

Securities Regulation Daily Wrap Up, FEDERAL PREEMPTION—D. Nev.:

Nevada federal court reverses course on Kalshi event contracts, allows state gaming enforcement action to proceed, (Dec 1, 2025)

By [Lene Powell, J.D.](#)

The court focused on Kalshi's previous marketing of "legal sports betting" and the upheaval of decades of state gaming regulation.

A federal district court in Nevada changed its mind in a lawsuit by prediction markets operator Kalshi, ruling that Kalshi was not entitled after all to the preliminary injunction it previously received to block enforcement action by state gaming regulators. The court's surprising order effectively allows a cease-and-desist action to proceed over Kalshi's event contract markets, which state regulators say involve betting requiring state licensing ([KalshiEx v. Hendrick](#), No. 2:25-cv-00575-APG-BNW (D. Nev. Nov. 24, 2025)).



The court's new order found that Kalshi was unlikely to be able to show that the contracts it offers are "swaps" under the exclusive jurisdiction of the CFTC.

"Kalshi's interpretation would require all sports betting across the country to come within the jurisdiction of the CFTC rather than the states and Indian tribes," the court wrote. "That interpretation upsets decades of federalism regarding gaming regulation, is contrary to Congress' intent behind the CEA, and cannot be sustained."

The ruling departs from the court's grant of preliminary injunction in April but aligns with an October ruling by the same court in a similar lawsuit involving Crypto.com.

Reversal of fortune. Kalshi is [suing Nevada state gaming regulators](#) over a cease-and-desist order concerning contracts on sporting events and election outcomes offered on Kalshi's prediction markets. The regulators say the contracts are illegal because Kalshi has not registered to offer these in Nevada.

In April, a Nevada federal district court [granted Kalshi a preliminary injunction](#), agreeing with Kalshi that the federal Commodity Exchange Act preempts Nevada state gaming law because Kalshi is a CFTC-registered designated contract market (DCM) and the CFTC has exclusive jurisdiction in this instance.

But in October, the same court [declined to grant a similar injunction to Crypto.com](#), registered with the CFTC as North American Derivatives Exchange, Inc. In that decision, the court concluded that Crypto.com was unlikely to succeed on the merits of its preemption argument, and that the CFTC's jurisdiction does not displace Nevada's authority to regulate or prohibit unlicensed sports wagering.

A second look. In the latest order, the court said the April injunction was issued very early in the litigation on an accelerated schedule, and "the law and facts have evolved in this court and others."

The court first noted that Kalshi initially advertised that it is the "first app for legal sports betting in all 50 states." Now, however, it contends that it is *not* taking sports bets. And even if it were, no state can regulate it because it is a DCM under the CFTC's exclusive jurisdiction.

In its new analysis, the court said that while there are "serious questions" on the merits, Kalshi's arguments were not likely to succeed. The court concluded that event contracts that turn on the outcomes of sporting events are not swaps and thus do not fall within the CFTC's exclusive jurisdiction.

Here, the court reiterated its conclusion that in the context of sports betting, an “event” is the sporting event itself, not the outcome of the event. For example, the Kentucky Derby is an event. Who wins the race is the outcome of that event., not a separate event.

The court buttressed its interpretation that Kalshi’s contracts are not swaps with CEA surrounding statutory text, legislative context, the CFTC’s post-enactment guidance, and federalism principles.

The court also found a significant lack of limiting principle in Kalshi’s interpretation. Taken to its logical conclusion, the court said this would mean that all sports wagering must be done on a DCM, and not at casinos. This is because the CEA forbids nearly all swap dealing and trading unless done on a DCM, except for certain market participants, none of whom are casinos or the average sports bettor.

“It is absurd to think that Congress intended for DCMs to turn into nationwide gambling venues on every topic under the sun to the exclusion of state regulation and with no comparable federal regulator without ever mentioning that was the goal when Congress added swaps to the CEA in 2010,” the court wrote.

Balance of interests. The court further found that the balance of hardships did not tip sharply in Kalshi’s favor and the public interest did not favor an injunction.

Here, the court weighed Kalshi’s monetary harm against the State of Nevada’s financial interests in tax revenues and Kalshi’s competitors’ financial interests in fair competition. Kalshi would not be able to profit from the trades, and asserts that it risks its DCM designation if it does not offer its products nationwide.

On the other side, the court found there would be substantial irreparable harms to the Board, the State of Nevada, the gaming industry in Nevada, and the public interest. The court noted that “the gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants,” and that “a comprehensive regulatory structure, coupled with strict licensing standards, will ensure the protection of consumers, including minors” and problem gamblers.

Injunction dissolved. Accordingly, the court granted the defendants’ motion to dissolve the preliminary injunction, which now has no force or effect.

The case is [No. 2:25-cv-00575-APG-BNW](#).

Judge: Gordon, A.

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Companies: Kalshiex, LLC

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