

# Truck Co. Inflated Preorder Sales, Lost \$1.9B, Investors Say

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By **Ethan Beberness**

Law360 (April 29, 2021, 6:24 PM EDT) -- Electric vehicle manufacturer Lordstown Motors Corp. was hit with a proposed class action Wednesday in which investors say they lost \$1.9 billion after reports revealed the company was not capable of meeting supposedly 100,000 preorders for its line of pickup trucks.

Investors Daniel Cohen and David Cohen say the automaker touted enthusiastic presales for its signature line of "Endurance" electric pickup trucks, claiming numbers as high as 100,000 before a damaging report revealed that Lordstown was nowhere near ready to put its trucks on the road. That sent Lordstown's stock price into a tumble that lost 35.7% of its value.

Shortly after a highly publicized launch event attended by former Vice President Mike Pence showcasing the supposedly first-of-its-kind Endurance truck in June 2020, the company claimed it had received 27,000 presale orders for Endurance trucks, amounting to about \$1.4 billion in potential revenue, according to the complaint. Lordstown also claimed the truck would be ready for commercial production by the second half of 2021.

In September 2020, the company increased its count of preorders to 40,000, and told investors that this amount "represented potential revenue sufficient to cover production into 2023," the investors claim.

One month later, Lordstown announced it would be merging with a special-acquisition company called DiamondPeak after the deal won shareholder approval, and that the combined company's shares would trade on the NASDAQ. The combined company continued under the Lordstown Motors name.

According to the complaint, the combined company continued to enthusiastically promote its number of preorders. By January 2021, that number ballooned to 100,000 in a press release, according to the complaint.

On March 12, however, Hindenburg Research published a report claiming that Lordstown had "no revenue and no sellable product," and the touted preorder number was "largely fictitious and used as a prop to raise capital and confer legitimacy," according to the complaint.

The report resulted in an initial 16% drop in Lordstown's stock value.

During an earnings call five days later, Lordstown founder and CEO Steve Burns admitted to investors that the company was under investigation by the [SEC](#); the complaint claims this revelation came a full month after the SEC launched its investigation. At this news, the company's stock dropped another 13%.

Lordstown's stock price dropped another 10% later that month when Hindenburg published pictures taken in the summer of 2020 of an Endurance truck breaking down, supposedly during the filming of a commercial, including one of the Endurance loaded onto a tow truck.

The proposed shareholder suit now seeks "to recover hundreds of millions of dollars on behalf of stockholders who purchased or acquired the common stock of Lordstown" and to remedy the negative effects of what the complaint calls Lordstown executives' "faithless" actions.

The investors bring Exchange Act violations, breach of fiduciary duty, insider selling and unjust enrichment claims against the company and a slew of executives, ranging from Burns to former directors of both Lordstown and Diamond Peak.

For relief, the class wants several internal changes at Lordstown, including a requirement for an independent chairman of the board and the inclusion of three stockholder-elected members on the company's nine-member board.

Counsel for the investors and representatives for Lordstown Motors did not respond to requests for comment.

The investors are represented by Blake A. Bennett of [Cooch and Taylor PA](#), and Frank J. Johnson and Michael I. Fistel Jr. of [Johnson Fistel LLP](#).

Counsel information for Lordstown, Burns and the remaining executives and directors was not available on Thursday.

The case is Cohen et al. v. Burns et al., case number [1:21-cv-00604](#), in U.S. District Court of the District of Delaware.

--Editing by Adam LoBelia.

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