

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

OAKTREE CAPITAL MANAGEMENT, L.P.,

Plaintiff,

-against-

BJ'S WHOLESALE CLUB, INC.,

Defendant.

Index No.

**COMPLAINT**

Plaintiff Oaktree Capital Management, L.P. (“Oaktree Capital” or “Plaintiff”), by and through its undersigned attorneys, as and for its Complaint against Defendant BJ’s Wholesale Club, Inc. (“BJ’s” or “Defendant”) (together, the “Parties”), alleges as follows:

**SUMMARY OF THE ACTION**

1. This is a case about unlawful and bad-faith seller’s remorse. Defendant agreed to sell Plaintiff its claim to potentially recoup approximately \$29,000,000 of tariffs invoked under the International Emergency Economic Powers Act of 1977 (“IEEPA”) and paid by BJ’s during the period from January 20, 2025, through February 24, 2026, which were ruled unlawful by the United States Supreme Court on February 20, 2026 (the “Claim”). BJ’s agreed to sell the Claim for a certain payment of 70 cents on each dollar (approximately \$20,000,000) because of the unique uncertainties regarding, among other things, whether companies that paid the IEEPA tariffs would be able to recoup some or all of the tariffs paid, and the costs, time, and other risks associated with pursuing a refund. The Parties fully negotiated the final Definitive Agreement required to close the transaction and execution copies and wire instructions were circulated. No open terms remained, and there was nothing more to negotiate. All that was required was for BJ’s to meet its good-faith contractual obligation under the binding Trade Confirmation to use “commercially

reasonable efforts to execute and deliver” the Definitive Agreement to Plaintiff. Instead, because the market value of its Claim had increased above the agreed sale price, BJ’s breached this obligation and attempted to walk away from the binding trade, damaging Plaintiff.

### **PARTIES**

2. Plaintiff is a Delaware limited partnership with its headquarters in Los Angeles, California. Oaktree Capital is a global investment firm specializing in alternative investments.

3. Defendant is incorporated in Delaware with a principal place of business at 350 Campus Drive, Marlborough, MA 01752. BJ’s Wholesale Club is a large, publicly traded operator of membership warehouse clubs nationwide.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this dispute pursuant to the March 13, 2026, binding Trade Confirmation (the “Agreement”) between the parties, which provides in relevant part: “This letter and the Definitive Agreement shall be governed by the laws of the State of New York. The parties shall agree to submit to the exclusive jurisdiction of the courts located in the County of New York, State of New York.”

### **FACTUAL BACKGROUND**

#### **The Binding Agreement**

5. On March 13, 2026, the Parties executed the Agreement.

6. Pursuant to the Agreement, Oaktree Capital agreed to purchase the Claim from BJ’s. Following negotiations between the Parties and diligence performed by Plaintiff, the agreed value of the Claim was established to be \$29,833,141.65 (the “Claim Amount”), which Oaktree Capital agreed to purchase for \$20,913,199.16 (70% of the Claim Amount).

7. The Agreement is “a valid and binding agreement between the parties.”

8. The Agreement imposed an obligation on the Parties to execute a fully negotiated “Definitive Agreement”:

Execution of a mutually agreeable Sale Agreement between Seller and Buyer for the Claims (the “Definitive Agreement”), which Definitive Agreement shall be prepared by Buyer and shall include, among other provisions, (i) a provision granting Buyer a priority security interest in the Claims; (ii) Seller’s agreement to act as direct litigation party and to use commercially reasonable efforts to preserve and maximize the value of the Claims, subject to Buyer’s consent, provided Buyer shall be responsible for payment of all related legal fees; (iii) Seller’s agreement to cooperate with counsel to diligently prosecute the Claims and provide Buyer customary further assurances language and information rights; (iv) Seller’s agreement to cause all distributions to be paid to Buyer; and (v) Seller representations, warranties, covenants and indemnities relating to the Claims and Seller’s actions and status, including without limitation (A) Seller representations confirming that no third party has a right to receive any portion of the Claim, and a Seller indemnity for any losses suffered by Buyer as a result of any such claim by a third party, and (B) Seller representations and covenants that it has not taken and shall not take any actions to impair the Claims.

9. The Agreement required the parties to “use commercially reasonable efforts to execute a Definitive Agreement and settle the transaction as soon as practicable, including, without limitation, by providing all requested documents and any proposed revisions to the Definitive Agreement in a timely manner.”

10. If, after good faith negotiation and the application of commercially reasonable efforts, the Parties were unable to execute and deliver a Definitive Agreement within thirty days after the execution of the Agreement (the “Target Date”), the Agreement provided that the “parties may mutually agree to continue negotiating or any party may at any time elect to terminate this letter and cease further negotiations (‘Walk Away Right’).”

### **The Definitive Agreement**

11. The first draft of the Definitive Agreement was provided to BJ’s on March 19, 2026.

12. Despite several requests from Plaintiff, BJ’s comments on the draft were not provided until almost two weeks later. During BJ’s prolonged review period, Oaktree Capital

completed its diligence and took the steps necessary to complete the Definitive Agreement by the Target Date and to prepare to close the transaction.

13. Between March 31, the date on which BJ's first provided comments, and April 10, 2026, the Parties fully negotiated and agreed on all the terms of a Definitive Agreement.

14. On April 9, 2026, in a telephone conversation between counsel, some minor final changes to the Definitive Agreement were requested by BJ's. All were accepted by Plaintiff and incorporated into the final Definitive Agreement. Plaintiff also requested BJ's wire instructions for the payment, which were provided.

15. On April 10, 2026, three days before the Target Date, Plaintiff circulated final execution copies of the Definitive Agreement and wire instructions. No open terms remained and there was nothing left to negotiate. All that remained was for BJ's Wholesale Club to return the fully executed Definitive Agreement and proceed to closing as the Agreement required.

16. Also on April 10, 2026, U.S. Customs and Border Protection ("CBP") announced it would launch Phase 1 of its Consolidated Administration and Processing of Entries ("CAPE") functionality on April 20, 2026. According to CBP, CAPE was designed to streamline the submission and processing of refund requests for IEEPA duties. This announcement, and other market developments, provided clarity regarding the refund process, and reduced the risk that reimbursements would not be issued or would be delayed.

17. On Monday, April 13, 2026, after hearing nothing from BJ's, Plaintiff followed up and asked for the return of the signed Definitive Agreement. In response, BJ's advised: "The sale agreement is currently working through internal approvals. We'll be in touch as soon as that process is complete."

18. On April 14, 2026, BJ's Senior Assistant General Counsel wrote: "We're all set with internal approvals on our side. Our lender's counsel needs a tentative closing date to process the lien release documents. Are you good with using Thursday (4/16) as a tentative closing date?"

### **BJ's Breach**

19. On April 15, 2026, the same attorney wrote: "Apologies, but please ignore my prior email. I jumped the gun and there is an issue with getting final approval that we need to work through. I'll be in touch as soon as I have more info." No further information was provided, and no issue was raised.

20. Later that day, the BJ's attorney sent an email to Oaktree Capital that read, in relevant part: "As you are aware, the parties have not executed a mutually agreed Definitive Agreement on or before the thirty-day target date of April 13, 2026. Pursuant to the Binding Agreement section of the Trade Confirmation Agreement, Seller hereby exercises its Walk Away Right, terminates the Trade Confirmation Agreement and elects not to proceed with the transaction." No other reason was provided for BJ's refusal to execute the fully negotiated and agreed Definitive Agreement.

21. Plaintiff responded immediately to Defendant's refusal to honor its contractual obligations and sent an email demanding that Defendant confirm it would return the fully executed Definitive Agreement and proceed to closing. BJ's ignored the email.

22. On April 18, 2026, Plaintiff sent a formal letter to BJ's demanding that it return the signed Definitive Agreement no later than close of business on Monday, April 20, 2026. Again, BJ's ignored the letter.

## CAUSES OF ACTION

### COUNT I (Breach of Contract)

23. Plaintiff repeats, realleges, and incorporates by reference each of the allegations contained in the preceding paragraphs.

24. At all relevant times, the Agreement was a valid and binding agreement that existed between the Parties.

25. The Agreement obligated BJ's, among other things, to use "commercially reasonable efforts to execute" the final Definitive Agreement by the Target Date and to thereafter settle the transaction.

26. Defendant's failure to execute the fully negotiated Definitive Agreement was not commercially reasonable and is a breach of the Agreement.

27. Plaintiff has fully performed all of its obligations under the Agreement, including completing its diligence review, negotiating the Definitive Agreement in good faith, and preparing and circulating execution copies and wire instructions in advance of the Target Date. Plaintiff was and remains ready, willing, and able to close the transaction on the agreed terms.

28. As a direct and proximate result of Defendant's breach of the Agreement, Plaintiff has suffered damages in an amount to be determined at trial. Such damages include, but are not limited to: (a) the loss of the economic value of the IEEPA tariff refund claims that Plaintiff was entitled to acquire pursuant to the Definitive Agreement, including any appreciation in the value of such claims; (b) all costs and expenses incurred in connection with the negotiation, diligence, and attempted consummation of the transaction contemplated by the Agreement; and (c) all other losses flowing naturally and foreseeably from Defendant's breach.

**COUNT II**  
**(Breach of the Implied Covenant of Good Faith and Fair Dealing)**

29. Plaintiff repeats, realleges, and incorporates by reference each of the allegations contained in the preceding paragraphs.

30. Under New York law, which governs the Agreement, every contract contains an implied covenant of good faith and fair dealing pursuant to which neither party shall do anything that will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract.

31. Among other things, the implied covenant precludes a party from relying on the non-occurrence of a condition precedent where that failure was intentionally caused by the party's own deliberate conduct.

32. In direct violation of its implied duty of good faith and fair dealing, Defendant engaged in a bad-faith effort to terminate the transaction and deprive Oaktree Capital of the benefit of the Agreement.

33. Defendant's bad-faith conduct includes, but is not limited to, its pattern of deliberate delay and pretextual attempt to convert the contractual "Walk Away Right" into a one-way cancellation option to Plaintiff's detriment.

34. As described above, on information and belief, Defendant intentionally and in bad-faith slow-walked the negotiation process to "run out the clock" on the contractual negotiation period to keep for itself the increasing market value of the Claim and to deprive Plaintiff of the benefit of its bargain.

35. Defendant's breach of the covenant of good faith and fair dealing has caused Plaintiff to be deprived of the benefit of its bargain under the Agreement, including the right to

acquire the IEEPA tariff refund claims on the agreed-upon terms and to realize the economic value of the Definitive Agreement that was, but for Defendant's bad-faith conduct, ready for execution.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment awarding Plaintiff:

1. All damages, in an amount to be proved at trial, for all losses suffered by Plaintiff as a direct and proximate result of BJ's breach of the Agreement.
2. In the alternative, all damages, in an amount to be proved at trial, for all losses suffered by Plaintiff as a direct and proximate result of BJ's breach of the Agreement's implied covenant of good faith and fair dealing.
3. Such other and further relief as this Court deems just and proper.

Dated: April 27, 2026

Respectfully submitted,

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