POTENTIAL $2.6 BILLION VERDICT CREATES UNUSUAL RECOVERY OPPORTUNITIES AND PITFALLS FOR FORMER TWITTER SHAREHOLDERS

DATE :

September 2026

AUTHOR:

Donald F. Grunewald

Introduction

Everyone is used to securities class action settlements. But a claims deadline looms for a recovery opportunity that is anything but ordinary, both in its unique structure and potentially titanic size. On March 20, 2026, a federal jury returned a verdict in favor of plaintiffs in Pampena v. Musk, one of the exceedingly rare securities class actions to proceed through trial and result in a plaintiff victory.[1]The verdict stems from Elon Musk's acquisition of Twitter, and plaintiffs' counsel have publicly suggested that damages could ultimately approach a whopping $2.6 billion.[2] To put that number into context, ISS SCAS recorded nearly $3.6 billion for the entire US in 2025. Thus, this could be a seminal recovery for investors.

The verdict covers investors who sold Twitter common stock or call options, or purchased put options, between May 13, 2022 and October 4, 2022 and suffered damages. Eligible investors have until November 24, 2026 to submit claims.

For investors, however, the most important aspect of the verdict may not be its potential size. Rather, it is that Pampena has produced something rarely seen in modern securities litigation: a claims-made recovery arising from a jury verdict rather than a traditional settlement. [3]

Most securities class actions never reach a jury. Most cases that survive motions to dismiss ultimately settle. And even when investors recover hundreds of millions of dollars in settlements, those recoveries typically come from fixed pools of money created through negotiated compromises. Once settlement funds are deposited, defendants generally have little reason to care whether one investor files a claim or one hundred thousand do; their payment obligations have already been determined.

That is not what happened here. In cases like Pampena, every valid claim submitted has the potential to increase defendants' ultimate payment obligations, while every challenged claim has the potential to reduce them.

The overwhelming majority of institutional investors have participated in securities settlements before. They understand the basic mechanics. But this may be terra incognita. Here, investors should expect close scrutiny of claims, careful examination of supporting documentation, and potentially vigorous disputes regarding eligibility and damages. In many respects, the battle that began in the courtroom may not end with the jury's verdict. Indeed, for investors seeking recovery, an equally important phase may only now be beginning.

[1] Pampena v. Musk, No. 3:22-cv-05937-CRB (N.D. Cal.)
[2] See, e.g., https://www.dandodiary.com/2026/03/articles/securities-litigation/jury-in-rare-securities-suit-trial-finds-musk-misled-twitter-investors/
[3] A recent comparator might be the 2022 recovery in a case involving Puma Biotechnology, Inc. After a verdict partially in favor of plaintiffs at trial, the total recovery was $54,248,374, representing the total damages of approved claims filed. Claimants received about 75% of their damages, after attorneys' fees and various expenses were taken out. As discussed below, a 2009 verdict and subsequent settlement involving Household International, Inc. represents another possible scenario for this matter. But of course, Pampena could well branch off in another direction and set new precedents.

Traditional Non-Reversionary Settlements Versus Claims-Made Recoveries

To understand why Pampena is unusual, consider how most securities class actions end. The overwhelming majority either are dismissed or settle prior to trial. In a typical settlement, defendants agree to create a settlement fund containing a fixed amount of money. The parties also negotiate a plan of allocation that establishes how claimants' recognized losses will be calculated.

Once the settlement fund is established, the amount available for recovery is fixed. If approved claims exceed the amount of money available after attorneys' fees and expenses, every claimant receives only a pro rata share of recognized losses. For example, if $10 million remains available for distribution and total approved losses equal $100 million, investors would receive approximately ten cents on the dollar. These settlements are also non-reversionary: if aggregate approved damages total less than the size of the settlement fund, the excess funds do not get sent back to defendants. Instead, investors receive more than their damages. While outcomes vary, ISS SCAS has found that claimants in traditional securities settlements typically recover only 8-10% of their approved damages.

Equally important, claims administration in these settlements is generally administrative rather than adversarial. Although claims administrators may request supplemental documentation, seek clarification regarding transactions, or issue deficiency notices, defendants typically have little economic incentive to contest individual claims. No matter how many are approved, defendants generally pay the same amount.

The recovery process created by the Pampena verdict operates according to a different set of incentives. A verdict is a claims-made recovery (and there are sometimes similar claims-made settlements), where the ultimate amount paid depends on the total value of claims accepted by the court.

Background of the Case

In April 2022, Twitter announced that it had agreed to be acquired by Musk for $54.20 per share. Plaintiffs alleged that Musk subsequently made a series of false and misleading statements designed to depress Twitter's stock price while the acquisition remained pending. Plaintiffs asserted that investors who sold their Twitter securities during the class period did so at prices artificially reduced by those statements.

After years of litigation, the case proceeded to trial. The jury ultimately found Musk liable with respect to two statements (though found him not to have participated in a scheme) and determined the amount of artificial deflation attributable to those statements during the class period.

However, the verdict is on appeal, and may not be the final chapter. The Ninth Circuit could affirm the verdict, modify it, vacate portions of it, order a new trial, or reverse liability findings altogether. As a result, the existence and size of any eventual recovery remain uncertain.[4] Depending on the outcome of appellate proceedings, recoveries that currently appear substantial could ultimately be reduced significantly or eliminated. But even if the verdict survives, the resulting claims process may become one of the most consequential and closely watched recovery efforts in the history of domestic securities litigation.

Jury Determined Damages

Most securities settlements reflect negotiation, where recovery calculations are governed by negotiated plans of allocation crafted as part of compromises between the parties. Pampena reflects adjudication. As part of its verdict, the jury determined the amount of artificial deflation attributable to the challenged statements on each day of the class period. Those figures were incorporated directly into the verdict and provide the foundation for calculating investor recoveries.

The court has also made related determinations affecting loss calculations, including the use of FIFO rather than LIFO accounting methodologies. As a result, the framework for calculating damages is a product of the litigation process itself rather than post-settlement negotiations.

[4]A securities class action involving Household International, Inc. was tried to a jury verdict in 2009, with a partial victory for plaintiffs. A claims filing process commenced in 2011, and ultimately a total of nearly $2.5 billion in approved damages plus pre-judgment interest was approved. However, Defendants appealed, and in 2015 the appellate court ordered a new trial.The parties subsequently settled the action for $1.57 billion in 2016 but relied on the original claims process and did not allow new claims to be filed. See, Lawrence E. Jaffe Pension Plan v. Household International, Inc., No. 1:02-cv-05893, ECF No. 2213 at 2-4 (N.D. Ill. June 20, 2016). Claimants only received the first distribution in May 2017, nearly a full eight years after the jury verdict. Like Jaffe, it is entirely possible that the parties eventually conclude a settlement in this matter, the appeals court will order a new trial, and/or claimants may wait years to receive payment, if any.

Total Recovery Depends on the Value of Approved Claims

The second major distinction is potentially even more significant. In a traditional settlement, investors compete for shares of a fixed fund. In Pampena, the total amount ultimately owed by defendants depends on the value of valid claims that are submitted and approved. If a single valid claim worth five dollars were approved, defendants would owe five dollars. If every eligible investor submitted a valid claim and the verdict survived appellate review, total recoveries could potentially approach the $2.6 billion figure cited by plaintiffs' counsel in public reporting.

This structure creates an unusual dynamic for investors.

Approved claimants generally should recover 100% of approved and adjudicated damages, less attorneys' fees, litigation expenses, and administration costs, and subject to appellate outcomes. Importantly, the trial court has also awarded prejudgment interest on valid claims, which could further increase recoveries if the verdict is ultimately upheld. Thus, unlike traditional settlements, where investors often have little idea what percentage of recognized losses they will ultimately recover, approved claimants in Pampena may have far greater visibility into the value of their claims.

The uncertainty lies elsewhere. The central question may not be how much an approved claim is worth. The central question may be whether the claim survives scrutiny and whether the verdict itself ultimately survives appeal.

The Claims Process May Become Its Own Battlefield

The most important practical consequence of a claims-made recovery is the change in incentives. In an ordinary settlement, defendants do not learn the identities of claimants, and even were they to do so, they would have little reason to challenge individual claims because their payment obligations are already fixed. Furthermore, agreed-upon settlement amounts are usually within insurance coverage, so that defendants themselves usually do not pay much out of pocket. In Pampena, every approved claim increases the potential payout, and insurance coverage, if any, is unlikely to come close to $2.6 billion.

That reality may transform what is ordinarily a routine administrative process into a more contested proceeding.

Investors should expect the defense to have access to claim submissions and the claims review process in ways they ordinarily would not in a standard settlement. Transaction records, ownership documentation, supporting materials, and deficiency responses,[5] already important, may carry greater significance. Disputes regarding claim validity may generate objections, court proceedings, or litigation activity that are uncommon in routine settlement administration. Indeed, the schedule of the case in the claims processing phase includes monthly summaries by the claims administrators of claims filed, and thirty days for the defense to review claims—after the claims administrator will have already gone through the process of determining the validity of claims over 180 days after the claims deadline—and prepare any challenges.[6] Moreover, defense argued for more than 120 days to review claims (which the court rejected), contending that thirty days was insufficient to evaluate claims to test individual reliance or damages. This demonstrates that the defense aims to act as incentives would predict.

At the same time, plaintiffs' counsel have strong incentives to maximize valid recoveries for class members, as this should increase their attorneys' fees. Thus, these attorneys may be able to provide more support to claimants. Because the interests of the parties diverge more sharply than in a traditional settlement, claimants may find themselves participating in a process that feels significantly more adversarial (and importantly much less confidential) than the claims processes they have encountered in prior securities recoveries.

The incentives facing investors may also differ. In a fixed-fund settlement, an investor's decision to file a claim affects only that investor's share of an already-established recovery pool. In Pampena, however, each approved claim may increase defendants' payment obligations. Investors should therefore approach claim preparation with the same care they would devote to any significant legal or financial matter, ensuring that documentation is complete, defensible, and capable of withstanding challenge. And some investors may even wish to consider whether the facts of the case, notwithstanding the verdict, are meritorious.

[5] Hence claimants should not assume that information submitted in support of claims, including their identities, will remain confidential vis-à-vis the defense.
[6] It is SCAS' experience that a 180-day period to process all claims itself is much faster than standard class actions, which typically take 2-3 times as long. As such, it is possible that some investors will struggle to cure claims within that period.

Key Takeaways

The principal lesson of Pampena is that investors should not approach this recovery opportunity as though it were a conventional securities class action settlement.

If the verdict survives appeal, the amount ultimately paid by defendants will depend directly on the value of valid claims approved through the claims process. That structure fundamentally alters the incentives of defendants, plaintiffs' counsel, claims administrators, and claimants themselves. Investors should therefore expect a process that may involve greater scrutiny, more disputes, and a heightened focus on documentation than is typical in securities litigation.

For institutions that choose to participate, transaction records, account documentation, trading data, and responses to deficiency notices may prove unusually important and contentious. In a claims-made recovery, success may depend not only on eligibility, but also on the ability to substantiate and defend a claim when challenged. Investors are used to settlements. Law firms are used to settlements. Claims administrators are used to settlements. Pampena potentially disrupts all of that.

The jury's verdict may have ended one battle. For investors seeking recovery, another may just be beginning.

