

PwC can't appeal ruling in suit over Clarivate audits, judge says

2026 SECDBRF 2616 • By Westlaw Today

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(May 21, 2026) - PricewaterhouseCoopers LLP has lost its bid to immediately appeal a ruling that it must face claims for misstatements in a client's financial statements, not just for statements in its own audit report.

Pension Trust Fund for Operating Engineers et al. v. Clarivate PLC et al., No. 22-cv-1371, 2026 WL 1382982 (E.D.N.Y. May 18, 2026).

U.S. District Judge Eric Komitee of the Eastern District of New York ruled May 18 that there was no "substantial ground for difference of opinion" on the controlling legal question to warrant certifying an interlocutory appeal to the 2nd U.S. Circuit Court of Appeals.

The order also denied PwC's alternative motion for reconsideration of the judge's March 30 ruling, which the auditor argued had expanded the scope of auditor liability under Section 11 of the Securities Act of 1933, [15 U.S.C.A. § 77k](#).

Scope of liability challenged

The ruling stemmed from a proposed class action filed by shareholders of the analytics company Clarivate PLC.

The registration statements for Clarivate's June and September 2021 stock offerings incorporated materially false and misleading financial statements audited by PwC that Clarivate later restated, according to the complaint.

The restatement corrected an understatement of expenses by more than \$120 million due to accounting errors related to two acquisitions, the complaint says.

In his March 30 order partially denying motions to dismiss, Judge Komitee determined that PwC, as the auditor that "certified" the financial statements, could be liable for the alleged misstatements. This interpretation of liability extends beyond just the contents of the auditor's own report, the judge said.

PwC, represented by [Sidley Austin LLP](#), argued in its motion for an interlocutory appeal that the court's interpretation of Section 11 liability was a controlling question of law with substantial grounds for disagreement.

The auditor cited the 9th U.S. Circuit Court of Appeals' decision in [Hunt v. PricewaterhouseCoopers LLP](#), 159 F.4th 603 (9th Cir. 2025), which held that an auditor cannot be liable as a certifier under Section 11 for misstatements in the issuer's financial statements.

PwC also pointed to the 2nd Circuit's unpublished summary order in [Quereb v. Hong Kong](#), 649 F. App'x 55 (2d Cir. 2016), which upheld the dismissal of a suit that had argued for imposing liability on auditors for misstatements they certify.

Although *Quereb* did not expressly address the question of auditor liability for misstatements outside of audit reports themselves, it implicitly rejected the District Court's interpretation, PwC said.

'No substantial basis for disagreement'

Judge Komitee denied the motion, writing that interlocutory appeals are a "rare exception" justified only by "exceptional circumstances." He said that disagreement from an out-of-circuit court like the 9th Circuit does not establish a "substantial ground for difference of opinion" within the 2nd Circuit.

The judge also distinguished *Quereb*, saying the summary order's silence on the question for which PwC seeks appellate review "proves little."

Judge Komitee pointed to recent published dicta from the 2nd Circuit in [New England Carpenters Guaranteed Annuity & Pension Funds v. DeCarlo](#), 122 F.4th 28 (2d Cir. 2024), which stated that an outside auditor is responsible "for any material inaccuracy in the ... statements that it certified, or in financial reports incorporated in those statements."

He also denied PwC's motion for reconsideration, saying it was "simply a repackaging of PwC's original argument in its motion to dismiss."

Attorneys at [Robbins Geller Rudman & Dowd LLP](#) represent lead plaintiff Pension Trust Fund for Operating Engineers. Attorneys at [Davis Polk & Wardwell LLP](#) represent Clarivate.

By Westlaw Today

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Securities

Semtech Investors Get Class Status in Copper Cable Product Suit

May 21, 2026, 1:04 PM PDT

A Semtech Corp. investor convinced a federal judge to certify a class alleging the semiconductor company overhyped its active copper cable technology's market opportunity.

The class includes those who acquired Semtech common stock from Nov. 25, 2024, to Feb. 7, 2025, Judge Mark C. Scarsi said Wednesday. During that time, Semtech overstated potential sales for its CopperEdge products after reports Nvidia Corp. wasn't developing a certain rack-scale configuration for computing processes that might've used it, according to the suit in the US District Court for the Central District of California.

The company's debt position at the time and a tight timeline of key events boosted an inference of its top executive's intent or recklessness to defraud, Scarsi previously said, sparing some claims against Semtech and CEO Hong Q. Hou from dismissal

The investor leading the case sufficiently pleaded Hou's assurances that CopperEdge net sales would exceed a previously announced "floor case" estimate were false when made in November 2024

Three months later, Semtech revealed in a financial filing it expected CopperEdge's net sales to be lower than its prior \$50 million floor-case estimate; its stock price plunged 31% to close the next day

Block & Leviton LLP is lead counsel for the class. Sidley Austin LLP represents Semtech and Hou. Neither of these law firms nor Semtech immediately responded to messages seeking comment.

The case is In re Semtech Corp. Sec. Litig. , C.D. Cal., No. 2:25-cv-01474, 5/20/26 .

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Goldman Sachs to pay \$500 million to settle shareholder lawsuit over 1MDB scandal

 [reuters.com/business/finance/goldman-sachs-pay-500-million-settle-shareholder-lawsuit-over-1mdb-scandal-2026-05-21](https://www.reuters.com/business/finance/goldman-sachs-pay-500-million-settle-shareholder-lawsuit-over-1mdb-scandal-2026-05-21)

Reuters

May 21, 2026

Goldman Sachs logo appears in this illustration taken December 1, 2025.

REUTERS/Dado Ruvic/Illustration/File Photo [Purchase Licensing Rights, opens new tab](#)

[\(GS.N\)](#), [opens new tab](#) has agreed to pay \$500 million to settle a class action lawsuit accusing the Wall Street bank of [defrauding shareholders](#) about its work for 1MDB, a Malaysian sovereign wealth fund that became embroiled in a corruption scandal.

The parties said last month they had [agreed to settle](#), but terms were not disclosed at the time. Lawyers for the shareholders, led by Swedish pension fund Sjunde AP-Fonden, disclosed the amount in a Wednesday filing in Manhattan federal court.

"The settlement is an outstanding result for the class," lawyers for the plaintiffs wrote in the filing.

A judge must approve the settlement.

Neither Goldman Sachs' lawyers nor a spokesperson for the bank immediately responded to requests for comment.

Former Malaysian Prime Minister Najib Razak set up 1MDB to promote economic development, with help from Malaysian financier Jho Low, who is now a fugitive. U.S. and Malaysian authorities have said \$4.5 billion was siphoned away from 1MDB, with some diverted to offshore bank accounts and shell companies linked to Low.

Goldman helped 1MDB sell \$6.5 billion of bonds and collected an estimated \$600 million in fees.

Shareholders accused the bank of lying about its role in the fraud while repeatedly touting its supposedly robust risk management.

They said Goldman's share price tumbled after investors realized Goldman "actively facilitated - and handsomely profited from" the fraud.

Goldman agreed in 2020 to pay \$2.9 billion in penalties and have a Malaysian unit admit criminal wrongdoing to settle 1MDB probes by the U.S. Justice Department and other authorities.

A Brooklyn, New York, judge formally ended the U.S. criminal case against Goldman in May 2024, after the bank completed a three-year deferred

prosecution agreement.

One Goldman banker was convicted of helping loot 1MDB, and another pleaded guilty.

Reporting by Luc Cohen in New York Editing by Rod Nickel

Our Standards:

Activision shareholders reach \$250 million settlement over Microsoft buyout

 [reuters.com/legal/litigation/activision-shareholders-reach-250-million-settlement-over-microsoft-buyout-2026-05-22](https://www.reuters.com/legal/litigation/activision-shareholders-reach-250-million-settlement-over-microsoft-buyout-2026-05-22)

Tom Hals

May 22, 2026

A view shows a Microsoft logo at Microsoft offices in Issy-les-Moulineaux near Paris, France, March 25, 2024. REUTERS/Gonzalo Fuentes/File Photo [Purchase Licensing Rights, opens new tab](#)

WILMINGTON, Delaware, May 22 (Reuters) - Shareholders of Activision Blizzard reached a \$250 million settlement over allegations that the company's former executives and Microsoft shortchanged them when Microsoft acquired the game maker for \$75.4 billion in 2023, according to a late Thursday court filing in a Delaware state court.

Shareholders in the maker of the "Call of Duty" video game, led by Swedish pension fund Sjunde AP-Fonden, accused former Activision Blizzard executives including Chief Executive Bobby Kotick of breaching their fiduciary duties to investors by agreeing to a \$95 per share takeover price.

The shareholders said Kotick rushed into the merger so he could keep his job and \$400 million of change-of-control benefits.

Microsoft and Kotick brought counterclaims against Sjunde, which will also be resolved in the settlement agreement.

Reporting by Tom Hals in Wilmington, Delaware; Editing by Franklin Paul and Edmund Klamann

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

Securities

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Microsoft to Pay \$250 Million to End Activision Case (Correct)

May 22, 2026, 9:38 AM PDT; Updated: May 22, 2026, 9:46 AM PDT

Microsoft Corp. agreed Friday to pay \$250 million to end shareholder litigation over its \$75 billion acquisition of Activision Blizzard Inc., according to court filings.

(Corrects company name to Activision Blizzard)

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Meta reaches settlement before first federal social media addiction bellwether trial

DJ [dailyjournal.com/articles/391642-meta-reaches-settlement-before-first-federal-social-media-addiction-bellwether-trial](https://www.dailyjournal.com/articles/391642-meta-reaches-settlement-before-first-federal-social-media-addiction-bellwether-trial)

Meta and Breathitt County Schools, the first bellwether plaintiff in the multidistrict litigation over adolescent social media addiction, reached a settlement ahead of trial, according to court documents and a spokesperson for the plaintiffs' attorneys.

The parties jointly stipulated late Wednesday that the claims against Meta, represented by Covington & Burling LLP, would voluntarily be dismissed. *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, 4:22-md-03047 (N.D. Cal., filed Oct. 6, 2022).

Trial was slated to begin the week of June 15. The next bellwether plaintiff, Tucson (Ariz.) Unified School District is scheduled to go to trial in January 2027, according to the plaintiffs' spokesperson.

Breathitt is represented by Ronald E. Johnson of HJV Car Accident Personal Injury Lawyers, while Lexi J. Hazam of Lief Cabraser and Previn Warren of Motley Rice LLC serve as lead counsel for the plaintiffs in the MDL. Christopher A. Seeger of Seeger Weiss LLP serves as their lead settlement counsel.

"Our focus remains on pursuing justice for the remaining 1,200 school districts who have filed cases," the group said in a statement.

The four companies still face claims from dozens of state attorneys general, scheduled to go to trial in August.

Breathitt, one of hundreds of school districts to sue the social media companies, alleged they knowingly designed their platforms to be addictive to children and teens. The school districts claim social media addiction harms students' mental health, disrupts the learning environment, and diverts time and resources away from instruction.

The tech companies argued they were protected by Section 230 of the Communications Decency Act, which shields technology companies from liability for content posted on their platforms by third parties. But U.S. District Judge Yvonne Gonzalez Rogers let the claims move forward, finding some of the allegations surrounded the apps' design and not content. Gonzalez Rogers

narrowed the scope of the claims, to exclude anything relying on content and plans to instruct the jury that the companies can't be found liable on the basis of content posted to their platforms.

In a state court case over similar allegations, Snap and TikTok settled ahead of trial while Meta and YouTube went to trial. Meta and YouTube were found liable by a Los Angeles jury in March -- \$3 million in compensatory damages and \$3 million in punitive damages. Meta was apportioned 70% of fault.

#391642

Daniel Schrager

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Meta settles bellwether suit over harms of social media to school districts

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Carly Nairn

May 21, 2026

A girl texts on a smartphone. (Filmbetrachter/Pixabay via Courthouse News)

OAKLAND, Calif. (CN) — Facebook and Instagram parent Meta on Thursday became the final social media giant to settle a bellwether case brought by a Kentucky school district seeking to recoup the costs of handling the harms social media causes young people.

“Our focus remains on pursuing justice for the remaining 1,200 school districts who have filed cases,” after the Kentucky school district resolved its claims, the plaintiffs’ attorneys said in a statement.

Breathitt’s was the first case, selected as a bellwether, in the multidistrict litigation to test how the lawsuits might play out in court.

“We’ve resolved this case amicably and remain focused on our longstanding work to build protections like Teen Accounts that help teens stay safe online, while giving parents simple controls to support their families,” a Meta spokesperson said in an email to Courthouse News.

Breathitt sought over \$60 million to combat the harms from what it said are the addictive features of social media apps, including infinite scroll and other algorithmic settings that are designed to keep students active on their phones. The district accused the social media companies of mental health harms and part of damages were to fund a 15-year mental health program.

The initial multidistrict litigation consolidated hundreds of personal injury lawsuits on behalf of children and adolescents by school districts, local governments and state attorneys general. These plaintiffs claim Meta, Alphabet, TikTok and Snap designed platforms to foster compulsive use by minors.

U.S. District Judge Yvonne Gonzalez Rogers is presiding over the sprawling litigation.

In a [joint lawsuit](#) filed in late 2023, 33 states claim Meta built a business model that maximizes young users’ time on its platforms and employs psychologically manipulative platform features. They accused the tech behemoth of publishing

misleading reports on user harm and continuing to downplay the negative consequences of its products.

A trial on the states' claims [is set to begin](#) Aug. 6.

Breathitt's bellwether trial, previously scheduled for jury selection on June 12, will no longer take place. The next trial will be the Tucson Unified School District's case, tentatively scheduled for January 2027.

Meta settles first US case over school costs tied to youth mental health, court filing shows

 [reuters.com/world/meta-settles-first-us-case-over-school-costs-tied-youth-mental-health-court-2026-05-21](https://www.reuters.com/world/meta-settles-first-us-case-over-school-costs-tied-youth-mental-health-court-2026-05-21)

Courtney Rozen, Dietrich Knauth

May 21, 2026

A worker stands inside the Meta Lab in Los Angeles, California, U.S., May 20, 2026. REUTERS/Daniel Cole [Purchase Licensing Rights, opens new tab](#)

- Meta settles with Kentucky school district in bellwether youth mental health lawsuit
- About 1,200 school districts pursuing similar claims, seeking compensation for mental health costs
- Meta and other companies deny allegations, citing efforts to protect young users

May 21 (Reuters) - Meta Platforms ([META.O](#)), [opens new tab](#) on Thursday settled the first case set for trial seeking to make social media companies cover the costs that school districts say they have incurred to combat a mental health crisis allegedly fueled by platforms.

The agreement fully resolves a lawsuit brought by Breathitt County School District in eastern Kentucky, following [earlier settlements](#) by co-defendants Alphabet's ([GOOGL.O](#)), [opens new tab](#) YouTube, Snap ([SNAP.N](#)), [opens new tab](#) and TikTok. The case had been scheduled for a June 15 trial in federal court in Oakland, California.

Breathitt is among roughly 1,200 school districts pursuing similar claims. Its case was selected as a bellwether, or test case, for those lawsuits.

"We've resolved this case amicably and remain focused on our longstanding work to build protections like Teen Accounts that help teens stay safe online, while giving parents simple controls to support their families," said a Meta spokesperson.

In a statement, the plaintiff's attorneys said they had resolved Breathitt's claims against Meta, adding that "our focus remains on pursuing justice for the remaining 1,200 school districts who have filed cases."

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LAWSUIT SOUGHT OVER \$60 MILLION

Breathitt, a small rural district in Appalachia, accused the companies of designing their platforms to keep young users hooked, driving anxiety, depression and self-

harm among students and leaving schools to deal with the consequences. The lawsuit sought over \$60 million to cover the costs of counteracting the impact of social media on students' mental health and to fund a 15-year mental health program to abate the problem. It also sought a court order requiring the companies to modify their platforms to reduce addictive features.

More than 3,300 lawsuits alleging addiction-related harms are pending in California state court against the social media companies. Another 2,400 cases — including those brought by the school districts as well as individuals, municipalities and states — have been centralized in California federal court.

The companies have denied the allegations and say they take extensive steps to keep teens and young users safe on their platforms.

In a [landmark trial](#), a Los Angeles jury on March 25 found Meta and Alphabet's Google negligent for designing social media platforms that are harmful to young people, awarding a combined \$6 million to a 20-year-old woman who said she became addicted to social media as a child.

Breathitt's case had been closely watched as an early test of the school districts' claims in the sprawling litigation. Judges and attorneys often use bellwether verdicts to assess the potential value of remaining claims and guide settlement talks.

Breathitt is a small district that serves about 1,600 students across six schools, according to federal data, but the litigation also includes far larger districts.

DeKalb County, Georgia, which educates more than 90,000 students, has said it is seeking up to \$4.3 billion in future mental health costs. The Los Angeles Unified School District and the New York City public school system — together serving more than 1.2 million students — have also sued.

The second phase in a trial in a [separate case](#) brought by the state of New Mexico, making similar claims, is expected to end soon.

Reporting by Courtney Rozen and Bhargav Acharya; Editing by Alexia Garamfalvi, Caitlin Webber, David Ljunggren, Rod Nickel

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

California Brief

Meta Settles School Suit Over Social Media, Averting Trial (1)

May 21, 2026, 12:36 PM PDT

Meta Platforms Inc. reached an agreement to settle a landmark lawsuit alleging that addiction to Instagram and other top social media platforms upended learning across America and pushed US public schools to spend enormous resources fighting a mental health crisis.

Meta was the sole remaining defendant in a trial scheduled for June after Snap Inc., Google's YouTube and TikTok settled a week earlier. The terms of Meta's settlement were not disclosed in a Thursday court filing, but a spate of additional lawsuits brought by school districts could open the tech companies to a "collective theoretical liability of almost \$400 billion," according to an estimate from Bloomberg Intelligence.

In a statement, plaintiffs' attorneys **Lexi Hazam**, **Previn Warren**, Chris Seeger and Ronald Johnson confirmed they had resolved Breathitt County School District's claims against Meta, as well as the rural Kentucky district's claims against Snap, TikTok and YouTube. "Our focus remains on pursuing justice for the remaining 1,200 school districts who have filed cases," the attorneys said in a joint statement.

A Meta spokesperson said, "we've resolved this case amicably and remain focused on our longstanding work to build protections like Teen Accounts that help teens stay safe online, while giving parents simple controls to support their families."

The Breathitt schools case was the companies' top choice for a first test trial; the next bellwether trial, chosen by the plaintiffs, centers on the school district in Tucson, Arizona, according to Michael Weinkowitz, a court-appointed co-chair of the school district committee in the multidistrict litigation. The Tucson case is scheduled for a trial in early February 2027, Weinkowitz said.

It's been a busy year for tech companies embroiled in child safety litigation. Meta and Google went to trial in a first-of-its-kind personal injury suit over youth social media addiction in January in Los Angeles. A jury found the companies liable for harming a 20-year-old woman with products designed to keep her hooked, awarding a total of \$6 million in damages. TikTok and Snap, also named in the suit, settled just ahead of that trial.

In March, Meta lost a separate case in New Mexico alleging the company failed to protect children from online predators; jurors assessed a penalty of \$375 million.

Thursday's settlement means that Meta Chief Executive Officer Mark Zuckerberg, head of Instagram **Adam Mosseri** and other top executives will no longer have to testify in the trial, which was set to begin June 12 in federal court in Oakland, California. But another case against Meta brought by dozens of state attorneys general is slated to begin in August, and a defeat for the company could force it to change how its products operate.

Meta and its rivals have downplayed the financial impact of the lawsuits and cultural backlash over child safety on their platforms. On Meta's most recent earnings call with investors, Zuckerberg didn't address the topic; Chief Financial Officer **Susan Li**, in prepared remarks, said only that "we continue to see scrutiny on youth-related issues and have additional trials scheduled for this year in the U.S., which may ultimately result in a material loss."

(Updates with Tucson school district case set for 2027 trial in fifth paragraph.)

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School District Settles Claims Against Meta in Social Media Addiction Bellwether Case

"Our focus remains on pursuing justice for the remaining 1,200 school districts who have filed cases," said plaintiffs counsel in a statement.

May 22, 2026 at 08:47 AM By  **Kat Black**



Meta sign in front of Facebook headquarters on 1 Hacker Way, Menlo Park, California, USA. Credit: Michael Vi/Shutterstock.com

Plaintiffs counsel in a bellwether case against Meta Platforms Inc., the parent of social media platforms Facebook and Instagram, announced a settlement with Meta on Thursday, resolving negligence and public nuisance claims slated to be the first filed by a school district to head to trial in the social media youth addiction multidistrict litigation.

The plaintiff, a Kentucky school district, and Meta jointly stipulated the voluntary dismissal of the action against Meta with prejudice in an [order](#) filed in the U.S. District Court for the Northern

District of California, Oakland Division.

A trial in the case, *Breathitt County Board of Education v. Meta Platforms Inc. et al.*, was scheduled to begin on June 15 in Oakland federal court under presiding District Judge Yvonne Gonzalez Rogers. Meta's co-defendants in the suit—Snap Inc., TikTok Inc. and YouTube LLC—reached a settlement with the school district on May 15, according to court filings.

The settlement follows on the heels of a [landmark verdict](#) against Meta and YouTube in Los Angeles Superior Court on March 25, which awarded the plaintiff—a now-20-year-old who used their platforms as a minor—\$6 million in compensatory and punitive damages after a jury found the companies liable for exacerbating her mental health issues, including depression, anxiety and body dysmorphia.

The *Breathitt* case is part of litigation—captioned *In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*—centralized in California federal court that seeks to hold Big Tech accountable for allegedly baking addictive features into their social media platforms in order to maximize engagement among minors.

Breathitt is one of 1,200 such cases, according to plaintiffs counsel, filed by school districts that accuse the social media companies of engendering behavioral issues among students addicted to their platforms, leading to mental health crises at school that incur significant economic costs.

Plaintiffs counsel Lexi Hazam of Lieff Cabraser Heimann & Bernstein, Previn Warren of Motley Rice, Chris Seeger of Seeger Weiss and Ronald Johnson of Hendy Johnson Vaughn Emery said in an emailed statement they had resolved Breathitt County School District's claims against Meta, in addition to its claims against Snap, TikTok and YouTube.

The attorneys declined to provide details on the terms of the settlement beyond the information included in their statement.

"Our focus remains on pursuing justice for the remaining 1,200 school districts who have filed cases," they said.

The complaint, filed on March 30, 2023, alleged that students in the Breathitt County school district became addicted to the social media companies' platforms—namely, Facebook, Instagram, TikTok and Snapchat—through deliberate design choices intended to ensnare minor users in a cycle of "compulsive" use during school hours that contributed to mental health issues such as "anxiety," "depression," "thoughts of self-harm" and "suicidal ideation."

Students' use of their platforms it claimed, resulted in "disruption[s]" throughout the school day and burdened schools with the financial fallout of addressing "mental health and behavioral

issues" caused by social media addiction.

In February 2026, Judge Gonzalez Rogers [denied](#) the defendants' motion for summary judgment in the case, paving the way for trial. Gonzalez Rogers [ruled](#) that Breathitt provided substantial evidence that "each of defendants' platforms are designed to, and in fact do, engender compulsive and harmful use through the Actionable Defects."

Her order disputed the defendants' invocation of protections afforded by the First Amendment and Section 230 of the Communications Decency Act—which provides federal immunity to internet services over third-party user-generated content—finding that the school district's claims could "proceed on a 'core theory of injury [which] focuses on the impact of compulsive use itself, irrespective of third-party content, defendants' protected publishing activity and defendants' protected first-party speech."

"We've resolved this case amicably and remain focused on our long-standing work to build protections like Teen Accounts that help teens stay safe online, while giving parents simple controls to support their families," said a Meta spokesperson in an emailed statement.

Meta's counsel at Covington & Burling did not immediately respond to requests for comment.

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California Brief

Meta, WhatsApp Sued by Texas Over Secure Message Protections (1)

May 21, 2026, 12:43 PM PDT; Updated: May 21, 2026, 2:56 PM PDT

WhatsApp is able to access user's encrypted messages, Texas said in a lawsuit that accuses Meta Platforms Inc. founder Mark Zuckerberg of lying to the US Senate in 2018 about the company's steps to make them inaccessible.

The lawsuit brought in Texas state court says WhatsApp, the chat service Meta has owned since 2014, maintains access to communications from 3 billion users that it purports to be private.

Texas Attorney General Ken Paxton (R) announced the lawsuit Thursday, accusing WhatsApp of marketing its services as secure but failing to "deliver on those promises."

A Meta spokesperson denied Paxton's claims in a statement: "WhatsApp cannot access people's encrypted communications and any suggestion to the contrary is false. We will fight this suit as we continue defending our strong record on protecting people's messages."

The case comes months after the Commerce Department abruptly closed an investigation into Meta over the same privacy concerns Paxton raised in the lawsuit. The probe was shut down after an investigator with the agency contacted other federal officials early this year to share his preliminary conclusions that Meta stores and is able to view WhatsApp messages.

"There is no limit to the type of WhatsApp message that can be viewed by Meta," an agent with the Office of Export Enforcement inside the Commerce Department's Bureau of Industry and Security wrote.

Not long after the note, the agency closed the investigation, two people familiar with the matter told Bloomberg News last month. One of them said it was done at the direction of senior agency leaders.

Meta has consistently maintained its employees are unable to access WhatsApp encrypted messages.

Zuckerberg reinforced that claim to the US Senate in 2018, insisting "Facebook systems do not see the content of messages being transferred over WhatsApp," Paxton's lawsuit said.

The Texas petition asserting deceptive trade practices violations follows privacy related suits Paxton's brought against TikTok, Netflix, Google, Samsung, and other big technology companies.

Paxton is bringing the suit with Keller Postman LLC, the same firm that helped Texas in 2024 secure an historic \$1.4 billion settlement from Meta for misusing facial recognition data. The firm billed the state \$93.36 million for roughly 28,000 billable hours in the high-risk, high-reward contingency arrangement.

The lawsuit was filed in Harrison County, a single-judge courthouse where Paxton often files big anti-privacy cases.

The case is Texas v. Meta Platforms Inc. , Tex. Dist. Ct., No. 26-0393, 5/21/26 .

(Updates fourth paragraph with a statement from Meta. A previous version of this story added information from a Commerce Department investigation.)

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Analysis | **Privacy**

New Appellate Opinion in Amazon Biometric Data Case May Signal 'Narrowing' Scope of BIPA Litigation, Experts Say

Amazon.com's cloud-computing branch, Amazon Web Services Inc., clinched a recent win in the U.S. Court of Appeals for the Third Circuit that, experts say, may signal a broader movement in the courts toward favoring the defense in biometric privacy litigation and trimming the scope of the Illinois Biometric Information Privacy Act (BIPA).

May 20, 2026 at 03:23 PM By  **Kat Black**



Credit: Vadi Fuoco/Adobe Stock

Amazon.com's cloud-computing branch, Amazon Web Services Inc., clinched a recent win in the U.S. Court of Appeals for the Third Circuit that, experts say, may signal a broader movement in the courts toward favoring the defense in and trimming the scope of privacy litigation brought under the Illinois Biometric Information Privacy Act (BIPA).

On May 12, Circuit Judges David Porter, Tamika Montgomery-Reeves and Emil Bove issued an [opinion](#) affirming a Delaware federal court's dismissal of a proposed class action filed under BIPA

against Amazon Web Services and Pindrop Security Inc., an Atlanta-based cybersecurity company that uses biometric cloud-based technology to verify callers' identities using "voiceprints," or digital representations of their voices.

BIPA contains a carve-out—known as the "financial-institution exemption"—for financial institutions that are "subject to Title V of the federal Gramm-Leach-Bliley Act (GLBA) of 1999."

A class action that only named Amazon as a defendant was initially filed in 2019 in Illinois state court and was later removed to federal court, according to court records. The action was dismissed for lack of personal jurisdiction and a similar complaint, adding Pindrop as a defendant, was filed on Oct. 16, 2020 in the U.S. District Court for the District of Delaware.

Plaintiffs in the proposed class, according to court documents, include residents of Illinois who called the financial services company John Hancock, which routed their calls to AWS's Amazon Connect, an AI-fueled service that allows businesses to operate cloud-based customer contact centers. AWS also offers Pindrop's voice authentication services to customers of Amazon Connect.

BIPA awards plaintiffs \$1,000 for negligent violations or \$5,000 for intentional or reckless violations, plus fees and costs. In August 2024, Illinois Gov. J.B. Pritzker passed a [BIPA amendment](#) that eradicated "per-scan" damages, restricting damages recovery to one violation per person no matter how many times the same biometric data was collected.

In April, the U.S. Court of Appeals for the Seventh Circuit [ruled](#) that the amendment applies retroactively to pending cases, significantly curbing billion-dollar exposure for Illinois businesses, in [Clay v. Union Pacific Railroad](#).

The Delaware court dismissed the proposed suit, which accused Amazon and Pindrop of unlawfully collecting plaintiffs' voiceprints without their consent, in September 2021 on extraterritoriality grounds. After an amended complaint was filed, the court dismissed all claims against Pindrop under the financial-institution exemption and all claims against Amazon apart from collecting biometric data without written consent in March 2023. The court awarded summary judgment to Amazon in October 2024 following the submission of a second amended complaint.

"This is a case that made its way to Delaware and then to the Third Circuit, and the court was skeptical ... of the subject matter and the nexus Illinois, and so I just think it's part of a trend that you [are] seeing of courts narrowing the ability to bring class actions on a nationwide or class actions under BIPA in relation to nationwide providers of technology," said Daniel Saeedi, a partner at Blank Rome in Chicago who specializes in biometrics and privacy law, in an interview.

The three-judge panel upheld the Delaware court's ruling that Pindrop was protected by the financial-institution exemption after plaintiffs disputed that Pindrop, a tech company, qualified as a "financial institution," finding that Pindrop's authentication services "fall squarely within BIPA's incorporated definition of 'financial activities.'"

The judges also affirmed the court's order awarding summary judgment to Amazon on the basis of the extraterritoriality doctrine.

"It is a 'long-standing rule of construction' that Illinois state laws are 'without extraterritorial effect unless a clear intent in this respect appears from the express provisions of the statute,'" the judges wrote. "BIPA contains no such express provisions, so it applies only to conduct within the state."

Saeedi said that the Third Circuit's ruling on extraterritoriality in this case showcases some of the "procedural hurdles" that class action plaintiffs may face in BIPA litigation against tech companies that are "not wholesale directed to Illinois."

"I think that's an interesting argument, too, because that's really saying, other than the plaintiffs being in Illinois and initiating the call in Illinois, everything else is outside of Illinois, and thus the plaintiffs cannot show that the connections were substantially related to Illinois," he said.

"I think reasonable minds could differ on that, but the courts have been moving in favor of the defense side on extraterritoriality. ... I think the case is just a great example of how, before you even get to the merits of whether the scan falls under BIPA-regulated collections, what, procedurally, is involved [in] maintaining a case?"

The cases that have narrowed the scope of what constitutes a biometric "scan" under BIPA, said Saeedi, have appeared "over the last couple years," and there have been a number of such cases that have been favorable to the defense. In conjunction with the Seventh Circuit's recent *Clay* ruling, he added, this trend in the courts is "narrowing BIPA."

"It's still a potent statute, but it's one that doesn't have, I think, the amorphousness that it did a couple years ago," he said.

Lynn Parker Dupree, a partner in Finnegan's Washington, D.C., office who leads the firm's privacy practice, said in an interview that the decision may motivate Big Tech to act preemptively moving forward to avoid BIPA exposure, given that it "provides a framework for the tech industry to build a compliance program that ensures that they're not directing their activities specifically towards activities in the state [of Illinois]."

"So, in this instance, Amazon servers were in Virginia, they were processing the data there as opposed to Illinois, and that made a difference in the court's analysis," she said. "They didn't then

engage in any other activities that then redirected the nexus of activity back to Illinois."

"I will say, this Third Circuit opinion gives greater clarity to the understanding of what is sufficient to have a connection to the state of Illinois," she added, citing a similar BIPA case— *Vance et al. v. Google LLC*, which was dismissed by District Judge Beth Labson Freeman in the Northern District of California in March 2024—that reached a similar conclusion.

"Having the Third Circuit weigh in here, I think, gives some clear direction on how these extraterritoriality adoptions should be interpreted," she said.

Amazon and its counsel at Morgan, Lewis & Bockius could not be reached for comment.

Pindrop's counsel at Kirkland & Ellis referred requests for comment to a spokesperson at Pindrop, who said in an emailed statement, "The Third Circuit's decision confirms that Pindrop's voice authentication technology for financial-services customers fits within the GLBA privacy and safeguards framework. That clarity matters for regulated institutions fighting fraud and AI-generated voice threats. Pindrop will continue delivering trusted authentication solutions designed to protect consumers and support our customers' compliance obligations."

The appellants' counsel at Schlichter Bogard did not respond to requests for comment.

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The small Texas law firm taking the fight against classroom tech to court

 [reuters.com/legal/government/small-texas-law-firm-taking-fight-against-classroom-tech-court-2026-05-22](https://www.reuters.com/legal/government/small-texas-law-firm-taking-fight-against-classroom-tech-court-2026-05-22)

Sara Randazzo

May 22, 2026

Item 1 of 2 A student's pencil rests on a laptop in Alexandria, Virginia, U.S., March 2, 2021. REUTERS/Tom Brenner

[1/2]A student's pencil rests on a laptop in Alexandria, Virginia, U.S., March 2, 2021. REUTERS/Tom Brenner [Purchase Licensing Rights, opens new tab](#)

May 22 (Reuters) - A provocative pop-up greets visitors to a small Texas law firm's website: "Has your child been harmed by their school-issued laptop or tablet?" it asks. "Parents assume that Chromebooks and iPads issued by their kids' schools are safe, but they are not."

Hundreds of parents have responded to the intake form, according to Julie Liddell, one half of the husband-wife duo behind the Austin-based plaintiffs' law firm, the EdTech Law Center. The lawyers are working to channel data privacy and mental-health concerns about education technology—which has become ubiquitous in U.S. classrooms—into lawsuits.

Their work is part of a broader wave of anti-ed tech sentiment that's sweeping the country, as parents question why children sit in classrooms on devices that often give direct access to the distractions and harms of the internet. Digital education tools are also under scrutiny, with many asking whether they teach better than traditional methods.

But how does all of that skepticism translate into litigation?

TAKING TECH TO COURT

Liddell and her husband, Andrew Liddell, left careers in government and BigLaw to try to find out. They've filed a dozen lawsuits since starting EdTech Law Center in 2023, using both data-privacy and product liability laws to try to undercut education technology's hold.

The vast majority of school districts provide a laptop or tablet for each student, which are used for everything from reading lessons to virtual biology dissections. Students spent an average of 79 minutes per day on screens, according to a recent report from Lightspeed Systems.

The lawyers say they've been inspired by another wave of cases against Big Tech, those accusing social media platforms of designing addictive products that harm children. Meta Platforms on Thursday became the final defendant [to settle](#) one such case brought by a school district that had been slated to serve as a test

case of districts' claims. A [Los Angeles jury](#) in March awarded \$6 million to an individual plaintiff in a similar case.

Working on contingency, the Liddells are seeking monetary damages for their clients, as well as design changes from the tech companies, to both give parents greater control over when data is collected and prevent children from being exposed to potential harms.

Andrew Liddell, who previously worked as a patent lawyer at Duane Morris, said he believes federal laws have been improperly interpreted to allow school districts to broadly consent on behalf of parents to collect student data.

Offering a hypothetical, he likened it to if an outside vendor waltzed into a school's front office, rifled through the nurse's filing cabinets and attendance records and left. No one would stand for that, he said, "but that's happening right now, but only invisibly and at this massive scale."

Most of the cases are still in the early stages or embroiled in procedural disputes, with one data-privacy case dismissed by a federal judge for failing to show concrete harm or misuse of data.

In December, EdTech Law Center and three other firms filed a proposed class action against Curriculum Associates in U.S. District Court in Massachusetts, alleging it improperly collected and profited from student data without parental permission. The company, which makes an English and math assessment tool called iReady used by 17 million students, said it doesn't sell student data or use it for advertising, and that its main focus is helping teachers support student learning.

Lawyers for Curriculum Associates in court filings called the claims anti-tech advocacy not suitable for the court system, an argument echoed by other defendants.

"This case represents the most recent chapter in Plaintiffs' and their counsel's ideologically motivated crusade to use the courts—rather than the legislative process—to change how technology is used in schools," Curriculum Associates said in a February motion to dismiss.

Nicki Petrossi, an anti-tech advocate and plaintiff in several of the Liddells' cases, including against Curriculum Associates, said data privacy concerns aren't typically the first complaint she hears from parents. As she's learned more, however, Petrossi said she's come to believe student data is being used for commercial purposes and that litigation is a path to reform.

"I think that having a legal decision proving that we need parental consent, true informed parental consent, will cause the schools to be more specific and careful about what platforms they even contract with," said Petrossi, who pulled her kids

from public schools in Fullerton, Calif., to attend a classical charter school that eschews technology.

In addition to the data-privacy proposed class actions, the Liddells have sued on behalf of families who say their children experienced physical or mental harms from school devices.

Those include one family blaming Alphabet's Google for their son developing a debilitating pornography addiction from his school-issued Chromebook. In court filings, Google's attorneys at Perkins Coie argued the claims are barred by Section 230 of the Communications Decency Act, a 1996 federal law that generally protects online platforms from liability over user-generated content, and that the family can't sue for emotional harms and mental distress under products-liability law, among other defenses. The company didn't respond to a request for comment.

BIGLAW PUSHBACK

The Liddells have partnered with larger law firms, including Hagens Berman Sobol Shapiro in Seattle and Morgan & Morgan in Florida, to file many of their cases. They've hired a small staff but have yet to receive a payday from any of the cases. The education technology companies they're suing, meanwhile, have retained some of the country's largest law firms to aggressively push back.

Kirkland & Ellis, for instance, filed a motion for sanctions against the Liddells on behalf of PowerSchool after discovering that plaintiffs in the case hadn't actually used the product. Kirkland lawyers noted that PowerSchool spent "nearly two years and millions of dollars" to uncover the details. A federal judge rejected the sanctions request, and the case is set for a class certification hearing in August. The Liddells blamed the confusion in part on PowerSchool practices they say make it difficult for parents to know if their children are using the product.

A PowerSchool spokeswoman said the complaint's claims are inaccurate and that it protects student data in accordance with all laws and the contracts it strikes with school districts.

For all the legal headwinds, Julie Liddell sees a shift in how Americans think about the companies behind their children's screens.

"It's in the zeitgeist now that Big Tech is not looking out for us and our kids," she said.

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Washington lawyer Goldstein hires ex-US solicitor general Prelogar to fight tax verdict

 [reuters.com/legal/government/washington-lawyer-goldstein-hires-ex-us-solicitor-general-prelogar-fight-tax-2026-05-21](https://www.reuters.com/legal/government/washington-lawyer-goldstein-hires-ex-us-solicitor-general-prelogar-fight-tax-2026-05-21)

Mike Scarcella

May 21, 2026

Elizabeth Prelogar, President Joe Biden's nominee to serve as U.S. solicitor general, testifies before her U.S. Senate Judiciary Committee confirmation hearing in this frame grab from video shot on Capitol Hill in Washington, U.S., September 14, 2021. U.S. Senate/Handout via Reuters/File Photo [Purchase Licensing Rights, opens new tab](#)

WASHINGTON, May 21 (Reuters) - Prominent Washington lawyer Thomas Goldstein has added former U.S. Solicitor General Elizabeth Prelogar to his defense team after a federal jury in February convicted him of tax and financial crimes tied to his side career as a high-stakes poker player.

Goldstein, once one of the country's top U.S. Supreme Court lawyers, faces sentencing next month in Greenbelt, Maryland, and is expected to appeal to the 4th U.S. Circuit Court of Appeals.

Prelogar previously served as then-U.S. President Joe Biden's solicitor general, leading appeals at the U.S. Supreme Court, and worked with then-Special Counsel Robert Mueller on his probe of Russian interference in the 2016 presidential election. She now leads Cooley's Supreme Court and appellate group.

Goldstein's lead trial attorney, Jonathan Kravis, and Prelogar did not immediately respond to requests for comment. Cooley also did not respond to a request for comment.

Goldstein was [convicted](#) in February of failing to report millions of dollars in poker winnings, lying on mortgage loan documents and making improper payments through his former law firm Goldstein & Russell.

The six-week trial featured testimony from Goldstein, law firm leaders and actor Tobey Maguire, who starred in 2002's "Spider-Man" and other films. Maguire told jurors he hired Goldstein in 2020 to try to recover more than \$7 million that a Texas businessman allegedly owed the actor in a poker debt.

Goldstein pleaded not guilty and denied intentionally violating tax laws. He has asked the trial judge to overturn the verdict or grant him a new trial.

He faces a maximum prison term of five years for tax evasion, up to 30 years for his alleged false statements to mortgage lenders, and additional potential prison

time for assisting in the preparation of false tax returns and willful failure to pay taxes.

Prelogar's other current clients at Cooley include Alphabet's Google and Chinese drone company SZ DJI Technology. Prelogar also is representing law firm Jenner & Block in its legal challenge to the Trump administration's [targeting](#) of the firm with an executive order against its business operations.

The case is United States v. Thomas Goldstein, U.S. District Court for the District of Maryland, No. 8:25-cr-00006-LKG.

For United States: Sean Beaty, Adeyemi Adenrele and Hayter Whitman of the Justice Department

For Goldstein: Jonathan Kravis of Liu Shur Kravis; Stephany Reaves, Sarah Weiner and Adeel Mohammadi of Munger, Tolles & Olson

[Prominent Washington lawyer Tom Goldstein convicted at tax trial](#)

[Supreme Court lawyer Tom Goldstein takes stand at his criminal tax trial](#)

[Actor Tobey Maguire testifies at US lawyer's tax evasion trial](#)

[Law firm chief recounts 'crazy' bet on Washington lawyer Goldstein's poker play](#)

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Analysis | **Professional Liability**

Rising AI Mistakes in Legal Pose Quandary for Law Firms' Insurance Policies

Headline-generating AI hallucinations in the legal industry have some questioning whether carriers who insure lawyers may be looking to change future liability policies.

May 21, 2026 at 01:07 PM By  **Jon Campisi**



Credit: InfiniteFlow/Adobe Stock

What You Need to Know

- As lawyers up their use of artificial intelligence, their own insurers may be taking a closer look at how the technology is being deployed.
- In addition to the potential for increased insurance policy premiums, some are already started to see insurance carriers roll out AI exclusions in policies.

With generative artificial intelligence use becoming more prevalent in the legal industry, insurance carriers may start taking a closer look at lawyers' professional liability policies, with potential

changes including increased premiums and AI exclusions.

Experts say they're already seeing insurers adjusting their underwriting processes and peppering lawyers with additional questions relating to how frequently AI is being used, for what tasks, and what types of training law firms are requiring.

Hurwitz Fine lawyer Lee Siegel, who represents insurers, said there are "hundreds if not now into the thousands" of reported decisions involving lawyers being "called on the carpet for using hallucinated cases, and that's just a small percentage of lawyers who are using generative AI to assist them with their research."

These stats may raise red flags for insurers and brokers since [AI blunders are a relatively new risk that must be mitigated by lawyers](#) working in the modern era.

Siegel said he is not personally aware of any carriers inserting AI exclusions into lawyers' insurance policies, but he has seen insurers, at the time of renewal, introducing a new line of actuarial questioning around the topic.

He likened it to past issues involving lawyers who got into trouble with email phishing and sending escrow account wires to the wrong people.

"So, what did the carriers do? They asked all kinds of questions," Siegel said. "Do you have this? Do you have that? Their underwriting integrity on those issues got very strong."

Today, he added, law firms big and small have processes and procedures, such as double verifications, when it comes to sending a wire or exchanging banking information, and a similar safeguard process will also likely begin to unfold surrounding AI since insurance carriers want to ensure their policyholders are properly mitigating risk.

But all this is not to say that changes won't be coming to policy premiums and exclusions, it just may be difficult at the moment to find hard data showing exactly that. Anecdotally, experts say they do believe lawyers' professional liability policies are going to start to reflect the realities of risk relating to AI use in legal work.

Reputational Risk

But perhaps the bigger issue at the current moment is reputational risk. Some experts say if lawyers continue to make mistakes with AI in legal work, clients—and prospective clients—may think twice about working with them.

This type of reputational risk is "real and increasing," said Uri Gutfreund, senior vice president and managing principal with insurance brokerage Ames & Gough.

“Right now, people still get written up every day for missing [work], hallucinations, wrong cases, et cetera, and those kinds of things, and those things seem to be getting more common, not less common, and more importantly, the penalties,” said Gutfreund, who focuses on the legal industry. “And I think the public, legal consuming public, is going to become less forgiving, not more.”

Gutfreund said the reputational risk is likely increasing for law firms, and will continue to go up “because there’s going to be a time, very soon, where if you paid your lawyer—when this happens you are not going to forgive them.”

All this could potentially put lawyers in a tight spot, as the possibility of clients filing malpractice claims against their attorneys for AI mistakes that cost them big may be on the rise.

“I think now or very soon in AI, people are going to say, ‘You know what, John was lazy. John was trying to cut corners. John was charging me still \$800 an hour and wasn’t supervising his associates who made this mistake,’” Gutfreund said.

Where reputational risk comes into play, he said, is that any mistakes that may lead to malpractice claims against attorneys can damage both the reputation of the individual lawyers and their law firms.

As for AI exclusions in policies, experts say some exclusions are starting to be rolled out in things like directors & officers, errors & omissions and fiduciary liability insurance policies, but it’s still too early to observe any substantial, across-the-board change.

Hunton Andrews Kurth partner Michael Levine said he has been closely monitoring the AI exclusion topic for the past couple of years and “carriers are rolling them out in different lines.” He expects directors & officers and management liability policies to be the first to transform.

“I’ve also seen them proposed for financial services and technology E&O,” he added. “When you start to get into the errors and omissions, now we’re getting into professional liability, and it starts to creep into those areas.”

And that’s precisely where lawyers might be concerned.

“My guess would be it’s actually probably increasing in frequency,” said Chinmayi Sharma, an associate professor at Fordham School of Law. “I think insurance policies are including AI exclusion clauses.”

Sharma cautioned that she doesn’t have hard data, but anecdotally believes this to be the case. As a torts professor, “insurance is always just adjacent to what I’m thinking about.”

Sharma believes the AI issue in insurance policies may be akin to cyber specific clauses added in years past.

“It wasn’t even something necessarily anticipated or built into the risk assessments or at least accurately built into the risk assessments,” she said. “Once you had events, like for example, the Sony North Korea attack, and things like that happen, some insurance companies tried to use force majeure clauses, basically like this is an act of God. Now, there’s no planet on which you can argue force majeure for a cyberattack. It is common. It is expected. There’s more empirical evidence of it.”

And the legal industry may be looking at a similar pathway when it comes to AI risks. Sharma expects insurers, at the time of renewals, to ask policyholders questions about their use policies and governance surrounding the technology. They may even start demanding mandatory lawyer training as a condition of renewal.

As for whether the AI issue is going to hit lawyers’ pockets in the form of increased insurance premiums, the jury is still out, but some surmise that it’s not a far-fetched notion.

“I don’t know if premiums will go up,” Gutfreund said, noting that insurance carriers can be slow to change.

One broker source, who requested anonymity to speak freely about carriers, noted that the insurance industry tends to be very antiquated, and many carriers use the same questionnaires that they’ve used for years.

For example, while insurers typically charge premiums based on how many lawyers work at a given firm, some won’t include of counsel as among those lawyers. That’s a surprise, given the proliferation of this title in recent years. “So, we have some insurance companies, they don’t charge any money for of counsels,” he said. “It’s so antiquated.”

Another expert, however, noted that carriers don’t underwrite technology narratives, but rather they underwrite patterns of exposure.

“If AI-assisted legal work contributes to increasing frequency or severity of malpractice claims, underwriting standards and premiums will inevitably respond,” said Sean Callagy, an attorney and business strategist who founded Callagy Law and Callagy Recovery.

Callagy said the bigger issue is not whether AI can make mistakes in legal work, but whether “lawyers begin confusing technological output with professional judgment.”

“Once that distinction erodes, the risk profile changes materially,” he said.

AI Drives New Insurance Products

Interestingly enough, the issue of AI and risk is pushing entirely new insurance product lines. Ben Allgrove, partner and chief innovation officer at Baker McKenzie, referenced Corgi, an insurtech offering, during a recent interview, highlighting the fact that new carriers like these are being created specifically to address AI liabilities.

Corgi's new insurance coverage product is designed to protect businesses—including law firms—from financial and legal exposure linked to AI systems. The company says there was a need for it in the marketplace because traditional insurance has failed to cover risks from algorithmic bias, autonomous decisions, and AI-generated errors.

"You have a market which has not yet dealt with these things," Allgrove said. "The insurance market needs to develop."

Allgrove also said he believes the changing insurance market will likely have a direct impact on the legal industry, as lawyers will need to be made aware of the new risks inherent to deploying technology in legal workflow.

"As we shift to agentic law firms, that's going to change almost on a weekly basis," Allgrove said.

"And I couldn't tell you now what that looks like in three years' time, but that's where I think there is an opportunity to actually reduce the risk and improve the consistency in an industry which has historically been quite artisan in how it does that."

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Innsworth Attacks 'Basic Mistake' by CAT in Merricks-Mastercard Settlement

The correct calculation should have been to award Innsworth a profit of £68 million, in addition to its £44.5 million in costs, the litigation funder claims.

May 21, 2026 at 04:02 AM By **Janith Aranze**



Photo: Shutterstock

The U.K.'s Competition Appeal Tribunal made “undeniable” and “basic” errors when calculating what Innsworth could recover from a landmark £200 million class action settlement with Mastercard, the litigation funder has argued.

During the first day of a judicial review hearing before the Administrative Court within the High Court of England and Wales earlier this week, Charles Béar QC, counsel to Innsworth Advisors, said that the CAT “misapplied” the case law and mistakenly included the litigation funder’s costs when calculating its return on investment.

Innsworth argues that the CAT misread evidence in an Australian case when calculating the profit it should receive from the [settlement](#) agreed in Walter Merricks’s opt-out collective action against Mastercard.

Béar said the CAT cited *Street v State of Western Australia*, but that case excluded costs from its assessment.

Lord Justice Stephen Males acknowledged that this argument “might well be right”, but questioned if it “vitiates” the CAT’s conclusions and “invalidate[s] the whole reasoning”.

Despite using the Australian case to support its conclusion that Innsworth’s profit should amount to 1.5 times its investment of £44.5 million, the tribunal only awarded the funder a total of £68 million, which included costs.

The correct calculation was to award Innsworth a profit of £68 million, in addition to its £44.5 million in costs, Innsworth claims.

Innsworth is [challenging](#) the CAT’s decision to [approve](#) the distribution plan for the £200 million settlement. The case became the UK’s first competition class action to win [certification](#), seeking damages from Mastercard as a result of its alleged inflated UK interchange fees.

Specifically, the tribunal ring-fenced £100 million for class members, with an estimated sum of around £45.5 million reserved for Innsworth’s costs. Of the remaining £54.5 million, the tribunal reserved over £22 million for Innsworth to claim as its return on investment and a further £32 million that could be allocated to the charity Access to Justice if take-up from class members failed to exceed the £100 million sum.

During today’s hearing, Males asked whether the appellate court can only quash the CAT’s decision in relation to the final pot, which it reserved for Innsworth’s return on investment and the charity payment, or if the judges should annul the whole distribution plan if it finds in favour of Innsworth’s first ground of appeal regarding the Australian case.

In response, Béar said there is no reason to quash the tribunal’s decision in relation to the other pots, as that “wouldn’t help anybody”.

The tribunal’s interpretation of the Australian case meant it reached a decision that was “erroneous as a matter of logic”, which is a reason to overturn that point, he said.

The funder also claims that the tribunal failed to consider its net proceeds from the case, as the CAT awarded Innsworth just £22.5 million from a pot of £154.5 million after costs – equivalent to 15% – despite it taking on the financial risk to bankroll the class action.

The tribunal’s decision results in the class, “who have taken on none of the risk”, getting at least 65% of the net proceeds, Béar said.

He also criticised the sum allocated to the Access to Justice Foundation, which received around 19% of the proceeds, despite having “no involvement” in the claim.

Without Innsworth’s financing, “there would be no recovery at all”, Béar said.

The tribunal's distribution ruling should have considered these points because it "makes no sense" to disregard the costs expended in the case.

Looking at the "net sum" of a case after reimbursement of costs is the only way to assess the benefits of the opt-out class action regime, Béar said.

By excluding that consideration, that tribunal's process for reaching its decision on distribution is "deficient", he said.

Mark Brealey, counsel to Merricks, said later that the tribunal clearly recognised the importance of the funding committed by Innsworth.

He argued that the funder is choosing to ignore the low value of compensation to the class from the claim, which amounted to an "exceptional circumstance" that the tribunal had to consider.

Brealey also argued that the CAT's ruling is "completely consistent" with other precedents, including *Street v State of Western Australia*.

Innsworth is also trying to revive two grounds of appeal that the Administrative Court has already rejected. It hopes to challenge the distribution of any residue from the settlement sum to the Access to Justice Foundation, while also claiming that the CAT should have considered what the market value for a funder's rate of return was at the time the parties signed the agreement.

A version of this article first appeared on sister publication [Global Competition Review](#)

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Ohio AG switches lead prosecutors for FirstEnergy bribery retrial

 [cleveland.com/news/2026/05/ohio-ag-switches-lead-prosecutors-for-firstenergy-bribery-retrial.html](https://www.cleveland.com/news/2026/05/ohio-ag-switches-lead-prosecutors-for-firstenergy-bribery-retrial.html)

By Jeremy Pelzer, cleveland.com

May 21, 2026

COLUMBUS, Ohio—Ohio Attorney General Dave Yost said Wednesday he has replaced the lead prosecutors in the corruption case against former FirstEnergy executives Chuck Jones and Mike Dowling ahead of their planned retrial this fall.

Assistant Attorney General Dan Kasaris and Bridget Coontz, the chief counsel for the Ohio AG's office, will serve as co-lead prosecutors if the case is retried this September, Yost said in an interview.

They're taking over for assistant attorneys general Matt Meyer and Carol O'Brien, who led the prosecution in the first trial of Jones and Dowling, who are [accused of funneling a \\$4.3 million bribe in early 2019](#) to Columbus attorney Sam Randazzo, shortly before he became the state's top utilities regulator.

Your feedback matters

Do you think Chuck Jones and Mike Dowling should be retried on corruption charges? If so, should prosecutors do anything differently?

Your Feedback

Do you think Chuck Jones and Mike Dowling should be retried on corruption charges? If so, should prosecutors do anything differently?

Your response will be reviewed by our editorial team, may be featured and available for others to read, and we may contact you for further clarification. Your email address will be recorded with the feedback but will not be published. By leaving your feedback, you agree to our [user agreement](#) (including the [class action waiver and arbitration provisions](#)), and [privacy policy](#).

Jones and Dowling have been accused of more than two dozen felony counts, including bribery, engaging in a pattern of corrupt activity, telecommunications fraud, money laundering, and tampering with records. The two, who deny any wrongdoing, could each face decades in prison if convicted.

However, their initial case [ended in a mistrial last month](#), as only 10 of 12 jurors voted for conviction.

While defense attorneys accused Meyer and O'Brien of prosecutorial misconduct for withholding exculpatory evidence and misleading the court about key witness interviews, Yost said that wasn't why he switched them out.

Rather, Yost said, Meyer is tied up responding to [the defense's motion to dismiss the case](#), in part because of the misconduct claims. "I expect that's going to be some time yet before we get a decision on that, and I couldn't afford to blow off six or eight weeks of prep time," Yost said.



Stories by [Jeremy Pelzer](#)

- [‘We will never forget them’: Gov. DeWine’s powerful words to Gold Star families \(Photos\)](#)
- [Push to triple or quadruple Cuyahoga County ‘sin tax’ rebuffed by state leaders: Capitol Letter](#)
- [Push to triple or quadruple Cuyahoga County ‘sin tax’ rebuffed by top lawmakers](#)

O'Brien, meanwhile, [lost her husband in March](#), as closing arguments were being presented in the case. "I don't want to put her through that again," Yost said.

Kasaris is a former assistant Cuyahoga County prosecutor, while Coontz is a veteran attorney with the Ohio AG's office who has handled several complex constitutional and election-law cases.

Yost, a Columbus Republican, [is preparing to step down June 7](#) to take a job with Alliance Defending Freedom, a Washington, D.C.-based conservative Christian legal group.

"These are two very savvy, very tough, experienced prosecutors," Yost said of Kasaris and Coontz.

State public safety director Andy Wilson, who Gov. Mike DeWine has appointed to finish the final eight months of Yost's term, [told reporters last week](#) that he wants to discuss the case with staff before saying whether he will proceed with a second trial of Jones and Dowling.

Yost [recently posted on social media](#) that he expects Wilson will decide to continue the retrial as planned.

Two former FirstEnergy executives testified during the first trial after being granted immunity from prosecution — former vice president of rates and regulatory affairs [Eileen Mikkelsen](#) and ex-chief ethics officer [Ebony Yeboah-Amankwah](#).

Meyer said during closing arguments during the first trial that he might have made a mistake by giving immunity to Ebony Yeboah-Amankwah and that he maybe should have prosecuted her, too.

But Yost said he didn't regret granting immunity in those cases, as each witness had some piece of information that prosecutors otherwise had no way of getting into evidence.

"I don't like immunity, but it's a tool that's sometimes necessary in order to put the case in front of the jury," he said.

Securities

Opinion

Matt Levine's Money Stuff: SpaceX Investors Can't Complain (Correct)

May 21, 2026, 11:25 AM PDT

SpaceX: TAM

"We believe we have identified the largest actionable total addressable market ('TAM') in human history," says the prospectus for SpaceX's initial public offering, and, duh, of course. Every other company in human history has had essentially the same business model, which is "we will sell goods or services to people on Earth for money." The upper bound on every company's TAM has been something like the number of people on Earth times the amount of money they can spend, the gross domestic product of the Earth.

SpaceX has much higher ambitions. "Our mission," it says, "is to build the systems and technologies necessary to make life multiplanetary, to understand the true nature of the universe, and to extend the light of consciousness to the stars." The upper bound on SpaceX's TAM is the gross domestic product of *the universe*. Elon Musk is going to make humanity a multiplanetary species, and then we're really cooking. Why sell goods and services to a few billion people crammed onto Earth, when you can sell goods and services to a few trillion people spread among the stars? "We believe that our current space efforts will catalyze transformative breakthroughs that could reshape terrestrial industries and lead to the emergence of new trillion-dollar markets on the Moon, Mars, and beyond," says the prospectus. Every other company is stuck in our dreary modern reality, but SpaceX operates in a *Star Trek* universe with obviously larger economic potential.

I'm sort of kidding. Here is SpaceX's actual description of its total addressable market :

We estimate that our quantifiable TAM is \$28.5 trillion, consisting of \$370 billion in Space from space-enabled solutions; \$1.6 trillion in Connectivity across \$870 billion in Starlink Broadband and \$740 billion in Starlink Mobile as well as additional opportunities in enterprise and government; \$26.5 trillion in AI across \$2.4 trillion in AI infrastructure, \$760 billion in consumer subscriptions, \$600 billion in digital advertising, and \$22.7 trillion in enterprise applications. For illustrative purposes of sizing our addressable market opportunity, we exclude China and Russia from our global estimates.

The entirety of SpaceX's estimated market for "space-enabled solutions" is about half of that for "consumer subscriptions" to AI chatbots. Substantially all — 79.6% — of SpaceX's total addressable market is for enterprise AI applications. SpaceX looks around at the economic possibilities of extending the light of consciousness to the stars and thinks "we're gonna build tools to automate spreadsheets and sell them to investment banks."

No no no, Elon Musk doesn't think that. Elon Musk wants to shoot rockets into space and so forth. (Though, also, he is personally selling the spreadsheet tools to banks.) The prospectus begins with a bunch of color illustrations of rocket launches and Mars colonies seen from space. Musk's pay package is contingent on establishing "a permanent human colony on Mars with at least one million inhabitants," absolutely straight-faced *Star Trek* stuff.

There is a tension here. SpaceX was, until February, Musk's space company; then it merged with xAI, Musk's artificial intelligence company. Now it is both. (Data centers in space!) More specifically:

It *makes* most of its money from space, or really from satellite internet. In the first quarter of 2026, SpaceX had revenue of \$4,694 million, of which \$3,257 million came from its Connectivity segment (Starlink internet), \$619 million from Space (rocket launches) and \$818 million (17%) from AI.

It *spends* most of its money on AI: The AI segment had a first-quarter loss of \$2,469 million and capital expenditure of \$7,723 million, three times as much capex as in Space and Connectivity combined.

Its *long-term* aspirations are obviously interplanetary and science fictional.

Its *short-term* economic aspirations seem pretty AI-driven.

When SpaceX merged with xAI in February, I wrote that the rationale was "let's use our space rocket business to subsidize our website's data centers," and that is more or less what is happening: The satellite business brings in money and the AI business spends it. But I also wrote:

Chatbots today, intergalactic colonization tomorrow. In 3026 our nth-great-grandchildren will encounter a race of intelligent aliens in a distant galaxy, and the aliens will be like "how did you get here," and our descendants will say "well it started with some slop feeds" and the aliens will be like "what." Lots of very smart people have had high-minded ideas about intergalactic travel for centuries, but perhaps it will turn out that a critical step in getting there is building an app to generate short-form pornographic video on demand.

The two things reinforce each other. You use satellite revenue to build data centers to sell enterprise AI applications, and then you use enterprise AI revenue to build your Mars colonies. You are selling both a long-term vision of intergalactic colonization, and also a medium-term vision of the revolutionary economic potential of AI. SpaceX is selling dreams, and it has a dream for every stage of the timeline. Bloomberg's Sana Pashankar and Loren Grush report:

"The big takeaway for me is that SpaceX is now an AI company," said Chad Anderson, an early SpaceX investor and founder of Space Capital. ...

"Investors aren't paying for today's business, they're paying for the platform that owns the next 50 years of orbital infrastructure," Anderson said. ...

Mike Alves, founder and fund manager of VIDA Vision Fund and early investor in SpaceX, said it's a "shocker" how aggressively the company is pitching its AI capabilities.

"For a rocket company, that's wild," Alves said.

It's both! In 2126, SpaceX will be making like \$4 quadrillion in revenue selling nutrient slurry to asteroid miners off the shoulder of Orion, but in 2036 it will be making \$4 trillion selling enterprise AI slurry to banks in New York.

SpaceX: Governance

The deal, with SpaceX, is that Elon Musk runs it however he wants, and he does weird stuff, and you have to trust him, and if you don't like it you can't complain. When SpaceX acquired xAI a few months ago, did a special committee of independent directors approve the transaction? Did Musk recuse himself from negotiations? Was the price set by independent valuation experts using a rigorous process? Did outside shareholders sue to block the deal? Stop. Musk wanted SpaceX to buy xAI, so it did.

The deal with Tesla Inc. is ... almost that? But not quite? When Tesla acquired Musk's solar power company a decade ago, did a special committee approve the transaction? Sure. Did Musk recuse himself? I mean, no, but maybe a little. Was the price set by independent valuation experts using a rigorous process? It was set by somebody using some process. Did shareholders sue? Oh yes! They lost, eventually, but it was a whole thing.

Similarly, this year SpaceX's board gave Musk a billion shares of restricted stock contingent on hitting various market capitalization milestones and also the Mars colony. Tesla's board has given Musk similar options packages, but at the cost of long-running lawsuits and much agitation, though again it all worked out.

The difference is that SpaceX is a *private company* and Tesla is a *public company*. There are certain rules and norms that apply to public companies; private companies can be run however their owners and managers want. Anyone can own shares in a public company, and if they don't like what the CEO gets up to they can sue. Public companies have to disclose material information, and if that information is misleading then shareholders can sue about that too.

One obvious sensible goal for Musk, in taking SpaceX public, would be to keep his deal the same: When SpaceX is public, Elon Musk still gets to run it however he wants, and he can do weird stuff, and you have to trust him, and if you don't like it you can't complain. This is a sensible goal for Musk in part because he clearly has been burned, or at least annoyed, by the Tesla experience, and he would like to avoid repeating it.

But it is also a sensible goal because *that deal has worked out* for shareholders. SpaceX is worth, you know, \$1.75 trillion or whatever. Surely SpaceX has created all that shareholder value more *because* Musk does what he wants than *in spite of* Musk doing what he wants; it is hard to accidentally create \$1.75 trillion of value. SpaceX's shareholders signed up for this deal — letting Musk cook — and have been rewarded; the people who buy into the IPO presumably want the same deal. Not all of them! Some index funds will own the stock soon without necessarily being Musk fans, and some, like, municipal pension funds will probably buy some stock specifically because they *aren't* Musk fans and want to keep an eye on him. But most of the people putting in orders in the IPO are doing so because they like what Musk has done with the place and want more of the same.

As far as I can tell, Musk has accomplished this goal. When SpaceX goes public, nothing much will have to change about its governance; Musk will still be in total whimsical control, he can do what he wants, no one can stop him and shareholders can't complain. Specifically:

SpaceX will have dual-class stock, with Class B shares getting 10 votes per share. Musk owns 93.6% of the Class B (and 12.3% of the low-vote Class A), for total voting power of 85.1%. Tesla does not have dual-class stock, Musk is a minority owner, and he has worried aloud about the risk of losing control of Tesla's robot army because he doesn't have voting control of the company. Not a problem at SpaceX! Build all the robot armies you want!

Because of Musk's voting control, SpaceX is a "controlled company" under stock exchange rules, so it doesn't have to have a majority of independent directors or an independent compensation committee. So the board of directors can be made up of Musk's buddies, and they can pay him whatever they want.

Even aside from controlling 85% of the voting stock, Musk gets to appoint a majority of the board of directors himself, without the Class A shareholders even voting.

He can still do whatever extracurricular activities he wants: SpaceX "will renounce any interest or expectancy ... in being offered an opportunity to participate in, certain business opportunities ... that are from time to time presented" to Musk, "even if the business opportunity is one that we or our subsidiaries might reasonably be deemed to have pursued or had the ability or desire to pursue." "Mr. Musk and his affiliates are not restricted from owning assets or engaging in businesses that compete directly or indirectly with us and will not have any duty to refrain from engaging, directly or indirectly, in the same or similar business activities or lines of business as us," says a risk factor in the prospectus. "He does not devote his full time and attention to our businesses and devotes time and attention to other significant roles (and may in the future serve in additional roles)," says another. If Musk decides to spend all his time building a robot army, or space data centers, or an intergalactic colony nutrient slurry business, in a *new* company, he can go ahead and do that, and SpaceX and its shareholders can't complain.

More generally, and more importantly, SpaceX's shareholders can't complain about *anything*. There are two main venues for shareholder complaints at public companies: *shareholder derivative lawsuits*, and *securities fraud lawsuits*. A derivative lawsuit is basically a shareholder suing the executives or board for breaching their fiduciary duties to the company; the Tesla lawsuit against Musk's pay package was a derivative suit. A securities fraud lawsuit is a shareholder suing the company for lying to shareholders in its public statements, though as I often say, "everything is securities fraud" and any complaint about a company can be pretty easily expressed as a securities fraud lawsuit.

SpaceX will limit both of those approaches. To bring a derivative lawsuit, SpaceX will require that a shareholder own at least 3% of the company's stock, more than \$50 billion worth at a \$1.75 trillion valuation. (This sort of restriction is allowed in Texas, where SpaceX is incorporated, though not in Delaware.) You do not buy \$50 billion of SpaceX stock because you are a teachers' pension fund looking to nitpick Elon Musk. The only people buying \$50 billion of SpaceX stock are people who want to let Elon Musk cook. (And giant index funds, fine, but giant index funds don't pick these sorts of fights.) One could guess that, if SpaceX shareholders sued in Texas over Musk's SpaceX pay package, a Texas court would side with Musk. But it doesn't matter: SpaceX shareholders *can't* sue over Musk's SpaceX pay package.

SpaceX can't limit securities fraud lawsuits that way. (If someone tricks you into buying 100 shares of stock, that's still fraud, and you can still sue.) But it can limit where those lawsuits are brought. We talked last year about one approach: The US Securities and Exchange Commission now allows public companies to require *arbitration* of securities fraud lawsuits. SpaceX hasn't gone quite that far. But it does say that, if shareholders want to sue for securities fraud, they have to do so in the Texas Business Court, which might be friendlier to Musk than most federal courts. It's not entirely clear that this is allowed: "The law governing the selection of a forum other than a federal court for certain actions brought under the federal securities laws is unsettled," says the prospectus. But SpaceX's fallback option is that, if it can't force securities fraud lawsuits into Texas Business Court, it *will* force them into arbitration.

The upshot is that SpaceX shareholders can't sue for breaches of fiduciary duty, and they can only barely sue for securities fraud.

This is "bad corporate governance," but it is also correct! This is how it should work! If you are buying SpaceX stock to tell Elon Musk what to do, you should stop. If you are buying SpaceX stock because you want exposure to the space/AI business but you have your doubts about current management, you should stop. If you are buying SpaceX stock because you like Elon Musk and want to go along for the ride with him, yes, that's correct, that's the investment thesis here. If, later, you are disillusioned with Elon Musk, if you feel like you were misled and he didn't do the stuff he promised to do, I mean ... that's also kind of his whole thing? It is possible that, in hindsight, you will find something bad about SpaceX that was not specifically disclosed in this prospectus. But at a meta level everyone knows everything about SpaceX. Musk's gonna do whatever weird stuff he wants, and if you don't like it that's your problem.

We have talked occasionally about efforts by the SEC to “ Make IPOs Great Again,” to make it easier and more attractive for companies to go public. The stuff about securities fraud arbitration is part of that effort, as is the SEC’s recent proposal to make quarterly financial reporting optional. Presumably semiannual reporting will make it a bit cheaper for some private companies to go public, which might induce some of them to do it. But surely the *main* reason that visionary founders of hot startups are hesitant to go public is fear that they will lose control of their companies, either in the literal sense (lose a proxy fight, get fired by an independent board) or in the looser sense of having their behavior constrained by fiduciary duties and good-governance advocates and shareholder lawsuits.

SpaceX, it seems to me, has put together the correct package to solve that. SpaceX will go public, but nothing will change for Elon Musk. Nothing about being public will constrain his behavior. I am not sure how much of a precedent that will set: He’s Elon Musk, and you aren’t. On the other hand, Musk’s moonshot pay package at Tesla led to lots of imitators: Lots of CEOs would like to be Musk, and lots of boards of directors would like to think that their guy is as good as Musk. The same thing might happen with IPO structuring. “I want the Musk IPO,” startup founders might say; “I want to control the board forever and never let shareholders complain.” Maybe they’ll get it. Maybe then they’ll be more excited to go public.

SpaceX: DMs

Also, Bloomberg’s Sridhar Natarajan and Todd Gillespie report:

As Goldman Sachs Group Inc. campaigned to lead SpaceX’s IPO, Chief Executive Officer David Solomon opened up a new channel to the rocket company’s billionaire owner, sliding into Elon Musk’s DMs.

With banks jockeying to get their name first on the deal, Solomon worked with staffers to message Musk directly on X, his social media platform, according to people familiar with the matter, who asked not to be identified citing private details.

Solomon’s move helped highlight the bank’s commitments to Musk and the mercurial billionaire’s various businesses, which also include xAI. The move shows how investment banks seek to pull out all the stops to win a client’s favor. ...

Solomon is known for using gimmicks to help win a deal, with one instance becoming investment-banking lore at Goldman. The CEO, who was banking head at the time, showed up with a team decked out in Lululemon gear to clinch the mandate for the activewear retailer’s 2007 IPO.

(Disclosure, I used to work in equity capital markets at Goldman.) A couple of points here. First, is ... sending someone a DM actually pulling out all the stops to impress them? Like I get that it’s like “ooh, we are trying to do an IPO of X, so we should *use* X to show how committed we are to the company and how well we understand its products and story.” But it’s a pretty low-effort communication channel? “I sent a DM” is not quite “I am a terminally online X power user.” In another, more relevant gimmick, Musk apparently asked prospective IPO bankers to pay millions of dollars to subscribe to Grok, xAI’s chatbot; I hope Solomon at least used Grok to draft his DM.

Second, Solomon “worked with staffers to message Musk directly on X”? How many Goldman employees, in what departments and at what level of seniority, were involved? Does that mean that he called the senior relationship banker to be like “get in here and give me five bullet points on the IPO messaging”? Or is it, like, he called an analyst and was like “how do I email someone on the Twitter”?

Third, did he call someone in compliance and say “am I even allowed to email someone on the Twitter”? It was a *long- running theme*

of this column that, in the Biden administration, the US Securities and Exchange Commission fined big banks billions of dollars for doing business on “unofficial channels.” Work email, work phones and Bloomberg are official channels, WhatsApp and personal texts are not, and I’m pretty sure Twitter DMs aren’t either. (Not legal advice!) Banks paid millions of dollars of fines because their employees messaged each other on *LinkedIn* . Imagine how illegal it would have been, two years ago, for a bank CEO to DM a client on Twitter to be like “can we do ur ipo”! Now it’s fine.

TCI

There are various sorts of investing firms called “hedge funds,” but I mostly think about two extreme cases. One is the modern multimanager multistrategy hedge fund, the “ alpha factory” that focuses on getting a steady return in all market environments with no exposure to the broad market and to identifiable factors. Your business is about rigorously identifying and evaluating people who can create alpha, using a quantitative and data-driven approach to demonstrate that their performance is real and repeatable and not just luck.

The other is, like, you buy a dozen stocks and hold them for a decade, but they are the *right* stocks. You are acting a lot like a traditional long-only mutual fund, with the differences that (1) you are probably more concentrated than most mutual funds, (2) ideally your stocks go up more than most mutual funds do and (3) certainly you charge higher fees.

People who come from the quant-y alpha-y world tend to be suspicious of the latter model, in part because it is difficult to distinguish skill from luck when there aren’t very many data points. But there are several famous proponents of it, people who have done it well enough for long enough that you can’t deny their skill. The most famous is Warren Buffett, who started as a hedge fund manager, though he ended up using this approach while running a public company. Bill Ackman is another famous example, and has also been trying to get into the public-company business.

This model has always appealed to me because it seems pretty relaxing. I once wrote:

Pick stocks, buy them, watch them go up, go to the beach. Or go on Twitter! (Or, now, X.) Spend your days getting in fights online, because your lavishly gainful employment only requires like 45 minutes of work per year.

That's the low end, and probably 3,000 hours a year is more realistic. Buffett spent all of his time reading annual reports, because plausibly you have to think about stocks all the time so that once every six months you can sell one and buy another. Still it seems a lot more Zen than, like, working at Citadel. You might have to read and think a lot, but you don't have to *react* a lot. You read and ponder slowly, and act rarely but decisively.

Anyway here's a Financial Times profile of Chris Hohn, of the Children's Investment Fund, another big member of this club:

The UK's most successful hedge fund manager holds an intense gaze as he quotes a Hindu mystic, bathed in light streaming in from the windows of his corner office on London's Clifford Street.

"God is not a man in the sky with a white beard," Hohn recites softly, dressed modestly in a beige suit and white shirt. "Close your eyes, and in the darkness you can know God and God is consciousness." ...

"Most of us see the world in shades of grey, where there are three or five things which are important to an investment thesis," Rishi Sunak, the former UK prime minister who once worked at the fund, tells the FT.

"Chris has an incredible ability to think in black and white. He focuses on one, maybe two things that drive the investment thesis and then has the confidence to scale up the bet so it's a big part of the fund."

The premise of most modern hedge fund investing is that more and higher-frequency data leads to better and more nuanced decisions. The contrarian view is "no, the way to make good decisions is by thinking very calmly about only one thing."

GameStop bought more eBay

Sure?

GameStop said in a filing last night that it now controls the equivalent of 6.55% of the company's outstanding shares, up from around 5%, as it keeps trying to take over the e-commerce business.

Shares in both GameStop and eBay are little changed in premarket trading.

Here's the filing. I suppose buying more stock could help GameStop win a proxy fight to take over eBay, but it's apparently too late to nominate directors for eBay's 2026 annual meeting, so it's not like GameStop is launching a proxy fight any time soon. "One gets the sense that GameStop did not entirely think this through," I wrote when GameStop first launched its takeover bid or whatever for eBay, and I still get that sense. On the other hand, when eBay rejected GameStop's bid, I wrote that GameStop "could sell [its 5% stake] at a nice profit and go home," which seemed like the most straightforward outcome. Instead GameStop has added to its stake. I guess they're really going for it? Or something?

Things happen

U.S. to Award Quantum-Computing Firms \$2 Billion and Take Equity Stakes. OpenAI Is Preparing to File for an IPO Very Soon. Mind-Blowing Growth Is About to Propel Anthropic Into Its First Profitable Quarter. Anthropic Is in Talks to Use Microsoft's AI Chips. Sam Altman Offers YC Founders \$2 Million in OpenAI Tokens For Equity. Executive Assistants Making \$100,000 a Year Are Losing Jobs to AI. Dimon Says JPMorgan Will Hire More for AI, Fewer Bankers. Meta Begins Laying Off Thousands of Employees as It Transforms Around AI. A \$10 Billion Banking Scandal Is Tainting Brazil's Elite. Apartment Owners AvalonBay and Equity Residential Agree to Merge. Barnacles and jellyfish infest ships trapped in the Gulf. Pizza Hut's AI system caused 'cascading' problems and \$100M in damages, franchisee alleges in new suit. What's MMTLP up to? (Earlier.) Did Trump Accidentally Buy Stock in a Sushi Restaurant Instead of a Tech Company?

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

(Corrects dollar figure in third reference to SpaceX valuation.)

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1. Don't email me to be like "actually the Star Trek economy ...," I know, I've read Treconomics.
2. Here is an estimate that the GDP of the Earth is about \$124 trillion, so SpaceX is well within that upper bound. Excluding China and Russia gets you to about \$100 trillion. I suppose the implicit argument here is that enterprise AI could be 20% of the global economy. Sure?
3. That will increase, though, as SpaceX is renting computing power to Anthropic PBC for \$1.25 billion per month.
4. Not investing advice, lol.
5. That's before the issuance of new Class A shares in the IPO, so post-IPO his voting control will be a little lower, but not much.
6. See page 229: "Under the terms of our charter, the holders of our outstanding Class B common stock, voting separately as a class, will have the right to elect 51% of the total number of authorized directors, rounded up to the nearest whole number (the 'Class B Directors'). Holders of Class A and Class B common stock, voting together as a single class, will elect the remaining members of our board (the 'Common Stock Directors')." This seems like belt and suspenders, at least for now, given that Musk has 85% of the voting power for the *other* directors.
7. See also Article IX, Section (C) of SpaceX's charter.
8. See pages 61-62 of the prospectus for the mechanics here.

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"Unsettled"

 [businesslawprofessors.com/2026/05/unsettled](https://www.businesslawprofessors.com/2026/05/unsettled)

Ann Lipton

May 22, 2026



Well, it's here, [the SpaceX S-1](#).

I still haven't gone through the whole thing, so I'm jumping specifically to the provisions [limiting shareholder litigation rights](#).

As we all know, Texas does plenty of that all on its own, by immunizing officers and directors against any liability absent a showing of "fraud, intentional misconduct, an ultra vires act, or a knowing violation of law," and by allowing (as SpaceX will opt into) its corporations to bar derivative claims unless the plaintiff holds at least 3% of the outstanding stock.

Naturally, SpaceX proposes to go further, with various forum selection and arbitration clauses.

First, interestingly, SpaceX has chosen to put these in the bylaws, and not in the charter. Why is this interesting? As we all know, bylaws can be amended unilaterally by directors; charter amendments require a shareholder vote. Back when the Delaware Supreme Court first authorized forum selection clauses governing federal securities claims in [Salzberg v. Sciabacucchi](#), it did a very curious thing: first, it held these clauses would be treated as *contractually* binding in part because charters require a shareholder vote, and second, it held – with no further explanation – [that bylaws are contractually binding as well](#).

I, of course, [have long argued charters aren't contracts, bylaws certainly aren't contracts, and none of this can cover federal securities claims](#), etc etc, but after *Salzberg*, courts in other jurisdictions began to enforce forum selection provisions for federal securities claims, both in bylaws and charters, as contractually binding without much further thought (which I have angsted over repeatedly both in this blog, [and in a paper](#)). My sense was always, courts – especially generalist courts with no corporate expertise – really didn't want to be bothered with the issue, especially when forum selection, directing federal securities cases to federal

court, didn't seem particularly unreasonable. Except that precedent exists now, that bylaws are contracts, as are charters, and that's the precedent SpaceX will rest upon when it argues its *arbitration* bylaws are contracts. We'll see if courts apply any more scrutiny to the issue now, if they distinguish between bylaws and charters, or if perhaps they figure that so long as the company went public with the bylaws in place, there's no need to draw a distinction and they can worry about that onion slicing when an arbitration bylaw is unilaterally adopted by a corporate board midstream.

Moving on, and here's where it gets long because I need to block quote a buncha stuff, so under the cut it goes.

[Here's what the bylaws provide:](#)

To the fullest extent permitted by law, this Section 10.1 shall apply to all disputes between (i) one or more shareholders and (ii) the Corporation and/or its directors, officers, or controlling persons, or any underwriter of securities issued by the Corporation (or controlling person of the Corporation) relating to any of the following: (1) any derivative proceeding, meaning a civil dispute brought in the right of the Corporation; (2) any action based on the governance, governing documents, or internal affairs of the Corporation, including but not limited to any internal entity claim as that term is defined in the TBOC; (3) any action based on state or federal securities or trade regulation laws; (4) any action based on the alleged act(s) or omission(s) by any person(s) in his or her capacity as a shareholder, controlling person, director, officer, or other managerial official of the Corporation; (5) any action based on the alleged breach(es) by one or more shareholders, controlling persons, directors, officers, or other managerial officials of a duty owed, in his or her capacity as such, to the Corporation or to any shareholder(s) thereof; (6) any action seeking to hold one or more shareholders, controlling persons, directors, officers, or other managerial officials of the Corporation liable for an obligation of the Corporation, other than on account of a written contract signed by the person(s) to be held liable in a capacity other than as a shareholder or managerial official; or (7) any action arising out of the TBOC (each an "Internal Dispute")....

Unless the Corporation consents in writing to the selection of an alternative forum and venue, the sole and exclusive forum and venue for Internal Disputes under this Section 10.1 shall be the Texas Business Court, Eleventh Division (the "Business Court")....

[Jury waiver]

The governing law of any Internal Dispute commenced pursuant to this Section 10.1, shall be the law of the State of Texas or the federal law of the United States, as applicable to the issues raised in the Internal Dispute. For avoidance of doubt, the governing law shall include all requirements imposed by applicable law, including, without limitation, pleading and discovery limitations under the Private Securities Litigation Reform Act....

Collective Proceedings. Internal Disputes subject to resolution under this Section 10.1 must be brought only as an individual action or derivative proceeding, and, to the fullest extent permitted by law, may not be brought as a class action, mass action, or other form of collective action, and may not be consolidated or joined, in whole or in part, consistent with the Texas Rules of Civil Procedure; provided, however, that the Corporation at its sole option may elect to seek consolidation or joinder of matters as consistent with the Texas Rules of Civil Procedure....

Then there's the arbitration provision:

To the extent a court of competent jurisdiction determines in a final and unappealable judgment that an Internal Dispute is not subject to the sole and exclusive venue and forum or jurisdiction of the Business Court, then to the fullest extent permitted by law, this Section 10.2 shall apply to any such Internal Disputes that are not subject to the sole and exclusive venue and forum, or jurisdiction, of the Business Court (an "Other Dispute")....

Other Disputes shall be exclusively and finally settled by arbitration under the Expedited Procedure Provisions of the Rules (the "Arbitration Rules") of the International Chamber of Commerce ("ICC"), pursuant to Article 30 thereof, or as those rules may be periodically updated, irrespective of the amount in dispute...

Other Disputes must be brought only as an individual action or a derivative proceeding (with derivative proceedings being separately subject to the requirements and limitations stated in Section 9.4), and, to the fullest extent permitted by law, may not be brought as a class action, mass action, or other form of collective action, and may not be consolidated or joined, in whole or in part, consistent with the Arbitration Rules; provided, however, that the Corporation at its sole option may elect to seek consolidation or joinder of matters as consistent with the Arbitration Rules....

If more than three claims arising from the same or similar conduct, transaction, or occurrence are submitted to arbitration pursuant to this Section 10.2 within any three-year period, all but the first-filed claim shall be stayed pending final resolution of that first-filed claim. In such circumstance, the Corporation and each shareholder asserting such a claim shall bear equal shares of the ICC fees and arbitrator(s) fees. Provided, however, that if any shareholder party or parties are ultimately successful on all of their claims, the Corporation shall reimburse the successful shareholder party or parties for the ICC fees and arbitrator(s) fees paid by such shareholder party or parties in accordance with this Section 10.2(g)(i). Following resolution of the first-filed claim, the Corporation and each shareholder asserting a claim that was stayed shall negotiate in good faith to resolve their disputes with the benefit of the resolution of the first-filed claim....

If any claim submitted to arbitration pursuant to this Section 10.2 is determined by the tribunal to be frivolous, without reasonable cause, or for an improper purpose such as bad faith or vexatious litigation, the Corporation shall be entitled to recover its reasonable attorney's fees and costs incurred in defending against such claim, including any ICC fees and arbitrator(s) fees....

The tribunal's application of the pleading and discovery limitations imposed by the Private Securities Litigation Reform Act is mandatory for applicable claims and shall not constitute a refusal to hear evidence pertinent and/or material to the controversy under Texas or federal law....

Here's how this is all described in the S-1:

Our bylaws will contain a section (the "Forum Section Bylaw") that will provide that, unless the Company consents in writing to the selection of an alternative forum, the sole and exclusive forum for the filing, adjudication, and trial of all disputes between (i) one or more shareholders and (ii) the Company or its directors, officers, or controlling persons, or any underwriter of securities issued by the Company (or controlling person thereof) relating to any of the following: (1) any derivative proceeding, meaning a civil dispute brought in the right of the Company; (2) any action based on the governance, governing documents, or internal affairs of the Company; (3) any action based on state or federal securities or trade regulation laws; (4) any action based on the alleged act(s) or omission(s) by a person in its capacity as a shareholder, controlling person, director, officer or other managerial official of the Company; (5) any action based on the alleged breach(es) by one or more shareholders, controlling persons, directors, officers, or other managerial officials of a duty owed, in his or her capacity as such, to the Company or to any shareholder thereof; (6) an action seeking to hold a shareholder, controlling person, director, officer, or other managerial official of the Company liable for an obligation of the Company, other than on account of a written contract signed by the person to be held liable in a capacity other than as a shareholder or managerial official; and (7) any action arising out of the TBOC, will be the Texas Business Court, Eleventh Division (the "Business Court") (for purposes of this summary, each, an "Internal Dispute").

...

SpaceX maintains that the Forum Selection Bylaw, including without limitation the selection of the Business Court as the sole and exclusive forum for all actions brought under federal securities laws, accords with the law and is enforceable. However, the law governing the selection of a forum other than a federal court for certain actions brought under the federal securities laws is unsettled, and there is some risk that, if an Internal Dispute were filed under the Exchange Act (or the rules and regulations thereunder) in a court other than the Business Court, that court could deny a motion to transfer the action to the Business Court pursuant to the Forum Selection Bylaw.

Accordingly, the bylaws provide that to the extent that a court of competent jurisdiction were to determine in a final and unappealable judgment that an Internal Dispute is not subject to the sole and exclusive venue and forum or jurisdiction of the Business Court (such Internal Dispute, an "Other Dispute"), such Other Dispute would be exclusively and finally settled by arbitration, pursuant to the Texas Arbitration Act, under the Expedited Procedure Provisions of the Rules of the International Chamber of Commerce, pursuant to Article 30 thereof. To be clear, absent Company consent, a shareholder would not be able to file an arbitration demand pursuant to the Dispute Resolution Clause without first obtaining a final and unappealable judgment that the shareholder's Internal Dispute is not subject to the sole and exclusive venue and forum or jurisdiction of the Business Court. The governing law of such Other Dispute would be the federal law of the United States or the law of the State of Texas, as applicable to the issues raised in the Other Dispute, including without limitation the pleading and discovery limitations of the Private Securities Litigation Reform Act.

Okay, let's start with the obvious:

It is *in no way remotely an unsettled question* whether the Texas state business courts have jurisdiction over Exchange Act claims, i.e., Section 10(b) and Section 14(a) claims, and did I just find the first intentionally false representation in the SpaceX S-1 filing? If so, do I get a prize?

Anyhoo, [here's what the federal statute says on the subject](#):

The district courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this chapter or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by this chapter or the rules and regulations thereunder.

Here's [what the Ninth Circuit said on the subject](#):

§ 27(a) of the Exchange Act gives federal courts "exclusive jurisdiction of violations of this chapter or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by" the Act.

Here's [what the Seventh Circuit said on the subject](#):

the Exchange Act provides that only federal courts may exercise jurisdiction over claims that arise under the Act

Thus, I can only assume that, notwithstanding the S-1's language, and going solely by the language of the bylaw itself, the company does *not intend Exchange Act claims to be covered under its forum selection provisions*.

After all, SpaceX requires all claims to be filed first in the Texas business courts; aggrieved investors are not permitted to, say, realize that the Texas business court has no jurisdiction over Section 10(b) claims, and therefore go directly to arbitration. No, they have to waste time, money, and legal fees first filing in a Texas state court, and wait for a final adjudication that the court has no jurisdiction.

Of course, such a filing would be frivolous, and therefore potentially a violation of the attorneys' ethical obligations, which means, once again, I can only assume, that notwithstanding the language of the S-1, SpaceX's bylaw is not, in fact, drafted to cover Exchange Act claims.

Moving on.

Disputes first have to go to the Texas Business Court, and that includes Section 11 claims under the Securities Act, as well as any state law claims. Notice, SpaceX is purporting to prohibit class actions even in a court. Usually, those prohibitions are coupled with arbitration clauses, because that ensures their enforceability; the enforceability of standalone class waivers – decoupled from arbitration clauses – is still an evolving area. I don't know if Texas has weighed in yet. Leave it there.

SpaceX wants to import the PSLRA pleading standards and discovery stay to the Texas state court system. My recollection is that currently, [state courts have reached mixed conclusion about whether PSLRA provisions automatically apply in state courts](#); it's a whole 'nother question whether you can import them *contractually* (or, not contractually, but via bylaw), does that mean parties can contract for their own civil procedure rules that will be binding on courts in general?

Then there's arbitration, if the Texas Business Court has no jurisdiction. In general, corporations have so far been hesitant to adopt arbitration clauses, because they fear mass arbitrations, without the procedural protections afforded them under the PSLRA. And here's where SpaceX's hack may turn out to be

pretty effective, and a model for other corporations. First, by requiring a stay if more than three actions are filed, it prevents mass claims; second, [by specifying ICC expedited rules](#), it may largely eliminate discovery, especially if the ICC arbitrators treat as binding the specification that any arbitral complaints will still be subject to PSLRA pleading standards.

Which means, I suspect, any shareholder claims are DOA in arbitration.

Because *here's the thing*. Arbitrators have every incentive to be fair and evenhanded when they are selected by parties of roughly equal bargaining power; they want business, they want to collect their fees, and if they signal they're in the tank for one side or another, then the other side won't agree to arbitrate.

But [when one side can unilaterally pick](#) the arbitrator, [the incentives flow toward appeasing the repeat player](#); otherwise, that player will take their toys and go find another arbitrator. The biggest counterincentive, really, would be regulatory: If an arbitrator gets a reputation of being biased, there's a risk that sooner or later the court system or regulators will bar mandatory arbitration or treat the selection of particular arbitrators as unconscionable, that kind of thing.

But what happens when that risk is *entirely absent*, because federal regulators have made it very clear that they're hostile to private lawsuits? At that point, the incentives flow in only one direction.

And if that story of incentives reminds anyone of the turmoil in a very small state with a history of chartering corporations, well, it is what it is.

And another thing. New [Shareholder Primacy podcast](#) is up! Me and Mike Levin interview Jeff Mahoney of the Council of Institutional Investors. [Here at Apple](#); [here at Spotify](#); and [here at YouTube](#).

<https://bsky.app/profile/bjmquinn.bsky.social/post/3mmdcoiom322k>



Brian JM Quinn
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Wait. \$20 billion of the IPO proceeds is going to pay off an X and xAI bridge loan? The SpaceX IPO is going to pay off old Twitter acquisition loans???

Max Kennerly @maxkennerly.bsky.social · 1d

Oh this is delightful. Let's start with SpaceX's violation of 17 CFR § 229.504 (Item 504). Their "use of proceeds" neglects to mention they are contractually obligated to use the first \$20 billion from it to pay off a bridge loan. This is also while their quarterly cash burn exceeds \$8 billion.

/1



6:52 PM · May 20, 2028 Some people can reply

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3



48



154



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holy hell

1



12



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Where is my yacht?!

2



6



Chance the Lawyer @chancethelawyer.bsky.social · 19h

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2



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your prize is to be one of twenty people who read that closely worldwide

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8



Indicting Former DOJ Lawyer Tells You Exactly How Bad The Jack Smith Report Must Be For Trump

A abovethelaw.com/2026/05/indicting-former-doj-lawyer-tells-you-exactly-how-bad-the-jack-smith-report-must-be-for-trump

Joe Patrice

May 21, 2026



But if you store documents like this, you're fine!

Kash Patel took a break from polygraphing everyone in his field of vision to find out who keeps telling journalists about his drinking to triumphantly announce that the Justice Department [secured an indictment](#) of a former DOJ lawyer for [“allegedly emailed the confidential material to her own personal email.”](#) The “confidential material” in question is the still secret portions of Jack Smith’s report detailing criminal activity by Donald Trump that the DOJ concluded would support conviction at trial. Patel apparently didn’t want to get too specific about what this is all about.

Carmen Mercedes Lineberger, 62, served as the managing Assistant U.S. Attorney running the Fort Pierce branch of the Southern District of Florida. The indictment alleges that Lineberger emailed a copy of the report to her personal email account under the title “Fw: Bundt_Cake _Recipe.pdf.” She also allegedly compiled internal DOJ correspondence about the investigation into a chocolate cake recipe.

Taking secret government documents and keeping them in personal custody despite no longer having a legal right to them? It’s almost as if that’s *the exact behavior the underlying report is about*. Except, of course, the report is about Trump stealing highly classified materials instead of a taxpayer-funded report that is only secret because Judge Aileen Cannon [ordered the report suppressed](#) as heresy against Donald Trump. Technically, her ruling was that releasing the report would constitute a “manifest injustice” to Trump since Cannon ruled that Jack Smith was illegally appointed based on... well, [nothing coherent](#) actually.^[1]

And now Trump's DOJ is bringing a federal criminal case to enforce Cannon's coverup. Makes you wonder just how bad this report must be!

The four-count indictment charging her with theft of government property, concealment of a public record, and altering a record in a federal investigation. The indictment does not allege she sent Volume II to anyone outside DOJ — no journalist, no co-conspirator, no foreign power. So it's an entire federal case is built on a lawyer emailing herself a PDF.

The marquee theft count runs under 18 U.S.C. § 641, the “theft of government property” statute, here charged on the theory that she stole government *information*. Journalist Marcy Wheeler [put the question to legal experts directly](#), asking about the legal problems with invoking § 641. National security lawyer Bradley P. Moss noted that it is [literally in the DOJ manual not to bring these cases](#). Moss noted that the DOJ might try to justify an exception on the grounds that the report might contain classified material — which, if true, would only highlight again that the report alleges that *Trump actually stole classified information*. If the report has classified material in it, that might make the Bundt cake misadventure more serious... but also sort of proves the point of Smith's case.

However, the DOJ likely isn't spending that much time and effort coming up with colorable exceptions. I'm pretty sure the manual doesn't have a section on creating [nearly \\$2 billion worth of slush fund money to compensate convicted insurrectionists](#) either. The DOJ manual is at best a suggestion box these days.^[2]

The theft counts aren't nearly as serious as the DOJ hype machine implies. [AlterNet cites](#) a retired federal appeals lawyer who pointed out that without an express allegation that the value of the stolen property exceeded \$1,000, a § 641 offense is a misdemeanor. The indictment itself CONCEDES this, with the penalty sheet listing the theft counts as “valued less than \$1,000.00.” So two of the four counts are misdemeanors.

The most serious charge is the § 1519 obstruction count, which makes it a crime to alter, destroy, mutilate, conceal, or cover up a record in a federal investigation. But the only concealing or covering up in this case is coming from Aileen Cannon and her co-conspirators at the DOJ. Based on the indictment, there's nothing to suggest Lineberger did anything to the report other than possess it. Is the DOJ arguing that Lineberger tried to cover up... *the cover up*? In any event, even if the government cleared that hurdle, the statute adds the extra requirement that the

government prove the defendant took the action with intent to obstruct the administration of Cannon's order. But Cannon's order seems to have held just fine for months and months.

What could possibly be the motive in this case if prosecutors don't allege that Lineberger took this report with the intent to spill it to the papers or undermine an ongoing proceeding? Well, it's somewhat fitting that this case dropped this week, when a federal judge just [had to order the Trump administration not to illegally destroy documents](#). Whatever copies of this report remained within the control of the DOJ are most likely gone. If Lineberger actually took this report, she may well have just been hoping to save it from the pyre. And if that's the motivation, it's not obstruction.

Throwing possible 20-year sentences at a violation that amounts to a misdemeanor at best doesn't make a lot of sense until it's placed in the proper context. This report is, it would seem, incredibly damning. And the Trump administration does not know how many extant copies of it are out there in the wild. The DOJ wants to send the message that they'll make life miserable — up to and including filing charges they obviously can't support — if anyone still has a copy.

(Read the indictment on the nextpage...)

[1]: Of note, Trump ally Joe diGenova is now reportedly running a grand jury in Cannon's district [to go after Trump's enemies](#) with the exact same authority Smith had — surely Cannon will slap him down as illegally appointed if he ever comes before her. [Pause for laughter.]

[2]: By the way, Todd Blanche threw his name into the signature block on this indictment, even though he worked on the Trump defense team during the underlying case. And he's taking a direct role in prosecuting someone for possessing a summary of the evidence against his client. That seems... of some ethical moment, no?

[Joe Patrice](#) is a senior editor at Above the Law and co-host of [Thinking Like A Lawyer](#). Feel free to [email](#) any tips, questions, or comments. Follow him on [Twitter](#) or [Bluesky](#) if you're interested in law, politics, and a healthy dose of college sports news.



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How Exxon Attys Beat A 10-Year-Old Securities Class Action

By **Spencer Brewer**

Law360 (May 21, 2026, 3:36 PM EDT) -- At the outset of a multiweek trial in Texas federal court, an attorney for Exxon Mobil Corp. made a calculated promise to jurors that they would not hear any evidence that an Exxon executive lied or pressured subordinates to mislead the company's investors in its financial statements.

"That's one of the beauties of a 10-year-old case," said Thomas Melsheimer of King & Spalding LLP. "You can really look at what you've got. You've got a lot of time to study it, and you can assure yourself that you can make that kind of promise," adding that such statements are "a check you want to be able to cash at the end of the trial."

Melsheimer, along with other members of Exxon's defense team, helped **deliver a clean sweep victory** for the energy giant when the jury found on May 14 the company did not lie to investors about the profitability of its operations at Kearl Lake in Canada and its Rocky Mountain Dry Gas assets. The class action, filed initially in 2016, alleged that Exxon hid from investors the poor state of some of its operations, and when the information became public, the company's shares **dropped by \$3.44 per share**.

The class period was between Feb. 24 and Oct. 28, 2016. While the parties never had to calculate the precise payout because Exxon won, the company's defense team estimated the damages could have pushed past \$3 billion if the investors prevailed.

Following the three-week trial, members of the jury said that Melsheimer's statement bore out after they heard the witnesses and reviewed the evidence, according to multiple members of Exxon's defense team, who spoke with jurors posttrial. Jurors also pointed to the character and quality of Exxon's witnesses, who included several former executives such as former Exxon CEO Rex Tillerson, Melsheimer said.

Preparing the witnesses ahead of trial was no small thing. Many of the executives who testified had retired, including Tillerson, by the time the trial started, and Exxon's defense team had to prep them by going over financial documents from a decade earlier.

"The other side actually tried to make a big deal and cast aspersions for these folks preparing to testify and looking at documents that are 10 years old," said Scott Thomas of Latham & Watkins LLP. "But I think that's exactly what the jury would have expected them to do, is refresh their memory."

Counsel for lead plaintiff Eastern Atlantic States Carpenters Pension Fund claimed that Exxon knew some of its operations weren't as profitable as the company advertised. By the investors' telling, Exxon hid the information because it sought to complete a \$12 billion bond offering and wished to keep its AAA credit rating intact to secure a lower interest rate. Disclosing the information could have affected the company's credit rating, the investors claimed.

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

During the trial, Tillerson testified at length that the company **followed the rules governing annual reports** to investors when it came to detailing its Kearl Lake reserves.

Central to the investors' claim was an allegation that Exxon used the transportation costs reflective of

shipping the product extracted from Kearl Lake within Canada in its annual report to investors rather than the transportation costs the company bore by shipping it to the Gulf Coast for refinement. When pressed by an attorney for the plaintiffs on why that information was selected for release to investors, Tillerson answered that the company determined it was the most appropriate methodology.

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

"The jury found [Tillerson and other Exxon witnesses] to be the kind of people that would not have cheated or lied or otherwise committed fraud," Melsheimer said. "That was very, very powerful."

Exxon's defense team also agonized over how to present the relatively dense accounting concepts at the heart of the lawsuit. Each day, Melsheimer said, they asked themselves how much detail would be too much.

"We don't want to be teaching an accounting seminar," said Daniel Toal of Paul Weiss Rifkind Wharton & Garrison LLP. "You try and make it as interesting and compelling as you can. But even for some pretty arcane accounting concepts, the jury was focused throughout."

Work Before the Trial

A significant portion of the lawsuit was won long before the trial ever started, according to prior court filings. The investors' case was initially patterned on a suit brought by the New York attorney general and contained allegations that the company **concealed knowledge about the effects of climate change** on the company's bottom line.

Shareholders initially claimed that Exxon had known for years that an increase in global temperatures was coming, and that as the planet became hotter, the company's access to its hydrocarbon reserves would be limited.

Exxon took the New York attorney general's claims to trial in 2019, and **prevailed**. After that win, Exxon asked the Texas court to toss the shareholders' case. The company **knocked out many claims** at that stage, including all climate change allegations.

Knocking out those allegations early was "critical," Toal said. He first began working on the case a decade ago.

The content of the case already dealt with some fairly intricate accounting issues, Toal said, and that alone was complicated enough for a jury to absorb.

"If we had to bring in these other climate-related concepts, it threatened to just overwhelm the jurors with details," he said. "I think it was critical. It also knocked out of the case what is a more highly charged political issue."

The investors are represented by Darren J. Robbins, Michael J. Dowd, Spencer A. Burkholz, Scott H. Saham, Sam S. Sheldon, Jonah H. Goldstein, Nathan R. Lindell, Sara B. Polychron, Erika L. Oliver and T. Alex B. Folkerth of Robbins Geller Rudman & Dowd LLP, Joe Kendall of Kendall Law Group PLLC, and Balon B. Bradley of Balon B. Bradley Law Firm.

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

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

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

--Additional reporting by Katryna Perera, Kat Greene and Keith Goldberg. Editing by Robert Rudinger.

Correction: A previous version of this article misspelled an attorney's name. The error has been corrected.

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Goldman Pens \$500M Deal To End Investors' 1MDB Suit

By **Jessica Corso**

Law360 (May 21, 2026, 1:05 PM EDT) -- Goldman Sachs has agreed to pay \$500 million to end a lawsuit brought by investors who say they lost money after it came to light that the company was allegedly involved in a bribery scandal tied to Malaysia's sovereign wealth fund.



Goldman Sachs has asked for preliminary approval of a \$500 million deal that, if approved, would rank among the 20 largest securities class action settlements filed in the Second Circuit over the past 30 years. (Sipa via AP Images/Idrees Abbas)

A class of Goldman investors filed for preliminary approval of the settlement agreement in New York federal court on Wednesday. If approved, the \$500 million deal would rank among the 20 largest securities class action settlements filed in the Second Circuit over the past 30 years, according to the court documents.

The investors claimed they suffered losses because Goldman made misstatements and omissions about its interactions with Malaysia's sovereign wealth fund, 1Malaysia Development Berhad, and had knowledge of corruption associated with it.

The fund was intended to spur economic development, however, hundreds of millions of dollars were misappropriated by high-level officials and their associates.

Specifically, Goldman underwrote \$6.5 billion of the 1MDB debt in three bond offerings in 2012 and 2013, and was paid \$600 million in fees, according to the lawsuit, which claims that Goldman's stock price

dropped when media reports began surfacing in late 2018 detailing the bank's alleged involvement in the scandal.

Those reports detailed a purported meeting in 2013 of former Goldman CEO Lloyd Blankfein; Najib Razak, then Malaysia's prime minister; and Jho Low, the alleged architect of the 1MDB scheme.

Neither investors nor the company immediately responded to requests for comment Thursday.

In requesting the settlement's preliminary approval on Wednesday, Swedish pension fund and lead plaintiff Sjunde AP-Fonden, or AP7, said the settlement is "outstanding" for the investor class and would stop the parties from having to argue over Goldman's pending summary judgment motion.

"While AP7 and class counsel believe that the class's claims are meritorious, they also recognize the significant risk that a summary judgment motion, trial or posttrial appeal could preclude any recovery for the class, let alone a recovery greater than the settlement amount," according to the settlement memorandum.

Investors sued Goldman Sachs in 2018 and the following year Kessler Topaz Meltzer & Check LLP was appointed lead counsel for the class alongside Bernstein Litowitz Berger & Grossmann LLP as liaison counsel. The attorneys have yet to file their fee request.

The class **won certification** last year, with those holding Goldman common stock between Dec. 22, 2016, and Nov. 8, 2018, as part of the class.

Then in March, Goldman asked the court to **enter summary judgment** in its favor, arguing that two alleged misstatements and one corrective disclosure that remained in the action were insufficient to support the investors' claims.

The bank said the corrective disclosure theory related to the 2013 meeting on which the plaintiffs relied was false because the record showed that Low did not attend the meeting and therefore did not meet Blankfein or discuss 1MDB with him.

A month after the summary judgment filing, the parties **informed the court** that they had reached an agreement-in-principle to settle the case.

The investors are represented by Andrew L. Zivitz, Matthew L. Mustokoff, Jamie M. McCall, David A. Bocian, Nathan A. Hasiuk, Vanessa Milan and Nathaniel C. Simon of Kessler Topaz Meltzer & Check LLP, and Salvatore J. Graziano and Rebecca E. Boon of Bernstein Litowitz Berger & Grossmann LLP.

Goldman is represented by Donald B. Verrilli Jr., Elaine J. Goldenberg, James C. Rutten, John W. Spiegel and John M. Gildersleeve of Munger Tolles & Olson LLP.

The case is Sjunde AP-Fonden v. The Goldman Sachs Group Inc. et al., case number 1:18-cv-12084, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Hailey Konnath. Editing by Robert Rudinger.

Update: This story has been updated with additional information from the case and the settlement.



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Wells Fargo's \$85M 'Sham' Hiring Investor Deal Gets Final OK

By **Emilie Ruscoe**

Law360 (May 21, 2026, 6:08 PM EDT) -- Wells Fargo & Co. and its investors have gotten a final nod for their \$85 million deal settling claims the bank conducted "sham" job interviews to meet diversity quotas.

In a Thursday order in California federal court, U.S. District Judge Trina L. Thompson granted final approval to the proposed settlement, finding the agreement "fair and reasonable."

The judge also said that the investors' counsel could have 25% of the settlement, or \$21.25 million, as a fee, and could have costs of over \$3 million reimbursed from the settlement fund.

The parties sought preliminary approval of the deal in October, **telling** the court at the time that "the proposed settlement — reached just weeks before a hearing on defendants' summary judgment motion and while the parties were preparing for trial — is an excellent result for the class."

The Thursday order ends claims that investors in the bank were hurt in 2022, when trading prices for the company's shares fell 10% following disclosure of a U.S. Department of Justice investigation into the bank's hiring practices.

The Justice Department eventually ended the probe without bringing charges, as did the U.S. Securities and Exchange Commission, which also investigated the bank.

But despite those eventual outcomes, the initial news of the federal probe led to the dissipation of "an astonishing \$17 billion in market capitalization," the investors claimed in their suit.

The Thursday settlement comes days after Judge Thompson lauded a separate settlement of shareholder derivative claims arising from the same alleged conduct.

That derivative settlement created a \$100 million fund for mortgage assistance, which Judge Thompson **described** as a "meaningful step toward expanding equitable access to financial services" as she granted final approval to the deal.

Wells Fargo and the individual defendants are represented by Christopher M. Viapiano, Brendan P. Cullen, Leonid Traps, Sverker K. Hogberg and Alexis C. Holmes of Sullivan & Cromwell LLP.

The investors are represented by Jennifer L. Joost, Stacey M. Kaplan, Bennett Cho-Smith, Gregory M. Castaldo, Sharan Nirmul, Joshua A. Materese, Evan R. Hoey and Marianne Uy of Kessler Topaz Meltzer & Check LLP, David R. Kaplan, Emily R. Bishop, Lester R. Hooker and Dianne M. Pitre of Saxena White PA, and Robert D. Klausner and Bonni S. Jensen of Klausner Kaufman Jensen & Levinson.

The case is SEB Investment Management AB et al. v. Wells Fargo & Co. et al., case number 3:22-cv-03811, in the U.S. District Court for the Northern District of California.

--Additional reporting by Jessica Corso and Sydney Price. Editing by Jay Jackson Jr.



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AI Voice Recognition Biz Must Face Some Investor Claims

By **Emilie Ruscoe**

Law360 (May 21, 2026, 3:22 PM EDT) -- Artificial intelligence and voice recognition company SoundHound AI can't shed investor claims that it hid unresolved accounting issues that led the company to delay financial reporting, though a California federal judge has trimmed some allegations from the proposed class action.

In a Tuesday **order** in San Francisco federal court, U.S. District Judge Rita F. Lin left securities fraud claims in place over four categories of misrepresentations alleged in the shareholder suit.

One of those categories is made up of claims that the company misrepresented that it had completed a specific conflict of interest assessment it planned as part of its process for remediating financial reporting weaknesses. In reality, the company never finished that assessment process, as it later disclosed, the suit says.

On Tuesday, Judge Lin pointed out that the company said that it had finished that assessment on four separate occasions in 2024.

"This representation is sufficiently alleged to have been false when made because it was expressly contradicted in" the company's annual report for 2024, Judge Lin said Tuesday.

In the latest version of the investor suit, lead plaintiffs the St. John Family Trust and Payal Dave claimed that SoundHound, its CEO Keyvan Mohajer and its former Chief Financial Officer Nitesh Sharan violated federal securities laws by misrepresenting the company's efforts to address problems affecting its internal controls over financial reporting.

Specifically, the investors alleged, the company said it "complete[d]" and "implemented" steps that would keep its books in order. The company later backtracked on those statements after disclosing that it would miss its annual financial reporting deadline, the complaint says.

When the company said it couldn't file its annual report on time, the investors claim, trading prices for its shares fell nearly 6%, the investors said in their suit. When the company did file the report, disclosing the uncompleted remediation measures, trading prices for its shares fell again by over 0.3%, the investors claim.

On Tuesday, Judge Lin also ruled that the investors could rely on confidential witnesses to plead their claim that SoundHound said it had put a certain workflow tool in place when in fact the company hadn't implemented that tool.

And the judge left a claim in place over the company's statement that its internal control over financial reporting hadn't changed during the period that it saw internal control weaknesses stemming from an acquisition.

She also left claims in place over Sarbanes-Oxley Act certifications the company made stating that it had disclosed all material changes to its financial controls. The judge noted that those certifications were part of quarterly financial reporting for a period when the company allegedly did fail to disclose financial reporting changes.

The judge tossed a pair of claims, including one alleging that the company made a misrepresentation

when it said it had "initiated the design and implementation" of certain financial control tools. Judge Lin found the complaint didn't show how those statements were false or misleading when made.

She also tossed for similar reasons the allegation that SoundHound misrepresented that it had "hired personnel with expertise in risk assessment and internal controls," noting that the complaint didn't show that the company truly hadn't made such hires.

Judge Lin gave the investors until June 9 to amend their claims if they want to, noting they could attempt to address the shortcomings she'd identified for the dismissed claims, but specifying that they couldn't add new claims or new parties to the suit.

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

Plaintiffs Payal Dave and the St. John Family Trust are represented by Jeremy A. Lieberman, Justin D'Aloia, Guy Yedwab and Jennifer Pafiti of Pomerantz LLP, Michael K. Yarnoff of the Kehoe Law Firm PC and Adam M. Apton of Levi & Korsinsky LLP.

Defendants Keyvan Mohajer, Nitesh Sharan and SoundHound AI Inc. are represented by Jordan Eth, Ryan M. Keats and James R. Hancock of Morrison & Foerster LLP.

The case is St. John Family Trust v. SoundHound AI Inc et al., case number 3:25-cv-02915, in the U.S. District Court for the Northern District of California.

--Editing by Rich Mills.

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LGBCoin Buyers Say Sanctions Bid Flunks Safe Harbor Rule

By **David Minsky**

Law360 (May 21, 2026, 8:53 PM EDT) -- Investors in the "Let's Go Brandon" meme coin asked a Florida federal court to reject a sanctions bid filed by the coin's founder, saying he didn't comply with the court's safe harbor rule requiring him to send a draft motion 21 days in advance.

The investors, a class of LGBCoin buyers, told the court in their **opposition filing Wednesday** that James Koutoulas instead sent them a letter expressing his intent to file a **sanctions motion** if they failed to correct what he alleged were various misrepresentations in their previous filing. The filing, Koutoulas said, accused him of using fake AI citations and disobeying court orders. The investors added that Koutoulas didn't follow the safe harbor provision in Rule 11 of the Federal Rules of Civil Procedure, which requires him to send them a draft copy of a sanctions motion 21 days before it's filed.

"At bottom, this is a tit-for-tat," the investors said. "Plaintiffs caught Koutoulas concealing wallets, deleting Telegram threads, and contradicting his own discovery responses, and moved for sanctions. Koutoulas's answer is to file a response and a sur-reply and a Rule 11 motion that violates Rule 11, all of which attack plaintiffs' motion for sanctions without seriously engaging on its substance."

The coin was inspired by the "Let's Go Brandon" meme that refers to a profane statement of distaste for former U.S. President Joe Biden. The meme originated in October 2021 when a TV news reporter interviewed stock car racer Brandon Brown at the Talladega Superspeedway in Alabama. During the interview, the reporter mistakenly described the expletive-filled chant from a nearby crowd as an expression of support for Brown.

LGBCoin buyers Sandra Bader, Eric De Ford and Shawn R. Key filed their lawsuit in 2022, claiming they were misled into purchasing a worthless digital asset after NASCAR revoked sponsorship of the coin. U.S. District Judge Paul G. Byron, who is overseeing the case, certified a class of LGBCoin buyers in March 2025.

In April, the plaintiffs filed a **"case-terminating" sanctions motion** against Koutoulas, accusing him and LGBCoin Ltd. of concealing witnesses, destroying evidence, failing to provide information on digital wallets, using fake legal citations and ignoring warnings from the court. The plaintiffs said in their motion that the court should make Koutoulas pay attorney fees at the very least.

Koutoulas himself responded weeks later with his letter saying their motion was riddled with inaccuracies and demanded they make corrections. Then on Tuesday, Koutoulas filed his own sanctions motion against the plaintiffs, saying they never responded within the 21-day safe harbor period.

Instead, the plaintiffs doubled-down on their accusations, according to Koutoulas, who added the plaintiffs "vexatiously" multiplied proceedings. He asked the court to award him attorney fees and to admonish the plaintiffs.

In an email to Law360 on Thursday, Koutoulas described the plaintiffs' complaint against him as a lawsuit intended to chill free speech and silence his support for prominent conservative figures. Koutoulas added the plaintiffs refused to properly confer with him on their sanctions motion, too.

"The suit was suspiciously timed one week after President Trump joined our project as his first foray

into crypto," Koutoulas said. "Hopefully Judge Byron will finally hold them accountable for over four years of malicious prosecution with sanctions and end this ridiculous, baseless litigation."

Counsel for the plaintiffs did not immediately respond to a request for comment Thursday. An attorney representing LGBCoin Ltd. declined to comment.

The plaintiffs are represented by Aaron M. Zigler, Kevin McCormack, Lawrence V. Ashe and Nidya S. Gutierrez of Zigler Law Group LLC and by Sean T. Masson and John T. Jasnoch of Scott + Scott Attorneys at Law LLP.

LGBCoin Ltd. is represented by Harry Winderman of Weiss Handler & Cornwell PA.

Koutoulas is representing himself.

The case is De Ford v. Koutoulas et al., case number 6:22-cv-00652, in the U.S. District Court for the Middle District of Florida.

--Additional reporting by Carolina Bolado. Editing by Nick Petruncio.



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J&J Used Ellipsis To Nix Asbestos In Report To FDA, Jury Told

By **Craig Clough**

Law360 (May 21, 2026, 9:41 PM EDT) -- Johnson & Johnson used an ellipsis to eliminate a professor's finding of asbestos in its talc in a report submitted to the U.S. Food and Drug Administration, according to a video deposition shown Thursday to a California jury considering bellwether claims over three women's deadly ovarian cancer.

The report from the 1970s submitted to the FDA was shown in the deposition to Dr. Susan Nicholson, who worked for about 16 years at the company until 2022, including as vice president of women's health. She agreed the company edited out a portion of the findings of University of Minnesota professor Thomas E. Hutchinson, who was hired by the company to test its talc in the 1970s.

When confronted with the document by a plaintiffs' attorney in the 2021 deposition, Nicholson agreed Hutchinson's full results were edited with an ellipsis. When later questioned by a defense attorney about the ellipsis, she said the company didn't agree with the part of his work that found chrysotile asbestos in its talc.

"Could it have been handled differently? Perhaps it could have," Nicholson said. "I believe, based on everything that I've looked at, that they didn't include it because they were very confident in their own expertise and methods."

Hutchinson's testing of J&J's talc in the 1970s has been discussed by at least two previous witnesses, including former FDA Commissioner **Dr. David A. Kessler**, who told the jury as the trial's first witness that the FDA hired Seymour Lewin in the early 1970s to test J&J talc products and found asbestos, and the results caused "alarm bells to go off" in the company's upper ranks.

In response, the company hired some experts to retest Lewin's samples, and handwritten notes from Hutchinson said he found "incontrovertible asbestos" in the samples. But the day after receiving Hutchinson's report, J&J execs told FDA representatives they found no asbestos in Lewin's samples, according to meeting minutes shown to the jury.

On Wednesday, the jury saw video deposition of **John Hopkins**, a former J&J toxicologist, who said he found no evidence the company gave Hutchinson's full findings to the FDA.

Internal J&J documents from the 1970s that includes discussions of Hutchinson's test have fueled thousands of lawsuits against the company from people claiming the company's baby powder and other talc products cause ovarian cancer and mesothelioma. The plaintiffs in the trial, who are relatives of three women who died of ovarian cancer, argue the documents prove the company knew its talc contained asbestos and hid it from the government and the public.

During her deposition, Nicholson rebutted both Lewin's and Hutchinson's work. When a plaintiffs' attorney, who was off camera and not identified, commented that Lewin found asbestos in J&J's talc, she retorted, "He thought he did," and made a similar comment when asked about Hutchinson's findings.

Nicholson also agreed J&J told the FDA in the 1970s it had turned over all relevant documents and tests about asbestos testing, but agreed the ellipsis used in the report to the FDA eliminated his findings of chrysotile asbestos.

According to the plaintiffs, J&J convinced the FDA that Lewin's work was faulty and to allow the talc industry to conduct its own testing with something called the J4-1 test that used X-ray diffraction and polarized light microscopy, even though J&J knew that test was not sensitive enough.

Nicholson told an unidentified defense lawyer during her deposition that Hutchinson was asked to do a type of testing called scan electron microscopy to see if it was effective in testing for asbestos, but then "appears to have gone off on his own" and done some different types of tests called transmission electron microscopy "and thought he found chrysotile."

She added that Hutchinson's findings "made no sense" because J&J's longtime testing consultant McCrone & Associates has already evaluated the samples with its own transmission electron microscopy and found no asbestos. The testers at McCrone were the "experts" in that kind of work, she said.

Nicholson has testified in some previous talc trials, including a 2018 trial in Missouri that resulted in jury finding J&J's talc powder contained asbestos and gave cancer to 22 women while awarding \$550 million in compensatory damages plus **\$4.14 billion** in punitive damages, although the award was later reduced to around \$2.1 billion.

In 2021, an Illinois state judge held J&J and Nicholson in contempt of court for her failure to appear in a trial in a talc cancer case, although an appeals court later **reversed the judge's order**.

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

The trial is the second ovarian cancer bellwether out of hundreds of coordinated 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, the jury hit J&J with a **\$40 million verdict**, finding the company's talc products were a substantial factor in two women developing ovarian cancer, but declined 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 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. However, the judge overturned the verdict.

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

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Discover Card 'Misclassification' Deal Worth Up To \$1.2B OK'd

By **Hailey Konnath**

Law360 (May 21, 2026, 10:01 PM EDT) -- An Illinois federal judge Wednesday gave the final green light to a settlement under which Discover Financial Services will pay between \$540 million and \$1.2 billion to resolve class action allegations it misclassified certain credit card accounts.

U.S. District Judge Steven C. Seeger granted final approval to the deal, which put to rest a trio of class actions claiming the misclassifications led to merchants paying excess interchange fees for the processing of Discover credit card transactions. He said the settlement is, "in all respects, fair, reasonable and adequate and in the best interests of the settlement class."

The judge certified a settlement class of all "end merchants, merchant acquirers and payment intermediaries involved in the processing or accepting a misclassified card transaction" between 2007 and 2023. The class includes millions of persons and entities, according to the order.

Illinois-based Discover will pay eligible businesses 100% of their estimated damages, plus interest, according to the merchants' motion for final approval of the deal. That means Discover will pay a minimum of \$540 million and, depending on how many claims are received, could shell out up to \$1.22 billion, they said.

Also on Wednesday, Judge Seeger awarded \$25 million in attorney fees to the merchants' lawyers with Lief Cabraser Heimann & Bernstein LLP, The Kick Law Firm APC and Dilworth Paxson LLP. They'll also get reimbursement of \$307,158 in litigation costs, per the order. And the five settlement class representatives will each come away with a service award of \$7,500.

In their motion for attorney fees, class counsel noted that they were able to raise the initial minimum payment payout from \$500 million to the current \$540 million figure.

"Settlement class counsel worked hard on negotiating the terms of the modified settlement, which includes multiple improvements, for the benefit of the settlement class, to the original settlement, including an improved methodology, a \$40 million increase to the minimum total class payout," the lawyers said.

Discover first revealed that it had misclassified certain credit card accounts — by incorrectly placing those accounts in its highest pricing tier for merchants and acquirers — in 2023. The issue did not affect card pricing for cardholders or materially impact Discover's revenues, the company said, but its then-CEO acknowledged the lapse had "underscored deficiencies" in risk management and corporate governance at the firm.

As part of its disclosure, Discover said it was investigating and pledged to take corrective action, including by providing refunds to affected merchants and merchant acquirers. The company estimated it would cost hundreds of millions of dollars overall.

In the wake of the revelation, Discover was hit with multiple proposed class actions and the U.S. Securities and Exchange Commission **opened an investigation**.

Discover initially put a \$365 million price tag on remediation for the misclassification, but it **upped that amount to \$1.2 billion** in a May 2024 SEC filing. And in July of that year, Discover disclosed in another filing that it was facing **an estimated \$200 million** in potential regulatory penalties for the

misclassifications.

Discover said in a May filing that the deal "is the best way to fulfill Discover's commitments to provide compensation to affected entities." As of the date of that filing, more than 1.4 million settlement claims had been submitted by merchants, Discover said.

"It is rare that a class-action settlement seeks to distribute 100% of monies that a putative class may potentially be entitled to plus interest, but that is what this settlement proposes to do," it said at the time.

Lawyers for the class also called the result "rare" and "exceptional" in their December motion for attorney fees.

"Settlement class counsel achieved this result in the face of considerable risks and uncertainty," they said. "From the outset, Discover sought discovery regarding a potential motion to compel arbitration, which would have created risks and, at the least, delayed the litigation considerably. Plaintiffs also would have faced a vigorous defense."

They noted that the court granted preliminary approval of the initial \$500 million settlement, but then Discover notified the court and the class that it had uncovered additional transactional data that allowed for more precise overcharge calculations.

"Thereafter, the parties engaged in a second round of vigorous arm's-length negotiations and confirmatory discovery," which led to the higher amount, they said.

Discover and counsel for the plaintiffs didn't immediately respond to requests for comment late Thursday.

The plaintiffs are represented by Catherine Pratsinakis and Nina C. Spizer of Dilworth Paxson LLP, Roger N. Heller and Michael K. Sheen of Lieff Cabraser Heimann & Bernstein LLP, and Taras Kick and Tyler Dosaj of The Kick Law Firm APC.

Discover is represented by Valerie L. Hletko, Andrew Soukup and Samuel Greeley of Covington & Burling LLP, Rachel E. Grossman of HWG LLP, and Julie B. Porter of Salvatore Prescott Porter & Porter PLLC.

The cases are Support Animal Holdings LLC et al. v. Discover Financial Services et al., case number 1:23-cv-15297, Capp Inc. et al. v. Discover Financial Services et al., case number 1:23-cv-04676, and Lemmos Pizzeria LLC v. Discover Financial Services et al., case number 1:23-cv-14250, in the U.S. District Court for the Northern District of Illinois.

—Additional reporting by Jon Hill, Sarah Jarvis and Katryna Perera. Editing by Michael Watanabe.



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Meta Expert Says \$27M Is Better Number For Abatement

By **Cara Salvatore**

Law360 (May 21, 2026, 10:40 PM EDT) -- An economics expert for Meta testified Thursday against New Mexico's desired \$3.7 billion plan to abate social media's harm to mental health, calling it more "a spending plan" than one for abatement and claiming \$27 million will do the job.

Justin McCrary, an economist who teaches at Columbia Law School, took the stand as one of the final witnesses in Meta's defense case-in-chief in a phase two bench trial that began May 4. In the second phase, New Mexico Attorney General Raúl Torrez is seeking a 15-year abatement plan and a suite of changes to Meta's social network designs.

"If you look at the abatement plan and get in underneath the hood, it's unreliable in terms of the cost figures that it comes to," McCrary said Thursday. "The primary criticism is that it's not tethered to the conduct that's being challenged. ... There's no carveout or anything like that for a particular set of conditions."

McCrary went through seven categories of items he believed the plan should not include. One category that he said alone would remove \$937 million would be not requiring Meta to pay for any services that already exist today in the state: existing child advocacy center staff; existing mobile vans that serve as school-based health centers; and existing youth psychiatrists, psychologists, social workers. The plan can justify paying only for additional or new staff and vans in these areas, he said.

Another large change McCrary recommended was limiting the 15-year proposal to five years, which would cut another \$1.196 billion. This prompted a question from Judge Bryan Biedscheid, who said he is only too aware that in state government "things do not turn on a dime." But the judge said, "What economic assumptions are you making with a five-year plan about how long it takes for us to stand it up and what people are able to do treatment-wise within five years?"

McCrary responded, "Frankly, most of your questions are really hard questions, and my analysis doesn't answer them." He said he simply changed phase-in periods that took six, seven or 10 years to five years, and "hit it harder" than the state's abatement plan architect, expert Dana Weiner, in terms of the assumption of ramp-up speed.

In another category, a \$448 million line item in the state's plan for construction and operation of community-based and school-based health centers, McCrary said that all but \$20 million would have nothing to do specifically with teen mental health treatment and should be deleted.

He also attempted to undermine the plan by comparing its sheer cost to the budget of the New Mexico Department of Health, which he said is about \$212 million for 2026, "so the proposed abatement plan is some 17 times larger than that." Judge Biedscheid confirmed with McCrary that the \$212 million was a one-year, not 15-year, figure, unlike the abatement plan.

On cross, state outside counsel Donald Migliori of Motley Rice LLC questioned whether McCrary even had the right agency.

"Would it surprise you that the Department of Health doesn't actually pay for [state residents' healthcare]?" Migliori asked McCrary.

"I'm not sure. I'd have to look deeper into the budget figures," McCrary said.

Migliori then asked if McCrary knew that it was actually the state's Health Care Authority that pays for health care. McCrary responded that he would "take it you'd know more."

"Do you know the annual budget for the Health Care Authority?" Migliori said.

"No, not off the top of my head," McCrary said.

"If I told you it was \$15 billion, would that surprise you?" Migliori continued.

Migliori also criticized McCrary for using only high school data in some cases and leaving out middle school data, creating a nicer-looking picture when it came to the prevalence of mental health issues.

McCrary also admitted to Migliori he has no particular expertise in social media, psychology or epidemiology, and that of the 100 or so times he's been an expert witness, it's included cases over data breaches, franchising, debit card payments and various other topics.

This bench trial is a follow-up to a first phase in which a jury awarded \$375 million against Meta in March after hearing that Meta downplayed harm to the public. The jury in the first trial heard evidence about examples of grooming, sextortion, peer bullying, suicide, teen fight accounts, sharing of sexual abuse material and more taking place on social media, as well as Meta routinely removing huge numbers of users younger than the company's stated account age minimum, 13.

New Mexico is represented by Raúl Torrez of the New Mexico Department of Justice and Donald Migliori, Linda Singer, Michael Pendell and David Ackerman of Motley Rice LLC.

Meta is represented by Kevin Huff, Alex Parkinson, Ana Paul, Cassie Redlingshafer and Kevin Miller of Kellogg Hansen Todd Figel & Frederick PLLC.

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

--Editing by Michael Watanabe.



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Meta Defeats App Users' Location Data Privacy Suit For Good

By **Lauren Berg**

Law360 (May 21, 2026, 10:40 PM EDT) -- A California federal judge Thursday shut down for good a proposed class action accusing Meta Platforms of illegally collecting location data from users of third-party apps that installed the company's tracking software, again finding the complaint doesn't plausibly allege that Meta knew it didn't have permission to access this data.

U.S. District Judge Rita F. Lin's brief **order** dismisses with prejudice plaintiffs Lisa Tsering and Dominique Davis' third amended complaint alleging Meta violated the California Comprehensive Computer Data Access and Fraud Act and the California Invasion of Privacy Act through its acquisition of user data from third-party apps that incorporated Meta's software development kits to aid their targeted advertising.

The allegations in the complaint — including that Meta's business tools terms of use explicitly state that developers cannot share with the social media company data that is considered "sensitive information" — "fail to support a plausible inference that Meta knew its access and use of data was without users' permission," the order states.

"The mere receipt of allegedly sensitive user information does not plausibly suggest that the recipient would (or should) know that such information was received without consent," it states, adding that "whether information cannot be shared with Meta and whether such information was collected without user consent are separate issues."

For instance, a developer could send Meta information that it had agreed not to send, while at the same time complying with Meta's requirement that it obtain consent from users "regarding the collection, sharing and use of data by Meta," Judge Lin said.

The judge dismissed the case with prejudice, concluding that because the plaintiffs "have already been given an opportunity to correct the deficiencies identified by this order and have failed to adequately address these issues in their third amended complaint, further amendment would be futile."

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

In the litigation, Tsering and Davis asserted that they had never consented to their geolocation information being shared with Meta when they downloaded the third-party apps Solitaire and Nextdoor. They alleged that neither the apps nor Meta informed them that Meta's software development kits, or SDKs, were collecting their location data and that Meta was able to monetize that data by incorporating it into its advertising products.

Judge Lin **in January dismissed** the second amended complaint, after finding that Tsering and Davis hadn't plausibly alleged that Meta knew it didn't have users' permission to access the data.

Under the California Comprehensive Computer Data Access and Fraud Act, companies are prohibited from "knowingly and without permission" accessing and using data from any computer system or network.

Although Judge Lin rejected Meta's argument that it couldn't be held liable for using or accessing app users' data because the third-party developers were the ones that installed the SDKs, the judge

concluded the plaintiffs had fallen short of their obligation to allege that Meta had acted "knowingly."

"The phrase 'knowingly and without permission' in [the CDAFA] requires that an individual be aware both that they are using data or accessing a computer and that they are doing so without permission," Judge Lin held. "Tsering and Davis's complaint fails to plausibly allege that Meta knew that it lacked users' permission to access their smartphones and use their data."

While the plaintiffs had alleged in their second amended complaint that Meta intentionally collected third-party app users' geolocation data without adequately informing them and that some app developers were unaware of the extent of these practices, "those allegations are insufficient, without more, to raise a plausible inference that Meta knew the third-party app developers had not sought permission from the users to access the location data at issue."

Judge Lin noted that this requirement that defendants know that they don't have permission to engage in the conduct prohibited by the CDAFA was consistent with the purpose of the statute, which was put in place to combat computer crime and hacking.

In this case, the privacy policies for both the Solitaire and Nextdoor apps disclosed that geolocation data may be shared with third-party advertising partners and that such information might be used for targeted advertising, Judge Lin noted.

The judge acknowledged that the existence of these disclosures "does not render it implausible that Tsering and Davis did not consent to Meta's collection and use of geolocation data" and that pertinent questions remained that couldn't be resolved at this stage in the litigation, including whether the plaintiffs received adequate notice about Meta's activities and whether Nextdoor and Solitaire developer MobilityWare's privacy policies applied to their accounts.

"However, these disclosures render it implausible that Meta provided such opaque information to Nextdoor and MobilityWare that Meta had to know the third-party app developers could not possibly obtain effective consent from consumers," Judge Lin had concluded in dismissing the CDAFA claim.

The plaintiffs are represented by Philip L. Fraietta, Andrew J. Obergfell and Julian C. Diamond of Bursor & Fisher PA.

Meta is represented by Melanie M. Blunschi, Kristin Sheffield-Whitehead, Dianne Kim, Margaret A. Upshaw and Ruth Hirsch of Latham & Watkins LLP.

The case is Lisa Tsering et al. v. Meta Platforms Inc., case number 3:25-cv-01611, in the U.S. District Court for the Northern District of California.

--Additional reporting by Allison Grande. Editing by Emily Kokoll.



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Citron Founder's Tweets Impacted Stock Prices, LA Jury Told

By **Rae Ann Varona**

Law360 (May 21, 2026, 11:26 PM EDT) -- A former U.S. Securities and Exchange Commission financial economist testified Thursday in the criminal securities fraud case against Citron Research founder Andrew Left, telling a California federal jury that allegedly deceptive tweets posted by the "activist investor" clearly had a "statistically significant" impact on companies' stock prices.

Matthew Cain, an expert witness for the government who holds a Ph.D. in finance, testified before a Los Angeles jury that based on around 20 different event studies he did on Left's tweets and trades, he concluded that the social media posts had a meaningful impact on the stock prices of companies, including Cronos Group Inc., Nvidia, Twitter, Tesla and Roku.

Referring to a line graph showing stock price movements, Cain said that Canada-based Cronos — trading under the ticker CRON — for instance, saw a "very large decline" within a day's trading period following Left's Aug. 30, 2018, tweets that stated a target price of \$3.50 per share and that linked to a Citron report titled, "CRON: The Dark Side of The Cannabis Space."

Compared to the stock prices of Cronos and other companies Left tweeted about, lines representing the market and relevant industries for the same periods, meanwhile, remained "relatively flat" and "unchanged," Cain, who has also served as an adviser to former SEC Commissioner Robert J. Jackson Jr., said.

Taking questions by Matthew Reilly of the U.S. Department of Justice, Cain said that Left's impact was also corroborated by reports and mentions by financial media about his tweets.

An article by Market Watch dated Aug. 31, 2018, reported on Cronos' stock plunging 30% "after Citron short call," and quotes a GMP Securities analyst calling several Citron allegations "unfounded and biased."

Left's counsel, Eric Rosen of Dynamis LLP, meanwhile, pushed back on Cain observing artificial price movements in the stocks and probed him on whether he considered whether some statements were true in his analysis.

Cain said that he was not giving an opinion on truth.

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

An indictment filed against Left alleged that he took advantage of his personal reputation and his hundreds of thousands of social media followers, as well as frequent guest appearances on various news programs, by making "sensationalized" claims about purportedly under- or overperforming companies in order to take advantage of the rapid price fluctuations that occurred shortly after he published reports on those same companies via Citron.

The indictment alleged that Left often included a "target price" for a security that was purportedly derived from his analysis and "sincere projection of the Targeted Security's future price."

In reality, however, Left, "with the hope of triggering not a pistol shot but a cannon blast," selected "extreme target prices to attract media attention and provoke an immediate change" to stock prices, "while concealing his intention to exit all or the majority of the positions he held in the targeted security well before they reached — if they ever did — the target price selected," the indictment had alleged.

Left faces one count of securities fraud and multiple counts of fraud in connection with the purchase and sale of securities. U.S. District Judge Virginia A. Phillips had earlier this month **tossed** one count for making false statements to federal agents, finding that it should have been filed in Florida, where the alleged false statement was made.

Also on Thursday, Andrew Verstein, a UCLA School of Law professor and faculty co-director of the law school's Lowell Milken Institute for Business Law and Policy, took the stand as a market manipulation abuse expert for Left.

Verstein testified that "public commenters" generally don't have the same disclosure requirements as company insiders or those who meet a required beneficial ownership threshold.

He also said that conducting research, investing, sharing information with the public and making a profit is "normal investing" and a "terrible" example of market manipulation.

What's missing, he said, is "falsity."

Verstein also noted that Left had been right about certain stocks, including for Cronos, albeit four years later.

Noting that Cronos' stock closed at \$3.41 on Jan. 1, 2022, Verstein said that Left had made a "super correct prediction."

Jury selection began on May 11.

Last week, Michael Ryan Gorenstein, the **CEO** of Cronos Group, testified that Left published an inaccurate short sale report of his company that quickly tanked its stock even though it appeared Left lacked the "conviction" of his attack.

On May 15, a U.S. Postal Service inspector, Anna Hallstrom, **testified** to being "very" surprised when Left called her as she was on her way to his home to participate in an FBI search of his residence. According to audio of the call played for the jury, Left said that he "never, never, never, never" received compensation from a hedge fund over one of his short-sale reports.

Trial is expected to finish sometime next week, with Left among remaining individuals to take the stand.

The government is represented by Benedetto L. Balding and Alexander Schwab of the U.S. Attorney's Office for the Central District of California and Matthew Reilly of the Department of Justice's Criminal Division.

Left is represented by Eric S. Rosen and Yusef Al-Jarani of Dynamis LLP and by Adam J. Fee and Ben Nicholson of Weil Gotshal & Manges LLP.

The cases are U.S. v. Left, case number 2:24-cr-00456, and SEC v. Left et al., case number 2:24-cv-06311, both in the U.S. District Court for the Central District of California.

--Additional reporting by Craig Clough. Editing by Michael Watanabe.