# Illinois logistics company faces shareholder derivative suit over inaccurate SEC filings

courthousenews.com/illinois-logistics-company-faces-shareholder-derivative-suit-over-inaccurate-sec-filings

CHICAGO (CN) — A stockholder of an Illinois shipping and logistics company accused the company of making false and misleading statements to the Securities and Exchange Commission.

Hub Group Inc., a national transportation and logistics company based in Oak Brook, disclosed to investors in early 2026 that they should not rely on its financial statements for the first three quarters of 2025 because of improperly reported operating costs.

John Anderson, one of the company's shareholders, filed the 58-page lawsuit against Hub Group, its board of directors and its executive officers, claiming violations of fiduciary duties, gross mismanagement and wasting corporate assets.

"The alleged misstatements concerned, among other things, the company's premature and improper recognition of revenue on certain transactions, the understatement of purchased transportation costs and accounts payable, the adequacy and effectiveness of internal controls, and the purported drivers of Hub Group's financial performance and growth," Anderson writes.

Hub Group reportedly did not disclose the anticipated size of the misstatement. The company reported that the reports from 2023 and 2024 were also "materially misstated."

In his Tuesday suit, Anderson claims Hub Group violated section 14(a) of the Securities Exchange Act of 1934, which was enacted to regulate transactions in the secondary market and protect investors via a mandatory disclosure process. Section 14(a) governs proxies and shareholder votes.

Anderson says Hub Group routinely relied on proxies to assure stockholders that the board of directors understood the company-wide risks from the inaccurate financial statements. The stockholders who didn't know any better then reelected the same board members acting against their interests, he says.

"In reality, the director defendants were utterly failing in their oversight duties by allowing the company to operate with inadequate internal controls which resulted in the failure to disclose or prevent the defendants from causing the company to make materially false and misleading statements concerning the adequacy of the company's internal controls over financial reporting and the reliability of the company's financial statements for full years 2023 and 2024, as well as the first, second, and third quarters of 2025."

After Hub Group disclosed the initial SEC reporting errors to its investors, the company saw its stock price plummet 18%, dropping from $51.33 per share at the close of trading on February 5, 2026, to $41.96 per share at the close of trading on February 6, 2026.

When the company reported that the 2023 and 2024 reports were also inaccurate, the stock price declined another 13%.

Anderson's lawsuit is not the only legal blowback to the logistics company's inaccurate SEC filings. Hub Group Inc., its directors and executive officers all also face a securities class action, which was filed just a month before Anderson's complaint.

# Blue Owl’s private credit fundraising falls to slowest pace in three years

FT **ft.com**/content/c8e8502f-91c2-4dcd-b39c-e99c67b93826

Blue Owl Capital’s flagship private credit arm reported its slowest pace of fundraising in three years in the second quarter, underscoring the waning appetite for the asset class.

The New York-headquartered firm said on Thursday that its flagship credit arm raised $1.8bn in the three months to the end of June, less than half the amount of the previous quarter.

It was the smallest amount of capital the unit has drawn in a quarter since 2023, with a deluge of redemption requests from wealthy individuals weighing on the private credit division.

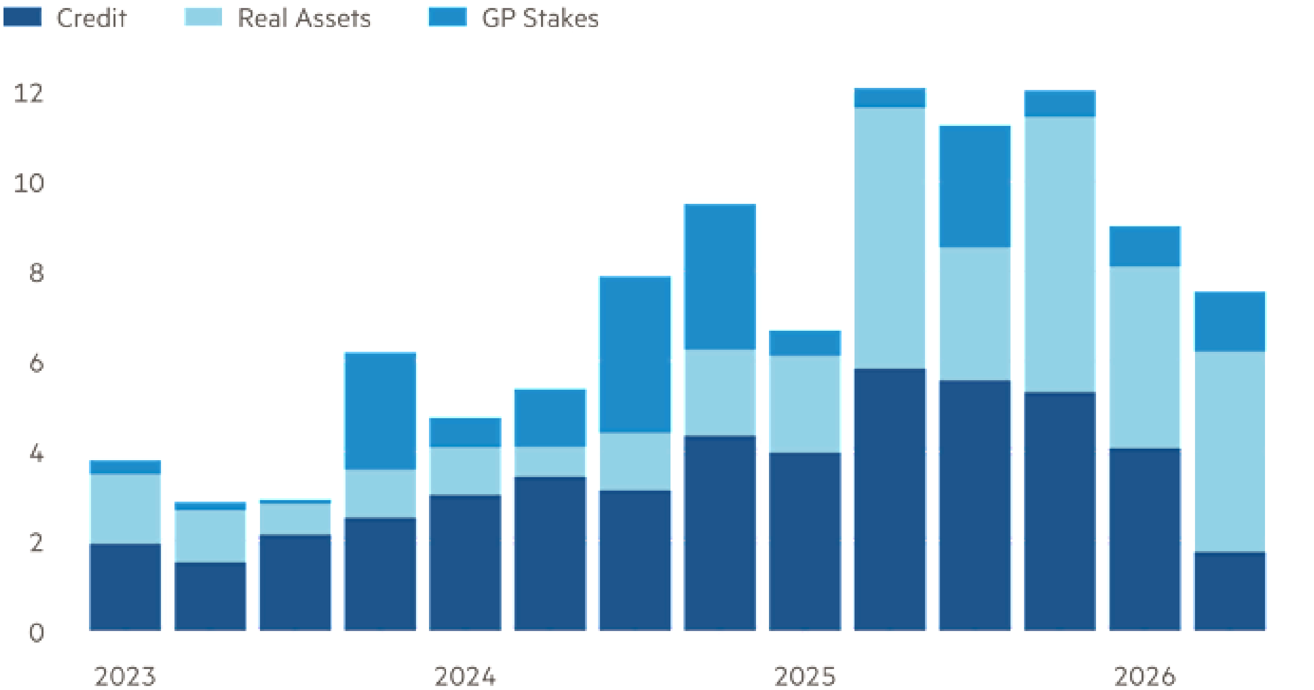
Blue Owl, which has expanded beyond its private credit roots through a spree of acquisitions, reported overall fundraising of $7.6bn in the quarter, its lowest level in over a year. That was slightly ahead of Wall Street expectations.

New investor commitments were driven by its real-assets strategies, which accounted for nearly 60 per cent of the firm’s fundraising in the quarter.

The business, which invests in AI data centres and property credit, raised $4.4bn in the three-month period and now accounts for more than a quarter of Blue Owl’s $319bn of assets under management.

Blue Owl fundraising slows amid private credit malaise

Quarterly fundraising by strategy ($bn)




Source: Company filings

The company said management fees rose 8 per cent from a year earlier to $673mn. Fee-related earnings, a metric closely scrutinised by investors, rose 9 per cent from a year ago to $392mn. Both figures eclipsed Wall Street forecasts.

“We think our success to date has been a result of our focus on creating outstanding outcomes for the investors in our strategies,” Blue Owl’s co-chief executives Doug Ostrover and Marc Lipschultz said in a statement. “The results we reported this morning continue to demonstrate the resilience of our business.”

# KKR profits soar as it cashes in record amount of private equity bets

FT **ft.com**/content/3936b8c9-8ce2-41f8-8687-90a2aa385e41

Profits at US private capital giant KKR soared in the second quarter, bolstered by the 50-year-old group's single biggest quarter of asset sales on record.

KKR's results underscore the rapid growth many private capital groups continue to enjoy in defiance of the wider dislocations in the $22tn industry caused by fears of rising credit defaults and falling private equity returns.

The New York-based investment group has demonstrated an ability to buck some of the negative trends in private markets, where firms have been struggling to sell assets and return cash to increasingly impatient investors.

"Our space is subject to periodic bouts of external pessimism and periodic bouts of optimism. I don't recall a period of time when the external perception is so disconnected from the operating fundamentals and how it feels inside the firm," said Scott Nuttall, co-chief executive of KKR, on a conference call Thursday.

KKR was able to cash in billions of dollars in investments at large gains in the second quarter, generating a record $848mn in realised performance profits, more than double this time last year.

Its windfalls included the sale of its remaining holdings in Japanese conglomerate Kokusai Electric at a twentyfold gain and Hyundai Marine Solutions, which locked in a gain of 7.5 times its cost.

Other successful private equity bets spanned US software group OneStream Software and German space company OHB, which relisted its shares earlier this year.

The asset sales helped to fuel a sharp rise in KKR's fee-based earnings and operational cash flows, mirroring strong results posted by Blackstone earlier this month.

Fee-based earnings increased 37 per cent year on year in the second quarter, while KKR's adjusted net income — a metric favoured by analysts as a proxy for cash flows — rose 40 per cent from this time last year. Both figures were significantly better than expected.

KKR's ability to record large gains on its recent private equity funds in the US and Asia helped it raise $34bn in new assets during the quarter, taking its total to nearly $800bn.

The group held fund closes for an Asian private equity fund and the first fund managed by Arctos, a sports private equity investment pioneer that also is a specialist in financing other private capital groups.

Investors also poured money into KKR’s private equity and infrastructure funds targeting individual investors.

Still, KKR and its rivals continue to face challenges in some of their credit-oriented funds, especially those targeting retail investors.

KKR raised just $9bn in new credit assets as its returns dipped and fundraising among wealthy individuals slowed — a decrease of about 40 per cent from the second quarter of 2025.

KKR earlier this year partially limited redemptions at its asset-based retail credit fund. More recently, redemption rates at its K-FIT retail credit fund have dropped to a manageable 1.6 per cent of net assets, allowing KKR to meet withdrawal requests in full. Nuttall told analysts he still expected the firm to have a record year for fundraising in credit-oriented funds.

KKR shares, which have shed 20 per cent of their value this year, rose nearly 2 per cent in Thursday trading.

# Meta shares tumble as Mark Zuckerberg tries to sell his vision for AI ‘agents’

FT **ft.com**/content/06d941ed-8136-46a4-a2ec-44bea1b35c3b

Meta shares tumbled 9 per cent on Thursday after Mark Zuckerberg’s latest defence of his costly quest to transform the social media group into a world-beating AI company failed to convince investors.

Speaking after Meta’s second-quarter results underlined the strains from an AI spending binge that could total $145bn, Zuckerberg insisted the investment was benefiting its core advertising business and would create new profit engines for the $1.5tn company.

“I get that this is a big investment and it’s a big bet,” Zuckerberg told analysts. “We see the technology working. We’re happy with the trajectory of the lab. I’m excited about the products that are coming. And we believe that this is going to be a big thing.”

In a sign of the impact of its spending on AI infrastructure, Meta said its free cash flow in the second quarter — an important metric for investors — tumbled by 91 per cent to $784mn, down from $8.5bn in the same period a year ago.

The social media group’s forecast for third-quarter revenue of between $61bn and $64bn also disappointed, with the midpoint below Wall Street expectations of $63.1bn.

“Meta believes AI infrastructure is now a strategic asset, but its bill is arriving faster than the pay-off,” said Mike Proulx, research director at Forrester. “What it generated in cash this quarter almost all got eaten by AI infrastructure spending. Investors now have to decide whether Meta’s growing list of AI initiatives represents company diversification or distraction.”

Shares in Meta dropped as much as 10.4 per cent shortly after Wall Street’s opening bell on Thursday, wiping out more than $150bn from its market capitalisation. The stock is now down by a fifth so far this year, putting it in a so-called bear market territory.

Meta’s latest results come as the record-breaking AI spending spree by Big Tech companies comes under increasing scrutiny from investors concerned over whether the investments will ultimately pay off.

On Wednesday, Zuckerberg laid out a vision focused on offering users sophisticated AI “agents” to autonomously carry out tasks on their behalf 24/7, helping with health, hobbies, personal finances and career goals.

He said personal agents for consumers, plans for which were first reported by the FT in May, would "be the foundation for our next wave of products and revenue lines in the months and years ahead" and "an extremely important and massive market".

Zuckerberg also touted opportunities to sell products such as coding and advanced customer service agents to businesses. He added that he wanted to build towards "a business-in-a-box service that can help you start and run a whole business" on Meta.

## Meta stock has fallen 20% so far in 2026

Share price, $


Source: LSEG via markets.ft.com

Meta has been pumping billions of dollars into building out a fleet of data centres and hiring top AI talent. In April, Meta raised its 2026 capital expenditure forecast to between $125bn and $145bn, from a previous range of $115bn to $135bn.

The group on Wednesday narrowed that range to between $130bn and $145bn. Capital expenditure in the second quarter stood at about $31bn, it said.

Meta also raised the lower end of its expense outlook, citing $2.4bn in charges related to legal proceedings recognised in the second quarter, with 2026 total expenses now forecast between $165bn and $169bn.

On the call with analysts, Zuckerberg said he expected that “a significant portion” of Meta’s computing power would be used to power its own models and products.

However, he said there was also an opportunity to sell data centre capacity directly, adding that Meta was “getting a lot of offers for compute at a significant premium over what we paid for it”.

Meta is in early talks to rent its computing power to AI lab Anthropic in a deal that could be worth as much as $10bn, entering a market currently dominated by cloud players such as Amazon and Google.

Its progress on AI has been under intense scrutiny since its Llama large language models last year fell behind OpenAI, Anthropic and Google.

In response, Zuckerberg completely refashioned Meta’s AI approach, paying hundreds of millions of dollars for top talent in a new team, TBD Lab, under Scale AI founder Alexandr Wang.

In recent months, TBD has released several iterations of its new model, Muse Spark, which is widely regarded as promising.

Despite the spending spree, however, its models still trail rivals such as OpenAI and Google in some capabilities.

Zuckerberg hopes that future versions, including a model codenamed Watermelon, will push the frontier. Meanwhile, Meta has started to test new monetisation strategies across the apps, such as subscriptions for more advanced features or complex AI tasks.

Meta’s second-quarter sales narrowly beat forecasts. Its net income shrank 14 per cent to $15.8bn, well below analysts’ estimates of $18.5bn, squeezed by one-off costs related to legal proceedings and severance payouts. Earlier this year, Zuckerberg cut the workforce by about 10 per cent.

The company acknowledged that it faced “scrutiny” over youth safety on its apps in several markets and multiple trials over harm to young people from using social media in the US this year “which may ultimately result in a material loss”.

Business & Practice

# Jamie McDonald Sworn In as Top Federal Prosecutor on Wall Street

July 29, 2026, 3:59 PM PDT

**Jamie McDonald**, an experienced white-collar lawyer whose clients have included President Donald Trump, was appointed as US Attorney of the Southern District of New York by the judges of the Manhattan-based federal court.

The choice immediately puts in place the lawyer tapped by Trump as the head of an office that handles most high-profile criminal cases involving Wall Street. McDonald replaces Jay Clayton, who resigned Wednesday after being confirmed as the Director of National Intelligence.

McDonald was sworn in by Laura Taylor Swain, the district's chief judge, under a federal law that allows the court to appoint a US Attorney to temporarily fill a vacancy in the office until a presidentially-appointed candidate is approved by the Senate, according to statements by the US Attorney's office and the District Executive. The court had appointed Clayton last year using a similar procedure.

McDonald was part of a team at the New York law firm Sullivan & Cromwell that represented Trump in appealing his New York State criminal conviction tied to a $130,000 hush-money payment to adult film star **Stormy Daniels**.

McDonald is a former director of enforcement at the Commodity Futures Trading Commission and served as an assistant US attorney in the Southern District. While at Sullivan & Cromwell, McDonald worked for several blue-chip corporate clients, including Live Nation Entertainment Inc., Allianz SE and Polymarket.

The district includes the New York boroughs of Manhattan and the Bronx, in addition to six suburban counties to the north of the city.



To contact the reporter on this story:
Bob Van Voris in federal court in Manhattan at rvanvoris@bloomberg.net

To contact the editors responsible for this story:
Ben Bain at bbain2@bloomberg.net

# ‘This Industry Is Going to Be Cutthroat’: Apple’s Suit Against OpenAI Signals New Era of AI Trade Secret Litigation

**law.com**/litigationdaily/2026/07/30/this-industry-is-going-to-be-cutthroat-apples-suit-against-openai-signals-new-era-of-ai-trade-secret-litigation-

On its surface, Apple’s high-profile new lawsuit against OpenAI may look like a routine trade secrets dispute between Big Tech heavyweights—but the case may herald the next wave of intellectual property litigation in the AI industry, say tech and IP litigators.

Apple, which announced a partnership with OpenAI to integrate ChatGPT into its iOS, iPadOS and macOS devices in 2024, sued OpenAI and two former Apple employees on July 10, bringing breach-of-contract and federal and state trade secrets claims in California federal court.

**Justin Beyer**, a partner at **Saul Ewing** who focuses on disputes involving trade secrets and non-compete agreements, said in an interview that if you take Apple’s claims “at face value,” OpenAI’s alleged infractions could be classified as “corporate espionage”—and the complaint puts the industry on notice that companies jostling for supremacy in the AI market are “going to engage in any means possible” to carve out a position at the top.

The case, he added, is an “an industry shifter" that he anticipates will be the first of many to pit tech companies against each other.

“If Apple's alleging this against OpenAI, there's probably a half dozen or more potential cases that are out there that haven't been brought yet, because this industry is going to be cutthroat,” Beyer said.

The suit filed by Apple’s counsel at **Weil, Gotshal & Manges** alleges that Chang Liu and Tang Tan—formerly an electrical engineer and vice president at Apple, respectively—disclosed Apple’s trade secrets to OpenAI in a coordinated effort to accelerate the production of OpenAI’s own AI hardware device.

Apple accuses Liu of stealing an Apple laptop and contends that Tan instructed Apple employees applying for roles at OpenAI to bring “actual parts” from Apple to their interviews with OpenAI for “show and tell” sessions in order to “elicit still more Apple confidential information.”

**Kirk Sigmon**, a founding partner at tech, AI and IP-focused law firm **KellDan** and former IP litigator at **Morrison & Foerster,** said that the suit is, more than anything else, “the manifestation of the speed and ferocity with which the AI market's going."

Silicon Valley, he said, is approaching AI trade secret misappropriation as "the cost of doing business" — just as, he pointed out, both Anthropic and OpenAI "play[ed] very loose and fast with copyrights" by allegedly mining copyrighted works to train their AI models.

Even relative to the "dot-com bubble," tech companies now have much higher tolerances for legal risk than at any other point in recent history, he said.

The battle for competitive dominance in the AI market, he added, is one that tech companies are likely to wage in the courts—and Apple's case against OpenAI could embolden other tech companies to similarly go on the offensive and "begin swinging" at their competitors.

"There's a sense that, perhaps, what's happening here is signaling to other folks: 'By the way, this is how brazen OpenAI has been operating because they have to be this brazen in order to play in this game,'" Sigmon said in an interview.

Apple's counsel did not respond to a request for comment.

"We have no interest in other companies' trade secrets," said a representative for OpenAI in an emailed statement.

"While we take these allegations seriously, we're not aware of any evidence that this complaint has merit. We believe in fair competition and allowing people the freedom to work wherever they choose, and we're focused on building innovative technology that empowers people everywhere."

Litigators from **Quinn Emanuel Urquhart & Sullivan** have made appearances on the docket for OpenAI.

**'A RoadMap of Future AI Litigation'**

According to the complaint, more than 400 former Apple employees now work for OpenAI. Liu joined OpenAI in January 2026 and OpenAI hired Tan as its chief hardware officer in 2025, shortly after OpenAI inked theroughly $6.5 billion acquisition of io Products, an AI hardware startup founded by former Apple lead designer Jony Ive.

One of the reasons this suit is distinct from most IP litigation in the AI space, said **Manav Das**, a partner at intellectual property firm **McDonnell Boehnen Hulbert & Berghoff,** is that the trade secrets at issue involve hardware, which—unlike cloud-accessible software—relies on a "vast network" of vendors.

Das had previously described the case as "one of the first major lawsuits testing how long-established trade secret principles apply to the race to build AI-native consumer devices"in a blog post that he penned shortly after the filing.

The complaint, according to Das, marks a new frontier of IP litigation in the AI industry diverging from the previous landslide of landmark copyright cases such as *Kadrey v. Meta Platforms Inc.* and *Bartz v. Anthropic,* where recent rulings held that using copyrighted material to train AI models constituted “transformative fair use.”

Apple, Das said in an interview, is both working to protect its supply chain and “put the brakes” on its competitor’s own hardware development.

“So, Apple has a lot at stake here, but I think this also lays out a roadmap of future AI litigation—not just involving these vendors, but also maybe access to chips and so forth, which really creates a big barrier to entry into the business ... for smaller startups, for example,” he said.

The suit, noted **Eric Ostroff**, a trade secrets attorney at **Meland Budwick,** also serves as a strategic and pointed warning shot to current Apple employees.

“By naming individual engineers and putting their texts in a public complaint, Apple is sending a message to everyone still inside the company who is thinking about the same jump,” Ostroff said in an email.

**Apple’s Legal Strategy and Implications for Tech Employers**

Apple, said **Gustavo Sardiña,** a trademark and business litigator at **Jimerson Birr**, faces an uphill battle in proving its damages theory, which is predicated on use. Though “acquisition by improper means” such as bringing parts to interviews is “actionable” under the Defend Trade Secrets Act, OpenAI still hasn’t rolled out an AI hardware device.

In June, U.S. District Judge Rita Lin in San Francisco tossed similar trade secrets claims against OpenAI by billionaire Elon Musk’s AI company, xAI, after finding that “mere possession of trade secrets is not sufficient to constitute misappropriation.”

“Apple will need to show that misappropriated information is actually shaping OpenAI’s development, and pre-launch harm is hard to quantify,” Sardiña said in an email.

“Expect Apple to lean on unjust enrichment, avoided-cost, reasonable-royalty, and head-start theories (the ‘shaved years off development’ argument).”

**Aaron Hall**, a business and intellectual property attorney at **Hall PC,** saidApple has fewer legal resources in its arsenal given that both companies are headquartered in California, which imposes extensive employee mobility protections, voids noncompete agreements and rejects the “inevitable disclosure doctrine.”

“This means Apple cannot get an injunction simply by arguing that a former engineer knows too much and will inevitably spill secrets,” said Hall in an email.

“Apple must prove actual or threatened misappropriation. While the unauthorized acquisition of documents is a legal violation in itself, connecting those materials to what the competitor actually built or directed its engineers to do is what drives the highest stakes in these types of cases.”

On the other side, said MBHB’s Das, OpenAI may pursue a more “sophisticated” defense tack that seeks to prove a “convergence of solutions” in order to overcome Apple’s specific allegations.

“If you're working in this area and you want to achieve certain goals in hardware designs, then you are inevitably going to come up with similar designs, right?” he said. “Because that's sort of the way these technology paths progress.” He added that likely will be a subject of expert testimony.

The success or failure of Apple’s claims in court could potentially shape hiring strategies for employers seeking to recruit competitive AI talent, said Saul Ewing’s Beyer.

“If [the court] takes, say, the mindset that Apple didn't protect things adequately, or that Apple waited too long to bring this claim, or that Apple's grievances are really against third parties that are not part of this lawsuit, then you could see other companies take a more aggressive approach to obtaining talent,” Beyer said.

The courts, he added, need to start evaluating the question of "what constitutes reasonable measures” in an industry “as dynamic and as emerging as the AI marketplace is,” noting that agreements and computer password protection simply won’t cut it to protect trade secrets in the era of artificial intelligence.

“Companies need to start treating their trade secrets as though we're in 2026, and maybe not as much as though we were in 2005,” he said.

# Mealey's Litigation Procedure - 9th Circuit: Investor's Claims Against Energy Company Failed To Allege Falsity

## In Brief

Ninth Circuit affirmed dismissal of securities fraud class action against SunPower Corporation, finding investor failed to plausibly allege defendants knew of product defects when statements were made.

## Detailed Summary

The Ninth Circuit affirmed dismissal of a securities fraud class action brought by Steamfitters Local 449 Pension & Retirement Security Funds against SunPower Corporation, former CEO Peter Faricy, former CFO Manavendra S. Sial, and TotalEnergies entities. The suit alleged defendants made misleading statements regarding cracking issues in factory-installed connectors, which led to a $27 million warranty charge announced January 20, 2022, and a 16.9% share price drop. Plaintiffs asserted violations of Securities Exchange Act Sections 10(b) and 20(a) and SEC Rule 10b-5. The panel held that Steamfitters failed to plausibly allege defendants knew of the defect when statements were made, citing Weston Family Partnership LLLP v. Twitter, Inc. and In re Alphabet, Inc. Securities Litigation. The court also dismissed the control-person liability claim.
This summary is generated by AI technology. AI generated content should be reviewed for accuracy.

## Body

A Ninth Circuit U.S. Court of Appeals panel affirmed dismissal, finding that an investor's securities fraud class action against a solar energy company, certain former executives and controlling entities alleging misleading statements about product defects failed to allege falsity (Steamfitters Local 449 Pension & Retirement Security Funds v. SunPower Corporation, et al., No. 25-1831, 9th Cir., 2026 U.S. App. LEXIS 22009).

( Unpublished memorandum available 57-260810-014Z )

Judges Richard A. Paez, Richard C. Tallman and Mark J. Bennett issued the unpublished memorandum on July 24, affirming a lower court's dismissal of the third amended complaint filed in this case with prejudice. The panel agreed with the lower court that Steamfitters Local 449 Pension & Retirement Security Funds failed to allege that SunPower Corp. was aware of the defect when it issued certain risk factor statements.

Warranty Charge

SunPower announced Jan. 20, 2022, that it was taking a $ 27 million warranty charge because of the existence of a cracking issue that had developed in some factory-installed connectors within third-party commercial equipment supplied to SunPower. The announcement led to a 16.9% drop in the company's share price on Jan. 21, 2022.

Investor Piotr Jaszczyszyn filed the initial class complaint in the U.S. District Court for the Northern District of California, alleging that SunPower, its former CEO, president and chairman of the company's board of directors Peter Faricy and its former chief financial officer and executive vice president Manavendra S. Sial made materially false and/or misleading statements, failing to disclose to investors that some connectors the company used had cracking issues, for which the company would likely incur costs to remediate. The complaint stated that because of the cost of remediating the faulty connectors, SunPower's financial results would be adversely impacted, making SunPower's positive statements about the company's business materially misleading.

On Oct. 13, 2022, the District Court appointed Steamfitters as lead plaintiff in the case. Steamfitters filed a first amended complaint on Dec. 15, 2022, bringing claims for alleged violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b) and 78t(a), and Securities and Exchange Commission Rule 10b-5, 17 C.F.R. § 240.10b-5 against SunPower, Sial and Faricy. The District Court dismissed the first amended complaint on July 17, 2024, finding that Steamfitters failed to show that any of the challenged statements were false or misleading when they were made and that several statements were inactionable puffery or protected by the statutory safe harbor for forward-looking statements.

Steamfitters filed a second amended complaint on Aug. 15, 2024, before filing the operative third amended complaint on Aug. 21, 2024, to add TotalEnergies Gaz & Electricite Holdings SAS and TotalEnergies Solar INTL SAS as controlling persons under Section 20(a) of the Exchange Act, stating they were beneficial majority owners of SunPower's common stock.

The District Court dismissed the third amended complaint on Feb. 14, 2025, finding again that Steamfitters did not plausibly allege that the subject statements were false because it did not plausibly allege that anyone at SunPower knew of the defect at the time the statements were made. Steamfitters appealed.

No False Statements

The panel affirmed the District Court's dismissal, finding first that the District Court did not err in determining that the subject statements were not false or misleading, "even though the defect already existed, because Steamfitters did not plausibly allege that Defendants knew that the defect existed at the time the statements were made."

Citing Weston Family Partnership LLLP v. Twitter, Inc., 29 F.4th 611 (9th Cir. 2022), and In re Alphabet, Inc. Securities Litigation, 1 F.4th 687 (9th Cir. 2021), it stated that Steamfitters' arguments that it did not need to allege that the defendants' knowledge was foreclosed by Ninth Circuit precedent. The panel stated that the language from other cases that Steamfitters pointed to that suggested otherwise was taken out of context.

Additionally, the panel held that Steamfitters did not plausibly allege that SunPower knew of the defect at the time the risk factor statements were filed.

The panel stated that because the District Court properly dismissed the securities fraud claim, the lower court did not err in dismissing the claim for control-person liability.

Counsel

Steamfitters is represented by Harini P. Raghupathi in San Diego and Shawn A. Williams, Willow E. Radcliffe, Kenneth J. Black and Snehee Khandeshi in San Francisco, all of Robbins Geller Rudman & Dowd LLP.

SunPower, et al. are represented by Katherine L. Henderson and Dylan G. Savage of Wilson Sonsini Goodrich & Rosati PC in San Francisco.

# Mealey's PI/Product Liability - 7th Circuit Affirms Judgment Dismissing First Bellwether Case In Baby Formula MDL

## In Brief

Seventh Circuit affirmed summary judgment for Abbott Laboratories in first bellwether case of NEC infant formula MDL, holding plaintiff failed to prove alternative warning would have prevented death.

## Detailed Summary

The Seventh Circuit affirmed summary judgment for Abbott Laboratories Inc. in the first bellwether case in multidistrict litigation involving necrotizing enterocolitis (NEC) allegedly caused by cow's milk-based infant formula. Plaintiff Ericka Mar, administratrix of her deceased infant daughter RaiLee Mar's estate, alleged Abbott failed to provide adequate warnings about NEC risks associated with its Similac Special Care 24 formula. RaiLee, born 12 weeks premature in 2014, developed NEC and died after being fed Abbott's formula when donor milk was unavailable and the mother's blood-tainted breast milk was prohibited by hospital policy. The appellate panel held Mar failed to demonstrate that an alternative warning label would have caused the hospital to establish a donor milk program, change its policy prohibiting another mother's milk, or influenced Mar's decision regarding her own breast milk. The court found Mar overstated physician testimony and did not read the original warning, precluding causation under West Virginia law. As of July 2025, 810 cases remained pending in the MDL before Judge Rebecca R. Pallmeyer in the Northern District of Illinois.

## Body

---

A woman who alleges that her infant daughter developed necrotizing enterocolitis (NEC) after consuming cow's milk-based-infant formula (CMBF) manufactured by Abbott Laboratories Inc. before passing away did not show that an alternative warning label would have prevented her child's death, the Seventh Circuit U.S. Court of Appeals held in affirming a grant of summary judgment for the manufacturer in the first bellwether case in multidistrict litigation pending in Illinois (Ericka Mar, as administratrix of the estate of RaiLee Mar v. Abbott Laboratories, No. 25-2587, 7th Cir., 2026 U.S. App. LEXIS 22099).

( Opinion available 15-260803-038Z )

Chief Judge Michael B. Brennan wrote the July 24 opinion and was joined by Circuit Judges Michael Y. Scudder and Candace Jackson-Akiwumi.

The panel held that plaintiff Ericka Mar overstated the strength of the deposition testimony of one of her daughter's physicians, who stated that placing a different warning on the formula would have made the hospital try harder to find donor milk for her daughter and ultimately could have saved her daughter's life.

The panel further found that Mar did not prove that the alternative warning label would have forced the hospital to change its policy to allow her to use another mother's breast milk to feed her daughter and that she did not provide evidence to show that the alternative warning would have convinced her not to discard her own blood-tainted breast milk and feed it to her daughter.

Mar, as the administratrix of the estate of her infant daughter RaiLee, filed suit against Abbott in January 2022 in the U.S. District Court for the Northern District of Illinois alleging that her daughter died shortly after ingesting Abbott's preterm infant formula.

MDL

The case was selected for the first bellwether case for trial in the MDL, which was established in 2022 when the U.S. Judicial Panel on Multidistrict Litigation consolidated cases against

Abbott and Mead Johnson Mead Johnson Nutritional Co.

Judge Rebecca R. Pallmeyer was appointed to oversee the MDL. In it, the plaintiffs allege that their children, who were premature, were fed CMBFs manufactured by Abbott or Mead Johnson and then soon after developed NEC.

As of July 1, there were 810 cases pending in the MDL.

Bad Formula

RaiLee, who was born 12 weeks premature in a hospital in Summersville, W.Va., in 2014, was initially fed her mother's milk while she was in the hospital. However, after about a week, the milk Mar was producing contained traces of blood and she could no longer feed it to her daughter, according to the hospital's orders.

With no donor milk available, the hospital fed RaiLee Similac Special Care 24, a CMBF produced by Abbott. A day later, RaiLee was diagnosed with NEC. The following day, she died.

Warnings

Mar alleged in her complaint that Abbott failed to provide an adequate warning about the dangers of the formula, including that it could cause NEC.

According to a study released in 2014, Mar said in the complaint that "NEC 'is the most frequent and lethal gastrointestinal disorder affecting preterm infants and is characterized by intestinal barrier disruption leading to intestinal necrosis, multi-system organ failure and death.'"

The warning on the label of Abbott's preterm infant formula stated "'USE AS DIRECTED BY A DOCTOR.'" Mar's regulatory and labeling expert offered an alternative warning that he believed was more effective, stating "'human milk has a lower risk of NEC than formula,'" which Mar said could have saved her daughter's life.

In her complaint, Mar specifically alleged negligence, strict liability for design defect and failure to warn and sought wrongful death and compensatory damages as well as damages for emotional distress, economic damages and attorney fees and costs.

Summary Judgment

Abbott moved in January 2025 for summary judgment, and Mar responded in opposition.

In May 2025, Judge Pallmeyer granted Abbott's motion.

The judge said that Mar was unable "to present evidence of a feasible alternative design to Abbott's cow's-milk formula, nor has she been able to demonstrate that Abbott's alleged failure to warn was the cause-in-fact of RaiLee's NEC."

Judge Pallmeyer also denied a motion filed by Abbott and Mead Johnson for summary judgment in all of the cases after denying a motions to exclude expert testimony. The judge noted that the MDL will continue despite the grant of summary judgment in Mar's case.

"The purpose of selecting a bellwether case is to provide information helpful to the resolution of all cases in the MDL. The court has granted summary judgment in this case, but its holding has limited direct application to the other claims in the MDL," the judge said.

Mar moved for reconsideration under Federal Rule of Civil Procedure 59(e), Fed. R. Civ. P. 59(e), and asked to present two new witnesses to support her failure-to-warn theory. Because both witnesses were available to Mar during discovery, Judge Pallmeyer ruled Mar could not offer them through a Rule 59(e) motion.

Mar appealed both the summary judgment on her failure to warn and the denial of her Rule 59(e) motion to the Seventh Circuit.

Requirement To Warn

The panel reviewed the District Court's grant of summary judgment to Abbott de novo.

The panel first held that pursuant to West Virginia law, manufacturers are liable for not warning consumers about their products' dangers. In turn, liability for failure to warn requires the plaintiff to prove that "'it was reasonably foreseeable to the manufacturer that the product would be unreasonably dangerous if distributed without a warning,'" pursuant to Church v. Wesson, 385 S.E.2d 393 (W. Va. 1989), and that "the manufacturer's failure to warn of the dangers must have been the cause in fact of the injuries."

In a footnote, the panel said that the parties agreed that West Virginia law applies in this case.

In this case, the panel said that Mar stated "that her alternative warning would have made a difference in three ways."

Donor Milk

First, the panel addressed Mar's claim that if Abbott used the "alternative warning, the hospital would have made efforts to implement a donor-milk program" and the milk could have been fed to RaiLee.

Citing the deposition testimony of RaiLee's treating physician, identified as Dr. Maxwell, stating that the hospital would have tried "'to get donor milk maybe quicker than'" they did with the alternative warning, Mar said a "reasonable inference" was created that a donor-milk program would have been created.

The panel, however, said that "Mar overreads Dr. Maxwell's testimony" and referenced the doctor's full transcript in which he discussed the expense and difficulty of creating a donor milk program as well as the fact that "treating physicians knew of the connection between NEC and formula" at the time of RaiLee's death.

In turn, the panel held that it was "not reasonable to infer that Mar's alternative warning would have catalyzed the creation of such a program."

Strict Policy; Unknown Response

Addressing Mar's second argument, that the alternative warning would have convinced hospital staff to allow another breastfeeding mother to provide milk for RaiLee, the panel said that the hospital's policies still would not have allowed it.

The panel stated that "the district court correctly observed" that Mar could not "point to evidence that the hospital would have changed its policy in light of a different warning on Abbott's formula" and that any other conclusion "requires conjecture."

Addressing Mar's third argument, that a jury could infer that she would have declined formula and instead fed RaiLee her blood-tainted breast milk if she had read the alternative warning, the panel opined that it "falls short."

The panel said that "Mar did not read Abbott's original warning" and that "West Virginia law requires a plaintiff first read the existing warning in failure-to-warn claims."

"We do not know how Mar would react to reading the allegedly improper warning label, so we cannot determine how she would respond to reading a different one," the panel wrote.

Causation

It further ruled, upon request from Abbott, "on a broader topic of causation."

"The company asks us to conclude that Mar has not produced sufficient evidence to find that Abbott's formula was a 'but for' cause of NEC. As the district court observed, the answer to that question may turn on how RaiLee's feeding schedule is measured. We need not reach this weighty issue. For this appeal, it is sufficient to conclude that on this evidence, Mar's suggested alternative label would not have prevented RaiLee's death," the panel wrote.

# Mealey's PI/Product Liability - Judge: Warnings Expert May Testify In Insulin Pen Suit Against Novo Nordisk

## In Brief

Connecticut federal judge ruled warnings expert Gerald Goldhaber may testify in hospital system's suit against Novo Nordisk regarding shared insulin pens that exposed patients to blood-borne illnesses.

## Detailed Summary

U.S. District Judge Janet C. Hall denied Novo Nordisk Inc.'s motion to exclude testimony from warnings expert Gerald Goldhaber under Federal Rule of Evidence 702 in a suit brought by Griffin Health Services Corp. Griffin operated Griffin Hospital, where staff shared Novo Nordisk insulin pens among over 3,100 patients from 2008 to May 2014, allegedly exposing patients to blood-borne pathogens. Griffin faced a class action that settled for approximately $1 million and incurred additional expenses for patient testing and responding to a Connecticut Department of Public Health investigation. Griffin sued Novo Nordisk alleging failure to warn about pen-sharing dangers despite knowledge that healthcare providers were engaging in the practice. The court rejected Novo Nordisk's six grounds for exclusion, finding Goldhaber qualified to testify and his opinions relevant and reliable, noting challenges to testimony weight are properly addressed through cross-examination at trial.
This summary is generated by AI technology. AI generated content should be reviewed for accuracy.

## Body

A Connecticut federal judge ruled that Novo Nordisk Inc. failed to show that testimony from a warnings expert retained by a hospital system that was sued in a class action brought by patients who may have been exposed to blood-borne illnesses was inadmissible under Federal Rule of Evidence 702 (Griffin Health Services Corp., et al. v. Novo Nordisk Inc., No. 24-1045, D. Conn., 2026 U.S. Dist. LEXIS 165107).

( Order available 28-260807-007R )

The testimony from Gerald Goldhaber "is at the heart of the failure to warn claims," U.S. Judge Janet C. Hall of the District of Connecticut said in her July 24 order, and she found that he is qualified to testify and that his opinions are relevant and reliable.

Insulin Pens

Griffin Health Services Corp. operates Griffin Hospital in Derby, Conn. The pens manufactured by Novo Nordisk feature a reusable insulin cartridge and a disposable needle. Griffin used the pens from 2008 to May 2014 to administer insulin injections to more than 3,100 patients. Its staff shared the insulin pens among patients. The sharing of insulin pens allegedly exposed patients to the risk that blood-borne pathogens would be transmitted to another patient.

Griffin faced a class action, which it settled for about $ 1 million. It also incurred expenses for testing patients who may have been exposed to blood-borne illnesses and responding to an investigation by the Connecticut Department of Public Health.

No Warning Issued

Griffin sued Novo Nordisk in the District Court. It alleges that medical journals and news outlets were reporting that health care providers were using insulin pens on multiple patients. It said the U.S. Food and Drug Administration issued a warning against the practice. Griffin contends that Novo Nordisk knew or should have known that its pens were being shared and should have warned Griffin about the dangers.

Novo Nordisk moved to preclude Goldhaber and requested a live hearing "where Dr. Goldhaber would have to testify regarding the bases and methodology of his opinions" as required under Rule 702, Fed. R. Evid. 702. The judge said "Novo Nordisk asserts six reasons why Dr. Goldhaber's testimony should be precluded" but found that three of those reasons "are easily addressed."

"Dr. Goldhaber does not offer opinions on design defect, warnings to physicians under the learned intermediary doctrine, and damages. . . . The court is puzzled: how can it preclude an expert on subjects the expert does not opine? Finally, if having no expert on a topic somehow results in a failure of Griffin's case, Novo Nordisk may move for a directed verdict or argue that to the jury. The absence of an opinion is not a basis to preclude an expert," she said.

Materials Reviewed

As to qualifications, the judge said Novo Nordisk argued that Goldhaber is unqualified but "nowhere in this section does Novo Nordisk present a basis for why Dr. Goldhaber is not qualified as an expert in this case."

Judge Hall found that Goldhaber meets the qualification standard of Rule 702. She also rejected Novo Nordisk's argument that his testimony was not based on sufficient facts or data.

She noted that Goldhaber "reviewed materials including Department of Health interviews and trainers' depositions, and used consistent methodology he had used in the past."

Novo Nordisk contended that his opinions are flawed because he ignored "critical facts regarding the nurse training courses."

Judge Hall found that argument unpersuasive.

"It is undisputed that five nurses who shared pens did not do Novo Nordisk's training. . . . Novo Nordisk focuses on the 116 nurses who did not share pens and who attended its training. However, Dr. Goldhaber concludes that warnings should have been placed on the boxes and pens contained within. . . . The number of nurses who attended training and which ones did not, and who subsequently shared pens, goes to the weight of his testimony which is for the jury to decide," she said.

Alternative Explanations

Novo Nordisk argued that Goldhaber's opinions are conclusory because he did not opine on alternative explanations for the pen-sharing incident. In support, it pointed to Wills v. Amerada Hess Corp., 379 F.3d 32 (2d Cir. 2004), and Amorgianos v. Nat'l R.R. Passenger Corp., 303 F.3d 256 (2d Cir. 2002).

Griffin countered that those cases are not applicable because they involve expert testimony on medical causation. The judge agreed.

"Both cases involved toxic exposure and expert reports on medical causation. . . . That is not present in this case. . . . Goldhaber's testimony relates to whether it is more likely than not that an adequate warning would have changed behavior. . . . He does not diagnose a specific cause of a medical disease: his testimony addresses the concept of warnings and their adequacy to alter behavior," she said.

Cross-Examination

As to the accusation that Goldhaber improperly relied on conclusions of others after his initial report was issued, the judge agreed with Griffin and found that there "is no prejudice or surprise to either party."

"Certainly, under all the circumstances present in this case, modifying the bases or analysis of the evidence in support of his opinions after receiving further information is no grounds to preclude testimony," she said.

The judge found that Goldhaber's testimony is not speculative.

"Any points Novo Nordisk has raised to the weight a jury can give to Dr. Goldhaber's testimony are properly explored at trial in cross examination," she said.

The judge also ruled that a Rule 702 hearing is unnecessary.

Counsel

Griffin is represented by David J. Robertson of Heidell, Pittoni, Murphy & Bach LLP in Shelton, Conn.

Novo Nordisk is represented by Lesley P. Chuang in Boston and Christopher G. Campbell and Sarah Carrier in Atlanta, all of DLA Piper LLP (US).

# 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.)

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

To contact the editors responsible for this story: Maria Chutchian at mchutchian@bloombergindustry.com; Brian Flood at bflood@bloombergindustry.com

Insight

**Private Investors Pick Up Slack for Plummeting SEC Enforcement**

July 30, 2026, 1:30 AM PDT

---

## Summary by Bloomberg AI AI Generated

- The Securities and Exchange Commission is reducing enforcement of federal securities laws and encouraging companies to block private securities litigation through forced arbitration.
- The SEC's enforcement efforts have declined, with 456 total enforcement actions and $262 million distributed to harmed investors in fiscal year 2025, representing 38% and 65% declines from previous averages.
- Private enforcement through securities class actions is increasingly important in protecting investors and deterring misconduct, with recoveries in private securities litigation consistently exceeding the SEC's distributions to investors.

The Securities and Exchange Commission is drastically reducing enforcement of the federal securities laws even as the SEC encourages companies to block private securities litigation, including through forced arbitration.

By threatening to deprive investors impacted by corporate misconduct of meaningful recoveries, these developments confirm the importance of robust investor vigilance and private enforcement of the federal securities laws.

**Declining Enforcement Efforts**

In the past 18 months, the SEC's enforcement efforts have significantly declined. This appears to be by design. Commission Chair Paul Atkins recently acknowledged: "Over the past year, the Commission has put a stop to regulation by enforcement" as it recenters enforcement on the agency's "core mission."

The SEC's published metrics reveal a clear trend of both declining enforcement actions and reduced distributions to investors. For fiscal years 2019 to 2024, the SEC filed an average of 734 enforcement actions and distributed an average of $755 million to harmed investors each year. In fiscal year 2025 (ending Sept. 30, 2025), however, the SEC filed 456 total enforcement actions and distributed just $262 million to harmed investors — 38% and 65% declines, respectively, from the SEC's 2019-2024 averages.

While the SEC has stated that its current enforcement efforts "focus on protecting the interests of retail investors," this appears to target narrow types of misconduct like Ponzi schemes and affinity frauds — not misstatements that impact the share prices of large, widely traded public companies. As a result, the SEC's shift threatens to leave the most significant and far-reaching securities violations unaddressed as a matter of federal enforcement.

As the SEC has scaled back enforcement, it has encouraged companies to impede private securities litigation. One prominent example is the SEC's September 2025 "policy statement" greenlighting mandatory arbitration provisions for federal securities claims in initial public offerings.

As former Commissioner Caroline A. Crenshaw explained, such mandatory arbitration would strip investors of due process and their ability to pursue claims in court. Other commentators have questioned such provisions' legality based on the federal securities laws' anti-waiver provisions, state law, due process, and other grounds.

Nonetheless, companies are beginning to adopt these provisions. For example, SpaceX's registration statement for its IPO — the largest in history — attempts to funnel shareholder claims to arbitration. The SEC's endorsement of mandatory arbitration for federal securities claims threatens to deprive investors of their most effective response to corporate fraud.

**Shareholders' Critical Role**

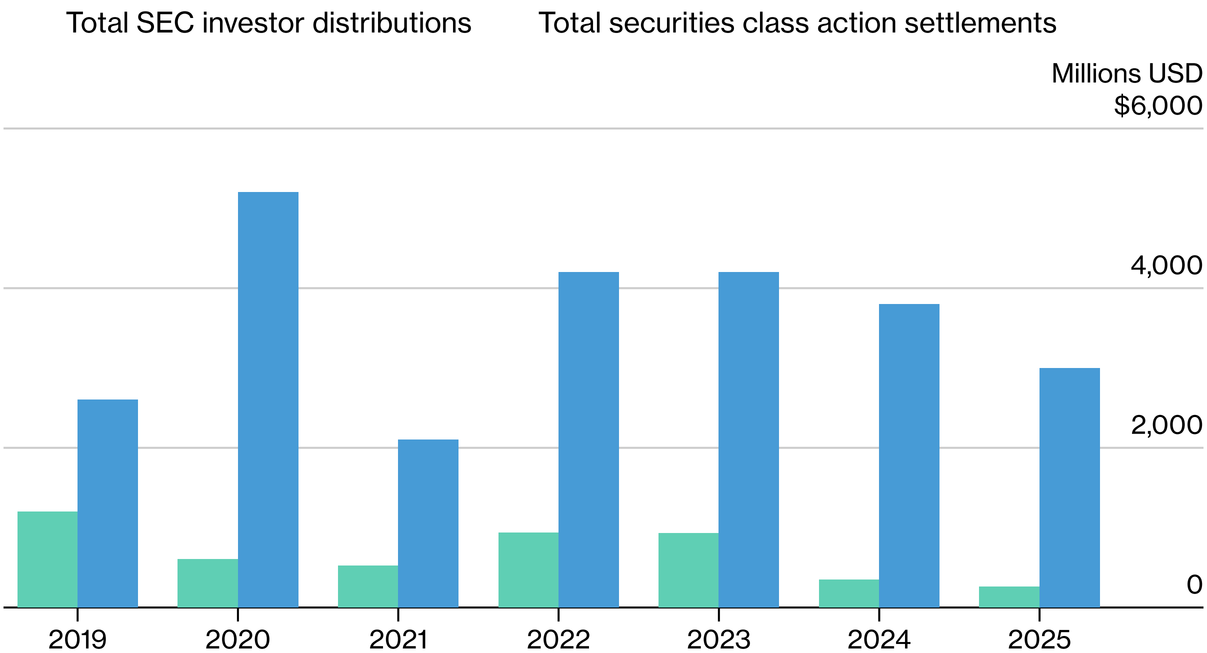
Given the SEC's declining enforcement efforts, private enforcement through securities class actions serves an increasingly important role in protecting investors and deterring misconduct. Over a decade ago, academic research concluded that "private plaintiffs' attorneys, if anything, provide greater deterrence against more serious securities law violations compared with the SEC."

Empirical data supports that conclusion. Recoveries in private securities litigation have consistently exceeded the SEC's distributions to investors. From 2019 to 2025, SEC investor distributions have averaged $685 million annually, while private securities class action settlements have recovered an average of $3.6 billion annually before accounting for attorneys' fees. That means recoveries in private securities class actions have been, on average, 5.2 times as large as the SEC's distributions to investors.

Significantly, this ratio has recently increased, as shown below, reaching 11.5:1 in 2025. Put another way, private securities litigation recovered $11.5 million for every $1 million the SEC distributed to investors. Given the SEC's declining enforcement efforts and the lag between enforcement actions and investor distributions, this ratio is likely to continue increasing in 2026.

**Private Class Settlements Dwarf SEC Enforcement**

Private securities class actions have recovered multiples of what the SEC distributes to investors in enforcement cases




Source: SEC, Cornerstone Research

**Bloomberg Law**

The superior effectiveness of private securities class actions is also borne out in individual cases. For example, our firm was lead counsel in an investor class action against Granite Construction that yielded a $129 million settlement. By contrast, the SEC's enforcement actions only obtained a $12 million settlement from Granite and less than $2 million from Granite's CEO and CFOs — none of which was returned to investors. For investors who suffer losses from misconduct at the hands of public companies, private enforcement is often the only practical means of recovery.

In summary, the SEC's declining enforcement efforts and policy shifts underscore the importance of federal securities class actions in protecting investors' rights and deterring corporate misconduct.

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

**Author Information**


Evan Kubota is a partner and Thomas Allen is an associate at Bleichmar Fonti & Auld, a law firm that specializes in securities and shareholder litigation.


**Interested in writing? Review our author guidelines, and submit pitches to Insights@bloombergindustry.com.**

# Lawsuit says Apple allowed fraudulent crypto wallet in its App Store | Secondary Sources | National



(July 29, 2026) - Apple Inc. customers have filed a proposed class action alleging liability for cryptocurrency losses from a fraudulent app they downloaded in reliance on the company's long-running claims that its App Store is a safe and trusted marketplace.

*Ramirez et al. v. Apple Inc.,* No. 26-cv-7713, *complaint filed* (N.D. Cal. July 24, 2026).

Apple's representations about the App Store's safety were false and misleading, and the company's failure to adequately vet apps and warn users about potential spoofs allowed cybercriminals to steal millions from unsuspecting consumers, according to the complaint, filed July 24 in the U.S. District Court for the Northern District of California.

For years, Apple has cultivated an image of a tightly curated marketplace where every app is subjected to a rigorous review to ensure safety and security, the complaint says.

The lawsuit centers on a legitimate cryptocurrency service called Sparrow Wallet that is available on Windows, macOS and Linux systems, but not in Apple's iOS-based App Store, according to a post on MacRumors.com.

Plaintiffs James Ramirez, Christopher Ellis and Jalen Delgado each downloaded from the App Store a fraudulent app that imitated Sparrow Wallet, believing Apple's claims that all available apps are vetted and secure, the complaint says.

After the plaintiffs entered their credentials into the "spoofed" app, scammers stole their digital assets. According to the complaint, Ramirez, Ellis and Delgado lost about $875,000, $840,000, and $120,000, respectively,

Apple responded to MacRumors.com that it "has taken swift action to remove any apps impersonating Sparrow Wallet on the App Store and to terminate developer accounts associated with those apps."

The suit alleges Apple knew or should have known the App Store hosted fraudulent apps but failed to warn consumers, instead continuing to promote the platform as a secure ecosystem.

# Securities Class Action Filings Surge in the First Half of 2026 | Business Information & News | FE



AI-related filings on pace to nearly double 2025 levels.

Securities class action filings increased 30% to 121 during the first half of 2026 relative to the prior six months, which coincided with a surge in litigation involving artificial intelligence-related claims and technology companies. A new report released today by Cornerstone Research and the Stanford Law School Securities Class Action Clearinghouse, supplemented with data from Stanford Securities Litigation Analytics, highlights historical and recent filings activity, characteristics, and trends.

The report, Securities Class Action Filings—2026 Midyear Assessment, found that investors filed 15 AI-related securities class action lawsuits during the first half of 2026, putting such filings on pace to nearly double the 2025 total. Meanwhile, cryptocurrency (three filings) is on pace to be the lowest since 2019; there have been no COVID-19 or cybersecurity filings so far this year.

Primarily fueled by AI-related concerns, filings targeting the technology sector increased from nine to 24.

"Data from the first half of 2026 point to several notable shifts in securities class action filings," said Alexander "Sasha" Aganin, coauthor of the report, Senior Vice President at Cornerstone Research, and cohead of the firm's finance practices. "Primarily fueled by AI-related concerns, filings targeting the technology sector increased by 15 filings, from nine to 24. At the same time, core federal filings against non-U.S. issuers rose sharply, driven by complaints alleging 'pump-and-dump' schemes. Filings against companies headquartered outside the United States are on pace to reach 46 this year, twice that of those filed in 2025."

Along with the increase in filings, the overall size of alleged investor losses increased as well. Disclosure Dollar Loss (DDL), which measures the market cap change at the end of a class period, rose significantly. The 77% increase in the DDL Index was largely driven by AI-related filings, which accounted for 73% of the total DDL in 2026 H1.

AI-related cases represented a modest share of total filings but an outsized share of alleged investor losses in the first half of 2026.

The Maximum Dollar Loss (MDL), which measures the change in market capitalization from the peak during the class period to the end, rose to nearly triple the historical semiannual average, supported by the high market value losses of companies involved in AI-related litigation.

"AI-related cases represented a modest share of total filings but an outsized share of alleged investor losses in the first half of 2026," said Stanford Law Professor and former SEC Commissioner Joseph Grundfest. "That imbalance highlights the extent to which a small number of high-impact matters can influence trends across securities litigation."

Additional Key Trends

AI-related filings represented 13% of core filings, but DDL from these filings ($385 billion) accounted for 73% of the DDL Index in 2026 H1 ($529 billion).

Five of the 17 Mega MDL filings in 2026 H1 were AI-related; 80% of Mega MDL was from AI-related filings.

The DDL Index rose 77% compared to 2025 H2, due in part to increased filing activity as well as a 12% increase in median DDL compared to 2025.

The Second and Ninth Circuits continue to be the primary venues, accounting for 70% of the number of core federal filings.

Filing activity was concentrated in the first quarter, with 69 filings in Q1 compared to 52 in Q2.

Combined federal Section 11 and state 1933 Act filing activity was in line with prior years. Federal M&A class action filing activity remained low with only four filings.

About Stanford Securities Litigation Analytics and the Stanford Law School Securities Class Action Clearinghouse

Stanford Securities Litigation Analytics (SSLA) and the Securities Class Action Clearinghouse (SCAC) are authoritative sources of data and analysis on the financial and economic characteristics of federal and state securities fraud class action litigation. Data from the Securities Class Action Clearinghouse has been supplemented with data from Stanford Securities Litigation Analytics to identify 7,073 federal securities class action filings between January 1, 1996, and June 30, 2026. The analysis in this report is based on data identified as of July 11, 2026.

The views expressed herein are solely those of the authors and do not necessarily represent the views of Cornerstone Research.

# AI-Related Securities Suit Hits Israeli Web Development Platform



In its July 29, 2026, report on first half securities class action lawsuit filings (here), Cornerstone Research explained the increased levels of 1H26 securities suit filings as being due in significant part to "a surge in litigation involving artificial intelligence-related claims ." In the latest example of this type of AI-related securities litigation, as well as an example of the kinds of allegations that can lead to these kinds of suits, late last week a plaintiff shareholder sued Israeli cloud web development platform company Wix.com, alleging the company had overstated its AI-related capabilities and prospects, while understating its AI-related costs. A copy of the July 24, 2026 complaint can be found here.

*Background*

Wix offers services that allow users to create and customize professional websites. At relevant times, the company allegedly tried to remain competitive by providing its customers with AI-powered offerings. In January 2026, the company launched Wix Harmony, intended to be the Company's flagship AI site builder, allowing users to generate designs, contents, and layouts automatically.

The complaint alleges that during the class period, the company touted its purported leadership in AI-powered web development, which it claimed set it apart from competitors. The complaint alleges that in reality the company's costs were "accelerating at an alarming rate as it struggled to maintain its relevance in the market, particularly as competing AI technologies and services were increasingly outpacing the capabilities of Wix's own products."

On May 13, 2026, the company reported disappointing financial results for the 1Q26, including earnings and revenue below consensus expectations, as well as a decline in operating margins attributed to softness in its professional developer business.

In an earnings call the same day, the company acknowledged that Wix's professional developer customers were using competing AI tools, as well as that its Harmony platform had "holes" and "missing capabilities," and that there had been delays in delivering product updates, as a result of which the company had fallen behind "the workflow and needs of" professional developers. According to the complaint, the company's shares fell about 27% on this news.

*The Lawsuit*

On July 24, 2026, a plaintiff shareholder filed a securities class action lawsuit in the Northern District of Illinois against Wix and certain of its directors and officers. The complaint purports to be filed on behalf of a class of investors who purchased the company's securities between February 19, 2025, and May 12, 2026.

The complaint alleges that during the class period, the defendants made false or misleading statements or failed to disclose that: "(i) Wix had overstated the competitiveness and performance of its AI product offerings relative to those offered by other companies; (ii) Wix had understated the costs associated with developing and promoting its AI product offerings; (iii) accordingly, Defendants overstated the commercial and financial benefits of Wix's product offerings; and (iv) as a result, Defendants' public statements were materially false and misleading at all relevant times."

The complaint alleges that the defendants violated Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The complaint seeks damages on behalf of the class.

*Discussion*

As noted above, the volume of AI-related securities suit filings has been an important factor in the number of securities class action lawsuit filings this year. There have been several different kinds of AI-related lawsuits filed; this lawsuit clearly represents an example of a so-called "AI washing" securities suit, in which plaintiffs allege that the defendant company misrepresented its AI-related capabilities and opportunities. The plaintiff specifically alleges that "overstated the competitiveness and performance of its AI product offerings" and "overstated the commercial and financial benefits" of its AI product offerings.

In its discussion of the AI-related securities lawsuit trends, the Cornerstone Research report about 1H26 securities suit filings breaks down the AI-related lawsuits by defendant type. The defendant categories to which the report refers include AI development companies; AI usage companies; AI Infrastructure/Hardware companies; Data Centers; Autonomous Vehicles; and other.

I think this categorization provides a useful framework to think about and to analyze the AI-related securities litigation.

The defendant in this lawsuit appears to fit in the AI development company category, as it is creating and trying to market AI tools for professional developers to use in website design and creation. (The company's customers apparently would seem to qualify as AI users.)

According to the Cornerstone Research report, there previously had been 6 AI-related securities suit filings involving AI developers in 2026, making this new lawsuit the 7th. According to the Cornerstone Research report's analysis, AI developers are the most frequent target in the AI-related securities suits filed so far this year.

In addition to the complaint's AI-washing type allegations, this new complaint also has allegations concerning the defendant company's AI-related spend – specifically, that the company underreported the costs associated with developing and promoting its AI product offerings.

As companies face pressures to incur costs in order to keep up in the AI arms race, AI spend-related allegations are an increasingly important part of AI-related securities suit allegations. Readers may recall that AI spend related allegations were in fact a key component of the AI-related lawsuit filed last year against Oracle and in the lawsuit more recently filed against Microsoft. As AI associated cost become increasingly astronomical, it seems probable that AI spend-related allegations will become an increasingly important part AI-related securities suit complaints.

The Cornerstone Research report says that as of this year's mid-point, there had been a total of 15 AI-related securities suits filed so far in 2026, compared to 16 for the full year 2025, putting the 2026 AI-related securities suit filings on a pace to almost double the number of 2025 filings. (Cornerstone Research's filing numbers differ slightly from our own tallies, but the figures in both data sets are directionally consistent.) Under the Cornerstone Research tally, this new lawsuit filing brings the year's count of AI-related filings to 16, with more undoubtedly to come. It seems clear that by year end the AI-related litigation will prove to have been an important factor in the total number of securities class action lawsuits filed this year.

There is one final note I want to add of significance for D&O insurance underwriters, and that is to observe that while these AI suits involve AI-related allegations, they otherwise are entirely conventional securities class action lawsuits. Other than the AI allegations, there is really nothing new about these suits.

For that reason, in thinking about what the underwriting implications of these AI suits, D&O underwriters don't have to come up with an entirely new underwriting approach. Rather, they need to think about how to adapt existing tools to this new category of suits. The type-of-defendant framework Cornerstone Research proposed is one good starting point. Another useful starting point is the type of AI-related allegation, starting, for example, with AI washing type allegations. In future posts, we intend to further explore the relevance of these kinds of analytic frameworks in developing an underwriting approach to AI-related D&O claims risk.

# Another Private Credit Excessive Fee Lawsuit

dandodiary.com/2026/07/articles/private-equity/another-private-credit-excessive-fee-lawsuit

The wave of litigation involving private credit continues to expand. FS KKR Capital Corp. (“FSK”), one of the largest publicly traded business development companies (“BDCs”), is already defending a securities class action lawsuit (KKR SCA) alleging that it overstated asset valuations and misrepresented the effectiveness of its efforts to address troubled portfolio companies. On July 15, 2026, a shareholder of FSK filed a separate derivative lawsuit against the company’s external investment adviser, FS/KKR Advisor, LLC (FS/KKR), alleging that the adviser extracted grossly excessive advisory fees in violation of its fiduciary duties under Section 36(b) of the Investment Company Act of 1940.

*The D&O Diary* has been following developments in the private credit industry closely, including litigation involving valuation and redemption, Payment In Kind (PIK) structures, and conflicts of interest. Indeed, we recently queried whether litigation challenging adviser compensation tied to PIK income and related valuation practices was likely to emerge. This newest lawsuit against FS/KKR appears to be a manifestation of that possibility, as shareholders allege that the adviser’s compensation structure incentivized conduct that breached the fiduciary duties it owed to investors. The case is also the latest example of developing litigation arising out of problems in the private credit industry.

A copy of the complaint filed against FS/KKR can be found here.

The Lawsuit

The derivative complaint against FS/KKR was filed on July 15, 2026, in the Southern District of New York, by plaintiffs, the Employees Retirement System of the City of St. Louis on behalf of FSK against FS/KKR, FSK’s external investment adviser.

The shareholder plaintiffs allege that FS/KKR breached its fiduciary duty under Section 36(b) of the Investment Company Act of 1940 (ICA) by collecting advisory fees that were “so disproportionately large” that they bore no reasonable relationship to the value of the services provided. The complaint seeks recovery of allegedly excessive advisory fees paid to the adviser, together with equitable relief.

According to the complaint, the adviser allegedly controlled both the valuation of FSK’s largely illiquid Level 3 private credit investments and the calculation of its own compensation, which was based in significant part on those valuations. The plaintiffs contend that this structure created an inherent conflict because higher valuations increased the adviser's management fees.

Similarly to the June 18, 2026, [complaint](#) filed against Blue Owl Technology Credit Advisors LLC (Blue Owl) the lawsuit against FS/KKR also focuses heavily on FSK's growing use of PIK income (payment-in-kind interest, under which interest is not paid currently in cash but instead is added to the borrower's outstanding debt balance and recognized as income by the lender as it accrues).

The shareholder complaint alleges that because PIK interest is recognized as income before cash is received, FS/KKR was able to increase both management fees and incentive fees based upon non-cash income while shifting the ultimate collection risk to shareholders. The complaint further alleges that the advisory agreement contains no clawback mechanism requiring repayment of incentive fees if the underlying PIK income ultimately proves uncollectible.

Shareholder plaintiffs further allege that, during the five years following the 2021 merger creating the current FSK structure, the adviser received approximately $1.696 billion in advisory fees while FSK's net asset value declined substantially, and investors suffered significant realized losses.

Discussion

While the prior KKR SCA alleges improper valuation and disclosure deficiencies, the new derivative lawsuit against FS/KKR shifts the focus of legal liability to improper adviser compensation. Instead of challenging what the company said about the strength of its investment portfolio, the plaintiffs allege that FS/KKR's fee arrangements violated Section 36(b) because they inflated advisory compensation at shareholders' expense.

In that respect, the case resembles the recent litigation against various Blue Owl entities. In that case, shareholder plaintiffs challenged arrangements in which an adviser allegedly exercised significant influence over the valuation of illiquid private credit assets, PIK, while receiving compensation tied to those valuations. Whether this emerging theory against fund advisors succeeds remains to be seen, suggest that shareholders are increasingly challenging private credit valuation decisions, fee generation, and fiduciary conduct.

However, we previously noted that claims against private credit advisor entities may face hurdles. Section 36(b) excessive-fee actions historically have been difficult for plaintiffs to pursue successfully. Under the *Jones v. Harris Associates* and the Gartenberg framework, plaintiffs bear the burden of proving that an adviser's fee is so disproportionately large that it could not have been the product of arm's-length bargaining, a standard that courts have applied deferentially to board-approved advisory contracts. Nevertheless, the complaint against FS/KKR could reflect a growing willingness among shareholder plaintiffs to test whether claims that fees were not the product of arm’s-length bargaining will succeed under the ICA.

For insurers of private credit risk, litigation against third-party advisors could implicate investment adviser liability, asset management E&O, or similar professional liability coverages. With respect to public company D&O programs, there may be exposure if shareholder plaintiffs assert claims against directors and officers based on alleged failures to oversee valuation practices, adviser compensation arrangements, or potential conflicts associated with PIK income.

The recent derivative litigation against private credit advisory firms also arrives at a time when public scrutiny over the private credit industry continues to build. A recent Troutman Pepper Locke article noted that banks are tightening lending terms for private credit funds, increasing back-leverage costs, restricting concentrations in certain sectors, and responding to heightened regulatory attention focused on leverage, valuations, and liquidity risks.

Whether this latest wave of allegations against private credit advisors ultimately gains traction remains uncertain. Nonetheless, these lawsuits underscore a continuing willingness by plaintiffs to directly challenge the incentive and compensation structures that underpin private credit business models. As these theories are tested in court, excessive-fee litigation targeting private credit practices may continue to proliferate. For D&O and E&O insurers, this trend bears close attention, as it may signal an expanding range of liability exposures stemming from private credit compensation arrangements, governance practices, and potential conflicts of interest.

# Hayward Investors’ $20 Million Accord Gets Final Court Nod (1)



Pool supplier Hayward Holdings Inc. and controlling shareholders earned a federal judge’s final approval for a class agreement with other investors to resolve allegations that the defendants downplayed elevated channel inventory and overhyped demand for the company’s products.

Counsel for the investor class will get 26% of the nearly $19.9 million deal for attorneys’ fees, Judge William J. Martini said in a ruling entered Wednesday blessing the settlement. They’ll also get almost $211,000 for litigation expenses, the US District Court for the District of New Jersey judge said.

Martini approved a settlement class of investors who got Hayward stock from Oct. 27, 2021, to July 28, 2022.

Last year, Martini allowed some claims from the investor leading the case to proceed past a motion to dismiss, including securities fraud allegations based on corporate statements about demand and sales as the Covid-19 pandemic eased.

“Control person” claims against two sets of entities that were purportedly beneficial owners and controlling shareholders of Hayward stock narrowly survived.

“I think this is an excellent resolution for the class. It was an extremely difficult case because the alleged misrepresentations took place during Covid — it was complicated to allege that this conduct was not just in the confusion of the moment,” Max Schwartz, a partner at Scott & Scott Attorneys at Law LLP, said. “And we believe that we were able to, nevertheless, return a strong settlement that’s going to immediately return millions of dollars to class members.”

Scott & Scott is lead counsel for the investor class. Latham & Watkins LLP represents Hayward. Willkie Farr & Gallagher LLP, Parker Ibrahim & Berg LLP, and Seyfarth Shaw LLP represent the sets of shareholder entities. Hayward didn’t immediately respond to an email seeking comment.

The case is City of Southfield Fire & Police Ret. Sys. v. Hayward Holdings, Inc. , D.N.J., No. 2:23-cv-04146, final approval 7/29/26 .

# Securities Class Actions To Watch: Mid-Year Report

law360.com/articles/2502448/securities-class-actions-to-watch-mid-year-report

(July 29, 2026, 8:58 PM EDT)-- A trio of circuit court appeals tied to the class certification process in shareholder suitsand a U.S. Supreme Court appeal that also touches on certification are among the cases that securities litigators are keeping an eye on in the second half of 2026.

Law360 spoke to attorneys about developments in investor class litigation over the first half of the year, and which cases they plan to follow moving forward.

Some of their responses are below.

**Comcast Appeals**

There are two appeals in cases involving safety issues at Boeing that could impact the way class certification is argued in the lower courts.

The Fourth Circuit issued a ruling earlier this month **overturning class certification** in shareholder litigation accusing the airplane manufacturer of hiding from investors ongoing safety issues with its 737 Max fleet until news that a door plug blew off one of its jets in 2024 caused its stock price to plunge.

And the Seventh Circuit is **being briefed** in a separate case accusing Boeing of misrepresentingto investors the 737 Max 8 jets' safety after two deadly crashes in 2018 and 2019.

Both appeals turn on whether class certification was properly granted under the U.S. Supreme Court's 2013 ruling inComcast Corp. v. Behrend.

The ruling, which concernedan antitrust case, requires lower courts to consider whether a proposed damages model demonstrates classwide reliance. If it cannot, then the class cannot be certified.

The Fourth Circuit said in its Boeing ruling that the plaintiffs did not provide a damages methodology "consistent with Comcast's demands," and that the district court did not conduct the required "rigorous analysis," and therefore erred in granting class certification. Boeing investors have been given until Sept. 2 to appeal for a rehearing.

In addition to the Boeing appeals, the Sixth Circuit is weighing whether to hear a second class certification appeal **filed by FirstEnergy Corp.** that also makes Comcast arguments.

Lauren Ormsbee of shareholder-side firm Labaton Keller Sucharow LLP said that, by her count, judges have ruled against defendants' Comcast challenges more than 120 times.

For example, the Second Circuit in 2017's Waggoner v. Barclays ruled that damages models at class certification do not have to be "so precise" as to account for other possible explanations as to why a stock's price may have been inflated during the class period.

"The lower courts historically have not really grappled with the requirements of Comcast, certainly not in the way that the defense bar believes they should," Maeve O'Connor of Debevoise & Plimpton LLP said. "So it's exciting to have these cases up on appeal."

The cases are In re: The Boeing Company Securities Litigation, case number 25-1492, in the U.S. Court of Appeals for the Fourth Circuit; Public Employees' Retirement System of Mississippi et al. v. Boeing Company et al., case number 26-2018, in the U.S. Court of Appeals for the Seventh Circuit; and In re: FirstEnergy Corp., case number 26-0303, in the U.S. Court of Appeals for the Sixth Circuit.

**Goldman Redux?**

Zillow Group Inc. petitioned the U.S. Supreme Court in March to readdress a 2021 ruling on class certification, and securities litigators are waiting to see whether the court agrees to hear the case.

The real estate listing site has been accused by investors of overhyping a now-shuttered home-buying program and the Ninth Circuit last year **affirmed a lower court's decision** to certify the investor class.

In its appeal to the Supreme Court, Zillow argued that the Ninth Circuit's ruling didn't comport with the high court's 2021 ruling in Goldman Sachs Group Inc. v. Arkansas Teacher Retirement System .

The company is asking the justices to hear the case in order to address a post-Goldman split between the Ninth and Second circuits and to declare that, under Goldman, defendants can defeat class certification by showing that there isn't a close enough correlation between a company's corrective statements and the alleged misstatements that it made.

The investors' response to the petition is due Aug. 11, while Zillow has already received the backing of the U.S. Chamber of Commerce and a handful of law professors who have filed briefs with the court asking it to hear the dispute.

Debevoise's O'Connor noted that the last two times the Supreme Court agreed to hear a securities class action appeal — one involving Facebook and the other involving Nvidia — it

**dismissed them** as improvidently granted.

Zillow will need to articulate a clear rule for the court to apply in order to convince the Supreme Court to take up this securities class action after it dismissed the previous two, O'Connor said.

"If not this case, I think there will be one where that happens in the future," she said, "because the lower courts are really grappling with Goldman and applying it in slightly different ways."

The case is Zillow Group Inc. v. Jaeger, case number 25-1365, before the U.S. Supreme Court.

**Post-Facebook Rulings**

One of the cases that the Supreme Court dismissed without a ruling in 2024 was Facebook Inc. v. Amalgamated Bank , in which Meta Platforms Inc. asked the justices to determine when risk factor disclosures need to include the disclosure of risks that materialized in the past.

There have been two major appellate rulings on risk disclosures since the high court's pass in Facebook, according to Peter Kazanoff of Simpson Thacher & Bartlett LLP.

The first came in January, when the Sixth Circuit **upheld the dismissal** of a lawsuit accusing a company now known as Bread Financial Holdings Inc. of misleading investors about the financial health of a company that it spun off, only for that company to go bankrupt a year and a half later.

Then in May, the Second Circuit also **upheld the dismissal** of a proposed investor class action accusing The Gap Inc. of misleading investors about demand for its Old Navy brand's plus-size clothing line.

Though they were both dismissals, each case addressed risk disclosures differently, Kazanoff said.

The Sixth Circuit took "a very definitive view that risk factors are just inherently prospective in nature and can't give rise to claims," he said.

Meanwhile, the Second Circuit "sort of struck a middle path" that could allow some risk factor claims to move forward, Kazanoff said. The Ninth Circuit in the past has issued more shareholder-friendly rulings, he said.

"At some point, one of these cases maybe finds its way back up to the Supreme Court because you really do have a difference in view from the different circuits," he said.

The cases are Diaz v. The Gap Inc., case number 25-1130, in the U.S. Court of Appeals for the Second Circuit, and Newtyn Partners LP et al. v. Alliance Data Systems Corp et al., case number 25-3313, in the U.S. Court of Appeals for the Sixth Circuit.

**AI Cases**

The number of lawsuits alleging that publicly traded companies are misleading investors about artificial intelligence has been on the rise for the past five years. Jonathan Youngwood of Simpson Thacher doesn't think that litigation trend is showing signs of slowing down.

"It's certainly been a lot of what we've been consulting and advising clients on," he said.

According to Cornerstone Research, there were 16 AI-related cases filed last year, compared to 15 in 2024 and only seven in 2022.

That rising litigation threat makes sense because securities litigation is often "a trailing indicator of what's going on in the world," Youngwood said, and AI has been a part of the economy for years.

Though he didn't mention specific cases, Microsoft**was sued** earlier this yearover allegations that it overhyped its AI chatbot Copilot, and ZoomInfo **was separately accused** of minimizing concerning trends regarding customers' adoption of its AI tools.

Those cases are City of St. Clair Shores Police and Fire Retirement System v. Microsoft Corp. et al., case number 2:26-cv-02071, in the U.S. District Court for the Western District of Washington, and Tejada v. ZoomInfo Technologies Inc. et al., case number 2:26-cv-02211, in the U.S. District Court for the Western District of Washington.

# Novo Faces Narrowed Investor Suit Over Obesity Drug Claims

law360.com/articles/2506916/novo-faces-narrowed-investor-suit-over-obesity-drug-claims

(July 29, 2026, 8:03 PM EDT)-- A New Jersey federal judge narrowed a proposed securities class action against Novo Nordisk, preserving claims that it misled investors about the CagriSema obesity drug's tolerability and a flexible protocol used in a clinical trial.

U.S. District Judge Robert Kirsch held on Tuesday that the proposed class plausibly alleged Novo's omissions rendered several public statements **misleading**, but dismissed claims challenging statements about the drug's efficacy and general corporate optimism.

While granting the drugmaker's motion to dismiss in part, the judge held that one category of alleged misstatements, regarding CagriSema's tolerability and the Redefine-1 protocol, could proceed.

"Clinical trials are complicated and nuanced, and investor calls are not scientific conferences," Judge Kirsch wrote in his **opinion**, adding that pharmaceutical companies "may not mischaracterize or withhold material aspects of those trials in a deceitful or misleading way."

The suit filed in January 2025 centers on Novo's Phase III Redefine-1 trial, launched in late 2022 to test the efficacy and safety of CagriSema — a combination of semaglutide and cagrilintide that is expected to be its next product in the GLP-1 weight loss market.

The plaintiffs, including several pension plans, claimed that Novo did not reveal that it had allowed participants to reduce their intake through individual dose titration to manage tolerability.

Novo's public statements emphasized stable dosing and projected "unsurpassed weight loss" of about 25%, while executives assured analysts that dose escalation "will not introduce more tolerability issues," the opinion said, citing the complaint.

The plaintiffs argued that the statements were misleading because Novo had allowed participants to remain at lower doses, which materially affected the trial's results.

In his opinion, Judge Kirsch agreed that most of the 44 alleged misstatements were not actionable, including Novo's repeated descriptions of the trial's target dose and its forward-looking projections about weight loss. But he found that statements addressing tolerability and protocol design, particularly those by Novo's executive vice president of development Martin Holst Lange, were sufficiently pled to survive dismissal.

The judge explained his view of the difference between ordinary dose modifications and the flexible protocol in the Routine-1 trial in the decision.

"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," Judge Kirsch wrote.

The court pointed to Novo's announcement in December 2024 revealing that Redefine-1 "was based on a flexible protocol, allowing patients to modify their dosing throughout the trial" and allowing those who could not tolerate the full dose to continue with a lower dose. Only 57.3% of the participants reached the full 2.4 mg/2.4 mg dose, the company said.

Novo's stock price fell about 18% following the disclosure.

Judge Kirsch found the claims about the flexible protocol supported a plausible inference that Novo's earlier statements about tolerability and dosing design could have misled investors. He emphasized that Novo had repeatedly assured the market that Redefine-1 followed the company's normal protocol and that tolerability would be "broadly in line with what we see with GLP-1 treatment," even as it had already adopted a protocol allowing participants to stay at a tolerated dose.

The court also noted Novo's February 2025 admission that a flexible protocol was incorporated in the Redefine-1 trial and that dose modifications were allowed throughout it.

Novo argued that its statements were accurate descriptions of the target dose and that dose flexibility was standard in GLP-1 trials. But Judge Kirsch found that the plaintiffs had plausibly alleged there was a meaningful difference between typical dose reductions for intolerability and the broader flexibility built into Redefine-1. The court concluded that investors could have been misled by Novo's failure to disclose the protocol change while making optimistic statements about tolerability and the dosing protocol.

The judge dismissed claims based on Novo's use of the term "fixed dose combination," finding it referred to the drug's formulation rather than its dosing regimen. He also rejected challenges to Novo's forward-looking weight-loss projections, holding they were protected by the Private Securities Litigation Reform Act safe harbor and accompanied by cautionary language.

On scienter, the court found the plaintiffs had adequately alleged that Lange, identified by Novo as the main person to answer questions about clinical trial design, knew or was reckless in not knowing that his statements about tolerability and dosing contradicted the actual protocol. The court cited his later admissions about dose flexibility and his role in responding to analyst questions.

Regarding CEO Lars Fruergaard Jørgensen, Judge Hirsch kept him in the suit because he was a high-level officer even though he is not accused of making or causing misleading misstatements.

Representatives for the parties did not respond to requests for comment Wednesday.

Plaintiffs Changyeon Moon and John Marraffa are represented by Levi & Korsinsky LLP.

Plaintiff Philip Topinko is represented by Scott + Scott Attorneys at Law LLP, and The Schall Law Firm.

Plaintiffs Michael Kopanic and Daniel Blackman are represented by Pomerantz LLP, and Bronstein Gewirtz & Grossman LLC.

The City of Pinellas Park Police Officers' Pension Fund and the City of Pinellas Park Firefighters' Pension Fund are represented by Carella Byrne Cecchi Brody & Agnello PC, Bernstein Litowitz Berger & Grossmann LLP, and Klausner Kaufman Jensen & Levinson PA.

Plaintiff Brian Jackson is represented by The Rosen Law Firm PA.

The New York Hotel Trades Council and Hotel Association of New York City Inc. Pension Fund, the Pavers and Road Builders District Council Pension Fund and the City of Kissimmee General Employees' Retirement Plan are represented by Seeger Weiss LLP, Robbins Geller Rudman & Dowd LLP, Klausner Kaufman Jensen & Levinson PA, and Pitta LLP.

Novo and its executives are represented by Gibbons PC.

The case is In re: Novo Nordisk A/S Securities Litigation, case number 3:25-cv-00713, in the U.S. District Court for the District of New Jersey.

# FTC Says Hims & Hers Shares Health Data, Misleads Users

law360.com/articles/2507378

(July 29, 2026, 6:45 PM EDT)-- The Federal Trade Commission and regulators in California and Utah allege in a federal lawsuit filed Wednesday that Hims & Hers promises patient privacy while actually sharing consumers' sensitive health information with Meta Platforms and other third-party advertising platforms and that the telehealth provider has deceived users about its billing practices.

Hims & Hers Health Inc. "has misled hundreds of thousands of consumers" into paying for unwanted prescription medication subscriptions with its advertising and medical intake forms that claim users aren't obligated to purchase or subscribe to its medical providers' recommended treatment, according to the redacted **complaint** filed in San Francisco federal court.

The San Francisco-based company's ads and intake forms also misrepresent that consumers can consult with its medical providers about treatment recommendations for free in order to decide if they want to move forward with a particular treatment, the suit says.

"Contrary to Hims' representations, Hims routinely charges consumers for prescription treatments and enrolls them in subscription plans for those treatments almost immediately after receiving consumers' medical intake forms," the FTC and states say. "Consumers have virtually no opportunity to review the provider's recommended treatment, much less consent to it."

"Despite years of receiving complaints from consumers about their lack of consent, Hims has continued to use misleading language in its advertising and intake forms, and has continued to immediately charge consumers without their express informed consent," they say.

In addition, the company has caused consumers to pay for unwanted refill charges by failing to clearly disclose refill dates and has made it difficult for them to cancel their subscriptions, according to the suit.

Before 2023, the FTC and states say Hims & Hers failed to provide simple mechanisms for consumers to cancel their prescriptions and forced consumers to cancel by contacting customer service. But even after providing online cancellation in 2023, the company still made it difficult by hiding the cancellation button from consumers, the suit alleges.

What's more, the complaint alleges that Hims & Hers shared consumers' sensitive health information, including medical conditions, with Meta, Snap and other third-party advertising platforms — despite touting its promise to protect its patients' privacy.

The suit asserts violations of the FTC Act, including deceptive privacy practices, failure to disclose the practice of sharing health information with advertising platforms, deceptive intake practices and violations of the Restore Online Shoppers' Confidence Act, including failure to clearly disclose material terms, failure to obtain express informed consent and failure to provide simple cancellation mechanisms.

It also asserts violations of California's False Advertising Law, California's Unfair Competition Law and Utah's Consumer Sales Practices Act.

The suit seeks injunctive relief, disgorgement, monetary penalties, litigation costs and attorney fees, among other things.

Christopher Mufarrige, director of the FTC's Bureau of Consumer Protection, said in a statement Wednesday that the complaint "lays out a troubling scenario — consumers unknowingly locked into recurring subscriptions and the disclosure to third parties of consumers' most private health information without their consent."

"The FTC will not hesitate to act on behalf of consumers deprived of their ability to choose which products they want and whether to keep their most sensitive health information private," he said.

In a statement on social media Wednesday, Hims & Hers said the litigation "disregards substantial evidence" the company gave the FTC during its nearly three-year investigation, ignores state laws and industry standards for telehealth companies and "contorts the law to try to manufacture claims."

"This is not enforcement grounded in consumer protection; it is an effort to generate headlines at our expense," the company said. "We are confident in our position and will vigorously defend ourselves against these baseless claims."

The company on Wednesday also published a statement reiterating its commitment to protecting consumers' privacy. The company said its privacy policy explains its data practices and the safeguards it has built into the platform.

The statement assured consumers that Hims & Hers separates and excludes information that patients share with healthcare providers from marketing activities, while taking steps to prevent the transmission of protected health information.

"Hims & Hers is built on trust — from the care you access to your experience on our platform," the company said. "Protecting your privacy and earning that trust is work we take seriously every single day. And we're committed to continuing to raise the bar, not only for ourselves, but for what people should be able to expect from healthcare."

The FTC is represented in-house by Siobhan C. Amin, Barbara Chun and Jordan Navarrette.

California is represented by Dawyn R. Harrison, Jon Scott Kuhn, Andrea Ross, Hannah Flores and Peter S. Lee of the Los Angeles County Counsel's Office and Christina Tusan and Adrian Barnes of Tusan Law PC.

Utah is represented by Derek E. Brown, Douglas Crapo, Alexandra Butler and Daniel Ruskin of the Utah Attorney General's Office.

Counsel information for Hims & Hers was not immediately available.

The case is Federal Trade Commission et al. v. Hims & Hers Health Inc., case number 3:26-cv-07871, in the U.S. District Court for the Northern District of California.

# Meta Set For 2027 Trial In Mass. Social Media Addiction Case

law360.com/articles/2507439

(July 29, 2026, 5:38 PM EDT)-- A Massachusetts judge on Wednesday agreed to schedule a jury-waived trial for next May in the state's social media addiction lawsuit against Instagram and its owner, Meta Platforms.

Suffolk County Superior Court Justice Christopher Barry-Smith granted a joint request to book up to six weeks in the court's business litigation session starting May 17, though he questioned whether that would be enough time, given the number of witnesses and exhibits each side intends to call. Even considering the low end of the parties' estimated witness counts, Justice Barry-Smith said, "that strikes me as pretty aggressive."

According to a joint pretrial memorandum filed last week, each side anticipates calling 35 to 75 fact witnesses, although the parties may seek to introduce deposition testimony for many of them. The state says it will call 10 to 14 expert witnesses, while Meta expects to call 10 to 15 experts.

Megan Barriger, an assistant attorney general representing the state, told the judge that his concerns were reasonable. Still, given the number of experts expected to testify over multiple days, some of the fact witnesses will likely take the stand only briefly, she said.

The judge also questioned the likelihood of having to go beyond six weeks and the potential for disrupting a July 1 judicial rotation in the court's Business Litigation Session.

Christian Pistilli of Covington & Burling LLP, representing Meta, said the estimate of five to six weeks is based on recent prior trials in other states. Pistilli also told the judge that as the trial date approaches and the court works its way through pretrial motions regarding expert testimony, the list will shrink.

A different judge in the Business Litigation Session, Justice Peter Krupp, is currently **considering** Meta's motion for summary judgment, which was argued last month.

The lawsuit, filed in 2023, has already made one trip to the state's highest court after Meta appealed Justice Krupp's denial of a motion to dismiss under the First Amendment and Section 230 of the Communications Decency Act. The Supreme Judicial Court **affirmed** Justice Krupp's denial in April.

The state's lawsuit is one of thousands filed around the country alleging that the design of social media sites — including Facebook, Instagram, TikTok, YouTube and Snapchat — intentionally hooks teenagers. Many of the cases have been consolidated in a multidistrict litigation in federal court in California's Northern District.

The lawsuits say certain features of the platforms have worsened teens' mental health. Those features include infinite scrolling, frequent notifications and ephemeral posts that expire, triggering a "fear of missing out" that compels teens to immediately view them, according to the suits.

The city of Boston joined the MDL in California earlier this month.

Massachusetts is represented by Megan Barriger, Christina Chan, Jared Rinehimer, Peter N. Downing, Douglas S. Martland, Matthew Q. Berge, A. Meena Seralathan, Kaitlyn Karpenko, Camy Ruck, Arjun K. Jaikumar, Young Jun Choi and Emily Swanson of the Massachusetts Attorney General's Office.

Meta Platforms is represented by Felicia H. Ellsworth and Simon J. Williams of WilmerHale and Christian J. Pistilli, Paul W. Schmidt and Amber M. Charles of Covington & Burling LLP.

The case is Massachusetts v. Meta Platforms Inc. et al., case number 2384CV02397, in the Suffolk County Superior Court of the Commonwealth of Massachusetts.

# Coinbase Largely Beats Crypto Buyers' Securities Suit

law360.com/articles/2507738

Aislinn Keely

(July 30, 2026, 12:22 PM EDT)-- A Manhattan federal judge delivered a significant victory to Coinbase on Thursday with a split ruling that found the crypto exchange can't be held responsible as a "statutory seller" for the vast majority of transactions on its platform, though the proposed securities class action will continue over a smaller number of orders Coinbase fulfilled from its own inventory of tokens.

U.S. District Judge Paul A. Engelmayer handed down a split summary judgment ruling that cut through much of a case that sought to hold the crypto exchange accountable for alleged unregistered securities transactions on its platform. The judge ruled Coinbase can't be held accountable for "matched" transactions where it connected buyers and sellers, which accounts for 99.97% of the volume on its platform, according to the **order**.

Judge Engelmayer found that Coinbase never held the title to the tokens in transactions where it solely connected buyers and sellers, and its publication of prices and information about the tokens didn't amount to solicitation that caused buyers to purchase the assets on its retail-focused platform Coinbase Simple.

For that reason, the crypto exchange doesn't qualify as a statutory seller under Pinter v. Dahl , the 1988 U.S. Supreme Court decision that established the characteristics for a seller of securities, the judge held.

"[T]here is no genuine material dispute that, with respect to matched transactions, Coinbase did not pass any ownership interest in tokens to buyers on the Simple platform," wrote Judge Engelmayer.

The judgment cut through the users' securities law and state law claims for these transactions, as well as claims seeking to hold executives individually liable.

But Coinbase can be held accountable for orders it fulfilled with tokens from its own inventory, the order found. The platform held and then passed the title for those tokens to buyers and qualified as a dealer in those transactions, according to the order. The case will continue over all federal and state claims related to the inventory transactions, said the order.

Those "inventory" transactions only account for 0.03% of the transactions on its platform, but that still amounts to at least $178 million in token sales, the order noted.

"This litigation will proceed on these claims, with discovery to resume on the remaining elements of these claims, including whether the tokens at issue qualify as securities," the order said.

Christopher Underwood, Louis Oberlander and Zeneyda Patin filed the lawsuit in 2021 on behalf of Coinbase users who they claim lost money trading cryptocurrencies on one of the company's two platforms. It was later amended in 2022, with Henry Rodriguez as a new plaintiff. Judge Engelmayer tossed the case in 2023 on the grounds that contractual agreements between the crypto company and its users made clear that Coinbase did not hold title to the coins traded on its website.

However, the Second Circuit **remanded** the case after finding there was more than one agreement in use during the proposed class period and that an earlier agreement in 2019 contained language that indicated users were buying tokens directly from Coinbase.

The parties filed competing summary judgment motions in the spring.

The parties did not immediately respond to requests for comment.

The Coinbase users are represented by Jordan Goldstein and Corey Stoughton of Selendy Gay PLLC and Steven Bloch and Ian Sloss of Silver Golub & Teitell LLP.

Coinbase is represented by Lara Flath, Jay Kasner, Alexander Drylewski and Abigail Davis of Skadden Arps Slate Meagher & Flom LLP.

The case is Underwood et al. v. Coinbase Global Inc. et al., case number 1:21-cv-08353, in the U.S. District Court for the Southern District of New York.