securities

Manage Newsletters

Alphabet Investors Get Class Status in Suit Over Google Ads (1)

May 19, 2026, 7:58 AM PDT; Updated: May 19, 2026, 8:33 AM PDT

Summary by Bloomberg AI

AI Generated

- A federal court ruled that Alphabet Inc. investors can proceed as a class in a securities suit over Google's advertising bidding process.
- The court found that common, classwide questions about investors' reliance on Google's statements—and about damages—predominate over individualized ones.
- The class covers shareholders who acquired the stock from Sept. 15, 2020, through Jan. 23, 2023, and alleges that Google gave advantages to ad auction bids submitted through its own platforms or a Facebook network.

Alphabet Inc. investors can proceed as a class in a securities suit over its Google subsidiary's advertising bidding process, a federal court ruled Monday in a procedural setback for the technology giant.

Common, classwide questions about investors' reliance on Google's statements—and about damages—predominate over individualized ones, Judge Rita F. Lin said for the US District Court for the Northern District of California.

The grant of class status ramps up the stakes in the suit over allegedly anticompetitive Google practices that led to a nearly €3 billion ($3.5 billion) European Union fine and partially underlay a derivative suit settlement consisting of internal reforms said to be worth $500 million.

The investors alleged Google gave advantages such as extra time and information to ad auction bids submitted through its own platforms or a Facebook network that had an agreement with Google.

The class covers shareholders who acquired the stock from Sept. 15, 2020, through Jan. 23, 2023, under an agreed-to modification of the class definition. Alphabet lost hundreds of billions of dollars in market capitalization, the investors say.

Lin previously allowed the investors to proceed with claims that CEO Sundar Pichai's 2020 written testimony to Congress was misleading, denying the company's motion to dismiss. In September, she denied Alphabet's request for an immediate appeal of that decision.

Pomerantz LLP is lead counsel for the investors. Freshfields US LLP represents Alphabet and declined to comment. Google and attorneys for the investors didn't immediately respond to emailed requests for comment.

The case is AMI - Gov't Emps. Provident Fund Mgmt. Co. Ltd. v. Alphabet Inc. , N.D. Cal., No. 3:23-cv-01186, 5/18/26 .

(Updates with attorneys for Alphabet declining to comment in seventh paragraph.)

– With assistance from Gillian R. Brassil.

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Securities

Manage Newsletters

Stitch Fix's $32 Million Investor 'Direct Buy' Accord Gets Nod

May 19, 2026, 8:11 AM PDT

Stitch Fix Inc.'s $32 million settlement earned a federal judge's initial approval to resolve allegations the online clothing company and top executives concealed an online-buying option was cannibalizing its core subscription product.

Judge P. Casey Pitts gave his preliminary blessing Monday to the deal and a settlement class of those who acquired Stitch Fix stock from June 9, 2020, to June 9, 2022. The agreement would end almost four years of litigation in the US District Court for the Northern District of California over whether founder and executive chairperson Katrina Lake and former CEO Elizabeth Spaulding knew of internal data showing the "direct buy" option wasn't helping Stitch Fix attract new customers while touting its benefit to shareholders.

Some of the investors' allegations survived a motion to dismiss last year

The investors sufficiently alleged the level of intent or recklessness for securities fraud claims, given Lake and Spaulding's plausible knowledge of test results showing customers onboarded through "direct buy" were less likely to return and spent less than those through its curated box subscriptions, Pitts said at the time

Stitch Fix and the executives denied wrongdoing through the settlement

Bernstein Litowitz Berger & Grossmann LLP is lead counsel for the investors. Cooley LLP represents Stitch Fix, Lake, and Spaulding. Neither of these law firms' spokespeople nor Stitch Fix immediately responded to emails seeking comment.

The case is Retail Wholesale Dep't Store Union Loc. 338 Ret. Fund v. Stitch Fix, Inc. , N.D. Cal., No. 5:22-cv-04893, 5/18/26 .

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Securities

Gritstone Bio’s Former CEO Settles Investors’ Covid Vaccine Suit

May 18, 2026, 10:51 AM PDT

Gritstone Bio Inc.‘s ex-CEO agreed to set aside $6 million to resolve investor allegations he overhyped the now-bankrupt biotech company’s timeline for launching a government-funded study of its potential Covid-19 vaccine.

The settlement will be paid by former CEO Andrew Allen‘s insurers, the investor leading the suit said in a May 15 filing, seeking US District Court for the Northern District of California Judge Charles R. Breyer‘s preliminary approval of the deal. The accord would end proposed class allegations that Allen misrepresented Gritstone’s capability to produce a vaccine and satisfy its related government contract. Investors dropped Gritstone from the lawsuit after its 2024 Chapter 11 bankruptcy filing.

Allen was more likely focused on the bigger picture of putting together the study than concealing from investors third-party manufacturing problems that would hold it up, Breyer ruled last year, tossing claims with the ability to replead against the former CEO and dismissing Gritstone’s chief financial officer from the suit

Investors did adequately allege Gritstone misrepresented manufacturers’ compliance, Breyer said

The investors’ counsel will seek up to a third of the settlement sum in attorneys’ fees, the motion seeking preliminary approval said

Pomerantz LLP represents the proposed settlement class of investors who got Gritstone securities from March 9, 2023, through April 2, 2024. Fenwick & West LLP represents Allen. Neither of these firms immediately responded to emails seeking comment.

The case is In re Gritstone bio, Inc. Sec. Litig. , N.D. Cal., No. 3:24-cv-03640, 5/15/26 .

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Costco urges US judge to reject consumer class action over tariff refunds

reuters.com/legal/government/costco-urges-us-judge-reject-consumer-class-action-over-tariff-refunds-2026-05-19

Mike Scarcella May 19, 2026

People shop at a Costco store in the Staten Island borough of New York City, U.S., January 16, 2026. REUTERS/Brendan McDermid Purchase Licensing Rights, opens new tab

WASHINGTON, May 19 (Reuters) - Costco Wholesale (COST.O), opens new tab has asked a federal judge to dismiss a proposed class action claiming the retail giant owes customers refunds for higher prices it charged before the U.S. Supreme Court struck down import tariffs imposed by President Donald Trump.

In a filing, opens new tab on Monday in Chicago federal court, Costco called the lawsuit speculative and said the customer who lodged the case suffered no harm.

“His own allegations establish that he freely chose to purchase valuable products for accurately posted prices,” Costco said. It said the plaintiff “got what he paid for, and Costco never suggested that it would (or even might) later refund part of the purchase price.”

Costco is one of thousands of companies that sued the Trump administration seeking to recover billions of dollars in tariffs the government collected. The administration has since set up a refund system.

Costco and a lawyer for the plaintiff did not immediately respond to requests for comment.

The lawsuit seeks a declaration that Costco must return to customers any refunds it receives for tariffs paid under the International Emergency Economic Powers Act (IEEPA).

The company said it has not yet received any refunds and it is unclear when it might do so or in what amount, or whether any refunds would relate to specific purchases.

It added that it “has not yet determined exactly how it would share value from any tariff refunds with its members,” echoing Chief Executive Ron Vachris’ statement in March that the company will make a plan “if and when we receive any refunds.”

Costco also argued that a retailer is not liable if costs that led to a price increase “later went away.”

The lawsuit against Costco follows a wave of similar cases by consumers accusing companies including Amazon, Nike and FedEx of failing to pass tariff refunds on to customers.

The case is Matthew Stockov v. Costco Wholesale, U.S. District Court, Northern District of Illinois, No. 1:26-cv-02734.

For plaintiff: George Zelcs of Korein Tillery

For defendant: Brad Brian and Elaine Goldenberg of Munger, Tolles & Olson, and Christopher Wilson of Perkins Coie

Shoppers sue Amazon for not refunding Trump tariff costs

Nike sued by consumers for not refunding tariff costs

FedEx customers sue company for tariff refunds after US Supreme Court ruling

Securities

Alleged Scammer Can't Make 'Buyout' Offers to Class Members

May 18, 2026, 1:35 PM PDT

A federal court rejected an alleged real estate fraud promoter's effort to buy out individual investors' interests in real estate funds that are the subject of a class action.

Grant Cardone, his investment firm, and two funds he manages failed to assuage concerns associated with settlement offers to individual members of a class, Judge John F. Walter said May 15. The suit is pending in the US District Court for the Central District of California.

Even though individual settlement offers don't have to meet class deals' fairness standards, they need to enable informed choices whether to settle or proceed, Walter said. The judge cited just a few out-of-circuit cases for that standard, reflecting the relative rarity with which the issue arises.

Christine Pino, the daughter of a deceased investor, alleges Cardone made untrue statements, and failed to disclose material facts, in solicitations on social media. Cardone allegedly said in a YouTube video that investors are "gonna walk away with a 15% annualized return" and asked investors in an Instagram post if they would like to double their money.

Walter granted her request for class certification March 27. He did so despite Cardone's asserted offers of refunds, saying there was "no evidence from which the Court can conclude that Cardone has or actually will offer the refunds he promises."

Then Cardone sought permission to communicate a "buyout offer" to individual class members.

But Walter said Cardone, his firm, and the funds failed "to explain why they waited until now—nearly six years after this action commenced, on September 16, 2020, after the Class was certified, and after the Class Members have received notice of the class action—to request permission to make this offer."

It would be better to use the offer to negotiate a classwide settlement, he said. "Moreover, the Court is especially concerned that sending the 'buyout offer' immediately after Class Members have received their class notices without a clear explanation or attempt to reconcile these two different notices will lead to widespread confusion among the Class Members about how the "buyout offer" might impact their decision to either opt out or remain in the Class," he said.

Susman Godfrey LLP is lead counsel for the class. King and Spalding LLP represents Cardone and his business and funds.

The case is Pino v. Cardone Cap., LLC , C.D. Cal., No. 2:20-cv-08499, 5/15/26 .

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California Brief

California, Exxon Square Off Over Plastic Pollution Case's Venue

May 18, 2026, 2:55 PM PDT

California sought to keep its lawsuit accusing Exxon Mobil Corp. of deceiving residents about its plastic pollution in state court by telling a federal appeals court the company's recycling claims are the crux of the state's case, not the oil giant's pollution in waterways.

Judges for the US Court of Appeals for the Ninth Circuit pressed the state on Monday over Exxon's claim that the case was wrongly remanded to state court given the federal courts have admiralty jurisdiction, or the power to adjudicate matters related to navigating waterways. But the state pushed back, with Mica Moore, deputy solicitor general for the California Department of Justice, telling the panel that the case's liability claim focuses on how "Exxon has represented its products to be sustainable when they're not."

"The fact that there's some harm from water somewhere in the state's complaint is not enough to make this an admiralty case," Moore said.

Judge Anthony Johnstone replied that the state's first claim is that the defendant's activity is blocking navigable waterways.

Moore emphasized the importance of considering the company's broader activity behind the state's claims, adding that obstruction didn't happen "because of the defendant's use of marine instrumentalities or vessels or anything like that."

"It's about advertising," she said. "It's about public statements about sustainability of recycling."

Moore also earlier accused Exxon of "really picking from isolated portions of a very comprehensive narrative to make this to be an admiralty case."

California Attorney General Rob Bonta (D) sued the oil producerin September 2024 alleging the company's claims over plastics being recyclable have deceived the public, thereby compelling Californians to buy more plastic products. The state, in its initial complaint, argued that most of the plastic waste the company processes using advanced recycling doesn't become recycled plastic, but instead fuel. The state also alleged that Exxon's advanced recycling equipment is unable to work with a lot of plastic.

Fossil-fuel companies in climate-related lawsuits more broadly have sought federal jurisdiction where they might fare better, whereas the plaintiffs taking them to court often file their suits in state courts.

The US District Court for the Northern District of California in February 2025 remanded the case to state court. Exxon appealed the order in March 2025. arguing the case belongs in federal court. Both the state and Exxon agreed to a partial stay while the appeal plays out.

Exxon's attorney, Paul Clement, argued in his rebuttal Monday that not only does the state's allegation over maritime impact from pollution make up a larger part of California's complaint than the state says it does, but that legally, it also doesn't matter.

"They made this very much a water pollution case on the navigable waterways, but legally it still doesn't matter because if there's any count, any aspect of this claim that belongs in federal court, then the whole case comes along into federal court," said Clement, while pointing to the state's 87 references to "marine" in its complaint.

Exxon, in a brief for the appeal, also argues the case belongs in federal court because the plastic pollution took place on federal enclaves and because the company was working as a federal officer when it made synthetic rubber during World War II, which is among the material contributing to pollution in the state along the coasts and in waterways.

The case is People of the State of CA v. Exxon , 9th Cir., No. 25-1674, 5/18/26 .

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Bayer agrees to pay $133 million for PCB cleanup in two states

reuters.com/legal/litigation/bayer-agrees-pay-133-million-pcb-cleanup-two-states-2026-05-18

Dietrich Knauth May 18, 2026

The 120 metres high Bayer Cross, logo of German pharmaceutical and chemical maker Bayer AG, consisting of 1710 LED glass bulbs is seen outside the industrial park "Chempark" of the chemical industry in Leverkusen, Germany, September 23, 2023. REUTERS/Wolfgang Rattay/File Photo Purchase Licensing Rights, opens new tab

- Michigan, Rhode Island said chemicals contaminated state waters
- Bayer has now reached PCB settlements with a dozen states
- Bayer is suing legacy PCB buyers for indemnification

NEW YORK, May 18 (Reuters) - Bayer’s Monsanto unit on Monday said it would pay at least $133 million to settle Michigan and Rhode Island's claims that the company contaminated the states' natural resources with toxic chemicals that are known to have dangerous health effects.

Bayer is paying Michigan at least $108 million and Rhode Island at least $25 million to address the costs of cleaning up chemicals called polychlorinated biphenyls, the latest in a series of settlements with other U.S. states. Bayer has now reached settlements with a dozen U.S. states over legacy PCB contamination, recently settling with Illinois and West Virginia in December.

Bayer's (BAYGn.DE), opens new tab Monsanto, which produced PCBs from 1935 to 1977, said the settlements will address legacy liabilities with no admission of wrongdoing. PCBs were once used widely to insulate electrical equipment, and were also used in such products as carbonless copy paper, caulking, floor finish and paint. They were outlawed by the U.S. government in 1979 after being linked to cancer and other health problems.

The settlement value could rise if Bayer is successful in a lawsuit that it filed in 2023 against six businesses that bought PCBs from Monsanto. Bayer alleges the companies have breached agreements to indemnify Monsanto for the cost of the PCB-related liabilities, and the lawsuit remains pending in Missouri federal court.

Rhode Island could receive up to an additional $50 million while Michigan could be paid up to an additional $176 million in contingency payments.

Attorneys general for Michigan and Rhode Island said Monday that the states will use the funds to address PCB contamination in water, soil and wildlife.

“This settlement directly supports our efforts to hold corporations accountable for the pollution caused by their products and ensures that we have the resources needed to remove these chemicals from our state,” Michigan Attorney General Dana Nessel, a Democrat, said in a statement.

Bayer acquired Monsanto for $63 billion in 2018. Since then, the company has battled lawsuits over PCBs, as well as thousands of lawsuits claiming that its weedkiller Roundup causes cancer, which it denies.

The company said in a statement that Monsanto conducted and participated in studies on PCB safety, and provided appropriate warnings to its customers "based on state-of-the-science at the time.”

The company has faced lawsuits from municipalities and states over environmental impacts of PCBs; from schools and building owners over property damage; and from individuals claiming PCB exposure caused their illnesses. It has settled some of the litigation, but other cases have resulted in significant jury verdicts.

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

News | **Mass Torts**

Uber Revs Up Calif. RICO Case, Citing Recent Ruling in Pennsylvania

Uber filed a notice of supplemental authority in its RICO case against two Los Angeles plaintiffs firms, citing a May 11 decision by a federal judge refusing to dismiss a similar case against Philadelphia's Simon & Simon.

May 18, 2026 at 05:11 PM By **Amanda Bronstad**

Uber headquarters in San Francisco at the Chase Center. (Photo Jason Doiy/Law.com)

What You Need to Know

- U.S. District Judge Sherilyn Peace Garnett has set a June 24 dismissal hearing in Uber's California case.
- On May 11, U.S. District Judge Mark Kearney of the Eastern District of Pennsylvania refused to dismiss a case that Uber and FedEx brought against Philadelphia-based Simon & Simon and partner Marc Simon, as well as several medical professionals.
- A key defense in Uber's RICO cases is that the Noerr-Pennington doctrine protects lawyers under the First Amendment from being sued because they filed lawsuits.

Uber Technologies Inc. is flagging a Pennsylvania ruling this month for a California judge who is set to decide whether to dismiss its racketeering conspiracy case against several plaintiffs firms.

On May 11, U.S. District Judge Mark Kearney of the Eastern District of Pennsylvania refused to dismiss a case that Uber and FedEx brought against Philadelphia-based Simon & Simon and partner Marc Simon, as well as several medical professionals, under the Racketeer Influenced and Corrupt Organizations Act, or RICO.

One of the key defense arguments—that the *Noerr-Pennington* doctrine protects lawyers under the First Amendment from being sued because they filed lawsuits—is part of the dismissal motion filed by Downtown L.A. Law Group and one of its partners, Igor Fradkin, and Jacob Emrani with the Law Offices of Jacob Emrani in a similar federal case in California's Central District. Both plaintiffs firms are based in Los Angeles.

"In his well-reasoned decision, Judge Kearney considered and rejected many of the same arguments advanced by defendants here, including arguments based on the *Noerr-Pennington* doctrine, RICO standing, and other substantive elements of a RICO claim," Uber attorney Oliver Gold, a Los Angeles partner at Perkins Coie, wrote in a supplemental brief highlighting the May 11 ruling in Pennsylvania.

"Judge Kearney allowed Uber's RICO claims in *Simon & Simon* to proceed to discovery based on a detailed complaint identifying a broad, fraudulent scheme between attorneys and doctors that uses litigation as a tool to extract inflated settlements from Uber (and forces Uber to incur substantial defense costs). The first amended complaint in this action similarly pleads precisely such a RICO claim."

Gold and an Uber representative did not respond to a request for comment.

Bram Alden of Los Angeles-based Hueston Hennigan, who is representing Emrani, declined to comment.

Winston & Strawn's David Scheper, a Los Angeles partner, is defending Downtown L.A. Law Group and Stephen Larson of Los Angeles-based Larson LLP represents Greg Khounganian, a doctor named as a defendant. Neither attorney responded to requests for comment.

A dismissal hearing is set for June 24 in Los Angeles before U.S. District Judge Sherilyn Peace Garnett. In a May 13 order, she granted Uber's request for supplemental authority but said that she "will not consider any arguments raised in the notice." She ordered the defendants to respond in reply briefs that are due Wednesday.

The cases are part of an increasing number of RICO claims companies have alleged against plaintiffs firms, especially in the past year.

In its Pennsylvania case, Uber alleged that numerous medical providers were working with Simon & Simon to treat clients in bulk, perform unnecessary procedures on patients under the firm's direction and produce false diagnoses of serious injuries, which are used to inflate damage claims for millions of dollars. Kearney's ruling found, among other things, that *Noerr-Pennington*'s immunity shield did not apply in this case, in which Uber plausibly alleged the existence of "sham" litigation, an exception to the doctrine, both in the filing and pre-filing conduct, such as lawyers' directing doctors to create false medical records.

“The conduct occurred outside the litigation process and involved third parties who are not themselves the subject of a threatened suit,” he wrote. “Extending *Noerr-Pennington* protection to conduct of this nature risks expanding the doctrine beyond its intended scope.”

Sherilyn Peace Garnett testifies before the Senate Judiciary Committee during her confirmation hearing to be U.S. District Judge for the Central District of California, on Wednesday, February 16, 2022. Photo: Diego M. Radzinschi/ALM

In opposing the dismissal motion in the California case, Gold wrote that Uber sought to hold the Los Angeles firms liable for their “pre-litigation, out-of-court conduct,” such as fraudulent medical bills and records for unnecessary treatments.

"While the law firm defendants are free to file complaints and transmit settlement demands, they are *not* free to support those lawsuits or demands with evidence that is fraudulent under federal law," he wrote. "The manufacture of false evidence is not protected petitioning activity even if a fraudster aims to use the evidence in litigation."

Judges in other cases brought by J-M Manufacturing Co. and Ford Motor Co. have dismissed similar RICO claims.

But Kearney found Ford's case, unlike Uber's, focused on the fees sought by the defendants, which were "lemon law" plaintiffs firms.

Uber has two other RICO cases pending in New York's Eastern District—against New York's Wingate, Russotti, Shapiro, Moses & Halperin and two Brooklyn firms, Banilov & Associates and the Lavelle Law Firm—and in the Southern District of Florida, naming Miami's Law Group of South Florida. U.S. District Judge Cecilia Altonaga, who is overseeing Uber's Florida case, stayed the litigation until U.S. District Judge Orelia Merchant issues a dismissal ruling in New York.

Prominent Quinn Emanuel litigator Harry Olivar killed in car crash

DJ **dailyjournal.com**/articles/391574-prominent-quinn-emanuel-litigator-harry-olivar-killed-in-car-crash

Quinn Emanuel Urquhart & Sullivan LLP announced Monday that longtime partner Harry A. Olivar Jr., chair of the firm's national securities practice and a member of its Los Angeles office, died in an automobile accident in central Georgia on Friday. He was 62.

The crash also killed Olivar's stepson, David Jackson. Olivar's wife, Leigh, was seriously injured and remains hospitalized, according to the firm. He is survived by his wife and four sons: Jordan Olivar, David Olivar, Harry Olivar III and Robert Jackson.

Olivar spent 26 years at Quinn Emanuel, where he also served as co-chair of the firm's domestic arbitration practice and as general counsel. He was remembered by colleagues as a deeply trusted presence whose influence extended throughout the firm's global offices.

"Harry has been a leader in our Los Angeles office for a quarter century," said Christopher Tayback, co-managing partner of Quinn Emanuel's Los Angeles office. "He had an unassuming manner that naturally lent itself to commanding respect."

William Burck, co-managing partner of the firm, called Olivar "an exceptional lawyer and an even more exceptional human being who profoundly impacted our firm, our clients, and the broader legal community."

During his career, Olivar recovered more than $4.9 billion in verdicts, judgments and settlements for plaintiffs and litigated major securities disputes involving mortgage-backed securities against many of the nation's largest financial institutions. He also built a prominent defense practice focused on defeating class certification in high-stakes securities, antitrust and product liability litigation.

Michael Carlinsky, the firm's co-managing partner and global head of complex litigation, described Olivar as "a gentle giant who was brilliant, devoted, always upbeat, and always willing to help anyone at the firm."

A graduate of Yale University and Harvard Law School, where he served as executive editor of the Harvard Law Review, Olivar was active in civic and charitable organizations, including the Pasadena Playhouse, La Salle College Preparatory and the Western Justice Center Foundation.

#391574

David Houston

I attended a law, AI and child safety conference. What I heard was shocking

DJ **dailyjournal.com**/articles/391578

Shutterstock

Tech companies, wary of regulation and litigation that could erode their profits, are using the First Amendment as a shield to protect the industry's most powerful players.

I attended the Legal Frontiers in Digital Media conference, hosted by the Media Law Resource Center (MLRC), last week. According to its website, the MLRC is an organization that "provides media organizations and leading media attorneys with the essential tools they need to advance First Amendment and media rights." While the website touts' members like CNN, NPR, and the New York Times--all entities with legitimate First Amendment concerns--their presence was minimal. A few reporters were sprinkled in amongst a majority of big tech attendees like Meta and Google, their defense lawyers and in-house counsel, tech-friendly First Amendment academics, and representatives of internet-free-speech-maximalist nonprofits like the Electronic Frontier Foundation and Netchoice Litigation Center.

The panels were revealing. At a panel on "the future of child safety online," the panelists lamented the recent jury verdicts against Meta and YouTube in the social media addiction trials in Los Angeles and New Mexico. In Los Angeles, a bellwether plaintiff was awarded millions in compensatory and punitive damages against Meta and YouTube for what jurors found were negligently designed products that caused harm to a minor user.

In New Mexico, a jury imposed $375 million in civil penalties against Meta after finding it misled consumers in the state about the harms of its products. Instead of discussing corporate wrongdoing or the dangers posed by social media to teens, the panelists largely conveyed their shock and dismay over how the verdicts impinge on tech companies' and teens' supposed free speech rights and Section 230 protections under the Communications Decency Act. Few panelists appeared concerned about child safety. Ironically, the only panelists who focused on the harm caused by social media companies, rather than their alleged constitutional rights, were the reporters whose First Amendment interests the MLRC was originally created to protect.

At another panel on regulation of AI chatbots, the discussion centered on why a chatbot's output constitutes protected speech of the AI platform and/or the user who prompted it. When a reporter presented her findings on the risk of harm chatbots pose to teenagers and adults--i.e., exacerbating mental health issues and aiding and abetting self-harm and suicide--her co-panelists politely ignored her and doubled down on their warnings about the dangers of regulation and litigation holding AI companies accountable for harm caused by their products.

While I am not a First Amendment lawyer or scholar, I revere the First Amendment. I am staunchly opposed to the government restricting speech it disagrees with, and to meritless lawsuits against news organizations or reporters aimed at chilling speech, as I think are most Americans. But something has gone wrong. The First Amendment, a bulwark against government overreach and a shield for the press, is being quietly repurposed into a corporate liability shield protecting some of the wealthiest and most powerful private entities in human history from accountability for harms they are visiting upon children.

This is not what the First Amendment is for. The free speech rights of a teenager are not advanced by immunizing the platform that algorithmically serves her eating disorder content until she is hospitalized. A news outlet's right to publish is not safeguarded by ensuring that an AI company faces no consequences when its chatbot instructs a vulnerable user on methods of self-harm. As these cases are tested in our courts, I hope judges see this ploy for what it is: tech companies championing the cause of civil liberties to defend their profit margins.

The message the jurors in Los Angeles and New Mexico sent was crystal clear: the freedom Americans want is freedom from these companies' death grip on our children's brains, not the "freedom" of infinite scroll.

#391578

Submit your own column for publication to Diana Bosetti

Lawyer apologizes for 'phantom' AI quotes in Trump layoffs case

reuters.com/legal/transactional/lawyer-apologizes-phantom-ai-quotes-trump-layoffs-case-2026-05-18

Mike Scarcella May 18, 2026

A screen reads 'AI' in reference to artificial intelligence at a conference in Palo Alto, California, U.S., December 11, 2025. REUTERS/Carlos Barria/File Photo
Purchase Licensing Rights, opens new tab

May 18 (Reuters) - A lawyer at Binnall Law Group has apologized to a federal judge in San Francisco for including "phantom" quotations generated by artificial intelligence in a court filing related to the Trump administration's firing of government employees.

Attorney Jason Greaves said he used AI company Anthropic's Claude Console to produce an initial draft of a court filing and failed to adequately vet the results. Greaves blamed tight time constraints as contributing to the errors and said his firm has policies requiring that all AI-generated content be independently reviewed and verified.

Greaves' firm is representing a former U.S. Department of Homeland Security deputy chief of staff, Joseph Guy, as a witness in a lawsuit challenging the Trump administration's employee layoffs.

Since generative AI became widely available in 2022, judges in more than 100 cases have sanctioned or admonished attorneys for using the technology without adequate care. Lawyers generally are not prohibited from using AI but are bound by court rules to ensure the accuracy of their submissions.

"As the supervising partner, and the signer of the pleading, the responsibility for having accurate citations is entirely on me," Greaves told, opens new tab U.S. District Judge Susan Illston. "I take full responsibility for that and apologize fully to the court and to all counsel in this case."

Greaves did not immediately respond to a request for comment. The law firm's founding and managing partner, Jesse Binnall, said in a separate filing that the AI error was a first for the firm and vowed it wouldn't happen again.

Anthropic did not immediately respond to a request for comment.

Binnall, who has represented Donald Trump on some court matters, called, opens new tab the filing of false AI-generated citations "unacceptable, inexcusable, and an embarrassment to this firm."

Illston in an order, opens new tab earlier this month said she was "troubled" by quotations that did not exist in the cited cases in a Guy's filing.

Binnall said his law firm maintains policies that restrict the use of AI tools for legal research and drafting, requiring attorneys to use longstanding legal research platforms Westlaw or LexisNexis. Thomson Reuters, which owns Westlaw, is also the parent company of Reuters.

The Binnall firm in its filings told Illston that it is implementing additional safeguards, including supplemental training.

OpenAI says ChatGPT is not a lawyer, asks court to toss insurer's lawsuit

Anthropic expands Claude's AI tools for law firms, lawyers

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

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

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

Securities

Audit Board Pressed to Redesign Oversight for AI, Fraud Risks

May 19, 2026, 1:45 AM PDT

Auditors, lawmakers, financial regulators, and investors called on the US audit watchdog to roll up its sleeves and dig into a crush of systemic threats that they say could undermine audits as well as corporate financial reporting that drives the $73 trillion US capital market.

Artificial intelligence and private equity's increasing foothold in the accounting industry should sit at the top of the list, according to dozens of recently submitted public comment letters seeking to shape the Public Company Accounting Oversight Board's agenda. The regulator is gathering input as it resets its priorities since the Trump administration reconfigured the independent board with new leadership in February.

The Artificial Intelligence Di

Bloomberg Law

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WATCH: Can laws keep up with AI's fast pace?

"The PCAOB must engage in standard-setting that addresses current risks, such as protecting auditor independence and ensuring audit quality in light of private equity ownership of accounting firms," Sen. Elizabeth Warren said in a letter.

The Massachusetts Democrat, a critic of the board, also asked about the PCAOB's role and response to the volatile private credit market and complex off-balance sheet arrangements driving billions in AI investments, according to her letter dated May 15. The board, in a statement, said it was reviewing Warren's letter and would respond to her directly.

The board aims to sketch out its strategy as early as June and has said it would seek a separate round of feedback to update its rule-writing agenda. The PCAOB also is working to revise its overhauled quality control rules for auditors, ahead of a looming December effective date.

Congress created the independent audit board more than two decades ago to ensure investors could rely on corporate reporting following a series of accounting scandals. A political fight last year to dismantle the PCAOB prompted calls to overhaul the board's approach to oversight of the industry, including its routine checks of auditors' work.

Those inspections should focus on whether auditors "exercised sound judgment in critical areas" and not just "documentation formalities or minor technical departures," RSM US LLP told the board in its May 15 comment letter.

Many firms back the board's plans to restructure those routine inspections around safeguards auditors have put in place to ensure the quality of their work. Auditors also pushed the board to provide guidance as they increasingly incorporate rapidly evolving AI tools into their work.

"The PCAOB should take the opportunity to reflect on these developments, challenge the status quo, and prepare for the future," PwC LLP said of the emerging technology.

Auditors want the regulator to provide a steady diet of guidance to ensure consistency across the industry and the board's routine reviews. For example, a "rapid response" group could help the board share "critical, timely guidance" for front line auditors, the Texas Society of CPAs said in a letter to the PCAOB.

The board must dial in on audit missteps that can leave investors without a full picture of a company's financial health, investors and officials from other federal agencies told the board.

The Federal Housing Finance Agency, the regulator that oversees Fannie Mae and Freddie Mac, urged the board to focus on fraud risks, complex valuations and management review of controls. These are "areas where there is persistent evidence of audit challenges," the agency said in its letter to the PCAOB.

Ratings agency S&P Global asked for more information about how auditors performed in "areas of significant judgment"—which often include revenue and complex tax positions—in addition to how they determined the threshold for what information is reported in financial statement footnotes.

"Focus on matters that represent the highest risks," the board's investor advisory group said in a letter. Those risks should include auditors based in China and the expansion of private capital, the group said.

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OpenAI says ChatGPT is not a lawyer, asks court to toss insurer's lawsuit

reuters.com/legal/transactional/openai-says-chatgpt-is-not-lawyer-asks-court-toss-insurers-lawsuit-2026-05-18

Mike Scarcella May 18, 2026

ChatGPT, U.S. flag and Judge gavel are seen in this illustration taken, August 6, 2024. REUTERS/Dado Ruvic/Illustration Purchase Licensing Rights, opens new tab

WASHINGTON, May 18 (Reuters) - OpenAI has asked a federal judge to dismiss a lawsuit alleging it gave unauthorized legal advice, arguing that its generative artificial intelligence platform ChatGPT is not a lawyer and does not practice law.

In a filing, opens new tab on Friday in federal court in Chicago, OpenAI said there were no grounds to support a lawsuit by Nippon Life Insurance Company claiming ChatGPT helped a disability plaintiff breach a settlement while flooding a federal court docket with meritless filings.

“ChatGPT is not a person and neither has nor uses any degree of legal knowledge or skill,” OpenAI said in its filing.

The case comes as more self-represented litigants are using generative AI tools to draft and file court papers, a trend federal judges say is on the rise. Nippon’s lawsuit is among the first to accuse a major AI platform of engaging in the unauthorized practice of law.

OpenAI and a lawyer for Nippon did not immediately respond to requests for comment.

The insurer's lawsuit stems from a dispute with a former employee, Graciela Dela Torre, who had previously sued Nippon over long-term disability benefits. Dela Torre settled the case in 2024.

Nippon said in its lawsuit that Dela Torre filed a new case and used ChatGPT to inundate the court with dozens of AI-drafted motions and notices that the company contends served “no legitimate legal or procedural purpose.”

OpenAI countered that “Nippon’s apparent frustration with having to defend a pro se lawsuit is no basis to hold OpenAI liable.”

OpenAI described ChatGPT as “a helpful tool and research aid that advances access to justice in courts” and said users agree not to rely on its content as a substitute for professional advice.

“Dela Torre was entitled to represent herself against Nippon and was entitled to use ChatGPT as a tool to do so,” OpenAI told the court. “Whether she made appropriate arguments is a question of her actions, and was for the district court judge presiding over her cases to decide.”

The case is Nippon Life Insurance Company of America v. OpenAI Foundation and OpenAI Group PBC, U.S. District Court, Northern District of Illinois, No. 1:26-cv-02448.

For plaintiff: Justin Wax Jacobs of Nippon Life Insurance Company of America, and Christopher Assise of Sidley Austin

For defendant: John Flynn and Joshua Baskin of Wilson Sonsini Goodrich & Rosati

Anthropic expands Claude's AI tools for law firms, lawyers

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

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

US judges weigh risks as AI seeps into judicial work

AI ruling prompts warnings from US lawyers: Your chats could be used against you

OpenAI hit with lawsuit claiming ChatGPT acted as an unlicensed lawyer

Jay Edwards’ ties to Larry Householder, HB 6 vote, and ethics questions loom over Ohio Treasurer bid

tiffinohio.net/posts/jay-edwards-ties-to-larry-householder-hb-6-vote-and-ethics-questions-loom-over-ohio-treasurer-bid

TiffinOhio.net May 18, 2026

local

Edwards donated to the dark money entity at the HB 6 scheme's center, attended an FBI-recorded dinner with the indicted lobbyist, and voted against expelling Householder from the chamber.

Ex-Ohio House Rep. Jay Edwards, who is now running for state treasurer. Credit: Ohio House of Representatives

Former state Rep. Jay Edwards, the Republican nominee for Ohio treasurer, would manage roughly $280 billion in state assets if elected on Nov. 3. The record he brings to that campaign includes a vote for House Bill 6, an FBI-recorded dinner with former Speaker Larry Householder and an indicted lobbyist, a $200 personal check to the dark money entity at the center of the bribery scheme, a vote against expelling Householder after his racketeering indictment, FBI recordings released in a 2025 documentary, a public records dispute over deleted text messages, a censure from his own state party, and a 2025 financial disclosure listing dozens of gifts the candidate now says he probably never received.

Edwards, of Nelsonville, served four terms in the Ohio House representing the 94th District from 2017 to 2025, leaving office under term limits. He served as House majority whip from 2019 to 2020 under Householder and chaired the

House Finance Committee in 2023 and 2024 under Speaker Jason Stephens. He defeated state Sen. Kristina Roegner 53% to 47% in the May 5 Republican primary, according to unofficial results reported by the Ohio Capital Journal. He will face Democrat Seth Walsh, a Cincinnati city councilmember, on Tuesday, Nov. 3.

Edwards has not been charged with any crime in connection with the HB 6 corruption scandal or any other matter discussed in this article.

House Bill 6 and the Householder leadership team

In 2019, the Ohio House passed House Bill 6 — the $1.3 billion bailout for two FirstEnergy nuclear plants that federal prosecutors would later describe as the product of a $60 million racketeering conspiracy. The bill cleared the chamber 51-38. Edwards voted yes.

By that point, Edwards was a member of Householder's leadership team. According to the Athens News, which described him in 2020 as a personal friend of Householder, Edwards was tapped by the Speaker to serve as majority whip in the 133rd General Assembly. The federal indictment against Householder later described a closed-circle "enterprise" that funded the campaigns of 21 candidates in the 2018 primaries with FirstEnergy money to build "Team Householder" in the chamber. Edwards' 2018 campaign was not among those funded by Householder's public-facing political action committee, the Athens News reported. He was not named in the federal complaint against Householder.

Trial evidence later presented at Householder's 2023 racketeering trial included a July 21, 2019 text — two days before HB 6 cleared the House. According to Associated Press wire reporting on the trial, Householder texted an unidentified legislator: "The state plane has been arranged to come get you, Tom Brinkman and Bob Cupp on Tuesday morning at Midway and return you to Chicago that afternoon. Jay Edwards will be calling you." The flight ultimately did not take place. Then-FirstEnergy vice president Michael Dowling, in a separate text quoted in the trial coverage, celebrated the planned flight with a one-word reaction: "Boom."

In July 2020, federal agents arrested Householder along with lobbyists Matt Borges and Neil Clark, political strategist Jeff Longstreth, and lobbyist Juan Cespedes. U.S. Attorney David DeVillers called the scheme "likely the largest bribery, money laundering scheme ever perpetrated against the people of the state of Ohio." Edwards joined the unanimous House vote that immediately stripped Householder of the speakership. He did not, however, support removing Householder from the chamber.

The following month, the new Republican Speaker, Bob Cupp, asked Edwards and the rest of the Householder-appointed leadership team to step down from their positions, saying the move would "clearly demonstrate our resolve to start anew." Only one member, Assistant Majority Whip Laura Lanese, complied. Edwards refused, telling the Athens News he saw no reason to step down from a position he had been elected to unanimously. Cupp then removed Edwards from the House Rules and Reference Committee, which sets the chamber's agenda. Edwards eventually declined to seek another term as whip in the next General Assembly, taking a roughly $12,000 pay cut as a result.

The FBI-recorded dinner at the Aubergine

On Sept. 23, 2019, Householder attended a $2,400 dinner at the Aubergine Private Dining Club in Grandview Heights, a wealthy inner-ring Columbus suburb. According to trial reporting later published by CBS, Clark had arranged the dinner so two men he believed were potential clients could meet the Speaker; the two men were undercover FBI agents wearing recording devices. Clark had advised them to bring a $50,000 check made out to Generation Now, the 501(c)(4) dark money entity prosecutors say Householder used to launder FirstEnergy money.

Edwards was at the table.

In a 2020 interview with the Athens News, Clark identified Edwards as "Representative 8" in the federal affidavit supporting Householder's indictment. The FBI's affidavit specifically stated that "Representative 8" was "not known to be a member of the alleged criminal enterprise," according to the Athens News, which reported Clark's claim. Edwards declined at the time to confirm or deny that he was Representative 8 and said he did not recall attending the dinner. Clark died by suicide in March 2021 while awaiting trial.

The dinner became trial evidence in Householder's 2023 racketeering trial, which ended with a conviction and a 20-year federal prison sentence. In a 2023 letter to ethics officials reported by Signal Ohio, Edwards acknowledged the dinner had been described in media reports as costing more than $2,400 and said that as soon as he became aware of that information, he contacted caucus legal counsel to ask whether he had a duty to amend his financial disclosure statement.

A $200 check to Generation Now

Four months after the Aubergine dinner, Edwards wrote a personal check to Generation Now.

The Energy and Policy Institute, citing bank records published in March 2023, reported that nine checks of $200 each — totaling $1,800 — were deposited by Generation Now in February 2020 from members of what federal prosecutors called "Team Householder." Eight came from Republican Ohio House members, including Householder himself, Edwards, Jon Cross, Douglas Swearingen, Donald Wilkin, Philip Plummer, Jeffrey Lare, and Brian Baldridge. The ninth came from Brian Gray, a Householder aide.

Edwards's check, written in January 2020, included the phrase "Brown Tix" in the memo line, according to the bank records. The memo lines on checks from Householder, Gray, Wilkin, and Plummer referenced the "Big 10" championship. Baldridge's check said "Football."

The federal racketeering indictment unsealed six months after Edwards's check described Generation Now as the vehicle through which approximately $60 million in FirstEnergy money was laundered into political activity supporting Householder's speakership bid and the passage of HB 6. The entity later pleaded guilty to racketeering and was dissolved.

The vote against expelling Householder

In an October 2020 interview with the Athens News — three months after Householder's federal indictment — Edwards was asked about his relationship with the former Speaker.

"I'll openly admit I still consider Larry Householder a friend," Edwards said. "Am I upset by him and some of his actions? Yeah, absolutely, but I think he deserves an untainted day in court and we'll find out what happens."

Eight months later, on June 16, 2021, the Ohio House voted 75-21 to expel Householder from the chamber. Edwards voted no, joining 19 other Republicans, Householder himself, and one Democrat in opposition, according to the Ohio Capital Journal's roll call of the vote. Householder had not yet stood trial. Of the 11 sponsors of HB 6, six voted against the expulsion.

Edwards declined to give interviews explaining the vote at the time.

Deleted texts and a denied records request

In February 2022, the Columbus Dispatch reported that Householder had texted Edwards from outside the chamber about a data privacy bill Edwards opposed — and that Edwards' opposition stalled the bill that day. The next month, the Ohio Capital Journal filed a public records request for all text messages between Edwards and Householder dating back to June 2021, the month of the expulsion vote. Lawyers for the Ohio House denied the request, telling the outlet no responsive records existed.

Edwards offered a simple explanation: he deletes them.

"You're going down the rabbit hole saying Jay Edwards deletes texts with Larry Householder. No, that's not true," Edwards told the Ohio Capital Journal, referring to himself in the third person. "Jay Edwards deletes all texts. To members, to other people; I go through at night and erase text messages I don't find useful."

Edwards said he and Householder — old friends from Perry County and Hocking College — usually avoid discussing the criminal case or public policy in their texts, and that he would have preserved any message he considered a public record. Ohio public records law generally requires elected officials to preserve communications conducted on personal devices when those communications concern public business.

The "Blue 22" speakership and a party censure

On Jan. 3, 2023, Edwards was one of 22 House Republicans who joined all 32 House Democrats to elect Jason Stephens as Speaker over Derek Merrin, the candidate Republican caucus members had endorsed in a closed-door November vote. Stephens won 54-43.

Edwards told the Statehouse News Bureau that he and other members felt Merrin had not been reaching out enough since the caucus vote. "People have been pretty upset and so that's what led us to today. It didn't have to be this way," he said.

Eight days later, the Ohio Republican Party State Central Committee passed a resolution censuring Stephens and his 21 Republican supporters. The censure said the bipartisan vote "dishonors the historic brand" of the party. Edwards was named in the resolution.

Stephens served one term as Speaker. Matt Huffman replaced him in 2025.

On tape in the 2025 Dark Money Game documentary

In April 2025, the streaming service Max released “Ohio Confidential,” a documentary by Academy Award winner Alex Gibney examining the HB 6 bribery scandal as part of his two-part “Dark Money Game” series. The documentary featured previously unreleased FBI recordings of Edwards in conversation with Clark.

In one exchange aired in the film and quoted by WKYC, Clark told Edwards: “I don’t want to say he’s a pay-to-play guy, but he’s clearly influenced by his friends who have money.” Edwards responded: “Why the hell do you not run for office then?” Clark answered: “‘Cause I’m the son of a [expletive] convicted felon mafia guy. What are you, out of your mind? The attack ads would just write themselves.”

A separate recording, not included in the documentary but referenced in the WKYC report, captured Clark describing Edwards to an undercover FBI agent.

“He and I are the two principal advisers to the speaker,” Clark told the agent. “So having him, you know, there as a support device, yes. If you want to, if you want to get somebody that’s a member who has influence on the speaker, Jay Edwards would be the guy.”

That description sits alongside the FBI affidavit’s earlier statement that “Representative 8” was “not known to be a member of the alleged criminal enterprise.” Edwards declined to comment to WKYC on whether he ever received any benefit from money in the Generation Now account.

“The recent release of a docuseries has given this subject renewed interest with the press, but this has been exhaustively covered in the past and there is nothing new that was covered,” Edwards told WKYC by email. “It is time to move past this and focus on working to make our state a stronger place to live for hardworking Ohioans.”

Householder’s attorney, Scott Pullins, told WKYC that Clark’s description of Edwards as influential with the Speaker was not accurate, adding that Clark “would talk and exaggerate, especially late at night after drinks.”

The 2025 gift disclosures

In April 2026, Signal Ohio reporter Jake Zuckerman published a review of the financial disclosure Edwards filed as a statewide candidate, documenting more than 42 separate gifts of $75 or more that Edwards reported receiving in 2025.

The total reached at least $3,100. By comparison, Signal Ohio's review of every other statewide candidate's disclosure found that gubernatorial candidate Vivek Ramaswamy disclosed 24 gifts, Secretary of State Frank LaRose disclosed 23, and most other candidates disclosed none or only a handful. Democratic gubernatorial candidate Amy Acton disclosed none.

In an interview with Signal Ohio, Edwards said he had not actually received some of the gifts he reported.

"You don't get in trouble by overreporting," Edwards told Zuckerman. "I know for a fact I didn't receive gifts from some of them."

Asked about specific names on the list, Edwards said he hadn't seen Cleveland restaurateur Robert "Bobby" George in roughly a year but listed him anyway. He said Scott Weisman, a jewelry store owner he golfs with, may have paid for some rounds but he could not remember. He said nursing home executive Steve Boymel had hosted a campaign event for him but he did not think Boymel had given him a gift. He said lobbyist Jett Facemyer — a former Edwards legislative aide who now lobbies for Intralot, the Greek-based vendor that contracts with the Ohio Lottery for its central gaming and video lottery terminal systems — "might have" paid for tickets to a Tim Dillon comedy show.

"I fill out these forms for the OEC," Edwards told Signal Ohio, referring to the Ohio Ethics Commission. "I don't fill them out for news reporters."

The Ohio Ethics Commission requires elected officials and candidates to disclose all gifts worth more than $75 received in the preceding year. The rule exists, the commission says, to identify potential conflicts of interest and provide transparency about the relationships of people in or seeking government office. A disclosure of a gift not actually received raises the inverse problem: it makes it impossible to know who is actually buying gifts for the candidate.

The Bobby George listing and a familiar name

Bobby George, whose listed gift to Edwards was of undisclosed value, was originally charged in August 2024 with nine felony counts — one count of attempted murder, one count of rape, four counts of kidnapping, one count of felonious assault, and two counts of strangulation — in connection with the abuse of a woman he was in a dating relationship with between November 2023 and July 2024. The arrest warrant, obtained by News 5 Cleveland, described allegations including strangling, gun threats, and shoving a towel down the victim's throat. On Nov. 3, 2025, after waiving his right to a grand jury and accepting an indictment by information, George pleaded guilty to a single count of attempted strangulation, a fifth-degree felony. He was sentenced to five years of probation in Cuyahoga County Court of Common Pleas. Special Prosecutor Jane Hanlin, of Jefferson County, handled the case after Cuyahoga County Prosecutor Michael O'Malley recused.

The Bobby George listing on Edwards' disclosure is notable for another reason. According to Cleveland Scene's reporting on a deposition transcript made public in 2025, Bobby George's father, Cleveland businessman Tony George, was identified as "Individual B" in FirstEnergy's 2021 deferred prosecution agreement. The agreement, in which the utility admitted paying approximately $60 million to influence Householder on HB 6, used "Individual B" as a codename. A FirstEnergy controller's deposition in a separate civil case identified Tony George as the person referred to by that codename.

Federal prosecutors and civil filings have described Tony George as the intermediary between FirstEnergy CEO Chuck Jones and Householder beginning in the fall of 2016, as Householder was planning his return to the Ohio House and his run for Speaker. A 2023 Columbus Dispatch story documented that George arranged for the FirstEnergy corporate jet to fly Householder and his son to Donald Trump's January 2017 presidential inauguration and personally paid Householder's $1,557 hotel bill in Washington. State audit records show entities controlled by George received nearly $11 million from FirstEnergy over the years.

Tony George has not been charged in the HB 6 scheme and has denied wrongdoing. He has continued to host fundraisers for Republican candidates, including U.S. Sen. Bernie Moreno, who has endorsed Edwards for treasurer. In Signal Ohio's reporting, Edwards confirmed that Tony George has hosted fundraisers for him.

What the office holds and who is running

The Ohio treasurer manages the state's roughly $280 billion in assets, oversees state investments, runs the STAR Ohio investment pool used by local governments, and signs the checks that disburse state spending. Robert Sprague, the term-limited incumbent Republican, is running for Secretary of State.

Edwards' campaign website describes him as "a native son of Southeast Ohio" who flipped a Democratic seat to enter the House in 2016, served as Finance Committee chair, and sponsored a $3.2 billion tax cut and universal school choice.

The site does not mention HB 6, Householder, or the gift disclosures. Edwards has been endorsed by Vice President JD Vance and U.S. Sen. Bernie Moreno.

Democrat Seth Walsh, a Cincinnati city councilmember and former community organizer, was unopposed in the May 5 primary and advances directly to the general election. Walsh has said the treasurer's office should leverage its $280 billion portfolio to direct investment toward community-focused banks and has said the office has a "fiduciary responsibility" to oppose the diversion of state unclaimed funds to finance the Cleveland Browns' new stadium — a use of public dollars currently blocked by a Franklin County judge.

Edwards has said the unclaimed funds "could have been spent a better way," particularly for rural Ohioans facing rising property taxes and utility costs, but has not ruled out supporting stadium financing "if we can afford to do them, and if we've checked all the other boxes."

The general election is Tuesday, Nov. 3. The voter registration deadline is Oct. 5, and early in-person voting begins Oct. 6.

Questions About Jay Edwards' Involvement With FirstEnergy Scandal "Loom Over Ohio Treasurer Bid"

ohiodems.org/questions-about-jay-edwards-involvement-with-firstenergy-scandal-loom-over-ohio-treasurer-bid

Marisa Nahem May 19, 2026

May 19, 2026

COLUMBUS, OH – New reporting is further detailing Republican candidate for Ohio Treasurer Jay Edwards' long record relating to the FirstEnergy scandal, which is raising costs for Ohio families by $663 more a year on their utility bills. In addition to voting for House Bill 6, Edwards was included in reporting from the FirstEnergy trial, and was even asked at the time to step down from House leadership over his connection to Larry Householder.

"Corruption is running rampant in Columbus after decades of Republican control, and right in the center of it all is Jay Edwards, who stood by disgraced former Speaker Householder throughout the FirstEnergy bribery scandal," "With his strong ties to the largest public corruption scandal in Ohio history, Ohioans know they can't trust Jay Edwards to stand up to corruption and safeguard taxpayer dollars as Ohio Treasurer."

Read more on Edwards' record as questions "loom" over his involvement with the FirstEnergy scandal that is raising energy costs for Ohio families:

TiffinOhio: Jay Edwards' ties to Larry Householder, HB 6 vote, and ethics questions loom over Ohio Treasurer bid

- Former state Rep. Jay Edwards, the Republican nominee for Ohio treasurer, would manage roughly $280 billion in state assets if elected on Nov. 3. The record he brings to that campaign includes a vote for House Bill 6, an FBI-recorded dinner with former Speaker Larry Householder and an indicted lobbyist, a $200 personal check to the dark money entity at the center of the bribery scheme, a vote against expelling Householder after his racketeering indictment, FBI recordings released in a 2025 documentary, a public records dispute over deleted text messages, a censure from his own state party, and a 2025 financial disclosure listing dozens of gifts the candidate now says he probably never received.

Read more HERE.

News from Bloomberg Terminal

Prediction Markets Are the New Public Markets

May 19, 2026, 11:05 AM PDT

By Matt Levine

(Bloomberg Opinion) --

Private predictions

In the 1930s, the problem with US stock markets was that investors didn't get enough information. The solution was new rules that created the US Securities and Exchange Commission and required companies to disclose various information — audited financial statements, updates on material events, etc. — if they wanted to sell stock to the general public. Companies that didn't want to raise money from the general public didn't really have to disclose anything, but the general public had most of the money, so most companies that wanted to get big had to go public and disclose the required information.

In the 2020s, the problem with US stock markets is apparently that not enough companies want to do that disclosure. "Private markets are the new public markets," I often say: It is relatively easy for hot tech startups to raise lots of money from institutional investors, without ever selling to the general public, and so many of them do. They don't go public, they don't file disclosures, and they just raise money in private markets.

This arguably creates two problems:

1. Hot tech startups create a lot of value, and if they don't sell shares to the general public, then the general public doesn't get any of that value. SpaceX and OpenAI and Anthropic all have gigantic valuations; all of their growth so far has been captured by employees and founders and venture capitalists and other big investors, not by the general public. [1]
2. There are good social externalities in having companies be public and disclose their information. Society — journalists and politicians and activists and ordinary people — can learn important stuff by reading public-company disclosures; those disclosures are not of interest *only* to shareholders.

A lot of people worry about the first problem (not so much the second) and try to think of solutions. One set of solutions involves making it harder for companies to stay private (so they have to go public earlier and sell stock to the general public); another set of solutions involves making it easier for companies to go public. "Making it easier for companies to go public" often means *reducing* the standard disclosure requirements: It's easier for a company to be public if it doesn't have to disclose as much about its finances. We talked yesterday about an SEC proposal to make quarterly financial reporting optional: If companies could report results only every six months, that would be easier, and more of them might go public. Today the SEC proposed some more changes to reporting rules to make being public easier and "Make IPOs Great Again"

But there is another, more radical, solution, which is to get rid of the whole disclosure regime and let the general public buy shares of private companies *without* any disclosure. Companies wouldn't have to "go public"; they wouldn't have to file financial statements or disclose material events; they could just remain private. But ordinary investors could buy their shares anyway, *without* the disclosure requirements that have become standard over the last century.

Nobody ever quite says this, because it sounds bad. They just try to *do* it, by creating new ways for ordinary investors to trade private company shares freely without any disclosure. Generally the way to do it involves letting ordinary investors trade some instrument that is economically equivalent to private company stock, or at least pretty close, rather than actually trading the private stock.

In recent years the standard name for this approach has been "tokenization." There was a big boom in crypto, and a lot of people had a vague sense that calling something a "token" made it immune from securities laws, so people went around saying "if we issue *tokens* on private companies, that will let people buy exposure to their stock without requiring any securities-law disclosure." I wrote about this theory last year. It has some quite prominent proponents — Vlad Tenev of Robinhood, Larry Fink of BlackRock — who quite explicitly argue that tokenizing private-company stocks would allow ordinary investors to buy shares of private companies. "Democratizing" finance, this is called. But I wrote:

This solution doesn't *work*, yet, in the US. You *can't* just sell "tokens" of private-company stocks (or private credit loans, or private equity funds, etc.) to the general public, in the US, without disclosure, yet. But a lot of big players in finance are advocating for it, the regulatory environment seems pretty receptive, and you can understand why. The general public wants to buy private investments, intermediaries want to sell them, and the disclosure rules stand in the way. Saying "we should get rid of the disclosure rules" sounds bad, retrograde, greedy. Saying "tokenization" sounds good, modern, cool.

That was last year, when "tokenization" sounded good and modern and cool. (Though "the Securities and Exchange Commission is expected to release its so-called innovation exemption for tokenized stocks as soon as this week.") Now it is 2026, and "prediction markets" is the new cool modern term. Here's a press release from Polymarket:

Polymarket, the world's largest prediction market, today announced the launch of the first prediction markets tied to private company performance and milestones. These new offerings give individuals exposure to some of the most sought-after private companies for the first time, while providing a new real-time signal for institutional investors on how private markets are unfolding. Through an exclusive agreement, Nasdaq Private Market, a leading provider of liquidity and investment infrastructure for the private market, will serve as the resolution data provider for private company markets on Polymarket.

More value is being created in private companies today than at any point in modern history. Nearly 1,600 unicorns globally now hold more than $5 trillion in cumulative value, yet access has been largely reserved for institutions and high-net-worth investors – leaving the vast majority of individuals on the sidelines of the value creation that happens before a company goes public.

"Prediction markets are one of the most powerful tools we have for democratizing access to financial information and opportunity," said Shayne Coplan, Founder and CEO of Polymarket. "Today's launch brings that power to one of the last frontiers of financial markets that retail participants have never been able to access. For the first time, anyone can engage with the outcomes driving value at the world's most consequential private companies."

Individual investors can't buy shares of OpenAI or Anthropic or SpaceX, because those companies are not public. But now they can bet on "Will OpenAI's valuation hit __ by December 31," for various numbers that might go in that blank, or similar markets for Anthropic and SpaceX and other private companies. (These binary bets are not quite as good as actually buying stock, but give them time.) "Democratizing access to financial information," here, means betting on stocks of companies without public disclosure. You get to trade more stocks, but you get less information about them.

Again, *technically*, this solution doesn't work in the US, because technically US investors are not allowed to use Polymarket's main site. Nobody has ever seemed to care much about this, and Polymarket did launch its US app last week. These markets are probably "security-based swaps," which should in theory make it difficult for a regulated US prediction market to list them, but again nobody cares very much. "Anyone can engage" with these markets, says Coplan. The fact that Nasdaq — a big actual US stock exchange — is teaming up with Polymarket suggests that this is all more or less fine by regulators. "We should make it easy for ordinary retail investors to bet on private company stocks" seems, at this point, pretty uncontroversial.

We seem to be reaching the end of securities regulation. For almost 100 years, the bargain in US securities law was that companies could sell stock to ordinary individual investors only if they publicly disclosed material information. The public could trade public stocks, which made public disclosures, but not private stocks, which didn't. Everyone seems tired of that bargain and now it is breaking down.

Anthropic crackdown

Here are some shareholders of Anthropic PBC: Microsoft Corp., Nvidia Corp., Amazon.com Inc. and Google (part of Alphabet Inc.). Anthropic is a private company, and you cannot buy its shares on the stock exchange, though now I guess you can bet on them on Polymarket. Microsoft, Nvidia, Amazon and Alphabet, however, are public companies, and you can buy their shares on the stock exchange. You can get some *indirect* exposure to Anthropic: You can buy shares of Microsoft or Nvidia or Amazon or Google, and then you will own shares in a company that owns shares in Anthropic.

One problem with this is that all of those companies also own *other* stuff, besides their Anthropic shares. Some of that stuff is unrelated to Anthropic; some of it is negatively correlated with Anthropic. (Google and Anthropic are rivals in building AI models, etc.) Buying Nvidia stock is not a clean bet on the future of Anthropic; it is muddied by Nvidia's actual business.

It would be tidier to buy shares of a company that *only* owned Anthropic shares. Then, if you wanted some exposure to Anthropic, you could just buy shares of that company.

Of course Anthropic might not like that. Anthropic's stock is subject to transfer restrictions: If you own Anthropic stock, you can't generally sell it without Anthropic's permission. We talked last week about Anthropic's attempt to enforce those restrictions more strictly. One traditional way around transfer restrictions is the forward contract, where instead of selling you Anthropic stock today, I promise to deliver it to you when Anthropic goes public (and the transfer restrictions are removed). Private companies' transfer restrictions generally prohibit forward contracts, but people don't always take that seriously: After all, once the company goes public and the transfer restrictions are removed, what does the company care about people who sold forwards years ago? How will it even find out? But Anthropic updated its website to say, in effect, "no, if you buy a forward, you might not get the stock," which got a lot of people worried.

Yesterday Bloomberg's Yazhou Sun and Katia Porzecanski reported on the other threat in Anthropic's restrictions:

Anthropic PBC issued a stern warning on its website last week about unauthorized sales, taking the unusual step of naming eight firms whose offerings would be considered void. It also expressly prohibited investors from buying shares through special purpose vehicles, a common tool to raise financing. …

As secondary sales grew, so did SPVs, now a standard part of financing for many pre-IPO companies and a way for smaller investors to buy in. An early Anthropic backer, Menlo Ventures, pooled its own $500 million check into an earlier funding round using an SPV, according to an SEC filing first reported by Business Insider.

But as funding rounds have grown, SPVs have become complicated and murky, with little end clarity for the buyer and reduced transparency for the startup.

"Anthropic does and should have the right to control its cap table and shareholder base," said Matt Murphy, the Menlo partner who led the firm's investment. He said his firm didn't use the kind of SPVs banned by Anthropic.

"Unauthorized SPVs are not in the company's best interest and can often be downright shady," he said. "Buyer beware."

An SPV is the tidy solution I described above: It's a company that owns shares of Anthropic. You can't necessarily buy shares of Anthropic, but you can buy shares of the SPV.

Again, Anthropic doesn't like it, and says that its transfer restrictions prohibit it. "Anthropic does and should have the right to control its cap table and shareholder base." But, sort of. Anthropic doesn't get to control *Alphabet's* shareholder base. Anthropic can put transfer restrictions on its stock; it can say "you can't sell this Anthropic stock to anyone else." But it is harder for Anthropic to put transfer restrictions on its shareholders' stock: If a company invests in Anthropic, Anthropic can't tell that company who can own its stock. (Anthropic can try to prevent SPVs from buying its stock; it can limit its investors only to people who promise not to do SPVs. But there might be gray areas.) You can see why people would think that SPVs could be a workaround to transfer restrictions.

Incidentally. If you are an investor who owns $90 million of Anthropic stock, and you want to sell now while the selling is good, what should you do? The traditional approaches are all transfer-restricted:

- You could just sell your shares to someone else, but you need Anthropic's permission.
- You could sell your shares under a forward contract, but Anthropic says that's not allowed.
- You could package your shares into an SPV and sell shares of the SPV, but Anthropic says that's not allowed either.

But now there's a new approach. You can sell 100 million shares of "Will Anthropic's valuation hit $1 trillion by December 31?" on Polymarket for about $91 million. If the valuation hits $1 trillion by Dec. 31, you have to pay out $100 million — but your shares will be worth at least $100 million in that scenario, so you'll be hedged. [2] If it doesn't, you keep the $91 million (and the shares!), so it's even better than selling your stock now. Obviously this doesn't work yet, because that market is brand new and the volume is measured in the low thousands of dollars. But give it time.

HPS/Citi

An important job of a banker is to offer clients loans. If an investment banker or commercial banker from Citigroup Inc. shows up at your office to chat about merger ideas or your new factory, and the chat goes well, you will probably ask her: "Well, how are we going to pay for this?" And you will expect her to have an answer. At some point back in the sands of time perhaps the answer was "we will lend you the money," but in modern finance the more standard answer is "we will be happy to arrange a package of loans for you" or "we will be happy to arrange a bond offering for you." The bank will facilitate the deal, but the bank — even a giant bank like Citi — won't lend you all of the money itself. It doesn't have that kind of money.

These days, an important competitor to those two types of financing — syndicated loans, bonds — is private credit. And so, to provide good customer service, the banker really has to answer your question by saying "we will be happy to arrange a package of loans, or a bond offering, or a private credit direct loan." (I have written before that the banks will have to add another column to their pitchbook pages.) But whereas arranging a broadly syndicated loan or a bond offering takes time, the advantage of private credit is that it can be done quickly: The private credit firm already has the money and can just give it to you. There is not a long marketing and syndication process. For really good customer service, the banker has to say, like, "we can give you a private credit loan, here are firm terms, we can sign right now."

But the bank doesn't have that kind of money! Private credit funds have that kind of money. And so what you want is for the bank to be sort of a conduit for a private credit fund, a customer-service front-end for the private credit fund. The bank has bankers and clients and a marketing apparatus; the private credit fund has fewer employees and less customer surface area, but it has the money. There is something obviously weird about this — don't banks have money? — but it's the world we live in. One approach is for the bank to raise its own private credit funds — many big investment banks would like to be alternative asset managers themselves — but the other approach is to team up. We talked in 2024 about Citi's arrangement with Apollo Global Management, in which Citi pitches some loans and Apollo makes them. Because Apollo has the money. And Citi doesn't. You know.

Yesterday Bloomberg's Claire Ruckin and Silas Brown reported:

Citigroup Inc. and BlackRock Inc.'s private credit unit HPS Investment Partners have struck an agreement to collaborate on direct-lending deals across Europe, targeting as much as €15 billion ($17.5 billion) of financings over the next five years.

The initiative — Citi/HPS Private Capital Program — will focus on sub-investment grade debt for corporate and private equity clients in continental Europe and the UK, according to a statement seen by Bloomberg News. The Wall Street firms will work together on both senior and junior credit options and eventually expand the collaboration to deals in the Middle East.

"It's HPS' capital, credit decision and ultimately their loan, but it's an origination and structuring that we bring to them, and then jointly figure out whether there's a deal to be done," Citigroup's co-head of global debt capital markets John McAuley said in an interview.

The tie-up builds on a strategy that Citigroup first unveiled in the US two years ago, and highlights the growing convergence between traditional banks and private credit managers. Long considered competitors in corporate and sponsor-backed lending, the two are now forging ties as banks try to preserve fee income without using additional balance sheet capacity in the face of higher capital requirements.

It remains so weird to me. HPS has $193 billion of assets; Citi has $2.8 trillion. Citi has higher capital requirements than it used to, but its ratio of equity to assets is something like 7%, while most private credit funds have something like 50% equity to assets. Private credit funds have much less money and much higher capital ratios than banks do, but they're the ones making the loans.

Musk vs. OpenAI

OpenAI was founded in 2015 as a nonprofit organization with a mission "to ensure that artificial general intelligence benefits all of humanity." It remained a nonprofit until 2019. In 2025, it became a for-profit company, although the old nonprofit retains a significant stake in the company.

What happened between 2019 and 2025? Ehh. For those six years, OpenAI was still technically a nonprofit, but it had a for-profit subsidiary that raised money from investors and did all of the business. This was a *weird* structure: The subsidiary was actually a "capped-profit" company, it went around telling investors that "it would be wise to view any investment in OpenAI Global, LLC in the spirit of a donation," and for like 48 hours the nonprofit's board fired Sam Altman, OpenAI's co-founder and CEO. "OpenAI Is a Strange Nonprofit," I wrote in 2023, one with an $86 billion valuation. Was it? During those six years, was OpenAI mostly a nonprofit, or mostly a for-profit company?

This strikes me as a boring question — it was a little of both — but it turned out to matter a lot. In 2024, Elon Musk — who co-founded the OpenAI nonprofit but left in around 2018 — sued OpenAI, Altman and other co-founders, arguing that, as he put it, they "stole a charity": OpenAI was a nonprofit, Altman converted it into a for-profit, and now its employees have billions of dollars of stock in a valuable private startup, a startup that they built on charitable donations from Musk and others.

And the critical question in that lawsuit was: *When* did they steal the charity? Musk's legal theories have two- and three-year statutes of limitations: If you want to sue for fraud, breach of contract, etc., you have to do so within two or three years after you become aware of the fraud, breach, etc. OpenAI argued that it became more or less a for-profit company in 2019, so whatever problems Musk had with the transition, he should have raised them then. From its court filings:

Musk was aware of the conduct purportedly constituting these alleged breaches no later than 2019, well outside the limitations period. OpenAI, Inc. publicly announced the incorporation of the capped-profit subsidiary, OpenAI L.P.—which Musk alleges amounted to a "mov[e] to recast the [OpenAI] non-profit as a moneymaking endeavor to bring in shareholders, sell equity, and raise capital," and an effort to "convert to a for-profit structure" — in a blog post in March 2019; Altman notified Musk of OpenAI, L.P.'s incorporation around that time; Musk was offered, and declined, equity in the new entity; and Musk raised no objection to the new entity's formation.

Musk argued, no, it took longer than that:

Musk testified that he did not discover the truth about OpenAI's full-blown commercial status until after Microsoft made its $10 billion investment in 2023. There was nothing unreasonable about that timing. OpenAI transformed into a commercial venture gradually, by degrees. Defendants sharply limited the information they disclosed and actively downplayed their commercial objectives in communications with Musk.

Musk argued that this was a question for the jury to decide, and yesterday it decided. Bloomberg News reports:

A jury rejected Elon Musk's claims that OpenAI under Sam Altman's leadership betrayed its mission to benefit the public by morphing into a for-profit business, finding that he waited too long to sue the company. ...

"I think there is a substantial amount of evidence to support the jury's findings," US District Judge Yvonne Gonzalez Rogers said when she accepted the nine-member jury's unanimous conclusion after about two hours of deliberations. …

Musk and his lawyers vowed an appeal, but didn't get into specifics about what they will argue.

"This reminds me of key moments in this country's history, the Siege of Charleston, the Battle of Bunker Hill," attorney Marc Toberoff said. "These were major losses for Americans, but who won the war? This one is not over."

Sure okay. I suppose that the basic conclusion here is that OpenAI has not been a charity for many years, so it's too late to complain that somebody stole it.

UpsideOnly

Hedge fund employees are very expensive. If you want to hire a very good portfolio manager, you might have to guarantee her like $50 million, and wait a year while she serves out her gardening leave. If you run a giant multistrategy hedge fund, you can afford that, but you need scale: You have to amortize the huge cost of employees over a lot of investor capital. If you run a smaller fund, you can't really afford to hire the best portfolio managers, so your performance will suffer, so you will have a harder time raising money, so you will have an even harder time hiring, etc., in a vicious spiral.

If you do not run one of the giant multistrategy funds, it might occur to you to get around this problem with some sort of "Moneyball" approach. [3] Obviously the people who have established themselves as top portfolio managers cost $50 million and you can't afford them. But they all came from somewhere; they weren't making $50 million out of the womb. The trick, for you, is to try to find people who (1) are currently cheap but (2) can generate alpha. How do you do that?

Oh I mean there are lots of approaches involving, like, networking and interviewing and training promising candidates. But "giant internet open call for traders" might work too. Bloomberg's Emily Nicolle reports:

Perpetuals.com Ltd. on Tuesday launched UpsideOnly, a platform that turns crowdsourced paper-trading strategies into shared real-money profits by executing bets with only the company's capital. Investors place fake trades that predict the future price of assets like oil, gold and equities, after which an artificial intelligence model chooses the ones that are most likely to result in profit. The company then trades on those forecasts using its own money, and where it succeeds, shares half of the earnings with traders who created the winning signals.

In short, instead of parting with their cash, traders give up their time and expertise in training Perpetuals' AI for a slice of the profits. And while the company itself takes on the risk of potential losses, it gains valuable data that AI could never generate on its own. ...

Crowdsourcing amateur trading signals to beat high-priced hedge fund strategies is a tried-and-tested model that hasn't always worked out. Even with recent advances in the technology, AI has also proved to be poor at stock-picking or crypto trading when left to its own devices.

[Perpetuals CEO Patrick] Gruhn's hope is that mixing the two might be a recipe for success. Perpetuals' AI model, BayesShield AI, was developed in-house with the sole goal of scoring and identifying the strongest trading strategies, the company said.

Basically a sort of distributed alpha capture approach. The trick here is that if you are recruiting professional portfolio managers, "we have some money and will give you half the upside of our trades with no downside" is *not very appealing*: Millennium is offering them half the upside of their trades on a much larger capital base and with a $50 million minimum. For amateurs, though, "half the upside with no downside" is a considerably better deal than getting the upside, and the downside, on their personal account.

Things happen

US 30-Year Yield Hits Highest Since 2007 on Inflation Angst. The American Rebellion Against AI Is Gaining Steam. StanChart CEO Says AI to Replace 'Lower-Value Human Capital.' KPMG Taps Anthropic to Revamp Global Tax, Advisory Platforms. Distressed-Debt Deals Often End in 'Hard Default,' Moody's Warns. SpaceX IPO set to hand $20bn stake to one hedge fund. The Little-Known Hedge Fund That Stands to Make Over $10 Billion onSpaceX.Deutsche Bank fined by UK for breaching Russia sanctions. Treasury Lawyer Quits as Government Settles Trump IRS Suit. Judge Blocks Alex Jones's Bid to Shield Infowars From Liquidation. Morgan Stanley-Led Group to Sell Chicago Parking Meters. The French mastermind behind a €1bn Ponzi scheme. (Earlier.) Crypto Crime Escalates With Kidnappings, Cons and Human Coercion. Musk's xAI Fails to Pay Staff $420 for Giving Their Tax Returns to Grok.

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1. With exceptions — Alphabet shareholders, etc. — discussed below.

2. Anthropic's current valuation seems to be $900 billion, so when I say you "own $90 million of Anthropic stock" I mean that you own 0.01%, which would be worth $100 million at a $1 trillion valuation.

3. In fact there is a delightful book by Joe Peta titled "Moneyball for the Money Set," about hedge fund performance analysis, though it is less about finding *cheap* hedge fund talent and more about evaluating that talent.

Securities

Insight

SEC’s Semiannual Reporting Plan Would Shift More than Paperwork

May 19, 2026, 1:30 AM PDT

The Securities and Exchange Commission’s proposal to allow public companies, as well as companies seeking to go public, to provide financial information in semiannual rather than quarterly could upend how public companies approach strategic transactions, disclosure practices and shareholder communications.

Since 1970, the SEC’s reporting framework has required three quarterly report filings and one annual report filing each year. Under the proposal, companies could either maintain the current quarterly reporting structure or transition to one semi-annual report filing and one annual report filing.

Those electing semi-annual reporting would need to consider the reduced availability of current financial and operational information to potential acquirors, strategic investors, professional analysts and the investing public.

Although the proposal wouldn’t change existing Form 8-K filing requirements and information standards for material events, the overall volume of publicly available information inevitably would decline. As a result, companies considering investment opportunities or strategic transactions may need to modify their disclosure and diligence processes to address gaps in information available to counterparties.

Management and in-house counsel could find it necessary to expand the use of non-disclosure agreements to provide counterparties with information that otherwise may have appeared in quarterly filings. In practice, the reduced cadence of periodic reporting may increase reliance on Regulation fair disclosures and lead to more frequent use of Form 8-K filings to keep the market informed.

Buyers in the mergers and acquisition space generally seek up-to-date information from sellers to evaluate risk and determine valuation. From the initial indication of interest through negotiation of final deal terms, pricing decisions are tied closely to the availability of current financial and operational data.

A shift to semi-annual reporting could lead to buyers discounting valuations to account for the higher uncertainty associated with less frequent reporting. Buyers and investors also may incur higher diligence costs to bridge the informational gaps that would have been addressed through quarterly reporting.

Those additional costs ultimately could be reflected in transaction pricing. Two otherwise comparable companies—one maintaining quarterly reporting and the other one using semi-annual reporting—could be valued differently by investors or acquirers.

Management and in-house counsel should consider how semi-annual reporting may affect transaction documentation. Traditionally, investors and buyers require representations and warranties confirming that the issuer's most recent SEC filings are true and accurate, and that no material adverse changes to the financial condition or business and operations of the issuer have occurred since the date of the most recent filing.

Under a semi-annual reporting framework, the period covered by those representations and warranties would expand. Even where issuers made greater use of Form 8-K filings, not every development affecting an issuer's financial condition, business, or operations meets the threshold of materiality to justify a Form 8-K filing.

Yet some of those developments may still be relevant to investors and buyers and, under the current reporting framework, may have been disclosed in quarterly filings. Investors and buyers therefore may seek broader representations and warranties, enhanced interim operating covenants, or additional diligence rights in transactional documents.

Management and in-house counsel should consider the impact of semi-annual reporting on transaction timing. Buyers and investors may prefer to schedule signings or closings shortly following the filing of a semi-annual or annual report, when current public information is most readily available.

The proposal also may influence shareholder communications and investor relations practices. Many companies choosing semi-annual reporting would likely do so, at least in part, because they view quarterly reporting and related earnings releases and calls as unnecessarily burdensome or costly.

However, companies will need to consider whether competitors that continue quarterly reporting may appear more transparent or attractive to the investing public because of the more frequent flow of information. To address potential disclosure gaps, companies adopting semi-annual reporting may need to enhance communications through press releases, website disclosures, or other voluntary updates.

As a practical matter, some issuers may conclude that although semi-annual reporting reduces formal reporting obligations, market expectations will still require a relatively steady flow of information to investors and analysts.

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

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Securities

SEC Ends Decades-Old ‘Gag Rule’ in Enforcement Settlements (1)

May 18, 2026, 3:22 PM PDT

Companies and individuals making deals to settle Securities and Exchange Commission cases no longer have to remain silent after the settlements, the regulator said Monday.

The update rescinds a decades-old policy that lets companies and individuals settle enforcement actions without admitting wrongdoing if they agree not to later dispute the allegations.

In place since 1972, the so-called “gag rule” has drawn criticism that the agency takes away defendants’ First Amendment rights. SEC targets like Elon Musk and **Mark Cuban** have spoken out against the policy and supported attempts to end the rule. The SEC in 2024 rejected a petition to change its policy.

“Speech critical of the government is an important part of the American tradition,” SEC Chairman **Paul Atkins** said in a statement.

Individuals who settle with the agency may take advantage of the new policy but it will be tougher for corporations to back away from allegations and be credible, said Martin Weinstein, head of Cadwalader Wickersham & Taft’s compliance, investigations and enforcement practice.

“I don’t think corporations are going to wake up the next day and say, ‘Oh that’s not true’,” he said.

The SEC said the agency will not enforce existing no-deny provisions that have already been entered and if a party breaches an existing deal it will not take action. The agency also said that rescinding the rule won’t affect the SEC’s ability to negotiate for admissions as part of a settlement.

Benjamin Schiffrin, director of securities policy at Better Markets, a financial policy think tank, said the policy favored SEC defendants and there was no reason for the agency to change it.

“The inescapable conclusion is that the SEC is more concerned with protecting defendants who violated the securities laws than the investors who are the victims of those violations,” Schiffrin said in a statement.

The majority of federal agencies don’t have policies requiring defendants to sign no-deny provisions. The US Commodity Futures Trading Commission, a fellow Wall Street regulator that serves as a watchdog for the derivatives market, is considering rescinding its version of the no-deny rule, Chairman **Michael Selig** recently said.

(Updates with reactions starting in paragraph five.)

--With assistance from Lydia Beyoud and **David Voreacos**.

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Nicola M White

SEC ends decades-old 'gag rule' in settlements

DJ **dailyjournal.com**/articles/391585-sec-ends-decades-old-gag-rule-in-settlements

The U.S. Securities and Exchange Commission on Monday rescinded a decades-old policy critics labeled a "gag rule," eliminating a requirement that defendants settling civil enforcement actions agree not to publicly deny the agency's allegations.

"For more than 50 years, the Commission has conditioned settlement on a defendant's promise not to publicly deny the Commission's allegations. I am pleased that we are rescinding the no-deny policy today," said SEC Chairman Paul S. Atkins, an appointee of President Donald Trump.

"Speech critical of the government is an important part of the American tradition," he added.

The provision had been a standard part of SEC settlements since 1972 and faced increasing constitutional challenges in recent years. Most recently, the 9th U.S. Circuit Court of Appeals upheld the policy last August against a First Amendment challenge brought by defendant Thomas J. Powell.

Powell has since asked the U.S. Supreme Court to review that decision in a petition filed by attorneys from Latham & Watkins LLP and the New Civil Liberties Alliance. Powell v. Securities and Exchange Commission, 25-1100 (S. Ct., filed Jan. 2, 2026).

The 9th Circuit rejected Powell's facial challenge to the policy, concluding that defendants could voluntarily waive at least some First Amendment rights as part of a broader settlement agreement.

"Provided that any limitation on speech remains within proper bounds, and given the background ability to waive First Amendment rights at least to some extent, the SEC has an interest in giving defendants the option to agree to a speech restriction as part of a broader settlement agreement," Judge Daniel A. Bress wrote.

The SEC had long argued the policy protected the agency's credibility by preventing defendants from settling securities fraud claims, accepting sanctions such as officer-and-director bars, and later publicly denying the underlying allegations.

Critics, however, argued the policy improperly restricted speech by barring defendants from publicly disputing the government's accusations after settlement.

In Monday's order, the SEC did not concede the policy was unconstitutional but echoed some of those free speech concerns and suggested the practical harm from public denials was limited.

"We conclude, however, that the negative effect on the public interest from such denials may be minimal," the commission wrote.

"Moreover, we recognize that the policy itself may create the incorrect impression that the Commission is trying to shield itself from criticism ...," it added.

The solicitor general's office is scheduled to file a response to Powell's certiorari petition on May 26. A spokesperson for the office did not respond to a request for comment on Monday's SEC order.

Margaret A. "Peggy" Little, senior litigation counsel for the New Civil Liberties Alliance representing Powell, said she wants to review the government's response before deciding next steps but still hopes the Supreme Court grants review given the possibility a future administration could reinstate the policy.

"A Supreme Court decision would not only be more definitive because of its lasting effect [and] ... would provide much-needed legal clarity on such practices by any agency," she wrote in an email.

#391585

Craig Anderson

SEC Rescinds Long-Standing Settlement Policy

fcpaprofessor.com/sec-rescinds-long-standing-settlement-policy

May 19, 2026

The SEC's long-standing "neither admit nor deny" settlement policy has been the focus of posts on this site for approximately 15 years.

Yesterday, the SEC rescinded the policy.

The SEC release states:

"The Securities and Exchange Commission today rescinded a policy, codified in Rule 202.5(e) of its informal rules of procedures, stating that when it chooses to settle an enforcement action in which a sanction is imposed, it will not settle unless the defendant or respondent also agrees not to publicly deny the allegations in the complaint or administrative order. Rescinding Rule 202.5(e) aligns the Commission with the overwhelming majority of federal agencies that do not have a similar rule and gives the Commission more flexibility in settling enforcement actions, which conserves resources, provides certainty, and potentially expedites the return of money to injured investors. The recission recognizes that the effect on the public interest from such denials may be minimal and that the policy itself may have created an incorrect impression that the Commission is trying to shield itself from criticism."

The release further states:

> "For more than 50 years, the Commission has conditioned settlement on a defendant's promise not to publicly deny the Commission's allegations. I am pleased that we are rescinding the no-deny policy today," said SEC Chairman Paul S. Atkins. "Speech critical of the government is an important part of the American tradition. This recission ends the policy prohibiting such criticism by settling defendants."
>
> There is no known instance of the Commission seeking to reopen an administrative or civil proceeding as a consequence of a defendant or respondent violating a no-deny provision to which they have consented.
>
> In light of the recission of Rule 202.5(e), the Commission will not enforce existing no-deny provisions that have already been entered. In the event of a breach of an existing no-deny provision, the Commission will take no action to ask a district court to vacate a settlement (or to reopen an adjudicatory proceeding) in connection with the terms of the settlement agreement.
>
> The Commission generally does not require settling defendants to admit to allegations. Today's recission does not affect the Commission's practice related to admissions in settlements and does not affect the Commission's discretion to settle with defendants who decline to admit facts or liability or its discretion to negotiate for admissions as part of a settlement."

SEC Commissioner Hester Peirce, long a critic of the settlement policy, released the following statement.

> "[T]he Commission rescinded its decades-old no-admit/no-deny policy governing the settlement process. Under this policy, settling defendants cannot publicly deny the allegations in a complaint or permit anyone else to do so. The Commission will no longer require and demand that defendants in its enforcement actions curtail their right to speak as a condition of settlement. For reasons I have explained before, this result is good and brings the Commission into alignment with nearly every other part of the federal government. Settlements shrouded in forced silence by the non-governmental party do not serve either the markets or the Commission's investor-protection mission. To the contrary, people's freedom to speak against the government contributes to its ability to govern well. Transparent enforcement of the securities laws helps create the environment in which free markets thrive, and enabling both parties in an enforcement action to speak freely contributes to transparency.
>
> Ending this imprudent policy, of course, does not mean that the Commission will stop resolving cases through settlement. The excellent investigative work of our professional, dedicated staff stands on its own ground, notwithstanding a defendant's protestations of innocence. The public now will be able to assess the Commission's case in light of a defendant's denials. The result, I expect, will be what free speech often produces: somewhere between cacophony and euphony—neither terribly pleasing to the ear, not entirely unpleasant to hear. That the noise happens at all, however, is a substantial step forward for both the Commission and the right of a free people to speak their mind."

Securities

SEC Said to Ready Plan for Trading Crypto Versions of Stocks (1)

May 18, 2026, 3:17 PM PDT

The Trump administration is poised to roll out a plan for trading digital versions of securities that could reshape the landscape of the American stock market as it continues to loosen the rules for free-wheeling crypto markets.

The Securities and Exchange Commission is expected to release its so-called innovation exemption for tokenized stocks as soon as this week, creating a new framework for betting on the fortunes of publicly traded companies, according to people familiar with the matter.

In a surprise move, the SEC is leaning toward a decision to allow the trading of tokens that do not have the backing or consent of the public companies whose shares they track, the people said. These “third party” tokens — effectively a novel way to speculate on the direction of the share price — would be tradeable on decentralized crypto platforms, though not all such instruments necessarily carry the same benefits as normal stocks, such as voting rights or dividends. Under the SEC’s proposal, platforms that fail to provide those benefits would lose the right to list the tokens.

The move would mark one of the most significant regulatory tests yet of whether stock trading can migrate onto crypto infrastructure without the protections that govern traditional equity markets. By allowing third parties to create tokenized versions of public-company shares without issuer consent, the SEC would open a multiyear experiment in whether parallel markets for listed stocks can function outside parts of the regulatory framework designed to ensure fair pricing, transparency and investor protection.

The SEC has said tokenized securities fall into two categories: those tokenized by or on behalf of issuers, and those tokenized by third parties that are not directly affiliated with the issuers. SEC officials are still working on the exemption and details could change before it is released. An SEC spokesperson said the agency has met with hundreds of market participants and sought broad feedback on how to calibrate its rules for new types of trading.

Hot Crypto Trend

Tokenization of real world assets has become one of the hottest trends in crypto in the past year. It involves the creation of digital representations of assets such as stocks, bonds, real estate and private credit. Backers of the technology say the near-instant settlement and 24/7 trading it supports can help make markets more efficient and provide new benefits to investors.

Last week, the Senate Banking Committee advanced a landmark digital asset market structure bill. The so-called Clarity Act would establish the Commodity Futures Trading Commission as the primary regulator for large parts of the crypto industry while the SEC would retain authority to oversee digital securities.

US stock markets are racing to prepare for a tokenized, around-the-clock trading future as the SEC, under the leadership of Chairman **Paul Atkins**, eases rules governing the crypto industry. Earlier this month, Bullish, the crypto exchange run by former New York Stock Exchange President **Tom Farley**, bought transfer agent Equiniti in a $4.2 billion deal. Transfer agents are stock-exchange record keepers that track ownership of shares and facilitate dividend payments, among other duties.

The NYSE is also building a venue using blockchain technology to allow for trading tokenized stocks and exchange-traded funds. Nasdaq, the second largest US stock exchange, has said it is working on a token design that gives publicly traded companies more control over their shares in tokenized form.

Crypto Carve Out

Parts of the regulatory framework governing US stock trading would not apply to third-party tokenized securities, which are essentially synthetic vehicles intended to mirror the shares of public companies. The exemption covers tokens traded on decentralized finance platforms, or DeFi, a $130 billion corner of crypto where investors trade, borrow and lend digital assets over protocols that run on automated code with minimal human intervention.

Several DeFi platforms have been targeted by hacks this year that have drained hundreds of millions of dollars from their coffers, underscoring the vulnerabilities that persist in the relatively nascent technology.

Expanding trading of tokenized securities to DeFi has raised concerns that they could add to the fragmentation of the stock market as assets linked to the same underlying stock change hands on multiple crypto venues.

The Securities Industry and Financial Markets Association said in a December post that the potential lack of standard requirements such as market interconnectivity and price transparency for tokenized markets could create the risk that markets “will fragment and become disorderly.”

“If third parties can tokenize Apple or Amazon without the issuer at the table, there’s no theoretical limit on how many wrappers of the same company exist at once,” said **Brett Redfearn**, president of tokenization firm Securitize and former director of the SEC’s trading and markets division. “This could create a whole new level of market fragmentation and could leave investors less certain what their shares are actually worth at any moment.”

SEC Dissent

Some SEC officials don’t support the decision to allow the trading of third-party tokenized securities, according to people familiar with the agency. The push for the exemption largely came from commissioner Hester Peirce, a long-time ally of Atkins, the people said.

In remarks at an SEC meeting in March, Peirce raised a number of questions about the innovation exemption, including whether it should “require a third party to obtain issuer consent to issue tokenized versions of existing equity securities of that issuer,” according to a transcript of her remarks.

The exemption was pitched as a way to let firms experiment with tokenized securities without immediately running afoul of US securities laws. Atkins, who took over the SEC promising a “new day” at the agency and an end to so-called regulation by enforcement in crypto, began floating the idea early in his tenure.

Securities industry insiders such as Citadel Securities and SIFMA have pushed back, warning that broad exemptions for tokenized stocks could weaken know-your-customer, anti-money laundering and other investor protections. Citadel wrote in December that any exemption should not override core market safeguards.

In recent months, Atkins and Peirce had sought to temper expectations, describing any potential carveout as narrower and incremental. “It would be an important step toward facilitating the integration of tokenized securities into our existing financial system, but it would not change the entire financial system overnight,” Peirce said in February.

(Updates third paragraph with additional details on market structure for tokenized stocks)

--With assistance from Lydia Beyoud and **Nicola M White**.

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William Selway, Scott Patterson

Securities

White House Reviews Ban on Trading Through Best Price on Stocks

May 18, 2026, 11:26 AM PDT

The White House is reviewing whether to amend and potentially scrap a decades-old rule governing stock trading that's meant to make sure investors get better prices for their transactions.

A proposal to modify the so-called trade-through rule was posted Monday on the Office of Management and Budget's website. The Securities and Exchange Commission adopted the current version of the rule in 2005, when now-Chairman **Paul Atkins** was a commissioner there.

The measure prohibits exchanges, alternative trading systems and wholesalers like Citadel Securities or Virtu Financial Inc. from executing trades that ignore or "trade through" the national best bid or offer, which has helped ensure individual investors receive fair treatment.

Atkins opposed the measure at the time. A spokesman for the SEC said that Atkins noted in a 2005 dissent that it could have unintended consequences on the long-term growth of financial markets.

The chairman has previously said that the trade-through rule has forced brokers to focus solely on the price a trade executes at, rather than other factors that contribute to whether investors received "best execution" for their trades, such as speed or preferred trading venue.

"The subsequent fragmentation and increased costs the trade-through rule has imposed demonstrate Chairman Atkins' prescience, which is why he has called for the Commission to reexamine the rule in a manner that avoids repeating the same mistakes made over 20 years ago," the spokesman said.

Changes to the rule could have far-reaching impact on many other aspects of market structure, such as rebates exchanges offer to brokers for their business and fee caps some exchanges impose on brokers to access their protected quotes.

The White House can take as long as it wants to review and edit the proposed rule text. Once it completes that process, the measure goes back to the SEC where the commissioners, currently three Republicans on what's intended to be a bipartisan, five-person panel, must vote on it.

Once that happens, the proposed rule will go out for public comment. The SEC incorporates feedback into a final version of the rule, which must again be voted on by the commission before it could take effect.

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https://www.wsj.com/finance/stocks/trump-stock-trades-ce970ce9

MARKETS & FINANCE • STOCKS

See How Trump's Accounts Were Busy Trading Big Tech Stocks

Trump's investment accounts had a surge in activity, with more than 3,700 trades in the first quarter

By Jared Mitovich Follow and Kara Dapena Follow

Updated May 19, 2026 10:08 am ET

Cumulative transactions disclosed by Trump

Source: U.S. Office of Government Ethics

Before he entered the White House, President Trump was a real-estate developer and speculator. Lately, his fortune has been wagered on some Big Tech stocks.

Money managers for the president made more than 3,700 trades in the first quarter, including million-dollar purchases of Nvidia, Dell and other Big Tech stocks. Trump's managers pared his holdings in Microsoft and Amazon with sizable sales in the quarter.

The disclosures, made by the U.S. Office of Government Ethics, showed the pace of trading on the president's behalf far exceeded previous quarters. In a statement, the Trump Organization said the president's investments were independently managed by several financial institutions.

"Neither President Trump, his family, nor The Trump Organization plays any role in selecting, directing, or approving specific investments," the statement said. "They receive no advance notice of trading activity and provide no input regarding investment decisions or portfolio management."

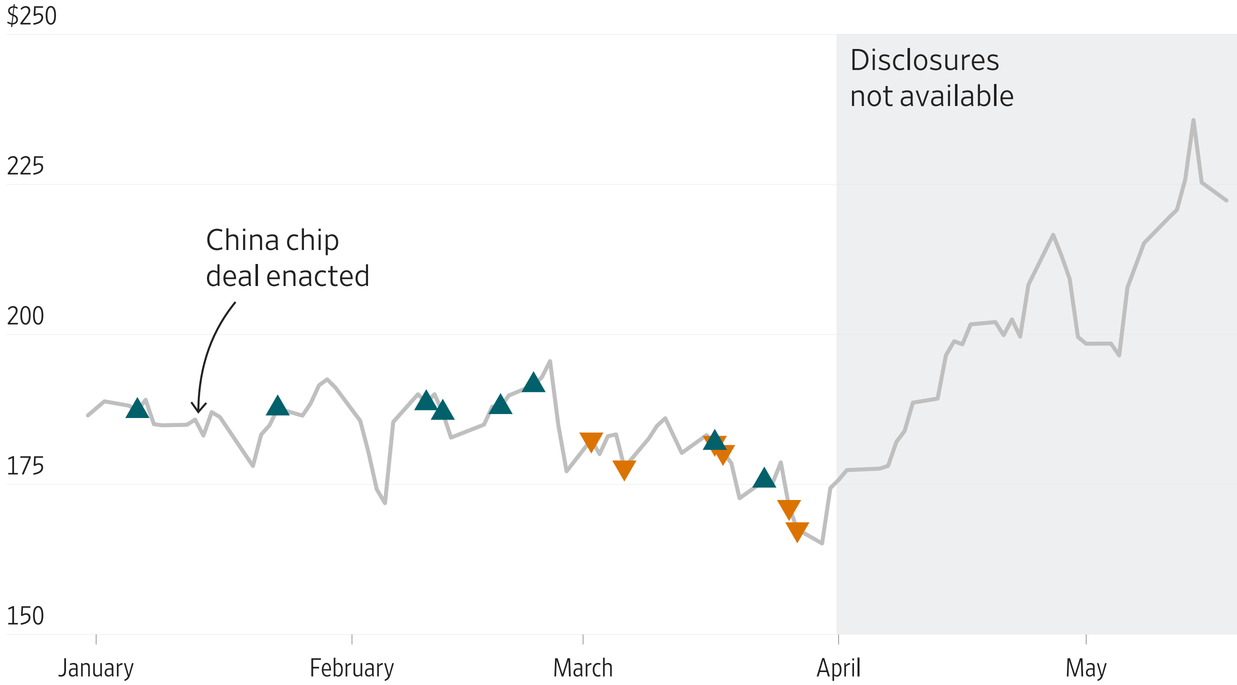
Here is a look at five tech stocks that the accounts traded in the first quarter.

Nvidia

The accounts purchased at least $1.75 million of Nvidia's stock in the quarter, including $500,000 on Jan. 6. A week later, the administration cleared the way for Nvidia to send its H200 artificial-intelligence chips to China. Last week, Trump invited Nvidia CEO Jensen Huang to travel aboard Air Force One for the state visit to China.

Nvidia's share price and Trump's transactions

■ Purchase ■ Sale



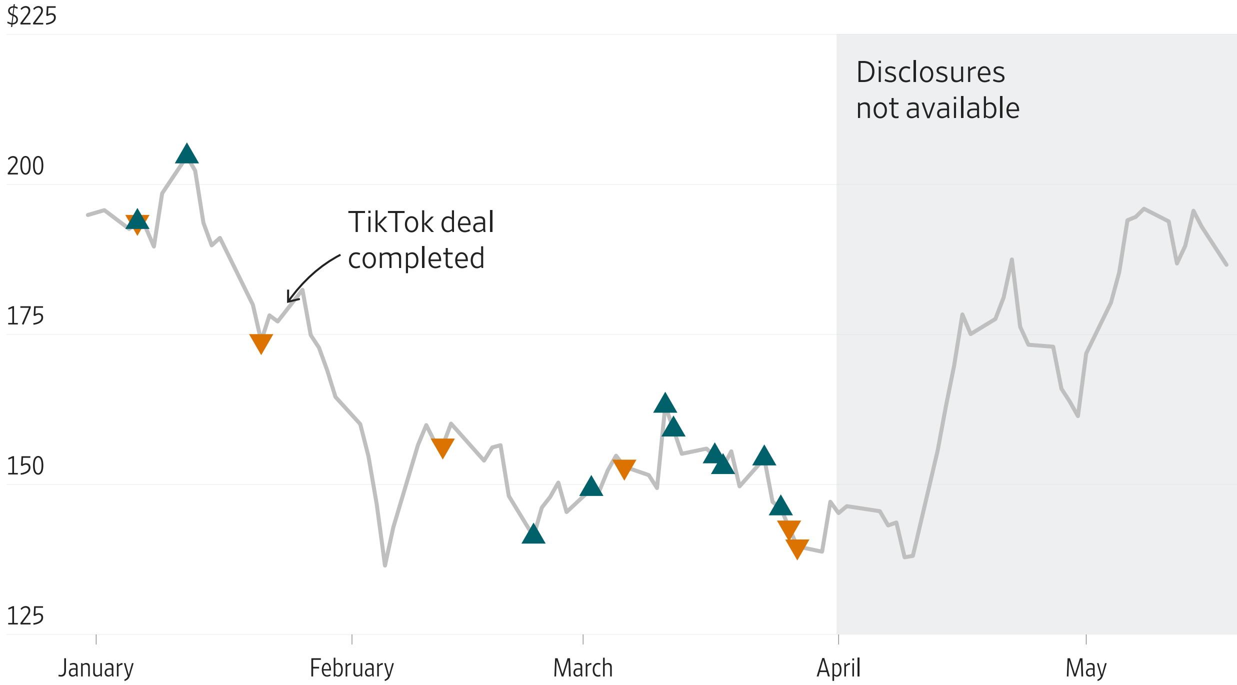
Sources: U.S. Office of Government Ethics (transactions); FactSet (share price)

Oracle

The president's accounts disclosed more than a dozen transactions in Oracle ORCL -1.77% , including a sale of at least $1 million of the stock on Jan. 6. Oracle officially took a stake in TikTok's U.S. operations on Jan. 23, in a deal helped by Trump's delayed enforcement of a ban of the social-media platform.

Oracle's share price and Trump's transactions

■ Purchase ■ Sale



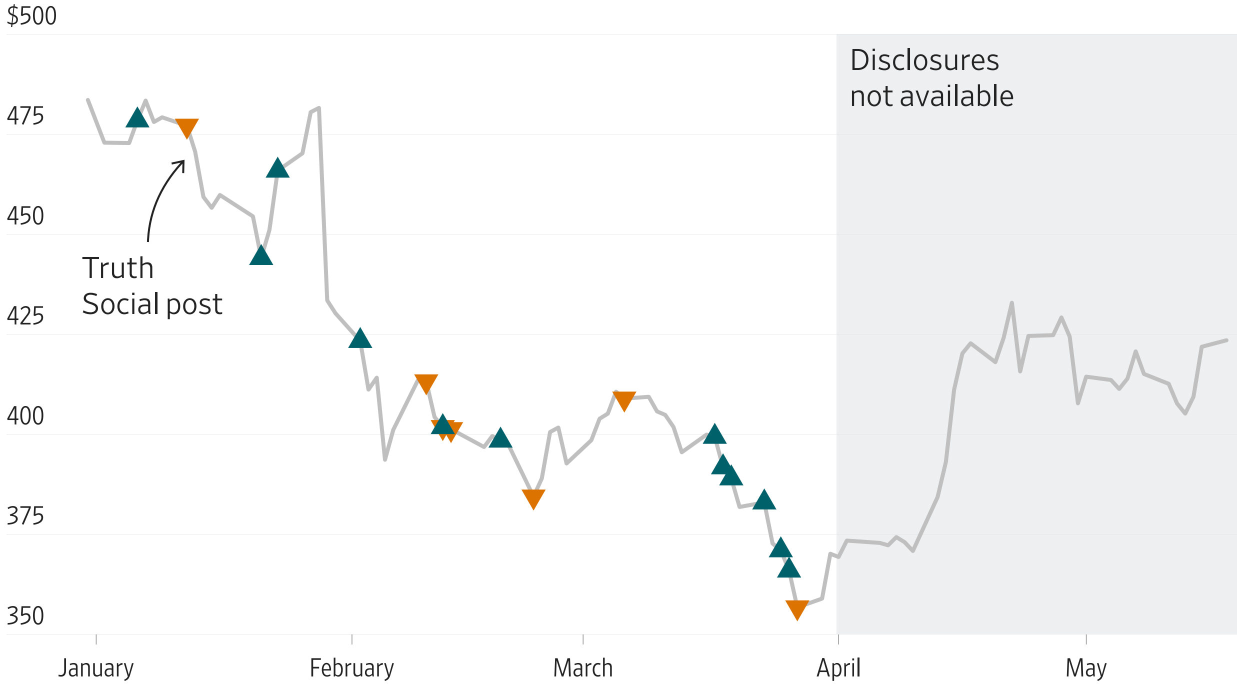
Sources: U.S. Office of Government Ethics (transactions); FactSet (share price)

Microsoft

On Jan. 12, the president announced that Microsoft had pledged to manage utility costs at its artificial-intelligence data centers to avoid squeezing American ratepayers. "Thank you, and congratulations to Microsoft!" he wrote in a post on Truth Social. Around a month later, on Feb. 10, his accounts unloaded at least $5 million of his holding in Microsoft.

Microsoft's share price and Trump's transactions

■ Purchase ■ Sale



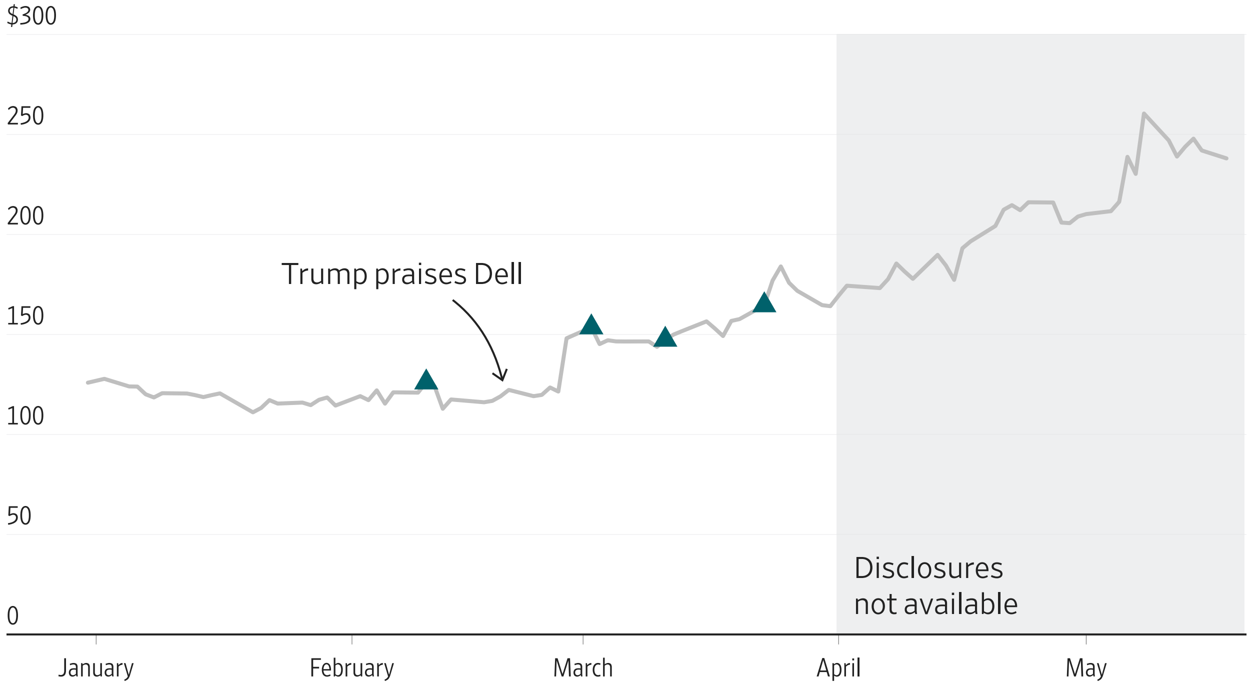
Sources: U.S. Office of Government Ethics (transactions); FactSet (share price)

Dell

On Feb. 10, Trump's accounts bought shares of Dell in a transaction worth between $1 million and $5 million. Around a week later while speaking to steelworkers in Georgia, Trump praised the PC maker's chief executive, commending Michael Dell and his wife for jump-starting the 'Trump Accounts' program. He told the crowd to "go out and buy a Dell computer."

Dell's share price and Trump's transactions

■ Purchase



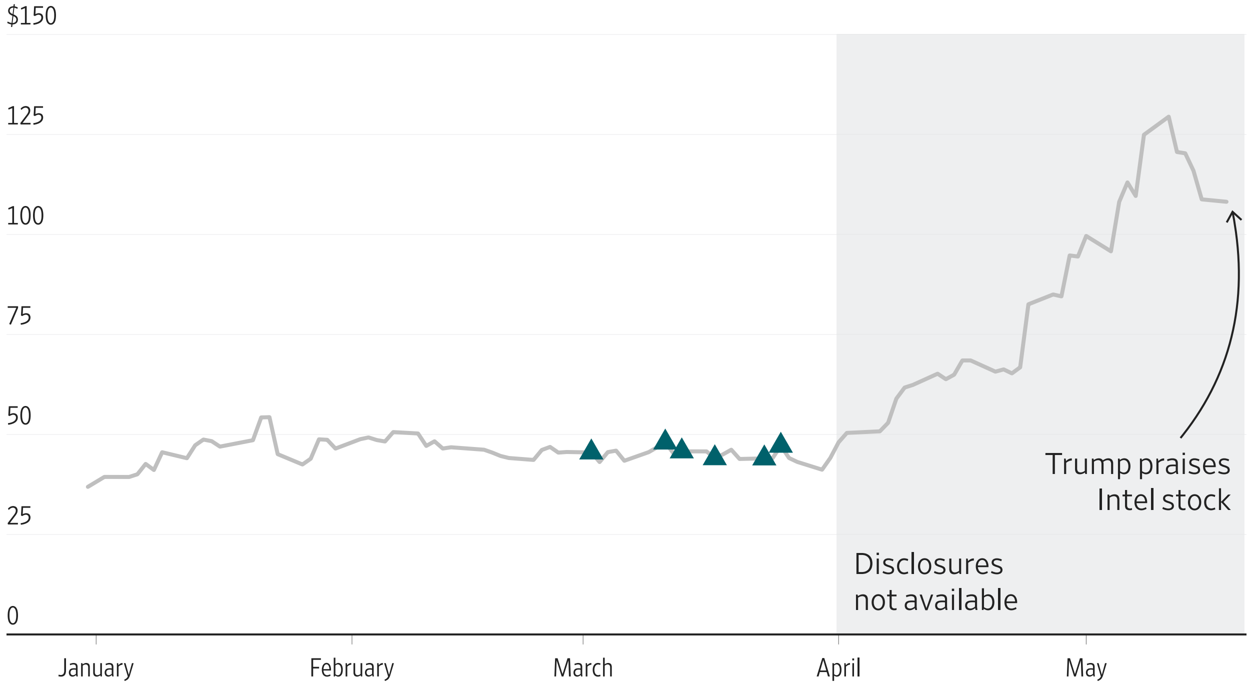
Sources: U.S. Office of Government Ethics (transactions); FactSet (share price)

Intel

Trump's accounts added to their holdings in Intel, in which the U.S. government took a 10% stake last year. The transactions amount to six purchases totaling between $95,000 and $280,000 in stock in March. Intel's share price has rocketed since the end of the first quarter, and Trump has since said he wished the government took a larger stake.

Intel's share price and Trump's transactions

■ Purchase



Sources: U.S. Office of Government Ethics (transactions); FactSet (share price)

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Securities

Anthropic Stock Crackdown Jolts Buyers in Pre-IPO AI Startups

May 18, 2026, 9:44 AM PDT

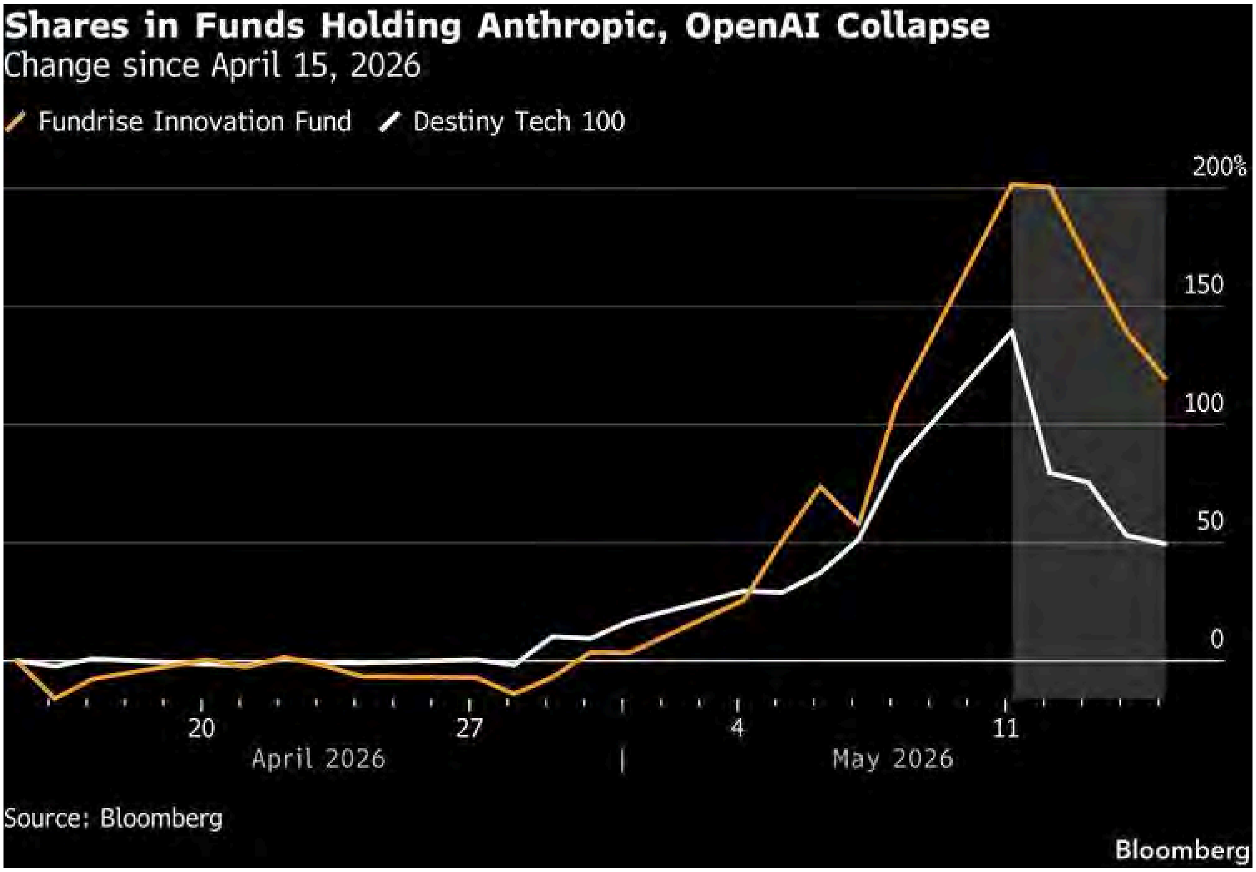
In the moments after Anthropic expanded a ban on popular ways to buy its shares, investor chatrooms around the world lit up.

“Are we screwed?” one person wrote in a WhatsApp chat for family offices with several hundred members. Similar questions reverberated more publicly across X, Reddit and Chinese-language social media, as investors worried whether their shares in the artificial intelligence developer — one of the most coveted private companies — had suddenly become worthless.

Days later, there is little clarity. Anthropic PBC issued a stern warning on its website last week about unauthorized sales, taking the unusual step of naming eight firms whose offerings would be considered void. It also expressly prohibited investors from buying shares through special purpose vehicles, a common tool to raise financing.

Both Anthropic and rival OpenAI have long warned against unauthorized transactions — fine print overlooked by eager buyers until last week when the Claude maker removed any ambiguity. Publicly traded funds touting exposure have plunged on the back of the update and private brokers are reeling.

Sim Desai, founder of Hiive, one of the secondary trading platforms called out by Anthropic, said his company only facilitated deals that had Anthropic’s approval. Sohail Prasad, whose closed-end fund has lost about 25% of its share value in the intervening days, was adamant on X that his fund’s Anthropic holdings were valid.



“Anthropic threw a bomb into the market,” said Idan Miller, who runs Unicorns Exchange, another platform named by Anthropic. “We were unfortunately involved in a really bad and unjust way.”

Representatives for Anthropic declined to comment. A representative for OpenAI said the company had taken action against unauthorized platforms offering its shares.

Over the last two years, a niche private market sector has ballooned into a multibillion-dollar investing spree for stakes in Anthropic, OpenAI and SpaceX ahead of their blockbuster expected public listings. These firms, at the forefront of the tech boom, have created tremendous paper gains for large venture firms and institutional funds. Some insiders have sought to monetize their exposure as family offices, retail investors and wealthy individuals are clamoring to get in, any way they can, feeding a booming shadow stock market.

Anthropic is in discussions for additional funding at a valuation north of $900 billion, Bloomberg News reported, and secondary traders have marketed shares at even higher prices.

The crackdown “marks the beginning of a reckoning over our modern private markets,” wrote Anat Alon-Beck, a law professor who specializes in corporate governance at pre-IPO companies at Case Western Reserve University. “It raises questions like, who actually owns what? Who bears the risk when shadow ownership structures collapse? Should trillion-dollar private companies continue to operate outside the disclosure framework that governs other big companies?”

Miller said his Tel Aviv-based firm serves merely as a broker, connecting sellers holding Anthropic shares with eager buyers, and always with the blessing of the company. Other firms on Anthropic's list made similar arguments.

Forge Global, a prominent secondary platform, said it was working with Anthropic to remove its name from the list of unauthorized sellers; as of Monday, Forge is still there. Brokerage Charles Schwab Corp. purchased Forge for $660 million last November.

Both OpenAI and Anthropic have greenlit some secondary transactions, primarily through tender offers, where early employees and investors can sell stakes. Anthropic also approved the transfer of $884 million worth of shares from FTX, an early investor, after the crypto exchange's bankruptcy.

A range of companies offer platforms for these secondary transactions, which are increasingly common for fast-growing startups.

As secondary sales grew, so did SPVs, now a standard part of financing for many pre-IPO companies and a way for smaller investors to buy in. An early Anthropic backer, Menlo Ventures, pooled its own $500 million check into an earlier funding round using an SPV, according to an SEC filing first reported by Business Insider.

But as funding rounds have grown, SPVs have become complicated and murky, with little end clarity for the buyer and reduced transparency for the startup.

"Anthropic does and should have the right to control its cap table and shareholder base," said Matt Murphy, the Menlo partner who led the firm's investment. He said his firm didn't use the kind of SPVs banned by Anthropic.

"Unauthorized SPVs are not in the company's best interest and can often be downright shady," he said. "Buyer beware."

In one recent email pitch reviewed by Bloomberg News, a broker for the "Family Office Network" in Dubai offered would-be buyers a block of Anthropic shares at a $1.2 trillion valuation through an SPV for a 10% cut. It was a "layered" vehicle, meaning that the vehicle being sold by the broker is invested into yet another SPV that claims to own shares.

"Need to wire funds by Monday," the message read.

Multi-layered SPVs aren't rare, accounting for $227 million of the $3.5 billion secondary market transactions in 2025, according to Caplight, a data provider and platform. Banks and blue-chip financial firms have rushed into this market as wealthy clients demand access to hot private companies.

But they can be "opaque, fragmented, and sometimes involve claims on shares rather than actual transferable shares," said Ludovic Phalippou, a professor of financial economics at the University of Oxford's Said Business School. The sprawl of SPVs is a bad look for companies and might create legal headaches down the line, he added.

"Audit your Anthropic exposure immediately," one manager of SPVs wrote to a family office on May 12, according to a copy of the message viewed by Bloomberg News. "If Anthropic is doing this today, it is reasonable to expect that other highly valued private companies preparing for IPOs or large funding rounds will follow." The email also told investors to call their legal counsel.

Anthropic, OpenAI and Anduril all describe share transfers without their knowledge as "void."

"Anthropic said the SPVs are void, not voidable, meaning it was never valid to begin with," said Alon Kapen, partner at law firm Farrell Fritz. "That essentially means these investors in the SPVs don't have a claim against Anthropic."

Many SPV investors bought interest in "an empty box," he added.

"Honestly, scratching my head about this," wrote Hiive's Desai on X, following Anthropic's update. The company brokered share trades through direct sales and SPVs, he said in a follow-up post. He declined to comment further.

Few of those who acquired shares in a roundabout way — and are making money off marketing that exposure — are willing to entertain the idea their holdings are non-existent.

Two closed-end funds that disclosed holdings in Anthropic and OpenAI through SPVs, Fundrise Innovation Fund LLC and Destiny Tech100 Inc., fell about 29% and 33% since the Anthropic update.

Fundrise described its shares in a March presentation as a stock for "everyday Americans [getting] locked out of a once-in-a-generation wealth event." The document said the fund's largest holding, at 20.7% of its portfolio, is in Anthropic. A separate filing stipulated that it purchased these shares through an SPV. A Fundrise representative didn't respond to a request for comment.

Destiny Tech100 CEO Prasad said the company was "confident in the investment," in a statement on X.

Jared Carmel, founder of secondary specialist Manhattan Venture Partners, which picked up shares in Anthropic after the FTX fire sale, received a flood of inquiries last week from investors who purchased SPVs outside of his fund. "People are going to get caught completely exposed when they realize what they may or may not actually own," he said.

Justin Taylor, a London-based family office adviser, said the mad rush to buy into Anthropic, OpenAI and SpaceX means investors have skimped on due diligence process and missed the fine print on terms. "As Tolkien put it," he said, "'All that is gold does not glitter.'"

Kapen, the Farrell Fritz attorney, expects that matters will ultimately be resolved in court. In the meantime, many would-be investors are left guessing. In the family office chat about whether holders of Anthropic SPVs were hosed, one person offered a curt reply: "Ask Claude."

--With assistance from Bailey Lipschultz and Henry Ren.

Securities

EY Pays Over £100 Million to Settle NMC Health Legal Claim

May 16, 2026, 5:03 AM PDT

EY UK has paid more than £100 million ($133 million) to the administrators of NMC Health Plc to settle claims it was negligent in its audits of the failed firm, according to people familiar with the matter.

NMC sued EY for more than £2 billion in the UK courts over the alleged negligence, but the two sides settled the case on confidential terms without admission of liability by EY, according to NMC's latest administration report filed at UK Companies House.

The filing shows settlement of legal claims of £105.5 million, which people familiar with the matter said was the amount of EY's settlement.

An EY spokesperson said the firm was no longer in a dispute with NMC but declined to comment further. A spokesperson for the administrators Alvarez & Marsal confirmed the claim against EY had settled, but said its terms are confidential.

NMC collapsed in 2020 after a short seller's report revealed the scale of the company's troubles. The UK's markets watchdog criticized the collapsed Middle Eastern hospital operator in 2023 for misleading investors about its debt position by as much as $4 billion.

Lawyers for the formerly FTSE 100-listed firm claimed that EY failed to spot billions in debt at NMC when it audited the company between 2012 and 2018. EY in turn said its auditors had been duped by a sophisticated fraud.

The administrators have ongoing legal claims in the UK against NMC's founder Bavaguthu Raghuram Shetty, its former Chief Executive Officer Prasanth Manghat and India's Bank of Baroda over the collapse of the business. A "consensual stay" on those claims has been agreed pending the outcome of separate litigation taking place in Abu Dhabi, according to the administrators' report, which is dated May 8.

Unsecured creditors of the failed firm are set to get a payout, but the report said it could not be accurately estimated at this stage. Shareholders in the company aren't expected to receive anything from the administration process.

The administrators said that £47.9 million had been repaid to litigation funders, along with an agreed litigation return of £22.2 million.

Alvarez & Marsal estimated its fee for the entire process would be £69.2 million following the resolution of the claim against EY.

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FirstEnergy Urges 6th Circ. To Again Nix Investors' Class Cert.

By **Jessica Corso**

Law360 (May 18, 2026, 10:53 PM EDT) -- FirstEnergy Corp. is once again asking the Sixth Circuit to curb a class action alleging it defrauded investors by hiding its involvement in a $1.3 billion bribery scandal, urging the court to overturn class certification a second time.

The utility company has petitioned the Sixth Circuit to review a decision by U.S. District Judge Algenon L. Marbley **last month** that recertified the investor class following a remand by the appellate court.

FirstEnergy said the petition is necessary because the investors' method for calculating damages didn't meet the requirements established by the U.S. Supreme Court in 2013's Comcast Corp. v. Behrend decision.

"Defendants should not be forced to risk a multi-billion-dollar final judgment to obtain review of an incorrect class-certification ruling," the company said in a petition filed with the circuit court on Friday.

"This court previously granted … review in this case to scrutinize the district court's Comcast analysis (or lack thereof) in certifying a sprawling, 3.5-year, multi-billion-dollar damages class," the petition said. "It should again."

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

The lawsuit against FirstEnergy was filed in 2020 shortly after Larry Householder, former speaker of the Ohio House of Representatives, was arrested and charged with accepting millions of dollars in bribe money to support a bill that ultimately provided the company a $1.3 billion taxpayer bailout of its aging nuclear power plants.

Householder **was sentenced** to 20 years in prison in 2023, and FirstEnergy admitted to bribing him and other public officials as part of a $230 million **deferred prosecution agreement** in 2021.

The investors say that FirstEnergy's attempts to cover up the bribery meant that the stock was trading at an artificially inflated price and have accused the company of fraud.

FirstEnergy argues that the lawsuit is part of a trend of "event-driven litigation," asking the Sixth Circuit on Friday to restore a "critical check" on such suits that was imposed by the Comcast ruling.

Under Comcast, courts must consider whether a class' proposed damages model demonstrates classwide reliance. FirstEnergy said that the investors' damages expert offered no proof that he could "reliably estimate damages on each of the 860 trading days of the 3.5-year class period."

Judge Marbley disagreed, saying that damages models need not be exact at the class certification stage to meet Comcast requirements and that variations in inflation on each day of the class "do not render … a model unable to satisfy Comcast."

The Sixth Circuit isn't the only federal appellate court being asked to assess whether shareholder class actions pass the Comcast test.

The Fourth Circuit is weighing a similar question in a case against Boeing, with judges in that court suggesting at oral arguments **earlier this month** that they may send the case back to the lower court for a second look at class certification.

Meanwhile, the Seventh Circuit this month **agreed to hear** Boeing's appeal of a second investor class certification, with the defendant also pressing a Comcast challenge in that appeal.

FirstEnergy highlighted the Boeing cases in its request for the Sixth Circuit to grant it a second review.

"The question presented is … critical to securities class actions generally, as the Fourth and Seventh Circuits recognized," the company said.

FirstEnergy counsel Robert Giuffra of Sullivan & Cromwell LLP noted in an email to Law360 that circuit courts have taken a class certification appeal more than once in the past, including in an investor suit against Goldman Sachs that eventually made its way to the Supreme Court.

The investors are represented by Darren Robbins, Mark Solomon and Jason Forge of Robbins Geller Rudman & Dowd LLP and Joseph Murray of Murray Murphy Moul + Basil LLP.

FirstEnergy is represented by Robert Giuffra, Sharon Nelles, David M.J. Rein, Beth Newton, Hilary Williams, Nicholas Menillo and Maxwell Gottschall of Sullivan & Cromwell LLP.

The case is In re: FirstEnergy Corp., case number 26-0303, in the U.S. Court of Appeals for the Sixth Circuit.

--Editing by Nick Siwek.

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4th Circ. Ruling Will Rewrite Class Action Litigation Strategies

By **Jim Francis** (May 15, 2026, 4:47 PM EDT)

Jim Francis

For many years, when presented with a class action complaint, some defendants have resorted to filing a motion to strike class allegations right out of the gate, either with or without an accompanying motion to dismiss. The purpose behind such a motion is clear: preempt class discovery.

The problem is that such a vehicle, if granted, would essentially create an end run around Rule 23, which sets forth simple pleading standards for class action complaints and contemplates that class certification be decided after at least some discovery.

The patent incongruity between motions to strike under Rule 12(f) and Rule 23 has gone largely unaddressed by the circuits for years, most likely due to the interlocutory nature of a Rule 12(f) motion.

As a result, many district courts, left without clear guidance, have issued gut-reaction decisions based upon common sense and practicality, usually finding that a motion to strike was premature, or if the pleading was so clearly errant, striking class allegations without the benefit of any discovery.

As such, case law left practitioners with no bright-line controlling rule addressing the applicability, or inapplicability, of Rule 12(f) motions in the Rule 23 context. Until now.

In Oliver v. Navy Federal Credit Union, the U.S. Court of Appeals for the Fourth Circuit spoke to the issue unequivocally. On Feb. 9, it **held** that Rule 12(f) motions are an improper mechanism for contesting the sufficiency of a complaint's class allegations, and rendered that long-standing playbook obsolete.

The court identified motions to deny class certification under Rule 23(c)(1)(A), coupled with a motion to strike under Rule 23(d)(1)(D), as the more appropriate procedure for challenging class actions at the pleading stage.

Oliver is the first federal circuit decision to hold that motions to strike are procedurally inappropriate vehicles for challenging class allegations at the pleading stage. In invalidating a tactic that had been used for decades, Oliver has rewritten the class action litigation playbook in the Fourth Circuit — and likely across the country as other circuits follow.

The Fourth Circuit Ruling

In Oliver, several applicants for residential mortgages sued Navy Federal Credit Union individually and on behalf of a putative class, alleging that it engaged in systematic discrimination against racial minorities.

The plaintiffs asserted claims under the Fair Housing Act and the Equal Credit Opportunity Act, alleging that Navy Federal Credit Union's "semi-automated underwriting process" produced both intentional discrimination and disparate impact against minority applicants.

Navy Federal Credit Union sought to dismiss the complaint or to strike the class allegations under Rule 12(f) and Rule 23(d)(1)(D), arguing that the differences between loan programs precluded class certification.

Navy Federal Credit Union contended that the plaintiffs failed to allege how its underwriting process could produce discriminatory effects between class members who applied for different products. The U.S. District Court for the Eastern District of Virginia granted the motion to dismiss in part, and also struck the class allegations under both Rule 12(f) and Rule 23(d)(1)(D).

In the majority decision authored by U.S. Circuit Judge Toby Heytens, the Fourth Circuit affirmed the district court's decision to strike the plaintiffs' Rule 23(b)(3) class allegations, even though no discovery had occurred, but reversed the district court's decision to strike the allegations for injunctive and declaratory relief under Rule 23(b)(2).

The majority opinion concluded that Rule 12(f) and Rule 23(d)(1)(D) were not the proper procedure for striking class allegations because there is nothing "impertinent" about class allegations before a Rule 23 ruling, and Rule 23(d)(1)(D) is "an optional housekeeping provision" that allows pleadings to be amended after the court has already concluded class certification is improper.

The court held that the "appropriate procedure for a defendant to challenge class certification — at the pleading stage or any other time — is to make 'a motion to deny class certification under 23(c)(1)(A), coupled with a motion to strike under 23(d)(1)(D) should the motion to deny class certification be granted."

Relying on decades-old Fourth Circuit precedent, including its 1978 ruling in Goodman v. Schlesinger, and 1981 decision in International Woodworkers of America v. Chesapeake Bay Plywood Corp., the court further held that "a district court may deny class certification before discovery only if the complaint's class action allegations fail to satisfy the relevant legal standards as a matter of law."

In so holding, the Fourth Circuit articulated a clear two-step road map for defendants seeking to challenge class allegations at the pleading stage.

First, a defendant moves to deny class certification under Rule 23(c)(1)(A) — through which a court can determine the propriety of class certification at "an early practicable time," the plaintiff briefs in opposition, the defendant files a reply, and the court rules.

Second, and only if the motion to deny is granted, the defendant follows with a motion to strike the class allegations under Rule 23(d)(1)(D). The motion-to-strike-first approach defendants have used for years, leading with Rule 12(f) or Rule 23(d)(1)(D), is now obsolete.

The majority opinion explained that district courts could strike class allegations that failed as a matter of law before discovery occurred. However, if a complaint asserted plausible allegations, a district court would err in striking them before discovery.

In the present case, the majority found that while the variation in Navy Federal Credit Union's mortgage products could undermine a class action as the superior method of adjudicating the Rule 23(b)(3) claims, the Rule 23(b)(2) claims were more suited to class action litigation, and ruled that the district court erred in striking those allegations.

In a dissenting opinion, U.S. Circuit Judge Julius Richardson said he would have affirmed the district court's ruling in full, arguing that the district court had discretion under Rule 23(d)(1)(D) to manage its docket by striking the class allegations.

The Post-Oliver Playbook for Plaintiffs

Oliver gives plaintiffs a persuasive argument for fighting motions to strike class allegations at the pleading stage — namely, that such motions are an inappropriate vehicle for challenging a class action at that time, and that defendants should have moved to deny class certification instead.

Plaintiffs counsel should consider opposing such motions head-on as procedurally infirm, rather than claiming that the motion should be decided after discovery.

But plaintiffs counsel should be aware of some nuance in Oliver. The Fourth Circuit declined to reverse the district court for treating Navy Federal Credit Union's Rule 12(f) motion as a Rule 23(c)(1)(A) motion to deny class certification, considering it to be an accommodation tied to the prior unsettled state of the law. The court did not hold that improperly filed motions to strike are subject to sua sponte recharacterization as a matter of course.

Plaintiffs in the Fourth Circuit may wish to argue that, with the procedural rule now clear under Oliver, district courts should not extend the same courtesy to defendants who file the wrong motion.

Plaintiffs could argue that Rule 12(f) motions to strike class allegations should fail on procedural grounds, without judges repackaging them into the proper Rule 23(c)(1)(A) motion. In so arguing, plaintiffs force defendants to file and properly support a motion to deny class certification if they wish to challenge class allegations at the pleading stage.

The Post-Oliver Playbook for Defendants

With the Fourth Circuit holding that motions to strike are procedurally inappropriate, defendants may simply resort to filing motions to deny class certification at the pleading stage in their place. Oliver both requires and arguably validates such a motion's value at that stage.

In Oliver, the Fourth Circuit, applying the new standard, dismissed the plaintiffs' Rule 23(b)(3) class on the pleadings alone, showing that a properly framed motion to deny class certification can eliminate a damages class before any discovery occurs.

Defendants may find filing motions to dismiss at the pleading stage to be fruitful when a purported class action includes overly broad or ill-defined classes, or where the named plaintiff's or plaintiffs' allegations materially differ from the typical claims of the proposed class.

Additionally, defendants may benefit from the strategic advantage that filing such a motion during the pleading stage could confer: forcing plaintiffs to plausibly articulate their theories of class liability before they can conduct discovery to uncover evidence that supports their case.

One strategic consideration for defense counsel, and perhaps an area of caution, is the standard of review when challenging motions to strike. Appellate courts normally review decisions of class certification for abuse of discretion, but the Fourth Circuit explained that premature decisions regarding class certification at the pleading stage constitute legal error, for which an appellate court would afford no deference on review.

Thus, a well-supported denial at the pleading stage will receive less appellate deference than a post-discovery ruling, but so too will an erroneous denial. The Fourth Circuit will likely be more willing to reverse and reinstate class allegations that a district court struck prematurely. Defense counsel should therefore be selective about which cases warrant a motion to deny under Rule 23(c)(1)(A), reserving the vehicle for matters in which the Rule 23 deficiencies are apparent on the face of the complaint.

In addition, given that a motion to deny class certification will be evaluated solely on the sufficiency of the pleadings, rather than evidence, the rigor of a court's analysis might be more favorable to plaintiffs than a motion for class certification, leaving defendants with an opinion that provides the plaintiff a road map for strengthening their class action allegations to satisfy Rule 23's requirements.

Potential Impact in the Fourth Circ. and Beyond

Plaintiffs and defense counsel practicing in the Fourth Circuit should familiarize themselves with the Oliver decision and the ramifications of it on their strategies for litigating class actions.

Attorneys who do not practice in the Fourth Circuit may wish to consider doing the same, even though other circuit courts have not yet held that a motion to deny class certification is the appropriate mechanism for defendants to contest the sufficiency of plaintiffs' class allegations.

Moving forward, plaintiffs counsel in class actions should be prepared for defense counsel to follow the Fourth Circuit's guidance regardless of the court they're in, and may want to shore up their class allegations in anticipation.

Defense counsel, on the other hand, should understand the strategic implications of choosing to move to deny class certification at the pleading stage, including the likely standard of review an appellate court would apply to a challenged lower court decision on such a motion.

Jim Francis is a founding shareholder at Francis Mailman Soumilas PC.

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AI-Proofing Class Action Notices From Pro Se Objection Surge

By **Britany Wessan** (May 18, 2026, 4:38 PM EDT)

Britany Wessan

The legal system is already contending with the influence of artificial intelligence on several fronts.

A study released in March by Anand Shah and Joshua Levy draws on more than 4.5 million federal civil cases to document that the pro se share of federal civil filings had long held steady at roughly 11%, before surging to 16.8% in 2025.[1]

The authors attribute that rise to AI lowering the cost of producing legal documents, with AI-generated text now detected in more than 18% of federal civil complaints filed in early 2026.

AI's effect on lowering cost has not only led to AI being used in pro se filings. AI-hallucinated citations and fabricated quotations have started to become the norm in legal news, appearing in filings from self-represented litigants and seasoned professionals alike.

For example, on April 18, Sullivan & Cromwell **submitted** a three-page correction to its bankruptcy filing due to AI-introduced errors in an earlier pleading.[2]

Class actions are not immune to any of these forces, and the objection process may be where they converge next.

Until recently, class action objectors have occupied a narrow corner of litigation. A small, repeat-player objections bar has dominated that space.

Joining those career objectors are the occasional one-off objections filed by individual class members. But that decades-long equilibrium is about to change.

A class member does not generally approach a class action notice with an intent to object. But often, a class member receives a notice filled with dense, unfamiliar language and legalese.

Class members could formerly turn to a search engine or lawyer friend to decipher that language, or might even try to parse the notice themselves. But that too has begun to change.

Increasingly, the first step is for a class member to run a class notice, settlement agreement or settlement website through an AI tool, whether ChatGPT, Claude, Grok or a similar large language model.

Uploading that document alongside a simple prompt — "explain this notice" or "anything I should be concerned about?" — can produce a summary of the document with flagged issues: how the recovery stacks up against comparable settlements, the share allocated to attorney fees or provisions that appear unusual on their face.

The AI tool may go a step further, and suggest that the class member consider objecting. It may offer to draft an objection if asked, or even if not asked.

What follows is a largely automated progression from confusion to action. The barrier to generating an objection drops to near zero, because the tools class members rely on to interpret unfamiliar information are increasingly capable of translating that uncertainty into a ready-made filing.

And those filings, even if error-laden, can be created with little more than a case name and the class notice.

The widespread adoption of generative AI tools is poised to increase both the volume and the sophistication of class action objections. And an influx of AI-written objections will likely reshape settlement approval proceedings in ways courts and litigants are only beginning to anticipate.

The idea that AI can draft objections, summarize settlement terms or flag unusual fee structures is no longer novel. What remains unsettled is whether AI can meaningfully evaluate the fairness of a deal like a lawyer or judge does.

Courts and litigants will need practical strategies to navigate this AI shift.

As discussed below, those strategies include drafting clearer settlement notices designed to withstand AI scrutiny, enhancing class-member education, building stronger records at or before the preliminary approval stage, establishing procedures to manage a higher volume of objections, and rethinking how and when objections are presented to the court.

Taking these steps proactively will allow litigants to stay ahead of a landscape that is already changing.

How the Objection Process May Be About to Change

At its core, the objection process has always been accessible in theory, but difficult in practice. Given the principle that a class member has the right to object, considering whether to do so and then crafting a legally sufficient objection usually requires understanding many related but often misunderstood legal concepts.

Those concepts include analyzing a settlement agreement, reviewing the structure of a deal (claims made, common fund or hybrid), assessing attorney fees, understanding the size of the recovery and the scope of the release, and evaluating the risks of continued litigation — questions that are complex even for experienced lawyers.

And all of that got even more complicated with the changes to Rule 23(e) of the Federal Rules of Civil Procedure in 2018. For class members, who are not lawyers and are often encountering the case for the first time through a dense notice, that kind of analysis is not just challenging, but often out of reach.

Historically, courts have been wary of so-called professional objectors — repeat filers who leverage objections. At best, their objections attempt to shape the settlement itself and the larger legal landscape as they believe it should exist, rather than how the parties believe a case should be resolved.

At worst, those objections are a mechanism to extract side deals or extra payments. But AI will democratize the objection process, shifting the landscape from a handful of repeat players to potentially hundreds or thousands of one-off objectors.

Now, through the minimal effort it takes to create basic prompts and nominal adjustments, generative AI can identify perceived deficiencies in a notice, challenge attorney fees or service awards, and raise concerns regarding relief to the class.

Importantly, these objections will not all be frivolous. Many of those objections will likely track the same issues that courts already take seriously.

For example, courts already consider whether a settlement falls within the range of reasonableness; whether a release is overbroad; and whether attorney fees are disproportionate to class recovery. What once required specialized legal knowledge can now be produced in minutes.

Analogy to another area of law may also prove illustrative. In the administrative law context, organized groups have long rallied their members to submit sometimes overwhelming numbers of comments to high profile rulemaking.

Just as that process will become easier with AI tools, so too can the same mechanisms be deployed in class actions. After all, the cost of creating form objections or a form prompt to produce a new objection via AI tools is quite small compared to the efforts that were previously required.

Courts and litigants will find it increasingly difficult to distinguish between boilerplate objections and those raising legitimate concerns, especially when both are presented in what appears to be polished, legally coherent language.

The result will be predictable: a significant uptick in objections, including from individuals who previously would not have objected at all, with some of those objections sufficiently well-articulated to resist summary dismissal.

As a result, courts and litigants will find themselves on the front lines of determining new procedures and approaches to grapple with this influx of AI-prepared objections.

Dealing With AI-Prepared Objections

Moving forward, parties may want to consider some of the following strategies to anticipate objections earlier and to build stronger evidentiary records for the approval process.

First, settlement notices are the first point of contact between the class and potential objectors. Litigants should focus on ensuring clear notices written in plain language are prepared for the settlement class.

Notices with errors will likely flag AI concerns, resulting in avoidable objections. Litigants should consider testing notices using AI tools internally to simulate how a class member might interpret the notice and identify red flags.

And as objections to notices occur, litigants will want to review prior AI-generated objections to similar notices and adjust phrasing and formatting to preempt common AI-flagged concerns.

Second, enhancing class-member understanding and education will become even more critical. Relying on automated systems, such as interactive voice response platforms, may no longer be enough.

Parties and settlement administrators should consider live operators to respond to inquiries, and plaintiffs attorneys should be prepared to field direct questions from class members.

Also, robust educational resources, including FAQs, plain-language summaries and explanatory guides hosted on class counsel's websites and linked to the settlement website, can help reinforce the legitimacy of the settlement and answer common questions.

Third, plaintiffs attorneys will likely face heightened scrutiny and skepticism regarding their requests for attorney fees. Objections will likely target certain settlement structures, percentage-of-fund awards and lodestar cross-checks.

Those objections will likely be tailored toward perceived disconnects between fees and class benefits. Even minor confusion related to attorney costs — not fees — and settlement administration expenses will be flagged.

To mitigate these risks, plaintiffs attorneys should consider providing explicit explanations of costs versus fees to avoid AI tools misidentifying expenses as excessive fees.

Fourth, parties should incorporate structured processes to manage objections. An increase in objections will mean an increase in responses, hearings and potentially appeals.

Initially, parties should consider requiring objectors to disclose whether their objections were drafted by AI. To further mitigate delays and procedural complications, litigants may want to build alternative dispute resolution mechanisms into the settlement framework for repeated or duplicative objections.

Explicitly outlining procedures for addressing AI-generated objections at the outset can help streamline review and reduce the risk of challenges or delays.

Fifth, litigants will want to consider how objections are presented to the court. Waiting for the final approval hearing to address objections may no longer be the best approach.

Parties may also wish to employ supplemental filings, summary charts or consolidated briefs to streamline the court's review of multiple objections that raise similar issues.

Incorporating tiered objection processes into preliminary approval orders can enhance efficiency. Final approval, which already takes months if not years, may take longer, increasing settlement uncertainty for both plaintiffs and defendants.

Conclusion

The next phase of class action objections will test whether the system can absorb increased participation through the widespread adoption of AI usage.

On one hand, broader participation aligns with the purpose of Rule 23 by amplifying class member voices. On the other, the shift toward AI-written objections risks overwhelming courts with objections that range from facially credible to substantively duplicative to without merit.

That paradox requires planning. Unless courts and litigants consider new strategies and procedures, they may find themselves behind the eight ball.

Britany Wessan is a partner at Almeida Law Group.

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[1] https://avshah1.github.io/assets/pdf/papers/pro-se/Pro_Se_Automation.pdf.

[2] https://websitedc.s3.amazonaws.com/documents/In_re_Prince_USA_18_April_2026.pdf.

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Chancery Sends Sinovac Biotech Suit To Antigua And Barbuda

By **Jarek Rutz**

Law360 (May 18, 2026, 7:08 PM EDT) -- The Delaware Chancery Court on Monday dismissed a shareholder suit against Sinovac Biotech Ltd. and several investors, ruling a fight over control of the China-based vaccine maker belongs in Antigua and Barbuda, where Sinovac is incorporated, rather than in Delaware courts.

During a motion to dismiss hearing, Vice Chancellor J. Travis Laster said he would not reach defendants' arguments that the claims were untimely or that the investors lacked standing, finding instead that the case should be tossed because it raises difficult questions of Antiguan and Barbudan law, involves largely foreign parties, and overlaps with litigation already pending in the Caribbean commonwealth realm.

"This is a case that just doesn't make sense to litigate here," Vice Chancellor Laster said.

The case was brought by MW Gestion SA, MW Optimum, Altimeo Participations and Cyrille Pichot against Sinovac, its CEO Weidong Yin, several directors and Vivo Capital LLC-related entities. The investors alleged Yin and others tried to entrench control of Sinovac through a series of transactions beginning with a 2016 take-private bid, a disputed rights agreement, a 2018 annual meeting, a 2018 private investment in public equity transaction, and later share issuances and dividends.

According to the suit, Yin offered in January 2016 to buy Sinovac for $6.18 per share, or about $350 million, before a competing group offered $7 per share. The investors alleged Sinovac adopted a poison pill to favor Yin's bid; later sold 11.8 million shares to members of the Yin group, including Vivo Capital-related investors; and tried an exchange under the rights agreement that would have given the Yin group a majority stake.

The dispute has traveled through multiple courts. In January 2025, the U.K. Judicial Committee of the Privy Council reversed Antiguan and Barbudan courts and held that Sinovac's rights agreement was invalid and that an insurgent slate backed by 1Globe Capital LLC had been validly elected at the company's 2018 annual meeting. The investors said the ruling reshaped the case because it meant the incumbent directors had been improperly serving since 2018.

Vice Chancellor Laster said Monday that the Privy Council ruling created unusual and serious questions about what Antiguan and Barbudan law requires, including how the ruling affects later corporate acts; whether the claims are direct or derivative; and how any limitations period should apply. Those issues, he said, were central to why Delaware was not the right court.

The vice chancellor said Delaware has a strong interest in deciding difficult questions of Delaware entity law, and so it should defer when another jurisdiction's corporate law is at the heart of a dispute. He noted the investors are European, Sinovac is an Antiguan and Barbudan company with principal offices in Beijing, and most of the relevant evidence and witnesses are outside Delaware.

"Everything is going to be more difficult litigating here in Delaware than it is in Antigua," he said.

Although some Vivo Capital entities are organized in Delaware, the judge said that connection was not enough to keep the case in Chancery Court. He also pointed to related litigation in Antigua's High Court, saying those proceedings address similar issues and could be coordinated in ways a Delaware action could not.

The vice chancellor said litigating in Delaware would create "overwhelming hardship" because of the expense and complexity of asking a Delaware court to decide novel Antiguan and Barbudan law questions. He said the case would be "a far heavier lift here for everyone concerned" than it would be in Antigua and Barbuda.

Defense counsel had argued the case centered on an Antiguan and Barbudan company, Chinese operations and foreign law, while the investors said Delaware should hear the case because several Vivo Capital defendants are Delaware entities, and Sinovac previously litigated related issues in the Court of Chancery.

Vice Chancellor Laster said he understood why the investors wanted to proceed in Delaware, but that comity and efficiency favored dismissal. He said he was "flattered" by the plaintiffs' confidence in the Delaware courts but that an Antiguan and Barbudan judge would be better suited to decide the dispute.

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

The investors are represented by Jeremy A. Lieberman, Brandon M. Cordovi and Michael Grunfeld of Pomerantz LLP and F. Troupe Mickler IV and Tiffany Geyer Lydon of Ashby & Geddes PA.

Sinovac Biotech is represented by Morris J. Fodeman, Sheryl Shapiro Bassin, Shannon E. German and Ashleigh L. Herrin of Wilson Sonsini Goodrich & Rosati PC and Sara Carnahan, Alexandra Cumings and David J. Teklits of Morris Nichols Arsht & Tunnell LLP.

Simon Anderson, Weidong Yin, Nan Wang and Meng Mei are represented by Corey Worcester, Margaret Schmidt, Michael A. Barlow and Shannon M. Doughty of Quinn Emanuel Urquhart & Sullivan LLP.

Vivo Capital and affiliates are represented by Kevin M. Gallagher and Raymond J. DiCamillo of Richards Layton & Finger PA and Wendy Shidi Wu and Stephen P. Blake of Simpson Thacher & Bartlett LLP.

The case is MW Gestion et al. v. Sinovac Biotech Ltd. et al., case number 2025-0417, in the Chancery Court of the State of Delaware.

--Editing by Brian Baresch.

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Del. Dispatch: The Hurdles To Early Fraud Claim Dismissal

By **Gail Weinstein, Philip Richter and Steven Epstein** (May 18, 2026, 5:58 PM EDT)

This article is part of a ***monthly column*** *that delves into the most significant corporate law cases emerging from Delaware and offers practice points arising from recent court decisions. In this installment, we examine the Delaware Court of Chancery's recent decision in Diem v. Maisonette.*

Gail Weinstein

Philip Richter

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On March 4, the Delaware Court of Chancery, at the pleading stage of litigation in Diem v. Maisonette Inc., rejected the dismissal of the plaintiffs' claims that they had been fraudulently induced to invest in the Series C and Series D financing rounds of Maisonette.

Maisonette had provided the plaintiffs with unaudited financial statements, and, after the plaintiffs invested, they learned that, while they were conducting due diligence, the company had restated its financial statements. The restatement reflected lower earnings-based results than had been reflected in the financial statements provided to the plaintiffs.

The plaintiffs claimed that the company, its directors, its chief financial officer and the private equity fund that was its largest stockholder, in order to induce the plaintiffs to invest, had intentionally provided financial statements that they knew were "not entirely accurate."

Vice Chancellor Bonnie W. David ruled that the plaintiffs' waiver of claims in the stock purchase agreements for the financings may not have covered fraud claims. The court rejected the dismissal of the plaintiffs' claims that Maisonette, its directors and its CFO had fraudulently induced the plaintiffs to invest; that the stockholder, New Enterprise Associates 15, through its designee on Maisonette's board, had engaged in a conspiracy to commit the fraud; and that all of the defendants had been unjustly enriched.

The decision highlights the difficulty of obtaining dismissal of fraud claims at the pleading stage; the potential for liability faced by directors, CFOs and stockholders with designees on a portfolio company's board; and the need for a board, when it receives information indicating that its financial reporting systems need improvement, to consider whether the financial statements should be restated and whether updated information should be provided to potential investors.

Notably, at every turn, the court refused to dismiss the plaintiffs' various claims, citing pleading-stage requirements — that is, that at the pleading stage, the court cannot make factual determinations and must reach all reasonable inferences in the plaintiffs' favor. Particularly where the alleged facts may suggest potentially blatant or egregious misconduct, these pleading-stage standards can provide a ready route for the nondismissal of claims before a trial.

Discussion

Materiality

At the pleading stage, the court could not make a factual determination concerning whether the alleged inaccuracies in the financial statements provided to the plaintiffs were material to their investment decision.

The court rejected the defendants' argument that, as investors in startup companies do not make investment decisions based on earnings, and as the allegedly inaccurate information related to earnings-based results, the inaccuracies could not have been material to the plaintiffs. The court acknowledged that decisions whether to invest in startups generally are based on "unit economics" — like lifetime value per customer acquisition cost, a ratio that measures the relationship between the "lifetime value" of a customer and the "cost to acquire" it.

However, the court stated that the defendants' argument "makes little sense" because "the unit economics on which Plaintiffs relied were derived from Maisonette's historical performance."

Directors

At the pleading stage, the court could not reject the contention that the directors disseminated financial statements to the plaintiffs knowing, or recklessly disregarding, that the information therein regarding Maisonette's historical financial performance was not entirely accurate.

The plaintiffs pointed to a presentation the board received while the plaintiffs were conducting due diligence, titled "Assessment of Finance Capabilities," which identified needed improvements with respect to Maisonette's financial information. The slide stated that the company's financial reporting relied on QuickBooks, a software with "limited capabilities"; that "data sources for reporting were directionally correct but not entirely accurate"; that "private label accounting was non-existent"; and that "the Company had not yet undergone an audit."

The court acknowledged that the slide itself described Maisonette's reporting as "directionally correct" and that the directors had personally invested tens of millions of dollars based on the same financial information that was provided to the plaintiffs. However, the court stated, at the pleading stage, drawing all reasonable inferences in the plaintiffs' favor, that it was reasonably conceivable — "if only barely so" — that the directors disseminated the financial statements "knowing that the financial information therein was 'not entirely accurate.'"

CFO

At the pleading stage, the court stated, the allegations that the financial statements provided to the plaintiffs had been "prepared by" the CFO, and "reviewed, adopted and approved" by the directors, were "sufficiently specific to ascribe the misleading statements in those documents to all of those parties," including the CFO.

The CFO argued that she was differently situated than the director-defendants because she had joined the company as CFO during the fundraising efforts. She asserted that it was not "reasonable to infer that [she] should have conducted a complete audit of Maisonette's historical financials months into the job."

She stressed that she had just "'transmitted' the financial statements," with the authorization and full knowledge of the board. She had done "exactly what a CFO should," she argued — she had "review[ed] the Company's historical reporting processes and suggest[ed] improvements." She also stressed that she had believed that the financial statements were "directionally correct."

The court responded that the plaintiffs' allegation was not that the CFO should have done an audit, but that she, as CFO, had prepared financial statements and provided them to the plaintiffs while knowing that the information in them was not entirely accurate.

Stockholder

At the pleading stage, the court could not make the factual determinations necessary to decide whether stockholder New Enterprise Associates 15, or NEA 15, through its designee, had conspired with the company's fiduciaries to commit fraud. Specifically, the court could not make the factual determination whether the designee was acting at NEA 15's behest and in the stockholder's interests rather than the company's.

The court rejected NEA 15's argument that its continued investment in Maisonette, based on the same financial statements that were provided to the plaintiffs, indicated that it did not believe the financial statements were inaccurate. The court credited the plaintiffs' "alternative narrative" that NEA 15 may have continued to invest, even though it knew that Maisonette's financial condition was "dire," as a means of getting the plaintiffs to invest "substantial new money" into the company.

NEA 15 argued that the alleged facts did not support a reasonable inference that there was a "'meeting of the minds between or among' the alleged co-conspirators."

The court, however, noted the plaintiffs' allegations that:

- Some weeks before the plaintiffs received the financial statements, "two NEA 15 employees participated in a 'closed-door session' with Maisonette to discuss fundraising";
- "Maisonette touted NEA 15's participation in the Series C and Series D financing rounds to convince Plaintiffs to invest";
- "NEA 15, through [the designee,] negotiated the terms of the Series C financing directly with Plaintiffs";
- The designee, "acting to advance NEA 15's interests, oversaw Maisonette's fundraising efforts" and approved the information provided to the plaintiffs and the stock purchase agreements; and
- The designee did not disclose that he was a defendant in litigation that was the subject of another of the plaintiffs' claims relating to Maisonette's representation and warranty about the absence of pending litigation.

Based on these allegations, the court found it reasonably inferable that NEA 15 entered into a conspiracy with Maisonette's fiduciaries to commit the alleged fraud.

Unjust Enrichment

At the pleading stage, the court could not make the factual determinations concerning whether the directors, the CFO and NEA 15 — although they did not receive the proceeds of the plaintiffs' investment — may have received benefits such that they were unjustly enriched.

The court credited the plaintiffs' contention that their investment may have benefited these defendants by "extend[ing] the runway on their investments" in the company, i.e., provided more time for the company's financial condition to improve.

Waiver of Claims

At the pleading stage, the court could not determine whether the waiver provision in the financing documents relinquished the right to make a fraud claim. In this provision, the plaintiffs waived any claims "in respect of" the investment.

The court stressed that the provision did not specifically reference "fraud claims" or "unknown claims." If the parties' intention had been "to broadly release unknown fraud claims, they could have done so explicitly, but they did not," the court stated.

Practice Points

Drafters should ensure that a waiver or release of claims is unambiguous as to whether fraud or other unknown claims are waived or released.

For the broadest waiver or release, the language should state that the party waives or releases any and all claims, whether known or unknown, including claims of fraud.

Parties also could consider defining fraud — including whether to exclude or modify any of the common-law elements of fraud, such as the requirements for reliance and scienter.

Directors should be on alert if they receive information that the company's financial reporting may need improvement.

Directors should consider the potential impact, if any, on the accuracy of the company's financial statements and whether there is a need for restatement.

They also should consider whether new financial statements or supplemental information should be provided to potential investors who have received company financial information.

Parties could consider establishing up front the material factors on which the investor relied in valuing the company.

This is important in order to be able to establish later in the event of a dispute whether particular allegedly inaccurate information was or was not material.

For example, a startup company may want to seek a representation and warranty from investors that earnings-based information, although provided to them and considered to some extent, was not material to them.

The interaction of such a provision with an antireliance provision and/or waiver of claims provision should be made clear.

Stockholder designees on a company's board must keep in mind their dual-fiduciary role.

Consideration must be given to avoiding potential liability for the stockholder and/or the designee based on the designee's actual and potential conflicts of interest.

Depending on the facts and circumstances, the following could be considered: the appointment of a special committee of independent directors to consider and approve the transaction; obtaining the advice of outside advisers and/or a fairness opinion; full disclosure to the board of the designee's conflicts; recusal of the designee from discussions concerning the matter; and/or abstention by the designee from voting on the matter.

In the case of a public corporation, approval by a special committee of independent directors will provide safe harbor protection under the 2025 Delaware General Corporation Law amendments for conflicted transactions. A dual-fiduciary designee should consider maintaining a contemporaneous record reflecting their consideration of the company's interests when taking action on a matter that may present a conflict with the designating stockholder.

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How Del. Courts Will Likely Evaluate AI Oversight Claims

By **Mike Bongiorno, Tim Perla and Jessica Lewis** (May 14, 2026, 3:48 PM EDT)

Mike Bongiorno

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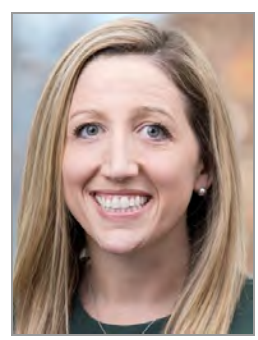

Jessica Lewis

To date, no Delaware court has adjudicated a Caremark claim — the bedrock claim that challenges a board's oversight — based on alleged failures to oversee artificial intelligence risk. Despite the explosion of board-level discussion; regulatory, investor and media attention; and internal policymaking around AI, how Delaware fiduciary law will treat AI-specific oversight failures remains unanswered.

That uncertainty surely will not last long. As AI becomes embedded in core business functions, AI regulation inevitably increases and AI-related failures more frequently trigger regulatory scrutiny, consumer harm or operational disruption, boards will increasingly face challenges tied to AI governance.

When that happens, Delaware courts are unlikely to invent a new fiduciary framework. Instead, recent Court of Chancery decisions suggest that familiar Caremark principles will be applied to AI oversight in predictable but consequential ways, particularly where AI touches mission-critical operations, regulatory compliance is at stake or warning signs precede a significant corporate crisis.

The Caremark Standard Today

Caremark claims, derived from the Delaware Court of Chancery's seminal 1996 decision in In re: Caremark International Inc. Derivative Litigation, have long been described as among the most difficult fiduciary claims to plead. Recent Court of Chancery decisions over the past year, however, underscore an important point for boards confronting novel risks like AI: While oversight claims remain demanding, they can survive at the pleading stage where plaintiffs plausibly allege (1) failures tied to mission-critical risks, or (2) conscious inaction in the face of credible warnings.

In one such case, Giuliano v. Grenfell-Gardner, the Court of Chancery on Sept. 2, 2025, **credited allegations** that U.S. Food and Drug Administration compliance was existential to pharmaceutical company Teligent Inc.'s ability to operate, and that the board lacked meaningful board-level structures to oversee it. The pleadings also supported an inference that management could effectively control what the board learned and when.

The Giuliano court denied dismissal as to directors and certain officers, illustrating how what Delaware courts call an "information-systems" theory can proceed when plaintiffs plausibly allege an utter failure to implement a reasonable reporting system for an existential compliance risk.

Los Angeles City Employees' Retirement System v. Sanford, a Court of Chancery decision from Jan. 16, reinforces the same core themes. In it, the court again **denied a motion to dismiss** a Caremark claim, holding that a board's failure to respond in good faith to persistent, credible warning signs can support an oversight claim where the alleged inaction allows a "corporate trauma" to unfold.

The case involved eXp World Holdings Inc., a company that provided cloud-based real estate services, and arose from allegations that the company's leadership ignored repeated internal and external warnings concerning serious misconduct by revenue-generating agents and delayed meaningful remedial action for years. The court emphasized that oversight liability can arise not from a single decision, but from a pattern of inaction and delay in the face of escalating red flags tied to risks central to the company's operations and reputation.

It is too early to tell whether this line of authority signals a broader relaxation of Caremark's demanding standard. Even alongside these cases, the Court of Chancery has continued to emphasize that the Caremark standard remains a high bar.

That point was reinforced in a March 30 decision in Marchner v. B. Riley Financial Inc., in which the court **rejected** an effort to reframe B. Riley's failed investment and exposure to third-party misconduct as an oversight failure. Stressing that Caremark requires plaintiffs to "plead that directors consciously disregarded evidence of non-compliance with positive law within the corporation," and not hindsight critiques of business risk, diligence, or the timing or effectiveness of board responses, the court dismissed the claims notwithstanding severe corporate harm.

Read together, the Court of Chancery's recent applications of Caremark suggest that, while the Caremark doctrine may be evolving at the margins, it is too early to proclaim that it is undergoing a wholesale shift.

Why AI Makes Oversight Unique

When it comes to AI risk, Delaware courts will not create a new fiduciary doctrine for AI and will instead apply familiar Caremark principles to novel risks, especially where the alleged failures relate to mission-critical operations or ignored warning signs that preceded a significant corporate crisis.

Although Delaware law treats new risks through established fiduciary frameworks, AI is not simply another compliance or operational issue. AI introduces a combination of features that make oversight meaningfully more complex than many traditional enterprise risks.

These characteristics do not change fiduciary duties, but they can increase how quickly oversight shortcomings translate into concrete corporate harm and heighten the importance of having a coherent, board-visible governance story before an incident occurs.

Opacity and Explainability Limits

AI systems often operate as so-called black boxes, making it difficult to understand how decisions are reached, what inputs are determinative or why a model behaves as it does. This complicates internal monitoring and postincident diagnosis and can make it harder to credibly address issues and reassure regulators, customers or courts when problems arise.

Postdeployment Changes

Unlike most traditional systems, AI models can evolve over time through updates, retraining or model drift. Risk can change materially over time, making one-time approvals potentially insufficient and continuous oversight more important.

Speed and Scale of Impact

When AI fails, it can replicate errors across large volumes of decisions almost instantly, compressing the timeline from a minor issue to what Delaware courts have called "corporate trauma" — a significant corporate crisis or breakdown.

Dependence on Third-Party Vendors

Many companies deploy AI through third-party models or platforms. Vendor updates, outages, data handling changes or shifts in contractual terms can immediately affect the company's risk profile, even without changes to the company's own code.

Fragmented and Rapidly Evolving Regulatory Framework

AI sits at the intersection of multiple, still-developing regulatory regimes — touching privacy and data protection, consumer protection, intellectual property and copyright, employment and discrimination law, cybersecurity, export controls, and national-security-related restrictions, among others.

These regimes are evolving unevenly across jurisdictions and sectors, increasing the risk of compliance gaps, conflicting obligations and sudden shifts in regulatory expectations that can quickly elevate an AI issue from operational concern to board-level crisis.

The Threshold Question: Is AI a Mission-Critical Risk?

Caremark does not impose uniform oversight obligations for all risks. Rather, Delaware courts assess oversight in context, with particular attention to whether the risk at issue is mission-critical to the company's operations, revenue model or regulatory posture.

In Giuliano, FDA compliance was treated as existential to Teligent's ability to operate, and decisions such as Sanford reflect how sustained inattention to credible warning signs tied to risks central to the enterprise can support an inference of bad faith inaction. In each case, that characterization informed the court's assessment of what oversight structures and responses were required.

AI may not automatically be deemed mission-critical. The analysis will turn on how the company actually uses it. Where AI is deployed primarily at the margins, such as limited internal analytics or general productivity tools, AI risk may remain peripheral. In those settings, companies should be cautious about overpromising AI oversight in committee charters, policies or public disclosures in ways that outpace actual practices and documentation.

By contrast, where AI sits in the causal chain of core outcomes, such as revenue-generating decisions, regulated activities or safety-critical functions, courts will almost certainly treat AI-related risk as mission-critical. Examples may include financial institutions using AI to approve credit or allocate funds, fintech platforms relying on AI for underwriting or anti-money laundering decisions, and health technology companies deploying AI in diagnostics or treatment recommendations.

Further, because AI use can expand quickly, and because model behavior can change after deployment through retraining, drift or vendor updates, companies should periodically reassess whether AI has crossed the mission-critical threshold and whether governance structures and reporting pathways have kept pace.

When AI Meets Caremark: How Courts May Evaluate Governance and How Companies Can Prepare

Recent Caremark decisions and AI's growing role in core business functions point toward how the Court of Chancery is likely to evaluate AI-related oversight claims. While AI is novel, the governance questions will be familiar and will focus on ownership, information flow and response to warning signs, particularly where AI sits at the heart of the challenged conduct.

Key governance considerations include the following.

Recognize how readily AI-related risk can escalate into a corporate trauma.

AI's opacity and postdeployment drift can make problems harder to detect, explain and remediate, while its speed and scale can amplify harm in minutes across thousands or millions of decisions.

These features compress the runway between an early signal and a full-blown crisis and make resulting corporate traumas, like a bankruptcy following sustained mission-critical compliance failures (Giuliano) or an operational crisis following prolonged inaction in the face of persistent red flags (Sanford), more likely to occur in the first place.

Treat AI as mission-critical when it materially drives core outcomes — and reassess as systems evolve.

The mission-critical analysis in Giuliano — FDA compliance as existential — is straightforward when the risk sits at the heart of operations and regulatory posture, especially once a crisis materializes.

Because AI is increasingly embedded in consumer interactions, eligibility determinations, pricing, rankings, and other regulated or revenue-driving functions, it will often be viewed the same way if it materially drives the conduct at issue, e.g., discriminatory or otherwise unlawful automated approvals and denials, unsafe recommendations, and misleading customer communications.

And because AI behavior can change after deployment — updates, retraining, drift and vendor model changes — mission-critical status and oversight expectations should be revisited on a regular cadence, not treated as a one-time classification.

Align governance structures and assurances with what the company can operationalize.

Caremark issues often arise when plaintiffs can plead a mismatch between the importance of a risk and the absence of effective oversight mechanisms. Giuliano illustrates how a lack of clear committee responsibility and thin board-level engagement can support an "utter failure" theory.

For AI, that counsels against overengineering governance structures that don't match the company's actual use of AI, and against sweeping charter or disclosure language — e.g., "ensuring" or "guaranteeing" the deployment of "responsible AI" — that outpaces monitoring, escalation, testing and documentation.

If AI use is peripheral today, governance should still exist, but it should be scaled to reality and designed to mature as AI becomes more central.

Define AI-specific red flags and ensure timely escalation and follow-through.

Recent cases such as Sanford underscore that even where a board eventually acts, prolonged delay or half-measures in response to credible warnings can support an inference of bad faith, particularly once harm escalates into what Delaware courts describe as a corporate trauma.

In the AI context, red flags may be operational and technical, such as repeated bias or fairness test failures in core models; sustained spikes in adverse customer outcomes; material vendor notices such as model updates, outages and data-handling changes; or evidence of drift degrading performance.

The governance question will be whether those signals have a defined escalation path, reach directors (or an assigned committee) in usable form, and trigger documented decisions and prompt remediation, rather than being treated as an engineering or technical issue that goes unaddressed.

Conclusion

Recent Caremark decisions underscore that as AI becomes embedded in core operations, boards will be judged on familiar basics: clear ownership, reliable information flow and timely response to warning signs. Giuliano and Sanford illustrate the pleading-stage vulnerability of unclear governance processes and reporting systems for mission-critical risk, and warn that delay in the face of credible warnings can support a bad faith inference.

Given AI's unique risk profile — including that it can be opaque, can drift after deployment, can scale errors instantly and can change through vendor updates — boards should aim to be able to point to a coherent, well-documented oversight story before an incident becomes a corporate crisis.

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Judge Lauds Wells Fargo Settlement In 'Fake' Diversity Suit

By **Sydney Price**

Law360 (May 18, 2026, 9:38 PM EDT) -- A California federal judge has given final approval to a deal between Wells Fargo investors and executives in a derivative suit claiming the bank's leadership failed to address the company's discriminatory lending practices and engaged in "fake" interviews with diverse candidates, calling the assistance fund resulting from the settlement "significant."

In an **order on Friday**, U.S. District Judge Trina L. Thompson said that the $100 million fund for mortgage assistance created under the settlement is a "meaningful step toward expanding equitable access to financial services."

According to the order, the settlement introduces a new effort focused on low- and moderate-income borrowers that "signals a shift toward more inclusive underwriting practices and a deeper recognition of systemic barriers." Among other things, the program will reassess how credit is evaluated and will incorporate what Judge Thompson described as more holistic criteria. The program is slated to exist for at least three years after the final approval of the settlement.

"While continued monitoring, community engagement, and measurable benchmarks will be key to evaluating the program's long-term success, this initiative marks an encouraging move toward a more inclusive and responsible banking framework," Judge Thompson said.

Additionally, under the terms of the deal, Wells Fargo will receive $10 million from the defendants' directors and officers liability insurance, the order states.

Motley Rice LLC attorney Bill Norton, counsel for the shareholders, said the deal emphasizes the importance of board level responsibility and compliance.

"This settlement strengthens Wells Fargo for all of its shareholders by reaffirming the bank's commitment to lend to low-income and moderate-income borrowers in communities throughout the country," Norton said in a statement.

Friday's order also awarded lead counsel approximately $26.3 million in attorney fees and $1.1 million in litigation expenses, along with $10,000 service awards for each lead plaintiff.

A Wells Fargo spokesperson told Law360 in an email on Monday it is "pleased" to have reached a settlement.

The settlement, which was **preliminarily approved** in January, came after Wells Fargo urged the court last year to **dismiss three executives** from the suit by arguing there were no allegations explaining why a pre-suit demand to the board would have been futile.

The suit stems from reporting by The New York Times in 2022 that some Wells Fargo bank employees were faking interviews for positions that had already been filled in order to meet a company target on diversity. The news led to an 8.6% decline in Wells Fargo's stock price.

The operative complaint, filed in 2024, alleged breaches of fiduciary duty and related causes of action, claiming the bank's board failed to "meaningfully monitor Wells Fargo's discriminatory lending and hiring practices."

The bank also settled a parallel class action in October for $85 million after the Ninth Circuit declined to hear its appeal of the class certification.

The investors are represented by Nancy A. Kulesa and Derrick B. Farrell of Bleichmar Fonti & Auld LLP, Marlon E. Kimpson, William S. Norton, Joshua C. Littlejohn and Vanessa A. Davis of Motley Rice LLC, and Mark C. Molumphy, Tyson Redenbarger, Gia Jung and Elle D. Lewis of Cotchett Pitre & McCarthy LLP.

Plaintiff Amy Isenberg is additionally represented by Francis A. Bottini Jr., Albert Y. Chang and Anne B. Beste of Bottini & Bottini Inc.

Defendant Charles W. Scharf is represented by Jennifer Kennedy Park, Victor L. Hou and Mark E. McDonald of Cleary Gottlieb Steen & Hamilton LLP.

The other individual defendants are represented by Todd G. Cosenza, Charles D. Cording, Zeh S. Ekono, Patricia O. Haynes, John L. Brennan, Amanda M. Payne and Alexander L. Cheney of Willkie Farr & Gallagher LLP.

Nominal defendant Wells Fargo is represented by Brendan P. Cullen, Sverker K. Hogberg, Christopher M. Viapiano, Rose G. Garber and Leonid Traps of Sullivan & Cromwell LLP.

The case is In Re Wells Fargo & Company Hiring Practices Derviative Litigation, case number 3:22-cv-05173, in the U.S. District Court for the Northern District of California.

--Editing by Michael Watanabe.

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Justices Skip Review Of Accountant Strict Liability Standard

By **Jade Martinez-Pogue**

Law360 (May 18, 2026, 6:06 PM EDT) -- The U.S. Supreme Court on Monday declined to review a Ninth Circuit decision holding that legal liability does not extend to auditors who certify a client's financial statements for initial public offerings, even if those statements are later found to contain alleged misstatements.

The Supreme Court declined to review the **November** decision in Hunt v. PricewaterhouseCoopers, which affirmed the dismissal of claims that investors in Bloom Energy Corp. filed against PwC. The lower appellate court said that as the renewable energy company's outside accountant, PwC couldn't be held strictly liable for financial statements simply because it certified them.

The justices declined to review the case without an explanation, as per usual practice.

"We are pleased that the Supreme Court left undisturbed the Ninth Circuit's carefully reasoned decision that preserves the established limits of auditor liability under Section 11 of the Securities Act," PwC said in a statement to Law360 on Monday.

The Ninth Circuit ruling stems from a proposed class action that current and former Bloom Energy stockholders filed in 2019 against the company, several of its officers and directors, and underwriters of its 2018 initial public offering. The investors claimed that misrepresentations and omissions allowed Bloom Energy to report decreased liabilities and increased revenue in financial statements included in its registration statements. The investors claimed that PwC should be held "strictly liable" to investors for the actionable statements and omissions in Bloom Energy's registration statement.

The investors **settled** their claims with all defendants except PwC after a California federal judge partially dismissed claims against the Bloom Energy parties and all claims against PwC.

In May 2024, the U.S. District Court for the Northern District of California entered final judgment and tossed all claims against PwC, prompting the investors' appeal to the Ninth Circuit.

In a November 2025 decision, a Ninth Circuit panel found that Section 11 of the Securities Act does not impose strict liability on accountants for a client's financial statements or information in a registration statement, regardless of whether the accountant prepared or certified them.

U.S. Circuit Judge Milan D. Smith Jr. wrote for the three-judge panel that PwC is not liable in this case as a certifier of Bloom Energy's financial statements because Section 11 "does not require that PwC, by certifying the financial statements, guarantee that the documents provided by Bloom Energy were free from error."

An audit opinion PwC issued on Bloom Energy financial statements also "did not make any material misstatements of fact or omissions but was rather a subject of opinion" based on a "subjective judgment," Judge Smith wrote.

Representatives for the investors did not immediately return a request for comment on the matter on Monday.

The investors are represented by Nicholas I. Porritt and Adam M. Apton of Levi & Korsinsky LLP, and by Reed R. Kathrein, Lucas Gilmore and Kevin K. Green of Hagens Berman Sobol Shapiro LLP.

PwC is represented by E. Joshua Rosenkranz, Jodie C. Liu and Edward H. Williams II of Orrick Herrington & Sutcliffe LLP and Lisa Bugni of King & Spalding LLP.

The case is James Everett Hunt et al. v. PricewaterhouseCoopers LLP et al., case number 24-3568, in the U.S. Court of Appeals for the Ninth Circuit.

-- Additional reporting by Rae Ann Varona. Editing by Linda Voorhis.

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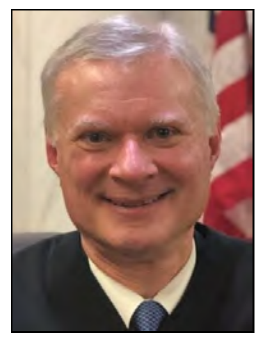
Judges On AI: How Courts Can Survive The Tech Revolution

By **Maria Berkenkotter and Lino Lipinsky de Orlov** (May 18, 2026, 10:15 AM EDT)

*Do artificial intelligence tools have any practical judicial applications? In this **Expert Analysis series**, state and federal judges explore potential use cases for AI in adjudication and beyond. If you're a judge who would like to contribute to this series, email expertanalysis@law360.com.*

The judicial system is in the midst of a technological revolution. Artificial intelligence is no longer an abstract topic for computer scientists and academics. It is already reshaping how litigants prepare filings, how lawyers manage cases, how evidence is created and challenged, and how courts administer growing dockets.


Justice Maria Berkenkotter


Judge Lino Lipinsky de Orlov

Yet many judges and lawyers remain only dimly aware of how much, and how significantly, AI has already changed the practice of law and the work of the courts. It is essential, in our view, that lawyers, judges and members of the public alike understand how AI is fundamentally altering the legal system.

In the last few years, much has been written about the ways in which AI is affecting our lives, but little has been published about the impact that this rapidly evolving technology is already having on the courts.

The good news is that courts have adapted before. We transitioned from paper to e-filing, from in-person proceedings to virtual hearings, and from local legal research libraries to digital databases. But AI presents a more complicated and confounding challenge. It does not simply change the medium through which work is done. It changes who — or what — can perform tasks that were once reserved for trained human professionals.

AI can draft, summarize, classify, predict, mimic voices, generate images and interact autonomously, creating both extraordinary opportunity and substantial institutional risk.

The AI revolution has not affected everyone in the legal world equally, however. Judges should recognize that we are living in a world of AI haves and have-nots. Not every lawyer and judge has access to state-of-the-art legal AI tools. The power of AI only benefits those with the resources to acquire sophisticated AI tools that have been specifically designed for the legal profession.

Used responsibly, lawyers can ask a tool to draft complaints, assist with complex discovery, summarize deposition transcripts and even generate deposition questions. This means, however, that a technological gap is growing between the lawyers and judges who can use these expensive AI tools, and those whose firms, offices and courts can't foot the bill for them.

Even though some lawyers and judges have not fully embraced the world of AI — at least not yet — it's already too late for the judiciary to start considering whether AI will affect the courts; it already has. Judges are deciding cases today that will shape the AI legal landscape for decades to come.

We are confident in our colleagues' abilities to navigate these new, challenging issues. But as with all novel issues, this work takes time, meaning that it will place increasing pressure on our overburdened courts. For this reason, judges must ask themselves whether their courts are sufficiently prepared for a revolution that is already well underway.

Hallucinations have become a judicial resource problem.

The most widely publicized AI failures affecting courts have involved fabricated legal citations. People have undoubtedly read about so-called AI-generated hallucinations in court filings, like those reported in 2023 in Mata v. Avianca Inc., when the U.S. District Court for the Southern District of New York **sanctioned** an attorney for filing a motion that was filled with citations to nonexistent cases that were generated by ChatGPT.

Sadly, that was just the beginning of lawyers' misuse of AI. That episode was initially viewed as an anomaly, but it was not. Similar incidents — shockingly, now roughly 1,000 of them — have since surfaced across jurisdictions throughout the country, involving attorneys and self-represented litigants alike.[1]

But the problem isn't limited to lawyers and self-represented parties. In Kohls v. Ellison last year, a prominent expert submitted a report citing fake academic articles. "The irony," the U.S. District Court for the District of Minnesota observed in **imposing sanctions**. Why ironic? The witness was an expert in the dangers of AI and misinformation.

Worse still, lawyers have identified hallucinated citations in at least three court orders.[2] This is no minor matter. Infected filings impose costs on courts and opposing parties. Judges and law clerks must spend time verifying authorities that never should have been cited. Opponents must respond to arguments that are grounded in fiction, raising the costs of litigation. Hearings are delayed. Credibility is damaged.

Moreover, scarce judicial resources are diverted from deciding legitimate disputes when judges are forced to act as the AI hallucination police. Thus, courts should respond institutionally, rather than episodically, to the hallucination problem. Judges can prepare now by:

- Adopting standing orders requiring counsel to verify AI-assisted citations;
- Requiring lawyers to certify that they independently reviewed their cited authorities;
- Using internal citation validation tools before issuing orders;
- Educating clerks and staff on common AI errors; and
- Imposing proportionate sanctions when parties outsource professional judgment to unreliable systems.

The central point is straightforward: AI can accelerate drafting, but it cannot replace professional responsibility.

Judges must prepare for deepfakes and the liar's dividend.

Another disturbing challenge concerns deepfakes. We have heard from numerous trial court judges about lawyers' and litigants' efforts to introduce questionable AI-generated exhibits into evidence. A few years ago, a trial judge could look for tells to distinguish authentic audio files, images and videos from manipulated content. Those days are gone as AI systems can now generate astonishingly realistic content.

The increasing use of deepfakes creates two related threats. The first is obvious: fabricated evidence being offered as genuine. The second is subtler, and perhaps more corrosive — the liar's dividend — a challenge to the authenticity of an exhibit without a good faith basis for doing so to exploit AI-generated materials' erosion of public trust in audio, image and video files.

To make matters more challenging, not all AI-generated exhibits are problematic. AI tools can be used to inexpensively create accurate timelines, summaries and demonstrative exhibits that, with the proper foundation, should be admissible.

So what is a trial court judge to do? Most of all, trial judges should not wait until they are required to decide — perhaps in the middle of a hearing or trial — whether an AI-generated exhibit is genuine. Practical steps include:

- Updating authentication practices for digital exhibits;
- Requiring early disclosure of AI-generated media evidence and challenges to an adversary's evidence as a deepfake;
- Appointing neutral experts where appropriate;
- Developing protocols for metadata preservation; and
- Receiving continuing education on forensic tools and detection limits.

Judges need not become technologists. But they must understand enough to ask the right questions and manage evidentiary disputes competently.

AI will generate novel questions faster than courts can answer them.

As AI systems become more autonomous, courts will increasingly confront disputes that do not fit neatly within existing doctrines.

For instance, can an AI agent assent to contract terms? Who is liable when an autonomous system misrepresents material facts? Can reliance be reasonable when the speaker is a machine? How should intent-based doctrines apply when outputs are probabilistic, rather than conscious? And who can be held accountable when AI agents take actions that harm humans?

These issues will arise in a wide variety of litigation and criminal investigations, but judges need not wait for appellate guidance before becoming conversant in the underlying technology. Preparation should include:

- Judicial education programs focused on AI fundamentals;
- Bench books addressing recurring AI issues;
- Technology advisory committees that monitor developments;
- Regular exchanges with academics and neutral subject-matter experts; and
- Coordinated sharing of best practices across state and federal courts through groups like the Judicial AI Consortium.

Judges can also look to branch leadership for guidance. Judicial leaders around the country are turning to sophisticated, neutral subject-matter experts to help develop AI guidance documents for lawyers, judges and self-represented litigants.

Judges who wait for appellate courts to develop precedents regarding the novel legal issues that the technological revolution generates may find themselves unprepared for the AI-related disputes that are already reaching this country's courtrooms.

AI can also expand access to justice.

The AI story is not merely defensive. Properly designed AI tools have the potential to materially improve access to justice.

Millions of Americans navigate housing, debt, family, probate and benefits matters without counsel. Many of them struggle with forms, deadlines, terminology and procedural complexity. However, AI systems can help self-represented litigants understand court processes, organize facts, generate draft forms, translate materials and direct users to appropriate legal resources.

This opportunity matters for judges as well. Better prepared self-represented litigants can mean clearer pleadings, fewer continuances, better compliance with orders and more efficient hearings.

At the same time, it is unclear whether this new AI-driven efficiency will decrease case filings or increase them. Courts are reporting that some self-represented litigants are flooding their dockets with AI-generated motions premised on every possible legal argument, whether meritorious or not. Many of these individuals may not even understand the arguments that their AI tools are formulating on their behalf.

Thus, self-represented litigants need better AI tools. Likewise, judges who are overwhelmed by the uptick in AI-generated filings and hallucinated citations also need these litigants to have access to better tools.

However, if rules that too broadly define the unauthorized practice of law stifle innovation, this remarkable opportunity to use AI to increase access to justice will be lost. Courts should encourage responsible innovation by:

- Removing barriers in unauthorized practice of law rules to encourage development of AI tools for self-represented parties;
- Supporting plain language digital assistance tools;
- Partnering with legal services providers and bar associations;
- Insisting on transparency, privacy protections and clear disclaimers; and
- Prioritizing tools that reduce confusion.

If deployed wisely, AI has the promise to narrow — not widen — the justice gap.

Judges need better tools, not just more warnings.

Much of the current judicial conversation about AI focuses on what not to do. Those warnings are necessary. Judges should never delegate decision-making to AI, submit confidential information to insecure systems or rely on uncited machine summaries in place of independent analysis.

However, judges don't need to understand how AI tools generate outputs — even the experts don't fully appreciate how the technology works. Instead, judges must develop a minimal level of understanding of what AI can and can't do.

Perhaps we will become a "country of geniuses in a data center," as Anthropic CEO Dario Amodei famously described — or perhaps not. Either way, the pace of change is happening so quickly that it is hard to perceive, even though it is occurring right before our eyes.

Notably, lawyers and judges are rarely early adopters. Those of us who are trained in the law often move slowly — and with good reason. But moving slowly in this rapidly evolving space has consequences. That is why we urge leaders across the state and federal judicial branches to be proactive.

Judges and staff should have access to secure, enterprise-grade AI tools that can assist with legitimate administrative and analytical tasks, such as summarizing lengthy records, organizing filings and exhibits, comparing draft language, identifying inconsistent citations, translating routine communications, and improving workflow management.

The right model for courts is augmentation, not substitution. AI should reduce the time that judges and staff spend on tasks that can be automated — without sacrificing accuracy and objective decision-making — so judges can devote more time to judging.

What should judges do now?

The most serious risk is not that courts will move too quickly, it is that they will move too slowly while AI continues to radically transform the practice of law and, thus, the work of the courts.

As such, judges should insist on five immediate priorities.

1. Education: Every judge should receive regular AI training that is tailored to judicial functions.

2. Standards: Courts should adopt clear policies governing acceptable use, disclosure and verification.

3. Tools: Judicial branches should procure secure systems that genuinely improve operations.

4. Evidence readiness: Courts should modernize procedures for synthetic media disputes.

5. Leadership: Judges should help shape policy rather than passively absorb private-sector change.

The legal system has repeatedly adapted to technological disruption, and it can do so again. But adaptation will require candor, urgency and disciplined innovation.

Don't wait. AI is already in every courthouse. The steps outlined above are essential to help not only judges, but the entire legal system, survive the revolution.

Maria E. Berkenkotter is a justice at the Colorado Supreme Court.

Lino S. Lipinsky de Orlov is a judge at the Colorado Court of Appeals.

[1] https://www.damiencharlotin.com/hallucinations/?q=&sort_by=-date&period_idx=0.

[2] In re: CorMedix Inc. Sec. Litig., No. 21-cv-14020 (D.N.J. June 30, 2025) (withdrawn); Miss. Assoc. of Educators v. Bd. of Trs. of State Insts. of Higher Learning, No. 25-cv-00417, 2025 WL 2142676 (S.D. Miss. July 20, 2025); Shahid v. Esaam, No. A25A0196, 2025 WL 1792657, at *3 (Ga. Ct. App. June 30, 2025).

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PBMs Tell Mich. Court They're Not To Blame For Opioid Abuse

By **Susan Smiley**

Law360 (May 18, 2026, 6:14 PM EDT) -- Pharmacy benefit managers told a Michigan federal court on Monday they are not responsible for opioid abuse because they do not control prescription drugs once they are sold to patients, as Evernorth Health, Express Scripts and other companies seek an exit from the state attorney general's public nuisance suit.

The PBMs are asking the court to dismiss Michigan Attorney General Dana Nessel's claims of public and statutory nuisance and claims that their role in prescription drug distribution falls under Michigan's Drug Dealer Liability Act.

In their motion, the PBMs claim they are being incorrectly blamed by the state for "misuse of a highly regulated lawful product" over which they have no control once the drug is in the hands of the person to whom it is prescribed.

"The state cannot plausibly allege that the PBM defendants 'participate in illegal marketing' of any controlled substance, because they do not manufacture, deliver, dispense, distribute, or prescribe opioid medications," the PBMs said in the motion.

The PMBs claim their argument is "consistent with longstanding Michigan law" that a defendant like Express Scripts can't be held liable for nuisance "merely because it occupies some position in the supply chain of an allegedly harmful product."

PBMs act as intermediaries between health insurers, drug manufactures and pharmacies and negotiate drug prices and create lists of medications covered by insurance companies.

Express Scripts and the other PBMs claim that the state did not effectively make its claim of negligence because "it cannot plausibly allege that the defendants breached a legal duty owed to the State or that it has suffered a present physical injury."

The PBMs also claim that the entire suit is time-barred by a three-year statute of limitations because the state should have been aware of the claims with which it charged the defendants in 2019.

Optum and its parent UnitedHealth Group also filed a separate dismissal bid, saying the court doesn't have jurisdiction over those particular defendants because neither company nor any of its subsidiaries are based in Michigan.

Representatives for the parties could not immediately be reached for comment.

The state is represented by Matthew Lee Walker of the Michigan Attorney General's office, Anthony J Majestro of Powell & Majestro PLLC and Mark Pifko of Baron & Budd PC.

Express Scripts and Evernorth Health, et al. are represented by John F. Rhoades, Michelle Mayfield and Erik Joseph Kandah of Dykema Gossett PLLC and Jonathan G. Cooper of Quinn Emanuel Urquhart & Sullivan LLP

Optum and United Health Group are represented by Irina N. Kashcheyeva and Ki Lee Kilgore of Foley & Lardner LLP and Brian D. Boone and Caitlin Van Hoy of Alston & Bird LLP.

The case is Michigan Attorney General v. Evernorth Health Inc. et al., case number 4:24-cv-13185, in the U.S. District Court for the Eastern District.

--Editing by Emily Kokoll.

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Comic Gets Serious About Mom's Cancer At J&J Talc Trial

By **Craig Clough**

Law360 (May 18, 2026, 9:44 PM EDT) -- A comedian who testified Monday at a California bellwether trial over claims that Johnson & Johnson's talc products caused three women's deadly ovarian cancer wiped away tears as he talked about his late mother, saying his emotions are "a little unusual" because he spends most of his time trying not to be serious.

Kevin Tienken told the jury about his mother, Bonnie Tienken, who filed the lawsuit before dying of ovarian cancer in 2018. He and his siblings took over the litigation after she died, and the trial is about her case, along with those of two other women who also died of ovarian cancer and are represented by relatives.

Tienken, who told the jury he works the door at the famous Comedy Store in Los Angeles and also as a stand-up comic, managed to squeeze a few jokes into his testimony, but was often somber as he shared memories of his mother, including that she was a regular user of Johnson's Baby Powder before getting sick and dying.

"I don't have to be serious very often, so this is a little unusual," he said. "I've been trying to facilitate a life of not having to be too serious very often, because I'm not very good at it."

Tienken said his mother got divorced from his father when he was in junior high school, and that because he is much younger than his siblings, it often "was just me and her." He said his mother had a soft spot for him and may have contributed to his academic struggles because she often let him skip school and stay home with her watching movies.

"I still can't spell," he joked, although he said he straightened things out academically in college and graduated with honors.

"She was happy" when he graduated, Tienken said, wiping away tears. "This is not very cool to be crying."

All three lawsuits in the bellwether trials allege the women got ovarian cancer due to using Johnson's Baby Powder for feminine hygiene for decades.

Tienken said he has many memories of Johnson's Baby Powder being in his mother's restroom growing up, but he didn't have direct knowledge of exactly how she used it. He did say the powder was a constant presence in the restroom, which always smelled like it, and that his mother even sprinkled it in his shoes and sometimes used it in his hair when it was greasy.

Under cross-examination, Tienken said he never discussed the lawsuit with his mother and did not know how she applied Johnson's Baby Powder to her body.

His sister Kimberly Hedrick also testified Monday and said she did know how her mother used Johnson's Baby Powder because she taught her as a young girl to use it for feminine hygiene. The two would often get ready for the day together in the bathroom, she said.

"She used it religiously," she said, adding that her mother used it after "every time she took a shower" and that applying it to her body was routine "like brushing her teeth."

Hedrick said she often saw her mother "dump it in her hand and wipe it in between her legs and sprinkle it in her panties" when getting ready.

"We got ready together a lot," she said, adding that Johnson's Baby Powder was "always part of our lives as long as I can remember."

Under cross-examination, she said her mother never discussed the lawsuit with her and never told her she believed Johnson's Baby Powder caused her ovarian cancer.

Jonathan Owens, whose mother, Mary Owens, died of ovarian cancer in 2021 and sued Johnson & Johnson, also testified Monday. He said his mother had used the company's baby powder for as long as he could remember, and that he could often smell it on her when giving her a hug. He said he sometimes saw it on her upper body when she would come out of the restroom after showering.

After Owens' testimony, the jury saw video depositions from two of Mary Owens' sisters, Elizabeth White and Margaret Montgomery, who both said their mother had taught them to use Johnson's Baby Powder for feminine hygiene and that they sometimes saw her use it that way when sharing a bathroom with her.

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

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 two women developing ovarian cancer but 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 products 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 failed to sufficiently show that the pharmaceutical giant had 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 Alanna Weissman.

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DeMayo Says Marketers Owe Coverage In Camp Lejeune Suit

By **Jonathan Capriel**

Law360 (May 18, 2026, 11:31 PM EDT) -- A North Carolina plaintiffs firm facing a proposed class action over unwanted robocalls related to Camp Lejeune water contamination litigation is now suing its marketing company, telling a Charlotte federal court the company should cover any potential damages and legal fees.

The DeMayo Law Offices LLP denied placing or authorizing any of the 12 allegedly unwanted telemarketing calls at issue in lead plaintiff Wesley Newman's lawsuit, which seeks damages under the Telephone Consumer Protection Act, according to the law firm's **Friday filing**.

But any potential damages that Newman and the proposed class might win against DeMayo in the legal battle should be directed to Converge Marketing LLC, the company that DeMayo used to push out a media campaign about the Camp Lejeune litigation.

According to DeMayo, Converge strongly suggested it would not only indemnify the law firm against such lawsuits but also implied that it was hiring counsel to defend both Coverage and DeMayo.

In fact, this counsel appeared on behalf of both Converge and DeMayo for nearly a year. And DeMayo gave Converge's lawyers confidential and otherwise privileged information to assist in pleadings and proposed negotiations, DeMayo's filing said.

But the marketing company suddenly, "without warning or notice," told DeMayo it was on its own going forward in April 2025, the filing said.

Now DeMayo claims it finds itself in a bind. It had to hire a legal team and missed opportunities to negotiate with the proposed telemarketing class, according to the filing.

"Had [Converge] disclosed its current position at any time prior to April 29, 2025, DeMayo Law would have taken steps to protect its rights, including directly negotiating and attempting to resolve Newman's claims before the onset of litigation and protecting its interests more fully in this litigation," DeMayo said.

According to the underlying telemarketing litigation, Newman claims he received at least a dozen illegal robocalls to his cellphone starting in November 2022, featuring prerecorded robot voices pitching **Camp Lejeune legal representation** for DeMayo Law Offices.

He claims his number was on the National Do Not Call Registry for years, and he told the robots to stop, but the calls continued for months, according to the amended complaint.

Newman names as defendants DeMayo, Converge Marketing and SGMS Inc., also known as Legal Conversion Center.

Newman's amended complaint, filed in March, accuses Converge of placing or arranging the prerecorded robocalls through a subcontractor. He accuses the Legal Conversion Center of placing follow-up calls for client intake. And he accuses DeMayo of controlling the campaign, OK'ing the illegal conduct and failing to stop it, according to the suit.

Converge responded to the amended complaint earlier this month, leaning on a number of defenses, including saying the statute of limitations ran out on these claims and that Newman doesn't have standing to bring a claim.

Moreover, there is a suggestion in the document that Converge blames DeMayo for not settling with the proposed class sooner.

Converge explicitly says that it is "entitled to equitable indemnity from DeMayo for preventing settlement with" Newman, according to the May 4 document. It also claims that "as a business matter" it had talked about covering as much as $3,000 of Newman's demands solely to "appease its client DeMayo," but negotiations between DeMayo and Newman broke down, Converge said.

Converge's counsel declined to comment on this story.

DeMayo, in its answer to the amended complaint, claims that Converge gained the media campaign deal with the law firm by purchasing the agreement from an old marketing firm that fell into bankruptcy. That old agreement included an indemnification clause that said the marketing company would defend DeMayo against third-party claims.

But DeMayo isn't saying Converge must defend it because of that old agreement with a now-defunct company, rather it says that Converge acted like it would honor that agreement, the filing said. This caused DeMayo to believe the indemnification and legal defense clauses were being honored.

"To be clear, DeMayo Law does not contend that [Converge] is obligated because [the old company] entered into a contract with DeMayo Law, or that [Converge] is obligated in any way on [the old company's] liabilities or obligations," DeMayo said.

But Converge never explicitly said it was not going to defend DeMayo, even when Newman renewed his claims in June 2024, DeMayo said. Instead, Converge acted like the old terms still applied because it wanted to "re-establish a multimillion-dollar commercial relationship" with DeMayo, the law firm said.

"For nearly a year, [Converge] took actions and made representations and statements indicating an agreement to indemnify DeMayo Law with the intent that DeMayo Law rely on them, subject to the terms and conditions of the MSA indemnity clause," the law firm's filing said. "In so doing, [Converge] and DeMayo entered into an express or implied-in-fact contract under North Carolina law which both parties understood incorporated the terms and conditions of the MSA Indemnity Agreement. [Converge] is now liable under those terms and conditions."

Newman is represented by Ryan Duffy of the Law Office of Ryan P. Duffy PLLC, and Anthony I. Paronich of Paronich Law PC.

DeMayo is represented by James P. Cooney III, Emmett J. Whelan and R. Travis Campbell of Womble Bond Dickinson.

Converge Marketing LLC is represented by S. Frederick Winkler III of Flannery Georgalis LLC, and Steven Kayman and Jennifer A. Kreder of Rottenberg Lipman Rich PC.

Legal Conversion Center is represented by Bety Javidzad and Mark A. Silver of Dentons, and Christopher G. Smith and John E. Harris of Smith Anderson.

The case is Wesley Newman v. DeMayo Law Offices LLP et al., case number 3:25-cv-00042, in the U.S. District Court for the Western District of North Carolina.

--Editing by Michael Watanabe.

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Nikola Founder Accused Of Dodging $2.5M Settlement Share

By **Lauren Berg**

Law360 (May 18, 2026, 11:38 PM EDT) -- Nikola Corp. founder Trevor Milton "has not paid a dime" of his $2.5 million share of an eight-figure settlement resolving shareholder litigation over a fraud-shadowed special purpose acquisition company merger, the bankrupt electric vehicle company's trustee claims, asking the Delaware Chancery Court to hold the billionaire in contempt.

The **motion** filed Friday by Thomas A. Pitta, who serves as the trustee of the Nikola Liquidating Trust, asks Delaware Chancellor Kathaleen St. J. McCormick for an order of contempt and sanctions against Milton. Pitta says Milton agreed to pay $2.5 million of a $27.5 million derivative settlement tied to Nikola's 2020 merger with blank check company VectoIQ Acquisition Corp., but has not kept his end of the bargain.

According to the deal, Milton was supposed to pay up, at the latest, by Feb. 10.

"So far, Milton has not paid a dime, and he has offered no valid excuse," Pitta said, adding that he is seeking an order of contempt and sanctions "to remedy Milton's continued noncompliance."

Two settlements totaling more than $33 million, including more than $1.8 million in fees and expenses, received **final approval** back in November. They resolve overlapping derivative and class actions filed after investors alleged that insiders allowed Milton to mislead the market with false claims about Nikola's ability to produce hydrogen and battery electric trucks, inflating the company's valuation ahead of the SPAC deal.

A SPAC merger features a company that raises money and goes public for the purpose of merging with a privately-held company, bringing the private business onto the public market.

After a 2020 short-seller report questioned Nikola's claims, Milton was charged in 2021 and **convicted in 2022** for securities and wire fraud, while the company later paid a $125 million U.S. Securities and Exchange Commission penalty. Shareholders filed suits in federal court and in Delaware, and Nikola's 2024 Chapter 11 filing added urgency to settlement negotiations.

President Donald Trump **pardoned** Milton in March 2025 from his four-year prison sentence.

The core derivative settlement provides $27.5 million in cash, including $17.5 million from directors and officers insurers, $2.5 million from Milton, $500,000 from director Mike Mansuetti, and $6.95 million from director Jeffrey Ubben.

A separate settlement for former VectoIQ stockholders, relating to claims that the SPAC misled investors about dilution and Nikola's business prospects, adds $6.3 million, funded primarily through VectoIQ's insurance.

But in his motion Friday, Pitta says Milton's payment due date of Feb. 9 came and went without any money coming through. Instead, Milton asked for a 60-day extension in exchange for paying 6% interest, which the trustee says was "significantly less than Delaware's statutory rate for judgments."

When Pitta refused that proposal, Milton came back with an offer to make a partial payment of $500,000 plus interest, according to the motion. Pitta refused that proposal, as well, and Milton has paid nothing, the motion states.

Then on March 16, Milton told the trustee he intended to wire $500,000 within 48 hours, with the remaining $2 million to be paid within 90 days after that, according to the motion. Pitta refused the proposal and says he reminded Milton of his obligation to pay up the full amount.

"In the end, Milton still has paid nothing — not even the partial amount he offered to pay more than two months ago," Pitta said.

The trustee said the trust is entitled to an order that Milton pay $2.5 million within 10 business days, plus daily interest of $804 for his period of noncompliance. If he does not pay on time, Pitta said Milton should then be made to pay an additional daily fine of $1,000.

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

The trustee is represented by R. Eric Hacker of Morris James LLP.

Milton is represented by Henry E. Gallagher Jr. and Jarrett W. Horowitz of Connolly Gallagher LLP and Brad Bondi and Sara Ortiz of Paul Hastings LLP.

The cases are In re: Nikola Corp. Derivative Litigation, case number 2022-0023, and Ed Lomont v. Trevor R. Milton et al., case number 2023-0908, in the Court of Chancery of the State of Delaware.

--Additional reporting by Jarek Rutz, Pete Brush and Rae Ann Varona. Editing by Jay Jackson Jr.