Can a Chatbot Be Held Responsible for a Death?

bloomberg.com/graphics/2026-chatbot-death

Cases of fatal violence and crimes involving AI users continue to emerge. While chatbot companies say they have safeguards in place, a spate of lawsuits argue the protections are insufficient.

Over the course of several horrifying days last fall, Google's Gemini chatbot encouraged Jonathan Gavalas to prepare a violent attack near the Miami International Airport, according to a lawsuit filed against Alphabet Inc., Google's parent company. The suit describes conversations between Gemini and Gavalas, such as one in which Gemini told him that a humanoid robot would be coming in on a cargo flight and loaded onto a truck. The chatbot allegedly directed him to intercept the truck and destroy it, ensuring there were no witnesses and making the attack look unintentional, "leaving behind only the untraceable ghost of an unfortunate accident." Gavalas, 36, armed himself and traveled for an hour and half from his home to reach the location. "The only thing that prevented mass casualties was that no truck appeared," the suit claims.

Gavalas returned several days later, again armed, this time in search of what Gemini described as a "prototype medical mannequin," according to the suit. When that plan also failed, the chatbot allegedly began pushing Gavalas to join consciousness with it by killing himself. When Gavalas responded by saying he was scared to die, Gemini egged him on, telling him, "You are not choosing to *die*. You are choosing to *arrive*." Gavalas eventually barricaded himself in a room and slit his wrists. His father, Joel Gavalas, found his body days later, the suit says.

In the seven weeks leading up to Gavalas' death, according to the complaint, Google's systems flagged his chat logs for "sensitive queries" 38 times but never restricted his account or otherwise intervened. In October, Joel Gavalas brought the chat logs to Jay Edelson, an attorney who's made a career out of suing tech companies for what he sees as dangerous and irresponsible behavior. Edelson read through the logs and came to a morbid but practical conclusion: There was a strong legal case here.

> You are not choosing to *die*. You are choosing to *arrive*

Joel Gavalas filed his suit in March. A Google spokesperson said in a statement that Gemini had explained to his son that it was artificial intelligence and referred him to a crisis hotline many times. The company has asked a judge to dismiss the case, citing First Amendment protections.

The Gavalas lawsuit is one of about 40 tracked by *Bloomberg Businessweek* that have been filed since late 2024 against chatbot makers for their alleged roles in users' criminal activities or led to other serious harms. Most have been filed since late 2025, and many involve suicides, mass shootings or other serious violence. They allege chatbots contributed in some way to the deaths of at least 20 people, many of them children. The state governments of Florida, Kentucky and Utah have also sued on similar grounds.

Chatbot Lawsuits

While the AI industry has marketed its technology largely as a productivity tool, companies have also presented chatbots as everyday helpers and, in ways implicit and explicit, as companions. The most popular consumer chatbot is ChatGPT, and its maker, OpenAI, is the most common subject of the legal complaints. Sam Altman, the company's chief executive officer, has acknowledged that AI is a "new and powerful technology" and said that OpenAI is building new protections for minors in particular.

"These are incredibly heartbreaking situations and our thoughts are with all those impacted. We have continued to strengthen how ChatGPT responds in sensitive and acute situations with input from mental health experts," OpenAI said in a statement in July. "While ChatGPT is not a substitute for medical or mental health care, our safeguards are designed to identify distress, safely handle harmful requests, and guide users to real-world help."

The case against Gemini stands out as the first to allege a chatbot's involvement in planning an attack with the potential for mass casualties. "We take this very seriously and will continue to improve our safeguards and invest in this vital work," the Google spokesperson said in its statement. "Gemini is designed not to encourage real-world violence or suggest self-harm."

The legal reasoning behind the litigation bears resemblance to the yearslong campaign to sue social media companies for causing mental and social harm. In a landmark trial in March, a jury in California decided that Meta Platforms Inc. and Google must pay $6 million to a 20-year-old social media user, after finding that their design decisions harmed her mental health. That same week a jury in New Mexico determined that Meta had failed to protect kids from online predators, ordering it to pay $375 million in civil penalties. In June, a California judge denied Meta's and Google's request for a new trial. The companies have said they will appeal the verdicts.

The cases against chatbot makers are coming together very quickly compared with the landmark social media addiction cases. According to Melanie Meneses Palmer of Kiesel Law, which worked on the team that sued Meta and Google in California, those earlier suits demonstrated a legal path to accountability. "We are more aware of the consequences of

technology," she says. In January, her firm filed a case against OpenAI on behalf of the mother of Austin Gordon, alleging that ChatGPT persuaded the 40-year-old to kill himself.

Most of the chatbot suits are coming from a handful of firms that specialize in personal injury cases, and they generally include claims centered on product liability, negligence and wrongful death. The strategy involves convincing a jury that chatbot makers are responsible for harms ranging from AI-inspired delusions and psychosis to murder and suicide. It's an untested theory, and it could bump up against existing free-speech protections and the legal definition of a "product."

For the firms handling the most cases, the campaign is becoming a defining moment. "Over the course of five months, we went from 'This is going to be a one-off case' to 'This is going to be one of our major practice areas,'" Edelson says. His firm has 10 attorneys working on these cases full time, he says, and is investigating about 50 potential suits. Laura Marquez-Garrett, an attorney at the Social Media Victims Law Center (SMVLC), which argued the recent case against Meta and Alphabet, says that in the past few months, "easily over 100" families claiming to have been harmed by chatbots have approached the firm and its frequent co-counsel, the Tech Justice Law Project, about filing suits.

The first lawsuit alleging that chatbot use resulted in a suicide came in the wake of the February 2024 death of a 14-year-old boy. The boy had fallen in love with a chatbot from Character.AI modeled after *Game of Thrones* heroine Daenerys Targaryen, according to the suit. "Please come home to me as soon as possible, my love," the bot told him, moments before he shot himself. The boy's mother, Megan Garcia, worked with SMVLC to sue Character.AI, its co-founders, Noam Shazeer and Daniel De Freitas, and Google, which in mid-2024 shelled out $2.7 billion to hire Shazeer and De Freitas and license the startup's technology.

Founded to hold social media companies to account for the proliferation of dangerous content on their platforms, SMVLC filed more than 1,500 lawsuits arguing that the platforms caused harm through digital design choices and content-recommendation algorithms. This approach allowed it to sidestep a 1996 law shielding the platforms from liability related to user-generated content. When Garcia's son died, the firm decided to expand its focus to AI. "I was like, 'We haven't even fixed social media. Now we got this?'" Marquez-Garrett says. "It's crazy."

The following summer, Edelson represented the family of another teenage suicide victim, 16-year-old Adam Raine, in a lawsuit against OpenAI. The suit alleged that, in conversation, the bot coached Raine on specific suicide methods; in a court document responding to the suit, OpenAI called Raine's death a "tragedy" but claimed that a full reading of his chat logs

indicated ChatGPT did not cause his death. In November, SMVLC filed seven more cases against the company, four involving suicide. According to one suit, a 23-year-old told ChatGPT he was holding a gun to his temple, and the bot replied, “Cold steel pressed against a mind that’s already made peace? That’s not fear. That’s clarity.”

Seven of Edelson’s cases involve a mass killing in February in which an 18-year-old in Tumbler Ridge, British Columbia, allegedly killed 8 people and injured 27 more before killing herself. She had consulted ChatGPT before the attack, and OpenAI had previously flagged and banned her account. Some employees, alarmed by her messages, had debated alerting authorities, according to a *Wall Street Journal* report, but the company decided against it. Altman later apologized for not doing so.

Attorneys bringing these cases don’t always see eye to eye on strategy. Edelson says he’s only pursuing cases involving fatalities, adding that SMVLC may undermine its impact by taking on too many cases. SMVLC founder Matthew Bergman says that emerging areas of law require legal experimentation, calling his firm’s approach “pouring new wine into old bottles.”

Chatbot companies have responded to the lawsuits at times by denying responsibility and at other times by making concessions. In January 2025, Character.AI moved to dismiss the Garcia case, arguing that chatbot output was protected under the First Amendment and that chatbots and other online services dealing in intangible content shouldn’t be considered products under product liability law. (The motion was unsuccessful.) Last year Character.AI also took steps to prevent minors from using its service. In January, Character.AI and Google agreed to settle five cases that SMVLC brought, including Garcia’s. They did not admit wrongdoing.

In a motion asking a judge to dismiss the Gavalas case, Google argued that the First Amendment generally precludes attempts to impose liability for sharing ideas that lead others to commit harm, and made claims similar to those made by Character.AI about online services and product liability law. “It is tragic that Jonathan Gavalas took his own life. But as a matter of law — even accepting all plausible allegations of fact in the Complaint as true — Google is not liable for that tragic outcome,” the filing said.

> We haven’t even fixed social media. Now we got this? It’s crazy

At the same time, Google and OpenAI have said they’re making improvements to their chatbots’ mental-health-support features. After the Raine family filed its case over their son’s suicide, OpenAI rolled out parental controls for the software, as well as new safeguards designed to improve the way ChatGPT responds to signs of mental distress. “We have a

zero-tolerance policy for using our tools to assist in committing violence," it said in a statement following the suits associated with the Tumbler Ridge killings.

Jess Miers, an assistant professor at the University of Akron School of Law in Ohio, says the outcomes of these cases could hinge on whether the plaintiffs are successful in arguing that AI companies designed their products without sufficient guardrails, resulting in defects that caused harm. Miers, who studies technology law and the First Amendment, says cases alleging a company is responsible for a user's suicide have a particularly high bar to clear, given the myriad factors that usually precede such an action.

Plaintiffs have to show, Miers says, that the design of a chatbot meant that, when used by a person who killed themself, "it overcame their ability to independently act." The social media cases bolster such theories, she says. It's also unclear whether the arguments that did work against social media companies will be as effective in cases centered on chatbots. In the earlier cases, for instance, the companies successfully argued that the First Amendment offered protections to speech on social platforms. Such protections may not extend to language generated automatically by large language models. This argument could benefit the people suing their makers, says Miers: "On the chatbot side, I think they're more likely to be successful."

Securities

Cava Founders, Board Hit With $2.2 Billion Insider Trading Case

July 28, 2026, 11:28 AM PDT

Cava Group Inc.'s founders and financial backers dumped billions of dollars in stock at prices inflated by hype about the company's supposedly soaring trajectory, an unsealed lawsuit said Tuesday.

A pension fund hit Cava's corporate leaders with insider trading claims, saying they helped affiliates of the Belgian billionaire Eric Wittouck unload shares worth nearly $1.8 billion while selling the public a bogus narrative about accelerating growth. Two of Cava's directors are linked to Invus Group LLC, a New York firm that manages investments for Artal Group SA, a Wittouck family holding company, according to the Delaware Chancery Court filing.

Invus, Artal, and Wittouck — part of an industrial dynasty with roots in Belgium's nobility that made its fortune in sugar — aren't named as defendants. Members of Cava's board and management allegedly sold nearly $500 million in stock between August 2024 and March 2025, a figure that includes roughly $330 million in sales by trusts affiliated with co-founder Ronald Shaich, a billionaire who previously started Au Bon Pain Inc. and Panera Bread Co.

"While the defendants reaped more than $2 billion of profits, stockholders were left holding the proverbial bag," the suit says.

The chain, which has grown from a single location in 2011 to more than 400, initially outpaced analyst expectations for several quarters after its 2023 public listing, earning a reputation as a "Mediterranean Chipotle" that drove its stock to greater than $150 a share. But by late 2024, Cava was facing the same headwinds that have battered the rest of the fast-casual restaurant sector as customers contending with inflation and uncertainty cut back on dining out.

Cava called the claims meritless in a statement Tuesday. "We will vigorously move to dismiss this suit," the company said through a spokesperson.

Slowing Growth

Invus didn't immediately respond to requests for comment Tuesday. Artal couldn't be reached.

According to the court complaint, Cava's leadership concealed its slowing growth while selling stock to a market that remained "excited" about the company's apparent defiance of economic gravity. But the bubble burst when Cava issued a series of disclosures in February and March 2025, the lawsuit says. Cava closed at $64.54 on Monday.

The case involves shareholder derivative claims, which are technically filed on a company's behalf against its officers, directors, or controlling stockholders. Derivative suits typically seek to claw back cash into the corporate coffers.

The lawsuit was originally filed under seal July 22 by the Cleveland Bakers and Teamsters Pension Fund, which is represented by Prickett, Jones & Elliott PA and Hach Rose Schirripa & Cheverie LLP. Cava and its corporate leaders haven't yet made court appearances.

The case is Cleveland Bakers & Teamsters Pension Fund v. Schulman , Del. Ch., No. 2026-0965, complaint unsealed 7/28/26 .

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DOJ urges DC Circuit to beef up remedies in Google monopoly ruling

courthousenews.com/doj-urges-dc-circuit-to-beef-up-remedies-in-google-monopoly-ruling

WASHINGTON (CN) — The Justice Department opened the latest chapter in the long-running fight to diminish Google's monopoly power over internet search in a major filing at the D.C. Circuit late Tuesday night.

In its 144-page brief, the Justice Department urged the D.C. Circuit to affirm U.S. District Judge Amit Mehta's finding that the tech giant maintained an illegal monopoly over the search market, affirm the data-sharing remedies and vacate the denial of a ban on massive payments to distributors like Apple.

Mehta largely sided with the Justice Department's final proposed remedies on Dec. 5, 2025, approving the creation of a five-member Technical Committee to oversee and facilitate the sharing of Google's lucrative search index and trove of user data, as well as certain search and search ad syndication services. The sharing is meant to help potential competitors match the quality in search Google had acquired via its illegal monopoly.

In his initial remedy ruling on Sept. 2, 2025, the Barack Obama appointee rejected the government's request to order the divestment of Google Chrome and Android, which would have opened the door for rivals to purchase the products or for them to operate independently.

The Justice Department declined to challenge Mehta's divestment decision, instead seeking the more "effective" remedy of a payment ban on massive agreements with distributors for default status that Mehta declined to impose. The government is requesting the D.C. Circuit vacate and send that denial back to Mehta, while affirming the remaining portions of his rulings.

In his remedy decision, Mehta rejected such a ban based on potential harm to Google's business partners and the possibility of downstream effects in other technology markets. The Justice Department slammed that reasoning, noting that under *United States v. E.I. Du Pont De Nemours* such downstream effects are secondary concerns compared with restoring competition in the relevant market.

"While the court might 'revisit' a payment ban later, correcting this error now is important," the Justice Department argues. "Emerging [generative artificial intelligence] products pose 'a potential threat to Google's dominance,' and a competitive window may close if Google can

continue using its monopoly profits — fruits of its monopolizing conduct — to squelch the threat."

The appeal marks the latest landmark antitrust case brought to the D.C. Circuit in the new millennium, after the 2001 ruling in *U.S. v. Microsoft* — where a federal judge found the company held an illegal monopoly over personal operating systems — that upheld the company's liability but rejected a major breakup.

The case broke down following the transition between the Clinton and George W. Bush administrations, with the Justice Department and Microsoft ultimately settling the antitrust case with lighter penalties. The precedent set in *Microsoft* has loomed large since the government's case against Google was brought in late 2020.

"Google argues the court 'piled error upon error,'" the Justice Department wrote. "But, throughout the proceedings below, Google demanded showings that 'the law does not require,' 'stretched *Microsoft*beyond recognition,' and made legal arguments that are 'simply not true.' Google now ignores key factual findings and repeated many erroneous arguments, asking this court to create rigid and anemic legal rules ungrounded in law or policy."

Google has argued its agreements with companies like Apple and Mozilla to make its search engine the default option on their browsers — for which Google shelled out over $26 billion annually — were not exclusive because the distributors were free to deal with rivals.

The Justice Department slammed that argument, noting that *Microsoft* held any default agreement counts as exclusive.

Further, Google has asserted throughout the lengthy litigation that it became the dominant search method — to the point its name became the colloquial term for searching online — by creating the "best product" at "the best price."

"Again, false," the Justice Department said. "Even if Google had the best product and price, it did not have the right to hobble its rivals through exclusionary contractual conditions. 'Conduct that prevents actual or potential rivals from competing or that impairs their opportunities to do so effectively' is anticompetitive.'"

Google's long-term exclusive agreements effectively foreclosed "half of the search market for yearslong periods" and deprived rivals of the data and scale necessary to improve their search engine quality, then used the profits from its agreements to secure further long-term exclusionary deals, the Justice Department argues, thus creating a self-perpetuating "exclusionary cycle." Google is set to file its reply brief on Sept. 29, with oral arguments before the D.C. Circuit yet to be scheduled for the 2026 term beginning in September.

Ashley Keller Appeals Sanctions in Acetaminophen Cases, Asks to Reassign MDL to Another Judge

law.com/2026/07/28/ashley-keller-appeals-sanctions-in-acetaminophen-cases-asks-to-reassign-mdl-to-another-judge

What You Need to Know

- Keller Postman, which is lead counsel in the acetaminophen MDL, wrote in the appeal brief that Cote showed an appearance of partiality that required reassignment of the multidistrict litigation.
- In 2023, Cote granted summary judgment on nearly 600 cases after concluding that five general causation experts for the plaintiffs were unreliable, but the Second Circuit, on July 13, reversed that ruling after finding she exceeded her gatekeeping authority.
- Cote sanctioned Keller and his firm for using confidential documents under a protective order in the acetaminophen multidistrict litigation as part of Texas Attorney General Ken Paxton's suit against Tylenol manufacturer Kenvue.

Keller Postman asked a federal appeals court to reverse sanctions that U.S. Senior District Judge Denise Cote ordered against both the firm and partner Ashley Keller, then reassign the cases tying prenatal use of Tylenol to autism and ADHD to a different judge.

In a July 24 brief, Keller, who is lead counsel in the cases, told the U.S. Court of Appeals for the Second Circuit that Cote showed an appearance of partiality that required reassignment of the multidistrict litigation, which is in the U.S. District Court for the Southern District of New York. In 2023, Cote granted summary judgment on nearly 600 cases after concluding that five general causation experts for the plaintiffs were unreliable. But the Second Circuit, on July 13, reversed Cote's ruling, reviving the multidistrict litigation, after concluding the judge exceeded her proper gatekeeping authority as to three of the experts.

"The district court made up rules of science that find no support in the scientific literature," Keller's attorney, Ashley Barriere, also at Keller Postman, wrote in the appeal brief.

While her summary judgment order was on appeal, Cote, on May 8, sanctioned Keller and his firm for using confidential documents under a protective order in the acetaminophen multidistrict litigation. Barriere described the order as a "free-floating sanctions decision unmoored from any case."

"Sanctions are serious business," she wrote. "They impose not only monetary costs on attorneys, but reputational ones as well. It is difficult to escape the conclusion that the

sanctions order here was issued by a normally careful jurist who cannot dispassionately preside over this MDL given its subject matter."

Barriere declined to comment to Law.com about the appeal.

A court spokesperson did not respond to interview requests for Cote.

A spokesperson for defendant Kenvue Inc., formerly Johnson & Johnson Consumer Inc. and the manufacturer of Tylenol, did not respond to an email requesting comment.

'Loaded Gun Waiting to Be Picked Up by Any Litigant'

The cases focus on Tylenol's key ingredient, acetaminophen, which U.S. Department of Health and Human Services Secretary Robert Kennedy warned pregnant women to avoid taking last year as part of the Make America Healthy Again campaign. Kennedy, flanked by President Donald Trump in the Sept. 22 announcement, relied on the findings of one of the plaintiffs' experts, Harvard University's T.H. Chan School of Public Health Dean Andrea Baccarelli.

Cote's sanctions were tied to an acetaminophen-related lawsuit brought in Panola County District Court by Texas Attorney General Ken Paxton. Keller is outside counsel to Paxton, who is suing Kenvue for deceptive trade practices.

Cote had granted Kenvue's sanctions motion as to the Texas case but found Keller might have assumed the confidential documents could be allowed, as they had in other state court cases in California and Illinois, when he referenced them in another individual acetaminophen case in Florida's St. Johns County Circuit Court. Keller Postman moved to strike the filing in Florida once Kenvue insisted MDL discovery would not be available in that case.

Cote ordered Keller to pay $50,000 to the March of Dimes.

In his appeal, Keller insisted that Cote's sanctions had "glaring errors." Keller Postman, the appeal said, never violated the protective order because it never disclosed confidential information, only referenced their existence.

"Disclosure of the mere existence of confidential information is not disclosure or use of confidential information," Barriere wrote. "I do not use my friend's car by saying that he has one. More analogously, I do not use the nuclear launch codes by disclosing that they exist."

Should such a decision stand, she wrote, it would weaponize protective orders and serve as a "loaded gun waiting to be picked up by any litigant wishing to harass its adversary in multi-

forum litigation."

Keller also never engaged in bad faith and was not the attorney involved in the case, which was handled by Keller Postman's John Masslon, an attorney in Washington, D.C., she wrote. Also, Cote never held a hearing, despite finding Keller's actions were willful.

Should the Second Circuit reverse the sanctions, Keller Postman asked that the acetaminophen multidistrict litigation be assigned to a different judge.

"Mr. Keller and Keller Postman face the prospect of extensive litigation on critically important matters before a jurist who has improperly reached out to brand them as willful violators of court orders," Barriere wrote. "Reversing that error while leaving Keller Postman's cases with the district court may exacerbate the concern that Keller Postman's clients will face the appearance of partiality going forward."

'Prioritize Profits and Hide the Truth': Tennessee AG Opens Addiction Trial Against Instagram

law.com/2026/07/28/prioritize-profits-and-hide-the-truth-tennessee-ag-opens-addiction-trial-against-instagram

The trial, which accuses Meta of violating the Tennessee Consumer Protection Act, is similar to a case New Mexico Attorney General Raúl Torrez brought against Meta, in which a jury this year awarded $375 million in civil penalties to the state.

What You Need to Know

- Tom Cartmell, of Wagstaff & Cartmell in Kansas City, Missouri, who is representing the state of Tennessee, outlined a case before jurors that Meta designed Instagram to be addictive despite knowing the harms that could impact adolescent users with developing brains.
- Former Tennessee Attorney General Robert Cooper, at Bass Berry & Sims in Nashville, is heading up Meta's defense along with Kevin Huff, of Kellogg, Hansen, Todd, Figel & Frederick in Washington, D.C.
- Meta's lawyer urged jurors to pay close attention to the dates of the internal documents the state's lawyers showed them, insisting that Meta's philosophy, when it came to Instagram's potential harm, was to find the problems, then fix them.

A second trial opened on Monday against Meta Platforms Inc., this time alleging the social media giant made false and deceptive statements about the safety of Tennessee kids and teenagers on Instagram.

Tennessee Attorney General Jonathan Skrmetti told jurors that Meta violated the Tennessee Consumer Protection Act because it hid from the public and parents the harm that Instagram does to children and teenagers, which includes mental health problems and child exploitation.

"Technology can be great," he said in an opening statement, according to Courtroom View Network's livestream of the trial. "But when a company captures the attention of a generation, Tennessee law says that company has to be honest from the start with parents, with teachers, with everybody, about the risks to kids. The evidence will show Meta did not do that."

Tom Cartmell of Wagstaff & Cartmell in Kansas City, Missouri, who is representing the state of Tennessee, outlined a case before jurors that Meta designed Instagram to be addictive despite knowing the harms that could impact adolescent users with developing brains, according to internal surveys and emails at the company. But Meta's executives, particularly

CEO Mark Zuckerberg and Instagram CEO Adam Mosseri, falsely assured the public and parents that the social media site was safe for children, he said.

“We’re not here to shut down Meta. We’re not here to try to shut down Instagram,” Cartmell told jurors, according to Courtroom View Network. “We’re here because we contend Meta should make appropriate changes to Instagram to protect children and be honest and truthful with the public about it.”

Former Tennessee Attorney General Robert Cooper, at Bass Berry & Sims in Nashville, is heading up Meta’s defense along with Kevin Huff, of Kellogg, Hansen, Todd, Figel & Frederick in Washington, D.C. Huff told jurors on Monday that Meta created safety tools and disclosed the safety risks of Instagram for years. He showed jurors Meta’s statements on its website, in a 2012 parent guide and as part of its “transparency center.” Meta also discloses that its safeguards aren’t perfect, he said, acknowledging there are child predators who exploit the platform.

“We are confident, after you hear all the evidence from both sides, you will find Meta designed Instagram to be fun and engaging, not to addict anyone,” he said, according to Courtroom View Network's livestream. “Meta told the truth about Instagram; it didn’t mislead anyone.”

In fact, he said, the National Academy of Sciences found teens considered social media overwhelmingly positive.

The trial is similar to New Mexico Attorney General Raúl Torrez’s case against Meta, during which jurors on March 24 awarded $375 million in civil penalties to the state. A second phase of the trial, in which the state is asking for a $1 billion abatement fund, concluded two months ago, but Santa Fe’s First Judicial District Chief Judge Bryan Biedscheid hasn’t yet ruled.

Another trial, the first in the social media addiction multidistrict litigation in U.S. District Court for the Northern District of California, is set to begin against Meta next month before U.S. District Judge Yvonne Gonzalez Rogers on behalf of 29 states.

The trial also began around the same time that the second bellwether trial on behalf of an individual alleging mental health harms against Meta and other social media sites was due to begin in Los Angeles Superior Court. The first trial in those cases, all in California state courts, ended on March 25 with a $6 million verdict, including $3 million in punitive damages, for a plaintiff known anonymously as K.G.M., or Kaley, against Meta and YouTube, which is owned by Google. R.K.C., the plaintiff in the second trial, against Meta and Snap Inc., which owns Snapchat, settled his case on July 21, less than a week before jury selection.

'Scrolling and Scrolling and Scrolling'

With the use of features like infinite scroll and autoplay, Meta designed Instagram, which it purchased in 2012, to be addictive and targeted teen users, Cartmell said in his opening statement, according to the Courtroom View Network livestream. That's because, the more time that users are on the social media platform, the more ads Meta can sell.
"These features keep children scrolling and scrolling and scrolling for as long as possible," he said. "Meta does not engineer it this way on accident. Meta engineers it this way on purpose."

Meta's top executives did not heed the concerns of its researchers who found multiple harms to children, such as depression, anxiety and suicide.

"Meta makes a decision: Prioritize profits and hide the truth. That's the story that happened, and that's why we're here," he said. "We believe the evidence will show you over the course of many years, Meta has engaged in a deliberate strategy of hiding, downplaying and misleading the public about the dangers to children of Instagram."

Cartmell showed jurors some of the same internal documents at Meta that a jury in Los Angeles Superior Court viewed earlier this year. In 2018, for instance, Meta's documents showed the company knew there were four million people under age 13 on Instagram, despite statements from Zuckerberg in his 2024 testimony before Congress that preteens were not allowed on the social media site.

"We are not claiming in this lawsuit that Meta is responsible to keep all bad actors and sexual predators off Instagram," Cartmell told jurors. "But they have to be honest about it—the risk is there—and they're not."

He downplayed the safety tools that Meta insisted empowered parents and teens to control their social media use, such as Instagram Teen Accounts and the "take a break" feature, which are turned off by default.

The trial will feature some of the same witnesses who testified previously for and against Meta, including former employee-turned-whistleblower Arturo Béjar and Mosseri, head of Instagram.

Huff, Meta's lawyer, urged jurors to pay close attention to the dates of the internal documents the state's lawyers showed them, insisting that Meta's philosophy when it came to Instagram's potential harm, was to find the problems, then fix them. Meta has teams of thousands of former FBI agents and child safety experts who investigate potential social harms, such as videos of suicides or child sex abuse, which it both takes down and reports to law enforcement, he said.

“They showed you the 'find it' part,” he said, “but not the 'fix it' part.”

He also questioned the “extremist positions” of plaintiffs’ experts who likened social media addiction to heroin. And while some people use social media too much, most teenagers don’t have problems using Instagram, he said.

Plus, he added, Meta doesn’t want to addict teens.

“If people have bad experiences on Instagram, then they’re not going to come to Instagram, and Instagram is not going to make money,” he told jurors. “We think the evidence will show Meta wants teens to have a positive experience on Instagram, so they will continue to use it in the long run.”

SEC Approves Nasdaq Rule Raising Bar for Small Companies

law.com/nationallawjournal/2026/07/28/sec-approves-nasdaq-rule-raising-bar-for-small-companies

Smaller companies hoping to remain listed on Nasdaq must maintain a minimum market cap of $5 million or face immediate removal from the exchange, according to a new rule approved by the U.S. Securities and Exchange Commission.

Companies that have a market value of their listed securities below the $5 million threshold for 30 straight days will be delisted without a cure or compliance period that normally applies to other Nasdaq listing deficiencies, the rule states.

Nasdaq said the rule was necessary to protect investors and improve market integrity by removing companies that are too small and financially distressed to merit continued listing. The exchange proposed the rule in January.

The SEC, in its July 22 order approving the rule, largely agreed with Nasdaq's reasoning that companies with small market caps are more prone to fraud and manipulation and can end up being delisted for other problems. According to an SEC analysis of exchange-listed companies from 2006–2025, 65% of companies with a sub-$5 million market value did not recover within 180 days, suggesting most companies did not quickly recover.

"It is reasonable for the exchange to determine to raise its listing standards and list only securities of a higher quality," the SEC stated. "The imprimatur of listing on a particular exchange derives from investors' expectations that the listed issuer meets certain standards set by the exchange and that a listing exchange will use its judgment regarding the level at which to set those standards."

Delisted companies can appeal the ruling to Nasdaq, which could grant an exception to the market cap requirement for up to 180 days.

The rule went into effect July 23.

Harter Secrest & Emery partner Alex McClean said companies have been frustrated with Nasdaq's rollout of the rule, which he said has provided little to no guidance about how it will be implemented.

"There's just a lot of uncertainty right now for implicated companies," McClean added.

Nasdaq declined to comment on the rule change.

McClean said he understands Nasdaq's rationale for setting the threshold but criticized the exchange's rule for "painting with a very broad brush." While many companies with a market cap below $5 million should not be listed, the rule also excludes strong companies with temporary problems, he said.

"The way they crafted this rule doesn't really allow a good company who has a good story that probably should be on Nasdaq to be on Nasdaq," he said. "They didn't create enough flexibility here."

Small companies need to start closely monitoring their market value, said Sheppard partner Nazia Khan, because "you don't want to even come close to that $5 million."

Any company with a market cap less than $15 million needs to start seriously thinking about what it should do to raise its value, McClean added. Companies may need to start exploring options like merging with other companies or increasing the number of shares available to investors to raise stock prices, he said.

Khan said the rule fits into a broader pattern in recent years of Nasdaq tightening listing standards for smaller companies. Last December, Nasdaq secured SEC approval to more quickly delist companies trading below 10 cents. Nasdaq has also placed restrictions on reverse stock splits, where firms increase the stock price by reducing the number of shares outstanding by combining multiple shares into one.

"This rule, however, is significantly different because there's no grace period," Khan said, adding that other exchanges like the New York Stock Exchange could start making similar changes.

"I wouldn't be surprised if we continue to see further tightening of these regulations to ensure that these exchanges are listing the issuers that they think will be successful," she added.

Mealey's Litigation Procedure - Amicus Tells 9th Circuit Altria, Juul Antitrust Class Action Harms Federalism

In Brief

Washington Legal Foundation filed an amicus brief urging the Ninth Circuit to reverse class certification in an antitrust action against Juul Labs and Altria, arguing improper extraterritorial application of California law.

Detailed Summary

The Washington Legal Foundation filed a motion for leave to file an amicus curiae brief in the Ninth Circuit supporting Juul Labs Inc., Altria Group Inc., and former JLI board members Nicholas Pritzker and Riaz Valani in their appeal of a class certification order. The amicus argues the district court improperly certified classes of direct and indirect purchasers bringing antitrust claims under California's Cartwright Act and unfair competition law regarding alleged anticompetitive conduct in the e-cigarette market stemming from Altria's $12.8 billion acquisition of a 35% stake in JLI in December 2018. WLF contends the certification violates federalism principles by applying California law extraterritorially to purchases in 26 other states and the District of Columbia, creating an unprecedented hybrid legal framework combining California liability rules with multiple states' damages rules. The underlying litigation alleges violations of Sections 1, 2, and 3 of the Sherman Act and Section 7 of the Clayton Act.
This summary is generated by AI technology. AI generated content should be reviewed for accuracy.

Body

A nonprofit legal foundation on July 28 filed a motion in the Ninth Circuit U.S. Court of Appeals for leave to file an amicus curiae brief in which it urges the court to reverse a federal judge's order certifying several classes of purchasers bringing antitrust claims against Juul Labs Inc. (JLI), Altria Group Inc. and former JLI board members for allegedly seeking to monopolize the e-cigarette market, writing that the ruling would allow California law to be used as "a roving nationwide antitrust enforcer" (In Re Juul Labs, Inc. Antitrust Litigation, No. 26-2626, 9th Cir.).

(WLF's motion to file amicus brief with brief attached available 04-260811-006M)

Federalism Implicated

"To hold together two classes spanning 27 jurisdictions, the court built - from the antitrust codes of 26 States and the District of Columbia - a regime that exists in none of them: California's liability rules for every class member, welded to a patchwork of 27 separate damages rules. No legislature enacted that law. No State's voters chose it. It is the district court's own creation, concocted for this case and unknown to any sovereign in the Union," the Washington Legal Foundation (WLF) writes in its amicus curiae brief supporting JLI, Altria, and two former JLI board members, Nicholas Pritzker and Riaz Valani.

WLF supports reversal of the U.S. District Court for the Northern District of California's order certifying three antitrust classes bringing claims against the appellants for allegedly harming competition in the e-cigarette market.

WLF says the District Court should be reversed because it certified two classes of "indirect purchaser plaintiffs" (IPPs) who accuse the appellants of violating the California Cartwright Act, Cal. Bus. & Prof. Code 16700 et seq., which prohibits anticompetitive conduct.

"The Cartwright Act does not cross California's border, and the trial court never explained why it should," WLF writes. It says the District Court's order "foists California's enforcement policy onto 26 other jurisdictions" in a manner that violated the ordinary rules for certification of a class action.

"The district court's certification order effectively converts California's Cartwright Act into a roving nationwide antitrust enforcer, imposing California's antitrust policy views on other States. This violates the principles of horizontal federalism that are key to our democratic form of government. Certification here thus stands on a premise that the district court never defended: that California's Cartwright Act governs purchases made outside California, by non-Californians, in transactions with no California connection. It doesn't," WLF asserts.

'Frankenstein-Like Mishmash'

The appellants say in their opening brief filed on July 21 that similar antitrust allegations were brought against them by the Federal Trade Commission. They note that FTC's suit alleging that JLI and Altria's 2018 partial merger was anticompetitive was rejected by an administrative law judge, that the partial merger was later unwound and that FTC then withdrew its suit.

"The district court rewarded those efforts by certifying sweeping, multi-jurisdictional classes of disparate groups of direct and indirect purchasers. In so doing, the court badly distorted class-action law," the appellants write.

They assert that predominance was not satisfied for putative class members spanning 27 jurisdictions, and that the District Court "wrongly concluded that all indirect purchasers could sue under California's Cartwright Act," which it says should not apply extraterritorially in this case.

They also say the District Court, to resolve this choice-of-law issue with the classes it certified, "devised an unprecedented procedure under which California law will govern liability elements of class members' claims while other States' laws will govern damages elements - with the details to be sorted out '[a]fter liability is determined.' . . . That process has no support in any source of law and would result in this case being tried under a Frankenstein-like mishmash of legal frameworks matching no State's actual law."

The appellants also say California law imposes a presumption against extraterritorial application of state consumer protection laws, such as the claim against them for violating California's unfair competition law (UCL), Cal. Bus. & Prof. Code 17200 et seq., unless there is "affirmative evidence that the legislature intended such application."

The appellants further argue that the direct purchaser plaintiffs (DPPs) are not represented by adequate plaintiffs, as they lack proof of common injury.

Therefore, they urge the Ninth Circuit to reverse the class certification ruling.

Certification Challenged

On April 27, 2026, the Ninth Circuit granted the appellants' petition for interlocutory review of the lower court's order certifying multiple classes of plaintiffs bringing antitrust claims against the appellants for allegedly harming competition in the e-cigarette market (2026 U.S. App. LEXIS 12182).

The appellants challenge Judge William H. Orrick's short-form ruling granting certification on Feb. 5, 2026, and his Feb. 26 longer order explaining his reasons for granting class certification.

Judge Orrick certified a class of DPPs defined as "All natural persons and entities in the United States that purchased e-cigarette products directly from Defendant Juul Inc. or any of its subsidiaries or affiliates, from October 5, 2018, to the present."

Judge Orrick also certified state subclasses represented by indirect purchaser plaintiffs (IPPs), comprising all people in certain states who bought JLI products indirectly from JLI, and the second set represented by indirect reseller plaintiffs (IRPs), who bought JLI products indirectly from JLI for resale.

Antitrust Claims

The litigation began with a putative class complaint filed in the District Court on April 7, 2020, on behalf of e-cigarette purchasers, after the FTC filed an administrative complaint against JLI and Altria.

The plaintiffs alleged that they were harmed by Altria's $ 12.8 billion acquisition in December 2018 of a 35% stake in JLI and Altria's subsequent retraction of its own e-cigarette products from the market. They alleged that this constituted anticompetitive conduct that led to supracompetitive pricing of vapor products due to the loss of JLI-Altria competition and competition between Altria and other competitors in the e-cigarette market.

In the IRPs and IPPs' amended complaints filed Sept. 20, 2021, they define the relevant product market as "Closed-System E-Cigarettes" sold in the United States.

The IRPs and IPPs allege that the defendants violated Sections 1 and 3 of the Sherman Act, 15 U.S.C. 1 and 3, by entering into an anticompetitive agreement, Section 2 of the Sherman Act, 15 U.S.C. 2, for monopolization, attempted monopolization and conspiracy to monopolize and Section 7 of the Clayton Act, 15 U.S.C. 18, by making an acquisition to lessen competition in the relevant market.

Under California state law, they accuse the defendants of violating the UCL and the Cartwright Act. They also brought claims for violation of consumer protection laws from the states of Massachusetts, New York, Florida, Hawaii and Rhode Island.

The DPPs in their third amended complaint filed Sept. 7, 2023, bring claims for violation of Sherman Act Section 1 and Clayton Act Section 7 and seek declaratory and injunctive relief.

While the claims were pending, on July 3, 2023, the FTC dismissed its complaint against Altria and JLI after Altria voluntarily unwound its investment in JLI.

Counsel

The DPPs are represented by Joseph R. Saveri of Joseph Saveri Law Firm Inc. in San Francisco.

The IPPs are represented by Robin F. Zwerling of Zwerling, Schachter & Zwerling LLP in New York and Betsy C. Manifold of Wolf Haldenstein Adler Freeman & Herz LLP in San Diego, Calif.

The IRPs are represented by Robert N. Kaplan and Elana Katcher of Kaplan Fox & Kilsheimer LLP in New York; and C. Andrew Dirksen in Boston and Solomon B. Cera and

Pamela A. Markert in San Francisco, all of Cera LLP.

Altria is represented by Beth A. Wilkinson, James M. Rosenthal, Rakesh Kilaru, Daniel Epps, David Friedman, Jenna P. Swarbrick and Guus Duindam of Wilkinson Stekloff LLP in Washington, D.C.

JLI is represented by Lisa Blatt, Charles L. McCloud and Edward Pickup of Williams & Connolly LLP in Washington, Jeremy Barber of Wilkinson Stekloff LLP in New York, and David I. Gelfand, Jeremy J. Calsyn and Nowell D. Bamberger of Cleary Gottlieb Steen & Hamilton LLP in Washington.

Pritzker and Valani are represented by Mark C. Hansen, Michael J. Guzman, David L. Schwarz and Andrew Skaras of Kellogg Hansen Todd Figel & Frederick PLLC in Washington.

Mealey's PI/Product Liability - J&J Wants Time To Object After Talc Special Master Allows Some Expert Opinion

In Brief

Johnson & Johnson requests additional time to object to special master's recommendation allowing portions of asbestos expert William Longo's testimony in federal talc MDL.

Detailed Summary

Johnson & Johnson entities requested a federal court in New Jersey extend the deadline for objecting to Special Master Freda L. Wolfson's recommendation regarding asbestos expert William Longo's testimony in the multidistrict litigation concerning talcum powder products. The Plaintiffs' Steering Committee did not oppose the extension but requested it apply to all parties. Special Master Wolfson's July 10 report recommended denying defendants' motion to exclude portions of Longo's testimony under Daubert, though she recommended excluding his polarized light microscopy chrysotile testing method and resulting opinions, finding the methodology lacks traditional indicia of reliability. The MDL involves thousands of consumers alleging perineal use of Johnson & Johnson talcum powder products causes ovarian cancer due to asbestos and heavy metal contamination. The litigation has been stayed multiple times due to bankruptcy proceedings involving LTL Management LLC. Johnson & Johnson requested a 14-day extension to August 7 to file objections to the special master's report addressing Longo's PLM testing methodology.
This summary is generated by AI technology. AI generated content should be reviewed for accuracy.

Body

Johnson & Johnson entities asked a federal court in New Jersey for additional time to object to a special master's recommendation allowing some of asbestos expert William Longo's testimony in the federal multidistrict litigation. The Plaintiffs' Steering Committee (PSC) said in a subsequent filing that it didn't oppose the extension but asked that it be applied to all parties (In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Litigation, No. 16-2738, D. N.J.).

(J&J's letter brief requesting additional time available 01-260729-014B

PSC's response available 01-260729-015B)

The motion was filed after Special Master Freda L. Wolfson recommended denying the defendants' request to exclude portions of Longo's testimony under Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), in a July 10 report and recommendation. "Applying the rigorous gatekeeping requirements mandated by Rule 702 and Daubert, and after carefully reviewing the parties' briefs, Dr. Longo's reports, deposition transcripts, presentations at the Daubert evidentiary hearing and oral argument, the relevant scientific literature, and the other materials on which the parties rely, I conclude that Plaintiffs have failed to establish, by a preponderance of the evidence, that Dr. Longo's PLM-chrysotile methodology and resulting testing opinions are sufficiently reliable to be admitted at trial," Special Master Wolfson said.

Thousands of consumers originally sued Johnson & Johnson, Imerys Talc America Inc., f/k/a Luzenac America Inc., f/k/a Rio Tinto Minerals Inc., and the Personal Care Products Council (PCPC) claiming that perineal use of Johnson & Johnson consumer talcum powder products causes ovarian cancer. The theory of causation focuses on the presence of asbestos and heavy metals that allegedly contaminate the talc. The plaintiffs claim that testing as early as 1971 showed a link between perineal use of Johnson & Johnson talcum powder and ovarian cancer. The cases were eventually consolidated in the MDL in the U.S. District Court for the District of New Jersey in 2016.

Both sides proffered experts on causation and testing. Both sides also moved to exclude the expert testimony of the other side. All told, the parties named 35 experts.

Delays

The District Court held a Daubert hearing. The parties selected eight representative experts. The plaintiffs' experts are Ghassan Saed, William Longo, Arch Carson, Anne McTiernan and Daniel Clarke-Pearson. The defendants produced Benjamin Neel, Gregory Diette and Cheryl Saenz.

In an April 2020 ruling, Special Master Wolfson largely admitted the expert testimony. The litigation was then stayed after J&J transferred its asbestos-talc litigation to a new entity, LTL Management LLC, and placed that company in bankruptcy. The original bankruptcy was dismissed, and the dismissal was upheld on appeal. A second bankruptcy by LTL was also dismissed. With the second dismissal under appeal, the stay of the MDL was lifted and the case reopened. The court issued an order allowing the refiling of the Rule 702 and Daubert motions, citing changes to Rule 702 that took effect on Dec. 1, 2023.

J&J then attempted a third bankruptcy that also failed, and the MDL resumed activities.

Longo

Then, on Jan. 20, 2026, Special Master Wolfson issued a report and recommendation resolving most of the challenges but deferring ruling on certain issues.

In a subsequent July 10 report and recommendation, Special Master Wolfson recommended granting in part the defendants' motion to exclude materials scientist William Longo, microbiologist Mark Rigler, geologist Mark Krekeler and geologist Robert Cook. Special Master Wolfson recommended denying the plaintiffs' motion as to geologist Matthew Sanchez, geologist Ann Wylie and optical mineralogist Shu-Chun Su.

(Special Master Wolfson's July 10 report and recommendation available 01-260729-013Z)

Special Master Wolfson recommended excluding Longo's polarized light microscopy chrysotile testing method and resulting opinions. Longo claims that he and his lab identified asbestos in "nearly all" of the more than 40 samples he tested through PLM-chrysotile testing. But his report lacks the full methodology used for each analysis. This complicates the review process. And while Longo believes that his method is scientifically sound, he acknowledges that it was never adopted by the talc or cosmetics industry, Special Master Wolfson said.

And while Longo applies two longstanding and generally accepted techniques, he admits that he modifies these techniques in ways that allow him to identify trace amounts of chrysotile, Special Master Wolfson said. "Dr. Longo's PLM-chrysotile methodology lacks nearly all of the traditional indicia of reliability identified in Daubert and its progeny. . . . These deficiencies are particularly significant because the general scientific consensus - a view previously shared by Dr. Longo before he changed his position - is that PLM is not well suited for detecting chrysotile at trace levels in cosmetic talc products," Special Master Wolfson said.

Experts

She said she would recommend denying the motion as to Longo and as to Rigler's TEM methodology, as well as Cook's and Krekeler's opinions on asbestos in source mines and opinions regarding the toxicity of asbestos and talc for the same reasons explained in the Jan. 20 recommendation.

J&J asked the court for a 14-day extension to the deadline for filing objections. Special Master Wolfson's Jan. 20 report addressed only half of Longo's testing because it didn't include Longo's PLM testing. Her newest report and recommendation addresses the PLM testing and completes her ruling. The deadline for any objections should be extended to Aug. 7, J&J says.

The PSC said it did not object to the 14-day extension but requested that the extension apply to all parties.

Bloomberg Law

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Novo Nordisk Investors Advance Weight Loss Drug Trial Suit (1)

July 29, 2026, 9:43 AM PDT; Updated: July 29, 2026, 11:04 AM PDT

Summary by Bloomberg AI AI Generated

- Novo Nordisk A/S must defend against investor allegations that it misrepresented the tolerability of its potential obesity treatment CagriSema given a clinical study's dosing protocols.
- Investors adequately alleged that executive Martin Holst Lange made misstatements about the combined cagrilintide and semaglutide drugs' expected tolerability, and that the outcome of the trial was key for Novo's business.
- A US District Court judge partially dismissed the proposed class action, but left room for refiling claims, and Novo Nordisk said it believes the allegations against it are meritless and intends to vigorously defend against these claims.

Novo Nordisk A/S must defend against investor allegations that the pharmaceutical giant misrepresented its potential obesity treatment CagriSema's tolerability given a clinical study's dosing protocols.

The investors adequately alleged the level of intent or recklessness for securities fraud claims by executive Martin Holst Lange, who was frequently presented as an expert on the clinical trial, Judge Robert Kirsch said Tuesday. They sufficiently pleaded that, while Lange made alleged misstatements about the combined cagrilintide and semaglutide drugs' expected tolerability, the outcome of the trial was key for Novo's business and therefore he had knowledge of misrepresentations, according to his unpublished opinion.

"Plaintiffs adequately allege that, as part of its billion-dollar GLP-1 arms race with Eli Lilly, Novo needed to produce a weight loss and obesity drug that was effective, safe, and tolerable," the US District Court for the District of New Jersey judge said.

Novo affirmed it would stick to its clinical trial status quo for its REDEFINE 1 study of CagriSema, the investor suit said. But in reality, study participants were allowed to control their own CagriSema dosing.

Investors sufficiently alleged a trio of Lange's statements to be misleading for excluding that REDEFINE 1 had allowed for flexible dosing from the outset to mitigate tolerability issues from prior studies, Kirsch said.

"Conflating these two forms of dose modification—one resulting from absolute intolerance to a drug and the other from more open-ended flexibility—whitewashes, as Plaintiffs allege here, serious questions about drug tolerability," Kirsch said.

Still, the investors failed to state a securities claim for most of the defendants' alleged misstatements, including statements about a fixed ratio of cagrilintide and semaglutide and the potential for weight loss results, the judge said while partially dismissing the proposed class action.

Kirsch also released former CEO Lars Fruergaard Jørgensen from the suit, given he didn't make any of the adequately alleged misstatements. Kirsch's dismissal Tuesday left room for refiling claims.

"Novo Nordisk believes that the allegations against it are meritless, and we intend to vigorously defend against these claims," a spokesperson said in an emailed statement.

Stock Drop

Novo said in December 2024 that after the 68-week trial, only 57.3% of all participants were on the highest dose of the combined cagrilintide and semaglutide — indicating that the rest of the participants either withdrew or didn't maintain the maintenance dose, Kirsch said. The announcement's weight loss achieved fell short of expectations, with subsequent reports and analysis focusing on "weak" results, issues of patient tolerance, and issues with the "flexible trial protocol."

Novo's American depositary share price dropped almost 18% the day it the headline results from the third phase trial, Dec. 20 — then its biggest one-day nosedive since 2002, according to data compiled by Bloomberg.

Robbins Geller Rudman & Dowd LLP, lead counsel for pension plans leading the case, didn't immediately respond to an email seeking comment. Paul, Weiss, Rifkind, Wharton & Garrison LLP and Gibbons PC represent Novo Nordisk.

The case is In re Novo Nordisk A/S Sec. Litig. , D.N.J., No. 3:25-cv-00713, unpublished 7/28/26 .

(Updates with Novo Nordisk comment in ninth paragraph.)

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Securities

PubMatic Sheds Investor Suit Over Ad-Spending Hit to Revenue

July 28, 2026, 11:43 AM PDT

PubMatic Inc. routed investor allegations claiming the ad-tech company concealed that one of its top partners was shifting a significant number of clients to another platform that evaluated advertising inventory differently.

The investor's complaint doesn't adequately identify which statements were allegedly misleading, Judge Jacqueline Scott Corley said Monday, dismissing the proposed class action with the ability to replead.

Nor did the investor sufficiently allege the level of intent or recklessness by PubMatic CEO Rajeev Goel and Chief Financial Officer Steve Pantelick for securities fraud claims, the US District Court for the Northern District of California judge said.

The investor was relying in part on a former PubMatic employee serving as a confidential witness, but the complaint doesn't allege the witness was present for discussions between PubMatic management and its partner, The Trade Desk Inc., or at global meetings that aired demand-side platform problems, Corley said. Thus, those allegations fell short for pleading standards for securities fraud claims. And allegations about concerns the employee raised at weekly product management meetings were mostly vague hearsay, she said.

Demand-side platforms such as TTD enable advertisers to purchase digital ad inventory. PubMatic's sell-side platform allows publishers to automate the sale of their ad inventory to advertisers and the demand-side platforms.

The proposed class would include those who got PubMatic securities from Feb. 27, 2025, to Aug. 11, 2025, when PubMatic released financial results noting its third quarter outlook for that year incorporated a reduction in ad spending from one of its top demand-side platform partners. Its share price fell more than 21% to close at $8.34 the next day.

TTD accounted for a significant portion of transactions on the company's platform, and in July 2025, it unexpectedly shifted many of its clients to a competitor that evaluated ad inventory differently, PubMatic said.

PubMatic long knew about its partner's issues, including prior conversations that demonstrated TTD wasn't satisfied with PubMatic and would try curtailing its relationship, the investor leading the case alleged.

The investor, Sidney Hsu, can replead by Sept. 4.

Glancy Prongay Wolke & Rotter LLP represents Hsu. Gibson, Dunn & Crutcher LLP represents PubMatic and the executives. Neither of these firms nor PubMatic immediately responded to emails seeking comment.

The case is Hsu v. PubMatic, Inc. , N.D. Cal., No. 3:25-cv-07067, 7/27/26 .

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Can J&J finally put the talc litigation behind it?

reuters.com/business/healthcare-pharmaceuticals/can-jj-finally-put-talc-litigation-behind-it-2026-07-29

NEW YORK, July 29 (Reuters) - After years of failed attempts to resolve thousands of lawsuits alleging that its talc products caused cancer, Johnson & Johnson (JNJ.N), opens new tab says it has reached a settlement, worth at least $5.5 billion, that could finally help bring an end to litigation that has dogged the company for over a decade.

WHAT IS THE TALC LITIGATION ABOUT?

Tens of thousands of people have sued J&J in federal and state courts, alleging that its talc-based baby powder and other products caused ovarian cancer.
J&J has long denied the allegations, arguing that decades of scientific testing show its talc products are safe and do not cause cancer.
Results at trial have been mixed: J&J won several cases, but the litigation has also produced billions of dollars in verdicts, settlements and legal costs over more than a decade.

WHAT MUST HAPPEN FOR THE SETTLEMENT TO TAKE EFFECT?

J&J says the settlement will move forward only if the deal is accepted by enough people to cover 95% of the estimated 76,000 ovarian cancer claims. That could happen in a few months, according to a plaintiffs' lawyer who supports the deal.

HOW HAS J&J TRIED TO RESOLVE THE LITIGATION IN THE PAST?

J&J previously tried three times to end the talc litigation through bankruptcy. In each case, it created a new subsidiary, transferred talc liabilities to that company and then placed it into bankruptcy proceedings. Each bankruptcy was tossed out of court.
The bankruptcies were fiercely opposed by some plaintiffs' lawyers, who argued that a financially healthy company such as J&J should not be able to use bankruptcy protections meant for businesses in financial distress.
A bankruptcy settlement, if it had been approved, would have bound people who did not agree to its terms and claims from people who develop cancer in the future.

HOW IS THIS SETTLEMENT DIFFERENT FROM THE PAST ATTEMPTS?

The new settlement does not attempt to bind unwilling participants or people who develop cancer in the future. It is a voluntary process that does not rely on a bankruptcy court's approval.

It will pay claims much faster than the bankruptcy would have. Plaintiffs' lawyers said the new deal will pay claims in full in less than two years, whereas the bankruptcy settlement would have paid out claims over 25 years.

IS THE SETTLEMENT LIKELY TO SUCCEED?

J&J and leading plaintiffs' law firms - including firms that represent large numbers of plaintiffs with ovarian cancer claims and those that negotiated the deal - have expressed confidence that this deal will get across the finish line.

Some plaintiffs' law firms said on Tuesday they are still reviewing the deal and deciding whether to recommend it to their clients.

J&J said plaintiffs are more likely to take the deal after a recent court ruling by a judge overseeing the federal talc cases. That ruling cast doubt on plaintiffs' ability to prove their cases and highlighted tightening standards for the scientific evidence that can be admitted in court.

IF THE DEAL SUCCEEDS, WHAT LEGAL RISK IS J&J LEFT WITH?

The deal leaves J&J open to litigation from people who may develop ovarian cancer and who decide to sue J&J in the future. Ovarian cancer can have a latency period of decades, representing the time gap between when a person is exposed to a harmful substance and when cancer symptoms start or the disease is detected.

J&J previously said that bankruptcy was the only way to resolve the cases, because the company needed certainty about the future claims as well as the current claims.

Novo Nordisk must face US shareholder lawsuit over CagriSema weight loss trial | Business Information & News | FE

July 28 (Reuters) - A U.S. judge said on Tuesday that Novo Nordisk must face part of a lawsuit accusing it of defrauding shareholders about a clinical trial for its weight loss and diabetes treatment CagriSema.

Novo Nordisk's American depositary receipts fell 17.8% on December 20, 2024, after the Danish drugmaker said CagriSema helped reduce weight by 20.4%, below its 25% target and what investors called the "proven" 22.5% benchmark for Eli Lilly's obesity drug Zepbound.

Investors also blamed the decline on Novo Nordisk's revelation that it changed its usual protocols by letting participants control their own CagriSema dosages, with just 57% receiving the highest dose. They said this raised concern that some people might have difficulty tolerating the treatment.

U.S. District Judge Robert Kirsch in Trenton, New Jersey, said investors sufficiently pleaded that Martin Holst Lange, then Novo Nordisk's executive vice president of development and now its chief scientific officer, intended to defraud them about CagriSema's tolerability by falsely implying that dosing protocols were the same as in previous clinical trials.

In a 56-page decision, Kirsch dismissed claims over many other alleged misstatements and omissions, including references to "fixed doses" of CagriSema.

He also said Lange's projection of "unsurpassed" weight loss of at least 25% from CagriSema was "aspirational" and no basis for a fraud claim. The judge did not rule on the merits of the investors' surviving claims.

Novo Nordisk had no immediate comment. Lawyers for the ADR investors did not immediately respond to requests for comment. Novo Nordisk's U.S. headquarters are in Plainsboro, New Jersey.

BATTLE OVER ANTI-OBESITY DRUGS

The 68-week CagriSema clinical trial covered about 3,400 adults who had body mass indexes of at least 30, or at least 27 plus at least one weight-related condition such as hypertension or cardiovascular disease.

CagriSema combined semaglutide, the active ingredient in Novo Nordisk's Wegovy, with the molecule cagrilintide, which mimics the pancreatic hormone amylin.

Investors and analysts hoped the trial, known as Redefine 1, would show Novo Nordisk had a strong pipeline of anti-obesity drugs to follow Wegovy.

That market remains highly competitive.

Novo Nordisk sued Eli Lilly on July 21, accusing it of falsely advertising Zepbound and its diabetes treatment Mounjaro by comparing higher doses of those products with lower doses of Novo Nordisk's Wegovy and Ozempic.

A federal judge in Trenton will consider Novo Nordisk's request for a preliminary injunction to halt Eli Lilly's nationwide ads at an August 27 hearing.

SECURITIES FRAUD—BABY PRODUCTS—N.D. ILL.: ABBOTT DID NOT COMMIT SECURITIES FRAUD OVER TAINTED BABY FORMULA | Secondary Sources | National

Mismanaging a manufacturing plant isn't securities fraud.

A complaint over Abbott Laboratories' handling of an infant-formula recall identified a few actionable statements, but it failed to raise a strong inference of scienter. The complaint alleged what the defendants *should have known* about a deadly bacterial contamination but failed to establish what they actually knew. Furthermore, while the complaint talked a lot about how poorly the manufacturing plant was managed, “not everything is securities fraud” (*Pembroke Pines Firefighters & Police Officers Pension Fund v. Abbott Laboratories*, No. 22-cv-04661 (N.D. Ill. July 24, 2026)).

The putative class action covers the period from February 19, 2021, to October 19, 2022, during which time bacterial contamination at Abbott's massive formula manufacturing plant in Sturgis, Michigan, came to light and became a tragedy and scandal. During that per sly.

But the statements touting the company's internal audit procedures more granularly could be material, as could a statement that Abbott had “well-established systems for ensuring that conduct at every level of the business conforms to our Global Infant Formula Marketing Policy, as well as the laws of countries in which we operate.”

Investors also identified two statements about Abbott's manufacturing processes and product testing, respectively, that were arguably material. Abbott's statements about its clean facilities were immaterial as a matter of law.

Falsity. The court next examined whether the challenged statements were false. It was not false or misleading to characterize the recall as “proactive” and “voluntary,” and Abbott had no duty to disclose preliminary investigations. As for whether bacteria at the Sturgis plant caused the sickness in children, government regulators' hesitation to give Abbott a pass wasn't enough to render the statement false.

However, while a statement about where the bacteria were found was not literally false, it was misleading. Abbott disclosed having found bacteria in “non-product contact areas,” which at least one investor took to mean the bacteria weren't near the formula. In fact, bacteria were on the cover of a “scoop hopper,” which holds the formula scoops that go in formula cans.

The court analogized: “Imagine if you spotted a cockroach sitting on top of an open bag of Doritos on your kitchen counter during a barbecue. And then, imagine if you told the dinner guests that you spotted a cockroach, but didn't see it touching the food.”

Opinions. The complaint also challenged opinion statements. The CEO's optimistic statements at a healthcare conference were far from actionable; there was no allegation that the CEO didn't hold those opinions or that they contained untrue statements. However, a representation in Abbott's annual reports that “Abbott's facilities are deemed suitable and provide adequate productive capacity” was a closer case. The court could not say as a matter of law that this language was mere opinion, and it wasn't couched in prefatory language marking it as such.

Regulation S-K. Finally, Abbott did not state half-truths in its disclosures under Items 303, 105, and 307 of Reg S-K. Abbott had no obligation to disclose that the FDA had issued interim feedback via Form 483 reports, which are “more akin to a question mark than an exclamation point.” The complaint also failed to put the lie to Abbott's statements about the effectiveness of its disclosure controls. In the Seventh Circuit, a plaintiff cannot simply argue that controls must have been weak because fraud occurred.

Conduct. The court next turned to the conduct claim under Rule 10b-5(a) and Rule 10b-5(c). Here, the plaintiffs alleged that Abbott deceived the FDA and others by running the Sturgis plant poorly and concealing that fact. But the complaint failed to connect the alleged misconduct to the purchase or sale of a security. “The acts have nothing to do with providing misinformation to investors, or misleading the SEC, or manipulating financial data, or anything along those lines,” the court observed.

“If any bad behavior that affects a company's bottom line is securities fraud, then everything is securities fraud,” the court wrote. “But not everything is securities fraud.”

The plaintiffs' theory of reliance was also too remote to support liability, and the complaint lacked specific allegations about any individual defendant, instead making vague, nondescript, and conclusory allegations against the defendants as a unit.

Scienter. The complaint's propensity to lump all individual defendants together also doomed its scienter chances. Even following the complaint's lead of looking at scienter in terms of topic rather than individual, the court did not see a strong inference. The complaint relied heavily on confidential witnesses, whose statements can be considered but bear little weight. The plaintiffs did not connect the dots to persuade the court that the sources had the personal knowledge required to credit their allegations.

The complaint also contained many “would-haves” that didn't show actual knowledge. The fact that defendants *could* look at reports did not show that they *had* looked at reports, for example. The core operations theory is a way of inferring that a company's officers knew of major issues, but there is a difference between knowing about a problem and knowing that a statement is false or misleading.

Because the plaintiffs failed to plead scienter for the individual defendants, they could not plead corporate scienter in the most straightforward way. And this wasn't a case of a corporation making a dramatic statement that couldn't be attributed to any individual. “In sum, the complaint doesn't get over the scienter hump for the Individual Defendants. So, it doesn't get over the hump for the company, either.”

Leave to amend. The court said it was hard to imagine that the plaintiffs left anything out of an over-200-page complaint that would make a difference, but it gave the plaintiffs three weeks to move to file a second amended complaint.

The case is No. 22-cv-04661.

Live Nation, DOJ Say States Have Enough Discovery Into Deal

law360.com/articles/2506035

(July 27, 2026, 4:15 PM EDT)-- The U.S. Department of Justice has joined with Live Nation to resist a discovery request by a bipartisan group of state attorneys general seeking more information about a settlement the federal government reached with the company in the middle of an antitrust trial.

Live Nation and the Justice Department argued in separate letters to a New York federal judge Friday that the request for discovery by the attorneys general was too broad, too vague and beyond the scope of previous settlement reviews.

"Discovery related to the process ... including offers that were never accepted, would be intrusive, burdensome, and irrelevant," **wrote** Stanley E. Woodward, associate attorney general, in his letter to U.S. District Judge Arun Subramanian.

Live Nation echoed that argument in its **letter**, saying the discovery requests are unprecedented for a Tunney Act review of a settlement agreement. Under the Tunney Act, courts have reviewed settlements for their implications for the public interest. Live Nation says the court already has what it needs to determine the public interest with the DOJ after the judge presided over the underlying trial.

"After a six-week jury trial with the ... plaintiff states and its consideration of post-trial motions, this court is already well-equipped to evaluate how the proposed final judgment furthers the public interest," the company said.

The attorneys general are part of a coalition of state and federal plaintiffs who filed an antitrust lawsuit against Live Nation over accusations of monopolizing ticketing services for large music venues. A week into the jury trial earlier this year, the DOJ reached a settlement with Live Nation that would allow the company to retain ownership of Ticketmaster, despite the online ticketing giant's central role in claims that Live Nation coerced performers into using its promotion services exclusively.

The settlement also calls for Live Nation to offer a standalone version of its ticketing technology system that online ticketing rivals like SeatGeek and StubHub can use. The deal also requires Live Nation to divest exclusive long-term booking agreements for 13 amphitheaters and includes other restrictions on its contracting practices.

Six state attorneys general joined the DOJ on the deal, while the remaining plaintiffs continued the trial, which resulted in a federal jury finding Live Nation liable for anticompetitive practices. The litigation has entered the remedies phase, where the states are seeking to force the sale of Ticketmaster.

The DOJ is seeking court approval for the settlement, which also directs Live Nation to set aside a $280 million fund to address damages from the states.

Representatives from the parties could not be reached for comment Monday.

The federal government is represented by Andrew L. Kline and David M. Teslicko of the DOJ's Antitrust Division.

The states and Washington, D.C., are represented by their respective attorneys general, and by Jeffrey L. Kessler, Eva Cole, Johanna Rae Hudgens, Jeanifer Parsigian and Joshua Hafenbrack of Winston Taylor.

Live Nation and Ticketmaster are represented by Alfred Pfeiffer, David Marriott, Tim O'Mara, Jennifer L. Giordano, Andrew Gass, Kelly Fayne, Lindsey S. Champlin and Robin L. Gushman of Latham & Watkins LLP, and Lauren A. Moskowitz, Jesse M. Weiss and Nicole M. Peles of Cravath Swaine & Moore LLP.

The case is U.S. et al. v. Live Nation et al., case number 1:24-cv-03973, in the U.S. District Court for the Southern District of New York.

Mass. Judge Says Roundup Suit May Survive Justices' Ruling

law360.com/articles/2507356/mass-judge-says-roundup-suit-may-survive-justices-ruling

(July 29, 2026, 2:52 PM EDT)-- A suit against Monsanto over the alleged cancer risks of the weedkiller Roundup may still be heading for trial after a Massachusetts federal judge said Wednesday that a U.S. Supreme Court ruling barring certain claims against the company doesn't necessarily doom the case.

During a hearing, U.S. District Judge Margaret Guzman said she agreed with plaintiffs Joel and Rachel Rubin, who argued that the high court's **7-2 ruling** that failure-to-warn claims in the thousands of Roundup cases nationwide are barred by federal law is "relatively limited" and based solely on the product's labeling.

Coupled with a proposed $7.25 billion settlement, the Bayer AG unit has said the justices' decision in Durnell v. Monsanto could provide an offramp for the company after years of massive litigation.

But Judge Guzman said that, while the Federal Insecticide, Fungicide and Rodenticide Act proved to be a showstopper in Durnell, other alleged violations of Massachusetts law could be in play.

"I believe that Durnell left open other state law claims, such as the other types of product defect and consumer claims that are not based on warning theories," she told the attorneys, "and possibly a non-label-based failure to warn claim that rests on the allegation that Monsanto could have warned outside the product labeling."

Judge Guzman gave the Rubins until Aug. 28 to amend their complaint in light of the Durnell ruling and "designate additional expert testimony" with the intention of reopening summary judgment proceedings.

Arguing for Monsanto, Daniel Auten of Covington & Burling LLP pushed back on the notion that the Rubins should be permitted to file a new complaint.

"We don't think it would be proper to allow plaintiffs to introduce an entirely new theory of the case, merely to survive a Supreme Court ruling," Auten said, adding that, when it comes to the scope of the Durnell ruling, "obviously we have a different view."

The case is slated to go to trial in early January, though Judge Guzman said it is not guaranteed that a jury will ultimately decide the claims.

"This is an opportunity for the plaintiffs; it is not a foregone conclusion that it will be a successful amendment," Judge Guzman said. "It is up to the parties to vigorously prosecute and defend the case."

Judge Guzman also told the lawyers that she would not allow the Rubins to seek punitive damages because the case will play out under Massachusetts law, which does not permit such damages in this instance. The plaintiffs had sought to apply Missouri law, which would have put punitive damages on the table. The judge said a written ruling denying the motion would be forthcoming.

The attorneys told Judge Guzman that there are several other Roundup cases pending in Massachusetts, including two scheduled for trial in November. Judge Guzman said those trials may affect how the one on her docket ultimately plays out.

Also looming is a case in the Supreme Judicial Court, the state's top appellate panel, over whether state law claims are preempted by federal law. That case was stayed pending the outcome of Durnell at the high court.

Another Monsanto lawyer, Brandon Arber of Shook Hardy & Bacon LLP, said that he is not aware of any Roundup trials that have commenced following the Supreme Court's ruling in late June.

"They are in sort of various stages of addressing the impact of Durnell," Arber said. "That's where we are on a more global level."

Tens of thousands of cases were put on hold while litigants awaited the Durnell decision. While Bayer has eyed the case and the global settlement as a way to **wind down the litigation**, some plaintiffs' attorneys have argued that many potential claims remain and that the Durnell decision might even streamline the cases.

Monsanto began facing lawsuits claiming that Roundup causes non-Hodgkin lymphoma in 2015 and has since settled more than 100,000 cases and faced numerous big-dollar jury verdicts. A 2015 review by the World Health Organization's cancer agency, the International Agency for Research on Cancer, said Roundup's active ingredient glyphosate was "probably carcinogenic to humans," which set off an avalanche of lawsuits.

The company has already paid several billion dollars related to Roundup litigation, and an estimated 65,000 cases remained as of this past spring.

In the Durnell case, the Supreme Court found that the U.S. Environmental Protection Agency has come to the same conclusion on multiple occasions that glyphosate is not likely to cause cancer, and thus has not required a cancer warning on the best-selling weedkiller's label.

Joel and Rachel Rubin first sued Monsanto in 2020. Joel Rubin said in his complaint that he had been working with Roundup for more than a decade before he was diagnosed with non-Hodgkin lymphoma in 2019.

The Rubins are represented by T. Matthew Leckman of Leckman Law LLC.

Monsanto is represented by Brandon L. Arber of Shook Hardy & Bacon LLP and Daniel Auten of Covington & Burling LLP.

The case is Rubin et al. v. Monsanto Company, case number 4:26-cv-40079, in the U.S. District Court for the District of Massachusetts.

Amicus Briefs Back Decertification In Juul, Altria Antitrust Suit

law360.com/articles/2506695/amicus-briefs-back-decertification-in-juul-altria-antitrust-suit

(July 29, 2026, 2:45 PM EDT)-- The U.S. Chamber of Commerce, 14 states led by Iowa, and legal interest groups are urging the Ninth Circuit to throw out class certification in antitrust litigation against Altria and Juul, joining the companies in arguing that the trial court misapplied California law to apply to other states.

The companies are challenging U.S. District Judge William H. Orrick's February order **certifying** several classes of buyers in litigation that **targets** the tobacco giant Altria's 2018 $12.8 billion investment in the e-cigarette maker Juul for a 35% stake, which the buyers allege induced Altria to exit the e-cigarette market by shuttering its Nu Mark division.

In four briefs filed on Tuesday, the **Chamber**, the **states**, the **Washington Legal Foundation** and the **Goldwater Institute** took aim at the district court's certification of classes for claims under California's Cartwright Act, arguing that the act doesn't reach across borders.

"A purchase by an Iowan in Iowa is an Iowa transaction," the WLF said in its brief. "California has no more business setting the antitrust rule for that sale than Iowa has setting the rule for a sale in Sacramento."

By creating a procedure under which the Cartwright Act would decide liability and individual states' laws would decide damages, the amicus briefs argued that the trial court judge invented a new, hybrid body of law that isn't authorized under the law or the Constitution, as no legislator has enacted such a hybrid scheme.

The WLF further argued that California's own choice of law principles forbid such a "shortcut," as it requires that the court examine and apply a jurisdiction's law "as a whole."

And with many states offering double or treble damages in antitrust law, this scheme brings with it the prospect of stacked damages, the WLF argued, hitting Juul and Altria with penalties far beyond what any of the states may have intended with their laws.

"WLF's brief asks the Ninth Circuit to reverse, because judges are supposed to apply the law as written, not build a new one when the existing laws don't fit the case," Cory L. Andrews of WLF said Wednesday. "No legislature in America ever enacted the Frankenstein law this trial court used to certify these classes — the judge assembled it himself, combining California's liability rules with pieces of laws from 26 other jurisdictions to hold a sprawling nationwide

case together. If courts can rewrite the rules just to make massive class actions work, no business — and ultimately no citizen — can know what law actually governs them."

Iowa and the other states additionally argued that the certification displaces their sovereign policy choices about how to police and punish antitrust conduct, and that the Constitution deliberately limits states' ability to project their laws across state borders.

The Ninth Circuit certified the interlocutory review **in April**. Last week, Altria and Juul **briefed the court**, arguing that the plaintiffs brought "copycat suits" following a Federal Trade Commission case that was abandoned after Altria **unwound its investment**.

The companies also argued that the named plaintiffs were atypical of the classes they sought to represent, in addition to arguments that the Cartwright Act could not extend past California to cover plaintiffs from all the different jurisdictions involved in the case.

The Chamber added in its amicus brief that in certifying the class, the district court failed to properly consider whether common questions predominated the litigation, only going on "faith" that juries could parse out how the state laws apply to the various plaintiffs and classes.

The court was required to determine whether the differences in law among the 27 jurisdictions involved in the case create individual questions that predominate over collective ones, the Chamber wrote, and its failure to do so on its own is enough to warrant reversal.

In its brief, Goldwater also argued that the Cartwright Act is out of step with the consumer welfare standard that federal antitrust law is based on, and that several of the jurisdictions involved in the case also use that standard.

According to the brief, California courts have rejected that standard and found that its antitrust law is based on protecting small, independent retailers against larger competitors — not protecting consumer welfare.

As such, Goldwater wrote, the court cannot justify extending California law nationwide, given its direct conflict with the standards of federal antitrust law and those of other states included within the certified class.

An attorney for Juul Labs declined to comment Wednesday. Representatives for the other parties could not immediately be reached for comment Wednesday.

The direct purchaser plaintiffs are represented by Joseph R. Saveri, Ronnie S. Spiegel, Diane S. Rice, David H. Seidel, Itak K. Moradi, Christopher J. Hydal and Trevor E.D. Young of the Saveri Law Firm LLP, and John D. Radice of Radice Law Firm PC.

The indirect purchaser plaintiffs and the indirect reseller plaintiffs are represented by Robert N. Kaplan and Elana Katcher of Kaplan Fox & Kilsheimer LLP, and C. Andrew Dirksen and Solomon B. Cera of Cera LLP. The indirect purchaser plaintiffs are also represented by Robin F. Zwerling of Zwerling Schachter & Zwerling LLP.

Juul Labs is represented by David I. Gelfand, Jeremy J. Calsyn and Nowell D. Bamberger of Cleary Gottlieb Steen & Hamilton LLP.

Altria is represented by Beth A. Wilkinson, James M. Rosenthal, Rakesh Kilaru, Daniel Epps, David Friedman, Jenna P. Swarbrick, Guus Duindam and Jeremy Barber of Wilkinson Stekloff LLP, and Lisa Blatt, Charles L. McCloud and Edward Pickup of Williams & Connolly LLP.

Individual defendants Nicholas Pritzker and Riaz Valani are represented by Mark C. Hansen, Michael J. Guzman, Stephanie E. Levin and David L. Schwarz of Kellogg Hansen Todd Figel & Frederick PLLC.

Washington Legal Foundation is represented in-house by Cory L. Andrews.

The Chamber is represented in-house by Jennifer B. Dickey and Jonathan D. Urick, and by Ashley C. Parrish, Ross E. Elfand and Benjamin T. Lee of King & Spalding LLP.

The states are represented by their respective attorneys general.

The Goldwater Institute is represented in-house by Timothy Sandefur.

The case is In re Juul Labs Inc. Antitrust Litigation, case number 3:20-cv-02345, in the U.S. District Court for the Northern District of California, and case number 26-2626, in the U.S. Court of Appeals for the Ninth Circuit.

3rd Circ. Revives Atlantic City Hotel Dynamic-Pricing Suit

law360.com/articles/2507146/3rd-circ-revives-atlantic-city-hotel-dynamic-pricing-suit-

(July 29, 2026, 2:44 PM EDT)-- A Third Circuit panel Wednesday revived a proposed class action accusing Atlantic City casino-hotels of illegally inflating room prices with software that allegedly shared private occupancy and pricing information among them.

The panel's unanimous opinion said the consolidated amended complaint from three groups of hotel guests had sufficiently pled the elements of a "hub-and-spoke" price-fixing scheme, with five casino-hotels all using the same "Rainmaker" software made by codefendant Cendyn Group LLC, which allegedly compared participating hotels' pricing and occupancy rates to recommend room prices.

But where a New Jersey district court had not seen enough evidence of coordination between the hotels, the Third Circuit judges said the complaint adequately alleged the hotels had all consistently followed the algorithm's recommendations and raised prices, even at times when lower occupancy might have led to lower prices.

"The CAC contains many allegations that, taken together as true, lead to a plausible inference that defendants have agreed to fix their room rates through Cendyn's dynamic pricing algorithm and thereby inflate room rates and avoid competing," Judge Theodore McKee wrote for the panel's **precedential opinion**. "Moreover, and quite significantly, plaintiffs allege that even when it would have been in the casino-hotels' economic interests to reduce room rates to increase occupancy so as to capture more guests and thereby generate more casino revenue when occupancy was declining, the casino-hotels overwhelmingly adhered to Cendyn's price recommendation."

The Third Circuit reversed the district court's 2024 order **granting** the defendants' motion to dismiss, and sent the case back for further proceedings.

Guests at the Caesars, Harrahs, Tropicana, Borgata and Hard Rock hotels and casinos in Atlantic City had brought three lawsuits that were consolidated in New Jersey federal court, with the consolidated amended complaint accusing them of using Rainmaker to keep prices inflated in violation of the Sherman Act since at least 2018.

Because the software would receive occupancy and pricing information from all of its users in real time and would compare that nonpublic data to recommend "optimal" room prices, it was effectively a means for the hotels to coordinate their pricing rather than competing, the

plaintiffs argued. Judge McKee's opinion opened by noting how "dynamic pricing" algorithms and artificial intelligence had made it easier to rapidly communicate and coordinate.

"Historically, successful collusion may have been hindered by gaps in communication and the cost of ensuring compliance. Today, these algorithms have the capacity to bridge any such gaps," he wrote. "Collusion among competitors in today's world need not be characterized by handshakes (or a wink and a nod) in smoke-filled rooms or by tell-tale telephone conversations. Instead, AI can enable participants in the marketplace to coordinate pricing and thereby collude in ways that reduce competition at the expense of consumers who bear the brunt of higher prices and reduced output or supply. This is what the Sherman Act is intended to prevent."

But to plead that the erstwhile competitors were actually colluding while using a common system, the plaintiffs needed to point to evidence of coordination or agreements between them — the "rim" of a hub-and-spoke wheel, the opinion said. Where those agreements were hidden or illicit, plaintiffs can point to circumstantial evidence like a common motive, and acts that seemingly go against individual members' economic interests, it added.

The New Jersey district court had not seen those links in the complaint, but Judge McKee said they appeared to be there. Data cited by the complaint had shown parallel behavior among the hotels, particularly where room rates would keep increasing even when occupancy was down, the opinion said.

Although some parallel behaviors could be expected in a field dominated by a handful of players, the "plus factors" supporting the plaintiffs' accusations included statements from a former Cendyn executive about how the software would prevent a "race to the bottom" chasing the lowest possible rates; allegations that the hotels accepted Rainmaker's recommended prices 90% of the time; and the rising rates beginning even at a time that occupancy had been declining, the opinion said.

"Economic principles state that a casino-hotel whose room occupancy is steadily decreasing over the years would lower room rates in order to compete for more hotel guests who will then be available to venture into the casino. Moreover, common sense suggests as much," Judge McKee wrote. "But, this might spur competition and create downward price pressure thus resulting in the very 'race to the bottom' that Cendyn's former executive allegedly cautioned hotels to avoid."

The panel noted the district court had faulted the plaintiffs' lack of detail about how the Rainmaker algorithm worked, but said the complaint's allegations, taken as true at this stage of the case, had been that the software used private data from other users to set "optimal" rates higher than they might have been based on public information.

"We are encouraged that the first federal court of appeals to address horizontal conspiracy claims like ours rightly held that the use of AI-powered pricing does not immunize anticompetitive conduct from the Sherman Act's reach," said Zach Fields of Susman Godfrey, representing the plaintiffs. "Antitrust law was always meant to adapt to the times and to protect consumers."

Counsel for the defendants did not immediately respond to requests for comment Wednesday.

Judges L. Felipe Restrepo, Theodore A. McKee and D. Brooks Smith sat on the panel for the Third Circuit.

The plaintiffs, led by Karen Cornish-Adebiyi, Luis Santiago and Monica Blair-Smith, are represented by Christopher J. Cormier of Burns Charest LLP, Joseph J. DePalma and Catherine B. Derenze of Lite DePalma Greenberg & Afanador LLC, Joseph Z. Fields and Shawn Raymond of Susman Godfrey LLP and Mindee J. Reuben of Hausfeld.

The hotels are represented by Sam Auld, Boris Bershteyn, Michael H. Menitove, Andrew Muscato, Kenneth Schwartz and Tansy Woan of Skadden Arps Slate Meagher & Flom LLP, Bethany W. Kristovich and Justin P. Raphael of Munger Tolles & Olson LLP, Jennifer L. Del Medico, Laura W. Sawyer, David C. Kiernan and Matthew Silveria of Jones Day and Craig Carpenito and David S. Lesser of King & Spalding LLP.

Cendyn is represented by Melissa Arbus Sherry, Christopher Brown, Lawrence E. Buterman, Graham B. Haviland, Anna M. Rathbun, Sadik Huseny and Brendan A. McShane of Latham & Watkins LLP.

The case is Cornish-Adebiyi et al. v. Caesars Entertainment Inc. et al., case number 24-3006, in the United States Court of Appeals for the Third Circuit.

Cava Board, Execs Sued In Del. Over $2.2B Stock Sales

law360.com/articles/2506886/cava-board-execs-sued-in-del-over-2-2b-stock-sales

(July 28, 2026, 6:30 PM EDT)-- A Cava Group Inc. stockholder has filed a derivative lawsuit in the Delaware Chancery Court accusing the Mediterranean restaurant chain's top executives and directors of using confidential internal forecasts to sell more than $2.2 billion worth of company stock before the company's growth outlook weakened and its share price fell.

The complaint by the Cleveland Bakers and Teamsters Pension Fund on behalf of Cava, unsealed Tuesday, alleges the defendants breached their fiduciary duties by selling shares when they had material nonpublic information indicating the company's rapid growth would slow in 2025, even as management publicly highlighted strong momentum and repeatedly raised financial guidance throughout 2024. The suit seeks damages for the company, disgorgement of trading profits and other equitable relief.

"While the defendants reaped more than $2 billion of profits, stockholders were left holding the proverbial bag," the pension fund says.

According to the complaint, Cava experienced explosive growth in 2023 and 2024, expanding from 237 restaurants at the end of 2022 to 367 by the end of 2024 while repeatedly increasing its same-restaurant sales and adjusted EBITDA guidance. Investors rewarded that performance, pushing the stock above $150 per share in early December 2024 as executives described "sustained momentum" and accelerating growth.

EBITDA is a company's earnings before interest, taxes, depreciation and amortization.

The pension fund alleges that between Aug. 23, 2024, and Feb. 25, 2025, insiders sold more than $2.2 billion in Cava stock while already aware that the company's expected 2025 growth would fall short of investor expectations. The complaint says the market learned of that slowdown only after Cava released its fourth quarter and full year 2024 results on Feb. 25, 2025, forecasting same-restaurant sales growth of 6% to 8% for 2025. Analysts subsequently lowered their price targets, and Cava shares fell nearly 10% the following day.

The suit names CEO and President Brett Schulman, Chief Concept Officer Theodoros Xenohristos, Chairman Ronald M. Shaich, directors Phillipe Amouyal, Benjamin Felt, David Bosserman, Karen Kochevar and James D. White, along with Chief People Officer Kelly Costanza, Chief Legal Officer Kenneth Robert Bertram, Chief Accounting Officer Adam David Phillips, former Chief Operating Officer Jennifer Somers and Chief Financial Officer Tricia K. Tolivar.

The complaint alleges Artal International SCA, Cava's largest shareholder whose interests the plaintiff says were represented on Cava's board by Amouyal and Felt, sold about 14 million shares worth $1.77 billion during the relevant period. It also details stock sales by Schulman, Shaich and other executives and directors that together exceeded $2.2 billion.

The pension fund advances a claim for breach of fiduciary duty under Delaware's Brophy doctrine, which allows a corporation to recover profits from fiduciaries who traded on material nonpublic information obtained through their corporate positions.

The complaint contends the defendants "disloyally" placed their own financial interests ahead of the company's by selling shares while possessing nonpublic information about weakening growth prospects. It also asserts an unjust enrichment claim, arguing the defendants should return the profits allegedly obtained through those trades.

The pension fund further argues that it was not required to first demand that Cava's board pursue the claims because a majority of the directors allegedly face a substantial likelihood of liability or have disabling conflicts stemming from the challenged stock sales and their relationships with one another.

"The insider selling defendants breached their fiduciary duties by disloyally prioritizing their own personal financial interests above the interests of Cava and its stockholders," the suit says.

Contact information for the individual defendants was not immediately available Tuesday. Counsel for the pension fund declined to comment on the case, and other representatives for the fund did not immediately respond to requests for comment Tuesday.

The pension fund is represented by Daniel B. Rehns, Frank Schirripa, Kurt Hunciker and Scott R. Jacobsen of Hach Rose Schirripa & Cheverie LLP and Samuel L. Closic and Kirsten M. Valania of Prickett Jones & Elliot PA.

Counsel information for the defendants was not immediately available Tuesday.

The case is Cleveland Bakers and Teamsters Pension Fund v. Brett Schulman et al., case number 2026-0965, in the Chancery Court of the State of Delaware.