

# Press Release



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## In WLF Victory, U.S. Supreme Court Holds that Civil RICO Lawsuits Do Not Cover Overseas Conduct

(*RJR Nabisco, Inc. v. The European Community*)

**“Since Congress first adopted RICO in 1970 as a device for combating organized crime, the plaintiffs’ bar has tried to transform civil RICO into a tool for attacking the overseas conduct of American corporations. The Supreme Court’s decision today, by clarifying that a private RICO plaintiff must be able to allege and prove a *domestic* injury, puts a welcome end to that gambit.”**

—Cory Andrews, WLF Senior Litigation Counsel

WASHINGTON, DC—The U.S. Supreme Court today overturned a decision of the U.S. Court of Appeals for the Second Circuit that would have permitted private plaintiffs to sue for money damages under the Racketeer Influenced and Corrupt Organizations Act (RICO) for injuries allegedly suffered abroad. By clarifying that a private RICO plaintiff must be able to allege and prove a *domestic* injury, the decision in *RJR Nabisco, Inc. v. The European Community* sharply reduces the viability of claims brought under civil RICO for overseas activities that have little or no connection to the United States.

The decision marks a victory for Washington Legal Foundation, which authored the sole *amicus* brief in support of the successful cert. petition. In its follow-on merits brief, WLF argued that the decision below would drastically expand the reach of RICO civil liability by misconstruing the statute to extend to allegations of foreign injuries. WLF’s brief cautioned that allowing foreign litigants to bring what would be ordinary civil disputes abroad into U.S. federal courts would increase the burden on federal courts, impose higher litigation costs on multi-national businesses, and force defendants into coercive settlements. WLF’s merits brief was joined by the Allied Educational Foundation.

Although acknowledging that RICO’s substantive provisions encompass some predicate offenses that reach extraterritorial conduct, the Supreme Court found no clear indication that Congress intended for RICO’s civil cause of action to allow recovery for injuries sustained outside the United States. The Court rejected the plaintiffs’ invitation to adopt a standard that would create an exception for foreign sovereigns, explaining that any interpretation of civil RICO’s injury requirement must govern suits by all plaintiffs.

Upon hearing the Court’s decision, WLF issued the following statement by Senior Litigation Counsel Cory Andrews: “Since Congress first adopted RICO in 1970 as a device for combating organized crime, the plaintiffs’ bar has tried to transform civil RICO into a tool for attacking the overseas conduct of American corporations. The Supreme Court’s decision today, by clarifying that a private RICO plaintiff must be able to allege and prove a *domestic* injury, puts a welcome end to that gambit.”

*WLF is a free-market, public-interest law firm and policy center that regularly litigates to defend free enterprise and the rule of law from depredations like the extraterritorial application of U.S. law.*

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