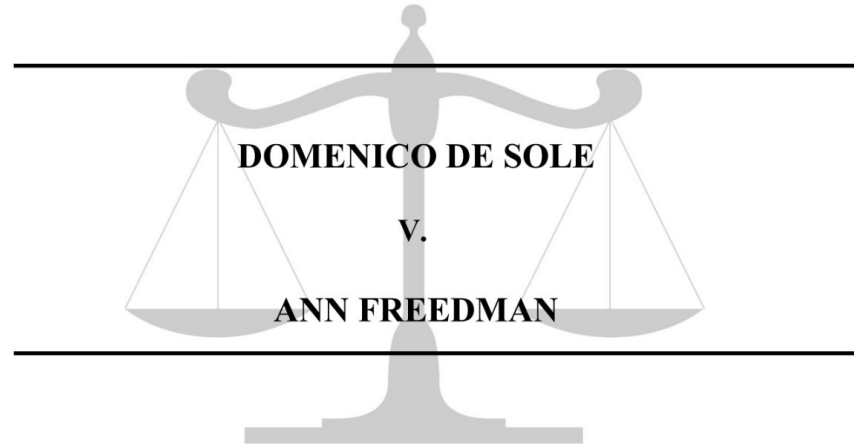


How to Read a Case

THE CASE OF
"IT'S ALL GUICCI"



Parts of a Case: The Complaint + Response

The complaint explains:

- What the plaintiff says happened
- What the defendant allegedly did wrong
- What laws the defendant allegedly violated
- What damages or relief the plaintiff wants

The response is the defendant's formal response to the complaint.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOMENICO DE SOLE,
Plaintiff,

v.

ANN FREEDMAN
Defendant.

No. 12 Civ. 2313 (PGG)

COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, DOMENICO DE SOLE, hereinafter referred to as Plaintiff, for his complaint against defendant Ann Freedman, alleges as follows on knowledge as to himself and his own acts and acts he witnessed and information and belief as to all other matters:

...

VI.

CAUSE OF ACTION

6.01 Mr. Domenico De Sole brings this cause of action under 18 U.S. Code § 1964 (c) authorizing suit as a person injured in his business or property by reason of a violation of section 1962. Defendant violated federal code 18 U.S.C. § 1962(c) by conducting or participating in the conduct of an enterprise's affairs through a pattern of racketeering activity when said enterprise was engaged in interstate commerce.

6.02 Defendant, the Knoedler Gallery, Michael Hammer, 8-31 Holdings, Glafira Rosales, Jose Carlos Bergantinos Dias, and Jamie Andrade were involved in an enterprise whose activities affected interstate commerce as physical artwork, monetary funds, and fraudulent messages were transferred or conveyed from one state to another. The enterprise lasted for over a decade and had an ascertainable structure. Defendant, a Director and the President of Knoedler, was a critical and willing participant in the racketeering scheme at issue. Defendant enabled the enterprise to thrive by lending her name and reputation, as well as Knoedler's, to fraudulent sales of forged artworks.

6.03 Defendant's racketeering activities constituted a violation of 18 U.S.C. § 1962 (c) and 18 U.S.C. § 1964 (c).



Parts of a Case: The Applicable Law

The applicable law tells you:

- The legal claim or criminal charge
- The elements that must be proven
- The burden of proof
- Definitions of important legal terms that are relevant to the trial

APPLICABLE FEDERAL STATUTES

Civil Cause of Action:

18 U.S. Code § 1964 (c) Any person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee.

Section 1962:

18 U.S. Code § 1962 (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

Definitions for 1962 found in 18 U.S. Code § 1961:

- (1) "racketeering activity" means ... (B) any act which is indictable under any of the following provisions of title 18, United States Code: ... section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), ... if the act indictable under such section of such Act was committed for the purpose of financial gain.
- (4)"enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;
- (5)"pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

Criminal Violations:

18 U.S. Code § 1341 Mail Fraud - Whoever, having devised or intending to devise any scheme or artifice to

Parts of a Case: Stipulated Facts

Stipulated facts are facts that both sides agree are true.

- Help make the trial process more efficient by eliminating the need to present evidence or argue points that both sides agree upon.
- Save time and prevent redundancy in the trial.

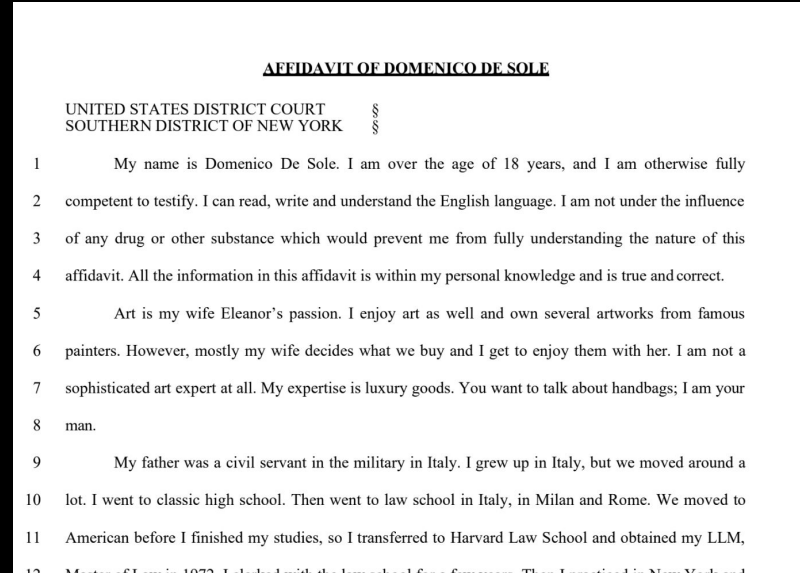
STIPULATED FACTS

- (1) The Knoedler Gallery is an art gallery and art dealer formerly located at 19 East 70th Street, New York, New York. The Knoedler has been in operation since it was founded in 1846 – before the American Civil War. At the time of the purchase of the painting at the center of this suit, Knoedler was the oldest art gallery in New York City and was highly respected worldwide. The Knoedler Gallery ceased operation in December 2011.
- (2) 8-31 Holdings, Inc. is a holding company for The Knoedler Gallery and a few other art galleries. Michael Hammer is the President and owner of 8-31 Holdings.
- (3) Ann Freedman began working at Knoedler in the 1970s and was the President of Knoedler from 2001 to October 2009. During this period, she was employed and paid by 8-31 Holdings.
- (4) In the mid-1990s, Knoedler employee Jaime Andrade persuaded Long Island art dealer Glafira Rosales to bring a collection of previously unknown “masterworks” to Ann Freedman and Knoedler. Rosales brought two works she claimed were previously undiscovered works by the artist Richard Diebenkorn. Shortly after these works came to Knoedler, Freedman showed them to representatives of Diebenkorn’s family and estate, who immediately expressed reservations about the provenance of these works. Rosales claimed these initial works were held by a collector in Spain.
- (5) Rosales informed Freedman that she had another client wishing to sell a collection of works that the client’s father amassed. The following statements are Rosales’ claims about the client. When she was a child in Mexico, Rosales met the client’s parents who were European Jewish immigrants to Mexico. The husband traveled to the United States extensively between the 1940s and the 1970s, and, on those trips, bought a number of artworks directly from many now world-famous abstract expressionist artists, including Mark Rothko, Jackson Pollock, and Robert Motherwell. The couple died in the early 1990s and these works were bequeathed to their children, who reside in Mexico and Switzerland. Said children are uninterested in art and wished to sell the art while remaining strictly anonymous. They were not in a hurry to sell the artwork and were only willing to release a few pieces at a time.

Parts of a Case: Affidavits

An affidavit is the witness's written statement. It tells you..

- Who the witness is
- What the witness personally saw, heard, or did
- Opinions the witness may give
- Facts that help each side
- Weaknesses or inconsistencies in the witness's story



In this case, the plaintiff witnesses include: Domenico De Sole, David Anfam, and Jamie Martin. The defense witnesses include: Ann Freedman, Stephen Polcari, and Laili Nasr

Parts of a Case: Exhibits

Exhibits are physical or documentary pieces of evidence.

- Helps the witness explain their testimony
- Allows the jury to understand or visualize what they are saying.
- In a mock trial, the effective use of exhibits can significantly impact how your performance is scored.

Rosales Works (1994-2008)			
	To KNOEDLER: Sep. 29, 1999 ARTIST "Pollock" SOLD: Apr. 8, 2000 PURCHASER: Harvey White KNOEDLER PAYS: \$670,000 SALE PRICE: \$3,100,000 GROSS PROFIT: \$2,430,000 (362%)		To KNOEDLER: Feb 1, 2000 ARTIST "Kline" SOLD Mar 3, 2000 PURCHASER: Mr & Mrs John Sandelman KNOEDLER PAYS \$475,000 SALE PRICE \$900,000 GROSS PROFIT: \$425,000(89%)
	To KNOEDLER: Apr. 25, 2000 ARTIST "Pollock" SOLD: Dec 21, 2001 PURCHASER: Jack Levy KNOEDLER PAYS: \$750,000 SALE PRICE: \$2,000,000 (returned) GROSS PROFIT: \$500,000 (66%)* *Reflects later investment by David Mirvish		To KNOEDLER: Jul. 2000 ARTIST "Still" SOLD Dec. 19, 2000 PURCHASER: Jack & Fran Levy KNOEDLER PAYS: \$300,000 SALE PRICE \$750,000 GROSS PROFIT: \$450,000(150%)
and Ann Freedman			
	To KNOEDLER: N/A ARTIST "Motherwell" SOLD: Aug. 1, 2000 PURCHASER: Ann & Robert Freedman SALE PRICE: \$15,000		To KNOEDLER: N/A ARTIST "Pollock" SOLD Sep. 1, 2000 PURCHASER: Ann & Robert Freedman



Steps to Reading a Case

Everyone reads and processes information differently. However this is the method that we suggest:

- Read the case once without annotating in order to full understand the case.
- Read the case for a second time with the Plaintiff in mind
 - Ask yourself: “How does this witness prove the claims”
 - Take note of/highlight in green all of the things in the affidavit that prove the claims
- Read the case for a third time with the Defense in mind
 - Ask yourself: “How does this witness disprove the claims?”
 - Take note/highlight in yellow all of the things in the affidavit that go towards the defenses.

Note: Each witness can help both sides. The goal is to understand how the same fact can be argued differently.

