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## In Victory for WLF, Appeals Court Reins in Abusive RICO Suits Against Drug and Device Companies

*(Sidney Hillman Health Center v. Abbott Laboratories)*

**“The reflexive invocation of RICO by civil litigants engaged in otherwise garden-variety commercial disputes does violence to the original purpose of RICO and unnecessarily burdens our federal judicial system. The Seventh Circuit acted appropriately in calling a halt to the inappropriate use of a statute enacted to fight organized crime, not to enrich the plaintiffs’ bar.”**

**—Richard Samp, WLF Chief Counsel**

WASHINGTON, DC—The U.S. Court of Appeals for the Seventh Circuit in Chicago held today that lawsuits seeking damages under RICO, the federal anti-racketeering statute, must be dismissed when (as here) the plaintiff lacks a direct relationship with the defendant and thus cannot demonstrate that his injuries were directly caused by the defendant’s action. The decision in *Sidney Hillman Health Center v. Abbott Laboratories* was a victory for WLF, which filed a brief arguing that a plaintiff cannot demonstrate the requisite “proximate cause,” demanded of all RICO plaintiffs, if his theory of causation is too attenuated; *e.g.*, if any damages are dependent on the actions of intermediaries not under the defendant’s control. The decision directly conflicts with a decision from the First Circuit in Boston, which has endorsed RICO suits against drug and device companies under similar facts.

The case involved an effort by several third-party health insurance payers (TPPs) to recover payments they made to their customers as reimbursement for the cost of Depakote, an FDA-approved drug prescribed to the customers by their doctors. The TPPs contended that the manufacturer promoted certain off-label uses for the drug, even though it allegedly lacked medical studies adequately demonstrating Depakote’s safety and effectiveness for those uses. They contended that had the true facts been known, doctors would have written fewer Depakote’s prescriptions and the TPPs’ reimbursement costs would have decreased. Importantly, the TPPs did not allege that any of their customers were injured as a result of Depakote use.

The Court agreed with WLF that the TPPs cannot satisfy RICO’s proximate-cause requirement because they lack a direct relationship with the drug manufacturer. It held that any damages suffered by the TPPs were dependent on the independent actions of doctors, who may or may not have relied on the manufacturer’s alleged misrepresentations when they chose to prescribe Depakote for their patients. Congress adopted RICO as a tool in fighting organized crime; WLF argued that RICO suits of this sort—in which reputable manufacturers are accused of “racketeering” and face potentially massive treble-damage awards—are likely to chill the dissemination of truthful and valuable medical information.

*Celebrating its 40th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.*

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