

Chaset v. Fleer/Skybox Int'l

300 F.3d 1083 (9th Cir. 2002)

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In eight consolidated cases, purchasers of trading cards brought suit against the manufacturers and distributors. Trading card products consist of a base set of cards. Most of these products also included smaller sets of "insert" or "trade" cards. These insert cards are more rare than base cards and therefore are more desirable to card collectors. Packaging on the trading cards usually state the odds of receiving an insert card in a given base card pack. Additionally, there is a disclaimer stating the advertised odds are an average and are not guaranteed. The purchasers alleged the random inclusion of limited edition cards in packages of otherwise randomly assorted sports and entertainment trading cards constituted unlawful gambling in violation of the Racketeer Influenced and Corrupt Organizations Act ("RICO"). The Ninth Circuit Court of Appeals affirmed the district court's decision to grant defendants' motion to dismiss, holding that the purchasers did not have standing because they were not injured in their business or property pursuant to RICO.

A successful RICO claim requires a plaintiff to prove the defendant engaged in conduct of an enterprise through a pattern of racketeering activity and show that the defendant caused injury to plaintiff's business or property. In regards to injury, plaintiff must show his injury was proximately caused by the prohibited conduct and he has suffered a concrete financial loss. To demonstrate injury, plaintiff must show proof of concrete financial loss and not merely injury to a valuable tangible property interest.

Here, the trading card purchasers did not suffer the requisite injury when they did not receive an insert card. They received value for what they paid as a purchase price: eight or 10 cards, one of which might be an insert card. The disappointment in not finding an insert card in the package is not an injury to property. Therefore, the purchasers lack standing to sue under RICO.

Consequently, the Ninth Circuit Court of Appeals affirmed the district court's decision.