

Winston Persuades Ninth Circuit to Resurrect RICO Claims in Garlic Case

JANUARY 23, 2019

A Winston team secured an important victory in the Ninth Circuit, reversing the dismissal of our clients' civil RICO claims and allowing them to proceed. Winston represents Zhengzhou Harmoni Spice Co., Ltd. and its parent company, Harmoni International Spice, Inc. (together, Harmoni), in a suit against a group of Chinese garlic exporters (Defendants) who engaged in a scheme to destroy Harmoni's business and reputation and defraud the Department of Commerce in order to secure a larger share of the United States garlic market.

Winston filed suit in January 2016, alleging, among other things, that Defendants filed a sham administrative review request against Harmoni with the Department of Commerce. In June 2017, the Central District of California found that Harmoni had adequately pled three of RICO's four elements but dismissed the complaint on the grounds that Harmoni had failed to adequately allege that its injuries—including out-of-pocket expenses, lost sales, and reputational harm—had been proximately caused by Defendants' illegal and fraudulent conduct. Harmoni appealed to the Ninth Circuit, and argument was held on October 12, 2018.

In January 2019, in a decision that largely tracked Winston's arguments, the Ninth Circuit reversed the lower court's decision. The court held that Harmoni adequately alleged that the expenses it incurred during the administrative review process were directly and proximately caused by Defendants' request, allowing those claims to proceed immediately. The court further noted that Harmoni may be able to allege that its lost sales and reputational harm were a proximate result, and that the lower court should have allowed Harmoni an opportunity to plead more specific allegations. The court granted Harmoni leave to amend its complaint and remanded the case back to the lower court.

The Winston team included Partners Jeffrey Kessler, Seth Farber, George Mastoris, John Schreiber, and Diana Hughes Leiden; Associates Jeff Wilkerson, Shawn Obi, and Lauren Duxstad. George Mastoris argued the appeal on behalf of Harmoni.

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