

**SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT**

Brigade Calvary Fund Ltd. v. Chirico

2025 N.Y. Slip Op. 06784 (Supreme Court of the State of New York Appellate Division First Department 2025)
· No. Index No. 655678/24; Appeal No. 5292; Case No. 2025-03695 · Decided December 4, 2025

OPINION

PER CURIAM.

Brigade Calvary Fund Ltd v Chirico (2025 NY Slip Op 06784) Brigade Calvary Fund Ltd v Chirico 2025 NY Slip Op 06784 Decided on December 04, 2025 Appellate Division, First Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431. This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided and Entered: December 04, 2025 Before: Kern, J.P., Friedman, Gesmer, Pitt-Burke, O'Neill Levy, JJ. Index No. 655678/24|Appeal No. 5292|Case No. 2025-03695| [*1]Brigade Calvary Fund Ltd, et al., Plaintiffs-Respondents, v James M. Chirico, Jr., Defendant, Kieran J. McGrath, Defendant-Appellant. Sher Tremonte LLP, New York (Douglas R. Jensen of counsel), and Kellogg, Hansen, Todd, Figel & Frederick, PLLC, Washington, D.C.

(Christopher C. Goodnow of the bar of the State of California and District of Columbia, admitted pro hac vice, of counsel), for appellant. Debevoise & Plimpton LLP, New York (Maeve O'Connor of counsel), for respondents. Order, Supreme Court, New York County (Melissa A. Crane, J.), entered on or about May 28, 2025, which denied the appealing defendant's request to continue a stay of discovery previously imposed in this action, pending resolution of motions to dismiss in a related securities class action in the United States District Court, Southern District of New York, entitled Jiang v Chirico, et al., No. 23-cv-01258, unanimously modified, on the law, to the extent of continuing the stay of discovery imposed on or about January 10, 2025, pending the federal court's determination of a motion to stay discovery in this action while the federal court considers motions to dismiss in the federal action, and otherwise affirmed, without costs.

The court presiding over the federal action should first address whether discovery in this action should be stayed pursuant to the Securities Litigation Uniform Standards Act of 1998 (15 USC § 78u-4[b][3][D]) or on another basis.

We defer to the federal court, and abstain from otherwise addressing defendant's substantive challenges to the motion court's discretionary decision not to continue the stay of discovery subsequent to its decision on defendant's motion to dismiss, including whether the state and federal actions share a substantial identity and whether allowing discovery in this action prior to a

resolution of the motions to dismiss in the federal action would cause undue prejudice to the plaintiffs in that action.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: December 4, 2025

PER CURIAM.

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THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT,
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