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## Chicago Cubs Resolve World Series Collectibles Dispute

By **Lauraann Wood**

Law360 (January 5, 2021, 8:18 PM EST) -- A Michigan man and the Chicago Cubs baseball team told an Illinois federal judge Monday that they've ended their legal dispute over a 2016 World Series collectible that allegedly copied a design the man had created in 1984.

Plaintiff Daniel Fox and the Cubs didn't detail any terms of their resolution in a stipulated dismissal of the case. They asked U.S. District Judge Robert Gettleman to permanently dismiss the copyright infringement claims Fox had launched over the MLB team's ivy-themed World Series collectible and said each side will bear its own legal costs.

In late November, Fox asked the court to pause briefing on the Cubs' request that he dismiss the case, according to court records. A settlement had been made in principle at the time, and staying the parties' dismissal briefing requirements allowed them to finalize their deal, court records say.

Representatives for both sides didn't immediately respond Tuesday to a request for comment.

Fox created his 1984 collectible — a 5-by-7-inch rectangular sculpture with a single ivy leaf from Wrigley Field's outfield wall encased in a block of clear resin — under a licensing agreement in which he would give the Cubs 10% of its future sales in exchange for using its trademarks, the leaves and the team's official logo, according to **his 2018 lawsuit**.

However, when Fox inquired in 2015 after a successful season about producing a version of the collectible for that year, the Cubs declined, he claimed. The team then began selling its own encased-ivy sculpture bearing a "striking" similarity to his design after its 2016 World Series win, Fox alleged.

Interest in the collectibles waned after 2001, when the team didn't make the World Series or better its 1984 finish, Fox's suit said. The team told Fox it would reserve the commemorative objects for "truly memorable years," he claimed.

Fox claimed that he denied a request by the team in 2001 to help it market a "variation" of the commemorative ivy sculpture without compensating him or obtaining a license. Cubs executives and counsel for the Tribune Co., which then owned the Cubs, told Fox at the time that the team's version wouldn't violate his intellectual property rights, but he responded that he would take legal action if the Cubs acted on their plan to sell an alternative, according to his complaint.

Fox alleged copyright infringement and unjust enrichment against the ball club, seeking a finding of willful infringement, damages and a court order barring the Cubs from reproducing, displaying or selling his commemorative sculpture, the team's 2016 version or any substantially similar product.

The team **blasted Fox's claims** in September, arguing the facts and law surrounding his suit "overwhelmingly" proved that he has no copyright to enforce over his 1984 commemorative item. The Cubs also argued that even if Fox's sculpture could be copyrighted, its 2016 collectible wasn't similar enough to have infringed.

Fox is represented by Terence Brennan.

The Cubs are represented by Kalpesh Shah and Theresa Starck of Benesch Friedlander Coplan & Aronoff LLP.

The case is Fox v. Chicago Cubs Baseball Club LLC, case number 1:19-cv-06658, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Celeste Bott. Editing by Andrew Cohen.

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