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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

THE UNITED STATES OF AMERICA;

and

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiffs,

vs.

STATE OF ARIZONA; KATIE HOBBS,  
in her official capacity as Governor of  
Arizona; ARIZONA DEPARTMENT OF  
GAMING; KRISTIN K. MAYES, in her  
official capacity as Attorney General for the  
State of Arizona; JACKIE JOHNSON, in  
her official capacity as Director of the  
Arizona Department of Gaming;  
DOUGLAS JENSEN, in his official  
capacity as Chief Law Enforcement Officer  
of the Arizona Department of Gaming,

Defendants.

Case No.:

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

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1 Plaintiffs, the United States of America and the Commodity Futures Trading  
2 Commission (“CFTC” or “Commission”), by and through their undersigned counsel,  
3 bring this civil action for declaratory and injunctive relief, and allege as follows:

4 **I. INTRODUCTION**

5 1. The Commodity Exchange Act (“CEA” or the “Act”), 7 U.S.C. §1, *et*  
6 *seq.*, provides a comprehensive regulatory framework for the regulation of  
7 derivatives transactions in the United States. This federal law designates the CFTC  
8 as the federal agency with “exclusive jurisdiction” over the regulation of futures,  
9 options, and swaps traded on federally regulated exchanges. 7 U.S.C. § 2(a)(1)(A).  
10 Plaintiffs bring this action in response to Defendants’ criminal prosecution and  
11 sending of cease and desist letters to CFTC-regulated entities in which Defendants  
12 assert that Arizona law permits Defendants to regulate markets over which Congress  
13 has granted “exclusive jurisdiction” to regulate to the CFTC.

14 2. The CFTC brings this action in response to the State of Arizona’s filing  
15 of a criminal Information against a CFTC-regulated “Designated Contract Market”  
16 (DCM) for doing precisely what is permitted under federal law. On May 21, 2025,  
17 the Arizona Department of Gaming sent CFTC-regulated DCM Kalshi a cease-and-  
18 desist letter stating that offering event contracts, including sports event contracts,  
19 based on future events without a license violated Arizona law. The letter directed  
20 Kalshi to “cease gambling operations in Arizona and desist from engaging in those  
21 activities in the future” and threatened Kalshi with criminal penalties if it did not  
22 comply. On March 17, 2026, Arizona filed criminal charges against CFTC-  
23 registered DCM KalshiEX LLC, alleging that Kalshi has operated an illegal  
24 gambling business in Arizona without a license and for “election wagering.” *Arizona*  
25 *v. KalshiEX LLC*, No. CR 2026-173-001 (Superior Ct. Ariz. Mar. 16, 2026)

1 (hereinafter “Kalshi Information,” attached as Ex. A). The 20-count criminal  
2 information alleges that Kalshi accepted bets from Arizona residents on a wide range  
3 of events in violation of Arizona law. *Id.* Among the charges are four counts of  
4 election wagering, including bets on the 2028 presidential race, the 2026 Arizona  
5 gubernatorial race, the 2026 Arizona Republican gubernatorial primary, and the 2026  
6 Arizona Secretary of State race. The criminal information also contains 16 counts  
7 of betting and wagering, including bets on professional and college sporting contests,  
8 proposition bets on individual player performance, and whether the SAVE Act would  
9 become law. *Id.* Arizona Attorney General Kris Mayes issued a press release on  
10 March 17, 2026 announcing the filing of criminal charges against Kalshi.<sup>1</sup> In the  
11 press release, Mayes stated that “Arizona law prohibits operating an unlicensed  
12 wagering business, and separately bans betting on elections outright.” *Id.*  
13 Defendants assert that Arizona law permits defendants to regulate and even  
14 criminalize markets over which Congress has granted “exclusive jurisdiction” to  
15 regulate to the CFTC.

16 3. In May 2025, the ADG claimed that “Kalshi is not licensed [in  
17 Arizona] and its operation of event wagering in Arizona is illegal.” Ex. A.  
18 Additionally, in September 2025, the ADG issued a “Notice Regarding Prediction  
19 Markets,” taking the position that “[o]ffering or selling event contracts to persons  
20 located within Arizona without a license from the Department violates Arizona law.”  
21 Ariz. Dept. of Gaming, “Notice Regarding Prediction Martkets,” (Sept. 15,  
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25 <sup>1</sup> Press Release, Kris Mayes, Att’y Gen. of Ariz., Attorney General  
26 Mayes Charges Kalshi With Illegal Gambling Operation, Election Wagering in  
27 Arizona (Mar. 17, 2026), [https://www.azag.gov/press-release/attorney-general-](https://www.azag.gov/press-release/attorney-general-mayes-charges-kalshi-illegal-gambling-operation-election-wagering)  
28 mayes-charges-kalshi-illegal-gambling-operation-election-wagering.

1 2025), <https://resources.sbcamericas.com/sbcamericas/2025/09/2025-09->  
2 [15\\_Notice\\_Letter\\_to\\_Operators\\_Redacted.pdf](https://resources.sbcamericas.com/sbcamericas/2025/09/2025-09-15_Notice_Letter_to_Operators_Redacted.pdf).

3 4. Defendant Mayes has targeted Kalshi’s contracts elsewhere, too. In  
4 her official capacity as Arizona’s Attorney General and on behalf of the State of  
5 Arizona, Defendant Mayes has signed multiple amicus briefs that claim Kalshi is  
6 violating comparable state laws by offering sports event contracts. *See, e.g.*, Brief  
7 of Amici Curiae, *N. Am. Derivatives Exch., Inc. v. Nevada*, No. 25-7187 (9th Cir.  
8 Mar. 10, 2026), Dkt. 76. Those amicus briefs argue that states, not the CFTC, have  
9 the sole power to regulate Kalshi’s sports event contracts. And although those cases  
10 were focused particularly on Kalshi’s sports event contracts, the positions advanced  
11 by the amicus briefs could apply to all of Kalshi’s contracts.

12 5. Defendants seek to prohibit CFTC-regulated “Designated Contract  
13 Markets” (“DCMs”) from operating in Arizona and offering Arizona customers  
14 access to event contracts—a type of derivative instrument regulated by federal law  
15 that, absent certain narrow exceptions, can be traded only on CFTC-regulated  
16 exchanges in transactions facilitated by CFTC-regulated intermediaries.

17 6. Arizona’s attempt to shut down federally regulated DCMs intrudes on  
18 the exclusive federal scheme Congress designed to oversee national swaps markets.  
19 Prompted by the evolution of national financial markets and repeated conflicts with  
20 state law, Congress enacted the CEA, granting the CFTC exclusive jurisdiction to  
21 regulate those markets and enacting a comprehensive federal regulatory framework  
22 that preempts state laws that attempt to regulate the operation of, or transactions  
23 on, CFTC-regulated exchanges. This comprehensive federal regulatory scheme  
24 preempts Arizona law as applied to event contracts traded on federally regulated  
25 exchanges.



1 efforts by Defendants to undermine the uniform application of federal law by  
2 declaring that Arizona laws regarding event wagering, betting and wagering, and  
3 election wagering are preempted by federal law as applied to event contract swaps  
4 listed for trading on CFTC-regulated DCMs and are thus unlawful.

5 12. Unless restrained and enjoined by the Court, Defendants are likely to  
6 continue their attempts to subvert federal law and the exclusive jurisdiction to  
7 regulate event contract swaps conferred on the CFTC by Congress. Plaintiffs  
8 request that this Court enjoin the enforcement of these laws as applied to  
9 commodity derivatives markets and swaps traded on DCMs.

10 **II. JURISDICTION AND VENUE**

11 13. This Court has subject matter jurisdiction over this action under 28  
12 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1345 (district courts  
13 have original jurisdiction over civil actions commenced by the United States or by  
14 any agency expressly authorized to sue by Act of Congress). This action presents a  
15 federal question under the laws and Constitution of the United States because it  
16 concerns whether the Commodity Exchange Act, 7 U.S.C. §§ 1, *et seq.*, preempts  
17 Arizona’s gambling laws insofar as they purport to regulate transactions on a CFTC-  
18 regulated DCM.

19 14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)  
20 because at least one defendant resides in this district and all defendants are residents  
21 of the State.

22 15. The Court has the authority to provide the relief requested under the  
23 Supremacy Clause, U.S. Const. art. VI, cl. 2, as well as 28 U.S.C. §§ 1651, 2201,  
24 and 2202, and its inherent equitable powers.

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**III. PARTIES**

16. Plaintiff the United States of America regulates U.S. financial markets, and it enforces federal commodity derivatives laws through its agency, the CFTC.

17. Plaintiff the CFTC is an agency of the United States Government that regulates U.S. financial markets, and it enforces federal commodity derivatives laws through its Executive Agency the Commodity Futures Trading Commission. The CEA grants the CFTC authority to represent itself through its General Counsel. 7 U.S.C. § 2(a)(4).

18. Defendant State of Arizona is a state of the United States.

19. Defendant Katie Hobbs is the Governor of Arizona and is sued in her official capacity. Under the Arizona Constitution, the Governor of Arizona has “shall transact all executive business with the officers of the government, civil and military,” and “shall take care that the laws be faithfully executed.” Ariz. Const. art. 5, § 4.

20. Defendant Kris Mayes is the Attorney General for the State of Arizona and is sued in her official capacity. The Attorney General of Arizona is the state’s chief legal officer. The Office of the Attorney General has locations in Phoenix, Tucson and Prescott within the District of Arizona.

21. Defendant Arizona Department of Gaming (“ADG”) is the Arizona state agency that regulates gambling in the State of Arizona. The ADG oversees licensing, regulating, investigating and penalizing casino operators, management companies, holding companies, key employees, casino gaming employees, and gaming-related vendors in Arizona.

1           22. Defendant Jackie Johnson is sued in her official capacity as Director  
2 of the ADG.

3           23. Defendant Douglas Jensen is sued in his official capacity as Chief Law  
4 Enforcement Officer of the ADG.

5                           **IV. OTHER RELVANT ENTITIES OR AGENCIES**

6           24. KalshiEx LLC (“Kalshi”) is a CFTC Designated Contract Market.  
7 Kalshi obtained CFTC designation as a Contract Market on November 3, 2020.  
8 Kalshi does business in the United States using the name “Kalshi” and offers  
9 products and transactions including event contract swaps through its website,  
10 www.Kalshi.com.

11           25. North American Derivatives Exchange, Inc. d/b/a Crypto.com |  
12 Derivatives North America (“NADEX” or “Crypto.com”) is a CFTC Designated  
13 Contract Market. NADEX obtained CFTC designation as a Contract Market in 2004.  
14 NADEX was acquired by Foris DAX Markets, Inc. in March 2022 and now does  
15 business under the names NADEX and Crypto.com. NADEX offers products and  
16 transactions including event contract swaps through its websites, nadex.com and  
17 crypto.com.

18           26. Robinhood Derivatives LLC (“Robinhood”) is a CFTC-registered  
19 Futures Commission Merchant (“FCM”). Robinhood obtained CFTC designation as  
20 an FCM on November 23, 2010. Robinhood offers event contract swaps in  
21 partnership with DCMs.

22                           **V. FEDERAL LAW GOVERNING COMMODITY DERIVATIVES**  
23   **MARKETS**

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1           32. The CEA requires that, subject to certain exemptions or exceptions,  
2 commodity derivative transactions must be conducted on exchanges designated by,  
3 or registered with, the CFTC. For example, trading of commodity futures contracts  
4 must be conducted on a board of trade designated by the CFTC as a contract market  
5 or a registered foreign board of trade (*see* 7 U.S.C. § 6 and 17 C.F.R. § 48.3); no  
6 person may operate a facility for the trading or processing of swaps unless the facility  
7 is registered as a swap execution facility or designated as a contract market (*see* 7  
8 U.S.C. § 7b-3(a) and 17 C.F.R. § 37.3); commodity options must likewise be  
9 conducted on a board of trade designated as a contract market (*see* 7 U.S.C. § 6c(b)  
10 and 17 C.F.R. § 32.2).

11           33. The purpose of the CEA is to “serve the public interests . . . through a  
12 system of effective self-regulation of trading facilities, clearing systems, market  
13 participants and market professionals under the oversight of the Commission,” as  
14 well as “to deter and prevent price manipulation or any other disruptions to market  
15 integrity; to ensure the financial integrity of all transactions subject to [the Act] and  
16 the avoidance of systemic risk; to protect all market participants from fraudulent or  
17 other abusive sales practices and misuses of customer assets; and to promote  
18 responsible innovation and fair competition among boards of trade, other markets  
19 and market participants.” 7 U.S.C. § 5(b).

20           34. Designated Contract Markets are boards of trade or exchanges that  
21 operate under the regulatory oversight of the CFTC pursuant to Section 5 of the CEA,  
22 7 U.S.C. § 7. The CFTC designates a board of trade as a contract market through a  
23 formal application process through which an applicant board of trade must  
24 demonstrate its ability to comply with detailed statutory requirements called “core  
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1 principles.” 7 U.S.C. § 7(d). These core principles require, among other things, that

2 DCMs:

- 3 a. Establish, monitor, and enforce compliance with the rules of the  
4 market including (i) access requirements, (ii) the terms and  
5 conditions of any contracts to be traded, and (iii) rules prohibiting  
6 abusive trade practices;
- 7 b. Have the capacity to detect, investigate, and apply appropriate  
8 sanctions to any person that violates any rule of the market;
- 9 c. List only contracts that are not readily susceptible to  
10 manipulation;
- 11 d. Have the capacity and responsibility to prevent manipulation,  
12 price distortion, and disruptions of the delivery or cash-settlement  
13 process through market surveillance, compliance, and  
14 enforcement practices and procedures, including (i) methods for  
15 conducting real-time monitoring of trading and (ii)  
16 comprehensive and accurate trade reconstructions;
- 17 e. Provide a competitive, open and efficient market and mechanism  
18 for executing transactions that protects the price discovery  
19 process;
- 20 f. Maintain rules and procedures to provide for the recording and  
21 safe storage of all identifying trade information in a manner that  
22 enables the contract market to use the information (i) to assist in  
23 the prevention of customer and market abuses and (ii) to provide  
24 evidence of any violations of the rules of the contract market;
- 25 g. Establish and enforce rules and procedures for ensuring the  
26 financial integrity of transactions and the protection of customer  
27 funds; and
- 28 h. Establish and enforce rules (i) to protect markets and market  
participants from abusive practices committed by any party and  
(ii) to promote fair and equitable trading on the contract market.

35. The CFTC has enacted detailed rules governing the process through  
which a board of trade can achieve designation as a contract market, and detailed  
rules governing the operations of the contract market once that designation is in  
place. 17 C.F.R. § 38, *et seq.* DCMs may list for trading commodity futures, options,  
or swaps as permitted by Part 38 of the CFTC’s regulations, 17 C.F.R. § 38, *et seq.*

1           35. Event contracts listed on CFTC-regulated DCMs are a type of “swap” as  
2 defined by the CEA. Section 1a(47) of the CEA, 7 U.S.C. § 1a(47), broadly defines  
3 “swap” to include “any agreement, contract, or transaction”—

4           (i) that is a put, call, cap, floor, collar, or similar option of any kind  
5 that is for the purchase or sale, or based on the value, of 1 or more  
6 interest or other rates, currencies, commodities, securities,  
instruments of indebtedness, indices, quantitative measures, or other  
financial or economic interests or property of any kind;

7           (ii) that provides for any purchase, sale, payment, or delivery (other  
8 than a dividend on an equity security) that is dependent on the  
9 occurrence, nonoccurrence, or the extent of the occurrence of an event  
or contingency associated with a potential financial, economic, or  
commercial consequence; . . .

10           (iv) that is an agreement, contract, or transaction that is, or in the  
11 future becomes, commonly known to the trade as a swap . . . [or,]

12           (vi) that is any combination or permutation of, or option on, any  
agreement,

13 contract, or transaction described in any of [these clauses].

14           36. The CEA and CFTC Regulations establish important protections for  
15 derivatives markets, market participants, and the general public by creating uniform  
16 regulations of a nationwide—and often international—market. For example, DCMs  
17 must conform to core principles that are designed to achieve the prevention of market  
18 abuse (7 U.S.C. § 7(d)(12)(A)); ensure their financial stability (7 U.S.C. § 7(d)(21));  
19 protect their information security (17 C.F.R. § 38.1051(a)(2)); and safeguard their  
20 systems in the event of a disaster (17 C.F.R. § 38.1051(a)(3)). Further, DCMs must  
21 ensure that the contracts that they list for trading are “not readily susceptible to  
22 manipulation” (7 U.S.C. § 7(d)(3)); DCMs must “prevent market disruption” (7  
23 U.S.C. § 7(d)(4)); DCMs must impose position limits designed to reduce the  
24 potential threat of market manipulation or congestion (7 U.S.C. § 7(d)(5)); DCMs  
25 must establish and enforce rules to minimize conflicts of interest (7 U.S.C. §  
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1 7(d)(16)); DCMs must provide impartial access to traders (17 C.F.R. § 38.151); and  
2 DCMs must maintain and retain important records and provide them to the  
3 Commission (7 U.S.C. § 7(d)(18)). And the CEA conferred on the CEA enforcement  
4 authority to “bring an action in . . . [a] district court . . . to enjoin . . . or enforce  
5 compliance with [the CEA]” if “it shall appear to the Commission” that any “person  
6 has engaged, is engaging, or is about to engage in any act or practice constituting a  
7 violation of any provision of this chapter or any rule, regulation, or order thereunder,  
8 or is restraining trading in any commodity for future deliver or any swap.” 7 U.S.C.  
9 § 13a-1(a).

10 37. Today there are 25 exchanges in the United States have active  
11 designations from the CFTC to operate as a contract market. These DCMs include  
12 KalshiEx.

### 13 **B. State Attempts to Shut Down National Markets Drives Early** 14 **Derivatives Regulation**

15 38. By the mid-nineteenth century, commodity exchanges in major trading  
16 hubs like New York and Chicago had organized trading to facilitate price discovery  
17 (information exchange), risk management (hedging), and speculation. But States  
18 and courts impeded these new markets, often failing to distinguish between futures  
19 trading and “gambling” or “wagering,” with many states even prohibiting futures  
20 trading as a form of gambling. *See, e.g., Irwin v. Williar*, 110 U.S. 499, 508-09  
21 (1884) (describing futures contracts as “nothing more than a wager”); *see also*  
22 *Cothran v. Ellis*, 16 N.E. 646, 647 (Ill. 1888) (describing futures as “gambling in  
23 grain”).

24 39. Indeed, some states criminalized futures contracts. *See Melchert v.*  
25 *Am. Union Tel. Co.*, 11 F. 193, 196 (C.C.D. Iowa 1882) (quoting Ill. Rev. Stat. 1874,  
26 § 138). In 1888, the Illinois Supreme Court described “dealing in ‘futures’ or

1 ‘options’” as “a crime against the state, a crime against the general welfare and  
2 happiness of the people, a crime against religion and morality, and a crime against  
3 all legitimate trade and business.” *Cothran*, 16 N.E. at 648.

4 40. Nevertheless, the Supreme Court and Congress acknowledged that  
5 futures markets served a valuable economic function and should be given room to  
6 develop. As Justice Holmes and the Supreme Court noted in *Bd. of Trade of Chi. v.*  
7 *Christie Grain & Stock Co.*, 198 U.S. 236, 247-48 (1905):

8 People will endeavor to forecast the future, and to make agreements  
9 according to their prophecy. Speculation of this kind by competent  
10 men is the self-adjustment of society to the probable. Its value [is]  
11 well known as a means of avoiding or mitigating catastrophes,  
12 equalizing prices, and providing for periods of want. It is true that the  
13 success of the strong induces imitation by the weak, and that  
14 incompetent persons bring themselves to ruin by undertaking to  
speculate in their turn. But legislatures and courts generally have  
recognized that the natural evolutions of a complex society are to be  
touched only with a very cautious hand, and that such coarse attempts  
at a remedy for the waste incident to every social function as a simple  
prohibition and laws to stop its being are harmful and vain.

15 41. Congress, recognizing the value of these new markets and the negative  
16 effects of a patchwork of state regulation, centralized the oversight and regulation of  
17 futures trading on federally regulated contract markets. The first federal legislation  
18 designed to create a comprehensive federal regulatory framework for futures markets  
19 was the Future Trading Act of 1921, Pub. L. No. 67-66, 42 Stat. 187 (1921) (“21  
20 Act”), followed by the Grain Futures Act of 1922, Pub. L. No. 67-331, 42 Stat. 998  
21 (1922) (“22 Act”). In passing these laws, Congress recognized the importance of  
22 uniform federal regulation of futures markets, even over objections that the new  
23 legislation would displace some States’ regulations. *Cf.* H.R. Rep. No. 67-1095, at  
24 5 (1922) (Conf. Rep.) (objecting that the bill was “designed to . . . more or less  
25 eliminate some of the most important police powers of several sovereign States”).

1           42. Congress expanded federal oversight of futures markets in 1936 with  
2 the Commodity Exchange Act, Pub. L. No. 74-675, 49 Stat. 1491 (1936). But even  
3 as market participants expanded futures markets beyond their agricultural origins,  
4 those market participants continued to face the persistent threat of state prosecution  
5 through a patchwork of state laws and regulations.

6           **C. Congress Gave the CFTC “Exclusive” Jurisdiction over Futures  
7 Trading in 1974**

8           43. In 1973, futures exchanges recommended that “federal policy . . . be  
9 uniform throughout the United States” and not “subject to the vagaries” of different  
10 obligations in “different jurisdictions.” Review of Commodity Exch. Act and  
11 Discussion of Possible Change: Hearings Before the H. Comm. on Agric., 93d  
12 Cong., 1st Sess. 121 (1973). Congress quickly responded, explicitly addressing the  
13 issue the following year when it passed the Commodity Futures Trading Commission  
14 Act of 1974, Pub. L. 93-463, 88 Stat. 1389 (1974) (“CFTC Act of 1974”).

15           44. With the passage of the CFTC Act of 1974, Congress amended the  
16 CEA to explicitly give the CFTC “exclusive jurisdiction” over commodity  
17 derivatives transactions including futures, options, and swaps traded on federally  
18 regulated exchanges. 7 U.S.C. § 2(a)(1)(A). The CFTC Act of 1974 amendments  
19 to the CEA worked a sea change in the regulation of U.S. derivatives markets in  
20 three critical ways. First, Congress established the CFTC, vesting in this federal  
21 executive agency the authority to administer the CEA. Second, Congress expanded  
22 the scope of the CEA to cover “all commodities.” Third, Congress expressly gave  
23 the CFTC “exclusive jurisdiction” over U.S. commodity futures and options  
24 markets.

25           45. The CFTC Act of 1974 amended Section 2 of the CEA to provide that  
26 “the Commission shall have exclusive jurisdiction with respect to accounts,  
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1 agreements (including any transaction which is of the character of, or is commonly  
2 known to the trade as, an ‘option’ . . . , and transactions involving contracts of sale  
3 of a commodity for future delivery, traded or executed on a contract market  
4 designated pursuant to section 5 of this Act or any other board of trade, exchange, or  
5 market.” CFTC Act of 1974, Section 201(b), 88 Stat. at 1395 (codified at 7 U.S.C.  
6 § 2(a)(1)).

7 46. Preemption was an express goal of the CFTC Act of 1974. Congress  
8 recognized the need for uniform, nationwide regulation of futures and options  
9 markets because concurrent regulation by the states or other federal regulators such  
10 as the Securities and Exchange Commission could lead to “total chaos.” See  
11 Commodity Futures Trading Act of 1974: Hearings Before the S. Comm. on Agric.  
12 & Forestry on S. 2485, S. 2578, S. 2837, H.R. 13113, 93d Cong., 2d Sess. 685 (1974)  
13 (statement of Sen. Clark). Potentially limiting language was stricken from the statute  
14 “to assure that Federal preemption is complete.” 120 Cong. Rec. S 30458, 30464  
15 (daily ed. Sept. 9, 1974) (Statement of Sen. Curtis). The CFTC Act of 1974  
16 “preempt[ed] the field insofar as futures regulation is concerned” such that “if any  
17 substantive State law regulating futures trading was contrary to or inconsistent with  
18 Federal law, the Federal law would govern.” H.R. Rep. No. 93-1383 (1974) (Conf.  
19 Rep.), *reprinted in* 1974 U.S.C.C.A.N. 5894, 5897.

20 **D. Congress Reinforced and Clarified the CFTC’s Exclusive Jurisdiction**  
21 **After 1974**

22 47. Amendments to the CEA between 1978 and 2010 repeatedly  
23 reinforced and clarified the CFTC’s exclusive jurisdiction over futures and options.

24 48. In the Futures Trading Act of 1978 (“78 Act”), Congress preserved the  
25 CFTC’s exclusive authority over futures transactions on CFTC-regulated DCMs  
26 while clarifying the states’ ability to pursue certain violations of the CEA against

1 actors other than federally regulated exchanges. The 78 Act added a section to the  
2 CEA authorizing states to bring actions for injunctive or monetary relief for specified  
3 violations of the CEA and to enforce their “general civil or criminal antifraud”  
4 statutes. See 78 Act, Pub. L. 95-405, § 15(7), 92 Stat. 865, 873 (1978). Other than  
5 this explicit authorization of state authority, the CEA retained the broad preemption  
6 of state laws put in place in 1974. Proposals to carve off pieces of the CFTC’s  
7 “exclusive” jurisdiction were rejected, because “[t]he nature of the underlying  
8 commodity is not an adequate basis to divide regulatory authority.” S. Rep. No. 95-  
9 850, at 111-12 (1978), reprinted in 1978 U.S.C.C.A.N. 2087, 2110-11. That “a  
10 futures contract market does not fit into the traditional mold where there are both  
11 hedging and price-discovery functions should not be the determining factor in  
12 whether the contract is to be regulated by the CFTC.” *Id.* Congress also further  
13 added to the list of justifications supporting the CFTC’s exclusive jurisdiction over  
14 commodity derivatives, citing concerns over “costly duplication and possible  
15 conflict of regulation or over-regulation.” *Id.*

16 49. The Futures Trading Act of 1982 (the “82 Act”) further clarified the  
17 scope of the CEA’s preemption of other federal and state laws and the role of the  
18 States in pursuing illegal or fraudulent off-exchange transactions, while still  
19 recognizing “the CFTC[’s] exclusive jurisdiction to regulate futures trading and  
20 enforce the provisions of the Act, thereby preempting any State regulatory laws.”  
21 H.R. Rep. No. 97-565, at 44-45 & 102-03 (1982), reprinted in 1982 U.S.C.C.A.N.  
22 3871, 3893-94 & 3951-52. First, the 82 Act clarified the procedures for States to  
23 pursue violations of the CEA’s anti-fraud provisions in state court. Second, the 82  
24 Act clarified the role of states with respect to off-exchange futures transactions.  
25 Language was added to permit “criminal prosecution under any federal criminal  
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1 statute” and the application of federal or state laws to off-exchange transactions or  
2 unregistered market participants. 82 Act, Pub. L. 97-444, § 229, 96 Stat. 2294, 2318  
3 (1982). Other state laws that could arguably apply to DCMs and market participants  
4 registered with the CFTC remained preempted. See H.R. Rep. No. 97-565, at 44-45  
5 & 102-103, 1982 U.S.C.C.A.N. at 3893-94, 3951-52. Congress explained that it  
6 “continue[d] to support the idea of a single unified program of regulation and  
7 exclusive CFTC jurisdiction over exchange-traded futures,” “recognizing the  
8 somewhat esoteric nature of the commodity futures markets and the desire to have  
9 knowledgeable and uniform enforcement of the Act.” *Id.*

10 50. In 1992, Congress again adjusted its regulatory framework to capture  
11 a new type of derivative financial product: swaps. In the Futures Trading Practices  
12 Act of 1992 (“92 Act”), Pub. L. 102-546, 106 Stat. 3590 (1992), Congress gave the  
13 CFTC authority to “exempt” certain off-exchange (“over-the-counter” or “OTC”)   
14 swap transactions from the CEA’s mandatory exchange trading regime for futures  
15 and options. The 92 Act added language to CEA Section 12(e), 7 U.S.C. § 16(e),  
16 expressly “supersed[ing] and preempt[ing] the application of any State or local”  
17 gambling or bucket shop laws as applied to OTC derivatives (swaps) transactions  
18 that the CFTC had exempted pursuant to its new authority in CEA Section 4(c), 7  
19 U.S.C. § 6(c). While the 82 Act reserved to the States some authority to apply state  
20 and local laws to off-exchange futures transactions, the 92 Act cut back state  
21 authority for off-exchange swaps that received an exemption from the CFTC.  
22 Congress’s goal was, again, to provide “legal certainty under both the Act and state  
23 gaming and bucket shop laws for transactions covered by the terms of an exemption.”  
24 H.R. Rep. No. 102-978, at 80 (1992) (Conf. Rep.), reprinted in 1992 U.S.C.C.A.N.  
25 3179, 3212.

1           51. Congress again limited the authority of States to regulate derivatives  
2 transactions in 2000 with the passage of the Commodity Futures Modernization Act  
3 of 2000 (“CFMA”), Pub. L. No. 106-554, Appendix E & § 103, 114 Stat. 2763A-  
4 365, 2763A-377 (2000). The CFMA exempted or excluded swap transactions from  
5 the CEA’s exchange trading requirements while also preempting the application of  
6 state and local laws to those “excluded” swap transactions. The existing preemption  
7 of state and local laws as to on-exchange transactions therefore remained in place,  
8 and the preemption of state and local laws as to off-exchange transactions (exempt  
9 or excluded swaps) was expanded.

10           **E. Congress Embraced Preemption for Swaps Transactions in the Dodd**  
11           **Frank Act**

12           52. In the wake of the 2008 financial crisis, Congress reworked the  
13 regulatory structure for the swaps market, creating a framework within the CEA for  
14 the on-exchange execution, clearing and reporting of vast portions of those swaps.  
15 The 2010 Dodd-Frank Act expressly extended the CFTC’s “exclusive jurisdiction”  
16 to encompass “transactions involving swaps,” eliminating the remaining concurrent  
17 jurisdiction of States as to off-exchange swap transactions. *See* Pub. L. No. 111-203,  
18 124 Stat. 1376 (2010); 7 U.S.C. § 2(a)(1)(A). After Dodd-Frank, Congress had  
19 removed all authority for States to regulate swaps of any kind, creating a complete  
20 framework for the CFTC’s exclusive jurisdiction and occupying the regulatory field.

21           53. In the Dodd-Frank Act, Congress made clear that the CFTC has  
22 exclusive jurisdiction over event contracts. In CEA § 5c(c)(5)(C) (codified at 7  
23 U.S.C. § 7a-2(c)(5)(C)), Congress provided the CFTC with specific oversight and  
24 prohibitory authority over event contracts. Under § 5c(c)(5)(C), the CFTC “may  
25 determine” that event contracts involving certain categories “are contrary to the  
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1 public interest” and may not be listed on CFTC-regulated markets. 7 U.S.C. § 7a-  
2 2(c)(5)(C)(i)-(ii).

3 54. By creating a specific public interest review process, Congress  
4 signaled that these contracts belong within the CFTC’s exclusive regulatory purview,  
5 not the States’.

6 **F. The CFTC Uses Its Authority to Carry Out Congress’s Directives**

7 55. The CEA confers on the CFTC the authority to make rules governing  
8 swaps and other futures and derivatives contracts. See, e.g., 7 U.S.C. §§ 2, 6, 6s, 7.  
9 Pursuant to that authority, the CFTC has for decades promulgated rules that regulate  
10 a large, nationwide industry and which seek to provide clarity to the industry, market  
11 participants, and the public. See 17 C.F.R. § 1.1, *et seq.*

12 56. Part of the CFTC’s responsibilities include issuing guidance and  
13 promulgating new rules to provide certainty when markets change and innovate. The  
14 CFTC already has extensive rules on what a DCM must do to become certified with  
15 the Commission, see 17 C.F.R. Part 38, and what a DCM must do to either self-  
16 certify a contract before listing, see 17 C.F.R. § 40.2, or to submit a contract for the  
17 CFTC to approve, see 17 C.F.R. § 40.3.

18 57. With respect to event contracts, the CFTC recently published an  
19 advisory letter to DCMs on prediction markets and event contracts, Prediction  
20 Markets Advisory, CFTC Letter No. 26-08 (Mar. 12, 2026) (see CFTC Prediction  
21 Markets Advisory Press Release, [https://www.cftc.gov/PressRoom/PressReleases/  
22 9193-26](https://www.cftc.gov/PressRoom/PressReleases/9193-26) (last visited 3/18/2026)).

23 58. In order to provide additional clarity in the marketplace, the CFTC is  
24 in the process of writing and revising its rules applicable to event contracts and  
25 prediction markets. On March 16, 2026, the CFTC published in the Federal Register  
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1 an advance notice of proposed rulemaking soliciting public comments on prediction  
2 markets, 91 Fed. Reg. 12516 (Mar. 16, 2026).

3 **VI. ARIZONA ISSUES CEASE AND DESIST LETTER TO AND FILES**  
4 **CRIMINAL CHARGES AGAINST A CFTC-DESIGNATED**  
5 **CONTRACT MARKET**

6 59. On May 21, 2025, the Arizona Department of Gaming, through its  
7 Chief Law enforcement Officer Douglas Jensen, issued a cease-and-desist letter to  
8 KalshiEx LLC and its CEO. The letter accuses Kalshi of accepting illegal wagers  
9 in violation of Arizona law. The letter also states:

- 10 a. Kalshi is “taking wagers, defined in A.R.S. § 5-1301(23)(a) as ‘a  
11 sum of money or thing of value risked on an uncertain  
12 occurrence’” because it is offering contracts on the outcome of  
13 future events including sports.  
14 b. “‘Event wagering’ is defined in Arizona to mean, ‘accepting  
15 wagers on sports events or other events ... by any system or  
16 method of wagering, including in person or over the Internet  
17 through websites and on mobile devices.’ A.R.S. § 5-1301(4)(a).”  
18 c. “The operation of event wagering in Arizona is allowed only if  
19 conducted pursuant to A.R.S. § 5-1301 et seq., which requires,  
20 among other things, licensure.”  
21 d. Kalshi is committing a “crime in Arizona” by engaging “in the  
22 business of accepting wagers ‘with respect to the result or  
23 purported result of any race, sporting event, contest or other game  
24 of skill or chance or any other unknown or contingent future event  
25 or occurrence whatsoever.’ A.R.S. § 13-3305(A).”

26 60. The Arizona cease and desist letter states that Kalshi is engaged in  
27 “event wagering” activity in Arizona over the Internet and on mobile devices. The  
28 letter directs that “Kalshi cease gambling operations in Arizona and desist from  
engaging in those activities in the future.” It also states that “Kalshi is subject to a  
potential restitution award for those who lost money, and an action forfeiting all  
monies it acquired, because of its illegal conduct,” citing A.R.S. §§ 13-804 and 13-  
2314.



1           **VII. THE CHALLENGED ARIZONA STATUTES ARE PREEMPTED AS**  
2           **APPLIED TO COMMODITIES DERIVATIVES CONTRACTS**

3           64. The Constitution’s Supremacy Clause mandates that “[t]his  
4 Constitution, and the Laws of the United States which shall be made in Pursuance  
5 thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution  
6 or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2.

7           65. The CEA, as continuously refined over more than a century, gives the  
8 CFTC “exclusive jurisdiction” over futures and swaps traded on a DCM. 7 U.S.C.  
9 § 2(a)(1)(A). The CEA “preempts the application of state law.” *Leist v. Simplot*, 638  
10 F.2d 283, 322 (2d Cir. 1980). “[P]reemption is appropriate ‘[w]hen application of  
11 state law would directly affect trading on or the operation of a futures market.’” *Effex*  
12 *Cap., LLC v. Nat’l Futures Ass’n*, 933 F.3d 882, 894 (7th Cir. 2019) (quoting *Am.*  
13 *Ag. Movement v. Bd. of Trade of Chi.*, 977 F.2d 1147, 1156-57 (7th Cir. 1992)).

14           66. “[U]nder the Supremacy Clause, from which our pre-emption doctrine  
15 is derived, any state law, however clearly within a State’s acknowledged power,  
16 which interferes with or is contrary to federal law, must yield.” *Gade v. Nat’l Solid*  
17 *Wastes Mgmt. Ass’n*, 505 U.S. 88, 108 (1992) (internal citation omitted); *see*  
18 *Maryland v. Louisiana*, 451 U.S. 725, 746 (1981) (Under the Supremacy Clause,  
19 state laws that conflict with federal law are “without effect.”); *Cipollone v. Liggett*  
20 *Grp., Inc.*, 505 U.S. 504, 516 (1992) (same); *Time Warner Cable v. Doyle*, 66 F.3d  
21 867, 874 (7th Cir. 1995) (“Congress, in the exercise of the legislative authority  
22 granted to it by the Constitution, may preempt state law.” (citation omitted)). “A  
23 federal law may preempt a state law expressly, impliedly through the doctrine of  
24 conflict preemption, or through the doctrine of field (also known as complete)  
25 preemption.” *Boomer v. AT & T Corp.*, 309 F.3d 404, 417 (7th Cir. 2002).

1           67. “Express preemption occurs when a federal statute explicitly states that  
2 it overrides state or local law.” *Hoagland v. Town of Clear Lake*, 415 F.3d 693, 696  
3 (7th Cir. 2005). Congress explicitly preempted state regulation of commodity  
4 derivatives transactions, vesting the Commission with “exclusive jurisdiction,”  
5 except as otherwise expressly provided by Congress, over all “accounts, agreements  
6 . . . , and transactions involving swaps or contracts of sale of a commodity for future  
7 delivery.” 7 U.S.C. § 2(a)(1)(A). And Congress has repeatedly expanded the  
8 CFTC’s “exclusive jurisdiction” through continual amendments, most recently to  
9 include “transactions involving swaps.” *Id.*; see also ¶¶ 38-54, *supra*. Congress  
10 therefore preempted state regulation of transactions subject to the CFTC’s “exclusive  
11 jurisdiction,” including swaps, and the DCMs that list them.

12           68. Even without the express language of the CEA preempting state  
13 regulation, any state interference in DCM regulation is preempted because Congress  
14 “occupied the field” via the CEA and the CFTC and because any attempt at state  
15 regulation conflicts with federal law. *See Boomer*, 309 F.3d at 417. In general, state  
16 law must give way if “Congress, acting within its proper authority, has determined  
17 must be regulated by its exclusive governance” or where “the challenged state  
18 law ‘stands as an obstacle to the accomplishment and execution of the full purposes  
19 and objectives of Congress.’” *Arizona v. United States*, 567 U.S. 387, 399 (2012)  
20 (quoting *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)).

21           69. The scope of the CEA and the long history of Congress’s amendments  
22 to ensure federal law captured the evolving futures and derivatives markets makes  
23 clear that Congress intended to occupy the field. A field is preempted from state  
24 regulation “if the scope of the statute indicates that Congress intended federal law to  
25 occupy the legislative field.” *Altria Grp., Inc. v. Good*, 555 U.S. 70, 76 (2008). Such  
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1 is the case here. CEA § 2(a)(1)(A) makes plain that Congress intended the CEA to  
2 occupy the field of “accounts, agreements . . . and transactions involving swaps or  
3 contracts of sale of a commodity for future delivery . . . traded or executed on a  
4 contract market . . . or any other board of trade, exchange, or market.” When an  
5 instrument is trading on a CFTC-regulated market as a “swap” or “future,” state  
6 gambling laws do not apply.

7 70. Offering event contracts on a DCM cannot, in and of itself, be an  
8 activity that is unlawful under any state law because such an application of state law  
9 would conflict with the CEA. “Congress’s intent was to provide the CFTC with  
10 exclusive jurisdiction to regulate commodities” and “[s]uch exclusive jurisdiction  
11 precludes states from exercising supplementary regulatory authority over commodity  
12 transactions.” *Stuber v. Hill*, 170 F. Supp. 2d 1146, 1151 (D. Kan. 2001).

13 71. A State applying local gambling laws to federally regulated DCMs also  
14 “stands as an obstacle to the accomplishment and execution of the full purposes and  
15 objectives of Congress.” *Arizona*, 567 U.S. at 399 (internal citation omitted). To the  
16 extent state laws could apply to federally regulated swaps and derivatives, those laws  
17 are preempted as applied to those transactions and market participants because  
18 complying with both state and federal law would be an impossibility, and because  
19 those state laws, as applied, obstruct Congress’s clear intent.

20 72. Complying with both state regulations and the CEA is impossible  
21 because a DCM is required by federal law to provide “impartial access” to all eligible  
22 participants nationwide. 17 C.F.R. § 38.151(b). If a state bans the contract, the  
23 DCM cannot fulfill its federal mandate to provide impartial national access. Other  
24 state-imposed restrictions on access to markets would similarly make it impossible  
25 for the regulated DCMs to comply with federal regulations. The CEA reflects  
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1 Congress’s understanding that commodity derivatives markets require nationally  
2 uniform rules governing the listing, trading, clearing, settlement, and surveillance of  
3 financial instruments traded in these markets to prevent the type of fragmented  
4 oversight at risk in this case. Complying with fractured state regulations would derail  
5 that goal.

6 73. State gambling regulations, as applied to DCMs, also “stand[] as an  
7 obstacle to the accomplishment and execution of the full purposes and objectives of  
8 Congress.” *Arizona*, 567 U.S. at 399 (internal citation omitted). State gambling laws  
9 often require local licensing, fees, enforcement, and specific hardware. Applying  
10 state-by-state local requirements to national commodity exchanges would create the  
11 very “patchwork” that Congress set out to prevent. Indeed, the history of the CEA  
12 demonstrates repeated efforts by Congress to protect nationwide markets under  
13 uniform federal regulation as those markets evolve and as states attempt to limit  
14 them. See ¶¶ 38-54, *supra*.

15 74. In enacting the CEA and expanding it over time to provide the  
16 framework for commodity derivatives markets in the United States, Congress found  
17 that commodity derivatives transactions “are entered into regularly in interstate and  
18 international commerce and are affected with a national public interest by providing  
19 a means for managing and assuming price risks, discovery prices, or disseminating  
20 pricing information through trading in liquid, fair and financially secure trading  
21 facilities.” 7 U.S.C. § 5(a).

22 75. Therefore, the federal Commodity Exchange Act which provides the  
23 CFTC with “exclusive jurisdiction” over transactions on CFTC Designated Contract  
24 Markets, 7 U.S.C. § 2, preempts Arizona statutes that purport to prohibit, limit, or  
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1 condition the listing or trading of event contract swaps on CFTC-Designated  
2 Contract Markets.

3 **VIII. CLAIMS FOR RELIEF**

4 **A. COUNT I – A.R.S. §§ 5-1301 – 5-1321 (EVENT WAGERING)**  
5 **VIOLATES THE SUPREMACY CLAUSE AS APPLIED TO**  
6 **TRANSACTIONS ON CFTC DESIGNATED CONTRACT**  
7 **MARKETS**

7 76. The allegations in the preceding paragraphs are re-alleged and  
8 incorporated herein by reference.

9 77. Title 5, Chapter 11 of the Arizona Revised Statutes §§ 5-1301 *et seq.*,  
10 sets out a state regulatory scheme for event wagering in Arizona.

11 78. “Event wagering” is defined as “accepting wagers on sports events or  
12 other events, portions of sports events or other events, the individual performance  
13 statistics of athletes in a sports event or combination of sports events or the individual  
14 performance of individuals in other events or a combination of other events by any  
15 system or method of wagering, including in person or over the Internet through  
16 websites and on mobile devices.” A.R.S. § 5-1301(4)(a).

17 79. Among other things, Arizona event wagering law states that “[e]vent  
18 wagering may be conducted only to the extent that it is conducted in accordance with  
19 this chapter.” A.R.S. § 5-1303(A). Further, “[a] person may not offer any activity  
20 in connection with event wagering in this state unless all necessary licenses have  
21 been obtained in accordance with federal and state law and any applicable rules of  
22 the department.” *Id.*

23 80. A.R.S. § 5-1314(A) states that “the operation of event wagering is  
24 lawful only if the event wagering is conducted in accordance with this chapter and  
25 any other relevant laws and rules.”

26 81. A.R.S. § 5-1315 prohibits certain event wagers, including:

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1. Injuries, penalties and other types or forms of event wagering under this chapter that are contrary to law.

2. Individual actions, events, occurrences or nonoccurrences to be determined during a collegiate sports event, including on the performance or nonperformance of a team or individual participant during a collegiate sports event. This paragraph does not prohibit wagers on the overall outcome of a collegiate sports event or seasonal awards based on a player's cumulative overall play.

A.R.S. §§ 5-1315(A)(1)-(2).

82. A.R.S. § 5-1315(B) provides: “[a]n event wagering operator may offer only parlay and proposition bets of the type or category as prescribed by the department [of gaming]. The department [of gaming] shall prescribe the types and categories of parlay and proposition bets that may be offered in this state, if any.”

83. A.R.S. §§ 5-1301 – 5-1321, as applied to transactions listed, offered, or executed on Designated Contract Markets, is field preempted by Congress’s grant of broad regulatory authority over this market to the CFTC in the Commodity Exchange Act, see generally, 7 U.S.C. § 2.

84. A.R.S. §§ 5-1301 – 5-1321, as applied to transactions listed, offered, or executed on CFTC-Designated Contract Markets, is expressly preempted by the Commodity Exchange Act, 7 U.S.C. §§ 2(a)(1)(A), 16(e).

85. A.R.S. §§ 5-1301 – 5-1321, as applied to transactions listed, offered, or executed on Designated Contract Markets, are field preempted by Congress grant of broad regulatory authority over this market to the CFTC in the Commodity Exchange Act, see generally, 7 U.S.C. § 2.

86. A.R.S. §§ 5-1301 – 5-1321, as applied to transactions listed, offered, or executed on CFTC-Designated Contract Markets, are implicitly preempted because they make it impossible for regulated DCMs to comply with federal law and

1 are obstacle preempted because they thwart Congress’s purpose in granting the  
2 CFTC exclusive regulatory authority over this market.

3 **B. COUNT II – THE ARIZONA CRIMINAL CODE, A.R.S. §§ 13-**  
4 **3301 – 13-3312 (GAMBLING), VIOLATES THE SUPREMACY**  
5 **CLAUSE (PREEMPTION) AS APPLIED TO TRANSACTIONS**  
6 **ON CFTC DESIGNATED CONTRACT MARKETS**

7 87. The allegations in the preceding paragraphs are re-alleged and  
8 incorporated herein by reference.

9 88. The Arizona Criminal Code § 13-3305 makes it an offense to engage  
10 in betting or wagering absent an applicable exception.

11 89. A.R.S. § 13-3305(A) provides: “Subject to the exceptions prescribed  
12 in section 5-112 and title 5, chapter 11, no person may engage for a fee, property,  
13 salary or reward in the business of accepting, recording or registering any bet,  
14 purported bet, wager or purported wager or engage for a fee, property, salary or  
15 reward in the business of selling wagering pools or purported wagering pools with  
16 respect to the result or purported result of any race, sporting event, contest or other  
17 game of skill or chance or any other unknown or contingent future event or  
18 occurrence whatsoever.”

19 90. A.R.S. § 13-3305(B) provides: “Subject to the exceptions prescribed  
20 in title 5, chapter 11, a person shall not directly or indirectly knowingly accept for a  
21 fee, property, salary or reward anything of value from another to be transmitted or  
22 delivered for wagering or betting on the results of a race, sporting event, contest or  
23 other game of skill or chance or any other unknown or contingent future event or  
24 occurrence whatsoever conducted within or without this state or anything of value as  
25 reimbursement for the prior making of such a wager or bet on behalf of another  
26 person.”





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CFTC-Designated Contract Markets, violate the Supremacy Clause and are therefore preempted, unconstitutional and invalid;

2. That this Court issue a permanent injunction that prohibits Defendants as well as their successors, agents, and employees, from enforcing the challenged provisions or any other state laws pertaining to gambling or wagering, as applied to CFTC-Designated Contract Markets;
3. That this Court award Plaintiffs their costs and fees in this action; and
4. That this Court award any other relief it deems just and proper.

Dated: April 2, 2026

Respectfully submitted,

By: /s/ *Tiberius Davis*

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