

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Biederman v. FCA US LLC

Biederman · No. 23-cv-06640-JSC · Decided May 1, 2025

SUMMARY

The Northern District of California denied plaintiffs’ motion for reconsideration of the dismissal of their civil RICO claim against Cummins. The court held that the Supreme Court’s decision in Medical Marijuana, Inc. v. Horn did not alter its prior conclusion that Illinois Brick bars indirect purchasers from bringing civil RICO claims under 18 U.S.C. § 1964(c). The court granted certification for an interlocutory appeal under 28 U.S.C. § 1292(b), finding a controlling legal question, substantial grounds for difference of opinion, and potential material advancement of the litigation.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jacqueline Scott Corley
JURISDICTION	United States District Court for the Northern District of California
DECIDED	May 1, 2025
DOCKET	23-cv-06640-JSC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for reconsideration of the court's interlocutory order dismissing their civil RICO claim against Cummins without leave to amend and moved for certification of an interlocutory appeal under 28 U.S.C. § 1292(b).
STANDARD OF REVIEW	A motion to reconsider an interlocutory order is governed by Civil Local Rule 7-9(b) and Federal Rule of Civil Procedure 54(b), requiring a material difference in fact or law, newly emerged material facts or a change in law, or a manifest failure to consider material facts or dispositive legal arguments. Interlocutory appeal certification under 28 U.S.C. § 1292(b) requires a controlling question of law, substantial ground for difference of opinion, and an appeal that may materially advance the ultimate termination of the litigation.
PRECEDENTIAL VALUE	Unknown

PARTIES

Frank Biederman, et al. v. FCA US LLC, et al.

TOPICS

motion for reconsideration

interlocutory appeal

appellate procedure

statutory interpretation

commercial litigation

PRACTICE AREAS

civil procedure

appellate procedure

statutory interpretation

commercial litigation

QUESTIONS PRESENTED

1. Whether the court should reconsider its interlocutory order dismissing plaintiffs' civil RICO claim based on *Medical Marijuana, Inc. v. Horn*.
2. Whether the question whether Illinois Brick applies to claims under 18 U.S.C. § 1964(c) presents a controlling question of law.
3. Whether substantial ground exists for a difference of opinion on the applicability of Illinois Brick to civil RICO claims.
4. Whether an interlocutory appeal may materially advance the ultimate termination of the litigation.

HOLDINGS

1. Reconsideration was not warranted because *Medical Marijuana, Inc. v. Horn* addressed a different civil RICO issue and did not undermine the court's prior application of the Illinois Brick indirect-purchaser rule to plaintiffs' claims.
2. The question whether Illinois Brick applies to civil RICO claims under 18 U.S.C. § 1964(c) is a controlling question of law because its resolution could materially affect the outcome and scope of the litigation.
3. Substantial ground for a difference of opinion existed regarding whether Illinois Brick applies to civil RICO claims under § 1964(c), even though the federal courts of appeals that had addressed the issue had uniformly applied Illinois Brick.
4. An interlocutory appeal may materially advance the litigation because early resolution could simplify case management, conserve judicial and party resources, avoid additional class proceedings, and potentially avoid a retrial.

KEY QUOTATIONS

“As long as a district court has jurisdiction over the case, then it possesses the inherent procedural power to reconsider, rescind, or modify an interlocutory order for cause seen by it to be sufficient.” (at 2)

“Stated another way, when novel legal issues are presented, on which fair-minded jurists might reach contradictory conclusions, a novel issue may be certified for interlocutory appeal without first awaiting development of contradictory precedent.” (at 6)

FACTUAL BACKGROUND

Plaintiffs purchased RAM 2500 and 3500 pickup trucks from third-party dealerships. They alleged that the trucks contained defeat devices affecting diesel-engine emissions and performance and asserted civil RICO and other claims against FCA US LLC and Cummins Inc. Dismissal of the civil RICO claim narrowed the putative class from a potential nationwide class to a single-state class and eliminated the possibility of treble damages under that claim.

PROCEDURAL HISTORY

Plaintiffs brought a putative class action concerning alleged defeat devices in diesel-powered RAM trucks and asserted 11 causes of action against FCA US LLC and Cummins Inc. The court previously granted in part and denied in part defendants' motions to dismiss, including granting Cummins' Rule 12(b)(6) motion to dismiss the civil RICO claim without leave to amend. Plaintiffs sought reconsideration based on the Supreme Court's decision in *Medical Marijuana, Inc. v. Horn* and sought certification of an interlocutory appeal concerning whether Illinois Brick applies to civil RICO claims. The court denied reconsideration but granted certification under § 1292(b).

DISPOSITION

other

CASES CITED

- *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977)
- *Medical Marijuana, Inc. v. Horn*, 145 S. Ct. 931 (2025)
- *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 497 (1985)
- *Holmes v. Securities Investor Protection Corp.*, 503 U.S. 258 (1992)
- *Associated Gen. Contractors of California, Inc. v. California State Council of Carpenters*, 459 U.S. 519, 543-44 & n.50 (1983)
- *Hanover Shoe, Inc. v. United Shoe Machinery Corp.*, 392 U.S. 481 (1968)
- *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 885-86 (9th Cir. 2001)
- *Melancon v. Texaco, Inc.*, 659 F.2d 551, 553 (5th Cir. 1981)
- *ICTSI Oregon, Inc. v. International Longshore & Warehouse Union*, 22 F.4th 1125, 1130-31 (9th Cir. 2022)
- *In re Cement Antitrust Litig.* (MDL No. 296), 673 F.2d 1020, 1026-27 (9th Cir. 1981)
- *Friedman v. 24 Hour Fitness USA, Inc.*, No. CV 06-6282 AHM CTX, 2009 WL 545783, at *1 (C.D. Cal. Mar. 3, 2009)
- *Johnson v. Serenity Transportation, Inc.*, No. 15-CV-02004-JSC, 2017 WL 3168491, at *1-2 (N.D. Cal. July 26, 2017)
- *Reese v. BP Exploration (Alaska) Inc.*, 643 F.3d 681, 688 (9th Cir. 2011)
- *Fenner v. General Motors, LLC*, 113 F.4th 585, 604-05 & n.6 (6th Cir. 2024)
- *MSP Recovery Claims, Series LLC v. Lundbeck LLC*, 130 F.4th 91, 111 n.11 (4th Cir. 2025)

- Lovett v. Omni Hotels Management Corp., No. 14-CV-02844-RS, 2016 WL 7732622, at *3 (N.D. Cal. Apr. 18, 2016)
- Elorreaga v. Rockwell Automation, Inc., No. 21-CV-05696-HSG, 2023 WL 4116623, at *2 (N.D. Cal. June 16, 2023)

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