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INTRODUCTORY NOTE TO YEGIAZARYAN V. SMAGIN (U.S. SUP. CT.)

BY JUAN PABLO GOMEZ-MORENO*

[June 22, 2023]

Background

Yegiazaryan v. Smagin[1] represents a landmark case within the Supreme Court's (SCOTUS) jurisdiction, revolving around a contractual dispute between John Yegiazaryan and Alex Smagin. The legal intricacies unfolded when Smagin sought to enforce a multimillion-dollar arbitration award against Yegiazaryan in California under the New York Convention. The district court's asset freeze faced complications as Yegiazaryan, residing in California, received an unrelated arbitration award and attempted to evade the freeze. In response, Smagin invoked the Racketeer Influenced and Corrupt Organizations Act (RICO), alleging a coordinated effort to obstruct the collection of the arbitration judgment. The case stands as a pivotal legal milestone marked by complexities and jurisdictional challenges.

Significance

The SCOTUS decision in *Smagin* carries substantial implications for the enforceability of international arbitration awards in the United States. By establishing a precedent for RICO's application in such scenarios, the ruling influences the interpretation of relevant legal frameworks and sets guiding principles for future cases.

Context

Understanding the *Smagin* decision necessitates a contextual grasp of the prevailing legal landscape. RICO's private right of action empowers individuals to sue for injuries to business or property resulting from RICO violations. Under RICO, racketeering activity is defined broadly and includes, among other things, money laundering, bribery, and a series of fraudulent activities.[2] RICO's private right of action allows any person injured in their business or property by reason of a violation of RICO to sue in the appropriate U.S. district court.[3] A plaintiff alleges a "domestic injury" for purposes of filing a private civil suit under RICO when the circumstances surrounding the injury indicate it arose in the United States.[4]

However, the concept of a "domestic injury" remained undefined until *Smagin*, creating a Circuit split over its qualification. Previously, this avenue was largely inaccessible to non-U.S. residents seeking to execute on assets resulting from foreign arbitral awards. The case of *Armada (Singapore) Pte Ltd. v. Amcol Int'l Corp.*[5] exemplifies the challenges faced by foreign plaintiffs. Armada, a Singaporean carrier, sought to enforce multimillion-dollar arbitral awards in Illinois against an Indian company, Ashapura, alleging schemes to drain assets and hinder award collection. The Seventh Circuit, invoking *RJR Nabisco*, deemed Armada's harm purely economic and located in Singapore.

Conversely, in *Tatung Co., Ltd. v. Shu Tze Hsu*,[6] a Taiwanese company successfully argued for a domestic injury in California, emphasizing the alleged bad acts targeting property in the state and hindering the exercise of rights existing there. *Smagin*'s impact thus expands the utility of RICO for foreign plaintiffs but introduces challenges in establishing a "domestic injury" under varied circumstances. The decision resolves the split of lower courts by asserting that a plaintiff alleges a "domestic injury" when circumstances surrounding the injury indicate its origin in the United States. This context-specific approach marks a departure from prior ambiguity and provides clarity to lower courts.

Analysis

The decision grapples with the Circuit split regarding the location of intangible property for RICO injuries, offering clarity on this contentious issue. While the Seventh Circuit adopted the residency test, tying the injury's location to the plaintiff's residence,[7] the Third Circuit favored a holistic approach emphasizing where the injurious activity affects the plaintiff.[8] The Ninth Circuit, in *Smagin*, employed a totality-of-the-circumstances test, giving weight

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to the defendant's conduct and its impact.[9] SCOTUS aligns with the latter, rejecting a residency test in favor of a nuanced evaluation of all relevant factors. By emphasizing Smagin's alleged misconduct in California and the US judgment's enforceability in the state,[10] the Court establishes a precedent for assessing RICO injuries to intangible property, introducing a nuanced, context-dependent perspective into the legal landscape.

The decision clarifies the "domestic injury" requirement for private civil RICO suits, aligning with *RJR Nabisco*'s context-specific approach. Smagin's ability to enforce a California judgment, confirming an international arbitration award, became the focal point. Foreign plaintiffs can now leverage RICO's private action to collect on arbitration awards when racketeering activities obstruct enforcement in the United States. Foreign plaintiffs may be able to increase their odds of having a "domestic injury" by confirming the relevant arbitration award in the United States and receiving a U.S. judgment. However, other factors will also impact the inquiry, such as where the racketeering activity was directed from and where it was targeted, as well as the location of the defendant. Ultimately, whether there is a "domestic injury" for purposes of RICO will need to be analyzed on a case-by-case basis.

This case also underscores the intricate jurisdictional challenges arising in asset protection scenarios, offering insight into the legal complexities involved. As stated by the Sixth Circuit, asset protection is a legitimate, legally sanctioned objective, though with limits.[11] The case serves as a notable example where third parties could face potential liability for engaging in practices that circumvent creditors' rights, leading to litigation in distant jurisdictions. It introduces the intricate interplay between asset movement, creditors' rights, and jurisdictional concerns. While the decision does not hold third-party advisers liable in this instance, it raises awareness of potential repercussions, prompting caution in dealings with debtors practicing such strategies.[12] The ruling may have a chilling effect on third-party involvement in post-claim "asset protection," encouraging a more cautious approach.

A unique benefit of using RICO for enforcement scenarios includes the possibility of treble damages and recovery of litigation costs for judgment creditors.[13] In holding that RICO's domestic-injury requirement can be satisfied based on the facts and circumstances surrounding the alleged injury, the Court rejected a bright-line rule that would look only to the plaintiff's place of residence as the place where the economic injury is experienced. Hence, the SCOTUS decision creates opportunities for judgment creditors to use RICO to pursue within the United States assets granted through foreign judgments, which amplifies RICO's significance in dealing with vexatious debtors engaging in schemes to avoid satisfying their debts.

Lastly, the SCOTUS determination bears significance in the broader context of alternative dispute resolution. The decision emphasizes the importance of binding arbitration processes and provides clarity on executing foreign judgments or arbitral awards in the United States. The decision has resulted in a remand to a lower court for further proceedings, providing a definitive resolution of the legal question at hand—a binding arbitration process. The case also has implications for the enforcement of foreign judgments and arbitral awards in the United States. If a U.S. judgment recognizing a foreign judgment or confirming a foreign arbitral award is considered property in the United States, then RICO violations committed in the process of trying to avoid enforcement of the U.S. judgment may give rise to civil liability.

Justice Samuel Alito authored a dissenting opinion, in which Justices Clarence Thomas, and Neil Gorsuch joined, arguing that the writ of certiorari should have been dismissed as improvidently granted. The dissenting views underscore the inherent complexities in applying the decision's principles uniformly across diverse legal contexts. The absence of a clear framework for determining the site of intangible injuries introduces a level of subjectivity that may lead to divergent interpretations in various cases. This lack of specificity in the decision's guidance could result in inconsistent applications by lower courts, leaving room for uncertainty in legal proceedings. The dissent's emphasis on potential challenges reflects broader apprehensions about the decision's impact on the uniformity and predictability of legal outcomes, particularly in cases involving the enforcement of foreign judgments and arbitral awards.

The SCOTUS decision not only marks a significant milestone in the realm of international arbitration enforcement, but also sets the stage for evolving legal landscapes. The nuanced interpretation of the 'domestic injury' requirement under RICO and the emphasis on a contextual, case-specific approach introduce a dynamic element to future litigation scenarios. The dissenting views underscore the challenges and potential inconsistencies that may arise in

applying the decision's principles across diverse legal contexts. Looking ahead, the ruling is likely to shape the trajectory of disputes, influencing the strategies of both creditors and debtors. As legal practitioners grapple with the implications of this decision, it heralds an era of increased scrutiny and strategic considerations in navigating the complexities of international arbitration enforcement.

ENDNOTES

1 *Yegiazaryan v. Smagin*, 599 U. S. ____, *14 (2023).

2 18 USC § 1961(1).

3 18 U.S.C. §1964(c).

4 *RJR Nabisco, Inc. v. European Community*, 579 U.S. 325, 346 (2016).

5 *Armada (Singapore) PTE Ltd. v. Amcol Int'l Corp.*, 885 F.3d 1090, 1093–95 (7th Cir. 2018).

6 *Tatung Co., Ltd. v. Shu Tze Hsu*, 217 F. Supp. 3d 1138 (C.D. Cal. 2016).

7 *Armada (Singapore) PTE Ltd. v. Amcol Int'l Corp*., 885 F.3d 1090, 1093–95 (7th Cir. 2018).

8 *Humphrey v. GlaxoSmithKline PLC*, 905 F.3d 694, 701, 707 (3d Cir. 2018).

9 *Smagin v. Yegiazaryan*, 37 F.4th 562, 567 (9th Cir. 2022) at 568.

10 *Id*.

11 *Church Joint Venture, L.P. v. Blasingame*, 947 F.3d 925, 931 (6th Cir. 2020).

12 See *Kruse by and through Kruse v. Repp*, 543 F.Supp.3d 654 (S.D. Iowa 2021).

13 18 U.S.C. §1964(c).

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YEGIAZARYAN V. SMAGIN (U.S. SUP. CT.)*
[June 22, 2023]

SUPREME COURT OF THE UNITED STATES

Nos. 22–381 and 22–383

ASHOT YEGIAZARYAN, AKA ASHOT EGIAZARYAN, PETITIONER

22–381 v.
VITALY IVANOVICH SMAGIN, ET AL.

CMB MONACO, FKA COMPAGNIE MONEGASQUE DE BANQUE, PETITIONER

22–383 v.
VITALY IVANOVICH SMAGIN, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
[June 22, 2023]

JUSTICE SOTOMAYOR delivered the opinion of the Court. Respondent Vitaly Smagin holds a multimillion dollar California judgment against petitioner Ashot Yegiazaryan, who lives in California. Smagin, who resides in Russia, filed suit in the Central District of California alleging that Yegiazaryan, with the assistance of petitioner CMB Monaco (formerly Compagnie Monégasque de Banque), engaged in a pattern of criminal activity, predominantly in and targeted at California, to prevent him from collecting on his California judgment, in violation of the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§1961–1968. The District Court dismissed the complaint after concluding that Smagin had failed to allege a "domestic injury," as required by *RJR Nabisco, Inc.* v. *European Community*, 579 U.S. 325, 334 (2016). The Ninth Circuit reversed, concluding that Smagin had alleged a domestic injury. This Court agrees with the Ninth Circuit.

I
A

The essential facts as alleged by Smagin are as follows. From 2003 to 2009, Yegiazaryan committed fraud against Smagin, stealing his shares in a joint real estate venture in Moscow. To avoid a Russian criminal indictment for that fraud, Yegiazaryan fled to a mansion in Beverly Hills in 2010, where he has lived ever since. In 2014, Smagin, who lives in Russia, won an arbitration award in London against Yegiazaryan for the misappropriation of his real estate investment (London Award). Yegiazaryan refused to pay that award, which is over $84 million.

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Seeking to collect, Smagin filed an enforcement action in the Central District of California to confirm and enforce the London Award under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 21 U.S.T. 2517, T.I.A.S. No. 6997, as implemented by 9 U.S.C. §§201–208. The District Court issued a temporary protective order, followed by a preliminary injunction, freezing Yegiazaryan's California assets.

In his application for injunctive relief, Smagin informed the District Court that Yegiazaryan had been granted a substantial arbitration award in an unrelated proceeding involving Yegiazaryan and yet another Russian businessman, Suleymon Kerimov (Kerimov Award). At the time, no funds had yet been paid to Yegiazaryan in satisfaction of that award, but Smagin was concerned that when they were paid, Yegiazaryan would take steps to transfer the money out of Smagin's reach.

Smagin's concerns were justified. In May 2015, Yegiazaryan received a $198 million settlement in satisfaction of the Kerimov Award. To avoid the District Court's asset freeze, Yegiazaryan accepted the money through the London office of an American law firm headquartered in Los Angeles. Yegiazaryan then created "a complex web of offshore entities to conceal the funds," App. 56a, and ultimately transferred the funds to a bank account with petitioner CMB Monaco. Yegiazaryan also directed those in his inner circle to file fraudulent claims against him in foreign jurisdictions, which he would not oppose, in an attempt to obtain sham judgments that would encumber the $198 million, thereby blocking Smagin's access to it.

Around the same time, Yegiazaryan was hiding his assets in the United States through a system of "shell companies" owned by family members. *Id.,* at 61a. This included a Nevada company, which was owned by his brother and created "for the purpose of sheltering [Yegiazaryan's] U.S. assets from his creditors," including Smagin. *Id.,* at 44a.

Smagin did not learn about the $198 million settlement, Yegiazaryan's efforts to hide it, or the U.S. shell companies until February 2016, when Smagin was granted leave to intervene in Yegiazaryan's California divorce proceedings. The next month, the California District Court in the London Award enforcement action granted Smagin's motion for summary judgment on his petition for confirmation of the Award and entered judgment against Yegiazaryan for $92 million, including interest. The court also issued several postjudgment orders barring Yegiazaryan and those acting at his direction from preventing collection on the judgment. For failing to comply with those orders, the District Court subsequently found Yegiazaryan in contempt of court. To avoid having to comply with the contempt order, however, Yegiazaryan falsely claimed he was too ill, and submitted a forged doctor's note to the District Court. When Smagin notified Yegiazaryan that he would be seeking to depose the doctor in question, who resides in California, Yegiazaryan used "intimidation, threats, or corrupt persuasion," *id.,* at 82a, to get the doctor to avoid service of the subpoena.

B

At issue here is a civil RICO suit that Smagin brought in 2020 based on the allegations just described. RICO provides a private right of action to "[a]ny person injured in his business or property by reason of a violation of" RICO's substantive provisions. 18 U.S.C. §1964(c). Invoking that cause of action, Smagin sued Yegiazaryan and CMB Bank (the two petitioners here), as well as 10 other defendants, in the Central District of California.[1] The complaint asserts two claims against each: a substantive RICO violation, §1962(c), and a RICO conspiracy claim, §1962(d). The thrust of Smagin's allegations is that the defendants worked together under Yegiazaryan's direction to frustrate Smagin's collection on the California judgment through a pattern of wire fraud and other RICO predicate racketeering acts, including witness tampering and obstruction of justice. For these violations, Smagin seeks not only actual damages "no less than $130 million," App. 100a, but also attorney's fees and treble damages as authorized under RICO. See §1964(c).

The District Court dismissed the complaint on the ground that Smagin had "fail[ed] to adequately plead a domestic injury," *id*., at 31a, as required by this Court's decision in *RJR Nabisco*. See 579 U.S., at 346 ("A private RICO plaintiff therefore must allege and prove a *domestic* injury to its business or property"). The District Court "place[d] great weight on the fact that Smagin is a resident and citizen of Russia and therefore experiences the loss from his inability to collect on his judgment in Russia." App. 27a (internal quotation marks and alterations omitted).

The Ninth Circuit reversed. It rejected petitioners' invitation to follow the domestic-injury approach of the Seventh Circuit, "which has adopted a rigid, residency-based test for domestic injuries involving intangible property," such as a judgment. 37 F.4th 562, 568, 570 (2022) (citing *Armada (Sing.) PTE Ltd.* v. *Amcol Int'l Corp*., 885 F.3d 1090 (2018)). Under the Seventh Circuit's rule, which locates an injury to intangible property at the plaintiff 's residence, Smagin could not allege a domestic injury because he resides in Russia. See *Armada,* 885 F.3d, at 1094. The Ninth Circuit instead adopted a "context-specific" approach to the domestic-injury inquiry, which it found consistent with the approaches of the Second and Third Circuits. 37 F.4th, at 568–570; see *Bascuñán* v. *Elsaca*, 874 F.3d 806, 809 (CA2 2017); *Humphrey* v. *GlaxoSmithKline PLC*, 905 F.3d 694, 696 (CA3 2018). Applying that approach, the Ninth Circuit concluded that Smagin had pleaded a domestic injury because he had alleged that his efforts to execute on a California judgment in California against a California resident were foiled by a pattern of racketeering activity that largely "occurred in, or was targeted at, California" and was "designed to subvert" enforcement of the judgment in California. 37 F.4th, at 567–568.

This Court granted certiorari to resolve the Circuit split. 598 U.S. (2023). Because a context-specific inquiry is most consistent with this Court's decision in *RJR Nabisco*, and because the context here makes clear Smagin has alleged a domestic injury, the Court affirms.

II

A

The "domestic-injury" requirement for private civil RICO suits stems from this Court's decision in *RJR Nabisco*. There, the question before the Court was whether RICO applies extraterritorially. To answer that question, the Court employed the presumption against extraterritoriality, which "represents a canon of construction, or a presumption about a statute's meaning, rather than a limit upon Congress's power to legislate." *Morrison* v. *National Australia Bank Ltd.*, 561 U.S. 247, 255 (2010). The presumption provides that "[a]bsent clearly expressed congressional intent to the contrary, federal laws will be construed to have only domestic application." *RJR Nabisco*, 579 U.S., at 335.

Dual rationales support the presumption against extraterritoriality. On the one hand, it reflects concerns of international comity insofar as it " 'serves to protect against unintended clashes between our laws and those of other nations which could result in international discord.' " *Kiobel* v. *Royal Dutch Petroleum Co.*, 569 U.S. 108, 115 (2013) (quoting *EEOC* v. *Arabian American Oil Co.*, 499 U.S. 244, 248 (1991)). On the other hand, the presumption is informed by "the commonsense notion that Congress generally legislates with domestic concerns in mind." *Smith* v. *United States*, 507 U.S. 197, 204, n. 5 (1993). In fact, consistent application of the presumption "preserv[es] a stable background against which Congress can legislate with predictable effects." *Morrison*, 561 U.S., at 261.

RJR Nabisco distilled the presumption against extraterritoriality into two steps. The first asks "whether the statute gives a clear, affirmative indication that it applies extraterritorially." 579 U.S., at 337. If the answer is "yes," then the presumption is rebutted, obviating any need to proceed to step two. If the presumption is not rebutted, however, then step two asks whether the case involves a domestic application of the statute, which is assessed "by looking to the statute's 'focus.' " *Ibid*.[2] Applying this framework, the Court assessed the extraterritoriality of two of RICO's substantive provisions and, as relevant here, its private cause of action. As to the substantive provisions, the Court held at step one that they apply extraterritorially to the same extent that RICO's predicates do, making it unnecessary to proceed to step two. *Id.,* at 340. Regarding RICO's private right of action, §1964(c), however, the Court's conclusion was different. The Court determined that §1964(c) does not overcome the presumption at step one because there is no "clear indication that Congress intended to create a private right of action for injuries suffered outside of the United States." *Id.*, at 349. "If anything," the Court reasoned, by "cabining" the private cause of action to "injur[ies] to 'business or property,'" "Congress signaled that the civil remedy is not coextensive with §1962's substantive prohibitions." *Id.,* at 350. Accordingly, in reference to step two, the Court held that "[a] private RICO plaintiff . . . must allege and prove a *domestic* injury to its business or property." *Id.,* at 346.

In announcing this "domestic-injury" requirement, the Court did not have occasion to explain what constitutes a "domestic-injury," because the plaintiffs in *RJR Nabisco* had stipulated that they were not seeking redress for domestic injuries. *Id.,* at 354. The question now before the Court is whether Smagin has alleged a domestic injury.

B

The parties advance competing approaches to the domestic injury inquiry. Petitioners urge the Court to adopt a bright-line rule, akin to the Seventh Circuit's, that locates a plaintiff 's injury at the plaintiff 's residence. Petitioners advance two different versions of this rule.

As their primary position, petitioners argue that *any* injury cognizable under §1964(c) is necessarily suffered at the plaintiff 's residence because "the private cause of action remedies only economic injuries, and a plaintiff necessarily suffers that injury at its residence" where the economic injury is felt. Brief for Petitioners 2. In the alternative, petitioners argue that, at least when the alleged injury involves *intangible* property, such as the judgment here, relevant common-law principles locate the intangible property at the plaintiff 's place of residence, such that the injury is also located there. *Id.,* at 2–3, 43–44. On either version of petitioners' rule, Smagin cannot allege a domestic injury because he lives in Russia.

Smagin, in contrast, defends a contextual approach that considers all case-specific facts bearing on where the injury "arises," not just where it is "felt." Brief for Respondent 9. In the context of this suit, Smagin argues that he has stated a domestic injury because he has alleged that he was injured in his ability to enforce a California judgment, against a California resident, through racketeering acts that were largely "designed and carried out in California" and were "targeted at California." *Id.*, at 3, 21.

C

The Court agrees with Smagin and the Ninth Circuit that "determining whether a plaintiff has alleged a domestic injury [for purposes of RICO] is a context-specific inquiry that turns largely on the particular facts alleged in a complaint." 37 F.4th, at 570. Specifically, courts should look to the circumstances surrounding the alleged injury to assess whether it arose in the United States. In this suit, that means looking to the nature of the alleged injury, the racketeering activity that directly caused it,[3] and the injurious aims and effects of that activity.

This approach to the domestic-injury requirement is most consistent with *RJR Nabisco*. There, the Court clarified that its domestic-injury requirement "does not mean that foreign plaintiffs may not sue under RICO." 579 U.S., at 353, n. 12. Similarly, the Court explained that "application of [the domestic-injury] rule in any given case will not always be self-evident, as disputes may arise as to whether a particular alleged injury is 'foreign' or 'domestic.'" *Id*., at 354. These remarks point toward a case-specific inquiry that considers the particular facts surrounding the alleged injury. Petitioners' bright-line rule, in contrast, dispenses with any such subtlety. It makes the location of the plaintiff 's residence determinative, thus barring all foreign plaintiffs, exactly as *RJR Nabisco* said it was not doing.

A contextual approach to the domestic-injury requirement also better reflects the requirement's origin in step two of the extraterritoriality framework, which assesses whether there is a domestic application of a statute by looking to the statute's focus. *RJR Nabisco* implied that the focus of §1964(c) is injuries in "business or property by reason of a violation of [RICO's substantive provisions]." §1964(c). This focus makes sense because, in the context of RICO, "the compensable injury necessarily is the harm caused by predicate acts sufficiently related to constitute a pattern, for the essence of the violation is the commission of those acts in connection with the conduct of an enterprise." *Sedima, S. P. R. L.* v. *Imrex Co.*, 473 U.S. 479, 497 (1985). So understood, §1964(c)'s focus is on the injury, not in isolation, but as the product of racketeering activity. Thus, in assessing whether there is a domestic injury, courts should engage in a case-specific analysis that looks to the circumstances surrounding the injury. If those circumstances sufficiently ground the injury in the United States, such that it is clear the injury arose domestically, then the plaintiff has alleged a domestic injury.

Because of the contextual nature of the inquiry, no set of factors can capture the relevant considerations for all cases. RICO covers a wide range of predicate acts and is notoriously "expansive" in scope. *Id.*, at 498–499. Thus, depending on the allegations, what is relevant in one case to assessing where the injury arose may not be pertinent in another. While a bright-line rule would no doubt be easier to apply, fealty to the statute's focus requires a more nuanced approach.

D

This suit illustrates well why the domestic-injury inquiry must account for the facts of the case, rather than rely on a residency-based rule. While it may be true, in some sense, that Smagin has felt his economic injury in Russia, focusing solely on that fact would miss central features of the alleged injury. Zooming out, the circumstances surrounding Smagin's injury make clear it arose in the United States.

Smagin alleges that he "has been injured in his inability to collect [his] massive judgment." App. 38a. Much of the alleged racketeering activity that caused the injury occurred in the United States. Yegiazaryan took domestic actions to avoid collection, including allegedly creating U.S. shell companies to hide his U.S. assets, submitting a forged doctor's note to a California District Court, and intimidating a U.S.-based witness. It is true that other components of the scheme occurred abroad. As Smagin alleges, however, even those "wrongful acts and plans were devised, initiated, and carried out . . . through acts and communications initiated in and directed towards Los Angeles County, California," with the "central purpose of frustrating enforcement of [the] California judgment." *Id.,* at 45a–46a.

Further, the injurious effects of the racketeering activity largely manifested in California. Smagin obtained a judgment in California because that is where Yegiazaryan lives, and where Smagin had thus hoped to collect. The rights that the California judgment provides to Smagin exist only in California, including the right to obtain postjudgment discovery, the right to seize assets in California, and the right to seek other appropriate relief from the California District Court. The alleged RICO scheme thwarted those rights, thereby undercutting the orders of the California District Court and Smagin's efforts to collect on Yegiazaryan's assets in California.

In sum, Smagin's interests in his California judgment against Yegiazaryan, a California resident, were directly injured by racketeering activity either taken in California or directed from California, with the aim and effect of subverting Smagin's rights to execute on that judgment in California. On the Court's contextual approach, those allegations suffice to state a domestic injury in this suit.

III

Petitioners argue that a contextual approach is inconsistent with certain common-law principles, which instead favor their bright-line rule. According to petitioners, because Smagin has alleged an "economic injury" or an "injury in intangible property," Brief in Opposition 15–16, courts should look to common-law principles governing "the situs" of such injuries, when determining whether those injuries are foreign or domestic. Specifically, as to economic injuries, petitioners point to the Restatement (First) of Conflict of Laws §377 (1934), from which they discern the principle that "a fraud plaintiff suffers an economic loss at the plaintiff 's domicile." Brief for Petitioners 36; see also *Sack* v. *Low*, 478 F.2d 360, 366 (CA2 1973) (Under the First Restatement, "loss from fraud is deemed to be suffered where its economic impact is felt, normally the plaintiff 's residence"). As to intangible injuries, petitioners further rely on the principle of *mobilia sequuntur personam*, which they claim "generally locat[es] intangible property at the domicile of its owner." Brief for Petitioners 44. Both principles, they argue, locate Smagin's alleged injury at his residence. Petitioners fall short, however, when explaining the relevance of these principles. They do not clearly explain why choice-of-law principles are germane here, let alone why the First Restatement dictates those principles.[4] Meanwhile, it is far from clear that petitioners' gloss on the principle of *mobilia sequuntur personam* was as well established or as wide sweeping as petitioners take it to be, in light of the many twists and turns in the doctrine across a range of contexts. See A. Simowitz, Siting Intangibles, 48 N.Y.U. J. Int'l L. & Pol. 259, 270–292 (2015). In short, at the time of RICO's enactment, both principles were hardly "settled . . . at common law." *Beck* v. *Prupis*, 529 U.S. 494, 500 (2000). The core problem with petitioners' approach is that it is unmoored from the presumption against extraterritoriality. While legal fictions regarding the situs of economic injuries and intangible property have their justifications in other areas of law, those justifications do not necessarily translate to the presumption against extraterritoriality, with its distinctive concerns for comity and discerning congressional meaning.

Indeed, it is because petitioners' view invokes these fictions that it generates results so counter to comity and so far afield from any reasonable interpretation of what qualifies as a domestic application of §1964(c). On petitioners' primary view, a business owner who resides abroad but owns a brick-and-mortar business in the United States cannot bring a §1964(c) suit even if an American RICO organization burns down her storefront. Perhaps aware of how odd

this seems, petitioners offer a fallback rule for intangible property. That rule fares no better. It provides that if racketeering activity targets the intangible business interests of two U.S. businesses, one owned by a U.S. resident and one owned by someone living abroad, only the former business owner can bring a §1964(c) suit. There is no evidence Congress intended to impose such a double standard, especially because doing so runs its own risks of generating international discord. These implausible consequences are strong evidence that petitioners have gone astray in assessing the focus of §1964(c) and, thus, the meaning of "domestic injury" as contemplated by *RJR Nabisco*.

Finally, petitioners, as well as the dissent, *post*, at 5 (opinion of ALITO, J.), argue that a contextual approach is unworkable because it does not provide a bright-line rule. Reply Brief 17–18. An approach is not unworkable, however, merely because it directs courts to consider the case-specific circumstances surrounding an injury when assessing where it arises. While "the ease with which [petitioners'] bright-line rule can be applied gives it some surface appeal," *Humphrey*, 905 F.3d, at 709, a look beneath the surface quickly reveals that the test is inconsistent with *RJR Nabisco*, the presumption against extraterritoriality, and the thrust of §1964(c) itself. Concerns about a fact-intensive test cannot displace congressional policy choices, where a more nuanced test is true to the statute's meaning.

* * *

A plaintiff has alleged a domestic injury for purposes of §1964(c) when the circumstances surrounding the injury indicate it arose in the United States. Smagin alleges that he was injured in California because his ability to enforce a California judgment in California against a California resident was impaired by racketeering activity that largely occurred in or was directed from and targeted at California. Those allegations state a domestic injury. The judgment of the Ninth Circuit is affirmed, and the cases are remanded for further proceedings consistent with this opinion.

It is so ordered.

ENDNOTES

1 Only Yegiazaryan and CMB Bank petitioned for this Court's review. The other defendants include three family members (Suren Yegiazaryan, Artem Yegiazaryan, and Stephan Yegiazaryan); an alleged Russian accomplice (Vitaly Gogokhia); French, Russian, and Luxembourger individuals who have been administrators of the trust holding the $198 million (Natalia Dozortseva, Murielle Jouniaux, and Alexis Gaston Thielen); an allegedly corrupt Russian bankruptcy officer (Ratnikov Evgeny Nikolaevich); and a registered company hired by Yegiazaryan (Prestige Trust Company, Ltd.) and its U.S. lawyer (H. Edward Ryals).

2 "While 'it will usually be preferable' to begin with step one, courts have the discretion to begin at step two 'in appropriate cases.' " Western-Geco LLC v. ION Geophysical Corp., 585 U.S. , (2018) (slip op., at 5) (citing RJR Nabisco, 579 U.S., at 338, n. 5).

3 The alleged RICO violation must have proximately caused the injury in order for the plaintiff to be able to sue under §1964(c). See Holmes v. Securities Investor Protection Corporation, 503 U.S. 258, 268 (1992); Anza v. Ideal Steel Supply Corp., 547 U.S. 451, 457–458 (2006) (describing the proximate causation requirement as a "directness requiremen[t]").

4 Although the First Restatement was in effect in 1970, when RICO was enacted, numerous jurisdictions had by then moved away from the First Restatement's methodology and toward a " 'most significant relationship' " test, which resembles "the kind of 'multi-factor' analysis the Court of Appeals conducted here." Brief for George A. Bermann as Amicus Curiae 15. This shift was reflected in §145 of the Restatement (Second) of Conflict of Laws, which superseded the First Restatement the following year in 1971. Thus, even assuming choice-of-law principles are relevant, petitioners' identification and application of those principles is questionable.

JUSTICE ALITO, with whom JUSTICE THOMAS joins, and with whom JUSTICE GORSUCH joins as to Part I, dissenting. These are the first cases in which we have been required to decide when injury to intangible property that a civil plaintiff attributes to a violation of the Racketeer Influenced and Corrupt Organizations Act (RICO) qualifies as a "domestic injury" and may therefore provide the basis for recovery under 18 U.S.C. §1964(c). See *RJR Nabisco, Inc.* v. *European Community*, 579 U.S. 325, 346–354 (2016). This question has divided the lower courts, but the Court's decision resolves very little. It holds only that ascertaining the site of intangible injuries for purposes of civil RICO requires a court to consult a variety of factors and that two factors it identifies show that respondent has suffered a domestic injury. This analysis offers virtually no guidance to lower courts, and it risks sowing confusion in our extraterritoriality precedents. Rather than take this unhelpful step, I would dismiss the writ of certiorari as improvidently granted.

I

We granted certiorari "to resolve [a] Circuit split" between, on the one hand, the Third and Ninth Circuits, which embrace a totality-based inquiry like the one the Court adopts here, and, on the other hand, the Seventh Circuit, which has held that RICO injuries to intangible property are sited at the plaintiff 's residence. *Ante*, at 5; compare *Humphrey* v. *GlaxoSmithKline PLC*, 905 F.3d 694, 706–707 (CA3 2018), and 37 F.4th 562, 567–568 (CA9 2022) (case below), with *Armada (Sing.) PTE Ltd.* v. *Amcol Int'l Corp.*, 885 F.3d 1090, 1094–1095 (CA7 2018).* The Seventh Circuit's decision, however, contains little analysis and simply declares that "[i]t is well understood that a party experiences or sustains injuries to its intangible property at its residence." *Id.*, at 1094; see also *Czyzewski* v. *Jevic Holding Corp.*, 580 U.S. 451, 471 (2017) (THOMAS, J., dissenting) (referring to a dearth of "reasoned opinions . . . from the courts of appeals" regarding "a novel and important question"). The Third and Ninth Circuits, for their parts, did not coalesce around any common set of factors to guide the civil RICO domestic-injury inquiry for intangible-property claims. See *Humphrey*, 905 F.3d, at 706–707; 37 F.4th, at 567–568. And no court of appeals has even broached the possibility that different categorical rules might be available for different types of intangible property (*e.g.*, perhaps there could be a rule that injuries to trademark rights should be sited in the country that provided the trademark). "[W]e would greatly benefit from the views of additional courts of appeals on this question." *Czyzewski*, 580 U.S., at 472 (THOMAS, J., dissenting).

Bringing clarity to this area of the law is not an easy task, and I must conclude that the Court falls short. It cites petitioners' domestic racketeering conduct and the California rights conferred by the California judgment Smagin has obtained to enforce his London arbitral award, but it gives no indication of the relative import of each of these factors. *Ante*, at 10–11. And while the Court appears to envision a long list of factors that might be relevant to this inquiry, see *ante*, at 10, it mentions none other than these two. Nor does it say anything about the circumstances that would call for consideration of additional factors, when such factors might outweigh one or both of the ones it mentions, or what these other factors might be.

Of course, under the majority's all-factors-considered approach, many other features of this very suit *could* be relevant, such as the history and location of the underlying dispute, where any relevant business relationships were formed, Smagin's residence, and the existence of the London arbitral award. Are future courts to infer that these matters have no import? It is difficult to come to any other conclusion given that the Court pays them no heed in undertaking what is ostensibly an examination of all relevant "contex[t]." *Ante*, at 8–10. But it is equally difficult to see why they are irrelevant (especially in light of the Court's unexplored acknowledgment that "in some sense, . . . Smagin has felt his economic injury in Russia," *ante*, at 10), or what room the Court is leaving for additional factors to be identified if none of these counts. And because the Court sets aside the factors that would favor petitioners, it also provides no guidance on how to weigh competing considerations that do not all point toward the same result.

One might additionally think that the nature of the intangible property itself could be relevant under the majority's approach, such as whether the property is a debt, a stock, a trademark, etc. In these cases, however, the relationship between the California judgment Smagin has obtained and the underlying arbitral award that that judgment confirmed is uncertain, so the precise property at issue is another aspect of this suit that is shrouded in confusion. Smagin acknowledged at oral argument that even though he has obtained multiple judgments confirming the arbitral award, he can collect on only one. See Tr. of Oral Arg. 49. There is thus at least some relevant relationship

between the California judgment and the London arbitral award—the latter of which is not "domestic" in any way—but the Court does not address this point, either.

Even with respect to the two factors it focuses on, the Court engenders confusion. It offers no hint which of the two might be more important (should they point in different directions), whether either or both are necessary, or whether either is sufficient. And the Court acknowledges that there was also substantial foreign conduct in these cases, but writes that off because it was " 'initiated in and directed towards'" the United States. *Ante*, at 10. Once more, I am unsure of the origin or scope of this rule. If domestic conduct is "initiated in" a foreign nation, does that make it foreign? What exactly does it mean to direct conduct "towards" the United States? All in all, were I a lower-court judge, I would struggle to apply today's decision to any set of facts other than the precise combination present here. In my view, it is not worth our deciding a case when we provoke so many more questions than we provide answers. That is especially so now that the lower courts must additionally decide whether and how today's cryptic decision binds them, rather than continuing to think through unencumbered when intangible-property injuries are the basis of a domestic application of civil RICO.

II

It is not just that we are contributing little by deciding these cases, however; we are also risking significant harm, particularly to the uniformity of our case law. A thrust of our international-comity jurisprudence is that we should not lightly give foreign plaintiffs access to U.S. remedial schemes that are far more generous than those available in their home nations. See *RJR Nabisco*, 579 U.S., at 347– 348; *F. Hoffmann-La Roche Ltd* v. *Empagran S. A.*, 542 U.S. 155, 166–167 (2004). In light of RICO's unusually plaintiff-friendly remedies, that concern applies in spades here. See *RJR Nabisco*, 579 U.S., at 348. But in today's decision, the Court countenances that the plaintiff's residence may play no role *at all* in the civil RICO extraterritoriality inquiry. The Court justifies this result with the assertion that favoring U.S. plaintiffs' access to American courts over that of foreign plaintiffs "runs its own risks of generating international discord," *ante*, at 13, a concern that the Court directly rejected in *RJR Nabisco*, see 579 U.S., at 361 (Ginsburg, J., dissenting in relevant part). Additionally, we have placed a premium on workability in our extraterritorial-application cases. The Court acknowledges that a bright-line rule would be preferable here, but essentially shrugs: RICO is too "nuanced" for that. *Ante*, at 10, 13. Our cases do not let us off the hook so easily. Compare *Morrison* v. *National Australia Bank Ltd.*, 561 U.S. 247, 258–259 (2010) ("There is no more damning indictment of the [Second Circuit's] 'conduct' and 'effects' tests than the Second Circuit's own declaration that 'the presence or absence of any single factor which was considered significant in other cases . . . is not necessarily dispositive in future cases'"), with *ante*, at 10 ("[N]o set of factors can capture the relevant considerations for all cases"). Perhaps there is a reason why RICO justifies these departures from our customary rules, but I have no confidence in reaching that conclusion now (let alone *sub silentio*). *RJR Nabisco* was relatively recent, and there have been only a small number of court of appeals decisions implementing it, and even fewer with respect to intangible property. Moreover, unlike in our typical extraterritoriality case, we have received no input here from the sovereign states our rules will affect, including the U.S. Government. *RJR Nabisco*, 579 U.S., at 348; *Morrison*, 561 U.S., at 269; *F. Hoffmann-La Roche*, 542 U.S., at 167–168.

* * *

The only rule of law that the Court announces today is that there is no rule, and despite offering such minimal guidance regarding how to site a RICO injury, the Court nonetheless manages to sow confusion regarding our broader law of extraterritoriality. Respectfully, the most we could contribute to this issue at this juncture is to stay away from it. I would dismiss the writ of certiorari as improvidently granted.

ENDNOTE

1 The Second Circuit has adopted a bright-line rule that RICO injuries to tangible property are sited at the location of the property. Bascuñán v. Elsaca, 874 F.3d 806, 818–824 (2017). The Second Circuit's holding is not implicated in this split, nor did that court offer any analysis of intangible property relevant to these cases.