Adobe Wins Dismissal of Lawsuit Over Tracking Users Across Web

Sept. 3, 2026, 8:26 AM PDT

Summary by Bloomberg AI AI Generated

- Adobe Inc. defeated a proposed class action alleging it illegally tracks and profiles consumers based on their private activity across the internet and inside apps.
- The plaintiffs failed to adequately plead that they didn't consent to the alleged collection and disclosure of their data, according to Judge Noël Wise of the US District Court for the Northern District of California.
- The case was dismissed without prejudice, giving the plaintiffs 21 days to file an amended complaint.

Adobe Inc. defeated a proposed class action alleging the tech giant illegally tracks and profiles consumers based on their private activity across the internet and inside apps.

The five lead plaintiffs failed to adequately plead that they didn't consent to the alleged collection and disclosure of their data, Judge Noël Wise of the US District Court for the Northern District of California said Wednesday.

The plaintiffs alleged that Adobe assigned persistent identifiers to users of its products that allowed it to track their web activity and sync the resulting information with its third-party advertising partners.

Their complaint brought claims of invasion of privacy under the California Constitution, intrusion upon seclusion, unjust enrichment, injunctive relief, and violations of the California Invasion of Privacy Act, the Comprehensive Computer Data Access and Fraud Act, and the California Unfair Competition Law.

The issue of consent was appropriate to consider on a motion to dismiss because it was an element of the plaintiffs' invasion of privacy, CIPA, and CDAFA claims, Wise said.

The plaintiffs argued they adequately alleged that Adobe tracked them without their knowledge or consent, but Wise said the internet isn't a place where users have a reasonable expectation of privacy.

“To that end, plaintiffs must do more than merely assert that they did not consent to the tracking devices,” she said.

Their claim for equitable relief under the UCL also failed, as did their unjust enrichment claim, the court held.

Wise dismissed the case without prejudice, however, giving the plaintiffs 21 days to file an amended complaint.

Milberg PLLC, Lowey Dannenberg PC, and DiCello Levitt LLP represented the plaintiffs. Arnold & Porter Kaye Scholer LLP represented Adobe.

The case is In re Adobe Data Tracking Litig. , N.D. Cal., No. 5:25-cv-03032, 9/2/26 .

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Bloomberg Law

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California Private Fund Executives Ran Ponzi-Like Fraud, US Says

Sept. 2, 2026, 10:12 AM PDT

Summary by Bloomberg AI

AI Generated

- A pair of California investment fund executives ran a Ponzi-like scheme that defrauded around 190 investors with false promises about real estate investments, federal securities enforcers said.
- The executives allegedly told investors their funds would originate and purchase real estate-secured loans, but instead used new investor money to pay earlier investors in a Ponzi-like fashion.
- Hanf and Phan agreed to proposed judgments that would permanently bar them from buying or selling securities for others and require them to pay financial penalties to be set by the court at a later date.

A pair of California investment fund executives ran a Ponzi-like scheme that defrauded around 190 investors, including many retirees, with false promises about real estate investments, federal securities enforcers said.

Mark Hanf, the founder of Pacific Private Money Group LLC, and Hoai-Nam Chu Phan, who served as chief operating officer at a subsidiary, made material misrepresentations to investors about how their money would be used, according to charges announced Tuesday by the Securities and Exchange Commission and the Justice Department.

The executives, from about December 2021 to November 2025, allegedly told investors their funds would originate and purchase real estate-secured loans, but instead used new investor money to pay earlier investors in a Ponzi-like fashion. They allegedly kept raising money and paying distributions even after the investment funds they ran became unprofitable.

Hanf also misappropriated at least $7 million for personal expenses, including real estate purchases, a boxing match purse, and cryptocurrency investments, the SEC said in its complaint filed in the US District Court for the Northern District of California. It accused the defendants of raising more than $80 million as part of the alleged scheme.

The scheme collapsed in October 2025 when payments stopped, and both funds filed for bankruptcy in June 2026 with only $17 million in recoverable assets despite $121 million in outstanding investments, the SEC said.

Without admitting the SEC's allegations, Hanf and Phan agreed to proposed judgments that would permanently bar them from buying or selling securities for others and require them to pay financial penalties to be set by the court at a later date.

They were hit with a parallel criminal action from the DOJ accusing them of conspiracy to commit wire fraud. Hanf was also charged with money laundering.

Benesch Friedlander Coplan & Aronoff LLP represents Hanf. Illovsky Gates & Calia LLP represents Phan. Attorneys representing the defendants didn't immediately respond to requests for comment.

The cases are SEC v. Hanf , N.D. Cal., No. 3:26-cv-09298, complaint 9/1/26 and United States v. Hanf , N.D. Cal., No. 3:26-cr-00434, information 8/31/26 .

This story was produced by Bloomberg Law Automation.

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Adobe back on the hook over subscription plan terms

courthousenews.com/adobe-back-on-the-hook-over-subscription-plan-terms

SAN JOSE, Calif. (CN) — A federal judge revived a putative class action Wednesday against Abode over the renewal terms of the software company's subscription plans, vacating his previous ruling to toss the case.

U.S. Magistrate Judge Nathanael Cousins said Adobe waived its right to compel arbitration after it continued to fight the action in court.

"After reconsideration, the court finds that defendant waived its right to compel arbitration as a whole and the opt-out provision did not prevent procedural unconscionability," he wrote in his 29-page ruling. Procedural unconscionability is a legal defense that allows a court to refuse to enforce a contract if a party lacked a fair choice during its formation. On March 31, Cousins granted Adobe's motion to dismiss with leave to amend, saying the plaintiffs "did not sufficiently allege that they complied with the term of service's prelitigation requirements."

In his order, Cousins ruled that Adobe "held the power and knowledge" to compel arbitration but instead asked the court to decide if the class had fulfilled its prelitigation requirements, an action usually done by an arbitrator, and in doing so acted inconsistently and gave up its right to enforce its arbitration provision. Cousins vacated the March 31 dismissal and allowed users' claims for conversion, unjust enrichment and negligent misrepresentation to survive, but the class can't seek injunctive relief or disgorgement.

Abode provides tiered subscription plans that automatically renew at the end of a subscription period. Users select a plan and enroll for services. One plan option called "annual, billed monthly" is characterized as a one-year commitment but doesn't include information about early termination fees or subscription terms.

If a user cancels after 14 days, they are charged a lump sum of 50% of the remaining contract with service only until the end of the month of cancellation. Users are only aware of this clause, explains Cousins, if they click a link during final checkout.

"This is the first and only instance where the early termination fee is explicitly linked to the total contract value. The process for cancellation is designed to be confusing and frustrating," he wrote.

Cousins said users incurred financial harm due to the confusion, and paid unauthorized charges, unintended subscriptions and early termination fees, without the ability to cancel subscriptions.

Investors sue Hims & Hers after FTC lawsuit plummets stock price

courthousenews.com/investors-sue-hims-hers-after-ftc-lawsuit-plummets-stock-price

SAN FRANCISCO (CN) — Investors claim in a Tuesday class action that telehealth giant Hims & Hers failed to warn them the company was engaging in deceptive business practices that ultimately triggered a federal lawsuit — and a substantial drop in stock value.

Lead plaintiff Hemalatha Velanki says in her 26-page complaint Hims & Hers made misleading statements about the company's financial status.

"These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the company and its financial well-being and prospects, thus causing the company's securities to be overvalued and artificially inflated at all relevant times," she writes.

Hims & Hers advertises itself as an online wellness platform where patients can pay directly for prescriptions such as birth control and hormone replacement treatment, and to treat common ailments such as anxiety, hair loss and erectile dysfunction after a brief consultation with a provider.

The company's stock value dropped by almost 15% after the Federal Trade Commission announced its lawsuit during trading hours on July 29.

"As a result of defendants' wrongful acts and omissions, and the precipitous decline in the market value of the company's securities, plaintiff and other class members have suffered significant losses and damages," Velanki writes.

The FTC accused Hims & Hers of sharing consumer health information with third-parties like Meta and Snap. The regulatory agency also claimed the company engaged in deceptive advertising practices and failed to disclose it charges customers for prescriptions after they submit an intake form, even though the company claims the customers can consult with a medical provider before being charged.

Hims & Hers denied the FTC's accusations in a social media statement after the agency's lawsuit, saying "This is not enforcement grounded in consumer protection; it is an effort to generate headlines at our expense."

The investors claim Hims & Hers violated the Securities Exchange Act and Velanki seeks the court to rule it a proper class action and compensatory damages. She also demands a jury trial.

A potential class for the action is any investor who purchased Hims & Hers securities between August 4, 2025 and July 29, 2026.

The August 2025 date is significant, Velanki says, because the company submitted its quarterly report for a period that ended in June to the Securities Exchange Commission. The quarterly report claimed that Hims & Hers “developed and maintain policies and procedures to protect” private health information, “including the adoption of administrative, physical and technical safeguards.”

“It also purported to warn of risks which ‘could’ or ‘may’ negatively impact the company, including risks related to the ‘use, disclosure, and other processing of personally identifiable information,’” says Velanki.

The company sent other quarterly reports in November, February and May, saying the same thing, Velanki claims.

In a May report quarterly report, the company added a brief explanation of the FTC’s concerns. In October 2023, the FTC issued a “Civil Investigative Demand” to the company, requesting information regarding its privacy, advertising, and cancellation practices as a part of a Restore Online Shoppers’ Confidence Act investigation. And in April 2026, the company reported it was in settlement talks with the FTC.

In response to a Courthouse News request for comment on the securities lawsuit, a Hims and Hers spokesperson said in an email, “We will vigorously defend ourselves against these follow-on claims, which rely on the same flawed allegations advanced in the government’s lawsuit.”

Hims & Hers CEO Andrew Dudum and Chief Financial Officer Oluyemi Okupe are also named defendants in the complaint.

Google Avoids Breakup as Judge Orders Ad Tech Unit Changes (2)

Sept. 2, 2026, 10:28 AM PDT

Summary by Bloomberg AI

AI Generated

- A federal judge ruled that Google doesn't have to sell off its advertising exchange and instead must make its ad tech tools work with those operated by rivals.
- The judge ordered proposed behavioral changes to Google's business without describing what those are, and rejected the Justice Department's bid to force a sale of Google's AdX.
- The decision is a win for Google, which avoided a breakup, but the company continues to face scrutiny from state attorneys general, private plaintiffs and European regulators over its advertising practices.

Alphabet Inc.'s Google doesn't have to sell off its advertising exchange and instead must make its ad tech tools work with those operated by rivals, a federal judge ruled Wednesday, in a move that saves the tech giant from a second bid to force a breakup.

US District Judge Leonie Brinkema issued her decision under seal accompanied by a short order rejecting the Justice Department's bid to force a sale of Google's AdX. Instead, she ordered proposed behavioral changes to Google's business without describing what those are. The redacted decision will be issued later this month.

The judge decided against a forced sale of Google despite an April 2025 ruling that the company illegally monopolized two advertising technology markets. The Justice Department had asked that Google be forced to sell its exchange and make public the auction logic that decides which advertisement will show on a website. Brinkema rejected that option, choosing to accept "most" of the behavioral changes at Google that were recommended to her.

"We're very pleased the court rejected the DOJ's proposal to break apart tools that help small businesses reach new customers and grow," Lee-Anne Mulholland, Google vice president of regulatory affairs, said in a statement.

The judge ordered the parties to meet, confer and file a joint final judgment proposal within 30 days reflecting the opinion. If they can't resolve differences, they should include their respective proposals. Brinkema sealed much of the order for 14 days to enable the parties to view and move for redactions, if necessary.

The Justice Department said in a statement that it was pleased the court ordered substantial relief in the case.

"The department will continue to fight for fair competition," Associate Attorney General **Stanley Woodward**, the No. 3 official currently overseeing antitrust enforcement, said in a post on the website X. "The timing of the court's order reflects the tradeoffs between immediate relief and remedies obtained through years of litigation."

Google shares were up less than 1% at $338.3 at 1:24 p.m. in New York.

Companies spend more than $919 billion globally on digital advertising, according to estimates by research firm EMarketer, making the industry one of the largest segments of the broader tech economy. Google's US ad operations alone are expected to bring in $101.2 billion in 2026. Most of that comes from search ads — roughly $83.8 billion — while about $17.4 billion stems from display advertising, the segment at the center of the government's case.

The Justice Department sued Google in 2023 in a second antitrust complaint against the tech giant, accusing the company of illegally monopolizing several areas of the advertising technology used to buy, sell and serve the online display ads that appear on many websites.

Google's ad tech stack sits between publishers selling display space and advertisers bidding on it, giving the company a powerful position in how prices are set and which ads appear. Regulators have long argued that controlling both the dominant publisher ad server and one of the largest ad exchanges allowed Google to advantage its own systems at multiple points in the process.

Sacha Haworth, executive director of The Tech Oversight Project, a policy advocacy group, condemned Brinkema's ruling. "We should be denying monopolists the ill-gotten fruits of their monopolies, not rewarding them," Haworth said in a statement.

The Justice Department could still appeal the ruling, and Google continues to face scrutiny from state attorneys general, private plaintiffs and European regulators over its advertising practices. The pace and scope of Google's implementation will likely determine whether the remedy produces meaningful competitive shifts in the display ad market.

The decision is a win for Google, which avoided a breakup in the Justice Department's first antitrust case over its monopoly in the online search market. There, a Washington federal judge ruled that Google doesn't have to sell off its popular Chrome web browser and instead must make available to rivals some of the data underlying its search results.

(Updates with comments from Justice Department in sixth paragraph.)

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Larry Ellison Subpoenaed by House Panel Over Oracle VA Work (1)

Sept. 2, 2026, 1:26 PM PDT; Updated: Sept. 2, 2026, 2:17 PM PDT

A House panel voted Wednesday to subpoena Oracle Corp. Chairman Larry Ellison for information about the company's role in the Veterans Affairs Department's electronic health records system.

The House Veterans' Affairs Committee voted 19-0 to seek testimony from Ellison and CEO Mike Sicilia about the system.

The panel's ranking member, Mark Takano (D-Calif.) said the company initially agreed to send witnesses as he requested and then declined due to time constraints.

Officials from the VA and the Government Accountability Office testified during the sessions. Several panel members asked about the increased size of the contract for Oracle, the prime contractor on the VA's system.

The contract ceiling was raised by $16.9 billion on Aug. 18 and now totals $26.9 billion.

"When the vendor responsible for a taxpayer-funded contract going from $10 billion to roughly $27 billion will not sit at this table and answer our questions, all of us are being prevented from doing our oversight duties," Rep. Maxine Dexter (D-Ore.) said during the hearing after calling for the subpoena.

In testimony released ahead of the hearing, the GAO cited the company for not implementing past recommendations on the rollout.

(Updated with information on contract ceiling in fifth paragraph and GAO report in seventh paragraph.)

– With assistance from Paul Murphy.

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[Mealey's PI/Product Liability - Opioid MDL Plaintiffs Ordered To Weigh In On Mandamus Petition Filed By PBMs]

Mealey's Daily News Update

September 2, 2026

Cite: 2026-10006 Mealey's Daily News Update 9

Section: 2026, 10006

Length: 742 words

Dateline: CINCINNATI

Body

The Sixth Circuit U.S. Court of Appeals on Sept. 1 ordered the Plaintiffs' Executive Committee in the opioid multidistrict litigation to respond to a petition for a writ of mandamus filed by pharmacy benefit managers (PBMs) challenging an order allowing 800 plaintiffs to amend their complaints to add claims against the PBMs (In re: OptumRx, Inc., et al., No. 26-3780, 6th Cir.).

(Sixth Circuit order for response available 28-260904-032R)

In the order signed by the court's clerk, the committee has 15 days to respond. The U.S. District Court for the Northern of District of Ohio, which issued the order in dispute on July 27, is invited to respond.

Leave To Amend

PBMs OptumRx Inc., Express Scripts Inc. and 16 of their affiliates filed the petition for a writ of mandamus on Aug. 26, arguing that Judge Dan Aaron Polster, who oversees the MDL, erred in granting "800 plaintiffs across 704 cases leave to amend their respective complaints to add claims against pharmacy benefit managers." They moved for expedited consideration on Aug. 27.

"This represents a tenfold increase in the number of plaintiffs against these defendants. The District Court did so again without requiring any individualized showing of good cause and without examining the record in each individual case. Instead, it created a first-of-its-kind omnibus briefing process, permitting hundreds of moving plaintiffs to submit a single brief of less than 20 pages against each group of defendants making generalized arguments supporting amendment," the PBMs say in their petition.

The PBMs pointed to *In re Nat'l Prescription Opiate Litig. (CVS), 956 F.3d 838 (6th Cir. 2020)*, in which other defendants in the MDL were granted mandamus relief "after the District Court allowed plaintiffs to amend their claims in two cases 19 months after the deadline without properly analyzing diligence."

The PBMs argue that the District Court violated Federal Rule of Civil Procedure 15, Fed. R. Civ. P. 15, and Federal Rule of Civil Procedure 16, Fed. R. Civ. P. 16., by allowing the 800 plaintiffs to amend their complaints.

"The District Court erred in accepting 800 plaintiffs' conclusory and impermissibly collective assertion that all of them were justified in 'waiting until they were confident' in their claims without engaging in any individualized assessment of each plaintiff's diligence," they say.

Wrong On Merits

The PBMs argue that the District Court's decision is wrong on the merits because the movants did not demonstrate good cause for their belated amendments.

"This Court has repeatedly held that a party lacks good cause for an untimely amendment where, as here, it was 'aware of the basis of the claim' but 'nonetheless failed to pursue the claim' within the time allotted," they say, citing *Leary v. Daeschner, 349 F.3d 888 (6th Cir. 2003)*.

The PBMs say the record is clear that all plaintiffs "were on notice of their claims before the applicable amendment deadlines."

They argue that mandamus relief is necessary because there is "'no other adequate means to obtain relief' from the extraordinary litigation burdens that will result from the District Court's flagrant (and now repeated) disregard of the Civil Rules," quoting CVS.

"Immediate appellate review is critical because the District Court clearly erred in allowing 800 plaintiffs to bring new claims. The PBMs should not have to wait until hundreds of cases are remanded to courts around the country to correct the District Court's clear and dispositive procedural error common to all of them," the PBMs argue.

Counsel

Express Scripts is represented by Michael J. Lyle and Jonathan G. Cooper of Quinn Emanuel Urquhart & Sullivan LLP in Washington, D.C.

OptumRx is represented by Robert J. Giuffra, Jr., Jeffrey T. Scott and Matthew J. Porpora of Sullivan & Cromwell LLP in New York and Brian D. Boone, D. Andrew Hatchett and Matthew P. Hooker of Alston & Bird LLP in Charlotte, N.C.

The Plaintiffs' Executive Committee comprises Jayne Conroy of Simmons Hanly Conroy in New York, Joseph F. Rice of Motley Rice in Mount Pleasant, S.C., Paul T. Farrell Jr. of Farrell & Fuller LLC in San Juan, Puerto Rico, and Peter H. Weinberger of Spangenberg Shibley & Liber in Cleveland.

(Additional documents available: Motion for expedited consideration 28-260904-033M

Petition for a writ of mandamus 28-260904-034B

July 27 order 28-260904-035R)

Nvidia Acquires AI Platform Hugging Face for $13 Billion (2)

Sept. 3, 2026, 6:59 AM PDT

Summary by Bloomberg AI AI Generated

- Nvidia Corp. has agreed to acquire artificial intelligence startup Hugging Face in a transaction valued at about $13 billion.
- The chipmaker giant said it will keep Hugging Face's platform open and consistent with the startup's existing practices.
- Nvidia Chief Executive Officer Jensen Huang is committed to helping foster so-called open source models to prevent the technology of a few large companies from dominating AI.

Nvidia Corp.has agreed to acquire artificial intelligence startup Hugging Face in a transaction valued at about $13 billion.

The price includes an up to $1 billion equity-based retention program for Hugging Face employees that join Nvidia.

Nvidia's shares were up about 2% at 9:55 a.m. in New York to $227.87, adding over $100 billion to its $5.5 trillion market value.

The chipmaker giant said it will keep Hugging Face's platform open and consistent with the startup's existing practices.

"Under this commitment, Hugging Face would continue to permit model makers, developers, and users to upload and download models and datasets of their choosing and to support other silicon vendors," according to a statement. Bloomberg News reported earlier that Nvidia was set to reach an agreement as soon as this week.

Buying Hugging Face is the biggest move yet in Nvidia Chief Executive Officer **Jensen Huang**'s push to broaden the uptake of AI and extend his customer list. The deal gives Nvidia control of one of the key platforms where developers showcase and share AI models.

Huang is committed to helping foster so-called open source models to prevent the technology of a few large companies from dominating AI. Some of those companies are currently Nvidia's biggest customers but are forging ahead with their own chip projects.

"Open models strengthen safety and cybersecurity, accelerate innovation and diffusion, and enable sovereignty," Huang said in a post on X. "Nvidia is going to be a great home for Hugging Face, its community and the future of open models."

Nvidia was already a backer of Hugging Face, alongside Alphabet Inc.'s Google, Amazon.com Inc., Intel Corp. and Salesforce Inc., among others.

Founded in 2016, Hugging Face operates a platform for sharing AI models that can be used freely by others. The startup was valued at $4.5 billion in a funding round three years ago. Nvidia's talks with the company were reported earlier by Business Insider.

Read More: AI Startup Hugging Face Valued at $4.5 Billion After Funding

Hugging Face was at the center of a cybersecurity incident in which a model being tested by OpenAI inadvertently hacked the platform. The breach raised alarms about the safety of cutting-edge AI technology. OpenAI has said it could have reacted sooner to prevent the attack on Hugging Face's systems.

The acquisition of Hugging Face adds to a list of deals struck by Nvidia in the past year, including a $6 billion licensing agreement in August with startup Poolside that included extending job offers to many of that company's employees. Nvidia also paid about $20 billion for most of the chip startup Groq.

Nvidia, the world's most valuable company, is the leading maker of AI accelerators, the chips that help train and operate models. It has gradually added a variety of other technologies, including software, with the goal of expanding the AI economy.

The Santa Clara, California-based company gave a surprisingly strong sales forecast for fiscal 2028 last week, saying revenue would grow about 70%.

Read More: Nvidia Predicts AI-Fueled Sales Surge Will Extend Into 2028

(Updates with share price move, market cap in paragraph three)

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PayPal Hit With Privacy Suit Over Venmo Transaction-Data Sharing

Sept. 2, 2026, 9:51 AM PDT

Summary by Bloomberg AI AI Generated

- Four Venmo users sued PayPal Inc. alleging the company illegally shared their sensitive financial data with third-party tracking companies despite promising to keep transactions confidential.
- The complaint claims PayPal embedded tracking technology into Venmo's payment platform, allowing companies to intercept user information including names, email addresses, and payment notes that may include sensitive personal details.
- The plaintiffs seek to represent a nationwide class of Venmo users and are seeking damages, injunctive relief, and other remedies for claims including negligence, invasion of privacy, and violations of privacy laws.

Four Venmo users sued PayPal Inc. alleging the company illegally shared their sensitive financial data with third-party tracking companies despite promising to keep "private" transactions confidential.

Stacey Borquez, Remi Rundzio, Nathan Olson, and Lana Nava's proposed class action claims PayPal embedded tracking technology from companies including mParticle Inc. and Kochava Inc. into Venmo's payment platform, allowing them to intercept user names, email addresses, phone numbers, transaction amounts, recipients, and payment notes.

The notes routinely include sensitive information related to medical treatment, legal services, addiction and recovery programs, rent and housing payments, gambling, political and religious donations, romantic and sexual relationships, and other personal details, according to the complaint filed Tuesday in the US District Court for the Northern District of California.

PayPal didn't respond immediately to a request for comment. mParticle and Kochava aren't named defendants in the lawsuit.

The company shared data without users' consent while promising that their private transactions would only be visible to themselves and payment recipients, the complaint said. PayPal benefited commercially from sharing this data for analytics and advertising purposes while users received nothing in return, it said.

The plaintiffs seek to represent a nationwide class and a California subclass of millions of Venmo users who had privacy settings enabled but whose personal information was disclosed to third parties.

The complaint brings claims of negligence, unjust enrichment, intrusion upon seclusion, invasion of privacy under the California Constitution, and violations of the Electronic Communications Privacy Act, the California Invasion of Privacy Act, the California Comprehensive Computer Data Access and Fraud Act, and the California Unfair Competition Law.

The plaintiffs are seeking statutory, actual, compensatory, and punitive damages; injunctive and equitable relief; attorneys' fees and costs; and pre- and post-judgment interest.

Aylstock Witkin Kreis & Overholtz PLC and Lowey Dannenberg PC represent the plaintiffs.

The case is Borquez v. PayPal Inc. , N.D. Cal., No. 5:26-cv-09340, complaint filed 9/1/26 .

This story was produced with assistance from Bloomberg Law Automation.

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Apple facing $2.7 billion UK lawsuit over 'unfair' app tracking rules

reuters.com/business/retail-consumer/apple-facing-27-billion-uk-lawsuit-over-unfair-app-tracking-rules-2026-09-03

(AAPL.O), opens new tab is facing a £2 billion ($2.7 billion) London lawsuit brought on behalf of app developers over its app tracking rules, with the iPhone maker accused of abusing its power to unfairly impose greater restrictions on third parties.

The lawsuit, filed at London's Competition Appeal Tribunal on Thursday, follows years of regulatory scrutiny over Apple's App Tracking Transparency feature, which was launched in 2021.

Apple has said it introduced that feature to allow users to control whether to grant apps permission to track their activity across other companies' apps and websites.

Lawyers bringing the new lawsuit against Apple, though, say the feature imposed stricter requirements on third-party app developers than on Apple's own services, giving its advertising ecosystem a competitive advantage.

Ann Pope, a former senior official with Britain's Competition and Markets Authority who is leading the lawsuit, said Apple's policy "resulted in very significant harm to businesses that depend on Apple as a gatekeeper".

"This action is important to protect the rights of British businesses that depend on Apple, to ensure that the rules that Apple applies are fair, and to compensate the losses that British companies have suffered," Pope said in a statement.

Apple said its App Tracking Transparency was created "to give users a simple way to control whether apps have permission to track their activity", adding that it was "bound by the exact same requirements as all developers".

Apple's App Tracking Transparency feature has been the subject of investigations across Europe, in particular in Germany where Apple last month agreed changes to rules on how app developers can use personal data for targeted advertising.

The German competition authority had accused Apple of abusing its market power, after Facebook-owner Meta (META.O), opens new tab plus publishers, advertisers and app developers – whose business models rely on advertising tracking – criticised the tool.

Regulators in France, Italy, Poland and elsewhere have also probed the App Tracking Transparency framework.

Rival lawyers clash over fees after $2.8 billion Blue Cross settlement

reuters.com/legal/government/rival-lawyers-clash-over-fees-after-28-billion-blue-cross-settlement-2026-09-03

Sept 3 (Reuters) - Lawyers who lodged antitrust lawsuits against Blue Cross Blue Shield are now fighting among each other, with attorneys who secured a $2.8 billion nationwide class action settlement with the insurer arguing they also deserve a stake in cases brought by plaintiffs who opted out of the deal.

The lead attorneys for the class of hospitals and other providers that settled last year want a federal judge in Alabama to order the defendants to set aside part of any settlement or judgment won by the opt-out plaintiffs, saying those plaintiffs piggybacked on their efforts and the class lawyers should be compensated.

The class attorneys at law firm Whatley Kallas say their rivals, opens new tab at Paul Hastings, K&L Gates, Clifford Chance, Quinn Emanuel and other firms pursuing opt-out cases are “copying the providers’ homework to achieve the same grade.”

In a court filing, opens new tab last week, lawyers for the opt-out plaintiffs countered that the class attorneys’ request amounted to "litigation piracy." They urged U.S. District Judge Anna Manasco to reject what they called “class counsel’s demand to be made court-ordered billionaires.”

The Alabama federal court last year approved a fee request from the class lawyers for $657.1 million, representing 23.47% of the $2.8 billion settlement fund, as well as at least $102 million in expenses.

Whatley Kallas and lawyers for the opt-out hospitals did not immediately respond to requests for comment or had no immediate comment.

Hospitals and other health providers claimed Blue Cross and some of its affiliates violated antitrust law by dividing the country into exclusive areas where they agreed not to compete with each other. The case, filed in 2012, said the alleged conspiracy increased the cost of insurance and drove down reimbursements. Blue Cross denied any wrongdoing as part of the settlement but agreed to make some business-related changes.

The $2.8 billion settlement, which won court approval in August 2025, will be shared among as many as 3 million potential class members.

Dozens of hospital systems and providers, including Mayo Clinic, AdventHealth, CommonSpirit Health, Massachusetts General and Sutter Health, have filed lawsuits on their own. Opt-outs in class actions can bring their own cases with a potential to recover greater damages that would be otherwise allotted to them in a class action.

The class attorneys at Whatley Kallas proposed that the judge order a 12.5% set-aside on any future settlements or judgments won by the opt-outs. The lawyers said they have spent about 375,000 hours litigating the case so far and argued "the Opt-Outs' complaints reveal little to no independent work by their counsel."

Attorneys for the opt-out providers contend that a set-aside fee order would illegally "tax" providers' right to exclude themselves from class settlements and deny they seek to "coast" on the work of the class attorneys.

An order establishing a set-aside process would create "administrative chaos," the opt-out attorneys argued, with drawn-out battles over fees.

US charges two former Linqto CEOs over $450 million 'pre-IPO' fraud scheme, one pleads guilty

NEW YORK, Sept 2 (Reuters) - U.S. prosecutors announced on Wednesday criminal fraud charges against two former chief executive officers of Linqto over their alleged roles in a $450 million scheme to defraud thousands of investors hoping to cash in on private companies before they went public.

William Sarris, 75, who founded Linqto and was CEO of the now-bankrupt Silicon Valley online investment platform for 14 years, was charged in Manhattan with six counts including securities fraud, wire fraud, broker-dealer fraud and conspiracy.

Joseph Endoso, 66, who succeeded Sarris as CEO after serving as president, pleaded guilty to securities fraud, broker-dealer fraud and conspiracy charges and is cooperating with prosecutors.

Prosecutors said Sarris exploited investors' difficulty in valuing companies such as Anthropic, Ripple and the now-public SpaceX (SPCX.O), opens new tab that were expected to conduct initial public offerings, or "pre-IPO" companies, by manufacturing "false scarcity" and charging markups that drove up prices and the value of his Linqto stake, which he wanted to cash out.

The alleged scheme occurred from 2020 to 2025. Linqto filed for Chapter 11 bankruptcy protection in July 2025.

"William Sarris is innocent of these charges and intends to fight them," his lawyer Tim Treanor said in an email. "Linqto's customers do face real questions about what they will get back, but those questions come from a bankruptcy filed six months after Bill stopped running the company—not from the investments themselves."

A lawyer for Endoso did not immediately respond to requests for comment. Sarris lives in Monterey, California, and Endoso lives in Ross, California, prosecutors said.

'A LITTLE WIZARD OF OZ'

Private companies typically face less regulation and scrutiny than public companies, requiring investors to be extra vigilant for signs of potential fraud.

According to an indictment, Sarris falsely assured investors they were buying at "market" prices, based on an algorithm that would set prices based on supply and demand.

Instead, Sarris allegedly imposed high double-digit percentage markups, and sometimes markups exceeding 200%, though his lawyers told him repeatedly it was illegal.

Sarris allegedly joked privately that his pricing pitch was "fake it till you make it, baby," and pricing would be set by "a little Wizard of Oz. ... Don't pay attention to that man behind the screen."

The scheme attracted in excess of $450 million from more than 13,000 investors, prosecutors said.

By January 2025, with Linqto's business under pressure, Sarris allegedly sold some customers' holdings to meet revenue targets. Linqto suspended operations two months later.

In February, a Texas bankruptcy judge approved Linqto's reorganization plan, which offered customers a choice between stakes in a liquidating fund or a closed-end fund holding private shares.

Securities

Deep Dive

SEC's Accounting Unit Seen as Core Fraud Enforcement Engine

Sept. 3, 2026, 2:00 AM PDT

Public companies and auditors are likely to see more SEC investigations, more enforcement suits, and bigger and more complicated cases now that the agency has created a specialized unit to go after accounting fraud, attorneys say.

Compliance and defense attorneys, meanwhile, intend to reinforce their message to clients that the Securities and Exchange Commission is serious about financial reporting misconduct and will be bringing cases.

"The commission has taken some of the best lawyers, hired more, brought them together and put them in one specialized unit," said John Carney of Baker & Hostetler LLP. "If you put people in a targeted environment where they're supposed to go after something, no surprises — they do."

The initiative, announced in August, dovetails with SEC Chairman Paul Atkins' approach and priorities, attorneys say.

The commission's statements to date about auditing cases "spotlight integrity, independence, and actual misconduct, which pair well with Chairman Atkins's 'back to basics' focus on fraud over so-called technical violations," Jessica Magee, who chairs Holland & Knight LLP's securities enforcement defense team, said by email.

One of Atkins' overall themes has been returning the SEC to its roots, with investor protection at the top of the list, said Kevin Harnisch, who heads the white collar defense and investigations group at Norton Rose Fulbright. Focusing on the accuracy of financial disclosures "fits right within that core mission," he said.

Harnisch said there could be an uptick in financial reporting-related whistleblower complaints now that the area is a priority.

Artificial intelligence is another investigative tool at the SEC's disposal, according to Carney. With AI, "it's much easier for people in the SEC to actually look at industries and corporations across classes and see if one of them is an outlier," he said. "It's a different environment now."

Inside Public Companies

An accounting violation within a company — intentional or unintentional — can begin with individuals but bring corporate liability, said Carney, who co-leads the firm's white collar practice. "And then there's a question of, were the auditors lied to?"

Historically, most SEC accounting fraud cases focused on the company involved, without a companion case against the auditor, according to securities and white-collar partner Tom Bednar of Cleary Gottlieb Steen & Hamilton LLP.

"As someone who works on a lot of financial reporting and accounting fraud investigations for public companies, I'm always telling them that the SEC prioritizes those cases," Bednar said. "This new specialized unit at the SEC underscores that message that I've been giving: The SEC is serious about this, not just on the auditor side, but on the public company financial reporting side."

Whether the commission will be able to go after large corporations remains to be seen, said Arthur Jakoby of Herrick Feinstein LLP.

"The scale and complexity of a large multinational public company can make sophisticated fraud difficult to detect, even with a properly conducted audit," he said, adding much will depend on the resources the SEC dedicates to the unit.

2025 saw the fewest SEC accounting and auditing suits in nine years, Cornerstone Research reported in March.

Mark Williams, a former federal prosecutor and SEC attorney now at Williams & Serio, said it's unlikely the SEC will bring cases against the biggest corporations and accounting firms, at least immediately.

Accountants feel pressure to hit numbers in smaller companies "where the value is actually not in the money they're making, but in the trajectory of their growth," he said. More egregious fraud can take place in an environment with fewer people and less oversight, he said.

And sophisticated accounting frauds can be difficult to prove, particularly cases involving illiquid assets where valuations are hard to determine, he said.

Larger cases will probably come in the long run, driven by market forces, he said. When there's a market correction, "misstatements or accounting irregularities rear their ugly head and it becomes clear what happened," he said.

Auditor Focus

Accounting firms “should expect increased inquiries and, over time, more cases,” Magee said.

One question is what segments of the auditing profession will feel the heat.

“In the past, very often the SEC went after the small accounting firms,” which were typically quick to settle, Jakoby said.

Jakoby’s practice includes a plaintiff-side role representing investors in suits over collapsed hedge funds, as well as white collar SEC defense and securities litigation defense.

His hedge fund suits involve larger accounting firms. “If you have a hedge fund that’s raising hundreds of millions of dollars for investors, those investors are usually pretty sophisticated,” he said. “They’re not going to invest unless there’s a name-brand auditor,” especially after Bernard Madoff’s historic Ponzi scheme, he said.

Often the fraudsters themselves are judgment-proof, he said. “Why isn’t the SEC going after the gatekeepers, the professionals who are supposed to catch the fraud?”

“Auditors occupy a very unique position in the securities market because they’re often the only professional with direct access to the company’s or the hedge fund’s books and records,” he said.

From the SEC’s perspective, Williams said, “you’re trying to put yourself in the shoes of the auditor” regarding “what they knew and when, because of course they’re entitled to rely on the company and the representations made to them.”

Counsel’s Role

Attorneys are telling clients to take notice.

“It’s time for public companies and accounting firms to do a self-assessment,” Carney said. “Is there anything that they’ve overlooked that could possibly be an issue for the SEC?”

It’s important for the accounting industry to know “you have an entity that’s otherwise pulled back, but not in this area,” he said.

“It will take a while to see the fruits of this,” Bednar said. But “if you have someone in charge of enforcement and they’ve got a particular category of case that they really know — they know how to do it and they’re comfortable with it — you tend to see a lot of big interesting cases in that area,” he said.

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9th Circ. Denies Funko's Bid To Revisit Investor Dispute

By **Jessica Corso**

Law360 (September 2, 2026, 5:52 PM EDT) -- The Ninth Circuit said Wednesday it would not reconsider its decision to revive a proposed class action accusing Funko Inc. of failing to warn investors about tens of millions of dollars' worth of excess toys the company eventually wrote off.

The three circuit judges who wrote the February opinion denied a bid by Funko to either rehear the case as a panel or en banc, leaving intact a decision that **partially revived** a shareholder lawsuit that had been dismissed by a lower court.

That decision reinstated the claims around the company's statements regarding its ability to manage inventory, denying that they were forward-looking statements protected under the federal Private Securities Litigation Reform Act.

In its brief denial of the rehearing bid, the panel did not address arguments by Funko that the court had not required plaintiffs to show scienter to the level of particularity required by the PSLRA. Investors, in response, accused Funko of "cherry-picking" language from other courts in an effort to manufacture a circuit split.

U.S. Circuit Judges Marsha S. Berzon, Michelle T. Friedland and Salvador Mendoza Jr. sat on the panel for the Ninth Circuit.

The investors are represented by Andrew S. Love, Hillary B. Stakem, Ting H. Liu and Jessica E. Robertson of Robbins Geller Rudman & Dowd LLP and Gretchen F. Cappio, Matt Melamed and Garrett Heilman of Keller Rohrback LLP.

Funko and the former executives are represented by Kevin M. McDonough, Thomas J. Giblin and Christine C. Smith of Latham & Watkins LLP and David I. Freeburg and Lianna Bash of DLA Piper.

The case is Construction Laborers Pension Trust of Greater St. Louis et al. v. Funko Inc. et al., case number 24-4909, in the U.S. Court of Appeals for the Ninth Circuit.

--Additional reporting by Ben Adlin. Editing by Jay Jackson Jr.

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B. Riley Investors, Alleging Fraud, Seek Class Certification

By **Sydney Price**

Law360 (September 2, 2026, 9:17 PM EDT) -- A group of investors has moved for class certification in their suit accusing B. Riley Financial Inc. of failing to disclose risks related to its dealings with Brian Kahn, an investment manager who recently pled guilty to securities fraud over his role in the collapse of a $400 million hedge fund.

In their motion, filed on Tuesday, the B. Riley investors call their case a "textbook example" of securities fraud, and say they meet all requirements for certification, including commonality.

"The issues relevant to the merits — falsity, materiality, scienter, reliance, loss causation and damages — are identical for each and every member of the proposed class," the motion states. "Simply put, this is a quintessential action for securities fraud that warrants class action treatment."

According to the suit, B. Riley Financial's shares have plummeted since November 2023, when revelations about the firm's ties with Kahn became public. They further fell when it was reported in January 2024 that the U.S. Securities and Exchange Commission was investigating the firm's dealings with Kahn, and continued to fall after B. Riley's exposure to Kahn's business "ravaged its balance sheet."

"This has been catastrophic for investors like plaintiffs," the motion said. "Those who bought B. Riley stock experienced a peak-to-trough decline of 91.5%. Those who bought B. Riley's 'baby bonds' were similarly battered, with a peak-to-trough decline of 54.4%."

Questions of law link the investors, the motion said, including whether the defendants made false or misleading statements during the class period, which runs between Feb. 24, 2022, and Nov. 1, 2024.

During the class period, B. Riley Financial invested $280 million of its capital to enable Kahn, a longtime business partner of B. Riley founder Bryant Riley, to take his company, Franchise Group Inc., private, according to the suit. At the same time, B. Riley Financial was increasing its undisclosed loans with "unconventional terms" to Kahn, increasing the risk to the company by collateralizing the loan with Kahn's holdings in Franchise Group, according to the suit.

The suit alleges that B. Riley Financial "tied up $480 million in entities controlled by a single high-risk borrower with a history of fraud" without properly informing investors.

Kahn, who **pled guilty** to one count of securities fraud in New Jersey federal court last year, founded brokerage firm Vintage Capital Management LLC and was the investment manager for Prophecy Asset Management LP — the $400 million hedge fund that collapsed — from 2015 to 2020.

Prosecutors said Kahn conspired with Prophecy founder and CEO Jeffrey Spotts and the firm's chief operating officer, John Hughes, to cover up the company's mounting trading losses as its funds were run into the ground by a trading strategy that departed dramatically from its clients' expectations.

In an **order** in December, U.S. District Judge Sherilyn Peace Garnett of the Central District of California determined that the investors have plausibly alleged that B. Riley Financial's disclosures related to its buyout of Franchise Group were materially misleading, and that claims against its founder can proceed.

The plaintiffs, however, cannot allege that B. Riley Financial's co-CEO Tom Kelleher and former Chief Financial Officer Phillip Ahn acted with scienter, and their knowledge of the large loan to Vintage Capital is not enough to establish that they acted with intent to defraud, Judge Garnett said at the time.

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

The investors are represented by Justin D. D'Aloia, Guy Yedwab and Jennifer Pafiti of Pomerantz LLP, by Joshua E. Fruchter of Wohl & Fruchter LLP, and by Robert V. Prongay and Christopher Robert Fallon of Glancy Prongay Wolke & Rotter LLP.

B. Riley Financial Inc., Riley, Ahn and Kelleher are represented by Adam S. Paris, Diane Lee McGimsey, Emily D. Olsen and Tyler J. Andrews of Sullivan & Cromwell LLP.

The case is Mike Coan v. B. Riley Financial Inc. et al., case number 2:24-cv-00662, in the U.S. District Court for the Central District of California.

--Editing by Karin Roberts.

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Hims & Hers Investor Sues Over FTC Privacy, Billing Claims

By **Sydney Price**

Law360 (September 2, 2026, 8:40 PM EDT) -- Telehealth company Hims & Hers Health Inc. was hit with a proposed securities class action accusing it of inflating its share prices by failing to disclose certain practices that led to a suit by the Federal Trade Commission accusing it of sharing customers' sensitive health information with big tech companies and using deceptive billing methods.

In her suit filed on Tuesday, Hims & Hers shareholder Hemalatha Velanki alleges that the company did not reveal in its financial filings that it had shared consumers' health information with third-party advertisers and improperly charged customers for prescriptions shortly after they submitted intake forms — conduct also alleged by the FTC in its **suit,** filed in the Northern District of California in July.

As a result, Hims & Hers shares lost nearly 15% of their value the day the suit was announced, the shareholder claims.

In its suit, the FTC accuses Hims & Hers of "deceptive and unlawful privacy practices," including sharing consumers' health information "with Meta, Snap and other third parties," according to the shareholder complaint.

Christopher Mufarrige, director of the FTC's Bureau of Consumer Protection, said in a statement in July that the bureau's 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 shareholder alleges that Hims & Hers' misconduct subjected it to regulatory scrutiny, and, as a result, it was "reasonably likely to incur fees and penalties." The suit further says the company's positive statements about its operations and prospects were materially misleading.

The suit's proposed class period begins Aug. 4, 2025, nearly a year before the FTC filed its lawsuit and the day Hims & Hers submitted a quarterly filing to the U.S. Securities and Exchange Commission declaring that the company developed and maintained policies and procedures to "protect" private health information.

The shareholder alleges that the company continued to make similar declarations in its filings for months, including in its annual report. However, the claims were misleading, the suit claims.

"These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the Company and its financial well-being and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times," the suit states.

The day the FTC announced its lawsuit on July 29, shares of Hims & Hers declined $4.32, or about 15%, to close at $25, according to the shareholder's suit.

In addition to Hims & Hers, the company's CEO, Andrew Dudum, and chief financial officer, Oluyemi Okupe, are individual defendants in the suit.

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

Velanki is represented by Robert V. Prongay, Charles H. Linehan and Pavithra Rajesh of Glancy Prongay

Wolke & Rotter LLP, and by Howard G. Smith of the Law Offices of Howard G. Smith.

Counsel information for Hims & Hers and the individual defendants was not immediately available on Wednesday.

The case is Velanki v. Hims & Hers Health Inc. et al., case number 3:26-cv-09313, in the U.S. District Court for the Northern District of California.

--Additional reporting by Lauren Berg. Editing by Karin Roberts.

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Thomson Reuters Cyberattack Hits North American Courts

By **Bonnie Eslinger**

Law360 (September 2, 2026, 8:41 PM EDT) -- A recent cyberattack on Thomson Reuters' court management software affected files associated with court systems in 11 states, the U.S. Virgin Islands and Canada, and may have exposed sealed documents and individuals' personal information, according to a Wednesday announcement from the technology and information services company.

Thomson Reuters on Wednesday revealed that a cyberattack on its web-based platform C-Track affected court records that could potentially contain an individual's names, Social Security number, driver's license number, medical information, date of birth and health insurance information. (NurPhoto via AP/Marcin Golba)

The incident occurred in March on Thomson Reuters web-based platform C-Track, which is used by courts to manage documents and electronic filing. According to Thomson Reuters, C-Track handlers on June 30 discovered "unauthorized activity" on the system by a third party three months earlier, and the company promptly launched an investigation into the incident that included law enforcement.

"C-Track also immediately took steps to contain the activity and secure its environment," according to the announcement.

The investigation revealed the unauthorized party obtained court files associated with U.S. court systems in 11 states, as well as the U.S. Virgin Islands and Ontario, Canada, according to the company.

"Based on the investigation, a subset of court records were affected, some of which could potentially contain individuals' names and possibly one or more of the following: Social Security number, driver's license number, medical information, date of birth, and health insurance information," the company said.

Some confidential, redacted or sealed information may also have been exposed by the data breach, according to Thomson Reuters.

The incident was not caused by the courts' networks, systems or data security, according to the announcement, which also said additional measures have been implemented to bolster the security of the C-Track systems and data.

The affected court systems in the U.S. are the Alabama Appellate Courts; Commonwealth of Pennsylvania Environmental Hearing Board; Court of Common Pleas of Monroe County, Pennsylvania; Court of Common Pleas of Washington County, Pennsylvania; Fifth Judicial District of Pennsylvania; Kentucky Appellate Courts; Montana Supreme Court; Nevada Appellate Courts; North Dakota Supreme Court; Supreme Court of South Carolina; South Carolina Court of Appeals; Tennessee Appellate Court Clerk's Office; New Hampshire Supreme Court; Ohio Courts of Appeal; U.S. Virgin Islands Supreme and Superior Courts; and Wyoming Judicial Branch.

The C-Track Canada files that were hacked are associated the Court of Appeal for Ontario, the Ontario Superior Court of Justice and the Ontario Court of Justice, according to Thomson Reuters.

On Wednesday, the Supreme Court of Ohio confirmed that 10 of 12 of its appellate courts were affected by the cybersecurity attack, saying its Cuyahoga County 8th District Court of Appeals and Franklin County 10th District Court of Appeals do not use C-Track.

The announcement said that the Supreme Court of Ohio was notified on July 24 about the breach by its vendor, Thomson Reuters Corp. subsidiary West Publishing Corp., which does business as Thomson Reuters Court Management Solutions.

A company spokesperson told Law360 in a statement that affected customers have been notified as appropriate.

"There has been no operational disruption to C-Track as a result of this incident. Our products and services remain fully operational and are safe to continue to use," the spokesperson said. "Independent cybersecurity experts assisted in the investigation and validated the remediation measures implemented."

"C-Track is actively engaging with the limited number of affected courts and providing support throughout this process," the statement continued. "Complementary credit monitoring will be provided to affected individuals."

--Editing by Alanna Weissman.

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Avaya Execs Beat Investor Suit Over Failed Tech Transition

By **Katryna Perera**

Law360 (September 2, 2026, 9:19 PM EDT) -- A New York federal court has dismissed a shareholder lawsuit against two former Avaya Holdings Corp. executives, who were accused of misleading investors about the success of the North Carolina-based company's transition from a telecom to a technology firm prior to its bankruptcy filing, finding all challenged statements were forward-looking or inactionable.

U.S. District Judge Paul G. Gardephe issued an **opinion and order** Tuesday granting dismissal motions filed by the case's two remaining defendants, ex-Avaya CEO James Chirico Jr. and onetime Chief Financial Officer Kieran McGrath. According to the order, the claims against Avaya were dropped shortly after the suit was filed in 2023.

The operative complaint, filed in 2024, alleged Chirico and McGrath made false and misleading statements to investors about Avaya's transition from a "traditional office hardware business into a subscription-based software company."

Shareholders said the defendants knew the transition would fail because Avaya was losing legacy customers, and that they knew the company was not on track during the class period to meet its projected revenue guidance.

The complaint also asserted that Chirico and McGrath were motivated to ensure the company survived and to commit fraud because of an impending bankruptcy risk. Therefore, the then-executives pressured employees to meet "impossible" short-term sales projections, which in turn, compromised Avaya's disclosure controls and internal processes, according to the suit.

Once the fraud the investors alleged began to come to light, they said, Avaya experienced a series of stock price drops between May and December 2022, erasing more than $613 million in market capitalization.

On Tuesday, however, Judge Gardephe determined that all 20 challenged statements in the suit were not actionable.

He found several of the executives' statements were forward-looking or corporate puffery, and also concluded that statements made by the defendants about Avaya's failure to meet its projected earnings goals for the second quarter of 2022 were not false or misleading.

According to the order, the investors argued these statements were misleading because they "'downplayed' the significance of the miss" and gave the impression that the missed targets were unrelated to "fundamental issues" with the company.

However, the judge found that because the statements holistically address Avaya's long-term financial performance, and the company included disclosures warning that its migration to subscription contracts could affect its revenue, the statements are inactionable.

"When defendants' statements are considered in context, a reasonable investor would have understood that Avaya's shift from non-recurring contracts to recurring subscription-based contracts had negatively impacted Avaya's revenue," the order read.

The court further ruled that statements made about Avaya's disclosure controls and procedures are "too general to cause a reasonable investor to rely upon them."

"A reasonable investor would not rely on such statements because they 'do not purport to guarantee that [the company's] controls will perform perfectly in every instance; instead, they speak to 'reasonable assurance',"' according to the order.

Finally, Judge Gardephe found Chirico and McGrath did not act with scienter because their motive to secure financing for Avaya or ensure its survival "is the type of motive possessed by most corporate officers."

Additionally, the judge said, the inference of scienter is "especially weak" in the suit since neither Chirico nor McGrath sold any of their Avaya shares during the class period.

The judge also dismissed the suit's scheme liability and control person claims.

Brian Schall, counsel for the investors, told Law360 on Wednesday they were "disappointed in the court's ruling, and we are exploring options for our client and the class."

Thomas Gorman, an attorney representing Chirico, in a phone call with Law360 called the ruling "very significant" given the players and investments involved.

The investors are represented by Lucas E. Gilmore, Reed R. Kathrein and Nathaniel A. Tarnor of Hagens Berman Sobol Shapiro LLP and Brian J. Schall of Schall Brown & Schwartz LLP.

McGrath is represented by Reid M. Figel and Minsuk Han of Kellogg Hansen Todd Figel & Frederick PLLC.

Chirico is represented by Rachel Lois Izower-Fadde and Ronald Lefton of Izower Lefton LLP and Thomas Gorman.

The case is Jiang v. Avaya Holdings Corp. et al., case number 1:23-cv-01258, in the U.S. District Court for the Southern District of New York.

--Editing by Covey Son.

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Cruise Says GM Investors Can't Pursue Robotaxi Fraud Suit

By **Linda Chiem**

Law360 (September 2, 2026, 7:51 PM EDT) -- Cruise LLC told a Michigan federal judge Tuesday that lead plaintiffs lack standing to pursue their securities fraud class action alleging General Motors Co.'s self-driving car unit misrepresented the technological capabilities and commercial readiness of its robotaxis, and that their class certification bid should be rejected.

Cruise, along with former top executives Kyle Vogt, Wayne "Gil" West and Daniel Ammann, on Tuesday filed a **motion to dismiss** securities fraud claims from lead plaintiffs Hollywood Police Officers' Retirement System and the Plymouth County Retirement Association. The funds alleged they suffered substantial losses from buying General Motors stock at inflated prices amid Cruise's regulatory troubles following an October 2023 accident involving one of its autonomous vehicles hitting and dragging a San Francisco pedestrian.

Cruise, a majority-owned GM subsidiary, said Hollywood Police Officers' Retirement System profited and was a "net gainer" from its purchase of General Motors stock during the relevant class period.

No financial losses mean no cognizable injury and therefore no Article III standing to even pursue securities fraud claims, Cruise argued. Under binding Sixth Circuit law set by 2012's Taylor v. KeyCorp ., net sellers in stock drop cases **lack Article III standing** because they suffer no "actual injury," Cruise said.

"Between October 6, 2021 and November 7, 2023 — the proposed class period in plaintiffs' class-certification motion, during which plaintiffs allege GM's stock price was artificially inflated — Hollywood sold 17,466 more shares than it bought," Cruise said. "Because Hollywood sold far more shares at allegedly inflated prices than it purchased, Hollywood profited from the very inflation it now challenges. Plaintiffs do not — and cannot — contest that Hollywood is a 'net gainer' from the alleged fraud."

Moreover, Cruise claimed that neither the Hollywood nor the Plymouth County fund suffered any redressable injury in fact that can be traced to public statements that Cruise and its executives made regarding the October 2023 accident.

"Even assuming plaintiffs could prove the merits of the accident claims, neither Plymouth nor Hollywood will receive 'a penny more' than if they do not prove those claims," Cruise said in the dismissal bid. "They 'therefore have no concrete stake in this lawsuit,' and 'lack Article III standing,' and the court must dismiss the accident claims for lack of subject matter jurisdiction."

The October 2023 accident involved a San Francisco pedestrian who was struck by another vehicle, then subsequently hit and dragged by a Cruise autonomous vehicle for 20 feet. In the aftermath, Cruise's operating permits in the Golden State were **suspended**, and regulators hit the company with fines after learning that Cruise **withheld crucial information** and video footage of the accident.

The funds alleged they suffered substantial losses after the truth about Cruise's autonomous vehicles and its efforts to omit information and downplay the pedestrian accident came to light.

Cruise on Tuesday also filed an **opposition brief** urging U.S. District Judge Shalina D. Kumar to reject the funds' recent motion **seeking class certification**, arguing that the funds don't have a reasonable classwide damages methodology consistent with their theory of liability.

The funds' remaining fraud claims focus on 11 allegedly false statements made by Cruise: three "accident statements" and eight "non-accident statements." The investor plaintiffs' amended complaint said the "accident statements" related to Cruise's misrepresentations to the media about the scope of the accident. The company didn't immediately share full video footage of the incident taken from the autonomous vehicle's onboard cameras — initially disseminating a shorter video that didn't show the vehicle's pullover maneuver that resulted in the pedestrian being dragged.

Cruise's statements at the time were "intended to, and did, create a false public perception of Cruise's role in the crash, including that Cruise's autonomous 'fallback' action of engaging in the pullover maneuver directly resulted in injury to the pedestrian," the amended complaint said.

The other "non-accident statements" related to Cruise autonomous vehicles' technical capabilities, level of autonomy, commercial readiness and regulatory permitting. Company executives said during investor conferences and earnings calls that Cruise reached a point where it could already operate a revenue-generating, fully driverless robotaxi business without any additional research and development, according to the amended complaint.

Judge Kumar last year **pared down** the suit. In February, Judge Kumar also **trimmed claims** against several GM executives, including CEO and Chair Mary Barra, Chief Financial Officer Paul Jacobson, and Douglas Parks, a former executive vice president of global product development. GM maintained that its executives cannot be held liable for statements **they didn't even make**, so they didn't belong in the suit.

Cruise in November 2024 reached a deferred prosecution agreement with the U.S. Department of Justice, agreeing to pay a **$500,000 criminal fine** over Cruise's response to the accident.

Autonomous vehicle companies are required to submit all accident reports involving their cars to the National Highway Traffic Safety Administration, the nation's auto safety regulator. But Cruise's first two written reports — which were submitted Oct. 3 and 10, 2023 — did not mention the vehicle's pullover maneuver and the pedestrian being dragged about 20 feet, according to a **third-party review** conducted by Quinn Emanuel Urquhart & Sullivan LLP for GM and Cruise.

Cruise in September 2024 also agreed to pay a **$1.5 million civil penalty** to NHTSA following its investigation into the accident. Cruise in June 2024 agreed to pay a separate **$112,500 penalty** to California regulators and promised to disclose additional data on any collisions.

Counsel or representatives for the parties could not be immediately reached for comment Wednesday.

The investor plaintiffs are represented by Carol C. Villegas, Jake Bissell-Linsk, Guillaume Buell and Matthew J. Grier of Labaton Keller Sucharow LLP, Matthew Henzi and Cynthia Billings-Dunn of AsherKelly PLLC, and Robert D. Klausner and Stuart Kaufman of Klausner Kaufman Jensen & Levinson PA.

The Cruise defendants are represented by Daniel J. Kramer, Audra J. Soloway, Richard C. Tarlowe and Kristina A. Bunting of Paul Weiss Rifkind Wharton & Garrison LLP, Reid Schar, Stephen L. Ascher and Jacob P. Wentzel of Jenner & Block LLP, and Stephanie A. Douglas and Roger P. Meyers of Bush Seyferth PLLC.

Vogt is represented by John W. Keker, Ryan Wong, Sophie A. Hood and Cody Gray of Keker Van Nest & Peters LLP.

The case is In re: General Motors Co. Securities Litigation, case number 4:23-cv-13132, in the U.S. District Court for the Eastern District of Michigan.

--Additional reporting by Gina Kim. Editing by Nick Siwek.

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STMicro Investors Seek Cert. In Suit Over COVID Market Drop

By **Gina Kim**

Law360 (September 2, 2026, 5:48 PM EDT) -- Investors in semiconductor manufacturing company STMicroelectronics have asked a New York federal judge to certify their securities class action alleging company executives failed to acknowledge pandemic-related semiconductor chip demand declines, arguing they all relied upon the executives' public misrepresentations to purchase company shares.

Investor plaintiffs Faith Close, Hassan Ibrahim, Aya Zalat and Ferdinando Garbuglio on Tuesday asked U.S. District Judge Alvin K. Hellerstein to certify a class of all those who acquired, bought call options or sold put options of STMicroelectronics NV common stock in the U.S. from March 14, 2023, to Jan. 29, 2025.

The investors have accused the semiconductor chip manufacturer and its executives of lacking the visibility the company claimed to have to predict future growth in its core segments, leading the executives to make false representations to shareholders.

The investors argued they were entitled to a presumption of reliance since STMicroelectronics and its executives committed a fraud-on-the-market, as their misrepresentations were made in public filings submitted to the U.S. Securities and Exchange Commissions, as well as in press releases and during public events when the executives discussed pertinent facts and responded to analysts' queries.

"Class members also purchased STM's securities during the class period after the alleged misrepresentations were made and before the truth was revealed," the investors argued in the certification motion Tuesday. "In contrast, no individual issues, let alone significant individual issues, threaten to predominate over the substantial common issues to be litigated. Plaintiffs' claims arising under the federal securities laws do not require proof of individual reliance."

Tuesday's brief stems from a pair of investor suits **initiated in 2024** against STMicroelectronics, which sells semiconductor products to different industries. In July 2024, STM revealed that contrary to prior statements, demand fell in its automotive and industrial sectors during the first half of that year and that it had to lower its guidance.

According to Tuesday's motion, demand for STMicroelectronics chips slowed in 2020 because of the COVID-19 pandemic but quickly bounced back after normal operations resumed. The company reported a growth in demand over the next two years, partially because clients over-ordered chips to avoid supply chain disruptions. In 2023, disruptions were resolved and over-ordering wasn't necessary, but STM still told ivnestors the company's revenue would keep climbing because of its then-existing backlog and incoming orders, the investors alleged.

STMicroelectronics moved to **dismiss the suit** in May 2025, arguing the complaint was flawed with fraud-by-hindsight logic. Nor did the investors identify actionable statements made by the company as to market demand after the height of the COVID-19 pandemic, the company argued.

However, Judge Hellerstein **allowed the case to proceed**, finding in September 2025 the plaintiffs had adequately showed STMicroelectronics misled the public about its growth and that the complaint's confidential witnesses corroborated the plaintiffs' claims.

In Tuesday's certification bid, the investors focused on their arguments contending STMicroelectronics' stock had been traded on an otherwise efficient market, and that they met the criteria established under Cammer v. Bloom and Krogman v. Sterritt to show market efficiency during the class period.

The company traded on the New York Stock Exchange, and courts regularly find that listing on the NYSE creates a strong presumption of market efficiency, the investors said.

They also argued they met all five Cammer factors which have to do with whether public information was generally incorporated into the security's price: whether average weekly trading volume is significant; how many analysts monitor the company stock; the number of market makers who acquire or sell stock; the company's eligibility to file a Form S-3 with the U.S. Securities and Exchange Commission; and whether unexpected news or financial reports show a causal relationship between the events and stock prices.

According to Tuesday's motion, STMicroelectronics' average weekly trading volume on the NYSE and other trading venues in the U.S. as a percentage of shares outstanding was 2.17% during the class period; at least 36 well-known investment firms monitored STM and published reports about it; and more than 700 analyst reports were disseminated during the class period.

Financial information was also shared to investors through news coverage, conferences and STMicroelectronics' own presentations and SEC filings, the investors argued, and there were at least 99 market makers for STM common stock during the class period.

"Additionally, during the class period, there were at least 1,431 institutional investors with ownership of an average of 192.35 million shares, or 21.32% of the company's outstanding shares," the investors said. "The presence of institutional investors in STM, who were able to evaluate and trade STM shares based on new, material information, strongly supports a finding of market efficiency."

Additionally, the company's eligibility to file a short-form registration statement, or a Form S-3, backs a finding of an efficient market, the investors argued.

While the investors aren't required to show causal relationships between news and stock prices, their expert witness's report shows that has been satisfied as well, the investors said Tuesday.

"The [expert witness's] event study also determined that on days when STM announced company-specific news, the stock price reacted more frequently with statistically significant price movements and exhibited increased volume than on days when no company-specific news was disclosed," the investors said, arguing that showed a clear cause and effect.

The investors argued some courts also weigh three extra factors to determine market efficiency under Krogman v. Sterritt : Those consider market capitalization, the bid-ask spread for stock sales and the public float, which have been met here, they said.

STMicroelectronics' total market capitalization across all exchanges averaged $36.42 billion over the class period, the investors said, placing it above the 95th percentile of all companies listed on the NYSE and Nasdaq. And the average bid-ask spreads on the company's common stock were narrower than those of comparable entities, the investors noted.

The large number of company shares held by the public as opposed to insiders also backs a market efficiency finding, the investors said. Non-insiders held more than 72% of STMicroelectronics' common stock, equating to an average public float of $26.05 billion, whereas insiders held less than 28% of the company's outstanding shares during the class period, according to the motion.

Representatives for the parties did not respond to inquiries seeking comment Wednesday.

The proposed class is represented by Omar Jafri, Joshua B. Silverman, Brian P. O'Connell, Jeremy A. Lieberman, J. Alexander Hood II and Jianan Jiang of Pomerantz LLP, Eitan Kimelman of Bronstein Gewirtz & Grossman LLC, and Adam M. Apton and Devyn R. Glass of Levi & Korsinsky LLP.

STMicroelectronics and its executives are represented by Robert J. Giuffra Jr., David M.J. Rein, Julia A. Malkina and Alexandra Bodo of Sullivan & Cromwell LLP.

The case is In re STMicroelectronics N.V. Securities Litigation, case number 1:24-cv-06370, in the U.S.