

# Tariff Class Actions: What Businesses Need to Know



**Ashley Akers**  
Partner, Washington, D.C.  
Trade Litigation  
(202) 441-5870  
[Ashley.Akers@hklaw.com](mailto:Ashley.Akers@hklaw.com)



**Austin Rainwater**  
Partner, Seattle  
Class Action Litigation  
425-785-3422  
[Austin.Rainwater@hklaw.com](mailto:Austin.Rainwater@hklaw.com)

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# The IEEPA Tariff Timeline: How We Got Here

- **Feb 2025**      **IEEPA Tariffs Imposed**      President Trump issues executive orders imposing sweeping tariffs under IEEPA authority
- **2025**      **\$175B+ Collected**      CBP collects an estimated ~\$175B in IEEPA duties from importers of record
- **Feb 20, 2026**      **Supreme Court Strikes Down IEEPA Tariffs**      *Learning Resources, Inc. v. Trump*: Court holds IEEPA does not authorize tariffs
- **Mar 4, 2026**      **CIT Orders Refunds**      Court of International Trade orders CBP to issue refunds to importers of record (\*now on appeal)
- **Mar–Jun 2026**      **Class Actions Surge**      80+ consumer class actions filed against shippers, retailers, manufacturers, and distributors

***Key Gap: Refunds go ONLY to importers of record — not downstream consumers. This gap is the engine driving all consumer class actions.***

# The Scope of the Tariff Consumer Class Actions

**\$175B+**

**IEEPA Duties Collected**

Estimated subject to  
refund

**80+**

**Class Actions Filed**

March–June 2026

**4**

**Primary Industry  
Categories**

Shippers, Retail,  
Distributors, Auto

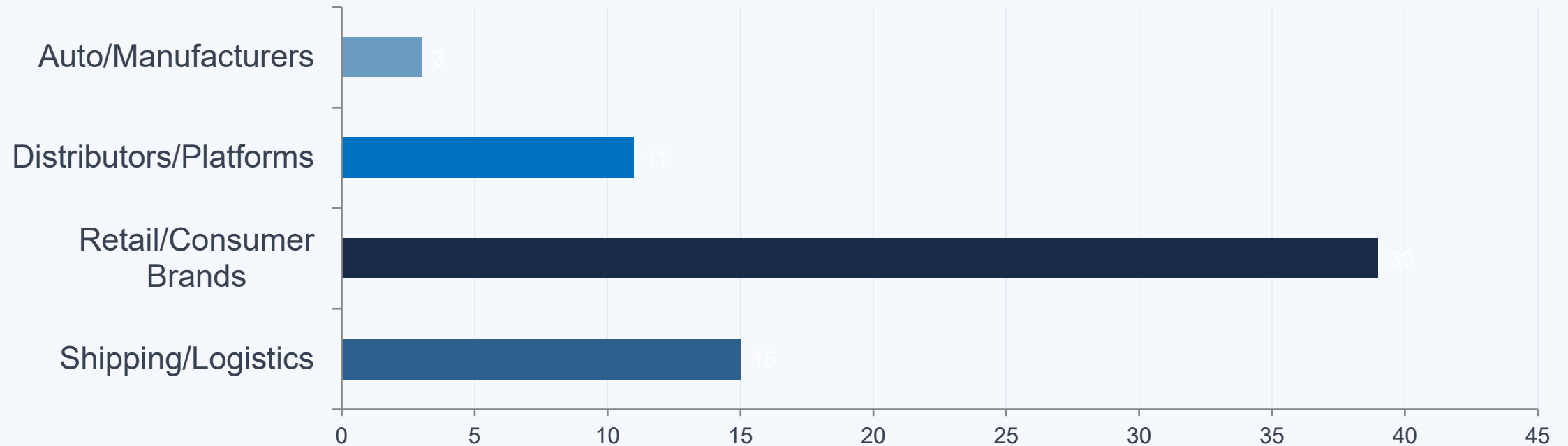
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**Venues**

Nationwide exposure,  
no single forum

# The Scope of the Tariff Consumer Class Actions

Cases Filed by Industry Category (as of June 2026)



# Two Distinct Plaintiff Theories (so far)

## THEORY 1: DIRECT SURCHARGE

### Shippers & Logistics Companies

**What happened:** Companies itemized a separate tariff charge (often labeled as a duty or surcharge) that was collected directly from customers.

**Core claims:** Breach of contract (unauthorized charges), breach of implied covenant of good faith, unjust enrichment, declaratory judgment

**Key exposure:** Easier for plaintiffs to quantify damages because the surcharge was itemized.

## THEORY 2: PRICE PASS-THROUGH

### Retailers, Brands & Manufacturers

**What happened:** Companies raised retail prices citing tariff costs — sometimes communicating this in earnings calls, press releases, or pricing announcements — and now seek government refunds.

**Core claims:** Unjust enrichment (“double recovery”), money had and received, state UDAP/consumer protection statutes, declaratory judgment

**Key exposure:** Harder to prove individual damages — but public statements about tariff-driven prices are plaintiffs' roadmap.

# Legal Claims Being Asserted

## ● Unjust Enrichment

Most common claim across ALL case types. Plaintiffs argue companies obtained a “double recovery” — passing tariff costs to consumers AND receiving government refunds for the same tariffs.

## ● Money Had and Received

Quasi-contractual claim requiring plaintiff to show: (1) defendant received money, (2) belonging to plaintiff, (3) inequitable to retain it. Appears in nearly every retail and distributor case.

## ● Declaratory Judgment

Plaintiffs seek court declarations that collected charges were unlawful and that defendants must refund them. Serves as a vehicle to force companies’ hand on refund decisions before refunds are received.

## ● Breach of Contract

Primary theory in shipping cases. Plaintiffs allege tariff charges were not authorized under shipping contracts or terms of service. Companies face multiple breach claims for fees billed as tariff pass-throughs.

## ● State Consumer Protection (UDAP Statutes)

Plaintiffs invoke state-specific statutes: California UCL/CLRA, Washington CPA, Illinois CFA, Oregon UTPA, NY GBL § 349, Ohio CSPA, Florida FDUTPA, Michigan CPA, PA UTPCPL.

## ● Breach of Fiduciary Duty

Asserted in a subset of shipping cases where shippers acted as customs brokers or agents. Plaintiffs claim shippers had fiduciary obligations to pass through any government refunds received.

# Legal Claims Being Asserted

## ● **Contract Unconscionability / Mutual Mistake**

**Key Theory:** Tariff surcharge provisions were based on a mutual mistake of law (both parties believed tariffs were legal) or were unconscionable at formation because predicated on a void tariff regime.

## ● **False Advertising**

**Key Theory:** Specific public statements about pricing or refund intent were literally false or materially misleading.

**Also Alleged:** company charged surcharges based on retail price rather than dutiable value, causing surcharges to exceed actual tariff costs — per se deception.

## ● **Constructive Trust**

**Key Theory:** Courts should impose a constructive trust over the right to seek IEEPA refunds, or over proceeds once received, because refund rights trace to consumers' economic burden.

# Summary of Available Defenses

## ● Ripeness / Not Yet Ripe

If defendant hasn't received full refunds, plaintiffs' injury is speculative. Costco moved to dismiss on this ground: "Plaintiff's alleged injuries rely on speculative future events." Strong argument where CBP refund process is still pending.

## ● Arbitration & Class Waiver

Terms of service containing mandatory arbitration clauses and class action waivers can require individual, not class, resolution. FAA enforcement is a priority early defense — can stop class litigation before it starts.

## ● FAAA Preemption

Federal Aviation Administration Authorization Act preempts state law claims "related to the price, route, or service" of carriers. Strong defense for shipping and logistics defendants.

## ● Article III Standing

Defendants argue plaintiffs who didn't actually pay the tariff-specific charges have suffered no injury-in-fact.

## ● Voluntary Payment Doctrine

Consumers voluntarily paid disclosed prices for goods they received. They received what they bargained for. No obligation to refund lawfully-priced transactions simply because the underlying tariff was later voided.

## ● Pass-Through Causation

Retail pricing is driven by many factors. Plaintiffs must prove tariff costs were specifically embedded in prices paid. Dynamic pricing, market forces, and other cost variables make this causation difficult to establish at class level.

# Leading Case: *Stockov v. Costco* — Defense Roadmap

## Plaintiff's Theory

- Costco passed tariff costs to consumers via price increases
- Costco is now seeking government refunds without compensating customers
- "Double recovery" constitutes unjust enrichment
- Violations of state consumer fraud statutes
- Seeks declaratory judgment, injunctive relief, restitution

## Costco's Defense

- Not ripe: Costco hasn't received any refunds yet
- No standing: plaintiff received exactly what he paid for
- Illinois CFA: no deception or harm adequately alleged
- Unjust enrichment barred — valid contract governs
- Voluntary payment: cannot claim entitlement to future refunds

## Why This Matters

- First major retailer to fully brief a motion to dismiss
- Ripeness argument could foreclose early-filed suits entirely
- Sets template for other retailers' motions
- Court's ruling will clarify standing for consumers

*N.D. Illinois, Case No. 1:26-cv-02734 — Motion to Dismiss Pending (Most Advanced Case in Docket)*

# Key Exposure Factors

## HIGHER EXPOSURE

- Imported goods subject to IEEPA tariffs
- Separate, itemized tariff surcharges billed to customers
- Publicly announced tariff-driven price increases
- Earnings calls or press releases citing tariff costs
- Consumer-facing retail or e-commerce business
- Seeking or have received government IEEPA refunds

## WATCH FACTORS

- Customer-facing business with large class of purchasers
- State consumer protection laws apply to your sales
- Pricing fluctuations (no matter the cause) within the last 16 months
- Industry with active plaintiff recruitment underway
- Tariff refund applications filed with CBP/CIT

## LOWER EXPOSURE

- Primarily domestic sourcing (no/little IEEPA tariffs paid)
- No pricing adjustments in last 16 months; did not pass tariff costs to customers
- No public statements linking prices to tariffs
- B2B sales only — no retail consumer exposure
- Strong arbitration/class waiver in customer agreements

# What Businesses Should Do Right Now

## ● Assess Your Exposure Profile

Determine whether you: (a) paid IEEPA tariffs, (b) passed costs to consumers (directly or via pricing), and (c) have or plan to seek government refunds.

## ● Review Customer Agreements

Identify and evaluate any arbitration clauses, class action waivers, pricing provisions, and cost pass-through language in your customer-facing agreements.

## ● Coordinate Disclosure Strategy

Any disclosures to consumers, investors, or regulators about tariff pass-through or refund plans should be coordinated with counsel.

## ● Audit Public Statements

Review earnings calls, press releases, SEC filings, and investor presentations for statements linking price increases to tariff costs.

## ● Evaluate Refund Strategy

Whether and how you pursue IEEPA refunds has litigation implications. The decision to seek, not seek, or disclose refund status to customers can all affect your exposure profile.

## ● Engage Trade & Class Action Counsel

This litigation sits at the intersection of customs law, international trade, and complex commercial litigation. You should have counsel experienced in all three.

# How H&K Can Help You

## International Trade & Customs

Leading law firm with IEEPA expertise including CIT proceedings, CBP CAPE portal guidance, tariff refund strategy, and importer compliance across all trade programs

## Federal Litigation

Active presence in CIT, federal district courts, and appellate proceedings, including CAFC. We know the judges, the procedures, and the precedents in this emerging litigation space

## Class Action Defense

Extensive experience defending retailers, manufacturers, and logistics companies in nationwide consumer class actions — from motion practice through trial and settlement

## Proactive Risk Management

We help clients get ahead of litigation risk through contract audits, disclosure strategy, refund planning, and early arbitration enforcement to prevent class exposure

# Questions?



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