

## Court Holds NCAA Ticket Allocation Process Not an Illegal Lottery

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A class action lawsuit was filed against the NCAA alleging that the NCAA's method of ticket distribution constitutes an illegal lottery. Due to the significant demand for many NCAA events, the NCAA provides a ticket distribution method whereby those seeking to purchase tickets submit the face value of the tickets along with a nonrefundable handling fee, and the NCAA then randomly selects those who then receive the right to purchase the tickets. If a would-be purchaser is not selected, the applicant receives a refund of the ticket price, but does not receive a refund of the handling fee.

After the district court dismissed the plaintiff's case for failure to state a claim, the Seventh Circuit reversed, granted the NCAA's petition for rehearing, and then certified the question of whether NCAA's ticket-allocation method constituted an illegal lottery to the Indiana Supreme Court. The Indiana Supreme Court ultimately concluded that the NCAA's ticket-allocation process was not an illegal lottery under Indiana law because "no prize was awarded to those applicants who received the opportunity to purchase tickets." The Indiana Supreme Court reasoned that at the time would-be purchasers submitted their applications to purchase tickets; the fair-market value of the tickets was equal to the face value of the tickets. As such, there was no "prize" awarded to those whose offers to purchase tickets at face value were randomly accepted by the NCAA.

**TIP: Continue to take care before providing consumers a benefit on the basis of chance in exchange for consideration. Notably, the Indiana Supreme Court specifically stated that "our holding would not prevent a prosecutor or plaintiff from attacking a similarly structured scheme that is merely a ruse for a traditional lottery."**

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