UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

KalshiEX LLC v. Mary Jo Flaherty

KalshiEX LLC v. Flaherty, No. 25-1922 · No. 25-1922 · Decided April 6, 2026

SUMMARY

The U.S. Court of Appeals for the Third Circuit affirmed a preliminary injunction preventing New Jersey officials from enforcing state gambling laws against KalshiEX's sports-related event contracts. The court held that Kalshi demonstrated a reasonable chance of success on its argument that the Commodity Exchange Act preempts state regulation of swaps traded on a CFTC-licensed designated contract market. The court also upheld the District Court's findings regarding irreparable harm, the balance of equities, and the public interest.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Porter, Circuit Judge; Chagares, Chief Judge; Roth, Circuit Judge
JURISDICTION	U.S. Court of Appeals for the Third Circuit
DECIDED	April 6, 2026
DOCKET	25-1922
DISPOSITION	affirmed
PROCEDURAL POSTURE	Kalshi sought a preliminary injunction barring New Jersey officials from enforcing state gambling laws and constitutional provisions against Kalshi's sports-related event contracts. The District Court for the District of New Jersey granted the preliminary injunction, and New Jersey officials appealed under 28 U.S.C. § 1292(a)(1).
STANDARD OF REVIEW	Findings of fact are reviewed for clear error, conclusions of law de novo, and the ultimate decision granting a preliminary injunction for abuse of discretion.
PRECEDENTIAL VALUE	Published, precedential Third Circuit opinion
PARTIES	Mary Jo Flaherty, Matthew J. Platkin v. KalshiEX, LLC

TOPICS

interlocutory appeal · appellate procedure · standard of review · statutory interpretation · casino regulation

PRACTICE AREAS

federal preemption | administrative law | gaming and gambling regulation | derivatives and commodities regulation | appellate procedure

QUESTIONS PRESENTED

1. Whether Kalshi's sports-related event contracts qualify as swaps under the Commodity Exchange Act.
2. Whether the Commodity Exchange Act field-preempts New Jersey gambling laws and constitutional provisions insofar as they regulate sports-related event contracts traded on a CFTC-licensed designated contract market.
3. Whether New Jersey's regulation is conflict-preempted because it obstructs the purposes and objectives of the Commodity Exchange Act.
4. Whether the District Court properly granted a preliminary injunction under the governing four-factor test.

HOLDINGS

1. Kalshi's sports-related event contracts fall within the statutory definition of swaps because they provide for payment dependent on the occurrence of an event associated with a potential financial, economic, or commercial consequence.
2. The Commodity Exchange Act field-preempts otherwise applicable New Jersey laws that purport to regulate sports-related event contracts traded on CFTC-licensed designated contract markets.
3. New Jersey's gambling laws and constitutional provisions are also conflict-preempted because enforcement against sports-related event contracts traded on designated contract markets would obstruct the Commodity Exchange Act's purposes and objectives.
4. The District Court did not abuse its discretion in finding that Kalshi demonstrated a reasonable chance of success, likely irreparable harm, and that the balance of equities and public interest favored preliminary relief.

KEY QUOTATIONS

> *"The first two are the most important threshold factors: "likelihood of success on the merits" and whether the party seeking the injunction "is more likely than not to suffer irreparable harm in the absence of preliminary relief.""* (3)

> *"We hold that both field and conflict preemption apply."* (9)

> *"Allowing New Jersey to enforce its gambling laws and state constitution would create an obstacle to executing the Act because such state enforcement would prohibit Kalshi, which operates a licensed DCM under the exclusive jurisdiction of the CFTC, from offering its sports-related event contracts in New Jersey."* (12)

> *"Because the likelihood-of-success and irreparable-harm factors favor Kalshi, and the last factors largely turn on a determination of the merits, the District Court did not abuse its discretion by granting the*

> *preliminary injunction."* (17)

FACTUAL BACKGROUND

Kalshi operates a Commodity Futures Trading Commission-licensed designated contract market on which it offers event contracts, including contracts tied to sports outcomes. After Kalshi began offering sports-related contracts, New Jersey sent a cease-and-desist letter asserting that the contracts violated the New Jersey Constitution and gambling laws prohibiting betting on collegiate sports, and threatened civil and criminal enforcement. Kalshi then sought a preliminary injunction, contending that the Commodity Exchange Act gives the CFTC exclusive jurisdiction over its contracts and preempts New Jersey law.

PROCEDURAL HISTORY

After New Jersey sent Kalshi a cease-and-desist letter threatening enforcement of state gambling laws against its sports-related event contracts, Kalshi filed suit in the District of New Jersey. The District Court found that Kalshi had a reasonable likelihood of success on its federal-preemption claim, would suffer irreparable harm, and satisfied the remaining preliminary-injunction factors. The Third Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Mallet and Co. Inc. v. Lacayo, 16 F.4th 364, 379-80 (3d Cir. 2021)
- Bimbo Bakeries USA, Inc. v. Botticella, 613 F.3d 102, 109 (3d Cir. 2010)
- Reilly v. City of Harrisburg, 858 F.3d 173, 179 (3d Cir. 2017)
- Delaware State Sportsmen's Ass'n v. Delaware Department of Safety & Homeland Security, 108 F.4th 194, 202, 205 (3d Cir. 2024)
- Nken v. Holder, 556 U.S. 418, 435 (2009)
- KalshiEX LLC v. CFTC, No. 23-cv-3257, 2024 WL 4164694, at *4 (D.D.C. Sept. 12, 2024)
- United States v. Johnson, 114 F.4th 148, 153 (3d Cir. 2024)
- United States v. Lopez, 514 U.S. 549, 567 (1995)
- Murphy v. National Collegiate Athletic Ass'n, 584 U.S. 453, 477, 479 (2018)
- Klotz v. Celentano Stadtmauer & Walentowicz LLP, 991 F.3d 458, 463 (3d Cir. 2021)
- Crosby v. National Foreign Trade Council, 530 U.S. 363, 372 n.6 (2000)
- R.J. Reynolds Tobacco Co. v. Durham County, 479 U.S. 130, 140 (1986)
- Sikkelee v. Precision Airmotive Corp., 822 F.3d 680, 688-89 (3d Cir. 2016)
- Federal Trade Commission v. Ken Roberts Co., 276 F.3d 583, 591-92 (D.C. Cir. 2001)
- American Agricultural Movement, Inc. v. Board of Trade of Chicago, 977 F.2d 1147, 1156-57 (7th Cir. 1992)
- Leist v. Simplot, 638 F.2d 283, 322 (2d Cir. 1980)
- Board of Trade of Chicago v. Olsen, 262 U.S. 1, 43 (1923)

- TD Bank N.A. v. Hill, 928 F.3d 259, 276 (3d Cir. 2019)
- Silkwood v. Kerr-McGee Corp., 464 U.S. 238, 248 (1984)
- Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Curran, 456 U.S. 353, 356 (1982)
- Kos Pharmaceuticals, Inc. v. Andrx Corp., 369 F.3d 700, 726 (3d Cir. 2004)
- Morales v. Trans World Airlines, Inc., 504 U.S. 374, 381 (1992)
- New Jersey Retail Merchants Ass'n v. Sidamon-Eristoff, 669 F.3d 374, 389 (3d Cir. 2012)