Milbank
SEAN M. MURPHY
Partner
55 Hudson Yards | New York, NY 10001-2163
T: +1 (212) 530-5688
SMurphy@milbank.com | milbank.com

November 19, 2026

VIA NYSCEF

The Honorable Melissa A. Crane
New York Supreme Court Justice
New York County Courthouse
60 Centre Street, Room 248
New York, NY 10007

Re: *People ex rel. James v. KalshiEX LLC*, No. 453272/2026 (Sup. Ct. N.Y. Cnty.) – Request That Any Renewed TRO Application Proceed on Notice

Dear Justice Crane:

Kalshi writes to inform the Court that today, November 19, 2026, the above-referenced action was remanded by a federal district court for the Southern District of New York.[1] Prior to Kalshi's removal of the action, the Office of the Attorney General ("OAG") filed an application for an *ex parte* temporary restraining order ("TRO"). After Kalshi removed this action, the OAG's original application, O.S.C. with TRO (July 31, 2026), NYSCEF Doc. No. 3 ("OSC"), was denied as moot "without prejudice to a new motion should the federal court remand this special proceeding."[2]

Kalshi respectfully submits that any renewed motion for temporary or preliminary relief warrants briefing and that there is no justification for issuance of *ex parte* relief under the circumstances present here. There are serious defects in the *ex parte* relief previously sought by the OAG, including extraterritorial effects that extend well beyond this Court's jurisdiction. The previously proposed TRO would also place Kalshi at risk of violating an order by the Commodity Futures Trading Commission ("CFTC"), Kalshi's federal regulator, which has directed Kalshi not to take the actions that the OAG requests this Court to order. The entry of such an order would put Kalshi in an impossible position at the center of an irreconcilable federal/state conflict.

[1] Opinion & Order, *People ex rel. James v. KalshiEX LLC*, No. 26-cv-6550 (S.D.N.Y. Nov. 19, 2026), Dkt. No. 25.
[2] Decision + Order on Mot. (Aug. 3, 2026), NYSCEF Doc. No. 74; *see* Notice of Filing Notice of Removal (July 31, 2026), NYSCEF Doc. No. 59; Notice of Removal, *People ex rel. James v. KalshiEX LLC*, No. 26-cv-6550 (S.D.N.Y. July 31, 2026), Dkt. No. 1.

Kalshi requests a status conference at the Court's earliest convenience and is available to brief the issues in any application for temporary or preliminary relief on any schedule that the Court orders. Kalshi's counsel is available to appear, in person or remotely, at the Court's earliest convenience.[3]

There is no irreparable harm justifying denial of an opportunity to be heard.

There is no risk of "irreparable injury, loss or damages [that] will result . . . before a hearing can be had" in this case. CPLR § 6313; *see also* 22 NYCRR 202.8-e, rule 20 ("Unless the moving party can demonstrate significant prejudice by reason of giving notice . . . a temporary restraining order should not be issued ex parte."). OAG's own conduct refutes that premise. The original TRO application seeks an injunction against Kalshi's operation "within or from New York," which purports to request this Court to shut down operation of Kalshi's federal derivatives exchange not only in the state but nationwide, as Kalshi is headquartered in New York.[4] Kalshi's exchange launched in July 2021 and has been headquartered in New York since its inception, yet the OAG did not file suit against Kalshi until July 2026.[5] That five years of inaction is diametrically opposed to any claim of imminent, irreparable harm from the continued operation of Kalshi within the state.

Similarly, the TRO focuses in large part on sports event contracts,[6] which Kalshi has offered since January 2025, some 18 months before the OAG filed this action, and the State *voluntarily* refrained from enforcement for nine months pending a decision on Kalshi's motion for preliminary injunction in a parallel federal action, which is still pending (and the decision on the preliminary injunction is on appeal to the Second Circuit).[7] That voluntary inaction, too, is inconsistent with any claim of imminent, non-monetary harm.

There are serious defects in the ex parte relief requested by OAG.

The relief the OAG seeks is unprecedented in scale and would have an extraterritorial reach that extends far beyond the jurisdiction of this Court. The OSC would bar Kalshi from offering "contracts relating to sports, culture, elections, and other events" "within or from New York or to persons in New York."[8] "[O]ther events" also is undefined, so the order would reach every

[3] Earlier this evening, counsel for Kalshi reached out to the State and proposed to confer on an orderly process for proceedings in state court following remand. The State responded that it would get back to Kalshi tomorrow regarding the meet and confer request.
[4] OSC 2, 5.
[5] Pet'r's Mem. of Law in Supp. of Verified Pet. & OSC at 1–2, 7 (July 31, 2026), NYSCEF Doc. No. 2 ("Mem."); Verified Pet., *People ex rel. James v. KalshiEX LLC*, No. 453272/2026 (Sup. Ct. N.Y. Cnty. July 31, 2026), NYSCEF Doc. No. 1.
[6] OSC 2.
[7] Mem. 2, 8; Aff. of Emergency ¶ 7 (July 31, 2026), NYSCEF Doc. No. 5 ("Maswoswe Aff.") (citing Stipulation & Order, *KalshiEX LLC v. Williams*, No. 25-cv-8846 (S.D.N.Y. Oct. 28, 2025), Dkt. No. 34); *see KalshiEX LLC v. Williams*, No. 25-cv-8846 (S.D.N.Y.), *appeal docketed*, No. 26-1835 (2d Cir. July 8, 2026).
[8] OSC 2, 5.

contract Kalshi lists.[9] Because Kalshi, a federally designated contract market regulated by and operating under the authorization of the CFTC, is headquartered in New York, the effect of the TRO would shut down a federally regulated exchange for every customer, everywhere.[10] The effect of the order would extend to shut down Kalshi's offerings in states in the Third Circuit, which recently blessed Kalshi's operation in that region, finding that state gaming laws are preempted by federal law,[11] and even in states where regulators do not contest the lawfulness of Kalshi's operation. The OAG itself touts Kalshi's $178 billion in annualized trading volume and $22 billion valuation.[12] The TRO would likely force the liquidation of all open positions, disrupting markets far beyond this State.[13] And the OAG's theory would let New York ban any federally regulated derivative, including ordinary futures, offered by an exchange headquartered here.[14]

The CFTC has ordered Kalshi not to comply with an order implementing the ex parte relief sought by OAG.

A TRO would place Kalshi under directly conflicting orders from this Court and the CFTC, Kalshi's federal regulator. On August 11, 2026, invoking its emergency authority under Section 8a(9) of the Commodity Exchange Act, 7 U.S.C. § 12a(9), the CFTC found that the OAG's action and TRO motion are themselves a "major market disturbance," and that a sudden shutdown would pose an "existential threat" to federally regulated markets and those who trade on them.[15] The CFTC ordered Kalshi to "continue to perform its functions as an exchange."[16] The OSC would order the opposite.[17] The CFTC Order is reviewable only in a federal court of appeals.[18] And whether New York may regulate even Kalshi's sports contracts is pending before the Second Circuit.[19] Relief that would contradict a federal emergency order should not issue without full briefing, and certainly not *ex parte*.

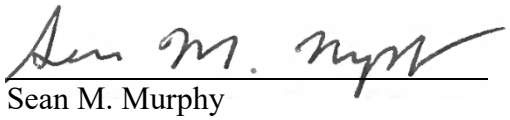
* * *

Kalshi is available at the Court's earliest convenience for a status conference or to discuss or provide briefing on any of these matters.

---

[9] Christopher J. Kirkpatrick, CFTC, Order Directing Kalshi to Continue Exercising DCM Functions 2, 10 (Aug. 11, 2026), https://perma.cc/DY95-8BNC ("CFTC Order").
[10] *Id.* 2, 5–7; Mem. 2, 7.
[11] *KalshiEX LLC v. Flaherty*, 172 F.4th 220, 227–29 (3d Cir. 2026).
[12] Mem. 3; Maswoswe Aff. ¶ 3.
[13] CFTC Order 8.
[14] *Id.* 9.
[15] CFTC Order 3–5.
[16] *Id.* 10.
[17] OSC 4–5.
[18] 7 U.S.C. § 12a(9); CFTC Order 4.
[19] *See KalshiEX LLC v. Williams*, No. 26-1835 (2d Cir. docketed July 8, 2026).

Respectfully submitted,



Sean M. Murphy

Counsel for KalshiEX LLC

cc: All Counsel (via NYSCEF)