UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Callan v. State Chemical Manufacturing Co.

584 F. Supp. 619 (E.D. Pa. 1984) · No. Civ. A. No. 83-4317 · Decided March 27, 1984

SUMMARY

The court considers a motion to dismiss plaintiffs' civil RICO claims arising from their discharge after refusing to participate in the defendant's alleged commercial bribery scheme. It holds that the plaintiffs have standing and adequately alleged injury by reason of a RICO violation, but limits recoverable damages to injuries to business or property, excluding mental anguish, loss of self-esteem and confidence, and reputational harm. The court also permits the alleged RICO conspiracy involving the corporation, its employees, agents, and others to proceed.

CASE DETAILS

COURT	United States District Court for the Eastern District of Pennsylvania
WRITING FOR THE COURT	Newcomer, District Judge
JURISDICTION	Pennsylvania
DECIDED	March 27, 1984
DOCKET	Civ. A. No. 83-4317
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to dismiss the plaintiffs' first cause of action seeking treble damages under civil RICO for lack of standing, failure to allege injury caused by a RICO violation, and failure to state a RICO conspiracy claim.
STANDARD OF REVIEW	On a motion to dismiss, the court accepted the complaint's factual allegations as true and assessed whether the allegations stated a claim for relief under RICO.
PRECEDENTIAL VALUE	Published district court memorandum opinion; persuasive authority within the district and not binding precedent outside the court.
PARTIES	Leonard Callan, et al. v. State Chemical Manufacturing Co.

TOPICS

commercial litigation · employment law · remedies · damages · statutory interpretation

PRACTICE AREAS

RICO | commercial litigation | employment law | remedies

QUESTIONS PRESENTED

1. Whether employees who alleged discharge and lost income resulting from an employer's operation through a pattern of commercial bribery had standing to sue for treble damages under civil RICO.
2. Whether the plaintiffs' alleged lost income and discharge-related losses were injuries to business or property sustained by reason of a RICO violation.
3. Whether mental anguish, loss of confidence and self-esteem, and damage to professional reputation and standing were compensable as injuries to business or property under 18 U.S.C. § 1964(c).
4. Whether a RICO conspiracy claim may be based on an alleged conspiracy between a corporation, its employees, agents, and others.

HOLDINGS

1. Civil RICO standing under 18 U.S.C. § 1964(c) is not limited to owners, customers, or competitors of a business infiltrated by organized crime, and the plaintiffs' lack of alleged competitive injury did not require dismissal.
2. The plaintiffs adequately alleged that their lost income and discharge resulted from State Chemical's conduct of its affairs through a pattern of racketeering activity, satisfying § 1964(c)'s by-reason-of requirement.
3. Civil RICO does not permit treble-damage recovery for mental anguish, loss of confidence or self-esteem, or damage to professional reputation and standing because those injuries are not injuries to business or property under § 1964(c).
4. The plaintiffs adequately pleaded a RICO conspiracy under § 1962(d) by alleging that State Chemical conspired with its employees, agents, and others; the court declined to adopt a rule categorically barring such a conspiracy between a corporation and its agents.

KEY QUOTATIONS

> *"Although courts may be concerned that the statute cuts too broad a swath, it lies with Congress to narrow its scope."* (622)

> *"The statute was conceived not as a shield for those injured, but rather as a sword to be used against organized crime."* (622-623)

> *"What allegedly injured the plaintiffs was the fact that State Chemical adopted commercial bribery as a mandatory sales technique."* (623)

FACTUAL BACKGROUND

State Chemical sold cleaners and other building-maintenance products through a sales system allegedly requiring representatives to give cash and merchandise to employees of customers responsible for purchasing maintenance chemicals. The plaintiffs, experienced salesmen recruited to join State Chemical in 1981, refused to offer bribes and were discharged in retaliation. They alleged lost income, injury to reputation and professional standing, mental anguish, and loss of self-esteem.

PROCEDURAL HISTORY

Plaintiffs, former sales representatives of State Chemical, filed a civil RICO claim alleging that they were discharged for refusing to participate in the company's commercial-bribery scheme. State Chemical moved to dismiss. The district court denied the motion in substantial part but dismissed the portions of the damages claim seeking recovery for mental anguish, loss of confidence and self-esteem, and injury to professional reputation and standing.

DISPOSITION

other

CASES CITED

- Cenco, Inc. v. Seidman & Seidman, 686 F.2d 449 (7th Cir. 1982)
- Alexander Grant & Co. v. Tiffany Industries, Inc., 563 F. Supp. 35 (E.D. Mo. 1982)
- Earlbaum v. Earlbaum, 1982 Fed. Sec. L. Rep. (CCH) ¶ 98,772 (E.D. Pa. 1982), appeal dismissed, 709 F.2d 1491 (3d Cir. 1983)
- Van Schaick v. Church of Scientology of California, Inc., 535 F. Supp. 1125 (D. Mass. 1982)
- Bennett v. Berg, 685 F.2d 1053 (8th Cir. 1982)
- Kimmel v. Peterson, 565 F. Supp. 476 (E.D. Pa. 1983)
- Landmark Savings & Loan v. Rhoades, 527 F. Supp. 206 (E.D. Mich. 1982)
- Mauriber v. Shearson/American Express, Inc., 567 F. Supp. 1231 (S.D.N.Y. 1983)
