TARIFF REFUND TODAY, LAWSUIT TOMORROW: A NEW TARGET FOR CONSUMER CLASS ACTIONS

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Brands eager to capitalize on potential tariff refunds should proceed cautiously, as not only will retail and wholesale customers have their hands out, but consumers will also be looking for their share.

Consumer class actions are beginning to target brands and retailers that raised prices due to tariffs. Following the US Supreme Court's February 2026 decision striking down certain tariff measures,[1] and the resulting push toward refunds, plaintiffs are now going directly to companies to recover alleged overcharges rather than waiting for any government process. For additional background on the Supreme Court's decision and the broader tariff landscape, see our prior alert, “Unpacking the US Supreme Court's IEEPA Tariff Decision: The Outlook for Future Disputes.”[2]

The premise is simple: brands and retailers passed on the cost of tariffs and were made whole by imposing higher prices on consumers. Any tariff refunds going to these brands and retailers are accordingly alleged to be a windfall to the brands and retailers. The reality, however, is more complex. Many brands absorbed a significant portion of tariff costs, passing through only limited price increases.

These lawsuits are already increasing and are expected to continue, particularly as US Customs and Border Protection moves forward with its tariff refund process. Early cases have already been filed against large retailers, including entities that serve as importers of record.[3]

In the event of a lawsuit, brands do have defenses. They may be able to argue that customers agreed to arbitration or waived the right to bring class actions, which may limit these claims. They can also point to the fact that most of the tariff costs were not passed on and that price increases were lawful and justified at the time, and therefore not unfair.

The strength of these claims will be highly fact-specific, depending on the nuances of each company's practices, contracts, terms, and tariff strategy.

Our firm is closely tracking these developments and can help assess risk and advise on next steps.

FOOTNOTES

[1] *Learning Resources, Inc. v. Trump*, 603 U.S. ___ (2026).

[2] *See* Thomas G. Allen, Michael J. Stortz, Lindsay Sampson Bishop, Alexander D. Walsdorf & Neeki Memarzadeh, *Unpacking the U.S. Supreme Court's IEEPA Tariff Decision: The Outlook for Future Disputes* (K&L Gates, Feb. 23, 2026).

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[3] *See Stockov v. Costco Wholesale Corp.*, No. 1:26-cv-02734 (N.D. Ill. filed Mar. 11, 2026); *Deburro v. Fed. Express Corp. & FedEx Logistics, Inc.,* No. 2:26-cv-02240 (W.D. Tenn. filed Mar. 6, 2026); *Rosado v. FedEx Corp.*, No. 1:26-cv-01861 (S.D.N.Y. filed Mar. 6, 2026); Cycle Ltd., LLC v. Fed. Express Corp. & FedEx Logistics, Inc., No. 9:26-cv-80232 (S.D. Fla. filed Mar. 5, 2026); *Anastopoulo v. FedEx Corp.*, No. 1:26-cv-00236-UNA (D. Del. filed Mar. 5, 2026); *Reiser v. Fed. Express Corp. & FedEx Logistics, Inc.*, No. 1:26-cv-21328-JB (S.D. Fla. filed Feb. 27, 2026); *Anastopoulo v. FedEx Corp.*, No. 2:26-cv-02181 (W.D. Tenn. filed Feb. 20, 2026); *Anastopoulo v. FedEx Corp.*, No. 2:26-cv-00753-BHH (D.S.C. filed Feb. 20, 2026).

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