

1 IN THE SUPREME COURT OF THE UNITED STATES

2 - - - - - x

3 RJR NABISCO, INC., ET AL., :

4 Petitioners : No. 15-138

5 v. :

6 THE EUROPEAN COMMUNITY, ET AL., :

7 Respondents. :

8 - - - - - x

9 Washington, D.C.

10 Monday, March 21, 2016

11

12 The above-entitled matter came on for oral
13 argument before the Supreme Court of the United States
14 at 11:17 a.m.

15 APPEARANCES:

16 GREGORY G. KATSAS, ESQ., Washington, D.C.; on behalf of
17 Petitioners.

18 ELAINE J. GOLDENBERG, ESQ., Assistant to the Solicitor
19 General, Department of Justice, Washington, D.C.; for
20 United States, as amicus curiae, supporting vacatur.

21 DAVID C. FREDERICK, ESQ., Washington, D.C.; on behalf of
22 Respondents.

23

24

25

1	C O N T E N T S	
2	ORAL ARGUMENT OF	PAGE
3	GREGORY G. KATSAS, ESQ.	
4	On behalf of the Petitioners	3
5	ORAL ARGUMENT OF	
6	ELAINE J. GOLDENBERG, ESQ.	
7	For United States, as amicus curiae,	
8	supporting vacatur	19
9	ORAL ARGUMENT OF	
10	DAVID C. FREDERICK, ESQ.	
11	On behalf of the Respondents	29
12	REBUTTAL ARGUMENT OF	
13	GREGORY G. KATSAS, ESQ.	
14	On behalf of the Petitioners	48
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 (11:17 a.m.)

3 CHIEF JUSTICE ROBERTS: We'll hear argument
4 next in Case 15-138, RJR Nabisco v. The European
5 Community.

6 Mr. Katsas.

7 ORAL ARGUMENT BY GREGORY G. KATSAS

8 ON BEHALF OF THE PETITIONERS

9 MR. KATSAS: Mr. Chief Justice, and may it
10 please the Court:

11 The Second Circuit extended civil RICO to
12 claims involving foreign injuries, foreign enterprises,
13 and foreign patterns of racketeering. Its holding is
14 wrong for two reasons: First, RICO's private civil
15 cause of action does not provide redress for foreign
16 injuries; and second, RICO's substantive prohibitions do
17 not reach the infiltration and corruption of foreign
18 enterprises.

19 As to the first point, Respondents have now
20 abandoned any allegation of domestic injury. That is
21 fatal to their case because Section 1964(c), the private
22 right of action in RICO, is limited to domestic
23 injuries. Two related and mutually --

24 JUSTICE GINSBURG: If -- if the statute
25 isn't -- the statute doesn't say "domestic injury," does

1 it?

2 MR. KATSAS: The statute -- statute says
3 "injury," Justice Ginsburg, by application of the
4 presumption against extraterritoriality. Injury is the
5 focus of Section 1964(c), and therefore, injury is
6 limited to domestic application absent a clear
7 indication to the contrary.

8 That is a straightforward application of
9 this Court's decision in Morrison, which says you
10 identify the focus of the provision before you, and you
11 limit it to domestic application unless Congress says
12 otherwise.

13 JUSTICE GINSBURG: So you're making a
14 distinction between RICO when the government is using it
15 as a prosecutorial tool -- tool, and RICO --

16 MR. KATSAS: Yes. Yes. We are making a
17 distinction between Section 1962, which is the
18 underlying criminal prohibition, and Section 1964(c),
19 which is the private civil right of action. Different
20 provisions and statutes can have different foci, as
21 Morrison itself made clear in separately analyzing
22 Section 30 and Section 10(b) of the '34 Securities Act.

23 And -- and here the difference between the
24 substantive prohibition and the private right of action
25 is clear from this Court's private right of action

1 jurisprudence over the last 30 or 40 years which made
2 clear that the decision to prohibit certain underlying
3 conduct is fundamentally different from the decision to
4 provide a private right of action for violation of
5 substantive law.

6 That's why Section 1964(c) has a different
7 focus. You don't automatically assume that because
8 Congress criminalized the conduct, it intended for the
9 private right of action to follow along to the same
10 extent.

11 JUSTICE KAGAN: Mr. Katsas, can I ask a
12 question that -- this is an analytical question, not
13 necessarily at all an argument that your result is
14 wrong, but I -- I guess I'm confused by what you said
15 now and what you say in the briefs that this is a matter
16 of looking to the focus of the statute, because my
17 understanding of Morrison is that this whole focus
18 inquiry came in at the second step of the analysis.

19 In other words, once the Court had decided
20 that the presumption against extraterritoriality had not
21 been rebutted, then there was an additional argument
22 that had been made like, oh, this really does involve
23 domestic conduct. And so the Court used this focus test
24 to decide whether it was the domestic conduct or the
25 extraterritorial conduct that was the focus of the

1 statute. But that doesn't seem to answer the question
2 whether the presumption is rebutted at all, and it
3 doesn't seem to answer the question that I think you're
4 trying to get at, and it's an important question, as to
5 whether we look at that presumption question section by
6 section or for the statute as a whole.

7 MR. KATSAS: I think the -- the rule that
8 emerges from Morrison is that what -- what has to be
9 domestic is the statutory focus. Morrison is Section
10 10(b), and there were two choices. There's the element
11 of deception, and there's the element of the securities
12 transaction. And it's foreign transaction, domestic
13 deception. And the Court says no -- no clear
14 indication.

15 Congress can obviously provide for or
16 prohibit extraterritorial application if they do that
17 clearly. If they don't do that clearly and -- and the
18 presumption is going to operate, you have to figure out
19 whether the focus of the statute is one element or the
20 other. And they said the focus is the transaction and,
21 therefore, that is what has to be domestic, and because
22 the transaction in Morrison was foreign, the application
23 of the statute was impermissibly --

24 JUSTICE KAGAN: I -- I guess I just would
25 have thought that the question is whether these are

1 discrete provisions in some way such that a conclusion
2 is to the extraterritoriality of one doesn't really
3 effect -- doesn't tell you anything about the
4 extraterritoriality of the other. And it seems much
5 less important as to what the focus of the statute as a
6 whole is even if, you know, one could -- if one could
7 answer that question.

8 MR. KATSAS: There -- there will always be a
9 question -- if you have related provisions, there will
10 always be a question of whether the -- the focus of one
11 element in a statute carries over to the other.

12 This case on the -- on the question of
13 injury, the issue before you is whether Section 1964(c),
14 the private right of action, has its own focus or
15 whether it just travels --

16 JUSTICE BREYER: Excuse me. Why -- why
17 did -- look -- look at the first example of what Justice
18 Kagan is talking about, Appendix B of the government's
19 brief, 1837 U.S.C. 37(b), jurisdiction over acts of
20 violence against a person at an international airport
21 outside the United States if the offender is found in
22 the United States.

23 Now, that -- I can understand why they would
24 make that a crime.

25 MR. KATSAS: Sure.

1 JUSTICE BREYER: Why would they put it in
2 RICO unless they wanted somebody who was hurt to be able
3 to get damages?

4 MR. KATSAS: Well, the person -- the person
5 who was hurt -- as to the injury part --

6 JUSTICE BREYER: The injury is to somebody
7 at the foreign airport.

8 MR. KATSAS: The person -- the person who
9 suffers injury from violation of that Act can't recover
10 under RICO, because RICO is limited to recovery for
11 business or property. Pursuant --

12 JUSTICE BREYER: Look, business is hurt.
13 They blew up an airport in -- in Tasmania. Okay? So --
14 so I guess that blowing up an airport there could hurt
15 somebody. But my question is, what was it doing in
16 RICO, if in fact Congress doesn't intend a foreign
17 person hurt to be able to get damages? It's already a
18 crime.

19 MR. KATSAS: RICO --

20 JUSTICE BREYER: That's my -- and maybe this
21 is the wrong example. Think of -- they have a list of
22 about 50.

23 MR. KATSAS: Right.

24 JUSTICE BREYER: Okay. So some of them, I
25 can ask this question to: What's it doing in RICO

1 unless they want somebody to get damages?

2 MR. KATSAS: It -- there are something on
3 the order of 200 predicate statutes that are in RICO.
4 And the Solicitor General's appendix has -- cites about
5 46 of them, which have extraterritorial application.
6 All but seven of those statutes have domestic, as well
7 as extraterritorial application, including the one you
8 just read.

9 When you look at the government's appendix,
10 what many of those statutes do is they take a statute,
11 statute has domestic application, and then there's a
12 provision that extends it extraterritorially. And
13 what's quoted in the government's brief is the extension
14 for extraterritorial application.

15 So I think what your question goes to is,
16 well, what about the -- what about statutes that are
17 exclusively extraterritorial? There are seven of them.
18 Only -- only one of them out of the 200 RICO predicates
19 was specifically mentioned in RICO as one statute that
20 it should apply.

21 JUSTICE BREYER: Okay. So your point
22 granted is one word -- three words. Your answer to my
23 question is four words: It was an accident. That's
24 the answer.

25 MR. KATSAS: No. I'm not saying it was an

1 accident.

2 JUSTICE BREYER: Well, then, if it was not
3 an accident -- I mean, explain to me the same question.
4 I don't want to repeat the same question five times.

5 MR. KATSAS: All -- all but -- the vast
6 majority --

7 JUSTICE BREYER: Listen, let's look at the
8 ones that were not, that are the seven, or if you want,
9 the three. Why would a human being -- now you've got my
10 question.

11 MR. KATSAS: Yes.

12 JUSTICE BREYER: Why is it in RICO if they
13 don't want damages?

14 MR. KATSAS: Let's -- let's talk about the
15 one that I mentioned. It's 18 U.S.C. 2260, that that
16 addresses child -- child pornography offenses abroad
17 with an intent to import into the United States.

18 That provision has perfectly meaningful
19 application for people who suffer -- people who suffer
20 domestic injuries, and for United States enterprises --
21 United States racketeers who could use domestic
22 enterprises to violate that provision.

23 And even if I were wrong about that, Justice
24 Breyer, I don't think you would use the one provision
25 out of 200 as the basis for saying that the -- the

1 statute that on it -- in the heartland of its
2 application will do lots and lots and lots of meaningful
3 work when it's applied to domestic injuries.

4 The related point, this isn't just the
5 presumption against extraterritoriality. We also have
6 the background common law rule that causes of action to
7 redress private injuries are governed by the law of the
8 place of the injury. Here we have only foreign
9 injuries. Congress legislates against the background
10 common law rule, and just as the cause of action in RICO
11 picks up background common law rules, approximate cause,
12 so too it picks up this lex loci delicti rule, again
13 absent some clear indication to the contrary.

14 When you look for a clear indication with
15 respect to the question of injury, not only don't you
16 find a clear indication of the contrary, you find in the
17 statutory findings in RICO a -- a repeated and specific
18 and exclusive focus on the domestic effects of
19 racketeering.

20 Congress has identified its concern. It is
21 -- it is impact on the American economy from
22 racketeering. Certainly no clear indication to extend
23 the cause of action to foreign harms.

24 JUSTICE KAGAN: Well, that may have been
25 true, or largely true at the beginning, but how about

1 all these amendments that happened after 9/11 which
2 clearly seemed focus on foreign conduct, foreign
3 organization, foreign harm?

4 MR. KATSAS: There's -- there is one
5 amendment that is cited, it's the Patriot Act, which
6 does one thing to RICO. It expands the list of
7 predicate statutes to include one provision. It's 2230
8 -- 2332b(g)(5)(B). It's a reference to that statute.
9 When you go to that statute, it's a list. The list has
10 60 or so terrorism-related predicate crimes. 58 of
11 those crimes have domestic application.

12 JUSTICE KAGAN: Well, possibly they have
13 some domestic application. But if you ask, but why did
14 Congress pass this amendment at this particular moment
15 in time, what was -- I mean, recognizing that it's
16 sometimes hard to figure out what was in people's heads,
17 I mean, don't you think that what was in Congress's
18 heads at that moment in time was foreign terrorist
19 organizations committing terrorist conduct on foreign
20 soil?

21 MR. KATSAS: We -- we don't know for sure.
22 I'll give you another possibility, which is what they
23 had in mind was the September 11 attacks, which were
24 domestic acts of racketeering. When they incorporated
25 that list that I mentioned, the very first statute on

1 that list is destruction of a commercial aircraft.

2 JUSTICE KAGAN: Well, this just means --

3 MR. KATSAS: Which is the very offense --

4 JUSTICE KAGAN: -- foreign organizations,
5 even as to that.

6 MR. KATSAS: I'm sorry?

7 JUSTICE KAGAN: That at least suggests
8 foreign organizations.

9 MR. KATSAS: Well, that -- that at least
10 explains the incorporation of the -- of the predicates
11 relative to the events of September 11, but in any
12 event, with respect, I don't think that's the right
13 question because where the presumption applies, either
14 -- either on the question of injury, which I've been
15 discussing, or on the question of enterprise versus
16 pattern, again, the rule for Morrison is that you
17 identify the focus and then you need a clear indication
18 in the statute to the contrary.

19 JUSTICE GINSBURG: How do you deal with
20 Judge Lynch's example? There's a foreign terrorist
21 organization. It operates only abroad, but it
22 repeatedly cuts off the heads of U.S. citizens.

23 MR. KATSAS: That would -- that would be --
24 foreign terrorist organization --

25 JUSTICE GINSBURG: Operating only abroad but

1 its targets are all U.S. citizens.

2 MR. KATSAS: I think the -- the underlying
3 acts would be criminally prosecuted and could be
4 punished very severely. RICO -- if I understand the
5 hypothetical, the organization is foreign. In our view,
6 RICO doesn't cover that. Here's -- here's why.

7 JUSTICE KENNEDY: Either civilly or
8 criminally?

9 MR. KATSAS: Correct, because now if I'm --
10 I'm turning to Section 1962. Our position is that the
11 focus is on the enterprise. And I understand the
12 hypothetical to be a foreign enterprise doing a lot of
13 very bad things.

14 JUSTICE GINSBURG: And doing bad things to
15 U.S. citizens. It's the example the -- the section that
16 makes that a crime is 2332(a)(1).

17 MR. KATSAS: And -- and 2332(a)(1) would be
18 prosecutable by the government. And the people who did
19 those bad things probably would face the death
20 penalty --

21 JUSTICE GINSBURG: But it -- so you're
22 saying only the act itself you can't superimpose RICO,
23 because there has been a whole pattern of these.
24 They've cut off a hundred heads.

25 MR. KATSAS: If it's -- if it's a foreign

1 enterprise, that's right, and here's why. Because you
2 -- you have to evaluate that hypothetical in the context
3 of RICO. The hypothetical is designed to make it hard
4 for me to make it seem as though the enterprise is the
5 bad actor.

6 But under Section 1962(c), the enterprise is
7 the victim of the corrupting conduct. Even in your
8 hypothetical, the enterprise is legally distinct from
9 the person -- person is the defendant -- the person
10 doing the corrupting. Moreover, the hypothetical you
11 described, the pattern itself is not actionable under
12 RICO.

13 JUSTICE GINSBURG: You -- Judge Lynch, in
14 that -- in his opinion on the en banc, he said, "Any
15 interpretation that suggests the operatives of a foreign
16 enterprise can't be held accountable under RICO for a
17 pattern of predicate" -- "a pattern of predicate crimes
18 that violate Federal statutes" -- "Federal statutes
19 that have an express extraterritorial reach would
20 astonish the Congress that made such violations RICO
21 predicates."

22 MR. KATSAS: Because the focus of
23 Section 1962 is the enterprise, and under Morrison the
24 enterprise has to be domestic, absent a clear indication
25 to the contrary.

1 All of those predicate crimes are addressed
2 by the underlying criminal statutes. RICO doesn't
3 prohibit the pattern. What it prohibits is infiltration
4 and corruption of the enterprise.

5 JUSTICE KAGAN: Well, the --

6 MR. KATSAS: Think about --

7 JUSTICE KAGAN: I mean, the whole point of
8 RICO is that it does both. It says "a pattern of
9 conduct," and it links that pattern of conduct to the
10 enterprise. And it seems to be, you know, a little bit
11 of a fool's errand to decide which the focus is, when --
12 when RICO is clearly something that melds the two and
13 says there is a pattern of conduct and it relates in
14 various kinds of ways to an enterprise.

15 MR. KATSAS: Perhaps, but you could have
16 said the same thing about Morrison, under which you need
17 both deception and a securities transaction in order to
18 have a Section 10(b) violation. So --

19 JUSTICE KAGAN: Well, the fact that some
20 things can be separated doesn't mean that everything can
21 be separated. And the question is, how is it possible
22 to understand RICO except as something in which these
23 things are intermelded, and at the very least that --
24 one is not prior to the other or more important than the
25 other.

1 I mean, if we are going by our cases, we've
2 said about a hundred times that it's the predicate acts
3 that are -- that are the foundation of RICO.

4 MR. KATSAS: Congress has -- Congress has
5 told you in the statutory findings what they are
6 concerned about. It is infiltration and corruption of
7 domestic enterprises. Consistent with that is the
8 structure of Section 1962, three different provisions;
9 in each of them, the enterprise -- the enterprise is the
10 victim of the corruption. It's not the person doing the
11 corrupting.

12 It's particularly obvious with respect to
13 Sections 1962(a) and 1962(b), right? The racketeer uses
14 proceeds to invest in an enterprise. Enterprise is the
15 victim. That's the object of Congress's concern. Even
16 with regard to 1964(c), the typical case they have in
17 mind is infiltration and corruption of a domestic
18 enterprise, straight out of the findings.

19 JUSTICE GINSBURG: So you would -- you would
20 say -- I mean, the -- another example doesn't say the
21 -- the -- the Sicilian Mafia commits a series of violent
22 crimes in the United States that would violate RICO if
23 committed by a New York-based Mafia family. But -- so
24 the New York-based Mafia family, RICO applies.
25 Sicilian-based does the very same act; doesn't apply.

1 MR. KATSAS: The --

2 JUSTICE GINSBURG: That is your position,
3 right?

4 MR. KATSAS: That's right. The -- the
5 concern about the crimes is addressed by other statutes
6 which criminalize the conduct. When the Sicilian Mafia
7 commits --

8 JUSTICE GINSBURG: And not the pattern.
9 It's just that the statute gets at after the individual
10 instance. RICO says when you have a pattern, things are
11 a lot tougher for you.

12 MR. KATSAS: So it says -- says when you
13 have a pattern, that impacts an enterprise.

14 And if I could just get on the table the
15 question about the 1964(c) issue with regard to domestic
16 enterprises. The paradigmatic case that Congress has in
17 mind, the racketeers infiltrate the union, use
18 racketeering proceeds to take it over -- that's the
19 1964(a) violation -- and then they use the union to do
20 bad things, to extort money from its members or
21 whatever. That's a case in which the union is the
22 vehicle for racketeering, but it's not the racketeer.
23 It is the victim of criminal conduct. The conducting
24 the affairs of the union in that way is an example of
25 corrupting conduct.

1 I'd -- I'd like to just get one more thought
2 on the table on the injury point before I sit down,
3 which is this Court's decision in Empagran, where you
4 applied the presumption and related principles of comity
5 to a case involving a -- foreign injuries caused by
6 primarily foreign conduct. And you said it would be so
7 unreasonable to do that as to violate customary
8 international law. That is exactly what we have here.
9 If you look at the complaint, the underlying conduct
10 that Respondents say injured them are a series of
11 foreign transactions, and you can resolve this case
12 based on Empagran alone if you wish to not write more
13 broadly.

14 I'd like to reserve the balance of my time.

15 CHIEF JUSTICE ROBERTS: Thank you, counsel.

16 Ms. Goldenberg.

17 ORAL ARGUMENT OF ELAINE J. GOLDENBERG

18 FOR UNITED STATES, AS AMICUS CURIAE,

19 SUPPORTING VACATUR

20 MS. GOLDENBERG: Mr. Chief Justice, and may
21 it please the Court:

22 I'd like to talk about both the enterprise
23 and the injury points, but I'd like to start with the
24 enterprise point, because Section 1962 most directly
25 affects the government's ability to bring RICO

1 prosecutions and RICO civil actions.

2 And as some of those questions have pointed
3 out, there are a number of predicates that are
4 incorporated into RICO, into the definition of
5 racketeering activity, that have extraterritorial
6 applications. Some of them have solely extraterritorial
7 applications. And that is a clear indication that RICO
8 itself extends extraterritorially to the extent that the
9 predicates that are alleged in the case do. And that is
10 true both of the pattern itself, the conduct of the
11 crimes, and also of the enterprise. And you can see
12 that, if you look at the kinds of predicates that we are
13 talking about here.

14 As was observed earlier, many of them were
15 incorporated into RICO after 9/11. Many of them
16 involved terrorist conduct. And the natural way in
17 which the provisions would operate and Congress would
18 have understood this is that they would have swept in
19 activities by foreign enterprises as well as the foreign
20 conduct itself. We've given a number of examples of
21 those kinds of provisions in our brief: The killing of
22 the U.S. national abroad, taking U.S. hostages abroad,
23 shooting at aircraft with U.S. citizens abroad with
24 missile systems.

25 There is another example that is, I think, a

1 very clear one, that is Section 2339D, which is
2 receiving military-type training from a foreign
3 terrorist organization. Although I suppose it is
4 possible that somebody could go and receive that
5 training in connection with their activities with a
6 domestic enterprise, the very natural operation of that
7 provision is going to be that they are going to be
8 carrying out the affairs of a foreign enterprise -- in
9 fact, a very foreign terrorist organization -- that is
10 holding the military-type training and has those
11 training camps.

12 And so we think that it's clear that the
13 provision has -- that Section 1962 has extraterritorial
14 applicability, both with respect to the foreign pattern
15 of conduct and with respect to the enterprise, to the
16 extent that a predicate with extraterritorial
17 applicability is implicated.

18 I've heard Petitioners talk about two
19 reasons why they think that might not be true, both of
20 which I think are incorrect. One is that the government
21 could just prosecute the underlying crimes themselves
22 and not use RICO, and the other is that -- well, in
23 situations in which you have some people in the United
24 States, you could kind of break them off and call them a
25 domestic enterprise. And I don't think either of those

1 is a workable approach to Section 1962.

2 With respect to just prosecuting the
3 underlying crimes, of course the very point of RICO was
4 that Congress thought, where there were patterns of
5 serious crimes, that just prosecuting the crime itself
6 was not a strong enough tool for the government, and
7 that it was important for the government to have these
8 special advantages that RICO confirms in order to root
9 out the things that are causing these patterns of
10 crimes.

11 CHIEF JUSTICE ROBERTS: But RICO imposes, it
12 seems to me, as we've even observed in the domestic
13 context, far more significant -- the impact
14 internationally could be far more significant than
15 prosecution simply of the underlying offenses. It
16 obviously provides the government with extremely strong
17 prosecutorial reach and penalties, far beyond what the
18 substantive elements do. And I'm wondering why that
19 shouldn't cause us to be more concerned with respect to
20 the comity interests that are at stake when you're
21 talking about extraterritorial applicability.

22 MS. GOLDENBERG: Well, I think, as this
23 Court observed in Empagran, when you're talking about
24 Section 1962 or something like Section 1962, where it is
25 the government that is choosing whether to prosecute or

1 whether to bring a civil action, the government has the
2 ability, it has the incentive, to take those kinds of
3 concerns into account and to regulate itself, either to
4 be constrained in bringing that kind of action where it
5 might cause some comity concerns, or to deal
6 government-to-government with another government, to try
7 to make sure that those comity concerns are smoothed
8 over. It's on the private side, under Section 1964(c),
9 where you have private parties bringing treble damages
10 actions, that the concerns about comity, I think, are
11 much greater, because private parties don't have that
12 same ability or incentive to regulate. When they are
13 bringing actions, they are trying to get their treble
14 damages.

15 JUSTICE BREYER: Well, I thought this was
16 the same question, but I'm elaborating a bit because
17 it's both for you and Mr. Frederick's reading.

18 I thought the answer to my first question
19 would be that the government just wanted the forfeiture
20 provisions -- that's why it put them in -- or the
21 criminal provisions -- that's why it put these other
22 things in -- and you say, that's right. You say, but
23 they didn't want the damages to extend abroad. That's
24 your position.

25 MS. GOLDENBERG: Yes. That's correct.

1 JUSTICE BREYER: You wrote it into your
2 brief.

3 MS. GOLDENBERG: Yes.

4 JUSTICE BREYER: And you're the State
5 Department for this purpose, and you ought to know.

6 But then they're the EU, and moreover, not
7 only do they tell us that the 27 nations of the EU don't
8 agree with you, but in fact, what's very confusing about
9 this is, in the Alien Tort Statute case -- which, after
10 all, involved torture, and not simply money
11 laundering -- the EU countries, at least three, were in
12 here with briefs -- I think it was Germany, the
13 Netherlands and Britain -- saying, stay out of this
14 stuff. Not completely, but basically. And you were on
15 the other side. Okay? So what's going on?

16 (Laughter.)

17 JUSTICE BREYER: That is, I mean -- and it's
18 not just a -- that's not a criticism. We have to write
19 this. And I think what you think and what those
20 countries think is very important in matters like this.
21 And here they're taking what seem to be contradictory
22 positions. Who do you talk to? Who do they talk to?

23 Is this the right hand not knowing what the
24 left hand is doing in Britain and in -- and in Germany?

25 Is it that no one actually spoke to anybody

1 except the lawyer at the EU, and then the EU never spoke
2 to anybody in any of the relevant Ministries of Justice
3 or Embassy?

4 Is it that you actually went and talked to
5 the ambassadors of England, Germany, the Netherlands and
6 asked them why do you want us to take a different
7 position in this case than -- it seems to be -- than you
8 took in the other case?

9 I mean, I have a few pages here. I can't
10 work with a few pages. I have no idea what the right
11 result is here in one important aspect unless I know
12 what afterthought and consideration you, the State
13 Department, and those other countries, and their
14 ambassadors, et cetera, actually think.

15 Do I have enough here to deal with it? What
16 do I do?

17 MS. GOLDENBERG: Well, I think you do have
18 enough here to show what we actually think.

19 Mr. Frederick --

20 JUSTICE BREYER: Did you consult with the
21 embassies? Did the State Department go out and ask them
22 to have their legal departments over in Germany look up
23 what the actual effect would be of the damages? Or was
24 it the EU that bore total responsibility for this matter
25 without even consulting from Brussels what happens in

1 Germany or some other place? I mean, how did it work?

2 MS. GOLDENBERG: Well, to my knowledge, we
3 didn't have those consultations, although I understand
4 that the EU informed the Justice Department before it
5 filed the --

6 JUSTICE BREYER: And did it consult with the
7 other three? You see where I'm going, and I'd like your
8 best answer --

9 MS. GOLDENBERG: Well, I think that this is
10 a very unusual case where you have foreign sovereigns as
11 the private RICO plaintiffs. I think that won't usually
12 be true. And the rule that we are coming in here to
13 advance is going to be the rule for the usual case, as
14 well as the unusual case.

15 And so although it may be that, you know,
16 the EU has special views about comity concerns here
17 where it's the plaintiff, in the usual case the
18 plaintiff is going to be a private party, and it's going
19 to be a situation in which the conduct and the injury
20 took place somewhere else. And the country where that
21 conduct and that injury took place may very well have
22 its own interest in regulating, may not be appreciative
23 of plaintiffs being able to come to the United States to
24 get remedies here, particularly treble damages remedies,
25 which, as this Court pointed out in *Empagran*, is

1 something that often causes foreign countries a great
2 deal of consternation --

3 JUSTICE GINSBURG: That's -- why isn't forum
4 non conveniens the answer to that? If -- if -- the
5 question is, where should -- who should provide a remedy
6 to this conduct, and if it's -- really is centered in
7 that other state, a forum non conveniens motion should
8 be -- should be made to dismiss the action, because it's
9 a far more appropriate forum abroad.

10 MS. GOLDENBERG: This Court suggested in
11 Empagran that going case-by-case with this kinds --
12 these kinds of comity concerns was too burdensome and
13 too difficult for courts, and it would be better to make
14 a blanket judgment about the comity concerns with
15 respect to the cause of action as a whole. And here, of
16 course, we're talking not only about what court you're
17 going to be in, but what law is going to apply.

18 The courts in the United States are not
19 being closed to RICO plaintiffs if they can't bring a
20 private claim for treble damages under Section 1964(c).
21 There may be other kinds of claims that they can bring.

22 This is a question about whether, under this
23 particular Federal statute, there is a recovery that's
24 -- that's permissible. And --

25 JUSTICE KAGAN: Ms. -- please. Sorry.

1 MS. GOLDENBERG: Well, all -- I was just
2 going to say that in addition to comity concerns, I
3 think there are other things that point in the
4 direction --

5 JUSTICE KAGAN: Well, then, can I interrupt
6 and talk about your comity concerns, because I
7 understand them. I mean, they seem very important. But
8 once you say that the presumption against
9 extraterritorial is rebutted, on both the pattern of
10 racketeering and the enterprise, once you say that, then
11 drawing the line where you draw it seems to be very
12 policyish. There doesn't seem to be a whole lot of law
13 behind it. So I want to give you an opportunity to make
14 it as law-like as you can, drawing the line here.

15 MS. GOLDENBERG: Sure. There are a number
16 of things, I think. One is that just on the face of the
17 provisions, you can see that Section 1964(c) is not
18 co-extensive with -- with Section 1962. Congress chose
19 to provide for recovery only for injury to business or
20 property, not for personal injury, even though many of
21 these predicates might be likely to cause personal
22 injury.

23 In addition to that, I think you have the
24 comity concerns, which are an important underpinning of
25 the presumption against extraterritoriality. And as

1 Petitioner's counsel pointed out, you do have this
2 background common law rule that the place of injury is
3 going to be the place where -- that -- that's going to
4 have the law govern whatever injury you're talking about
5 rather than the law of some the other jurisdiction.

6 CHIEF JUSTICE ROBERTS: Thank you, counsel.

7 Mr. Frederick.

8 ORAL ARGUMENT OF DAVID C. FREDERICK

9 ON BEHALF OF THE RESPONDENTS

10 MR. FREDERICK: Thank you, Mr. Chief
11 Justice, and may it please the Court:

12 The European Union and 26 of its Member
13 States brought this case in the United States against a
14 United States corporation for the actions it committed
15 in the United States and from the United States, that
16 had effects in Europe. This was a completely logical
17 and natural place for this case to be brought --

18 JUSTICE ALITO: Why is that? Why is that
19 so, Mr. Frederick? Isn't it rather strange that
20 countries in Europe, Member States of the European
21 Union, are suing in the courts of the United States for
22 injuries sustained to their business interests in
23 Europe? Why didn't they just sue in their own courts?

24 MR. FREDERICK: Well, first, the fact that
25 RJR has no subsidiary in Europe raised a question of

1 personal jurisdiction that would have affected the
2 enforceability of judgments. And you had an issue where
3 you had 26 Member States that were being affected, and
4 the logical place for them in working together would be
5 in the United States court.

6 For precisely the reason that when the legal
7 advisor in 1982 testified after this Court's Pfizer
8 decision about the applicability and reciprocity of
9 having foreign countries come to United States courts,
10 the legal advisor testified that the United States had
11 brought cases in over 50 jurisdictions around the world.

12 JUSTICE ALITO: Well -- well, are you saying
13 that the -- the law of personal jurisdiction in the --
14 the Member States of the European Union is similar to
15 that in the United States, that they would not -- under
16 their laws, they would say they do not have personal
17 jurisdiction over RJR?

18 MR. FREDERICK: Justice Alito, what I'm
19 saying is that it varies among the Member States. But
20 what we do know is the defendant, the evidence, the
21 witnesses are here in the United States, and the
22 allegation is that they violated U.S. law. And it is
23 the same kind of action that the United States has
24 brought in European Member States for many, many
25 years --

1 JUSTICE BREYER: Did you, in fact, ask them?

2 MR. FREDERICK: We did -- we --

3 JUSTICE BREYER: What happened there?

4 Because look, I'm faced with a situation where the State
5 Department is telling me one thing. And -- and I --
6 it's an area I don't know about. What will really
7 happen in international relations? That's their job.
8 And you are representing the EU, which seems to be
9 taking a position somewhat different than it took
10 previously, and I want to know who did you talk to.

11 MR. FREDERICK: Justice Breyer --

12 JUSTICE BREYER: How -- how did it work?

13 MR. FREDERICK: Thank you for asking me this
14 question. We presented information to the U.S.
15 officials before the suit was filed, and were told that
16 the U.S. would be neutral as to it.

17 Furthermore, I can tell you that in 20 years
18 of practicing before this Court, this is the single most
19 comprehensively vetted exercise on my brief that I have
20 ever had.

21 EU officials have gone over every single
22 line and compared with the positions taken by Member
23 States in other cases. And the reason why this isn't
24 important to the EU, and the consistency with which
25 those positions is made, rests on four very important

1 principles.

2 When Congress extended RICO
3 extraterritorially, there are one of four components
4 that is present in every single one of the 40-some
5 statutes that the Solicitor General puts in Appendix B:
6 The victim is an American; the defendant is an American,
7 the perpetrator; there is effect on U.S. interests; or
8 there is conduct that occurs in the United States.

9 Every one of those four components tracks
10 with an important principle of international law. The
11 extraterritoriality principle, the nationality
12 principle, the passive protective personality principle,
13 and the protective personality.

14 So these issues are things that Congress was
15 considering and was aware of when it made the decision
16 to extend these crimes extraterritorially --

17 JUSTICE KENNEDY: But if -- if --

18 MR. FREDERICK: -- it posed a domestic
19 requirement. Sorry.

20 JUSTICE KENNEDY: If you prevail, and there
21 is a case with mostly foreign conduct and foreign
22 injuries, and if personal jurisdiction and forum non
23 conveniens are satisfied, then these actions could be
24 brought under RICO in foreign courts, correct?

25 MR. FREDERICK: Sorry. In foreign courts,

1 or in the United States?

2 JUSTICE KENNEDY: In foreign courts.

3 MR. FREDERICK: Well, not under RICO. I
4 don't think that a foreign government or foreign country
5 would be using the law --

6 JUSTICE BREYER: Let's say a private person
7 is injured in England can bring a -- I take it bring a
8 suit in English court and invoke RICO.

9 MR. FREDERICK: Not that I'm aware of.

10 JUSTICE KENNEDY: Why not?

11 MR. FREDERICK: Because I'm not aware
12 that -- that the English courts would apply RICO in this
13 case. I have no brief to defend, Justice Kennedy, in
14 this respect.

15 JUSTICE KENNEDY: Well, you're saying it
16 applies extraterritorially.

17 MR. FREDERICK: No, what -- what it does,
18 Justice Kennedy, and this is why it's actually important
19 to go through statute by statute all of the provisions
20 in the Solicitor General's appendix, and we've got a
21 binder that's got every single one of them, and you can
22 ask me about every one.

23 Congress imposed a domestic proof
24 requirement as to every extension of extraterritoriality
25 for those crimes. The victim had to be an American.

1 The defendant had to be an American. Conduct had to
2 occur in the United States or there had to be some
3 important interest of the United States that was at
4 stake. If those four elements were not required or not
5 part of the statute, then it would not track with the
6 normal international law principles by which nations
7 respect through comity the regulations of conduct
8 emanating from the shores of that country.

9 CHIEF JUSTICE ROBERTS: I thought the victim
10 here was the European Community.

11 MR. FREDERICK: It is, but the Defendant is
12 an American and conduct was occurring here in the United
13 States. And if you look at the money laundering
14 statute, Mr. Chief Justice --

15 CHIEF JUSTICE ROBERTS: I'm sorry. I just
16 thought earlier you were citing it. You said the victim
17 is the --

18 MR. FREDERICK: One of those four --

19 CHIEF JUSTICE ROBERTS: Oh, it's just one.

20 MR. FREDERICK: All I'm saying is one of the
21 four. Here we have two of them. If you look at the
22 money laundering statute, conduct occurred in the United
23 States and the defendant was in the United States
24 national. And so international law is satisfied.
25 Comity principles are satisfied.

1 In those cases, like the Alien Tort Statute
2 where you did not have a cause of action that had been
3 drafted by Congress and so, therefore, you did not have
4 a legislative determination of the effect on comity
5 interests internationally, you're left with a situation
6 where you had judge-made law, and this Court, I think
7 appropriately, followed the guidance and advice of
8 foreign nations which said, be careful how far you
9 extend judge-made law.

10 There is a different principle at stake when
11 there is a considered legislative judgment and the
12 limitation on that extraterritorial impact is one that
13 has a very clear tie to the United States.

14 CHIEF JUSTICE ROBERTS: You -- you can
15 easily -- you can easily envision situations where
16 private parties prosecuting RICO actions for -- against
17 European entities might implicate serious comity
18 concerns whether the racketeering enterprise is a
19 State-owned actor or an -- an entity that's strongly
20 supported by the -- the government. And in those
21 situations, how would comity concerns of the foreign
22 government be taken into account in the private treble
23 damages action?

24 MR. FREDERICK: So it's hard for me to see,
25 based on your hypothetical, Mr. Chief Justice, which of

1 the predicate crimes would be asserted as the underlying
2 pattern of -- of racketeering. I've actually thought of
3 a lot of them.

4 CHIEF JUSTICE ROBERTS: So here we have
5 racketeering --

6 MR. FREDERICK: I haven't found one.

7 CHIEF JUSTICE ROBERTS: Yeah.

8 MR. FREDERICK: I haven't found one.

9 CHIEF JUSTICE ROBERTS: Here the -- you have
10 racketeering activity that goes to the illegal
11 trafficking and cigarettes, right?

12 MR. FREDERICK: Yes.

13 CHIEF JUSTICE ROBERTS: So, I mean, what
14 if -- what if -- and you have a -- domestic crime
15 predicates, what -- what if the cigarettes were marketed
16 through, you know, I don't know, an enterprise very
17 important to the government of -- you know, some
18 government that sells cigarettes, the -- you can imagine
19 other products.

20 In other words, it's -- it's -- here you
21 have sort of an organized crime enterprise. But the way
22 the racketeering statute works, and we have a lot of
23 experience with this domestically, it reaches far beyond
24 what you would have thought Congress had in mind when it
25 used the word "racketeering" and certainly involves

1 otherwise legitimate enterprise.

2 MR. FREDERICK: But, Mr. Chief Justice, my
3 point is that if you look at each one of the acts that
4 is incorporated and has an extraterritorial component,
5 there is a direct tie to the United States, and the
6 crimes have to be unindictable under Federal or State
7 law.

8 So with respect, I think what you're
9 hypothesizing is a situation that would be a null set,
10 and that's where these crimes are occurring in Europe
11 under European member State laws, and somehow there is
12 going to be a tie in to RICO, that wouldn't be possible
13 under a plain reading of the RICO statute.

14 JUSTICE GINSBURG: Because it's only the
15 statute that has the extraterritorial -- the
16 extraterritoriality built into them.

17 MR. FREDERICK: That's correct.

18 JUSTICE GINSBURG: Most statutes that are --
19 crimes that are punishable under RICO will have -- will
20 not have the extraterritorial provision in the
21 underlying statute.

22 MR. FREDERICK: That's correct. There are
23 roughly three-quarters of the statutes that are
24 incorporated into RICO that do not have an
25 extraterritorial effect, and those would not be subject

1 to a RICO case that would have extraterritorial
2 consequences.

3 JUSTICE GINSBURG: Candidly, is -- why is
4 the EU suing here? Does it have something to do with no
5 one else having a treble damage provision like RICO?

6 MR. FREDERICK: Actually, treble damages are
7 not at all the reason why this case was brought in the
8 United States. And, in fact, if you want me to
9 stipulate that we will not accept treble damages, I've
10 been authorized by my clients to say that that is not
11 what we are seeking here.

12 What we are seeking here is a situation
13 where an American company is operating through largely
14 illegal cutouts and middlemen and organized criminal
15 operators in Europe and in the Mediterranean and
16 violating and affecting European enterprises.

17 The complaint in this case, which is very
18 detailed with respect to the introduction of cigarettes
19 made and marketed in the United States are targeted to
20 foreign country audiences, but they are being sold
21 through illegal channels through Panama, through other
22 countries and into Europe through organized crime and
23 drug cartel operators.

24 I have seen the evidence for this. I have
25 looked at the documents from RJR. I can tell you this

1 is the most serious misconduct, and it involves very,
2 very serious allegations that have been proved by the
3 internal documents of the company itself.

4 JUSTICE ALITO: Isn't it -- isn't it strange
5 for a government to choose to sue in the courts of
6 another country?

7 MR. FREDERICK: Well, in fact --

8 JUSTICE ALITO: Unless there is something to
9 your personal jurisdiction point, and I really -- my
10 understanding of -- of the law of a lot of the European
11 countries is that they have a very broad understanding
12 of personal jurisdiction. But putting -- putting that
13 aside, it would seem very strange to choose to sue in
14 the courts of another country.

15 MR. FREDERICK: Justice Alito, if -- if the
16 European nations know that they are eventually going to
17 have to come to the United States to enforce the
18 judgment and there is no -- there are no assets to
19 attach in Europe by RJR, because it doesn't have
20 subsidiaries there, the simplest thing to do would be a
21 one-step process.

22 This suit was filed almost 16 years ago, 15,
23 16 years ago and we are still at the motion to dismiss
24 stage. You can imagine that from the perspective of
25 litigation efficiency coming into the home forum of the

1 defendant and saying, we believe you are violating U.S.
2 law and we seek redress for that, that is perfectly
3 appropriate.

4 If I could turn to the injury question, the
5 RICO statute incorporated language of the Clayton Act
6 which, before 1970, had been construed to permit foreign
7 plaintiffs to come into the United States and obtain
8 foreign damages as a result of U.S. violations by the
9 company in the United States.

10 The Continental Ore case, which was decided
11 by this Court in 1962, is directly on point. That case
12 holds that injury suffered by Canadian entities could
13 come in and come into the United States and get damages
14 as a result of the violation of the Clayton Act.

15 In Pfizer, the government of India, coupled
16 with governments in Iran and the Philippines, came to
17 the United States and alleged that Pfizer owned --

18 JUSTICE BREYER: I'm -- just a moment. I
19 know this. You're absolutely right on that. The -- the
20 question that -- can you, when -- when you sue -- the EU
21 sues, A, an American company. Now, it's been in league
22 with six foreign countries, and they have agreements.
23 And what the crime is, is money laundering, and the
24 money laundering took place in Belgium, and you win.
25 Now, can you go to Belgium and get the damages? You

1 see?

2 There are six Belgium banks. They are not
3 accused. They are unindicted co-conspirators.
4 And under this -- does this statute allow a -- the EU to
5 come to Philadelphia, find RJR, accuse them of money
6 laundering with unindicted co-conspirators in Brussels,
7 get damages, and then go to Brussels and collect them
8 from the other banks?

9 MR. FREDERICK: I -- I would assume that the
10 Belgium courts -- and I'm not going to profess to be an
11 expert on the enforceability of judgments in Belgium,
12 Justice Breyer, and so I give you that answer.

13 JUSTICE BREYER: But do they get a judgment
14 against the foreign bank?

15 MR. FREDERICK: To get a -- well, presuming
16 that there was personal jurisdiction in the United
17 States, assume --

18 JUSTICE BREYER: The EU -- the jurisdiction
19 only against RJR unindicted co-conspirators or helpers,
20 whatever.

21 MR. FREDERICK: I -- I don't know the answer
22 to your question.

23 JUSTICE BREYER: I think they are worried
24 about something like this. I think that's what the
25 State Department is worried about.

1 MR. FREDERICK: Here is the answer, though.
2 The answer is that if those Belgium banks are in a
3 conspiracy with RJR, it surely cannot be the case that
4 U.S. law does not cover RJR.

5 If there is a question about the
6 enforceability of a judgment against the Belgium banks,
7 presumably the Belgium banks will make that argument,
8 and they will claim in Belgium that -- that somehow a
9 suit prosecuted in the United States in which they were
10 co-conspirators is somehow not going to cover their
11 activity.

12 Our point is that it can't be the case
13 where, for centuries, the United States courts have been
14 open to allow foreign plaintiffs to come in alleging
15 injury caused by U.S. actors under U.S. law, that
16 somehow we're going to read the Morrison principle as a
17 way of constricting the available remedies. Nothing in
18 Morrison suggests that you would do that kind of
19 extraterritorial slicing and dicing, where once you had
20 concluded that the underlying action here was one that
21 observed and respected international norms and went to
22 extraterritorial lengths provided in this case, that
23 there is a tie to the United States. And whatever
24 remedies are available are available.

25 And after Pfizer, a number of U.S. companies

1 were concerned about it, and they went to Congress and
2 they asked Congress to restrict it. And the hearings
3 that we have laid out in our brief -- and this is page
4 45, note 11 -- goes into the legislative history of
5 this. And the State Department, Justice Breyer, took
6 exactly the opposite position, because the State
7 Department said, reciprocity demands that we be allowed
8 to go into other nations' courts and the availability of
9 our courts for foreign nations to come in for violations
10 of the U.S. And if you look at footnote 13, which is on
11 page 55, the State Department testified to Congress that
12 the United States had brought more than 50 actions in
13 nations around the world.

14 So the idea about comity is one that,
15 respectfully, is a decision that is made by Congress,
16 and it is not for the executive branch to change its
17 position for the purpose of trying to snuff out a remedy
18 that otherwise would be available to a foreign
19 plaintiff.

20 JUSTICE KAGAN: Well, Mr. -- Mr. Frederick,
21 I understand that argument with respect to what's the
22 ordinary remedial provision of a statute. But this is
23 something a little bit more than that, right? Because
24 this statute also -- this provision also includes
25 substantive elements that don't apply except in the

1 civil suit for damages. Isn't that right?

2 MR. FREDERICK: That's true.

3 JUSTICE KAGAN: So why doesn't that make the
4 difference?

5 MR. FREDERICK: It could. And, Justice
6 Kagan, if you were to decide that the three verbs that
7 are in 1962(a), (b) and (c), which are influencing,
8 buying, or investing in, had to have a domestic
9 component, we still would satisfy that, because our
10 allegations in the complaint are that RJR from its
11 corporate headquarters in New York and Winston-Salem was
12 engaging in those conducts to effect and corrupt the
13 foreign enterprise, or the domestic enterprise, as was
14 the case with Brown & Williamson.

15 JUSTICE ALITO: Well, if we look just at
16 1964(c) and apply the Morrison analysis in a
17 straightforward way, would that analysis work in this
18 way? There isn't any reference in 1964(c) to
19 extraterritorial application. And where would be the
20 focus of 1964(c)? Would it be the injury to business or
21 property?

22 MR. FREDERICK: So, Justice Alito, I would
23 have two responses. '64, 1964, incorporates directly
24 1962. So there is a direct reference to the definition
25 of "racketeering" that has the some 46 predicate acts

1 that have a clearly textual extraterritorial effect. So
2 I think that by incorporation, you would interpret it
3 that way.

4 And the second thing is that when Congress
5 used that language in 1964, it was tracking the Clayton
6 Act. And the Clayton Act had a -- a predetermined and
7 pre-understood meaning as to what those words meant.

8 JUSTICE ALITO: But at that time, RICO would
9 not have an extraterritorial application, would it?

10 MR. FREDERICK: No. My position is that the
11 -- the extraterritorial application has gotten stronger
12 over time, but if you were to adopt the normal canon of
13 construction, which is that when Congress adopts words
14 in a statute, they carry with it the meaning that this
15 Court has given those words. The same words are in the
16 Clayton Act as they were adopted in 1970, and as Justice
17 Kagan pointed out, the case has only become stronger
18 with the Money Laundering and post-PATRIOT Act additions
19 of those predicate acts.

20 But the third answer I would give you,
21 Justice Alito, is that even in Morrison itself, the
22 Court's opinion says once we have found there to be
23 extraterritorial application, it's not for us to be
24 deciding that there are different provisions that
25 shouldn't have that. And that's essentially the

1 argument that is being made as to take an extension of
2 Morrison beyond where the Court was --

3 JUSTICE BREYER: But there is a problem with
4 the Clayton Act, even at this time. It's been a
5 nightmare for foreign countries, and there has always
6 been controversy around it. And there were cases called
7 Tamburlaine and others which, you know, led -- led to
8 the kind of thing that the SG has described in his
9 brief. So the Clayton Act is helpful in one respect,
10 but not helpful in the other respect.

11 MR. FREDERICK: And my answer is, Congress
12 has addressed some of those concerns in the antitrust
13 area with various amendments that affect -- that -- that
14 only go to conduct.

15 And classically, what Congress is getting at
16 is conduct, not remedy. But in the conduct area, what
17 Congress has done in one of the antitrust amendments for
18 the Sherman Act was to say, we are only going to affect
19 foreign conduct if it has a domestic effect, but it is
20 still a focus on conduct and not on remedy. Congress is
21 very well-equipped to deal with this issue should it
22 proceed that -- there to be a concern, but Justice
23 Breyer, I would point out that it would be odd to
24 suppose that Congress is intending to turn the United
25 States into a place where criminal activities could

1 occur from the United States that was affecting our
2 closest allies and there was nothing those allies could
3 do about it by going into the United States and trying
4 to vindicate and -- and seek redress for those harms.
5 That would be a very, very stark departure from this
6 country's long history of having respect and -- and
7 provide a remedy for foreigners who are harmed by
8 actions of the United States and its citizens.

9 If I could just address the -- I think I've
10 addressed the Empagran question, because that's the
11 statute that was affected. And if I could just note
12 that the PATRIOT Act -- footnote 10 of our brief points
13 out that then-Senator John Kerry, now Secretary of
14 State, was very conscious of the effect that this would
15 have on foreign nations and foreign litigants. And when
16 the PATRIOT Act extended certain of these predicate acts
17 into RICO, he stated on the floor -- we cited the
18 provision in our brief -- the reason for doing that was
19 to give foreign nations that had been affected and who
20 were treaty allies an opportunity to come and seek
21 redress in our courts.

22 The last point is that Mr. Katsas noted the
23 choice-of-law principle, where there is a foreign injury
24 and there is a decision to apply foreign law, and he
25 says, why shouldn't that apply here? That only applies

1 where there is a conflict between the laws that would
2 apply here -- we are asserting that there is a U.S.
3 statutory violation by a U.S. company for actions that
4 it committed in part in the United States. There's no
5 reason to apply a choice of law, because you have a
6 foreign company that is -- or foreign interests that are
7 asserting a violation of U.S. domestic law.

8 In every instance where Congress made the
9 decision to apply RICO extraterritorially, it imposed
10 important domestic proof requirements. That is the
11 limiting principle on which the Court ought to decide
12 this case.

13 Thank you.

14 CHIEF JUSTICE ROBERTS: Thank you, counsel.

15 Mr. Katsas, you have four minutes remaining.

16 REBUTTAL ARGUMENT OF GREGORY G. KATSAS

17 ON BEHALF OF THE PETITIONERS

18 MR. KATSAS: Justice Breyer, you asked about
19 government's positions.

20 The United States is the party that has to
21 live with the consequences of your decision one way or
22 the other. They are telling you here that there is a
23 comity problem with respect -- there is no inconsistency
24 with what they said before. In *Empagran*, they told you
25 the same thing: That providing remedies for foreign

1 injuries caused by largely foreign conduct would be a
2 problem.

3 The EU is here as a party in this case, but
4 take a look at what they said in many other cases where
5 they were in the more detached position: As an amicus
6 in OBB, in Kiobel, in Sosa, and most importantly, in
7 Empagran itself, which is the case involving foreign
8 injuries caused by largely foreign conduct. They said
9 in that case there would be a huge comity problem with
10 extending American law.

11 With regard to comity, Justice Kagan, you
12 asked is it -- is it too policy-ish. It's not because
13 you have all of these background presumptions and
14 principles. I spoke about the presumption against
15 extraterritoriality and about the common law background
16 rule of *lex loci delicti*.

17 A third principle is the Charming Betsy
18 canon, that you construe Federal statutes not to violate
19 international law absent a very clear statement to the
20 contrary, and that's what we have here, because Empagran
21 says that applying U.S. law to provide redress for
22 foreign injuries caused by largely foreign conduct would
23 be unreasonable, and therefore, a violation of customary
24 international law.

25 You also ask why draw the line at injury?

1 Once you established the underlying, the underlying
2 predicate applies extraterritorially.

3 First reason is that the decision to create
4 a private right of action is -- is different from the
5 decision to criminalize the conduct. The money
6 laundering statute applies extraterritorially, but
7 there's no private right of action for people injured by
8 money laundry.

9 The second reason is that Empagran applies
10 that principle to the question of injury, and
11 specifically does so with regard to the very antitrust
12 provisions that were in effect pre-1982, in effect when
13 RICO was enacted to say there's this category of cases
14 involving foreign injury where the government can
15 prosecute but the private party cannot bring an action
16 for civil redress.

17 And that's an important distinction
18 precisely because private parties are not constrained by
19 prosecutorial discretion. It is aggressive to apply
20 American criminal law, but at least the government --
21 the Justice Department has to talk to the State
22 Department and take into account any comity concerns,
23 any problems that particular prosecutions might bring.
24 That is not the case with respect to private plaintiffs.

25 JUSTICE BREYER: Okay. Go ahead.

1 MR. KATSAS: Mr. Frederick said that the
2 underlying predicates here track international law.
3 That is true to -- in the sense that they are written to
4 be consistent with Section 402 of the third restatement
5 of Foreign Relations, but there is an independent
6 requirement that the application in a particular case
7 must be reasonable under Section 403. That is the
8 provision that you invoked in Empagran. That is the
9 position -- that is the problem with this case here.

10 Finally, Mr. Frederick said this case
11 involves United States conduct. Petitioners are four
12 transactions removed from the original problem in
13 Europe, and two transactions removed from the cigarette
14 sales. All of -- all of those involve European
15 transactions. And Reynolds' alleged conduct involves
16 transactions in Europe, Central and South America.

17 CHIEF JUSTICE ROBERTS: Thank you, counsel.
18 The case is submitted.

19 (Whereupon, at 12:16 p.m., the case in the
20 above-entitled matter was submitted.)

21

22

23

24

25

A				
a.m 1:14 3:2	activity 20:5	allegations 39:2	6:22 9:5,7,11	attach 39:19
abandoned 3:20	36:10 42:11	44:10	9:14 10:19	attacks 12:23
ability 19:25	actor 15:5 35:19	alleged 20:9	11:2 12:11,13	audiences 38:20
23:2,12	actors 42:15	40:17 51:15	44:19 45:9,11	authorized
able 8:2,17	acts 7:19 12:24	alleging 42:14	45:23 51:6	38:10
26:23	14:3 17:2 37:3	allies 47:2,2,20	applications	automatically
above-entitled	44:25 45:19	allow 41:4 42:14	20:6,7	5:7
1:12 51:20	47:16	allowed 43:7	applied 11:3	availability 43:8
abroad 10:16	actual 25:23	ambassadors	19:4	available 42:17
13:21,25 20:22	addition 28:2,23	25:5,14	applies 13:13	42:24,24 43:18
20:22,23 23:23	additional 5:21	amendment	17:24 33:16	aware 32:15
27:9	additions 45:18	12:5,14	47:25 50:2,6,9	33:9,11
absent 4:6 11:13	address 47:9	amendments	apply 9:20 17:25	
15:24 49:19	addressed 16:1	12:1 46:13,17	27:17 33:12	B
absolutely 40:19	18:5 46:12	America 51:16	43:25 44:16	b 7:18 32:5 44:7
accept 38:9	47:10	American 11:21	47:24,25 48:2	background
accident 9:23	addresses 10:16	32:6,6 33:25	48:5,9 50:19	11:6,9,11 29:2
10:1,3	adopt 45:12	34:1,12 38:13	applying 49:21	49:13,15
account 23:3	adopted 45:16	40:21 49:10	appreciative	bad 14:13,14,19
35:22 50:22	adopts 45:13	50:20	26:22	15:5 18:20
accountable	advance 26:13	amicus 1:20 2:7	approach 22:1	balance 19:14
15:16	advantages 22:8	19:18 49:5	appropriate	banc 15:14
accuse 41:5	advice 35:7	analysis 5:18	27:9 40:3	bank 41:14
accused 41:3	advisor 30:7,10	44:16,17	appropriately	banks 41:2,8
act 4:22 8:9 12:5	affairs 18:24	analytical 5:12	35:7	42:2,6,7
14:22 17:25	21:8	analyzing 4:21	approximate	based 19:12
40:5,14 45:6,6	affect 46:13,18	answer 6:1,3 7:7	11:11	35:25
45:16,18 46:4	afterthought	9:22,24 23:18	area 31:6 46:13	basically 24:14
46:9,18 47:12	25:12	26:8 27:4	46:16	basis 10:25
47:16	aggressive 50:19	41:12,21 42:1	argument 1:13	beginning 11:25
action 3:15,22	ago 39:22,23	42:2 45:20	2:2,5,9,12 3:3	behalf 1:16,21
4:19,24,25 5:4	agree 24:8	46:11	3:7 5:13,21	2:4,11,14 3:8
5:9 7:14 11:6	agreements	antitrust 46:12	19:17 29:8	29:9 48:17
11:10,23 23:1	40:22	46:17 50:11	42:7 43:21	Belgium 40:24
23:4 27:8,15	ahead 50:25	anybody 24:25	46:1 48:16	40:25 41:2,10
30:23 35:2,23	aircraft 13:1	25:2	aside 39:13	41:11 42:2,6,7
42:20 50:4,7	20:23	APPEARAN...	asked 25:6 43:2	42:8
50:15	airport 7:20 8:7	1:15	48:18 49:12	believe 40:1
actionable 15:11	8:13,14	appendix 7:18	asking 31:13	best 26:8
actions 20:1	AL 1:3,6	9:4,9 32:5	aspect 25:11	Betsy 49:17
23:10,13 29:14	Alien 24:9 35:1	33:20	asserted 36:1	better 27:13
32:23 35:16	Alito 29:18	applicability	asserting 48:2,7	beyond 22:17
43:12 47:8	30:12,18 39:4	21:14,17 22:21	assets 39:18	36:23 46:2
48:3	39:8,15 44:15	30:8	Assistant 1:18	binder 33:21
activities 20:19	44:22 45:8,21	application 4:3	assume 5:7 41:9	bit 16:10 23:16
	allegation 3:20	4:6,8,11 6:16	41:17	43:23
			astonish 15:20	blanket 27:14

blew 8:13	c 1:21 2:1,10 3:1	47:16	20:7 21:1,12	39:3 40:9,21
blowing 8:14	29:8 44:7	certainly 11:22	35:13 49:19	48:3,6
bore 25:24	call 21:24	36:25	clearly 6:17,17	compared 31:22
branch 43:16	called 46:6	cetera 25:14	12:2 16:12	complaint 19:9
break 21:24	camps 21:11	change 43:16	45:1	38:17 44:10
Breyer 7:16 8:1	Canadian 40:12	channels 38:21	clients 38:10	completely
8:6,12,20,24	Candidly 38:3	Charming 49:17	closed 27:19	24:14 29:16
9:21 10:2,7,12	canon 45:12	Chief 3:3,9	closest 47:2	component 37:4
10:24 23:15	49:18	19:15,20 22:11	co-conspirators	44:9
24:1,4,17	careful 35:8	29:6,10 34:9	41:3,6,19	components
25:20 26:6	carries 7:11	34:14,15,19	42:10	32:3,9
31:1,3,11,12	carry 45:14	35:14,25 36:4	co-extensive	comprehensiv...
33:6 40:18	carrying 21:8	36:7,9,13 37:2	28:18	31:19
41:12,13,18,23	cartel 38:23	48:14 51:17	collect 41:7	concern 11:20
43:5 46:3,23	case 3:4,21 7:12	child 10:16,16	come 26:23 30:9	17:15 18:5
48:18 50:25	17:16 18:16,21	choice 48:5	39:17 40:7,13	46:22
brief 7:19 9:13	19:5,11 20:9	choice-of-law	40:13 41:5	concerned 17:6
20:21 24:2	24:9 25:7,8	47:23	42:14 43:9	22:19 43:1
31:19 33:13	26:10,13,14,17	choices 6:10	47:20	concerns 23:3,5
43:3 46:9	29:13,17 32:21	choose 39:5,13	coming 26:12	23:7,10 26:16
47:12,18	33:13 38:1,7	choosing 22:25	39:25	27:12,14 28:2
briefs 5:15	38:17 40:10,11	chose 28:18	comity 19:4	28:6,24 35:18
24:12	42:3,12,22	cigarette 51:13	22:20 23:5,7	35:21 46:12
bring 19:25 23:1	44:14 45:17	cigarettes 36:11	23:10 26:16	50:22
27:19,21 33:7	48:12 49:3,7,9	36:15,18 38:18	27:12,14 28:2	concluded 42:20
33:7 50:15,23	50:24 51:6,9	Circuit 3:11	28:6,24 34:7	conclusion 7:1
bringing 23:4,9	51:10,18,19	cited 12:5 47:17	34:25 35:4,17	conduct 5:3,8,23
23:13	case-by-case	cites 9:4	35:21 43:14	5:24,25 12:2
Britain 24:13,24	27:11	citing 34:16	48:23 49:9,11	12:19 15:7
broad 39:11	cases 17:1 30:11	citizens 13:22	50:22	16:9,9,13 18:6
broadly 19:13	31:23 35:1	14:1,15 20:23	commercial	18:23,25 19:6
brought 29:13	46:6 49:4	47:8	13:1	19:9 20:10,16
29:17 30:11,24	50:13	civil 3:11,14	commits 17:21	20:20 21:15
32:24 38:7	category 50:13	4:19 20:1 23:1	18:7	26:19,21 27:6
43:12	cause 3:15 11:10	44:1 50:16	committed	32:8,21 34:1,7
Brown 44:14	11:11,23 22:19	civily 14:7	17:23 29:14	34:12,22 46:14
Brussels 25:25	23:5 27:15	claim 27:20 42:8	48:4	46:16,16,19,20
41:6,7	28:21 35:2	claims 3:12	committing	49:1,8,22 50:5
built 37:16	caused 19:5	27:21	12:19	51:11,15
burdensome	42:15 49:1,8	classically 46:15	common 11:6,10	conducting
27:12	49:22	Clayton 40:5,14	11:11 29:2	18:23
business 8:11,12	causes 11:6 27:1	45:5,6,16 46:4	49:15	conducts 44:12
28:19 29:22	causing 22:9	46:9	Community 1:6	confirms 22:8
44:20	centered 27:6	clear 4:6,21,25	3:5 34:10	conflict 48:1
buying 44:8	Central 51:16	5:2 6:13 11:13	companies	confused 5:14
	centuries 42:13	11:14,16,22	42:25	confusing 24:8
	certain 5:2	13:17 15:24	company 38:13	Congress 4:11
C				

5:8 6:15 8:16 11:9,20 12:14 15:20 17:4,4 18:16 20:17 22:4 28:18 32:2,14 33:23 35:3 36:24 43:1,2,11,15 45:4,13 46:11 46:15,17,20,24 48:8 Congress's 12:17 17:15 connection 21:5 conscious 47:14 consequences 38:2 48:21 consideration 25:12 considered 35:11 considering 32:15 consistency 31:24 consistent 17:7 51:4 conspiracy 42:3 consternation 27:2 constrained 23:4 50:18 constricting 42:17 construction 45:13 construe 49:18 construed 40:6 consult 25:20 26:6 consultations 26:3 consulting 25:25 context 15:2 22:13 Continental 40:10	contradictory 24:21 contrary 4:7 11:13,16 13:18 15:25 49:20 controversy 46:6 conveniens 27:4 27:7 32:23 corporate 44:11 corporation 29:14 correct 14:9 23:25 32:24 37:17,22 corrupt 44:12 corrupting 15:7 15:10 17:11 18:25 corruption 3:17 16:4 17:6,10 17:17 counsel 19:15 29:1,6 48:14 51:17 countries 24:11 24:20 25:13 27:1 29:20 30:9 38:22 39:11 40:22 46:5 country 26:20 33:4 34:8 38:20 39:6,14 country's 47:6 coupled 40:15 course 22:3 27:16 court 1:1,13 3:10 5:19,23 6:13 19:21 22:23 26:25 27:10,16 29:11 30:5 31:18 33:8 35:6 40:11 45:15 46:2 48:11	Court's 4:9,25 19:3 30:7 45:22 courts 27:13,18 29:21,23 30:9 32:24,25 33:2 33:12 39:5,14 41:10 42:13 43:8,9 47:21 cover 14:6 42:4 42:10 create 50:3 crime 7:24 8:18 14:16 22:5 36:14,21 38:22 40:23 crimes 12:10,11 15:17 16:1 17:22 18:5 20:11 21:21 22:3,5,10 32:16 33:25 36:1 37:6,10 37:19 criminal 4:18 16:2 18:23 23:21 38:14 46:25 50:20 criminalize 18:6 50:5 criminalized 5:8 criminally 14:3 14:8 criticism 24:18 curiae 1:20 2:7 19:18 customary 19:7 49:23 cut 14:24 cutouts 38:14 cuts 13:22 D D 3:1 D.C 1:9,16,19,21 damage 38:5 damages 8:3,17	9:1 10:13 23:9 23:14,23 25:23 26:24 27:20 35:23 38:6,9 40:8,13,25 41:7 44:1 DAVID 1:21 2:10 29:8 deal 13:19 23:5 25:15 27:2 46:21 death 14:19 deception 6:11 6:13 16:17 decide 5:24 16:11 44:6 48:11 decided 5:19 40:10 deciding 45:24 decision 4:9 5:2 5:3 19:3 30:8 32:15 43:15 47:24 48:9,21 50:3,5 defend 33:13 defendant 15:9 30:20 32:6 34:1,11,23 40:1 definition 20:4 44:24 delicti 11:12 49:16 demands 43:7 Department 1:19 24:5 25:13,21 26:4 31:5 41:25 43:5,7,11 50:21,22 departments 25:22 departure 47:5 described 15:11 46:8 designed 15:3	destruction 13:1 detached 49:5 detailed 38:18 determination 35:4 dicing 42:19 difference 4:23 44:4 different 4:19 4:20 5:3,6 17:8 25:6 31:9 35:10 45:24 50:4 difficult 27:13 direct 37:5 44:24 direction 28:4 directly 19:24 40:11 44:23 discrete 7:1 discretion 50:19 discussing 13:15 dismiss 27:8 39:23 distinct 15:8 distinction 4:14 4:17 50:17 documents 38:25 39:3 doing 8:15,25 14:12,14 15:10 17:10 24:24 47:18 domestic 3:20 3:22,25 4:6,11 5:23,24 6:9,12 6:21 9:6,11 10:20,21 11:3 11:18 12:11,13 12:24 15:24 17:7,17 18:15 21:6,25 22:12 32:18 33:23 36:14 44:8,13 46:19 48:7,10 domestically 36:23
---	--	---	---	---

drafted 35:3	42:6	event 13:12	extraterritori...	14:11 15:22
draw 28:11	engaging 44:12	events 13:11	4:4 5:20 7:2,4	16:11 44:20
49:25	England 25:5	eventually 39:16	11:5 28:25	46:20
drawing 28:11	33:7	evidence 30:20	32:11 33:24	follow 5:9
28:14	English 33:8,12	38:24	37:16 49:15	followed 35:7
drug 38:23	enterprise 13:15	exactly 19:8	extraterritori...	fool's 16:11
	14:11,12 15:1	43:6	9:12 20:8 32:3	footnote 43:10
E	15:4,6,8,16,23	example 7:17	32:16 33:16	47:12
E 2:1 3:1,1	15:24 16:4,10	8:21 13:20	48:9 50:2,6	foreign 3:12,12
earlier 20:14	16:14 17:9,9	14:15 17:20	extremely 22:16	3:13,15,17
34:16	17:14,14,18	18:24 20:25		6:12,22 8:7,16
easily 35:15,15	18:13 19:22,24	examples 20:20	F	11:8,23 12:2,2
economy 11:21	20:11 21:6,8	exclusive 11:18	face 14:19 28:16	12:3,18,19
effect 7:3 25:23	21:15,25 28:10	exclusively 9:17	faced 31:4	13:4,8,20,24
32:7 35:4	35:18 36:16,21	Excuse 7:16	fact 8:16 16:19	14:5,12,25
37:25 44:12	37:1 44:13,13	executive 43:16	21:9 24:8	15:15 19:5,6
45:1 46:19	enterprises 3:12	exercise 31:19	29:24 31:1	19:11 20:19,19
47:14 50:12,12	3:18 10:20,22	expands 12:6	38:8 39:7	21:2,8,9,14
effects 11:18	17:7 18:16	experience	family 17:23,24	26:10 27:1
29:16	20:19 38:16	36:23	far 22:13,14,17	30:9 32:21,21
efficiency 39:25	entities 35:17	expert 41:11	27:9 35:8	32:24,25 33:2
either 13:13,14	40:12	explain 10:3	36:23	33:4,4 35:8,21
14:7 21:25	entity 35:19	explains 13:10	fatal 3:21	38:20 40:6,8
23:3	envision 35:15	express 15:19	Federal 15:18	40:22 41:14
elaborating	errand 16:11	extend 11:22	15:18 27:23	42:14 43:9,18
23:16	ESQ 1:16,18,21	23:23 32:16	37:6 49:18	44:13 46:5,19
ELAINE 1:18	2:3,6,10,13	35:9	figure 6:18	47:15,15,19,23
2:6 19:17	essentially 45:25	extended 3:11	12:16	47:24 48:6,6
element 6:10,11	established 50:1	32:2 47:16	filed 26:5 31:15	48:25 49:1,7,8
6:19 7:11	et 1:3,6 25:14	extending 49:10	39:22	49:22,22 50:14
elements 22:18	EU 24:6,7,11	extends 9:12	Finally 51:10	51:5
34:4 43:25	25:1,1,24 26:4	20:8	find 11:16,16	foreigners 47:7
emanating 34:8	26:16 31:8,21	extension 9:13	41:5	forfeiture 23:19
embassies 25:21	31:24 38:4	33:24 46:1	findings 11:17	forum 27:3,7,9
Embassy 25:3	40:20 41:4,18	extent 5:10 20:8	17:5,18	32:22 39:25
emerges 6:8	49:3	21:16	first 3:14,19	found 7:21 36:6
Empagran 19:3	Europe 29:16,20	extort 18:20	7:17 12:25	36:8 45:22
19:12 22:23	29:23,25 37:10	extraterritorial	23:18 29:24	foundation 17:3
26:25 27:11	38:15,22 39:19	5:25 6:16 9:5,7	50:3	four 9:23 31:25
47:10 48:24	51:13,16	9:14,17 15:19	five 10:4	32:3,9 34:4,18
49:7,20 50:9	European 1:6	20:5,6 21:13	floor 47:17	34:21 48:15
51:8	3:4 29:12,20	21:16 22:21	foci 4:20	51:11
en 15:14	30:14,24 34:10	28:9 35:12	focus 4:5,10 5:7	Frederick 1:21
enacted 50:13	35:17 37:11	37:4,15,20,25	5:16,17,23,25	2:10 25:19
enforce 39:17	38:16 39:10,16	38:1 42:19,22	6:9,19,20 7:5	29:7,8,10,19
enforceability	51:14	44:19 45:1,9	7:10,14 11:18	29:24 30:18
30:2 41:11	evaluate 15:2	45:11,23	12:2 13:17	31:2,11,13

32:18,25 33:3 33:9,11,17 34:11,18,20 35:24 36:6,8 36:12 37:2,17 37:22 38:6 39:7,15 41:9 41:15,21 42:1 43:20 44:2,5 44:22 45:10 46:11 51:1,10 Frederick's 23:17 fundamentally 5:3 Furthermore 31:17	going 6:18 17:1 21:7,7 24:15 26:7,13,18,18 27:11,17,17 28:2 29:3,3 37:12 39:16 41:10 42:10,16 46:18 47:3 Goldenberg 1:18 2:6 19:16 19:17,20 22:22 23:25 24:3 25:17 26:2,9 27:10 28:1,15 gotten 45:11 govern 29:4 governed 11:7 government 4:14 14:18 21:20 22:6,7 22:16,25 23:1 23:6,19 33:4 35:20,22 36:17 36:18 39:5 40:15 50:14,20 government's 7:18 9:9,13 19:25 48:19 government-t... 23:6 governments 40:16 granted 9:22 great 27:1 greater 23:11 GREGORY 1:16 2:3,13 3:7 48:16 guess 5:14 6:24 8:14 guidance 35:7	happens 25:25 hard 12:16 15:3 35:24 harm 12:3 harmed 47:7 harms 11:23 47:4 headquarters 44:11 heads 12:16,18 13:22 14:24 hear 3:3 heard 21:18 hearings 43:2 heartland 11:1 held 15:16 helpers 41:19 helpful 46:9,10 history 43:4 47:6 holding 3:13 21:10 holds 40:12 home 39:25 hostages 20:22 huge 49:9 human 10:9 hundred 14:24 17:2 hurt 8:2,5,12,14 8:17 hypothesizing 37:9 hypothetical 14:5,12 15:2,3 15:8,10 35:25	22:13 35:12 impacts 18:13 impermissibly 6:23 implicate 35:17 implicated 21:17 import 10:17 important 6:4 7:5 16:24 22:7 24:20 25:11 28:7,24 31:24 31:25 32:10 33:18 34:3 36:17 48:10 50:17 importantly 49:6 imposed 33:23 48:9 imposes 22:11 incentive 23:2 23:12 include 12:7 includes 43:24 including 9:7 inconsistency 48:23 incorporated 12:24 20:4,15 37:4,24 40:5 incorporates 44:23 incorporation 13:10 45:2 incorrect 21:20 independent 51:5 India 40:15 indication 4:7 6:14 11:13,14 11:16,22 13:17 15:24 20:7 individual 18:9 infiltrate 18:17 infiltration 3:17 16:3 17:6,17	influencing 44:7 information 31:14 informed 26:4 injured 19:10 33:7 50:7 injuries 3:12,16 3:23 10:20 11:3,7,9 19:5 29:22 32:22 49:1,8,22 injury 3:20,25 4:3,4,5 7:13 8:5,6,9 11:8,15 13:14 19:2,23 26:19,21 28:19 28:20,22 29:2 29:4 40:4,12 42:15 44:20 47:23 49:25 50:10,14 inquiry 5:18 instance 18:10 48:8 intend 8:16 intended 5:8 intending 46:24 intent 10:17 interest 26:22 34:3 interests 22:20 29:22 32:7 35:5 48:6 intermelded 16:23 internal 39:3 international 7:20 19:8 31:7 32:10 34:6,24 42:21 49:19,24 51:2 internationally 22:14 35:5 interpret 45:2 interpretation 15:15 interrupt 28:5
G G 1:16 2:3,13 3:1,7 48:16 General 1:19 32:5 General's 9:4 33:20 Germany 24:12 24:24 25:5,22 26:1 getting 46:15 Ginsburg 3:24 4:3,13 13:19 13:25 14:14,21 15:13 17:19 18:2,8 27:3 37:14,18 38:3 give 12:22 28:13 41:12 45:20 47:19 given 20:20 45:15 go 12:9 21:4 25:21 33:19 40:25 41:7 43:8 46:14 50:25 goes 9:15 36:10 43:4	H hand 24:23,24 happen 31:7 happened 12:1 31:3	I idea 25:10 43:14 identified 11:20 identify 4:10 13:17 illegal 36:10 38:14,21 imagine 36:18 39:24 impact 11:21		

introduction 38:18	10:2,7,12,23 11:24 12:12	14:17,25 15:22 16:6,15 17:4	39:10 40:2 42:4,15 47:24	31:4 34:13,21 37:3 43:10
invest 17:14	13:2,4,7,19,25	18:1,4,12	48:5,7 49:10	44:15 49:4
investing 44:8	14:7,14,21	47:22 48:15,16	49:15,19,21,24	looked 38:25
invoke 33:8	15:13 16:5,7	48:18 51:1	50:20 51:2	looking 5:16
invoked 51:8	16:19 17:19	Kennedy 14:7	law-like 28:14	lot 14:12 18:11
involve 5:22	18:2,8 19:15	32:17,20 33:2	laws 30:16 37:11	28:12 36:3,22
51:14	19:20 22:11	33:10,13,15,18	48:1	39:10
involved 20:16	23:15 24:1,4	Kerry 47:13	lawyer 25:1	lots 11:2,2,2
24:10	24:17 25:2,20	killing 20:21	league 40:21	Lynch 15:13
involves 36:25	26:4,6 27:3,25	kind 21:24 23:4	led 46:7,7	Lynch's 13:20
39:1 51:11,15	28:5 29:6,11	30:23 42:18	left 24:24 35:5	
involving 3:12	29:18 30:12,18	46:8	legal 25:22 30:6	M
19:5 49:7	31:1,3,11,12	kinds 16:14	30:10	Mafia 17:21,23
50:14	32:17,20 33:2	20:12,21 23:2	legally 15:8	17:24 18:6
Iran 40:16	33:6,10,13,15	27:11,12,21	legislates 11:9	majority 10:6
issue 7:13 18:15	33:18 34:9,14	Kiobel 49:6	legislative 35:4	making 4:13,16
30:2 46:21	34:15,19 35:14	know 7:6 12:21	35:11 43:4	March 1:10
issues 32:14	35:25 36:4,7,9	16:10 24:5	legitimate 37:1	marketed 36:15
	36:13 37:2,14	25:11 26:15	lengths 42:22	38:19
J	37:18 38:3	30:20 31:6,10	let's 10:7,14,14	matter 1:12 5:15
J 1:18 2:6 19:17	39:4,8,15	36:16,16,17	33:6	25:24 51:20
job 31:7	40:18 41:12,13	39:16 40:19	lex 11:12 49:16	matters 24:20
John 47:13	41:18,23 43:5	41:21 46:7	limit 4:11	mean 10:3 12:15
Judge 13:20	43:20 44:3,5	knowing 24:23	limitation 35:12	12:17 16:7,20
15:13	44:15,22 45:8	knowledge 26:2	limited 3:22 4:6	17:1,20 24:17
judge-made	45:16,21 46:3		8:10	25:9 26:1 28:7
35:6,9	46:22 48:14,18	L	limiting 48:11	36:13
judgment 27:14	49:11 50:21,25	laid 43:3	line 28:11,14	meaning 45:7,14
35:11 39:18	51:17	language 40:5	31:22 49:25	meaningful
41:13 42:6		45:5	links 16:9	10:18 11:2
judgments 30:2	K	largely 11:25	list 8:21 12:6,9,9	means 13:2
41:11	Kagan 5:11 6:24	38:13 49:1,8	12:25 13:1	meant 45:7
jurisdiction 7:19	7:18 11:24	49:22	Listen 10:7	Mediterranean
29:5 30:1,13	12:12 13:2,4,7	Laughter 24:16	litigants 47:15	38:15
30:17 32:22	16:5,7,19	laundering	litigation 39:25	melds 16:12
39:9,12 41:16	27:25 28:5	24:11 34:13,22	little 16:10	member 29:12
41:18	43:20 44:3,6	40:23,24 41:6	43:23	29:20 30:3,14
jurisdictions	45:17 49:11	45:18 50:6	live 48:21	30:19,24 31:22
30:11	Katsas 1:16 2:3	laundry 50:8	loci 11:12 49:16	37:11
jurisprudence	2:13 3:6,7,9	law 5:5 11:6,7	logical 29:16	members 18:20
5:1	4:2,16 5:11 6:7	11:10,11 19:8	30:4	mentioned 9:19
Justice 1:19 3:3	7:8,25 8:4,8,19	27:17 28:12	long 47:6	10:15 12:25
3:9,24 4:3,13	8:23 9:2,25	29:2,4,5 30:13	look 6:5 7:17,17	middlemen
5:11 6:24 7:16	10:5,11,14	30:22 32:10	8:12 9:9 10:7	38:14
7:17 8:1,6,12	12:4,21 13:3,6	33:5 34:6,24	11:14 19:9	military-type
8:20,24 9:21	13:9,23 14:2,9	35:6,9 37:7	20:12 25:22	21:2,10

mind 12:23 17:17 18:17 36:24 Ministries 25:2 minutes 48:15 misconduct 39:1 missile 20:24 moment 12:14 12:18 40:18 Monday 1:10 money 18:20 24:10 34:13,22 40:23,24 41:5 45:18 50:5,8 Morrison 4:9,21 5:17 6:8,9,22 13:16 15:23 16:16 42:16,18 44:16 45:21 46:2 motion 27:7 39:23 mutually 3:23	nightmare 46:5 non 27:4,7 32:22 normal 34:6 45:12 norms 42:21 note 43:4 47:11 noted 47:22 null 37:9 number 20:3,20 28:15 42:25	38:13 operation 21:6 operatives 15:15 operators 38:15 38:23 opinion 15:14 45:22 opportunity 28:13 47:20 opposite 43:6 oral 1:12 2:2,5,9 3:7 19:17 29:8 order 9:3 16:17 22:8 ordinary 43:22 Ore 40:10 organization 12:3 13:21,24 14:5 21:3,9 organizations 12:19 13:4,8 organized 36:21 38:14,22 original 51:12 ought 24:5 48:11 outside 7:21 owned 40:17	48:20 49:3 50:15 pass 12:14 passive 32:12 Patriot 12:5 47:12,16 pattern 13:16 14:23 15:11,17 15:17 16:3,8,9 16:13 18:8,10 18:13 20:10 21:14 28:9 36:2 patterns 3:13 22:4,9 penalties 22:17 penalty 14:20 people 10:19,19 14:18 21:23 50:7 people's 12:16 perfectly 10:18 40:2 permissible 27:24 permit 40:6 perpetrator 32:7 person 7:20 8:4 8:4,8,8,17 15:9 15:9,9 17:10 33:6 personal 28:20 28:21 30:1,13 30:16 32:22 39:9,12 41:16 personality 32:12,13 perspective 39:24 Petitioner's 29:1 Petitioners 1:4 1:17 2:4,14 3:8 21:18 48:17 51:11 Pfizer 30:7 40:15,17 42:25	Philadelphia 41:5 Philippines 40:16 picks 11:11,12 place 11:8 26:1 26:20,21 29:2 29:3,17 30:4 40:24 46:25 plain 37:13 plaintiff 26:17 26:18 43:19 plaintiffs 26:11 26:23 27:19 40:7 42:14 50:24 please 3:10 19:21 27:25 29:11 point 3:19 9:21 11:4 16:7 19:2 19:24 22:3 28:3 37:3 39:9 40:11 42:12 46:23 47:22 pointed 20:2 26:25 29:1 45:17 points 19:23 47:12 policy-ish 49:12 policyish 28:12 pornography 10:16 posed 32:18 position 14:10 18:2 23:24 25:7 31:9 43:6 43:17 45:10 49:5 51:9 positions 24:22 31:22,25 48:19 possibility 12:22 possible 16:21 21:4 37:12 possibly 12:12 post-PATRIOT
<hr/> N <hr/> N 2:1,1 3:1 Nabisco 1:3 3:4 national 20:22 34:24 nationality 32:11 nations 24:7 34:6 35:8 39:16 43:9,13 47:15,19 nations' 43:8 natural 20:16 21:6 29:17 necessarily 5:13 need 13:17 16:16 Netherlands 24:13 25:5 neutral 31:16 never 25:1 New 17:23,24 44:11	<hr/> O <hr/> O 2:1 3:1 OBB 49:6 object 17:15 observed 20:14 22:12,23 42:21 obtain 40:7 obvious 17:12 obviously 6:15 22:16 occur 34:2 47:1 occurred 34:22 occurring 34:12 37:10 occurs 32:8 odd 46:23 offender 7:21 offense 13:3 offenses 10:16 22:15 officials 31:15 31:21 oh 5:22 34:19 Okay 8:13,24 9:21 24:15 50:25 once 5:19 28:8 28:10 42:19 45:22 50:1 one-step 39:21 ones 10:8 open 42:14 operate 6:18 20:17 operates 13:21 operating 13:25	<hr/> P <hr/> P 3:1 p.m 51:19 page 2:2 43:3,11 pages 25:9,10 Panama 38:21 paradigmatic 18:16 part 8:5 34:5 48:4 particular 12:14 27:23 50:23 51:6 particularly 17:12 26:24 parties 23:9,11 35:16 50:18 party 26:18	pass 12:14 passive 32:12 Patriot 12:5 47:12,16 pattern 13:16 14:23 15:11,17 15:17 16:3,8,9 16:13 18:8,10 18:13 20:10 21:14 28:9 36:2 patterns 3:13 22:4,9 penalties 22:17 penalty 14:20 people 10:19,19 14:18 21:23 50:7 people's 12:16 perfectly 10:18 40:2 permissible 27:24 permit 40:6 perpetrator 32:7 person 7:20 8:4 8:4,8,8,17 15:9 15:9,9 17:10 33:6 personal 28:20 28:21 30:1,13 30:16 32:22 39:9,12 41:16 personality 32:12,13 perspective 39:24 Petitioner's 29:1 Petitioners 1:4 1:17 2:4,14 3:8 21:18 48:17 51:11 Pfizer 30:7 40:15,17 42:25	Philadelph 41:5 Philippines 40:16 picks 11:11,12 place 11:8 26:1 26:20,21 29:2 29:3,17 30:4 40:24 46:25 plain 37:13 plaintiff 26:17 26:18 43:19 plaintiffs 26:11 26:23 27:19 40:7 42:14 50:24 please 3:10 19:21 27:25 29:11 point 3:19 9:21 11:4 16:7 19:2 19:24 22:3 28:3 37:3 39:9 40:11 42:12 46:23 47:22 pointed 20:2 26:25 29:1 45:17 points 19:23 47:12 policy-ish 49:12 policyish 28:12 pornography 10:16 posed 32:18 position 14:10 18:2 23:24 25:7 31:9 43:6 43:17 45:10 49:5 51:9 positions 24:22 31:22,25 48:19 possibility 12:22 possible 16:21 21:4 37:12 possibly 12:12 post-PATRIOT

45:18 practicing 31:18 pre-1982 50:12 pre-understood 45:7 precisely 30:6 50:18 predetermined 45:6 predicate 9:3 12:7,10 15:17 15:17 16:1 17:2 21:16 36:1 44:25 45:19 47:16 50:2 predicates 9:18 13:10 15:21 20:3,9,12 28:21 36:15 51:2 present 32:4 presented 31:14 presumably 42:7 presuming 41:15 presumption 4:4 5:20 6:2,5,18 11:5 13:13 19:4 28:8,25 49:14 presumptions 49:13 prevail 32:20 previously 31:10 primarily 19:6 principle 32:10 32:11,12,12 35:10 42:16 47:23 48:11 49:17 50:10 principles 19:4 32:1 34:6,25 49:14 prior 16:24 private 3:14,21	4:19,24,25 5:4 5:9 7:14 11:7 23:8,9,11 26:11,18 27:20 33:6 35:16,22 50:4,7,15,18 50:24 probably 14:19 problem 46:3 48:23 49:2,9 51:9,12 problems 50:23 proceed 46:22 proceeds 17:14 18:18 process 39:21 products 36:19 profess 41:10 prohibit 5:2 6:16 16:3 prohibition 4:18 4:24 prohibitions 3:16 prohibits 16:3 proof 33:23 48:10 property 8:11 28:20 44:21 prosecutable 14:18 prosecute 21:21 22:25 50:15 prosecuted 14:3 42:9 prosecuting 22:2,5 35:16 prosecution 22:15 prosecutions 20:1 50:23 prosecutorial 4:15 22:17 50:19 protective 32:12 32:13 proved 39:2	provide 3:15 5:4 6:15 27:5 28:19 47:7 49:21 provided 42:22 provides 22:16 providing 48:25 provision 4:10 9:12 10:18,22 10:24 12:7 21:7,13 37:20 38:5 43:22,24 47:18 51:8 provisions 4:20 7:1,9 17:8 20:17,21 23:20 23:21 28:17 33:19 45:24 50:12 punishable 37:19 punished 14:4 purpose 24:5 43:17 Pursuant 8:11 put 8:1 23:20,21 puts 32:5 putting 39:12,12 <hr/> Q <hr/> question 5:12,12 6:1,3,4,5,25 7:7,9,10,12 8:15,25 9:15 9:23 10:3,4,10 11:15 13:13,14 13:15 16:21 18:15 23:16,18 27:5,22 29:25 31:14 40:4,20 41:22 42:5 47:10 50:10 questions 20:2 quoted 9:13 <hr/> R <hr/> R 3:1	racketeer 17:13 18:22 racketeering 3:13 11:19,22 12:24 18:18,22 20:5 28:10 35:18 36:2,5 36:10,22,25 44:25 racketeers 10:21 18:17 raised 29:25 reach 3:17 15:19 22:17 reaches 36:23 read 9:8 42:16 reading 23:17 37:13 really 5:22 7:2 27:6 31:6 39:9 reason 30:6 31:23 38:7 47:18 48:5 50:3,9 reasonable 51:7 reasons 3:14 21:19 REBUTTAL 2:12 48:16 rebutted 5:21 6:2 28:9 receive 21:4 receiving 21:2 reciprocity 30:8 43:7 recognizing 12:15 recover 8:9 recovery 8:10 27:23 28:19 redress 3:15 11:7 40:2 47:4 47:21 49:21 50:16 reference 12:8 44:18,24 regard 17:16	18:15 49:11 50:11 regulate 23:3,12 regulating 26:22 regulations 34:7 related 3:23 7:9 11:4 19:4 relates 16:13 relations 31:7 51:5 relative 13:11 relevant 25:2 remaining 48:15 remedial 43:22 remedies 26:24 26:24 42:17,24 48:25 remedy 27:5 43:17 46:16,20 47:7 removed 51:12 51:13 repeat 10:4 repeated 11:17 repeatedly 13:22 representing 31:8 required 34:4 requirement 32:19 33:24 51:6 requirements 48:10 reserve 19:14 resolve 19:11 respect 11:15 13:12 17:12 21:14,15 22:2 22:19 27:15 33:14 34:7 37:8 38:18 43:21 46:9,10 47:6 48:23 50:24 respected 42:21 respectfully
--	--	--	--	--

43:15	41:5,19 42:3,4	6:11 16:17	six 40:22 41:2	29:21 30:3,5,9
Respondents 1:7	44:10	see 20:11 26:7	slicing 42:19	30:10,14,15,19
1:22 2:11 3:19	ROBERTS 3:3	28:17 35:24	smoothed 23:7	30:21,23,24
19:10 29:9	19:15 22:11	41:1	snuff 43:17	31:23 32:8
responses 44:23	29:6 34:9,15	seek 40:2 47:4	soil 12:20	33:1 34:2,3,13
responsibility	34:19 35:14	47:20	sold 38:20	34:23,23 35:13
25:24	36:4,7,9,13	seeking 38:11,12	solely 20:6	37:5 38:8,19
restatement	48:14 51:17	seen 38:24	Solicitor 1:18	39:17 40:7,9
51:4	root 22:8	sells 36:18	9:4 32:5 33:20	40:13,17 41:17
restrict 43:2	roughly 37:23	sense 51:3	somebody 8:2,6	42:9,13,23
rests 31:25	rule 6:7 11:6,10	separated 16:20	8:15 9:1 21:4	43:12 46:25
result 5:13	11:12 13:16	16:21	somewhat 31:9	47:1,3,8 48:4
25:11 40:8,14	26:12,13 29:2	separately 4:21	sorry 13:6 27:25	48:20 51:11
Reynolds' 51:15	49:16	September	32:19,25 34:15	statute 3:24,25
RICO 3:11,22	rules 11:11	12:23 13:11	sort 36:21	4:2,2 5:16 6:1
4:14,15 8:2,10		series 17:21	Sosa 49:6	6:6,19,23 7:5
8:10,16,19,25	S	19:10	South 51:16	7:11 9:10,11
9:3,18,19	S 2:1 3:1	serious 22:5	sovereigns 26:10	9:19 11:1 12:8
10:12 11:10,17	sales 51:14	35:17 39:1,2	special 22:8	12:9,25 13:18
12:6 14:4,6,22	satisfied 32:23	set 37:9	26:16	18:9 24:9
15:3,12,16,20	34:24,25	seven 9:6,17	specific 11:17	27:23 33:19,19
16:2,8,12,22	satisfy 44:9	10:8	specifically 9:19	34:5,14,22
17:3,22,24	saying 9:25	severely 14:4	50:11	35:1 36:22
18:10 19:25	10:25 14:22	SG 46:8	spoke 24:25	37:13,15,21
20:1,4,7,15	24:13 30:12,19	Sherman 46:18	25:1 49:14	40:5 41:4
21:22 22:3,8	33:15 34:20	shooting 20:23	stage 39:24	43:22,24 45:14
22:11 26:11	40:1	shores 34:8	stake 22:20 34:4	47:11 50:6
27:19 32:2,24	says 4:2,9,11	show 25:18	35:10	statutes 4:20 9:3
33:3,8,12	6:13 16:8,13	Sicilian 17:21	stark 47:5	9:6,10,16 12:7
35:16 37:12,13	18:10,12,12	18:6	start 19:23	15:18,18 16:2
37:19,24 38:1	45:22 47:25	Sicilian-based	state 24:4 25:12	18:5 32:5
38:5 40:5 45:8	49:21	17:25	25:21 27:7	37:18,23 49:18
47:17 48:9	second 3:11,16	side 23:8 24:15	31:4 37:6,11	statutory 6:9
50:13	5:18 45:4 50:9	significant	41:25 43:5,6	11:17 17:5
RICO's 3:14,16	Secretary 47:13	22:13,14	43:11 47:14	48:3
right 3:22 4:19	section 3:21 4:5	similar 30:14	50:21	stay 24:13
4:24,25 5:4,9	4:17,18,22,22	simplest 39:20	State-owned	step 5:18
7:14 8:23	5:6 6:5,6,9	simply 22:15	35:19	stipulate 38:9
13:12 15:1	7:13 14:10,15	24:10	stated 47:17	straight 17:18
17:13 18:3,4	15:6,23 16:18	single 31:18,21	statement 49:19	straightforward
23:22 24:23	17:8 19:24	32:4 33:21	States 1:1,13,20	4:8 44:17
25:10 36:11	21:1,13 22:1	sit 19:2	2:7 7:21,22	strange 29:19
40:19 43:23	22:24,24 23:8	situation 26:19	10:17,20,21	39:4,13
44:1 50:4,7	27:20 28:17,18	31:4 35:5 37:9	17:22 19:18	strong 22:6,16
RJR 1:3 3:4	51:4,7	38:12	21:24 26:23	stronger 45:11
29:25 30:17	Sections 17:13	situations 21:23	27:18 29:13,13	45:17
38:25 39:19	securities 4:22	35:15,21	29:14,15,15,20	strongly 35:19

structure 17:8	taken 31:22	21:20,25 22:22	treaty 47:20	unindicted 41:3
stuff 24:14	35:22	23:10 24:12,19	treble 23:9,13	41:6,19
subject 37:25	talk 10:14 19:22	24:19,20 25:14	26:24 27:20	union 18:17,19
submitted 51:18	21:18 24:22,22	25:17,18 26:9	35:22 38:5,6,9	18:21,24 29:12
51:20	28:6 31:10	26:11 28:3,16	true 11:25,25	29:21 30:14
subsidiaries	50:21	28:23 33:4	20:10 21:19	United 1:1,13,20
39:20	talked 25:4	35:6 37:8	26:12 44:2	2:7 7:21,22
subsidiary	talking 7:18	41:23,24 45:2	51:3	10:17,20,21
29:25	20:13 22:21,23	47:9	try 23:6	17:22 19:18
substantive 3:16	27:16 29:4	third 45:20	trying 6:4 23:13	21:23 26:23
4:24 5:5 22:18	Tamburlaine	49:17 51:4	43:17 47:3	27:18 29:13,14
43:25	46:7	thought 6:25	turn 40:4 46:24	29:15,15,21
sue 29:23 39:5	targeted 38:19	19:1 22:4	turning 14:10	30:5,9,10,15
39:13 40:20	targets 14:1	23:15,18 34:9	two 3:14,23 6:10	30:21,23 32:8
sues 40:21	Tasmania 8:13	34:16 36:2,24	16:12 21:18	33:1 34:2,3,12
suffer 10:19,19	tell 7:3 24:7	three 9:22 10:9	34:21 44:23	34:22,23 35:13
suffered 40:12	31:17 38:25	17:8 24:11	51:13	37:5 38:8,19
suffers 8:9	telling 31:5	26:7 44:6	typical 17:16	39:17 40:7,9
suggested 27:10	48:22	three-quarters		40:13,17 41:16
suggests 13:7	terrorism-rela...	37:23	U	42:9,13,23
15:15 42:18	12:10	tie 35:13 37:5,12	U.S 13:22 14:1	43:12 46:24
suing 29:21 38:4	terrorist 12:18	42:23	14:15 20:22,22	47:1,3,8 48:4
suit 31:15 33:8	12:19 13:20,24	time 12:15,18	20:23 30:22	48:20 51:11
39:22 42:9	20:16 21:3,9	19:14 45:8,12	31:14,16 32:7	unreasonable
44:1	test 5:23	46:4	40:1,8 42:4,15	19:7 49:23
superimpose	testified 30:7,10	times 10:4 17:2	42:15,25 43:10	unusual 26:10
14:22	43:11	told 17:5 31:15	48:2,3,7 49:21	26:14
supported 35:20	textual 45:1	48:24	U.S.C 7:19	use 10:21,24
supporting 1:20	Thank 19:15	tool 4:15,15 22:6	10:15	18:17,19 21:22
2:8 19:19	29:6,10 31:13	Tort 24:9 35:1	underlying 4:18	uses 17:13
suppose 21:3	48:13,14 51:17	torture 24:10	5:2 14:2 16:2	usual 26:13,17
46:24	then-Senator	total 25:24	19:9 21:21	usually 26:11
Supreme 1:1,13	47:13	tougher 18:11	22:3,15 36:1	
sure 7:25 12:21	thing 12:6 16:16	track 34:5 51:2	37:21 42:20	V
23:7 28:15	31:5 39:20	tracking 45:5	50:1,1 51:2	v 1:5 3:4
surely 42:3	45:4 46:8	tracks 32:9	underpinning	vacatur 1:20 2:8
sustained 29:22	48:25	trafficking	28:24	19:19
swept 20:18	things 14:13,14	36:11	understand 7:23	varies 30:19
systems 20:24	14:19 16:20,23	training 21:2,5	14:4,11 16:22	various 16:14
	18:10,20 22:9	21:10,11	26:3 28:7	46:13
T	23:22 28:3,16	transaction 6:12	43:21	vast 10:5
T 2:1,1	32:14	6:12,20,22	understanding	vehicle 18:22
table 18:14 19:2	think 6:3,7 8:21	16:17	5:17 39:10,11	verbs 44:6
take 9:10 18:18	9:15 10:24	transactions	understood	versus 13:15
23:2 25:6 33:7	12:17 13:12	19:11 51:12,13	20:18	vetted 31:19
46:1 49:4	14:2 16:6	51:15,16	unindictable	victim 15:7
50:22	20:25 21:12,19	travels 7:15	37:6	17:10,15 18:23

32:6 33:25 34:9,16 view 14:5 views 26:16 vindicate 47:4 violate 10:22 15:18 17:22 19:7 49:18 violated 30:22 violating 38:16 40:1 violation 5:4 8:9 16:18 18:19 40:14 48:3,7 49:23 violations 15:20 40:8 43:9 violence 7:20 violent 17:21	44:11 wish 19:12 witnesses 30:21 wondering 22:18 word 9:22 36:25 words 5:19 9:22 9:23 36:20 45:7,13,15,15 work 11:3 25:10 26:1 31:12 44:17 workable 22:1 working 30:4 works 36:22 world 30:11 43:13 worried 41:23 41:25 wouldn't 37:12 write 19:12 24:18 written 51:3 wrong 3:14 5:14 8:21 10:23 wrote 24:1	11:17 1:14 3:2 12:16 51:19 13 43:10 15 39:22 15-138 1:4 3:4 16 39:22,23 18 10:15 1837 7:19 19 2:8 1962 4:17 14:10 15:23 17:8 19:24 21:13 22:1,24,24 28:18 40:11 44:24 1962(a) 17:13 44:7 1962(b) 17:13 1962(c) 15:6 1964 44:23 45:5 1964(a) 18:19 1964(c) 3:21 4:5 4:18 5:6 7:13 17:16 18:15 23:8 27:20 28:17 44:16,18 44:20 1970 40:6 45:16 1982 30:7	3 2:4 30 4:22 5:1 34 4:22 37(b) 7:19 <hr/> 4 <hr/> 40 5:1 40-some 32:4 402 51:4 403 51:7 45 43:4 46 9:5 44:25 48 2:14 <hr/> 5 <hr/> 50 8:22 30:11 43:12 55 43:11 58 12:10 <hr/> 6 <hr/> 60 12:10 64 44:23 <hr/> 7 <hr/> <hr/> 8 <hr/> <hr/> 9 <hr/> 9/11 12:1 20:15	
<hr/> W <hr/> want 9:1 10:4,8 10:13 23:23 25:6 28:13 31:10 38:8 wanted 8:2 23:19 Washington 1:9 1:16,19,21 way 7:1 18:24 20:16 36:21 42:17 44:17,18 45:3 48:21 ways 16:14 We'll 3:3 we're 27:16 42:16 we've 17:1 20:20 22:12 33:20 well-equipped 46:21 went 25:4 42:21 43:1 Williamson 44:14 win 40:24 Winston-Salem	<hr/> X <hr/> x 1:2,8 <hr/> Y <hr/> Yeah 36:7 years 5:1 30:25 31:17 39:22,23 York 44:11 York-based 17:23,24 <hr/> Z <hr/> <hr/> 0 <hr/> <hr/> 1 <hr/> 10 47:12 10(b) 4:22 6:10 16:18 11 12:23 13:11 43:4	<hr/> 2 <hr/> 20 31:17 200 9:3,18 10:25 2016 1:10 21 1:10 2230 12:7 2260 10:15 2332(a)(1) 14:16 14:17 2332b(g)(5)(B) 12:8 2339D 21:1 26 29:12 30:3 27 24:7 29 2:11 <hr/> 3 <hr/>		