



Supreme Court Review of Kalshi Dispute Is Likely, Daniel Davis Tells *Benzinga*

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As reported by *Benzinga*, Daniel Davis, Partner and Financial Markets and Regulation Chair, weighed in on the escalating legal battle over sports-event contracts and prediction markets. Three federal appeals courts have now issued conflicting rulings in the dispute, which raises the prospect of a Supreme Court showdown over prediction markets. Dan, the former general counsel of the Commodity Futures Trading Commission (CFTC), said the case has several features that favor Supreme Court review: the appeals courts are divided, the federal government is involved, and litigation is underway across the country. “I think there's a very good chance you get Supreme Court review.”

Dan also cautioned that a ruling from the Court may not end the uncertainty for prediction markets. “A Supreme Court ruling would answer a lot, but I don't think it settles everything,” he said. On what could decide the case, Dan said the outcome may turn on the Court's interpretive approach. “If [the Supreme Court] sticks to the language of the Commodity Exchange Act, the CFTC has a good shot at exclusive jurisdiction,” Dan explained. “But if it focuses on the states' traditional role in regulating gambling, the odds shift toward the states.” If the Court sides with the states, Dan said exchanges, brokers, and other firms would have to determine where they can continue offering these contracts.

Dan also discussed the CFTC's October 9 proposal to define sports and other event contracts as swaps. He noted that a future administration could take a more restrictive approach to event contracts. Finalized rules would be harder to reverse, he said, and legislation from Congress would be even more durable.

[“Supreme Court Has 'Very Good Chance' of Taking Kalshi Legal Fight, Former CFTC Counsel Says,”](#)
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