

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI DADE COUNTY, FLORIDA

MAX MATUS,

Plaintiff.

v.

Case No. 2024-018488-CA-01

GOLDIN AUCTIONS, LLC,
CHRIS BELANSKI, and
KELVIN RAMIREZ,

Defendants.

_____ /

**PLAINTIFF'S MOTION FOR *EX PARTE* EMERGENCY TEMPORARY
INJUNCTION UNDER COURT'S INHERENT AUTHORITY AND
FLORIDA RULE OF CIVIL PROCEDURE 1.610(a)**

Plaintiff Max Matus (“Max” or “Plaintiff”), through undersigned counsel, hereby moves this Court to enter an *ex parte* emergency temporary injunction under the Court’s inherent authority and Florida Rule of Civil Procedure 1.610(a) in order to preserve the status quo, prevent irreparable injury, and prevent the sale or encumbrance of Shohei Ohtani’s (“Ohtani”) 50th home run baseball (the “50/50 Ball”). In support thereof, Plaintiff states as follows:

I. PRELIMINARY STATEMENT

The facts of this case are straightforward and entitle Plaintiff to a temporary injunction pending this Court’s adjudication of the merits of Plaintiff’s claims. On September 19, 2024, Max attended the Miami Marlins versus Los Angeles Dodgers baseball game at LoanDepot Park in Miami, Florida to celebrate his 18th birthday. *See* Affidavit of Max Matus, attached hereto as **Exhibit A** at ¶ 3. In the seventh inning, Max was recording the game on his phone when Shohei Ohtani hit his 50th home run after stealing his 50th base of the season. *Id.* at ¶ 4. Max soon realized that the historic ball was coming towards him in left field and immediately went to try to grab it.

Id. at ¶¶ 4-5. Indeed, Max successfully grabbed the 50/50 Ball in his left hand and intended to keep it. *Id.* at ¶¶ 5-6. Unfortunately, a few seconds later, Defendant Belanski – a muscular, older man – trapped Plaintiff’s arm in between his legs and wrangled the 50/50 Ball out of Max’s left hand. *Id.* at ¶ 7. In so doing, Defendant Belanski wrongfully and forcefully obtained control of the ball and was escorted out of the stands by security, with the 50/50 Ball Plaintiff had possessed now in Defendant Belanski’s (wrongful) possession. *Id.* at ¶¶ 8 and 10.

The 50/50 Ball is incredibly valuable, as it represents Ohtani’s record breaking 50th homerun and 50th stolen base – in the same season. Plaintiff is the rightful owner of the ball as he successfully obtained possession of the ball before it was forcefully taken away from him by Defendant Belanski. Since Defendant Belanski wrongfully converted the 50/50 Ball, he has appeared on social media along with Defendant Kelvin Ramirez (“Ramirez”), indicating their plans to sell the 50/50 Ball. *See* Exhibit A at ¶¶ 8 and 10. Since then, Goldin Auctions, LLC (“Goldin”) has posted on social media indicating that they have the 50/50 Ball. Specifically, the Founder and CEO of Goldin, Ken Goldin, appears in the video holding the 50/50 Ball and locking it in a safe. The video further indicated that the 50/50 Ball will be auctioned by Goldin starting on September 27, 2024. *See* Exhibit A at ¶ 12; **Exhibit B** (Screenshots of Instagram Video Posted by Goldin). Goldin later posted on social media that the starting bid for the 50/50 Ball would be \$500,000. *See* **Exhibit C** (Instagram Story by Goldin with Starting Bid).

Accordingly, Max seeks this Court’s assistance to preserve the status quo since he is the rightful owner of the 50/50 Ball and respectfully requests a preliminary injunction, to prevent Defendants from concealing, absconding with or selling the 50/50 Ball.

The requested relief is supported by Florida law, will preserve the status quo during the pendency of this case, and will prevent immediate and irreparable injury to Max. On the other hand, and considering the facts demonstrating Defendant Belanski’s conversion, denying entry of a

preliminary injunction will lead to immediate and irreparable injury because Defendants are likely to abscond with and/or sell the 50/50 Ball, leaving Plaintiff without any adequate remedy at law. For the same reasons, the balance of hardships favors Max.¹ Finally, considering the clear and deeply engrained public policy against conversion, the public interest favors entering an injunction.

II. LEGAL STANDARD

“The granting or denying of a temporary injunction is a matter within the discretion of the trial court.” *Cordis Corp. v. Prooslin*, 482 So. 2d 486, 490-91 (Fla. 3d DCA 1986). Courts have authority to issue an injunction under both their inherent authority to control the conduct of the parties, as well as under Florida Rule of Civil Procedure 1.610(a). *See Myart v. Taylor*, No. SA: 5:16-CV-736-DAE, 2016 WL 5376227, at *4 (W.D. Tex. Sept. 26, 2016) (“Courts ‘have inherent power, within certain limits, to control the conduct of the parties who have subjected themselves to the jurisdiction of the courts. Injunctive relief, where warranted, can be a useful tool to aid a court in controlling the conduct of litigants.’” (quoting *Lewis v. S.S. Baune*, 534 F.2d 1115, 1121 (5th Cir. 1976))).

Under Florida Rule of Civil Procedure 1.610, Courts consider four factors when deciding whether to issue an injunction. First, they consider whether the moving party faces a “likelihood of irreparable harm” or “unavailability of an adequate remedy at law.” *Cordis Corp.*, 482 So. at 489. Second, courts entertain whether the moving party has a “substantial likelihood of success on the merits.” *Id.* Third, courts balance “the threatened injury” to the moving party against “any possible harm” to the non-moving party. *Id.* at 489-90. Fourth, a court should issue an injunction when it “will not disserve the public interest.” *Id.* at 490.

¹ This Court should not consider the hardship to Defendants where Plaintiff, as here, have established that Defendants engaged in wrongful conduct. *See Fla. Atl. Univ. Bd. of Trustees v. Parsons*, 465 F. Supp. 3d 1279, 1297 (S.D. Fla. 2020). Nonetheless, the balance of hardships favors Plaintiff.

III. ARGUMENT

This Court has the power to grant Plaintiff's request both under its inherent power and pursuant to Florida Rule of Civil Procedure 1.610(a). *See, e.g., McRae v. McRae*, 52 So. 2d 908, 910 (Fla. 1951) (where there was a legitimate dispute as to the ownership of a vehicle, the trial court had the inherent authority to grant an injunction so as to preserve the property until a final resolution of the case). Pursuant to Florida Rule of Civil Procedure 1.610(a), all four factors can be resolved in Plaintiff's favor.

A. Max Has Established a Substantial Likelihood of Success on the Merits.

“A substantial likelihood of success on the merits is shown if good reasons for anticipating that result are demonstrated.” *Bd. of Cnty. Commissioners, Santa Rosa Cnty. v. Home Builders Ass'n of W. Fla., Inc.*, 325 So. 3d 981, 984 (Fla. 1st DCA 2021) (quoting *City of Jacksonville v. Naegele Outdoor Advertising Co.*, 634 So. 2d 750, 753 (Fla. 1st DCA 1994)). Thus, Plaintiff must show that he is likely to prevail on his claims for conversion, trespass to chattel and civil battery.

Plaintiff can readily meet this burden. In Florida, “[i]t is well settled that a conversion is an unauthorized act which deprives another of his property permanently or for an indefinite time.” *Batista v. Rodriguez*, 388 So. 3d 1098, 1101 (Fla. 3d DCA 2024); *see, e.g., Orozco v. McCormick 105, LLC*, 276 So. 3d 932, 935 (Fla. 3d DCA 2019) (“With respect to the conversion count, the plaintiff must show that the defendant exercised a positive, overt act or acts of dominion or authority over the money or property in question, which was inconsistent with and adverse to the rights of the true owner”) (citations omitted); *Tourismart of Am., Inc. v. Gonzalez*, 498 So. 2d 469, 470 (Fla. 3d DCA 1986) (“Conversion is a wrongful act which deprives another of his property permanently or for an indefinite time”) (citations omitted). Moreover, the intentional tort of conversion “may be established upon a showing of the taking by the defendant of personal property

belonging to the plaintiff upon a mistaken belief as to the legal right of the defendant to the converted property.” *Ciamar Marcy, Inc. v. Monteiro Da Costa*, 508 So. 2d 1282, 1283–84 (Fla. 3rd DCA 1987).

Here, Defendant Belanski converted the 50/50 Ball from Max, who had legally possessed it in his left hand.² See Exhibit A at ¶¶ 5-7. Within seconds of Max obtaining possession of the 50/50 Ball, Defendant Belanski placed his legs around Max’s left hand which possessed the 50/50 Ball. Belanski used his legs to hold Max’s arm in place while he wrangled the 50/50 Ball out of his hand, stealing it for himself. *Id.* This interaction was captured on video and published by multiple outlets. Defendant Belanski can be seen trapping Max’s hand between his legs and wrangling the 50/50 Ball out of Max’s hand. After Defendant Belanski holds the ball in the air, Max can be seen in shock and screaming after Defendant Belanski forcibly removed the 50/50 Ball from his hand.



² Based upon the express and implied promises of Major League Baseball, fans are entitled to keep any balls that are caught in the stands. Accordingly, Max successfully obtained possession of the 50/50 Ball.

Thus, Defendant Belanski deprived Max of his rightful possession of the 50/50 Ball – establishing a strong likelihood of success on his conversion claim under Florida law. *See, e.g., 8th Sense, Inc. v. Humes McCoy Aviation, Inc.*, No. 1:21-CV-22792-KMM, 2021 WL 8202671, at *1 (S.D. Fla. Aug. 3, 2021) (granting temporary restraining order that maintains status quo by freezing stolen assets in action for conversion); *Hikmatullaev v. Villa*, No. 23-CV-22338, 2023 WL 4373225, at *5 (S.D. Fla. June 28, 2023) (granting request for *ex parte* temporary restraining order and injunction based on conversion of stolen assets), report and recommendation adopted, No. 23-CV-22338, 2023 WL 4363566 (S.D. Fla. July 6, 2023).

For the same reasons discussed above, Max is likely to succeed on his trespass to chattels claim. “Trespass to personal property is the intentional use of, or interference with, a chattel which is in the possession of another, without justification. *Coddington v. Staab*, 716 So. 2d 850, 851 (Fla. 4th DCA 1998) (citations omitted). Here, the 50/50 Ball was in Max’s possession when Defendant Belanski intentionally used force to trap Max’s arm between his legs and wrangle the ball out of his left hand. Lastly, Max is likely to succeed on his battery claim. In Florida, an individual commits a battery if he inflicts “a harmful or offensive contact upon another with the intent to cause such contact or the apprehension that such contact is imminent.” *Paul v. Holbrook*, 696 So. 2d 1311, 1312 (Fla. 5th DCA 1997). Here, Defendant Belanski undoubtedly made physical contact with Max when he trapped his arm between his legs and wrangled the 50/50 Ball out of Max’s left hand. Max did not consent to such contact, and Defendant Belanski’s use of force made it harmful and offensive. *See* Exhibit A at ¶¶ 6-7.

B. Plaintiff Will Suffer Immediate and Irreparable Injury If the 50/50 Ball Is Sold or Concealed.

The 50/50 Ball that Plaintiff possessed is a unique, extraordinary one-of-a-kind item. Ohtani is regarded as the best baseball player in the country, and perhaps the world. The 50/50 Ball

represents Ohtani's 50th home run and 50th stolen base in the same season. Unless Plaintiff can maintain the status quo while he attempts to recover the 50/50 Ball in this underlying lawsuit, there is no adequate remedy at law that could prevent immediate and irreparable injury. *See Surgery Ctr. Holdings, Inc. v. Guirguis*, 318 So. 3d 1274, 1282 (Fla. 2d DCA2021) ("The question of whether the injury is 'irreparable' turns on whether there is an adequate legal remedy available. Irreparable injury means, in essence, that injunction is the only practical mode of enforcement." (citing *Corp. Mgmt. Advisors, Inc. v. Boghos*, 756 So. 2d 246, 247-48 (Fla. 5th DCA 2000))).

Here, the 50/50 Ball is a literal piece of baseball history that is irreplaceable. *See, e.g., Mangus v. Porter*, 276 So. 2d 250, 251, n.1 (Fla. 3d DCA 1973) (equity can intercede when the personal property is of unique character and value, such as an antique, and there is no adequate remedy at law). Indeed, "Plaintiff's only remedy to recover the [50/50 Ball] is through his right to equitable relief in the form of an injunction to prevent the sale of the [50/50 Ball]. A legal remedy for monetary relief along will not adequately protect Plaintiff's interest." *Astrove v. Belanski*, 2022 WL 2805345, *5 (S.D. Fla. Jun. 22, 2022) (Ruiz, J.) (granting preliminary injunction for conversion).

Defendants Belanski and Ramirez indicated on social media that they intend to sell the 50/50 Ball. *See* Exhibit A at ¶ 10. Since then, Goldin has posted on social media indicating that they have the 50/50 Ball. *See* Exhibit B. Specifically, the Founder and CEO of Goldin, Ken Goldin, appears in the video holding the 50/50 Ball and locking it in a safe. *Id.* The video further indicated that the 50/50 Ball will be auctioned by Goldin starting on September 27, 2024. *Id.* Thus, as in *Astrove*, if Defendants are "allowed to transfer or encumber the 50/50 Ball, the value and/or equity in the 50/50 Ball will be lost; and any rights Plaintiff would have to recover the [50/50 Ball] would be lost. If the Property is sold, [Defendants] will have successfully put Plaintiff's stolen [50/50

Ball] beyond Plaintiff's reach. Thus, Plaintiff will therefore be irreparably harmed absent preliminary injunctive relief." *Id.*

C. Defendants Belanski and Ramirez Will Not Suffer Hardship from a Temporary Injunction Maintaining the Status Quo.

The balance of hardships weighs heavily in Max's favor. If this Court enjoins Defendants from selling, transferring, encumbering, or concealing the 50/50 Ball, it will simply be maintaining the status quo. Defendants will suffer no harm from being unable to get rid of the 50/50 Ball, in fact, it will likely increase in value over time.

On the other hand, if Defendants are allowed to sell the 50/50 Ball, Plaintiff will be irreparably harmed as the 50/50 Ball is a unique one-of-a-kind item that cannot be replaced. Once the 50/50 Ball is sold, Plaintiff will likely be unable to get it back and no monetary damages will be adequate to replace it. Thus, the only impact that the temporary *ex parte* injunction would have on the Defendants is that they will be temporarily unable to sell or conceal the item that they wrongfully converted from Plaintiff's possession. *Astrove v. Belanski*, No. 22-CV-80614-RAR, 2022 WL 2805345, at *1 (S.D. Fla. June 17, 2022) (Order granting preliminary injunction where it "would preserve the status quo ante and prevent irreparable harm until such time as the Court may hold a trial on the merits of Plaintiff's claims").

D. The Public Interest is Advanced by Preventing Defendants Belanski and Ramirez from Selling or Concealing the 50/50 Ball.

The final factor that this Court should consider is whether the public interest is served by the entry of this temporary injunction. *See Cordis Corp.*, 482 So. 2d at 490. Entering this temporary injunction would maintain the status quo and reassure the public that the civil court system can be an effective mechanism when individuals act in a tortious manner. *See Shell Offshore Inc. v. Greenpeace, Inc.*, 864 F. Supp. 2d 839, 853 (D. Alaska 2012) ("The public interest is not disserved

by an injunction that precludes illegal or tortious conduct”). On the other hand, allowing Defendants Belanski and Ramirez to sell or conceal the 50/50 Ball after Defendant Belanski forcibly removed it from Max’s possession would contravene public policy. *See Astrove v. Belanski*, No. 22-CV-80614-RAR, 2022 WL 2805345, at *1 (S.D. Fla. June 17, 2022) (Order granting temporary injunction because Courts should protect individuals’ assets from theft, especially when they can be readily located and traced to a specific location).

CONCLUSION

Plaintiff respectfully requests that this Court grant a temporary injunction against Goldin Auctions, LLC, and Defendants Belanski and Ramirez that preserves the status quo in order to prevent irreparable injury through the concealing or sale of the 50/50 Ball that was wrongfully converted. Specifically, Plaintiff would request that this Court order the following:

1. Pending the outcome of this litigation, precluding Goldin Auctions, LLC, Defendant Belanski, Defendant Ramirez, or any of their agents or assigns from transferring, encumbering, selling, and/or concealing the 50/50 Ball in any way.
2. Pending the outcome of this litigation, ordering that the 50/50 Ball must be kept in a secure location mutually agreed upon by both parties.

COUNSEL’S CERTIFICATION REGARDING NOTICE

The Complaint in this matter and a copy of this motion were sent via certified mail on Defendant Ramirez at 2127 NW 45th Street, Miami, Florida 33142. Defendant Belanski’s address is unknown at this time, but he turned over the 50/50 Ball to Goldin Auctions, LLC. Therefore, a copy of the Complaint and this motion were sent via certified mail on Defendant Goldin Auctions, LLC, at 160 East Ninth Avenue, Suite C, Runnemede, New Jersey, 08078. Given that Defendant Belanski and Ramirez have touted on social media that they intend to sell the 50/50 Ball, and that the ball has since appeared for sale by Goldin Auctions, LLC, with an auction starting on September 27, 2024, this motion is brought on an emergency basis because such a sale will cause

irreparable harm to Plaintiff. Thus, the Court should not require notice to the Defendants prior to the entry of this temporary injunction.

Dated: September 26, 2024

Respectfully submitted,

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EXHIBIT 'A'

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI DADE COUNTY, FLORIDA

MAX MATUS,

Plaintiff.

v.

Case No.

GOLDIN AUCTIONS, LLC,
JOHN DOE, and
KELVIN RAMIREZ,

Defendants.

_____ /

**AFFIDAVIT OF MAX MATUS IN SUPPORT OF PLAINTIFF'S MOTION FOR EX
PARTE EMERGENCY TEMPORARY INJUNCTION UNDER COURT'S INHERENT
AUTHORITY AND FLORIDA RULE OF CIVIL PROCEDURE 1.610(a)**

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

BEFORE ME, the undersigned authority, personally appeared Max Matus who after being duly sworn, deposes and says:

1. I am over the age of 18 and competent to testify to the matters contained herein. I have personal knowledge of the facts stated in this affidavit.
2. I am the Plaintiff in the above-captioned case.
3. On September 19, 2024, I attended the Miami Marlins vs. Los Angeles Dodgers baseball game at LoanDepot Park in Miami, Florida to celebrate my 18th birthday.
4. I was standing by the fence in left field recording the game with my phone when Shohei Ohtani hit his 50th home run. As I was recording, I realized that the ball (the "50/50 Ball") was coming right towards me.

5. I quickly went to grab the 50/50 Ball and was able to grab it securely in my left hand.
6. I intended to keep the 50/50 Ball, as I am a big sports fan and wanted something to commemorate the game.
7. A few seconds later, a man in a black shirt, who I now know to be Defendant Doe, trapped my left arm between his legs and used force to wrangle the 50/50 Ball out of my left hand.
8. I did not consent to Defendant Doe trapping my arm between his legs and using force to take the 50/50 Ball away from me.
9. I have since learned from social media that Defendant Ramirez was present at the game with Defendant Doe.
10. Once Defendant Doe took the 50/50 Ball away from me, he was escorted away by security.
11. Since this occurred, I have seen Defendant Doe and Defendant Ramirez on social media platforms indicating that they intend to sell the 50/50 Ball.
12. I have also learned that the 50/50 Ball is going to be put up for sale on Goldin.Co, which is the website for Goldin Auctions, LLC, on September 27, 2024 based on a social media post by Goldin Auctions, LLC.

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13. I am seeking a temporary restraining order to prevent any party from selling or hiding the 50/50 Ball while my case is pending.

FURTHER AFFIANT SAYETH NAUGHT.

maxmatus

Max Matus

Sworn to (or affirmed) and subscribed before me this 25th day of September 2024, by Max Matus, who has produced Driver's License as identification.



Mba

Notary Public

State of Florida

My Commission Expires: 5/8/2026

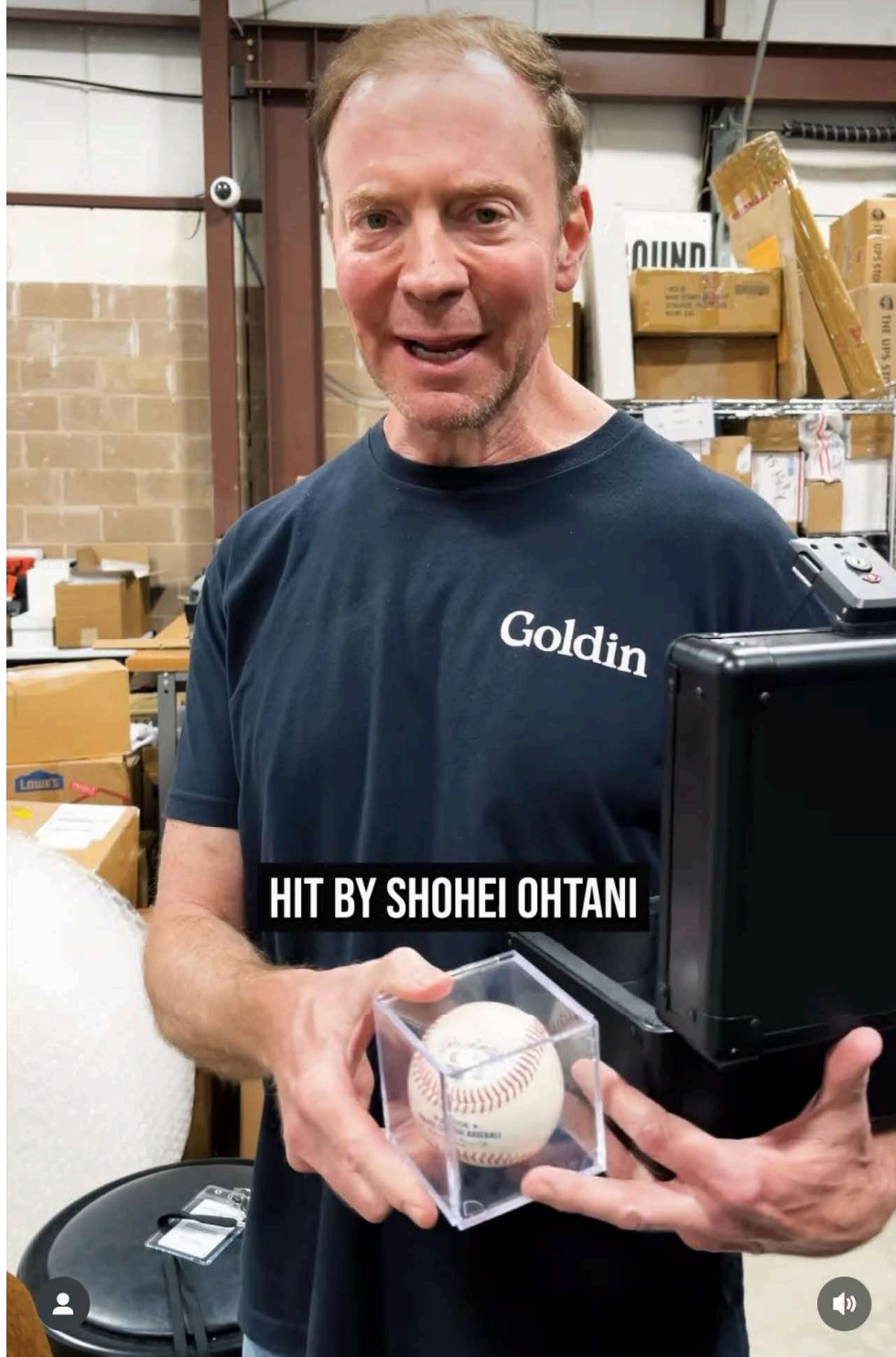


GOLDINCO Posts



goldinco and 2 others
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EXHIBIT 'B' ...



HIT BY SHOHEI OHTANI



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GOLDINCO

Posts



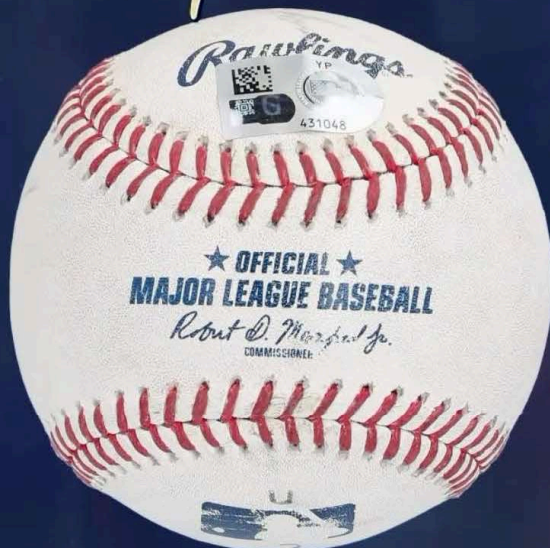
goldinco and 2 others

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EXHIBIT 'B'



50 *Ohtani* 50
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Goldin.com



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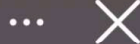


EXHIBIT 'C'



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