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## What the U.S. Supreme Court's Tariff Decision Means for Importers Seeking Recoupment

On February 20, 2026, the Supreme Court issued a widely-publicized decision narrowing President Trump's tariff authority. The Court's decision, in the consolidated cases *Trump v. V.O.S. Selections, Inc.* and *Learning Resources, Inc. v. Trump*, rejected the emergency and national security bases for double-digit hikes on a broad array of goods, but did not resolve how – or if at all – importers may reclaim these funds.

Now, affected businesses are hustling to recoup more than US \$130 billion in payments made under the now-invalidated 2025 regime. Prior to the Supreme Court's decision, thousands of plaintiffs had already sought redress before the Court of International Trade, the specialist New York federal court with exclusive jurisdiction over cases arising out of tariff laws or their "administration and enforcement." The Supreme Court's ruling affirmed that the Court of International Trade will be the venue for recoupment claims, and those actions, stayed pending the Court's decision, may proceed in the coming weeks. (Indeed, on March 2, 2026, a U.S. federal appellate court directed the Court of International Trade to recommence proceedings in the matters heard by the Supreme Court.)

Since the ruling, major importers (including Federal Express, Costco, and L'Oreal) have filed additional tariff-related Court of International Trade claims. More litigation is surely to follow. Significant questions remain, including whether downstream buyers of tariffed goods and third-party funders of tariff-based claims can pursue relief, whether successful claimants will be awarded pre-judgment interest, and how the Court of International Trade will manage these cases and set timelines for resolution.

Additional lawsuits will undoubtedly challenge President Trump's response to the Supreme Court's ruling. Immediately following that ruling, on February 24, President Trump imposed across-the-board 10% tariffs under Section 122 of the Trade Act of 1974, a federal law authorizing temporary tariffs to redress "large and serious United States balance-of-payments deficits," and the administration has made clear it intends to impose further duties under separate authority in the near term.

Given this volatility, businesses with tariff-based claims should take steps to evaluate and preserve viable claims, including by filing appropriate actions in the Court of International Trade and administratively with U.S. Customs and Border Protection, and consider potential collateral issues (such as commercial agreements for allocation of tariff responsibility). In

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addition, businesses should assess third-party litigation arising from the Court's decision, including claims based on non-recoupment of past payments as well as the merits of downstream claims.

**About Kobre & Kim**

Kobre & Kim is a global law firm specializing in complex, cross-border disputes and investigations, often involving fraud and other forms of misconduct.

- **Independent:** We have deep experience representing our clients in matters adverse to government authorities and, with no transactional practice, we often litigate against institutional adversaries.
- **Cross-Border:** We have expertise coordinating strategies across jurisdictions.
- **Aggressive:** We deploy aggressive strategies designed to get to "the heart of the matter". We start with the end in mind and avoid time-consuming pretrial jousting that is immaterial to a victory.