473 U.S. 479, 105 S.Ct. 3275, 87 L.Ed.2d 346, 53 USLW 5034, Fed. Sec. L. Rep. P 92,086, 1985-2 Trade Cases P 66,666, RICO Bus.Disp.Guide 6100

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Supreme Court of the United States SEDIMA, S.P.R.L., Petitioner, v. IMREX COMPANY, INC., et al.

> No. 84-648. Argued April 17, 1985. Decided July 1, 1985.

\*481 Justice WHITE delivered the opinion of the Court.

The Racketeer Influenced and Corrupt Organizations Act (RICO), Pub.L. 91-452, Title IX, 84 Stat. 941, as amended, <u>18 U.S.C. §§ 1961-1968</u>, provides a private civil action to recover treble damages for injury "by reason of a violation of" its substantive provisions. 18 U.S.C. § 1964(c). The initial dormancy of this provision and its recent greatly increased utilization FN1 are now familiar history. FN2 In response to what it perceived to be misuse of civil RICO by private plaintiffs, the court below construed § 1964(c) to permit private actions only against defendants who had been convicted on criminal charges, and only where there had occurred a "racketeering injury." While we understand the court's concern over the consequences of an unbridled reading of the statute, we reject both of its holdings.

FN1. Of 270 District Court RICO decisions prior to this year, only 3% (nine cases) were decided throughout the 1970's, 2% were decided in 1980, 7% in 1981, 13% in 1982, 33% in 1983, and 43% in 1984. Report of the Ad Hoc Civil RICO Task Force of the ABA Section of Corporation, Banking and Business Law 55 (1985) (hereinafter ABA Report); see also *id.*, at 53a (table).

FN2. For a thorough bibliography of civil RICO decisions and commentary, see Milner, A Civil RICO Bibliography, 21 C.W.L.R. 409 (1985).

RICO takes aim at "racketeering activity," which

it defines as any act "chargeable" under several generically described state criminal laws, any act "indictable" under numerous specific federal criminal provisions, including mail and wire fraud, and any "offense" involving bankruptcy or securities \*482 fraud or drug-related activities that is "punishable" under federal law. § 1961(1). FN3 Section 1962, entitled "Prohibited\*\*3278 Activities," outlaws the use of income derived from a "pattern of racketeering activity" to acquire an interest in or establish an enterprise engaged in or affecting interstate commerce; the acquisition or maintenance of any interest in an enterprise "through" a pattern of racketeering activity; \*483 conducting or participating in the conduct of an enterprise through a pattern of racketeering activity; and conspiring to violate any of these provisions. FN4

FN3. RICO defines "racketeering activity" to mean

"(A) any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1951 (relating to interference with com-

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merce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-2424 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds). (D) any offense involving fraud connected with a case under title 11, fraud in the sale of securities, or the felonious manufacture, importation. receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, punishable under any law of the United States, or (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act." 18 U.S.C. § 1961(1) (1982 ed., Supp. III).

<u>FN4.</u> In relevant part, <u>18 U.S.C. § 1962</u> provides:

"(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt ... to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce....

"(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

"(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.

"(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section."

Congress provided criminal penalties of imprisonment, fines, and forfeiture for violation of these provisions. § 1963. In addition, it set out a farreaching civil enforcement scheme, § 1964, including the following provision for private suits:

"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." § 1964(c).

In 1979, petitioner Sedima, a Belgian corporation, entered into a joint venture with respondent Imrex Co. to provide electronic components to a Belgian firm. The buyer was to order parts through Sedima; Imrex was to obtain the parts \*484 in this country and ship them to Europe. The agreement called for Sedima and Imrex to split the net proceeds. Imrex filled roughly \$8 million in orders placed with it through Sedima. Sedima became convinced, however, that Imrex was presenting inflated bills, cheating Sedima out of a portion of its proceeds by collecting for nonexistent expenses.

In 1982, Sedima filed this action in the Federal District Court for the Eastern District of New York. The complaint set out common-law claims of unjust

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enrichment, conversion, and breach of contract, fiduciary duty, and a constructive trust. In addition, it asserted RICO claims under § 1964(c) against Imrex and two of its officers. Two counts alleged violations of § 1962(c), based on predicate acts of mail and wire fraud. See 18 U.S.C. §§ 1341, 1343, 1961(1)(B). A third count alleged a conspiracy to violate § 1962(c). Claiming injury of at least \$175,000, the amount of the alleged overbilling, Sedima sought treble damages and attorney's fees.

The District Court held that for an injury to be "by reason of a violation of section 1962," as required by § 1964(c), it must be somehow different in kind from the direct injury resulting from the predicate acts of \*\*3279 racketeering activity. 574 F.Supp. 963 (1983). While not choosing a precise formulation, the District Court held that a complaint must allege a "RICO-type injury," which was either some sort of distinct "racketeering injury," or a "competitive injury." It found "no allegation here of any injury apart from that which would result directly from the alleged predicate acts of mail fraud and wire fraud," id., at 965, and accordingly dismissed the RICO counts for failure to state a claim.

A divided panel of the Court of Appeals for the Second Circuit affirmed. 741 F.2d 482 (1984). After a lengthy review of the legislative history, it held that Sedima's complaint was defective in two ways. First, it failed to allege an injury "by reason of a violation of section 1962." In the court's view, \*485 this language was a limitation on standing, reflecting Congress' intent to compensate victims of "certain specific kinds of organized criminality," not to provide additional remedies for already compensable injuries. Id., at 494. Analogizing to the Clayton Act, which had been the model for § 1964(c), the court concluded that just as an antitrust plaintiff must allege an "antitrust injury," so a RICO plaintiff must allege a "racketeering injury"-an injury "different in kind from that occurring as a result of the predicate acts themselves, or not simply caused by the predicate acts, but also caused by an activity which RICO was designed to deter." Id., at 496. Sedima had failed to allege such an injury.

The Court of Appeals also found the complaint defective for not alleging that the defendants had already been criminally convicted of the predicate acts of mail and wire fraud, or of a RICO violation. This element of the civil cause of action was inferred from § 1964(c)'s reference to a "violation" of § 1962, the court also observing that its prior-conviction requirement would avoid serious constitutional difficulties, the danger of unfair stigmatization, and problems regarding the standard by which the predicate acts were to be proved.

The decision below was one episode in a recent proliferation of civil RICO litigation within the Second Circuit FNS and \*486 in other Courts of Appeals. FNS In light of the variety \*\*3280 of approaches taken by the lower courts and the importance of the issues, we grant certiorari. 469 U.S. 1157, 105 S.Ct. 901, 83 L.Ed.2d 917 (1984). We now reverse.

FN5. The day after the decision in this case, another divided panel of the Second Circuit reached a similar conclusion. Bankers Trust Co. v. Rhoades, 741 F.2d 511 (1984), cert. pending, No. 84-657. It held that § 1964(c) allowed recovery only for injuries resulting not from the predicate acts, but from the fact that they were part of a pattern. "If a plaintiffs injury is that caused by the predicate acts themselves, he is injured regardless of whether or not there is a pattern; hence he cannot be said to be injured by the pattern," and cannot recover. Id., at 517 (emphasis in original).

The following day, a third panel of the same Circuit, this time unanimous, decided *Furman v. Cirrito*, 741 F.2d 524 (1984), cert. pending, No. 84-604. In that case, the District Court had dismissed the complaint for failure to allege a distinct racketeering injury. The Court of Appeals affirmed, relying on the opinions in *Sedima* and *Bankers Trust*, but wrote at some length to record its disagreement with those decisions. The panel would have required no injury beyond that resulting from the predicate acts.

FN6. A month after the trio of Second Circuit opinions was released, the Eighth Circuit decided <u>Alexander Grant & Co. v. Tiffany Industries, Inc.</u>, 742 F.2d 408 (1984), cert. pending, Nos. 84-1084, 84-1222. Viewing its decision as contrary to *Sedima* but

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consistent with, though broader than, *Bankers Trust*, the court held that a RICO claim does require some unspecified element beyond the injury flowing directly from the predicate acts. At the same time, it stood by a prior decision that had rejected any requirement that the injury be solely commercial or competitive, or that the defendants be involved in organized crime. 742 F.2d, at 413; see *Bennett v. Berg.* 685 F.2d 1053, 1058-1059, 1063-1064 (CA8 1982), aff'd in part and rev'd in part, 710 F.2d 1361 (en banc), cert. denied, 464 U.S. 1008, 104 S.Ct. 527, 78 L.Ed.2d 710 (1983).

Two months later, the Seventh Circuit decided *Haroco, Inc. v. American National Bank & Trust Co. of Chicago*, 747 F.2d 384 (1984), aff'd, 473 U.S. 606, 105 S.Ct. 3291, 87 L.Ed.2d 437. Dismissing *Sedima* as the resurrection of the discredited requirement of an organized crime nexus, and *Bankers Trust* as an emasculation of the treble-damages remedy, the Seventh Circuit rejected "the elusive racketeering injury requirement." 747 F.2d, at 394, 398-399. The Fifth Circuit had taken a similar position. *Alcorn County v. U.S. Interstate Supplies, Inc.*, 731 F.2d 1160, 1169 (1984).

The requirement of a prior RICO conviction was rejected in *Bunker Ramo Corp. v. United Business Forms, Inc.*, 713 F.2d 1272, 1286-1287 (CA7 1983), and *USACO Coal Co. v. Carbomin Energy, Inc.*, 689 F.2d 94 (CA6 1982). See also *United States v. Cappetto*, 502 F.2d 1351 (CA7 1974), cert. denied, 420 U.S. 925, 95 S.Ct. 1121, 43 L.Ed.2d 395 (1975) (civil action by Government).

II

As a preliminary matter, it is worth briefly reviewing the legislative history of the private treble damages action. RICO formed Title IX of the Organized Crime Control Act of 1970, Pub.L. 91-452, 84 Stat. 922. The civil remedies in the bill passed by the Senate, S. 30, were limited to injunctive actions by the United States and became §§ 1964(a), (b), and \*487 d). Previous versions of the legislation, how-

ever, had provided for a private treble-damages action in exactly the terms ultimately adopted in § 1964(c). See S. 1623, 91st Cong., 1st Sess., § 4(a) (1969); S. 2048 and S. 2049, 90th Cong., 1st Sess. (1967).

During hearings on S. 30 before the House Judiciary Committee, Representative Steiger proposed the addition of a private treble-damages action "similar to the private damage remedy found in the antitrust laws.... [T]hose who have been wronged by organized crime should at least be given access to a legal remedy. In addition, the availability of such a remedy would enhance the effectiveness of title IX's prohibitions." Hearings on S. 30, and Related Proposals, before Subcommittee No. 5 of the House Committee on the Judiciary, 91st Cong., 2d Sess., 520 (1970) (hereinafter House Hearings). The American Bar Association also proposed an amendment "based upon the concept of Section 4 of the Clayton Act." Id., at 543-544, 548, 559; see 116 Cong.Rec. 25190-25191 (1970). See also H.R. 9327, 91st Cong., 1st Sess. (1969) (House counterpart to S. 1623).

Over the dissent of three members, who feared the treble-damages provision would be used for malicious harassment of business competitors, the Committee approved the amendment. H.R.Rep. No. 91-1549, pp. 58, 187 (1970), U.S.Code Cong. & Admin. News 4007. In summarizing the bill on the House floor, its sponsor described the treble-damages provision as "another example of the antitrust remedy being adapted for use against organized criminality." 116 Cong.Rec. 35295 (1970). The full House then rejected a proposal to create a complementary trebledamages remedy for those injured by being named as defendants in malicious private suits. Id., at 35342. Representative Steiger also offered an amendment that would have allowed private injunctive actions, fixed a statute of limitations, and clarified venue and process requirements. Id., at 35346; see id., at 35226-35227. The proposal was greeted with some hostility because it had not been reviewed in Committee,\*488 and Steiger withdrew it without a vote being taken. Id., at 35346-35347. The House then passed the bill. with the treble-damages provision in the form recommended by the Committee. *Id.*, at 35363-35364.

The Senate did not seek a conference and adopted the bill as amended in the House. Id., at

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36296. The treble-damages provision had been drawn to its attention while the legislation was still in the House, and had received the endorsement of Senator McClellan, the sponsor of S. 30, who was of the view that the provision would be "a major new tool in extirpating the baneful influence of organized crime in our economic life." *Id.*, at 25190.

## Ш

The language of RICO gives no obvious indication that a civil action can proceed only after a criminal conviction. The word "conviction" does not appear in any relevant portion of the statute. See §§ 1961, 1962, 1964(c). To the contrary, the predicate acts involve conduct that is "chargeable" or "indictable," and "offense[s]" that \*\*3281 are "punishable," under various criminal statutes. § 1961(1). As defined in the statute, racketeering activity consists not of acts for which the defendant has been convicted, but of acts for which he could be. See also S.Rep. No. 91-617, p. 158 (1969): "a racketeering activity ... must be an act in itself *subject to* criminal sanction" (emphasis added). Thus, a prior convictionrequirement cannot be found in the definition of "racketeering activity." Nor can it be found in § 1962, which sets out the statute's substantive provisions. Indeed, if either § 1961 or § 1962 did contain such a requirement, a prior conviction would also be a prerequisite, nonsensically, for a criminal prosecution, or for a civil action by the Government to enjoin violations that had not yet occurred.

The Court of Appeals purported to discover its prior-conviction requirement in the term "violation" in § 1964(c). 741 F.2d, at 498-499. However, even if that term were \*489 read to refer to a criminal conviction, it would require a conviction under RICO, not of the predicate offenses. That aside, the term "violation" does not imply a criminal conviction. See United States v. Ward, 448 U.S. 242, 249-250, 100 S.Ct. 2636, 2641-2642, 65 L.Ed.2d 742 (1980). It refers only to a failure to adhere to legal requirements. This is its indisputable meaning elsewhere in the statute. Section 1962 renders certain conduct "unlawful"; § 1963 and § 1964 impose consequences, criminal and civil, for "violations" of § 1962. We should not lightly infer that Congress intended the term to have wholly different meanings in neighboring subsections. FN7

FN7. When Congress intended that the de-

fendant have been previously convicted, it said so. Title 18 U.S.C. § 1963(f) (1982 ed., Supp. III) states that "[u]pon conviction of a person under this section," his forfeited property shall be seized. Likewise, in Title X of the same legislation Congress explicitly required prior convictions, rather than prior criminal activity, to support enhanced sentences for special offenders. See 18 U.S.C. § 3575(e).

The legislative history also undercuts the reading of the court below. The clearest current in that history is the reliance on the Clayton Act model, under which private and governmental actions are entirely distinct. E.g., United States v. Borden Co., 347 U.S. 514, 518-519, 74 S.Ct. 703, 706-707, 98 L.Ed. 903 (1954). The only \*490 specific reference in the legislative history to prior convictions of which we are aware is an objection that the treble-damages provision is too broad precisely because "there need not be a conviction under any of these laws for it to be racketeering." 116 Cong.Rec. 35342 (1970) (emphasis added). The history is otherwise silent on this point and contains nothing to contradict the import of the language appearing in the statute. Had Congress intended to impose this novel requirement, there would have been at least some mention of it in the legislative history, even if not in the statute.

> FN8. The court below considered it significant that § 1964(c) requires a "violation of section 1962," whereas the Clayton Act speaks of "anything forbidden in the antitrust laws." 741 F.2d, at 488; see 15 U.S.C. § 15(a). The court viewed this as a deliberate change indicating Congress' desire that the underlying conduct not only be forbidden, but also have led to a criminal conviction. There is nothing in the legislative history to support this interpretation, and we cannot view this minor departure in wording, without more, to indicate a fundamental departure in meaning. Representative Steiger, who proposed this wording in the House, nowhere indicated a desire to depart from the antitrust model in this regard. See 116 Cong.Rec. 35227, 35246 (1970). To the contrary, he viewed the treble-damages provision as a "parallel private remedy." Id., at 27739 (letter to House Judiciary Commit-

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tee). Likewise, Senator Hruska's discussion of his identically worded proposal gives no hint of any such intent. See 115 Cong.Rec. 6993 (1969). In any event, the change in language does not support the court's drastic inference. It seems more likely that the language was chosen because it is more succinct than that in the Clayton Act, and is consistent with the neighboring provisions. See §§ 1963(a), 1964(a).

The Court of Appeals was of the view that its narrow construction of the statute was essential to avoid intolerable practical \*\*3282 consequences. First, without a prior conviction to rely on, the plaintiff would have to prove commission of the predicate acts beyond a reasonable doubt. This would require instructing the jury as to different standards of proof for different aspects of the case. To avoid this awkwardness,\*491 the court inferred that the criminality must already be established, so that the civil action could proceed smoothly under the usual preponderance standard.

FN9. It is worth bearing in mind that the holding of the court below is not without problematic consequences of its own. It arbitrarily restricts the availability of private actions, for lawbreakers are often not apprehended and convicted. Even if a conviction has been obtained, it is unlikely that a private plaintiff will be able to recover for all of the acts constituting an extensive "pattern," or that multiple victims will all be able to obtain redress. This is because criminal convictions are often limited to a small portion of the actual or possible charges. The decision below would also create peculiar incentives for plea bargaining to nonpredicate-act offenses so as to ensure immunity from a later civil suit. If nothing else, a criminal defendant might plead to a tiny fraction of counts, so as to limit future civil liability. In addition, the dependence of potential civil litigants on the initiation and success of a criminal prosecution could lead to unhealthy private pressures on prosecutors and to self-serving trial testimony, or at least accusations thereof. Problems would also arise if some or all of the convictions were reversed on appeal. Finally, the compelled wait for the completion of criminal proceedings would result in pursuit of stale claims, complex statute of limitations problems, or the wasteful splitting of actions, with resultant claim and issue preclusion complications.

We are not at all convinced that the predicate acts must be established beyond a reasonable doubt in a proceeding under § 1964(c). In a number of settings, conduct that can be punished as criminal only upon proof beyond a reasonable doubt will support civil sanctions under a preponderance standard. See, e.g., United States v. One Assortment of 89 Firearms, 465 U.S. 354, 104 S.Ct. 1099, 79 L.Ed.2d 361 (1984); One Lot Emerald Cut Stones v. United States, 409 U.S. 232, 235, 93 S.Ct. 489, 492, 34 L.Ed.2d 438 (1972); Helvering v. Mitchell, 303 U.S. 391, 397, 58 S.Ct. 630, 632, 82 L.Ed. 917 (1938); United States v. Regan, 232 U.S. 37, 47-49, 34 S.Ct. 213, 216-217, 58 L.Ed. 494 (1914). There is no indication that Congress sought to depart from this general principle here. See Measures Relating to Organized Crime, Hearings on S. 30 et al. before the Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary, 91st Cong., 1st Sess., 388 (1969) (statement of Assistant Attorney General Wilson): House Hearings, at 520 (statement of Rep. Steiger); id., at 664 (statement of Rep. Poff); 116 Cong.Rec. 35313 (1970) (statement of Rep. Minish). That the offending conduct is described by reference to criminal statutes does not mean that its occurrence must be established by criminal standards or that the consequences of a finding of liability in a private civil action are identical to the consequences of a criminal conviction. Cf. United States v. Ward, supra, 448 U.S., at 248-251, 100 S.Ct., at 2641-2642. But we need not decide the standard of proof issue today. For even if the stricter standard is applicable to a portion of the plaintiff's proof, the resulting logistical difficulties, which are accepted in other contexts, would not be so great as to require invention of a requirement that cannot be found in the statute and that Congress, as even the Court of Appeals had to concede, 741 F.2d, at 501, did not envision. FN10

<u>FN10.</u> The Court of Appeals also observed that allowing civil suits without prior convictions "would make a hash" of the statute's liberal-construction requirement. <u>741 F.2d</u>, at 502; see RICO § 904(a). Since criminal

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statutes must be strictly construed, the court reasoned, allowing liberal construction of RICO-an approach often justified on the ground that the conduct for which liability is imposed is "already criminal"-would only be permissible if there already existed criminal convictions. Again, we have doubts about the premise of this rather convoluted argument. The strict-construction principle is merely a guide to statutory interpretation. Like its identical twin, the "rule of lenity," it "only serves as an aid for resolving an ambiguity; it is not to be used to beget one." Callanan v. United States, 364 U.S. 587. 596, 81 S.Ct. 321, 326, 5 L.Ed.2d 312 (1961); see also *United States v. Turkette*, 452 U.S. 576, 587-588, 101 S.Ct. 2524, 2530-2531, 69 L.Ed.2d 246 (1981). But even if that principle has some application, it does not support the court's holding. The strict-and liberal-construction principles are not mutually exclusive; § 1961 and § 1962 can be strictly construed without adopting that approach to § 1964(c). Cf. *United States* v. United States Gypsum Co., 438 U.S. 422. 443, n. 19, 98 S.Ct. 2864, 2876, n. 19, 57 L.Ed.2d 854 (1978). Indeed, if Congress' liberal-construction mandate is to be applied anywhere, it is in § 1964, where RICO's remedial purposes are most evident.

\*492 \*\*3283 The court below also feared that any other construction would raise severe constitutional questions, as it "would provide civil remedies for offenses criminal in nature, stigmatize defendants with the appellation 'racketeer,' authorize the award of damages which are clearly punitive, including attorney's fees, and constitute a civil remedy aimed in part to avoid the constitutional protections of the criminal law." Id., at 500, n. 49. We do not view the statute as being so close to the constitutional edge. As noted above, the fact that conduct can result in both criminal liability and treble damages does not mean that there is not a bona fide civil action. The familiar provisions for both criminal liability and treble damages under the antitrust laws indicate as much. Nor are attorney's fees "clearly punitive." Cf. 42 U.S.C. § 1988. As for stigma, a civil RICO proceeding leaves no greater stain than do a number of other civil proceedings. Furthermore, requiring conviction of the predicate acts would not protect against an unfair imposition of the "racketeer" label. If there is a problem with thus stigmatizing a garden variety defrauder by means of a civil action, it is not reduced by making certain that the defendant is guilty of *fraud* beyond a reasonable doubt. Finally, to the extent an \*493 action under § 1964(c) might be considered quasi-criminal, requiring protections normally applicable only to criminal proceedings, cf. *One* 1958 *Plymouth Sedan v. Pennsylvania*, 380 U.S. 693, 85 S.Ct. 1246, 14 L.Ed.2d 170 (1965), the solution is to provide those protections, not to ensure that they were previously afforded by requiring prior convictions. FN11

FN11. Even were the constitutional questions more significant, any doubts would be insufficient to overcome the mandate of the statute's language and history. "Statutes should be construed to avoid constitutional questions, but this interpretative canon is not a license for the judiciary to rewrite language enacted by the legislature." *United States v. Albertini*, 472 U.S. 675, 680, 105 S.Ct. 2897, ----, 86 L.Ed.2d 536 (1985).

Finally, we note that a prior-conviction requirement would be inconsistent with Congress' underlying policy concerns. Such a rule would severely handicap potential plaintiffs. A guilty party may escape conviction for any number of reasons-not least among them the possibility that the Government itself may choose to pursue only civil remedies. Private attorney general provisions such as § 1964(c) are in part designed to fill prosecutorial gaps. Cf. Reiter v. Sonotone Corp., 442 U.S. 330, 344, 99 S.Ct. 2326, 2333, 60 L.Ed.2d 931 (1979). This purpose would be largely defeated, and the need for treble damages as an incentive to litigate unjustified, if private suits could be maintained only against those already brought to justice. See also n. 9, supra.

In sum, we can find no support in the statute's history, its language, or considerations of policy for a requirement that a private treble-damages action under § 1964(c) can proceed only against a defendant who has already been criminally convicted. To the contrary, every indication is that no such requirement exists. Accordingly, the fact that Imrex and the individual defendants have not been convicted under RICO or the federal mail and wire fraud statutes does not bar Sedima's action.

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## IV

In considering the Court of Appeals' second prerequisite for a private civil RICO action-"injury ... caused by an \*494 activity which RICO was designed to deter"-we are somewhat hampered by the vagueness of that concept. Apart from reliance on the general purposes of RICO and a reference to "mobsters," the court provided scant indication of what the requirement of \*\*3284 racketeering injury means. It emphasized Congress' undeniable desire to strike at organized crime, but acknowledged and did not purport to overrule Second Circuit precedent rejecting a requirement of an organized crime nexus. 741 F.2d, at 492; see Moss v. Morgan Stanley, Inc., 719 F.2d 5, 21 (CA2 1983), cert. denied sub nom. Moss v. Newman, 465 U.S. 1025, 104 S.Ct. 1280, 79 L.Ed.2d 684 (1984). The court also stopped short of adopting a "competitive injury" requirement; while insisting that the plaintiff show "the kind of economic injury which has an effect on competition," it did not require "actual anticompetitive effect." 741 F.2d, at 496; see also id., at 495, n. 40.

The court's statement that the plaintiff must seek redress for an injury caused by conduct that RICO was designed to deter is unhelpfully tautological. Nor is clarity furnished by a negative statement of its rule: standing is not provided by the injury resulting from the predicate acts themselves. That statement is itself apparently inaccurate when applied to those predicate acts that unmistakably constitute the kind of conduct Congress sought to deter. See *id.*, at 496, n. 41. The opinion does not explain how to distinguish such crimes from the other predicate acts Congress has lumped together in § 1961(1). The court below is not alone in struggling to define "racketeering injury," and the difficulty of that task itself cautions against imposing such a requirement. FN12

FN12. The decision below does not appear identical to *Bankers Trust*. It established a standing requirement, whereas *Bankers Trust* adopted a limitation on damages. The one focused on the mobster element, the other took a more conceptual approach, distinguishing injury caused by the individual acts from injury caused by their cumulative effect. Thus, the Eighth Circuit has indicated its agreement with *Bankers Trust* but not *Sedima. Alexander Grant & Co. v. Tiffany Industries, Inc.*, 742 F.2d, at 413. See also

Haroco, Inc. v. American National Bank & Trust Co. of Chicago, 747 F.2d, at 396. The two tests were described as "very different" by the ABA Task Force. See ABA Report, at 310.

Yet the *Bankers Trust* court itself did not seem to think it was departing from *Sedima*, see 741 F.2d, at 516-517, and other Second Circuit panels have treated the two decisions as consistent, see *Furman v. Cirrito*, 741 F.2d 524 (1984), cert. pending, No. 84-604; *Durante Brothers & Sons, Inc. v. Flushing National Bank*, 755 F.2d 239, 246 (1985). The evident difficulty in discerning just what the racketeering injury requirement consists of would make it rather hard to apply in practice or explain to a jury.

\*495 We need not pinpoint the Second Circuit's precise holding, for we perceive no distinct "racketeering injury" requirement. Given that "racketeering activity" consists of no more and no less than commission of a predicate act, § 1961(1), we are initially doubtful about a requirement of a "racketeering injury" separate from the harm from the predicate acts. A reading of the statute belies any such requirement. Section 1964(c) authorizes a private suit by "[a]ny person injured in his business or property by reason of a violation of § 1962." Section 1962 in turn makes it unlawful for "any person"-not just mobsters-to use money derived from a pattern of racketeering activity to invest in an enterprise, to acquire control of an enterprise through a pattern of racketeering activity, or to conduct an enterprise through a pattern of racketeering activity. §§ 1962(a)-(c). If the defendant engages in a pattern of racketeering activity in a manner forbidden by these provisions, and the racketeering activities injure the plaintiff in his business or property, the plaintiff has a claim under § 1964(c). There is no room in the statutory language for an additional, amorphous "racketeering injury" requirement. FN13

FN13. Given the plain words of the statute, we cannot agree with the court below that Congress could have had no "inkling of [§ 1964(c)'s] implications." 741 F.2d, at 492. Congress' "inklings" are best determined by the statutory language that it chooses, and

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the language it chose here extends far beyond the limits drawn by the Court of Appeals. Nor does the "clanging silence" of the legislative history, *ibid.*, justify those limits. For one thing, § 1964(c) did not pass through Congress unnoticed. See Part II, *su-pra*. In addition, congressional silence, no matter how "clanging," cannot override the words of the statute.

\*496 \*\*3285 A violation of § 1962(c), the section on which Sedima relies, requires (1) conduct (2) of an enterprise (3) through a pattern  $\frac{FN14}{}$  (4) of racketeering activity. The plaintiff must, of course, allege each of these elements to state a claim. Conducting an enterprise that affects interstate commerce is obviously not in itself a violation of § 1962, nor is mere commission of the predicate offenses. In addition, the plaintiff only has standing if, and can only recover to the extent that, he has been injured in his business or property by the conduct constituting the violation. As the Seventh Circuit has stated, "[a] defendant who violates section 1962 is not liable \*497 for treble damages to everyone he might have injured by other conduct, nor is the defendant liable to those who have not been injured." Haroco, Inc. v. American National Bank & Trust Co. of Chicago, 747 F.2d 384, 398 (1984), aff'd, 473 U.S. 606, 105 S.Ct. 3291, 87 L.Ed.2d 437.

> FN14. As many commentators have pointed out, the definition of a "pattern of racketeering activity" differs from the other provisions in § 1961 in that it states that a pattern "requires at least two acts of racketeering activity," § 1961(5) (emphasis added), not that it "means" two such acts. The implication is that while two acts are necessary, they may not be sufficient. Indeed, in common parlance two of anything do not generally form a "pattern." The legislative history supports the view that two isolated acts of racketeering activity do not constitute a pattern. As the Senate Report explained: "The target of [RICO] is thus not sporadic activity. The infiltration of legitimate business normally requires more than one 'racketeering activity' and the threat of continuing activity to be effective. It is this factor of continuity plus relationship which combines to produce a pattern." S.Rep. No. 91-617, p.

158 (1969) (emphasis added). Similarly, the sponsor of the Senate bill, after quoting this portion of the Report, pointed out to his colleagues that "[t]he term 'pattern' itself requires the showing of a relationship.... So, therefore, proof of two acts of racketeering activity, without more, does not establish a pattern...." 116 Cong.Rec. 18940 (1970) (statement of Sen. McClellan). See also id., at 35193 (statement of Rep. Poff) (RICO "not aimed at the isolated offender"); House Hearings, at 665. Significantly, in defining "pattern" in a later provision of the same bill, Congress was more enlightening: "[C]riminal conduct forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events." 18 U.S.C. § 3575(e). This language may be useful in interpreting other sections of the Act. Cf. Iannelli v. United States, 420 U.S. 770, 789, 95 S.Ct. 1284, 1295, 43 L.Ed.2d 616 (1975).

But the statute requires no more than this. Where the plaintiff alleges each element of the violation, the compensable injury necessarily is the harm caused by predicate acts sufficiently related to constitute a pattern, for the essence of the violation is the commission of those acts in connection with the conduct of an enterprise. Those acts are, when committed in the circumstances delineated in § 1962(c), "an activity which RICO was designed to deter." Any recoverable damages occurring by reason of a violation of § 1962(c) will flow from the commission of the predicate acts. FN15

FN15. Such damages include, but are not limited to, the sort of competitive injury for which the dissenters would allow recovery. See *post*, at 3303. Under the dissent's reading of the statute, the harm proximately caused by the forbidden conduct is not compensable, but that ultimately and indirectly flowing therefrom is. We reject this topsyturvy approach, finding no warrant in the language or the history of the statute for denying recovery thereunder to "the direct victims of the [racketeering] activity," *post*, at

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3303, while preserving it for the indirect. Even the court below was not that grudging. It would apparently have allowed recovery for both the direct and the ultimate harm flowing from the defendant's conduct, requiring injury "not *simply* caused by the predicate acts, but *also* caused by an activity which RICO was designed to deter." 741 F.2d, at 496 (emphasis added).

The dissent would also go further than did the Second Circuit in its requirement that the plaintiff have suffered a competitive injury. Again, as the court below stated, Congress "nowhere suggested that actual anti-competitive effect is required for suits under the statute." *Ibid.* The language it chose, allowing recovery to "[a]ny person injured in his business *or property,*" § 1964(c) (emphasis added), applied to this situation, suggests that the statute is not so limited.

This less restrictive reading is amply supported by our prior cases and the general principles surrounding this statute. RICO is to be read broadly. This is the lesson not only \*498 of Congress' selfconsciously\*\*3286 expansive language and overall approach, see United States v. Turkette, 452 U.S. 576, 586-587, 101 S.Ct. 2524, 2530-2531, 69 L.Ed.2d 246 (1981), but also of its express admonition that RICO is to "be liberally construed to effectuate its remedial purposes," Pub.L. 91-452, § 904(a), 84 Stat. 947. The statute's "remedial purposes" are nowhere more evident than in the provision of a private action for those injured by racketeering activity. See also n. 10. *supra*. Far from effectuating these purposes, the narrow readings offered by the dissenters and the court below would in effect eliminate § 1964(c) from the statute.

RICO was an aggressive initiative to supplement old remedies and develop new methods for fighting crime. See generally <u>Russello v. United States</u>, 464 U.S. 16, 26-29, 104 S.Ct. 296, 302-303, 78 L.Ed.2d 17 (1983). While few of the legislative statements about novel remedies and attacking crime on all fronts, see *ibid.*, were made with direct reference to § 1964(c), it is in this spirit that all of the Act's provisions should be read. The specific references to § 1964(c) are consistent with this overall approach.

Those supporting § 1964(c) hoped it would "enhance the effectiveness of title IX's prohibitions," House Hearings, at 520, and provide "a major new tool," 116 Cong.Rec. 35227 (1970). See also id., at 25190; 115 Cong.Rec. 6993-6994 (1969). Its opponents, also recognizing the provision's scope, complained that it provided too easy a weapon against "innocent businessmen," H.R.Rep. No. 91-1549, p. 187 (1970), and would be prone to abuse, 116 Cong.Rec. 35342 (1970). It is also significant that a previous proposal to add RICO-like provisions to the Sherman Act had come to grief in part precisely because it "could create inappropriate and unnecessary obstacles in the way of ... a private litigant [who] would have to contend with a body of precedent-appropriate in a purely antitrust context-setting strict requirements on questions such as 'standing to sue' and 'proximate cause.' " 115 Cong.Rec. 6995 (1969) (ABA comments on S. 2048); see also id., at 6993 (S. 1623 proposed as an amendment to title 18 to avoid these problems). In borrowing its "racketeering \*499 injury" requirement from antitrust standing principles, the court below created exactly the problems Congress sought to avoid.

Underlying the Court of Appeals' holding was its distress at the "extraordinary, if not outrageous," uses to which civil RICO has been put. 741 F.2d. at 487. Instead of being used against mobsters and organized criminals, it has become a tool for everyday fraud cases brought against "respected and legitimate 'enterprises.' " Ibid. Yet Congress wanted to reach both "legitimate" and "illegitimate" enterprises. United States v. Turkette, supra. The former enjoy neither an inherent incapacity for criminal activity nor immunity from its consequences. The fact that § 1964(c) is used against respected businesses allegedly engaged in a pattern of specifically identified criminal conduct is hardly a sufficient reason for assuming that the provision is being misconstrued. Nor does it reveal the "ambiguity" discovered by the court below. "[T]he fact that RICO has been applied in situations not expressly anticipated by Congress does not demonstrate ambiguity. It demonstrates breadth." Haroco, Inc. v. American National Bank & Trust Co. of Chicago, supra, at 398.

It is true that private civil actions under the statute are being brought almost solely against such defendants, rather than against the archetypal, intimidating mobster. FN16 Yet this defect-if defect it is-is

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\*\*3287 inherent in the statute as written, and its correction must lie with Congress. It is not for the judiciary to eliminate the private action in situations \*500 where Congress has provided it simply because plaintiffs are not taking advantage of it in its more difficult applications.

FN16. The ABA Task Force found that of the 270 known civil RICO cases at the trial court level, 40% involved securities fraud, 37% common-law fraud in a commercial or business setting, and only 9% "allegations of criminal activity of a type generally associated with professional criminals." ABA Report, at 55-56. Another survey of 132 published decisions found that 57 involved securities transactions and 38 commercial and contract disputes, while no other category made it into double figures. American Institute of Certified Public Accountants, The Authority to Bring Private Treble-Damage Suits Under "RICO" Should be Removed 13 (Oct. 10, 1984).

We nonetheless recognize that, in its private civil version, RICO is evolving into something quite different from the original conception of its enactors. See generally ABA Report, at 55-69. Though sharing the doubts of the Court of Appeals about this increasing divergence, we cannot agree with either its diagnosis or its remedy. The "extraordinary" uses to which civil RICO has been put appear to be primarily the result of the breadth of the predicate offenses, in particular the inclusion of wire, mail, and securities fraud, and the failure of Congress and the courts to develop a meaningful concept of "pattern." We do not believe that the amorphous standing requirement imposed by the Second Circuit effectively responds to these problems, or that it is a form of statutory amendment appropriately undertaken by the courts.

## V

Sedima may maintain this action if the defendants conducted the enterprise through a pattern of racketeering activity. The questions whether the defendants committed the requisite predicate acts, and whether the commission of those acts fell into a pattern, are not before us. The complaint is not deficient for failure to allege either an injury separate from the financial loss stemming from the alleged acts of mail and wire fraud, or prior convictions of the defendants

dants. The judgment below is accordingly reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

# \*523 Justice POWELL, dissenting.

I agree with Justice MARSHALL that the Court today reads the civil RICO statute in a way that validates uses of the statute that were never intended by Congress, and I join his dissent. I write separately to emphasize my disagreement\*524 with the Court's conclusion that the statute must be applied to authorize the types of private civil actions now being brought frequently against respected businesses to redress ordinary fraud and breach-of-contract cases. [NI]

FN1. The Court says these suits are not being brought against the "archetypal, intimidating mobster" because of a "defect" that is "inherent in the statute." *Ante*, at 3287. If RICO must be construed as the Court holds, this is indeed a defect that Congress never intended. I do not believe that the statute *must* be construed in what in effect is an irrational manner.

I

In United States v. Turkette, 452 U.S. 576, 101 S.Ct. 2524, 69 L.Ed.2d 246 (1981), the Court noted that in construing the scope of a statute, its language, if unambiguous, must be regarded as conclusive "in the absence of 'a clearly expressed legislative intent to the contrary." Id., at 580, 101 S.Ct., at 2527 (emphasis added) (quoting Consumer Product Safety Comm'n v. GTE Sylvania, Inc., 447 U.S. 102, 108, 100 S.Ct. 2051, 2056, 64 L.Ed.2d 766 (1980)). Accord, Russello v. United States, 464 U.S. 16, 20, 104 S.Ct. 296, 299, 78 L.Ed.2d 17 (1983). In both Turkette and Russello, we found that the "declared purpose" of Congress in enacting the RICO statute was "to seek the eradication of organized crime in the United States.' " United States v. Turkette, supra, 452 U.S., at 589, 101 S.Ct., at 2532 (quoting the statement of findings prefacing the Organized Crime Control Act of 1970, Pub.L. 91-452, 84 Stat. 923); accord, Russello v. United States, supra, 464 U.S., at 26-27, 104 S.Ct., at 302-303. That organized crime was Congress' target is apparent from the Act's title, is made plain throughout the legislative history of the

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statute, see, *e.g.*, S.Rep. No. 91-617 p. 76 (1969) (S.Rep.), and is acknowledged by all parties to these two \*\*3288 cases. Accord, Report of the Ad Hoc Civil RICO Task Force of the ABA Section of Corporation, Banking and Business Law 70-92 (1985) (ABA Report). The legislative history cited by the Court today amply supports this conclusion, see *ante*, at 3280-3281, and the Court concedes that "in its private civil version, RICO is evolving into something quite \*525 different from the original conception of its enactors. See generally ABA Report 55-69." *Ante*, at 3287. Yet, the Court concludes that it is compelled by the statutory language to construe § 1964(c) to reach garden-variety fraud and breach of contract cases such as those before us today. *Ibid*.

As the Court of Appeals observed in this case, "[i]f Congress had intended to provide a federal forum for plaintiffs for so many common law wrongs, it would at least have discussed it." FN2 741 F.2d 482, 492 (1984). The Court today concludes that Congress was aware of the broad scope of the statute, relying on the fact that some Congressmen objected to the possibility of abuse of the RICO statute by arguing that it could be used "to harass innocent businessmen." H.R.Rep. No. 91-1549, p. 187 (1970) (dissenting views of Reps. Conyers, Mikva, and Ryan); 116 Cong.Rec. 35342 (1970) (remarks of Rep. Mikva).

<u>FN2.</u> The force of this observation is accented by RICO's provision for treble damages-an enticing invitation to litigate these claims in federal courts.

In the legislative history of every statute, one may find critics of the bill who predict dire consequences in the event of its enactment. A court need not infer from such statements by opponents that Congress intended those consequences to occur, particularly where, as here, there is compelling evidence to the contrary. The legislative history reveals that Congress did not state explicitly that the statute would reach only members of the Mafia because it believed there were constitutional problems with establishing such a specific status offense. E.g., id., at 35343-35344 (remarks of Rep. Celler); id., at 35344 (remarks of Rep. Poff). Nonetheless, the legislative history makes clear that the statute was intended to be applied to organized crime, and an influential sponsor of the bill emphasized that any effect it had beyond such crime was meant to be only incidental. Id.,

at 18914 (remarks of Sen. McClellan).

\*526 The ABA study concurs in this view. The ABA Report states:

"[I]n an attempt to ensure the constitutionality of the statute, Congress made the central proscription of the statute the use of a 'pattern of racketeering activities' in connection with an 'enterprise,' rather than merely outlawing membership in the Mafia, La Cosa Nostra, or other organized criminal syndicates. 'Racketeering' was defined to embrace a potpourri of federal and state criminal offenses deemed to be the type of criminal activities frequently engaged in by mobsters, racketeers and other traditional members of 'organized crime.' The 'pattern' element of the statute was designed to limit its application to planned, ongoing, continuing crime as opposed to sporadic, unrelated, isolated criminal episodes. The 'enterprise' element, when coupled with the 'pattern' requirement, was intended by the Congress to keep the reach of RICO focused directly on traditional organized crime and comparable ongoing criminal activities carried out in a structured, organized environment. The reach of the statute beyond traditional mobster and racketeer activity and comparable ongoing structured criminal enterprises, was intended to be incidental, and only to the extent necessary to maintain the constitutionality of a statute aimed primarily at organized crime." Id., at 71-72 (footnote omitted).

It has turned out in this case that the naysayers' dire predictions have come true. As the Court notes, ante, at 3287 and n. 16, RICO has been interpreted so broadly that it has been used more often against respected businesses with no ties to organized crime, than against the mobsters who were the clearly intended target of the \*\*3289 statute. While I acknowledge that the language of the statute may be read as broadly as the Court interprets it today, I do not believe that it *must* \*527 be so read. Nor do I believe that interpreting the statutory language more narrowly than the Court does will "eliminate the [civil RICO] private action," ante, at ----, in cases of the kind clearly identified by the legislative history. The statute may and should be read narrowly to confine its reach to the type of conduct Congress had in mind. It is the duty of this Court to implement the unequivocal intention of Congress.

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II

The language of this complex statute is susceptible of being read consistently with this intent. For example, the requirement in the statute of proof of a "pattern" of racketeering activity may be interpreted narrowly. Section 1961(5), defining "pattern of racketeering activity," states that such a pattern "requires at least two acts of racketeering activity." This contrasts with the definition of "racketeering activity" in § 1961(1), stating that such activity "means" any of a number of acts. The definition of "pattern" may thus logically be interpreted as meaning that the presence of the predicate acts is only the beginning: something more is required for a "pattern" to be proved. The ABA Report concurs in this view. It argues persuasively that "[t]he 'pattern' element of the statute was designed to limit its application to planned, ongoing, continuing crime as opposed to sporadic, unrelated, isolated criminal episodes," ABA Report 72, such as the criminal acts alleged in the cases before us today.

The legislative history bears out this interpretation of "pattern." Senator McClellan, a leading sponsor of the bill, stated that "proof of two acts of racketeering activity, without more, does not establish a pattern." 116 Cong.Rec. 18940 (1970). Likewise, the Senate Report considered the "concept of 'pattern' [to be] essential to the operation of the statute." S.Rep., at 158. It stated that the bill was not aimed at sporadic activity, but that the "infiltration of legitimate business normally requires more than one 'racketeering \*528 activity' and the threat of continuing activity to be effective. It is this factor of continuity plus relationship which combines to produce a pattern." Ibid. (emphasis added). The ABA Report suggests that to effectuate this legislative intent, "pattern" should be interpreted as requiring that (i) the racketeering acts be related to each other, (ii) they be part of some common scheme, and (iii) some sort of continuity between the acts or a threat of continuing criminal activity must be shown. ABA Report, at 193-208. By construing "pattern" to focus on the manner in which the crime was perpetrated, courts could go a long way toward limiting the reach of the statute to its intended target-organized crime.

The Court concedes that "pattern" could be narrowly construed, *ante*, at 3285, n. 14, and notes that part of the reason civil RICO has been put to such extraordinary uses is because of the "failure of Con-

gress and the courts to develop a meaningful concept of 'pattern,' " ante, at 3287. The Court declines to decide whether the defendants' acts constitute such a pattern in this case, however, because it concludes that that question is not before the Court. Ante, at 3287. I agree that the scope of the "pattern" requirement is not included in the questions on which we granted certiorari. I am concerned, however, that in the course of rejecting the Court of Appeals' ruling that the statute requires proof of a "racketeering injury" the Court has read the entire statute so broadly that it will be difficult, if not impossible, for courts to adopt a reading of "pattern" that will conform to the intention of Congress.

The Court bases its rejection of the "racketeering injury" requirement on the general principles that the RICO statute is to be read "broadly," that it is to be " 'liberally construed to effectuate its remedial purposes,' " ante, at 3286 (quoting Pub.L. 91-452, § 904(a), 84 Stat. 947), and that the statute was part of "an aggressive initiative\*\*3290 to supplement old remedies and develop new methods for fighting crime." Ante, at 3286. Although the Court acknowledges that few of the legislative statements supporting these principles were made \*529 with reference to RICO's private civil action, it concludes nevertheless that all of the Act's provisions should be read in the "spirit" of these principles. *Ibid*. By constructing such a broad premise for its rejection of the "racketeering injury" requirement, the Court seems to mandate that all future courts read the entire statute broadly.

It is neither necessary to the Court's decision, nor in my view correct, to read the civil RICO provisions so expansively. We ruled in *Turkette* and *Russello* that the statute must be read broadly and construed liberally to effectuate its remedial purposes, but like the legislative history to which the Court alludes, it is clear we were referring there to RICO's criminal provisions. It does not necessarily follow that the same principles apply to RICO's private civil provisions. The Senate Report recognized a difference between criminal and civil enforcement in describing proposed civil remedies that would have been available to the Government. It emphasized that although those proposed remedies were intended to place additional pressure on organized crime, they were intended to reach "essentially an economic, not a punitive goal." S.Rep., at 81 (emphasis added). The Report elabo-

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## rated as follows:

"However remedies may be fashioned, it is necessary to free the channels of commerce from predatory activities, *but* there is no intent to visit punishment on any individual; the purpose is civil. Punishment as such is limited to the criminal remedies...." *Ibid.* (emphasis added; footnote omitted).

The reference in the Report to "predatory activities" was to organized crime. Only a small fraction of the scores of civil RICO cases now being brought implicate organized crime in any way. FN3 Typically, these suits are being brought-in the \*530 unfettered discretion of private litigants-in federal court against legitimate businesses seeking treble damages in ordinary fraud and contract cases. There is nothing comparable in those cases to the restraint on the institution of criminal suits exercised by Government prosecutorial discretion. Today's opinion inevitably will encourage continued expansion of resort to RICO in cases of alleged fraud or contract violation rather than to the traditional remedies available in state court. As the Court of Appeals emphasized, it defies rational belief, particularly in light of the legislative history, that Congress intended this farreaching result. Accordingly, I dissent.

<u>FN3.</u> As noted in the ABA Report, of the 270 District Court RICO decisions prior to this year, only 3% (9 cases) were decided throughout the entire decade of the 1970's, whereas 43% (116 cases) were decided in 1984. ABA Report, at 53a (Table). See *ante*, at 3277, n. 1.

U.S.N.Y.,1985. Sedima, S.P.R.L. v. Imrex Co., Inc. 473 U.S. 479, 105 S.Ct. 3275, 87 L.Ed.2d 346, 53 USLW 5034, Fed. Sec. L. Rep. P 92,086, 1985-2 Trade Cases P 66,666, RICO Bus.Disp.Guide 6100