

IN THE UNITED STATES COURT
OF INTERNATIONAL TRADE

JOHANNA FOODS, INC.

A New Jersey Corporation

20 Johanna Farms Road

Flemington, NJ 08822

and

JOHANNA BEVERAGE COMPANY, LLC

5625 West Thorpe Road

Spokane, WA 99224,

Plaintiffs

V.

EXECUTIVE OFFICE OF THE PRESIDENT
OF THE UNITED STATES OF AMERICA,

UNITED STATES OF AMERICA,

UNITED STATES CUSTOMS AND BORDER
PROTECTION AGENCY,

PETE R. FLORES, in his official capacity as
Acting Commissioner of United States Customs
And Border Protection,

OFFICE OF THE UNITED STATES TRADE
REPRESENTATIVE,

JAMIESON GREER, in his official capacity as
United States Trade Representative, and

HOWARD LUTNICK, in his official capacity as
Secretary of Commerce,

Defendants

Plaintiffs, Johanna Foods, Inc. and Johanna Beverage Company, LLC, by and through undersigned counsel, hereby assert this Complaint for declaratory judgment and to enjoin the unauthorized imposition of tariffs by Defendants on orange juice imports from Brazil to the United States of America in violation of the International Emergency Economic Powers Act and the United States Constitution, and state as follows:

THE PARTIES

The Plaintiffs

1. Plaintiff Johanna Foods, Inc. is a New Jersey corporation with its principal place of business located at 20 Johanna Farms Road, Flemington, New Jersey 08822 (“**Johanna Foods**”).

2. Plaintiff Johanna Beverage Company, LLC is a Washington corporation with its principal place of business located at 5625 West Thorpe Road, Spokane, Washington 99224 (“**Johanna Beverage**”).

3. Plaintiffs are state-of-the-art food manufacturers and one of the country’s largest producers and distributors of fruit juices, drinks and yogurts. *See* the Declaration of Robert Facchina, Chief Executive Officer of Johanna Foods and Johanna Beverage Company is attached as **Exhibit 1**.

4. Operating since 1995 and 2007, respectively, Johanna Foods and Johanna Beverage are the leading private label and co-pack juice supplier and producer, supplying juice products for numerous retailers and brands, including Aldi, Walmart, Sam’s Club, Wegman’s, Safeway and Albertsons.

5. Plaintiffs supply nearly 75% of all private label not from concentrate orange juice customers in the United States, as well as two of the largest branded orange juice producers, making our operations a cornerstone of the national orange juice supply chain. Ex. 1, at ¶12.

The Defendants

6. Defendant Executive Office of the President, located at 1600 Pennsylvania Avenue, N.W., Washington, D.C. 20500, is the federal agency that oversees core functions of the executive branch, including the Office of the United States Trade Representative.

7. Defendant United States of America is the federal government of the United States of America.

8. Defendant United States Customs and Border Protection, with headquarters at 1300 Pennsylvania Avenue, N.W. Washington, D.C. 20229, is a federal agency and a component of the Department of Homeland Security, responsible for, among other things, securing ports of entry and collecting tariffs on imported goods.

9. Defendant Pete R. Flores is the Acting Commissioner of United States Customs and Border Protection, with a place of business at 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. He is sued in his official capacity.

10. Defendant Jamieson Greer is the United States Trade Representative, with a place of business at 600 17th Street, N.W., Washington, D.C. 20508, and is sued in his official capacity.

11. Defendant Office of the United States Trade Representative, headquartered at 600 17th Street, N.W., Washington, D.C. 20508, is the federal agency responsible for developing United States trade policy.

12. Defendant Howard Lutnick is the United States Secretary of Commerce, with a place of business at 1401 Constitution Avenue, N.W., Washington, D.C. 20230, and is sued in his official capacity.

JURISDICTION

13. The Court of International Trade has exclusive jurisdiction to hear this action under 28 U.S.C. §1581(i), which gives the Court:

exclusive jurisdiction of any civil action commenced against the United States, its agencies, or its officers, that arises out of any law of the United States providing for--

(A) revenue from imports or tonnage;

(B) tariffs, duties, fees, or other taxes on the importation of merchandise for reasons other than the raising of revenue;

(C) embargoes or other quantitative restrictions on the importation of merchandise for reasons other than the protection of the public health or safety; or

(D) administration and enforcement with respect to the matters referred to in subparagraphs (A) through (C) of this paragraph and subsections (a)-(h) of this section.

28 U.S.C. §1581(i)(1). *See also*, V.O.S. Selections, Inc. v. United States, 772 F.Supp.3d 1350, 1365-1366 (2025).

14. The Court also has “jurisdiction to consider challenges to the President’s actions in suits against subordinate officials who are charged with implementing the presidential directives”. 28 U.S.C.A. §1581(i); V.O.S. Selections, 772 F.Supp. 3d at 1367, quoting USP Holdings, Inc. v. United States, 36 F.4th 1359, 1366 (Fed. Cir. 2022).

FACTS

A. The Executive Actions

15. On April 2, 2025, the President of the United States (“**President**”) issued Executive Order No. 14257 entitled “Regulating Imports with a Reciprocal Tariff to Rectify Trade Practices that Contribute to Large and Persistent Annual United States Goods Trade Deficits”. Executive Order No. 14257 is attached as **Exhibit 2**.

16. In Executive Order No. 14257, the President declared a National Emergency based on U.S. goods trade deficits and “non-reciprocal differences in tariff rates among foreign partners”. Id.

17. On this basis, the President imposed an *ad valorem* duty of ten percent on all imports from all trading partners, including Brazil. Id.

18. Executive Order No. 14257 applies an additional *ad valorem* duty to the imports of countries listed in the Annex. Id.

19. Brazil is not listed in the Annex and is not subject to an additional *ad valorem* duty under Executive Order No. 14257. Id.

20. Executive Order No. 14257 lists the following statutory bases for the imposition of the tariffs: the International Emergency Economic Powers Act of 1977, 50 U.S.C. §1701 et seq. (“IEEPA”); Section 604 of the Trade Act of 1974, as amended, 19 U.S.C. §2483 (“**Trade Act**”); and Section 301 of title 3, United States Code. Id.

21. On April 9, 2025, the President issued Executive Order No.14266 entitled “Modifying Reciprocal Tariff Rates To Reflect Trading Partner Retaliation And Alignment”, which paused the elevated tariff rates on most countries for 90 days, while leaving the global 10% tariff in place for all countries.

22. On July 7, 2025, the President issued an Executive Order entitled “Extending The Modification of The Reciprocal Tariff Rates”, which extended the suspension of certain tariffs effectuated by Executive Order No. 14266 until August 1, 2025.

B. The Brazil Letter

23. On July 9, 2025, the President issued a letter to Luiz Inacia Lula da Silva, President of the Federative Republic of Brazil (the “**Brazil Letter**”). The Brazil Letter is attached as **Exhibit 3**.

24. Under the auspices of the Brazil Letter, the President imposed a **50% tariff** on “any and all Brazilian products sent to the United States, separate from Sectoral Tariffs,” beginning on August 1, 2025 (“**Brazil Tariff**”). Id.

25. The Brazil Letter states that the 50% tariff may be increased by the amount that Brazil chooses to raise its tariffs on U.S. imports: “[i]f for any reason you decide to raise your Tariffs, then, whatever the number you chose to raise them by, will be added onto the 50% that we charge.” Id.

26. The Brazil Letter identifies the following reasons for imposition of the Brazil Tariff:

- a. “[t]he way that Brazil has treated former President Bolsonaro...”;
b. “Brazil’s insidious attacks on Free Elections, and the fundamental Free Speech Rights of Americans...”; and
c. “the longstanding, and very unfair trade relationship”.

Id.

27. The Brazil Letter does not refer to any legal or statutory authority under which the Brazil Tariff can be imposed by the President.

28. The Brazil Letter does not constitute a proper executive action, is not an Executive Order, does not reference or incorporate any Executive Orders or modify or amend any existing Executive Order.

29. The President did not identify any unusual or extraordinary threat originating outside the United States that is a threat to national security, foreign policy, or the economy of the United States.

30. The President did not declare a national emergency as a basis for imposing the Brazil Tariff.

C. The Economic Harm to Plaintiffs and American Consumers

31. The President's imposition of a 50% (or more) tariff on Brazilian orange juice will cause significant and direct financial harm to Plaintiffs and to American consumers.

32. Brazil is the world's leading producer of orange juice and is the second largest supplier of orange juice to the United States.

33. Currently, more than half of the orange juice sold in the United States comes from Brazil, with eighty percent of NFCOJ imported from Brazil.

34. Plaintiffs chilled and aseptic juice business represents the vast majority of the volume and profitability of the business, with an overwhelming portion of the juice business being orange juice which is wholly reliant on imported not from concentrate orange juice originating in Brazil. Ex. 1, at ¶ 4.

35. Brazil is Plaintiffs' sole supplier of NFCOJ.

36. Plaintiffs receive the orange juice from Brazilian importers of record, who initially pay all duties and tariffs on the product.

37. The duties and tariffs are then passed on, dollar for dollar, by the Brazilian importers to the Plaintiffs.

38. The 50% tariff imposed on Brazil by the Trump administration will significantly impact Plaintiffs' business, resulting in an estimated additional cost of at least \$68 million for a twelve-month period, which exceeds any single year of profits in the 30-year history of the Plaintiffs' business. . Ex. 1, at ¶ 6.

39. The imposition of the 50% tariffs disrupts the Plaintiffs' ability to plan and meet production requirements and manage cash flow, as the additional costs impose an immediate and unmanageable financial burden that cannot be absorbed by our current profit margins. Id. at ¶ 8.

40. Plaintiffs may suffer additional financial harm from the loss of business caused by increased NFCOJ prices and from the tariff's impact on the frozen concentrate futures market.

41. Without relief from these tariffs, Plaintiffs face potential layoffs of union manufacturing employees as well as administrative staff, reduced production capacity, and an existential threat to the sustainability of our business, which supports almost 700 American jobs and contributes significantly to the economies of New Jersey and Washington state. *Id.* at ¶ 11.

42. The increased costs from the Brazil Tariff will force Plaintiffs to raise prices to its customers which in turn will result in an increase to consumers of approximately 20-25% of the retail price. *Id.* at ¶ 10.

43. The Brazil Tariff will result in a significant, and perhaps prohibitive, price increase in a staple American breakfast food.

44. The not from concentrate orange juice ingredients imported from Brazil are not reasonably available from any supplier in the United States in sufficient quantity or quality to meet the Plaintiffs' production needs. Ex. 1, at ¶ 5.

45. Presently, oranges grown in Florida are used primarily for producing orange juice concentrate due to poor quality of the product, with very little of the crop dedicated to NFCOJ.

46. U.S. orange juice production, particularly in Florida, has declined by over 95% in the past 25 years due to factors such as citrus greening disease, hurricanes, and urban development, rendering domestic supply insufficient to meet Plaintiffs' production requirements. Ex. 1, at ¶ 7.

47. Due to weather-related events and crop disease, Florida orange production for 2025 is down approximately 33% from last year's production. *See* USDA December Forecast, which is attached hereto as **Exhibit 4**.

48. It is anticipated that Florida orange production could be the lowest in 95 years and will account for 10% of domestic orange juice for the current season, with Brazil and Mexico supplying 95% of U.S. juice imports. *See* USDA Fruit and Tree Nuts Outlook: March 2025, which is attached hereto as **Exhibit 5**.

COUNT I
THE BRAZIL TARIFF EXCEEDS THE PRESIDENT'S STATUTORY AUTHORITY

49. Plaintiffs incorporate the above paragraphs as though fully set forth herein at length.

50. Through the Brazil Letter, the President intends on imposing a 50%, or more, tariff on all goods imported from Brazil beginning on August 1, 2025.

51. Defendants intend to enforce the Brazil Tariff as detailed in the Brazil Letter.

52. Executive Order No. 14257 and the Brazil Letter exceed the President's lawful authority under IEEPA and are therefore *ultra vires* and contrary to law.

53. IEEPA provides, in pertinent part, that the President may:

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(ii) the importing or exporting of currency or securities, by any person, or with respect to any property, subject to the jurisdiction of the United States;

(B) investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States

50 U.S.C. §1702.

54. The authority provided by IEEPA Section 1702 “may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this chapter and may not be exercised for any other purpose.” 50 U.S.C. §1701(b).

55. In addition, the President must specify:

(a) the circumstances which necessitate such exercise of authority;

(b) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(c) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(d) why the President believes such actions are necessary to deal with those circumstances; and

(e) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

50 U.S.C. § 1703(b).

56. The President does not have the authority under IEEPA to impose the Brazil Tariff. 50 U.S.C. §1701 *et seq.*; V.O.C. Selections, 772 F.Supp. 3d 1350, 1373.

57. The Brazil Letter is not an Executive Order by which the President may impose tariffs on Brazil.

58. The President did not declare a separate national emergency for the imposition of the Brazil Tariff and the Brazil Letter is not a declaration of a national emergency. Ex. 3.

59. In fact, the Brazil Letter identifies the “**longstanding**, and very unfair trade relationship”, rather than an emergent economic issue, as the basis for the Brazil Tariff. *Id.* (emphasis added).

60. The Brazil Letter also does not identify an unusual or extraordinary threat which provides a basis for the imposition of the Brazil Tariff.

61. According to the President, the Brazil Tariff is intended to “deal with” the Brazilian government’s treatment of Mr. Bolsonaro and “Brazil’s insidious attacks on Free Elections, and the fundamental Free Speech Rights of Americans”. Ex. 3.

62. Tariffs which “aim to create leverage to ‘deal with’ objectives other than the balance of trade, are not authorized by IEEPA. *V.O.S. Selections*, 772 F.Supp.3d 1350, 1381.

63. The Brazil Tariff does not “deal with” an imbalance of trade as there is no trade deficit between the United States and Brazil, and in fact, there is a balance of payment surplus”. *See*, Office of The United States Trade Representative, <https://ustr.gov/countries-regions/americas/brazil> (“The U.S. goods trade surplus with Brazil was \$7.4 billion in 2024, a 31.9 percent increase (\$1.8 billion) over 2023”).

64. Where the tariff is imposed on a non-emergency basis, as with the Brazil Tariff, the tariff must comply with the limitations set by Section 122 of the Trade Act of 1974.

65. The Trade Act provides limited authority to the President to impose “temporary import surcharge[s]” to respond to balance-of-payment deficits. 19 U.S.C. §2132.

66. Section 122 of the Trade Act places a 15 percent cap and a maximum duration of 150 days on the tariff. 19 U.S.C. §2132.

67. The Brazil Tariff, which imposes a 50% surcharge on all goods imported from Brazil and has no end date, does not comply with Section 122 of the Trade Act.

68. An unbounded tariff, with no limitation in duration and scope, such as the Brazil Tariff, “exceeds any tariff authority delegated to the President under the IEEPA”. V.O.S. Selections, 772 F.Supp.3d 1350, 1376.

69. Imposition of the Brazil Tariff, and in particular the 50% tariff on NFCOJ, by the Executive Branch and the other Defendants is not authorized by the IEEPA, the tariff is unlawful and the Defendants should be enjoined from enforcing the tariff.

70. The Brazil Tariff directly and irreparably harms Plaintiffs, who will incur substantially increased costs of approximately \$68 million for the purchase of NFCOJ in 2025, thereby materially affecting the viability of Plaintiffs’ business.

71. The Brazil Tariff will also result in significant increased costs for the millions of American consumers who purchase Plaintiffs’ orange juice.

COUNT II
**THE BRAZIL TARIFF IS AN UNCONSTITUTIONAL DELEGATION OF
LEGISLATIVE AUTHORITY TO THE PRESIDENT**

72. Plaintiffs incorporate the above paragraphs as though fully set forth herein at length.

73. The constitutional authority to levy taxes, including customs duties (tariffs), indisputably rests with Congress under Article 1, Section 8 of the U.S. Constitution.

74. Article I, Section 1 of the Constitution provides that “[a]ll legislative powers herein granted shall be vested in a Congress of the United States.” U.S. Const. Art. I, §1.

75. The Trade Act and IEEPA delegated the legislature’s authority to levy tariffs to the President in limited circumstances.

76. Section 122 of the Trade Act places a 15 percent cap and a maximum duration of 150 days on the tariff. 19 U.S.C. §2132.

77. The Brazil Tariff, which is a 50% surcharge on all goods imported from Brazil and has no end date, exceeds the scope of authority provided by the Trade Act.

78. IEEPA allows the President to impose tariffs only if: (1) there is a threat to national security from a source outside the United States; (2) the threat is unusual and extraordinary; (3) a national emergency is declared with respect to the threat; and (4) the Presidents exercise of IEEPA authority “deals with” the threat. 50 U.S.C. §1703.

79. Executive Order No. 14257 and the Brazil Letter exceed the scope of authority provided by Congress to the President in the IEEPA.

80. Executive Order No. 14257 and the Brazil Letter do not identify a threat to national security from Brazil, there is no unusual or extraordinary threat identified in the Brazil Letter, the President did not declare a national emergency in connection with the Brazil Tariff, and the Brazil Tariff is intended as economic leverage over political issues and does not deal with any trade issues.

81. Executive Order No. 14257 and the Brazil Letter, therefore, constitute an unconstitutional delegation of legislative authority to impose the Brazil Tariff.

82. The Brazil Tariff illegally imposed by the President via the unconstitutional delegation of authority under IEEPA directly and irreparable harms Plaintiffs, who will face increased costs for the goods they sell, less demand for their higher prices products and disrupted supply chains, and will materially affect the viability of Plaintiffs’ business operations.

COUNT III **DECLARATORY JUDGMENT**

83. Plaintiffs incorporate the above paragraphs as though fully set forth herein at length.

84. The Declaratory Judgment Act permits a Court, to “declare the rights and other legal relations of any interested party seeking such declaration,” provided there exists “a case of actual controversy within its jurisdiction.” 28 U.S.C. §2201(a).

85. To obtain declaratory relief, a plaintiff must demonstrate: “(1) an injury in fact that is concrete and particularized; (2) a causal connection between the injury and the challenged conduct; and (3) a likelihood that the injury will be redressed by a favorable judicial decision.” Barclift v. Keystone Credit Servs., LLC, 93 F.4th 136, 141 (3d Cir. 2024) (citing In re Horizon Healthcare Servs. Inc. Data Breach Litig., 846 F.3d 625, 633 (3d Cir. 2017)).

86. Plaintiffs seek a declaration that:

- a. IEEPA does not grant the President statutory authority to impose the Brazil Tariff;
- b. The President has failed to identify a threat from outside the United States to national security, foreign policy or the economy of the United States;
- c. The President has failed to make a showing of an “unusual and extraordinary threat” as required by the IEEPA to impose the Brazil Tariff;
- d. the President has not identified or declared a national emergency as required by the IEEPA to impose the Brazil Tariff;
- e. The Brazil Tariff far exceeds statutory authority provided by Congress to the President and, therefore, the Brazil Tariff is an unconstitutional delegation of power by Congress to the President.

87. Plaintiffs will suffer concrete, particularized and significant financial harm as a result of the Brazil Tariff, including an additional \$68 million to purchase NFCOJ from Brazil in 2025, loss of business from increased orange juice prices, and adverse impacts on the concentrate futures market. Ex. 1., ¶ 6.

88. The Brazil Tariff will also affect the continued viability of Plaintiffs’ business operations.

89. Without relief from these tariffs, the Plaintiffs face potential layoffs of union manufacturing employees as well as administrative staff, reduced production capacity, and an existential threat to the sustainability of our business, which supports almost 700 American jobs and contributes significantly to the economies of New Jersey and Washington state. Ex. 1, at ¶11.

90. Plaintiffs will only suffer the significant harm identified above if the Brazil Tariff is implemented and enforced by Defendants.

91. The harm to Plaintiffs will be redressed by a judicial decision declaring that the Brazil Tariff exceeds the President's authority under IEEPA and/or that the Brazil Tariff is unconstitutional.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Johanna Foods, Inc. and Johanna Beverage Company, LLC respectfully request that the Honorable Court grant the following relief:

- a. Declare that IEEPA does not grant the President statutory authority to impose the Brazil Tariff;
- b. Declare that the President has not identified a national emergency as required by IEEPA to impose the Brazil Tariff;
- c. Declare that the President has failed to make a showing of an "unusual and extraordinary threat" from outside the United States to the national security, foreign policy or economy of the United States as required by IEEPA to impose the Brazil Tariff;
- d. Declare that the Brazil Tariff is an unconstitutional delegation of power by Congress to the President;
- e. Enjoin the operation of the April 2, 2025 Executive Order and the President's Letter with regard to the Brazil Tariff;
- f. Award Plaintiffs damages in the amount of any tariffs collected by Defendants pursuant to Executive Order No. 14257 and/or the Brazil Letter;
- g. Award Plaintiffs other such damages as are appropriate;
- h. Award Plaintiffs their attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. §2412(d), and any other applicable law; and

- i. Grant any such other relief as this Court may deem just or proper.

Respectfully Submitted,

KAPLIN STEWART MELOFF REITER & STEIN, PC

/s/ Marc B. Kaplin

Marc B. Kaplin, Esquire
Sandhya M. Feltes, Esquire
Amy L. SantaMaria, Esquire
James N. Hendershot, Esquire
910 Harvest Drive
PO Box 3037
Blue Bell PA 19422-0765
610-260-6000
mkaplin@kaplaw.com
sfeltes@kaplaw.com
asantamaria@kaplaw.com
jhendershot@kaplaw.com
Attorneys for Plaintiffs

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