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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE VALADEZ; BABITA VALADEZ,

Plaintiffs - Appellees,

v.

RUBEN AGUALLO; PAUL GREGORIO,

Defendants - Appellants.

No. 10-15058

D.C. No. 5:08-cv-03100-JW

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
James Ware, District Judge, Presiding

Argued and Submitted February 15, 2011  
San Francisco, California

Before: SCHROEDER, THOMAS, and GOULD, Circuit Judges.

Ruben Aguallo and Paul Gregorio appeal the district court's judgment, after jury trial, in favor of plaintiffs Jose and Babita Valadez in their action alleging claims under RICO, and for extortion and intentional infliction of emotional distress.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

The evidence established that appellees were engaged in interstate commerce through their rental car upholstery repair and interior cleaning business; their conduct need not have more than a *de minimis* effect on interstate commerce. *See United States v. Atcheson*, 94 F.3d 1237, 1241 (9th Cir. 1996). The fraud verdict was not inconsistent with the verdicts on the other counts because the fraud claim had different elements. The jury's award of nominal damages on the RICO claim supported the award of the attorney's fees, which are mandatory when a violation of RICO is established. *See* 18 U.S.C. § 1964(c).

**AFFIRMED.**