

RECORD NOS. 20-1062(L), 20-1063, 20-1358, 20-1359

---

In The  
**United States Court of Appeals**  
For The Fourth Circuit

**GEORGE HENGLE; SHERRY BLACKBURN; WILLIE ROSE; ELWOOD BUMBRAY;  
TIFFANI MYERS; STEVEN PIKE; SUE COLLINS; AND LAWRENCE MWETHUKU;**  
on behalf of themselves and all others similarly situated,

*Plaintiffs – Appellees,*

v.

**SHERRY TREPPA, Chairperson of the Habematolel Pomo of Upper Lake Executive  
Council; in her official capacity; TRACEY TREPPA, Vice-Chairperson of the Habematolel  
Pomo of Upper Lake Executive Council; in her official capacity; KATHLEEN TREPPA,  
Treasurer of the Habematolel Pomo of Upper Lake Executive Council; in her official  
capacity; CAROL MUNOZ, Secretary of the Habematolel Pomo of Upper Lake Executive  
Council; in her official capacity; JENNIFER BURNETT, Member-At-Large of the  
Habematolel Pomo of Upper Lake Executive Council; in her official capacity; AIMEE  
JACKSON-PENN, Member-At-Large of the Habematolel Pomo of Upper Lake Executive  
Council; in her official capacity; VERONICA KROHN, Member-At-Large of the  
Habematolel Pomo of Upper Lake Executive Council; in her official capacity,**

*Defendants – Appellants,*

and

**SCOTT ASNER; JOSHUA LANDY,**

*Defendants.*

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
AT RICHMOND**

---

**REPLY BRIEF OF APPELLEES**

---

**Leonard Anthony Bennett  
CONSUMER LITIGATION ASSOCIATES, P.C.  
763 J. Clyde Morris Boulevard, Suite 1A  
Newport News, Virginia 23601  
(757) 930-3660**

**Matthew W. H. Wessler  
GUPTA WESSLER PLLC  
1900 L Street NW, Suite 312  
Washington, DC 20036  
(202) 888-1741**

**Kristi Cahoon Kelly  
Andrew J. Guzzo  
Casey Shannon Nash  
KELLY GUZZO PLC  
3925 Chain Bridge Road, Suite 202  
Fairfax, Virginia 22030  
(703) 424-7570**

*Counsel for Plaintiffs-Appellees*

---

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES .....	ii
INTRODUCTION.....	1
ARGUMENT .....	2
I.     The defendants’ proposed interpretation of RICO’s remedial provision is inconsistent with both its text and structure .....	2
II.    The defendants’ non-textual arguments in support of their interpretation cannot overcome the plain text.....	10
CONCLUSION .....	15
CERTIFICATE OF COMPLIANCE	
CERTIFICATE OF SERVICE	

## TABLE OF AUTHORITIES

## Page(s)

## CASES

<i>Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.</i> , 511 U.S. 164 (1994).....	11
<i>Chevron Corp. v. Donziger</i> , 833 F.3d 74 (2d Cir. 2016) .....	3, 4, 7, 10
<i>eBay Inc. v. MerchExchange, LLC</i> , 547 U.S. 388 (2006).....	14-15
<i>EEOC v. Pac. Press Publ'g Ass'n</i> , 535 F.2d 1182 (9th Cir. 1976) .....	8
<i>FTC v. Consumer Def., LLC</i> , 926 F.3d 1208 (9th Cir. 2019) .....	9
<i>Holmes v. SIPC</i> , 503 U.S. 258 (1992).....	13
<i>Johnson v. Collins Ent. Co.</i> , 199 F.3d 710 (4th Cir. 1999).....	4
<i>Klehr v. A.O. Smith Corp.</i> , 521 U.S. 179 (1997).....	13
<i>Nat'l Org. for Women, Inc. v. Scheidler</i> , 267 F.3d 687 (7th Cir. 2001).....	<i>passim</i>
<i>Religious Tch. Ctr. v. Wollersheim</i> , 796 F.2d 1076 (9th Cir. 1986) .....	4, 10, 12
<i>Return Mail, Inc. v. USPS</i> , 139 S. Ct. 1853 (2019).....	7

<i>Rotella v. Wood</i> , 528 U.S. 549 (2000).....	13
<i>SAS Inst., Inc. v. World Programming Ltd.</i> , 952 F.3d 513 (4th Cir. 2020).....	15
<i>Sedima, S.P.R.L. v. Imrex Co., Inc.</i> , 473 U.S. 479 (1985).....	13
<i>Solid Waste Agency of N. Cook Cnty. v. U.S. Army Corps of Eng’rs</i> , 531 U.S. 159 (2001).....	11
<i>Steel Co. v. Citizens for a Better Env’t</i> , 523 U.S. 83 (1998) .....	5
<i>United States v. Blue Cross &amp; Blue Shield, Inc.</i> , 989 F.2d 718 (4th Cir. 1993).....	12
<i>United States v. Cappetto</i> , 502 F.2d 1351 (7th Cir. 1974) .....	9
<i>United States v. Cooper Corp.</i> , 312 U. S. 600 (1941).....	7
<i>United States v. Local 30, United Slate, Tile and Composition Roofers, et al.</i> , 686 F. Supp. 1139 (E.D. Pa. 1988) .....	9
<i>United States v. Szymuszkiewicz</i> , 622 F.3d 701 (7th Cir. 2010).....	14
<i>United States v. William Savran &amp; Assocs., Inc.</i> , 755 F. Supp. 1165 (E.D. Pa. 1991) .....	9

## STATUTES

15 U.S.C. § 53(b) .....	8
15 U.S.C. § 2622(d) .....	5

18 U.S.C. § 1962 .....	3
18 U.S.C. § 1964(a) .....	<i>passim</i>
18 U.S.C. § 1964(b) .....	<i>passim</i>
18 U.S.C. § 1964(c).....	5, 6, 9, 10
21 U.S.C. § 853 .....	8
42 U.S.C. § 2000e-5(f)(2) .....	8
42 U.S.C. § 2000e-5(g)(1) .....	8

## INTRODUCTION

The defendants' argument that RICO does not permit private parties to seek injunctive relief involves two interpretive steps. The first (at 51) requires reading subsection (a) of RICO's remedial provision, 18 U.S.C. § 1964(a), as establishing a district court's "broad equitable jurisdiction" to remedy violations of the statute, but only where another provision specifically authorizes a party to obtain those remedies. And the second (at 51-52) requires construing only one of the two subsections that confer a right to seek relief as providing such authorization. Under the defendants' reading, only § 1964(b)—the provision authorizing the Attorney General to sue—triggers the equitable jurisdiction specified in § 1964(a).

Neither step is supported by the text of the statute. Interpreting § 1964(a) as conditioning a district court's authority to award equitable relief for violations of RICO reads words of limitation into the provision that aren't there. And, as even the defendants concede, § 1964(b) doesn't explicitly authorize the Attorney General to obtain any of the equitable remedies identified in § 1964(a); it says only that the Attorney General can obtain interim and preliminary equitable relief. Without the text, the defendants are left with little to ground their interpretation other than the claim (at 54) that, because "on at least two occasions" Congress declined to amend RICO to include a specific provision

authorizing equitable relief in private actions, “RICO as written does not provide for private equitable relief.” But because this sort of dubious history cannot overcome the plain words of the statute, this argument fails as well. This Court should reverse.

## **ARGUMENT**

### **I. The defendants’ proposed interpretation of RICO’s remedial provision is inconsistent with both its text and structure.**

A. The defendants first argue that § 1964(a) should be read as authorizing a district court to hear RICO claims and to grant injunctions only where parties have been explicitly authorized by other provisions of the law to seek that form of relief. *See* Br. 51-52; *see also* Gov’t Br. 17. They agree that § 1964(a) provides a district court with “broad equitable jurisdiction,” but insist that a district court’s power to exercise this jurisdiction turns on the identity of the plaintiff who brings suit.

This proposed interpretation cannot survive § 1964(a)’s plain text. It states (in relevant part) that “[t]he district courts of the United States shall have jurisdiction to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders . . . .” By its terms, this provision contains only one limitation on a district court’s authority to grant equitable relief—it may only do so “to prevent and restrain violations of section 1962 of this chapter.” But

once this condition has been satisfied, a district court's authority to award appropriate equitable relief under § 1964(a) is uninhibited. *See* Gov't Br. 24 ("Section 1964(a) confers on district courts the express power to grant equitable relief, and that grant of authority encompasses the full range of equitable powers available to a court."). Section 1964(a), in other words, authorizes district courts to award equitable relief for any violation of those activities identified in § 1962.

To adopt the defendants' reading of § 1964(a) as containing an additional constraint based on party identity would therefore unavoidably require adding words of limitation where they do not exist. That is forbidden. As the Second Circuit explained when it rejected exactly this argument, any reading of § 1964(a) that would limit a court's authority "by reference to the identity or nature of the plaintiff" is inconsistent with the statutory text because § 1964(a) "neither states that any category of persons may not obtain relief that is within the powers granted to the federal courts nor specifies the persons in whose favor the courts are authorized to exercise the powers there granted." *Chevron*



*Corp. v. Donziger*, 833 F.3d 74, 138 (2d Cir. 2016). That, standing alone, is enough to reject the defendants' interpretive theory here.<sup>1</sup>

The defendants' argument here is, however, flawed for an additional reason. It would also require treating § 1964(a) as a "purely 'jurisdictional' statute." *Scheidler*, 267 F.3d at 697. Purely jurisdictional statutes specify that courts may hear certain claims, but only so long as criteria in other subsections are met. *See id.* But here, § 1964(a) does more. It not only "grant[s] district courts authority to hear RICO claims" but it also "spell[s] out a non-exclusive

---

<sup>1</sup> Only one circuit has adopted the defendants' interpretation—the Ninth Circuit in *Religious Tch. Ctr. v. Wollersheim*, 796 F.2d 1076 (9th Cir. 1986). But aside from the brief acknowledgement (at 56) that "the Ninth Circuit has held that RICO does not permit private parties to obtain equitable relief," the defendants make no reference to the Ninth Circuit's interpretation of this statute. The defendants shy away from *Wollersheim* for a reason: the decision's foundations have crumbled. Since it was decided more than thirty years ago, both the Second and Seventh Circuits—the only two other Court of Appeals decisions squarely analyzing the textual question at issue here—have thoroughly rejected every aspect of *Wollersheim's* analysis. *See Nat'l Org. for Women, Inc. v. Scheidler*, 267 F.3d 687, 695-700 (7th Cir. 2001); *Chevron*, 833 F.3d at 137-140. Yet despite claiming that the "weight of precedent" favors their interpretation, the defendants don't even address these cases. *Chevron* goes entirely uncited in the defendants' brief and although *Scheidler* gets a cite (at 57), it is only to mention that the government filed a brief "making the same arguments DOJ advances here." And, needless to say, this Court's earlier statements expressing doubt that RICO authorizes private parties to seek injunctive relief came before both *Scheidler* and *Chevron* and did not require a thorough analysis of the statutory question. *See, e.g., Johnson v. Collins Ent. Co.*, 199 F.3d 710, 726 (4th Cir. 1999) (noting that *Wollersheim* was "the only circuit to have squarely addressed the question").

list of the remedies district courts are empowered to provide in such cases.” *Scheidler*, 267 F.3d at 697. As the Supreme Court has explained, these sorts of statutory provisions are “commonplace,” and they specifically identify the scope of remedial powers a court has at its disposal to “enforce the violated requirement and to impose civil penalties.” *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 90 (1998) (citing, as an example, 15 U.S.C. § 2622(d), which provides that, “[i]n actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages”). Construing § 1964(a) as exclusively jurisdictional in nature would contravene this basic principle by eliminating the provision’s clear grant of “certain remedial powers that the courts will have in cases brought before them.” *Scheidler*, 267 F.3d at 697 (noting that, “[o]nce we accept that § 1964(a) is not purely jurisdictional, but also describes remedies available under RICO, the defendants’ position becomes untenable”).

**B.** The defendants’ next interpretive step fares no better. They argue that § 1964(b), but not § 1964(c), provides the necessary explicit authorization for a plaintiff to obtain those equitable remedies specified in § 1964(a). *See* Br. 51.

Here, too, the statutory text fails to support this argument. That is because § 1964(b) doesn’t explicitly authorize the Attorney General to obtain the relevant remedies at all—it says only that the Attorney General can obtain

interim preliminary relief for violations of the statute. *See* § 1964(b) (“Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions . . . as it shall deem proper.”). Under the defendants’ own interpretive logic, this reference would mean that the Attorney General is foreclosed from obtaining any other remedy in cases brought by the government. After all, the defendants insist (at 52) that, when it comes to § 1964(c), “the ‘inclusion of a single statutory reference to private plaintiffs, and the identification of a damages and fees remedy for such plaintiffs . . . logically carries the negative implication that no other remedy was intended to be conferred on private plaintiffs.’” (Internal citation omitted.) Yet no one would argue that the “negative implication” of § 1964(b)’s identification of a single remedy for the Attorney General logically means that “no other remedy was intended to be conferred.”

Even so, the defendants insist (at 51) that § 1964(b)’s explicit authorization to pursue the permanent equitable remedies specified in § 1964(a) could nonetheless “flow[]” from the statement that the Attorney General “may institute proceedings under this section.” But this statement, of course, says nothing explicit about whether the Attorney General may obtain the remedies specified in § 1964(a)—that provision isn’t even cross-referenced in § 1964(b). Recognizing this, the defendants rely on the surplusage canon to

support their interpretation. As they see it, “if § 1964(a) allowed anyone to pursue the remedies it sets forth, then the language in § 1964(b) that ‘[t]he Attorney General may institute proceedings under this section’ would serve no purpose.” Br. 52 (insisting that adopting such an interpretation “would render” this part of the statute “surplusage”).

That is wrong. This language serves a crucial purpose: It specifically authorizes the government to publicly enforce violations of the statute. Without it, RICO would be enforceable only through private rights of action and the Attorney General would be left out in the cold, with no statutory basis to sue. *See, e.g., Return Mail, Inc. v. USPS*, 139 S. Ct. 1853, 1861-62 (2019) (foreclosing the government from initiating certain post-patent proceedings based on the “‘longstanding interpretive presumption that ‘person’ does not include the sovereign,’ and thus excludes a federal agency”); *United States v. Cooper Corp.*, 312 U. S. 600, 603-05 (1941) (foreclosing suit by the government under the Sherman Act’s analogue to § 1964(c) because the government does not fall with “the phrase ‘any person’” as used in the statute); *see also Chevron*, 833 F.3d at 138 (concluding “that the United States does not come within the RICO definition of ‘person’”).

The defendants also support (at 53) their interpretation of § 1964(b) by insisting that it would be “anomalous” to allow “anyone to obtain a permanent

injunction” under § 1964(a) but “permit[] only the Attorney General to get such relief on a preliminary basis” under § 1964(b). Not so. Plenty of statutes authorize only government enforcers to seek preliminary injunctive relief. *See, e.g.*, 15 U.S.C. § 53(b) (authorizing the FTC to seek “a temporary restraining order or a preliminary injunction”); 21 U.S.C. § 853 (authorizing the government to obtain a “temporary restraining order . . . without notice or opportunity for a hearing” if certain criteria are met). And some do so even while authorizing private parties to pursue and obtain permanent equitable relief. *See, e.g.*, 42 U.S.C. § 2000e-5(f)(2), (g)(1) (authorizing only government enforcers to “bring an action for appropriate temporary or preliminary relief” while permitting a court to “enjoin the respondent from engaging in [an] unlawful employment practice,” and to require “such affirmative action as may be appropriate” without limitation to party identity).

And just like the first sentence of § 1964(b), this sentence of § 1964(b) serves another important purpose. It “contemplates the need in certain situations for speedy relief” to preserve the status quo by “relax[ing]” the “usual requirement of irreparable injury” that is required by “the more traditional route to preliminary injunctive relief.” *EEOC v. Pac. Press Publ’g Ass’n*, 535 F.2d 1182, 1186-87 (9th Cir. 1976) (holding that the “statutory authority” to seek preliminary injunctive relief dispenses with the irreparable injury

requirement); see also *FTC v. Consumer Def., LLC*, 926 F.3d 1208, 1213-14 (9th Cir. 2019) (noting that, where an “applicable statute authorizes injunctive relief,” Congress has “lightened the agency’s burden by eliminating the need to show irreparable harm”); *United States v. William Savran & Assocs., Inc.*, 755 F. Supp. 1165, 1179 (E.D. Pa. 1991) (explaining that, “where Congress has provided for Governmental enforcement of a statute by way of an injunction, the courts have consistently held that irreparable harm need not be demonstrated, and that so long as the statutory conditions are met, irreparable harm to the public is presumed”).

In fact, the government has frequently sought and obtained preliminary injunctive relief for RICO violations under § 1964(b) without having to prove irreparable injury. See, e.g., *United States v. Local 30, United Slate, Tile and Composition Roofers, et al.*, 686 F. Supp. 1139, 1164 (E.D. Pa. 1988) (granting preliminary injunctive relief under RICO to government without requiring showing of irreparable harm); *United States v. Cappetto*, 502 F.2d 1351, 1358-59 (7th Cir. 1974) (same).

Given all of this, the defendants’ claim that § 1964(c) “is different” because it does not “mention equitable relief” or state that private plaintiffs may “initiate proceedings ‘under this section’” collapses. Neither feature of § 1964(b) provides any textual support for the conclusion that only the Attorney General

may obtain those equitable remedies specified in § 1964(a). That is not surprising: The most natural way to read 1964(b) and 1964(c) is that they spell out the “limitations as to who may obtain certain other types of relief”—beyond what is available generally to all plaintiffs under § 1964(a). *Chevron*, 833 F.3d at 138 (explaining that § 1964(b) specifies that preliminary injunctive relief is “available only to the United States, not to a private person,” while § 1964(c) provides “awards of treble damages or attorneys’ fees” to private parties but not the United States); *see also Scheidler*, 267 F.3d at 697 (discussing this “parity of reasoning”). Because the district court failed to understand this important distinction and adopted an interpretation that conflicts with the text of the statute, its decision should be reversed.

## **II. The defendants’ non-textual arguments in support of their interpretation cannot overcome the plain text.**

The textual weakness of the defendants’ argument ultimately leads them down the same flawed path that the Ninth Circuit took in *Wollersheim*. There, after admitting that § 1964(a) “does not ... expressly limit the availability of the illustrative equitable remedies to the government,” the Ninth Circuit ultimately turned away from the text, holding that “[t]he legislative history mandates us to hold that injunctive relief is not available to a private party in a civil RICO action.” *Wollersheim*, 796 F.2d at 1082-1086 (concluding that, “in considering

civil RICO, Congress was repeatedly presented with the opportunity expressly to include a provision permitting private plaintiffs to secure injunctive relief”). The defendants agree, insisting that, text aside, because Congress “on at least two occasions” declined to amend RICO to add a provision authorizing equitable relief for private actions, this Court should conclude that “RICO as written does not provide for private equitable relief.”

But a statutory interpretation that relies on “snippets of legislative history” and congressional inaction for support is exceedingly suspect. As the Supreme Court has made clear, “[f]ailed legislative proposals are a particularly dangerous ground on which to rest an interpretation of a prior statute.” *Solid Waste Agency of N. Cook Cnty. v. U.S. Army Corps of Eng’rs*, 531 U.S. 159, 169–70 (2001) (quotation marks omitted) (citations omitted). That is because “[a] bill can be proposed for any number of reasons, and it can be rejected for just as many others.” *Id.* Put another way, “congressional inaction lacks persuasive significance because several equally tenable inferences may be drawn from such inaction, including the inference that the existing legislation already incorporated the offered change.” *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 187 (1994) (holding that such an argument “deserve[s] little weight in the interpretive process”).



The defendants' appeal to legislative history is particularly dubious here. As even *Wollersheim* recognized, the relevant legislative history cuts both ways on this question. When the House sponsor introduced the bill to create § 1964(c), for instance, he specifically explained that the private treble damages provision was designed to function as a complement to the "broad" "equitable powers" already afforded under § 1964(a). *Wollersheim*, 796 F.3d at 1085 (discussing this and other statements specifically analogizing the "several equitable remedies" used in the Sherman Act as an analogue). That is precisely why this Court has refused to use this type of history as a basis for statutory interpretation. *See, e.g., United States v. Blue Cross & Blue Shield, Inc.*, 989 F.2d 718, 727 (4th Cir. 1993) (noting that "we can infer little from congressional inaction alone").

The defendants also draw the wrong conclusions from comparison to the antitrust laws. Although they concede (at 54) that the Clayton Act "permits private parties to obtain equitable relief," they argue that, because it does so through "a separate cause of action," the absence of any "comparable provision in RICO" means that no similar relief is available here. But as the Seventh Circuit has explained, "that the Clayton Act spreads its remedial provisions over a number of different sections of the U.S. Code, and RICO does not, adds little to [the] understanding of either statute." *Scheidler*, 267 F.3d at 700. What matters

instead is that the Supreme Court has consistently treated the remedial sections of RICO and the Clayton Act identically—“regardless of superficial differences in language.” *Id.* (discussing *Klehr v. A.O. Smith Corp.*, 521 U.S. 179, 188–89 (1997), which applied the Clayton Act rule for accrual of cause of action to RICO and *Holmes v. SIPC*, 503 U.S. 258 (1992), which applied the proximate cause rule to RICO).

Just so. Because the Supreme Court has long held that litigants other than the Attorney General may obtain broad injunctive relief under the Clayton Act, those circuits that have considered have had little difficulty adopting the same interpretation with respect to RICO. And that is all the more true given Congress’s intent “to ‘encourag[e] civil litigation to supplement Government efforts to deter and penalize the ... prohibited practices. The object of civil RICO is thus not merely to compensate victims but to turn them into prosecutors, “private attorneys general,” dedicated to eliminating racketeering activity.” *Scheidler*, 267 F.3d at 698 (quoting *Rotella v. Wood*, 528 U.S. 549, 557 (2000)); see also *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479, 492 n.10 (1985) (noting that,

“if Congress’ liberal-construction mandate is to be applied anywhere, it is in § 1964, where RICO’s remedial purposes are most evident”).<sup>2</sup>

Finally, the government also argues (at 23) that “the traditional rules of equity” support the defendants’ reading of section 1964. In its view, by specifying that private plaintiffs are entitled to treble damages, “Congress provided an adequate remedy at law that would seemingly preclude equitable relief of the sort described in section 1964(a).” The defendants do not join in this argument, and for good reason—no authority supports it. The decision to grant or deny permanent injunctive relief “is an act of equitable discretion by the district court,” and is informed by a four-factor test that includes a determination of whether “remedies available at law, such as monetary damages, are inadequate to compensate for that injury.” *eBay Inc. v.*

---

<sup>2</sup> The government argues that this “language” “cannot be read as conveying all of the Attorney General’s powers to civil litigants.” Gov’t Br. 33. But no one makes this argument. Because § 1964(b)’s temporary equitable relief is specific to those suits brought by the Attorney General, it remains unavailable to private litigants. *See Scheidler*, 267 F.3d at 700. And as for the government’s concern (at 31-32) that allowing private litigants to obtain equitable relief would “implicitly” place remedies like “divestiture and corporate reorganization and dissolution” in “private hands,” the answer is that the availability of equitable remedies always remains in the *court’s* hands. And § 1964(a) is careful to cabin a court’s authority to only issuing “appropriate orders” to prevent and restrain violations of the statute. In any case, given that the government hasn’t identified any cases implicating this concern, “[i]t is better to follow the statute than to make up limitations to avert imaginary problems.” *United States v. Szymuszkiewicz*, 622 F.3d 701, 707 (7th Cir. 2010).

*MerchExchange, LLC*, 547 U.S. 388, 391 (2006). So even if a damages remedy is statutorily authorized, its unavailability in any particular case can serve to justify the issuance of injunctive relief. *See, e.g., SAS Inst., Inc. v. World Programming Ltd.*, 952 F.3d 513, 528 (4th Cir. 2020) (explaining that “the eBay factors must be interpreted in light of the context to which they apply” and holding that “the unsatisfiability of a money judgment can constitute irreparable injury” that justifies a permanent injunction).

### **CONCLUSION**

The district court’s decision denying the plaintiffs injunctive relief under RICO should be reversed.

Respectfully submitted,

/s/ Kristi Cahoon Kelly  
Kristi Cahoon Kelly

Kristi Cahoon Kelly  
Andrew J. Guzzo  
Casey Shannon Nash  
KELLY GUZZO PLC  
3925 Chain Bridge Road, Suite 202  
Fairfax, VA 22030  
(703) 424-7570  
*kkelly@kellyguzzo.com*

Leonard Anthony Bennett  
CONSUMER LITIGATION ASSOCIATES, P.C.  
763 J. Clyde Morris Blvd, Suite 1A  
Newport News, VA 23601  
(757) 930-3660

Matthew W. H. Wessler  
GUPTA WESSLER PLLC  
1900 L Street NW, Suite 312  
Washington, DC 20036  
(202) 888-1741

*Counsel for Plaintiffs-Appellees*

Dated: September 3, 2020

**CERTIFICATE OF COMPLIANCE**

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 28.1(e)(2) because this brief contains 3,421 words, excluding the parts of the brief exempted by Rule 32(f). This brief complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because this brief has been prepared in proportionally spaced typeface using Microsoft Word in 14-point Century Expanded font.

/s/ Kristi Cahoon Kelly  
Kristi Cahoon Kelly

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2020, I electronically filed the foregoing reply brief of plaintiffs-appellees with the Clerk of the Court for the U.S. Court of Appeals for the Fourth Circuit by using the CM/ECF system. All participants are registered CM/ECF users and will be served by the CM/ECF system.

/s/ Kristi Cahoon Kelly  
Kristi Cahoon Kelly