

# Ruling on RICO exposes activists to costly lawsuits

By Nancy E. Roman  
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Monday's Supreme Court ruling on RICO leaves homosexual activists, animal-rights activists and other protest movements vulnerable to lawsuits under the federal racketeering statute, say lawyers and activists.

Justices ruled that leaders of abortion protests that employ force or the threat of force may be sued under the Racketeer Influenced and Corrupt Organizations Act, prompting demonstrators for a variety of causes to say all social protest is now in jeopardy.

"The ruling could have alarming and dangerous consequences down the road," said William K. Dobbs, a New York lawyer and member of ACT-UP, a homosexual-rights group. "They basically expanded RICO, and they say, 'Figure the First Amendment stuff out later.' That is an open door to go after various groups and cripple them with expensive lawsuits."

Jim Henderson, litigation counsel to the American Center for Law and Justice, said the ruling is dangerous to all public protest groups.

"The litigation filed against [Randall Terry, head of the pro-life group Operation Rescue] is a flight of fancy, and I can't imagine why a person seeking to put down ACT-UP or Earth First or the NAACP couldn't come up with a similar flight plan," he said.

Monday's Supreme Court decision grew out of a case filed by the National Organization for Women and two abortion clinics, in which they charged leaders of pro-life demonstrations with "a pattern of racketeering" under a federal law aimed at mobsters.

NOW leaders said they used the powerful RICO act because state trespass laws were inadequate to get at the heads of a national conspiracy to close abortion clinics.

Both the trial court and the 7th U.S. Circuit Court of Appeals dismissed the case, saying RICO may only be applied against individuals

with an economic motive, and that pro-life demonstrators lacked one because their goal was stopping abortion, not making money.

But Chief Justice William Rehnquist, writing for a unanimous court, said no economic motive is required to sue under RICO.

Now the floodgates are open, said Steve Michael, a spokesperson for ACT-UP in Washington, D.C.

"If there is a clinic taking blood without people's permission and testing them for HIV, do you think we will let that stand?" he asked. "Do you think we won't organize, have meetings and do whatever we can to run that person out of business?"

He said under that scenario, ACT-UP could be vulnerable to a RICO suit, as might animal-rights activists, environmentalists and even feminist organizations.

"The groups that did this were so shortsighted," Mr. Michael said. "In order to solve their immediate problem, they are willing to risk the freedom of the rest of us."

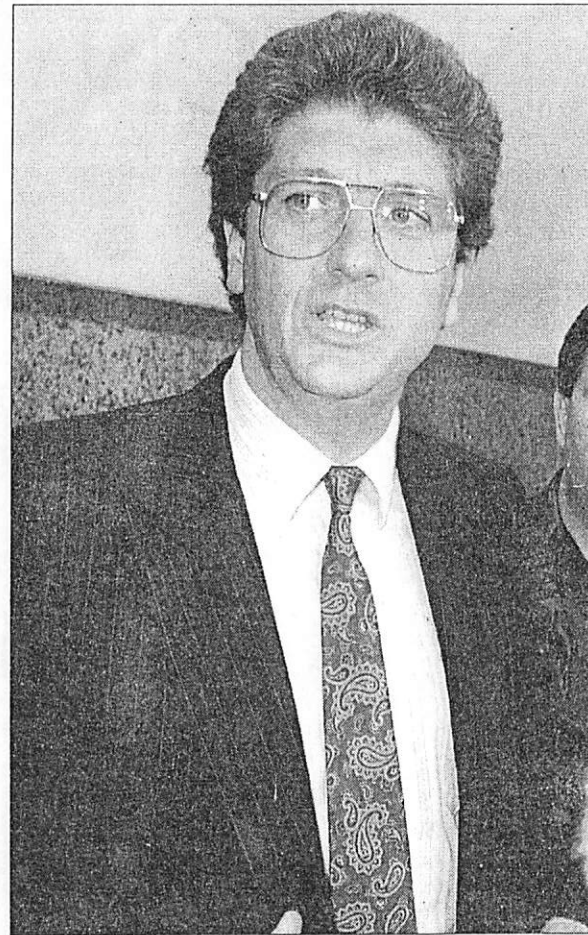
Eve Paul, general counsel to Planned Parenthood, noted that the RICO Act is not easy to invoke, and does not apply to peaceful protests.

"These were not just peaceful picketers," she said. "We have no problem with peaceful picketing. . . . This RICO case requires the establishment of a whole list of crimes, including extortion and bombing. With RICO, you have to show a pattern of unlawful activity."

But Joseph Scheidler, head of the Pro-Life Action League and a defendant in the case, said he never committed a single act of violence, and wasn't charged with violent crimes. Rather, he was named because he is a leader in a movement in which other individuals had committed violent acts.

"It's a good thing Martin Luther King marched and advocated civil disobedience before this ruling, or he would have been hit with RICO, too," Mr. Scheidler said.

In Monday's ruling, Justice David Souter wrote a concurring opinion to stress that the court's ruling does not bar First Amendment challenges to



Randall Terry, head of Operation Rescue, isn't happy with the RICO ruling. "The Supreme Court has told civil protest to go to hell," Mr. Terry said.

RICO's application in particular cases.

Joined by Justice Anthony Kennedy, he said an economic motive requirement "would protect too much with respect to First Amendment interests, since it would keep RICO from reaching ideological entities whose members commit acts of violence we need not fear chilling."

Mr. Scheidler said he is frustrated by the Supreme Court ruling, but that Congress is the real culprit.

"They write sloppy law," he said. "I don't like laws that are made to corner a particular group of people, because you never know who will get caught in the trap."

He said pro-life activists will be-

gin lobbying Congress to amend the RICO law to require an economic motive.

Constitutional scholar Bruce Fein said the courts should interpret the law as written, and if lawmakers feel a statute is being too broadly applied, they may tighten it.

"That's the separation of powers at work," he said.

But Mr. Henderson said a philosophical argument is of little comfort.

"When you are the person who now has to face up to the prospect of spending thousands and thousands of dollars in litigation, there is no comfort to know that your government is acting at its best," he said.