

22-383 CMB MONACO V. SMAGIN

DECISION BELOW: 37 F.4th 562

LOWER COURT CASE NUMBER: 21-55537

QUESTION PRESENTED:

In *RJR Nabisco, Inc. v. European Community*, 579

U.S. 325 (2016), this Court held that a plaintiff proceeding under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 et seq., must plead and prove a "domestic" injury to maintain a claim in U.S. court. Following *RJR Nabisco*, the courts of appeals have split on the issue of where a foreign plaintiff suffers its injury to its intangible property for purposes of the domestic-injury inquiry. On one hand, the Seventh Circuit correctly holds that the foreign plaintiff suffers its injury abroad. On the other, the court below and Third Circuit have adopted an open-ended balancing test to determine the location of the plaintiff's injury. Incorrectly applying that standardless test in reference to defendants' conduct, the Ninth Circuit held below that the plaintiff had suffered a domestic injury, even though he is a foreign resident with no alleged connection to the U.S.

The question presented therefore is:

Whether a foreign plaintiff with no alleged connection to the United States may nevertheless allege a "domestic" injury under *RJR Nabisco* sufficient to maintain a RICO action based only on injury to intangible property.

CONSOLIDATED WITH 22-381 FOR ONE HOUR ORAL ARGUMENT

CERT. GRANTED 1/13/2023