

A Potential Turning Point For Short-And-Distort Claims

By **Perrie Weiner and Tomas Tuszynski** (July 6, 2026)

For years, public companies targeted by so-called short-and-distort campaigns have faced an uncomfortable reality: The market damage often happens immediately, while the legal remedy comes slowly, if at all.

The pattern is now familiar. A short seller or allied research publisher takes a bearish position shorting the stock of a thinly traded public company, releases a highly negative investigative report or social media post, publishes the report widely, and draws in other short sellers, then watches the stock price fall precipitously and profits from the short position.

Sometimes the report identifies genuine issues. Sometimes it mixes legitimate criticism with exaggeration, innuendo, selective facts or, increasingly more commonly, outright falsehoods. And sometimes the author is anonymous or pseudonymous, leaving the company, its investors and the market to absorb the often-substantial damage before anyone can determine who was behind the manipulation.

The June 1 [conviction](#) of Andrew Left, founder of Citron Research, may be the clearest signal yet that regulators and prosecutors are prepared to treat similar conduct as more than aggressive market commentary.

In *U.S. v. Left*, after a 15-day trial in the [U.S. District Court for the Central District of California](#), a federal jury convicted Left of one count of participating in a securities fraud scheme and 12 counts of securities fraud arising from public stock recommendations and trading activity.

The [U.S. Department of Justice](#) described the case as a short-and-distort scheme that generated more than \$21 million in profits. Left is scheduled to be sentenced on Aug. 31, and his counsel has stated that he will continue to challenge the verdict.

The Left case is important not because it criminalizes short selling. It does not. Short selling is lawful, important and often beneficial to market efficiency because it creates negative price pressure and helps stocks reach market equilibrium. Nor does the verdict



Perrie Weiner



Tomas Tuszynski

mean that every analyst must disclose every trading intention in real time.

The better reading is narrower, but still significant: When a market-moving commentator creates a false impression of the market, undisclosed contrary conduct can transform the communication into intentionally misleading fraud.

The government's theory was not simply that Left published negative opinions. It was that he allegedly used his platform, reputation, target prices and media appearances to move stocks while privately purchasing positions in ways inconsistent with the market impression he created.

There is also a parallel [U.S. Securities and Exchange Commission](#) enforcement action, SEC v. Left. On July 26, 2024, the SEC sued Left and Citron Capital in the Central District of California, alleging a \$20 million multiyear fraud scheme involving public recommendations on at least 26 occasions concerning 23 companies.

According to the SEC, Left's recommendations moved target stocks more than 12% on average, after which Left and Citron allegedly reversed positions to profit from those price movements. The SEC also alleged that Left falsely portrayed Citron Research as independent while concealing compensation arrangements with hedge funds.

That parallel civil case matters. For public companies and significant investors harmed by coordinated short attacks, the government's Left theory provides a road map: Focus less on the mere existence of a negative thesis and more on the total mix of speech, trading, coordination, compensation, timing and concealment.

A short chronology shows how we got here.

In 2017, the SEC brought enforcement claims in the Lidingo Holdings matter involving online stock promotion articles and allegedly undisclosed compensation. That was not a classic short attack; it involved positive promotion. But it was an early modern example of the SEC focusing on misleading market commentary that appeared independent and caused movement in the market, only for the author to capitalize on price movement.

In 2018, the SEC filed its case against Gregory Lemelson and Lemelson Capital Management in the [U.S. District Court for the District of Massachusetts](#), involving [Ligand Pharmaceuticals Inc.](#)

The SEC alleged that Lemelson took a short position and then made false statements intended to drive down Ligand's stock price. In November 2021, a jury found Lemelson and his firm liable for three false and misleading statements. In March 2022, the court entered a final judgment imposing a five-year injunction and a \$160,000 civil penalty.

That case was a watershed because it showed that a short seller's public campaign could be actionable when it crossed from criticism into materially false factual assertions, which affect the perceived value of an associated security. The [U.S. Court of Appeals for the First Circuit](#) later addressed related proceedings in 2025, underscoring that the case remained an important marker in the development of short-and-distort enforcement law.

Then came Left. In July 2024, the DOJ and SEC filed parallel actions. In June 2026, the DOJ secured the criminal conviction. Whatever happens on post-trial motions, sentencing or appeal, the verdict has already changed the risk calculus for activist short sellers, research publishers and hedge funds that interact with them.

The academic literature has been warning about this problem for years. Professor Joshua Mitts' 2019 paper, "Short and Distort," examined 1,720 pseudonymous attacks on mid- and large-cap companies from 2010 to 2017, and identified patterns of stock price declines followed by reversals, along with abnormal options trading around publication.

Mitts estimated more than \$20.1 billion in mispricing associated with pseudonymous attacks, and explained how pseudonymity allows authors to exploit market trust and then abandon identities when credibility erodes.

That empirical work tracks what many market participants have seen in practice. The market can react within minutes to a negative report, especially when it is amplified by social media, website postings, trading forums, journalists, newsletters and algorithmic trading.

But the identity of the author, the author's trading, the role of tippees, the presence of hedge fund coordination, and any compensation arrangements may be hidden from the company at the moment of maximum harm.

That is why civil litigation in this area requires a different playbook.

The first step is triage. A targeted company should immediately preserve evidence, retain trading and market-structure expertise, and analyze price movement, volume, short

interest, options activity, securities lending data, social media amplification and intraday trading patterns.

The key question is not simply whether the report was negative. It is whether the report, when viewed alongside trading and coordination evidence, created a false impression of market demand, analyst independence or the author's true economic posture.

Second, the company must separate protected opinion from actionable factual assertions and misleading half-truths. Sophisticated short publishers often write around defamation and securities fraud standards by couching claims as opinion, prediction, rhetorical commentary, or most damagingly, investigative journalism.

A statement framed as opinion may still imply facts: that the author sincerely believes the thesis, that there is a reasonable basis for the thesis, that the author is independent, or that the author's trading is aligned with the position being advocated. The Left verdict matters because it reinforces the importance — and actionability — of those implied facts.

Third, when the author is anonymous or pseudonymous, the plaintiff must be prepared to pursue targeted early discovery. That typically means identifying the platform, account metadata, Internet Protocol information, email addresses, payment trails, document repositories, trading accounts, broker-dealers, hedge funds, communications channels and potential tippees.

Courts will require a careful showing before unmasking anonymous speakers, particularly where First Amendment interests are invoked. But anonymity is not immunity.

The more a plaintiff can show specific false statements, market impact, suspicious trading, coordination or evidence that the speech was part of a commercial securities scheme, the stronger the case for discovery becomes. Procedural rules already in place account for targeted, expedited discovery upon a showing of good cause, and such motions are routinely granted.

Fourth, the complaint must be drafted with the anti-Strategic Lawsuit Against Public Participation impediment in mind.

In many jurisdictions, including California, a defendant accused of publishing market commentary may respond immediately with an anti-SLAPP motion, arguing that the case targets protected speech on a matter of public concern.

The plaintiff must be ready to show at the outset, without the benefit of discovery, that the claims arise from actionable misconduct, not mere criticism, and that there is a probability of prevailing. That requires disciplined pleading: Identify the precise statements, explain why they are false or misleading, connect them to trading and market impact, plead actual malice where required, and avoid overreaching.

The [Overstock.com](#) v. Gradient Analytics decision, issued by the Superior Court of the State of California, County of Marin, on May 30, 2007, remains instructive.

There, the court affirmed denial of anti-SLAPP motions where the complaint and supporting evidence alleged that a research publisher collaborated with hedge fund principals who had short positions and produced negative reports that were allegedly not the unbiased and objective analysis promised to subscribers.

The point is not that every short report is actionable. The point is that coordination, economic incentives, timing and alleged lack of independence can matter greatly at the anti-SLAPP stage.

Fifth, remedies should be framed realistically. In a civil case, the goal may include damages for trading losses, reputational harm, injunctive relief, corrective disclosures, discovery into the network behind the attack, and referrals to regulators or prosecutors.

A company's major investors may also have claims if they purchased or sold securities at prices distorted by false statements or manipulative conduct. In the right case, civil litigation can operate in parallel with regulatory engagement, particularly where trading data and publication timing show patterns that regulators are well positioned to investigate.

None of this means public companies should reflexively sue every short seller. Many short reports identify real problems. Some expose fraud. The market needs skeptical voices, including bearish ones. A weak lawsuit can backfire, validate the short thesis, invite anti-SLAPP fee exposure and draw further adverse media attention.

But the opposite mistake is equally dangerous: assuming that a company has no remedy because the attack came packaged as an opinion, or because the author hid behind a pseudonym, or because short selling itself is lawful.

The law has always drawn a distinction between legitimate criticism and fraud. The practical challenge has been proving which side of the line a particular campaign falls on before the damage becomes irreversible.

The Left conviction may signal that line is becoming clearer. The government has now shown that, in the right case, public market commentary coupled with undisclosed contrary trading, hidden conflicts and misleading implications can support criminal securities fraud charges.

The SEC has shown a willingness to pursue parallel civil relief. And prior civil cases show that targeted companies can survive early dismissal efforts when they plead and support a theory grounded in false facts, misleading half-truths, undisclosed coordination and market manipulation.

Short-and-distort may be one of the most underenforced areas of securities fraud. It sits at the intersection of market speech, anonymous online publishing, derivatives trading, hedge fund strategy and real-time social media amplification. That combination has allowed too many bad actors to hide behind the First Amendment while using speech as a trading weapon.

The answer is not to chill legitimate short selling. The answer is accountability for deception. Analysts may criticize. Short sellers may short. Investors may trade. But no one should be permitted to manufacture a false market, conceal conflicts, mislead followers about trading intentions, or use anonymity to distort prices and disappear.

For public companies and investors, the lesson is straightforward: When a defamatory or misleading attack is paired with suspicious short activity and a sharp stock drop, the company should not assume it is powerless. With the right factual investigation, targeted discovery strategy and careful pleading, short-and-distort cases can be brought — and won.

[Perrie Weiner](#) is a partner and the chair of the North America securities litigation group at [Baker McKenzie](#).

[Tomas N. Tuszynski](#) is an associate at the firm.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.