No. _____

In the Supreme Court of the United States

STEVE FERGUSON, PETITIONER

v.

REPUBLIC OF TRINIDAD AND TOBAGO

ON PETITION FOR A WRIT OF CERTIORARI TO THE THIRD DISTRICT COURT OF APPEAL OF FLORIDA

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

RJR Nabisco, Inc. v. *European Community* held that the private right of action under the Racketeer Influenced and Corrupt Organizations Act (RICO), requires a domestic injury. 579 U.S. 325, 354 (2016). *Yegiazaryan* v. *Smagin* held that RICO plaintiffs suffer domestic injury only if the "circumstances surrounding the alleged injury" indicate that it arose in the United States. 599 U.S. 533, 544-545 (2023). In *Yegiazaryan*, however, those circumstances uniformly suggested a domestic injury. *Id.* at 545-546. The Court thus lacked occasion to consider how to "weigh competing considerations that do not all point toward the same result." *Id.* at 551 (Alito, J., dissenting).

This case raises that issue. Invoking Florida RICO, which follows federal law, the Trinidadian government sued a Trinidadian citizen over contracts entered in Trinidad under Trinidadian law to construct a Trinidadian airport. Trinidad's High Court held that the injurious effects of the purported racketeering were aimed at and manifested in Trinidad. Yet, purporting to apply *Yegiazaryan*, the Third District Court of Appeal of Florida disagreed, merely because some racketeering *acts* transpired in Florida. That holding presents the very risk that *RJR Nabisco* meant to avoid: a foreign government using U.S. RICO laws to seek treble damages unavailable abroad.

The question presented is:

Whether the Third District Court of Appeal misapprehended federal law by holding that a foreign plaintiff's RICO injury arises domestically solely because some of the predicate racketeering acts took place in the United States.

PARTIES TO THE PROCEEDINGS BELOW AND RULE 29.6 STATEMENT

Petitioner Steve Ferguson was an appellant in the Third District Court of Appeal of Florida and a defendant in the trial court proceedings.

Respondent Republic of Trinidad and Tobago was the appellee in the Third District Court of Appeal of Florida and the plaintiff in the trial court proceedings.

Petitioner Steve Ferguson is an individual and no disclosure under Supreme Court Rule 29.6 is required.

RELATED CASES

- *Ferguson* v. *Republic of Trin. & Tobago*, No. 3D23-880, 2025 WL 2608816. Third District Court of Appeal of Florida. Judgment entered September 10, 2025. Rehearing denied November 5, 2025.
- *Kuei Tung & Gutierrez* v. *Republic of Trin. & Tobago*, No. 3D23-887, 419 So. 3d 741, Third District Court of Appeal of Florida. Judgment entered September 10, 2025.
- *Republic of Trin. & Tobago* v. *Ferguson*, No. 04-11813, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Judgment entered May 15, 2023.
- *Republic of Trin. & Tobago* v. *Birk Hillman Consultants, Inc.*, No. 3D22-0938, 355 So. 3d 526, Third District Court of Appeal of Florida. Judgment entered February 1, 2023.
- *Ferguson* v. *Republic of Trin. & Tobago*, No. 3D21-0155, 340 So. 3d 524, Third District Court of Appeal of Florida. Judgment entered February 16, 2022.
- *Kuei Tung* v. *Republic of Trin. & Tobago*, No. SC21-206, 2021 WL 1345431, Supreme Court of Florida. Judgment entered April 12, 2021.
- *Kuei Tung* v. *Republic of Trin. & Tobago*, No. 3D20-831, 314 So. 3d 603, Third District Court of Appeal of Florida. Judgment entered December 23, 2020. Rehearing denied January 26, 2021.
- *Ferguson* v. *Republic of Trin. & Tobago*, No. 3D19-0862, 300 So. 3d 638, Third District Court of Appeal of Florida. Judgment entered August 8, 2019.

- *United States* v. *Gutierrez*, 2015 WL 13238669, report and recommendation adopted, No. 05-20859-CR, 2016 WL 592818, United States District Court for the Southern District of Florida. Judgment entered December 18, 2015. Report and recommendation adopted February 11, 2016.
- *Ferguson* v. *Republic of Trin. & Tobago*, No. 3D12-584, 3D12-585, 101 So. 3d 847, Third District Court of Appeal of Florida. Judgment entered September 6, 2012. Motion for certification and written opinion denied on October 9, 2012. Petition for writ of certiorari denied by United States Supreme Court, No. 12-709, January 14, 2013.
- *Republic of Trin. & Tobago* v. *Birk Hillman Consulting, Inc.*, No. 3D05-1722, 914 So. 2d 970, Third District Court of Appeal of Florida. Judgment entered November 2, 2005.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Steve Ferguson respectfully petitions for a writ of certiorari to review the judgment of the Third District Court of Appeal of Florida.

OPINIONS BELOW

The initial opinion of the Third District Court of Appeal of Florida on September 10, 2025 (App., *infra*, 18a-34a) is unreported but is available at 2025 WL 2608816. The Third District Court subsequently withdrew and superseded its opinion on November 5, 2025 (App., *infra*, 1a-17a), in an opinion that also denied rehearing and certification for further review; that opinion is reported in the Southern Reporter Third at 422 So. 3d 717. The final judgment of the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida (App., *infra*, 35a-37a) is unreported but is available at 2023 WL 4485594.

JURISDICTION

The judgment of the Third District Court of Appeal of Florida was entered on September 10, 2025. The Third District Court denied petitioner's timely requests for rehearing, rehearing en banc, and certification to the Florida Supreme Court, affirmed its prior judgment, and issued a new opinion on November 5, 2025. App., *infra*, 1a-2a. The Third District Court issued its mandate on November 25, 2025.

The Third District Court's decision is the "[f]inal judgment[] or decree[] rendered by the highest court of a State in which a decision could be had," 28 U.S.C. 1257, because petitioner could not invoke the Florida Supreme Court's discretionary jurisdiction for any further appeal. The Florida Supreme Court's jurisdiction "extends *only* to the narrow class of cases enumerated in Article V, Section 3(b) of the Florida Constitution." *Mystan Marine, Inc.* v. *Harrington*, 339 So. 2d 200, 200 (Fla. 1976) (emphasis added). As relevant here,[1] that "narrow class of cases" includes a "decision of a district court of appeal" that either "expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question" or "passes upon a question certified by it to be of great public importance." Fla. Const. Art. V, § 3(b)(3)-(4).

Petitioner could not have invoked either of those grounds without making a false certification to the

[1] None of the grounds under which the Florida Supreme Court exercises either discretionary jurisdiction, Fla. Const. Art. V, § 3(b)(3)-(6), or mandatory jurisdiction, Fla. Const. Art. V, § 3(b)(1)-(2), applies. The only grounds on which jurisdiction might potentially have been available, sub-paragraphs (3) and (4) are discussed below.

Florida Supreme Court. Petitioner asked the Third District Court to certify that its decision "pass[ed] upon a question * * * of great public importance." Fla. Const. Art. V, § 3(b)(4). Because the Third District Court refused to so certify, the Florida Supreme Court "does not have jurisdiction," even if the "*party* deems [the case] to present an issue of great public importance." *Allstate Ins.* v. *Langston*, 655 So. 2d 91, 92 n.1 (Fla. 1995). Nor could petitioner have invoked "conflict" jurisdiction: the Florida Supreme Court has made clear that "there must be a 'real, live and vital conflict' *before [its] jurisdiction may be invoked*." *Askew* v. *Florida Dep't of Children & Fams.*, 385 So. 3d 1034, 1036-1037 (Fla. 2024) (emphasis added) (citation omitted). Here, the Third District Court's November 5 opinion addressed a "question of first impression" for Florida's appellate courts, App., *infra*, 5a (Logue, J., concurring),[2] so it cannot "conflict" with other Florida decisions. Indeed, no other Florida appellate court has engaged in that analysis, and neither the majority nor concurring opinion referenced another Florida decision on the critical point of when a RICO injury is deemed "domestic." See App., *infra*, 3a-4a, 15a-17a.

Thus, in the absence of any grounds upon which to invoke the Florida Supreme Court's jurisdiction, and particularly where "no Florida decision of which [petitioner] is aware conflicts with that of the District Court of Appeal," the Third District Court's decision here "was 'rendered by the highest court of a State in which a

[2] Although the concurring Justice characterized the question as whether Florida RICO applies extraterritorially, the majority treated the issue as whether "domestic injury was shown," which is just the flip side of the same coin. App., *infra*, 2a n.1, 3a-4a.

decision could be had,' as required by 28 U.S.C. § 1257." *Fort* v. *City of Miami*, 389 U.S. 918, 918 n.2 (1967) (Stewart, J., dissenting from denial of certiorari, citing precursor to Article V, § 3(b)(3) of the Florida Constitution as supporting jurisdiction). This Court therefore has jurisdiction under 28 U.S.C. 1257(a). See also, *e.g.*, *Ibanez* v. *Florida Dep't of Bus. & Pro. Regul., Bd. of Acct.*, 512 U.S. 136 (1994) (granting certiorari and reversing Florida intermediate appellate court on federal constitutional grounds).

The opinion of the Third District Court of Appeal was based on its resolution of a federal question. As discussed below, see pp. 16-18, 20-23, *infra*, Florida RICO follows federal RICO, and the only precedent the Third District Court of Appeal cited for its finding of a "domestic injury" was this Court's decision in *Yegiazaryan* v. *Smagin*, 599 U.S. 533 (2023). As a result, the Florida appellate court's decision "appears to rest primarily on federal law, or [is] interwoven with federal law," meaning the state court "decided the case the way it did because it believed that federal law required it to do so," and this Court may therefore properly consider that federal question. *Michigan* v. *Long*, 463 U.S. 1032, 1040-1041 (1983); see pp. 20, 25-26, *infra*.

STATUTORY PROVISIONS INVOLVED

Section 1964(c) of Title 18 of the United States Code provides that "[a]ny person injured in his business or property by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee."

Florida "separated its RICO statute into two parts located in different chapters of the Florida Statutes." App., *infra*, 10a. Section 772 "provides damages in actions brought by private parties" and is "referred to as 'Florida Civil RICO.'" *Ibid.* Florida Civil RICO Section 772.104(1) provides that "[a]ny person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of the provisions of s. 772.103 shall have a cause of action for threefold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of $200, and reasonable attorney's fees and court costs in the trial and appellate courts."

INTRODUCTION

This case arises out of a state court's misapprehension of federal law, which led it to allow a foreign government to use a Florida court and a Florida statute authorizing treble damages unavailable under foreign law to sue a foreign citizen based on injuries sustained in connection with a construction project in that foreign country under contracts applying foreign law. Worse yet, that foreign government was allowed to do so even after its own court had ruled that the parties' dispute was rooted in Trinidad and should be litigated there. The state court rested that astounding decision on a serious misunderstanding of this Court's construction of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), which Florida follows in construing its own RICO statute.

The Republic of Trinidad and Tobago (the Republic) alleged that petitioner Steve Ferguson, a citizen of Trinidad and Tobago, violated Florida's civil RICO by rigging bids for Trinidadian contracts to construct and

maintain an airport in Trinidad, purportedly profiting at the Republic's expense. As Trinidad and Tobago's own High Court ruled, the "conduct giving rise to [the alleged] offenses had [its] primary impact in" Trinidad, not the United States. App., *infra*, 72a. The circumstances surrounding the Republic's purported injury confirmed the High Court's decision: the Republic's injury arose in Trinidad; the petitioner resides in and is a citizen of Trinidad; the allegedly rigged contracts were bid and made in Trinidad under Trinidad law, Tr. 3294:13-3297:2, Tr. 3592:19-3593:1, Tr. 3879:7-14; the airport was built in Trinidad; and the Republic paid for and allocated funds in Trinidad to guarantee the airport's construction in Trinidad, Tr. 451:10-22. To be sure, some isolated acts related to the alleged conspiracy—including the receipt of some payments, the creation of some allegedly fraudulent documents, and the asserted destruction of some evidence—occurred in Florida. App., *infra*, 3a-4a, 16a-17a. But those acts were aimed at and their injurious effects were felt in Trinidad and Tobago. See *id.* at 72a. For that reason, the Trinidadian High Court concluded that Trinidad and Tobago had "the greater national concern and interest in prosecuting its own citizens," and that petitioner and his alleged co-conspirators "should first be called to account" in Trinidad and Tobago, not elsewhere. *Id.* at 73a; Tr. 278:20-279:21.

This Court has not yet squarely addressed the issue confronted by Florida's Third District Court of Appeal in this case: whether a foreign plaintiff's RICO injury arises domestically merely because some conduct in the U.S. allegedly contributed to an injury that was felt entirely abroad. In *Yegiazaryan* v. *Smagin*, the Court held that a RICO injury arises domestically if the "circumstances surrounding the injury * * * sufficiently ground

the injury in the United States." 599 U.S. 533, 545 (2023). In *Yegiazaryan*, however, the circumstances surrounding the alleged RICO injury all suggested that it arose in the U.S.: "[m]uch of the alleged racketeering activity that caused the injury occurred in the United States," the "other components of the scheme [that] occurred abroad" were allegedly "initiated in and directed towards" the U.S., and the "injurious effects of the racketeering activity largely manifested in" the U.S. *Id.* at 545-546 (citations omitted). Because the facts of *Yegiazaryan* converged in the U.S., three Justices expressed regret that *Yegiazaryan*'s "all-factors-considered approach * * * provides no guidance on how to weigh competing considerations that do not all point toward the same result." *Id.* at 551 (Alito, J., dissenting).

This case presents the circumstances the dissent contemplated. As this Court's international comity jurisprudence makes clear, the Third District Court should have rejected the Republic's attempt to use the few isolated acts that occurred in Florida to transform an otherwise entirely foreign dispute and a foreign injury into a claim under Florida's civil RICO. This Court has explained that "the presumption against extraterritorial application would be a craven watchdog indeed if it retreated to its kennel whenever *some* domestic activity is involved." *Morrison* v. *Nat'l Austl. Bank Ltd.*, 561 U.S. 247, 266 (2010). And it has warned that "[a]llowing recovery for foreign injuries in a civil RICO action, including treble damages, presents [a] danger * * * for international controversy that militates against recognizing foreign-injury claims without clear direction from Congress." *RJR Nabisco, Inc.* v. *European Cmty.*, 579 U.S. 325, 348 (2016). Indeed, *RJR Nabisco* itself involved far stronger connections to the U.S. than the connections in

this case. In *RJR Nabisco*, an American defendant allegedly "orchestrated a global money laundering scheme from the United States" using a bank "centered in and operated from" the U.S.; "filed large volumes of false documents" with U.S. agencies "to deceive these agencies and permit the unlawful activity to continue"; relied on organized crime, narcotics trafficking, and cigarette sales in the U.S.; and purchased "millions of dollars' worth of real estate" in the U.S. "in conjunction with the scheme." *European Cmty.* v. *RJR Nabisco, Inc.*, 764 F.3d 129, 142 (2d Cir. 2014), rev'd and remanded *sub nom.*, 579 U.S. 325 (2016). Despite those U.S. connections, the parties and this Court agreed that the case raised no claims for domestic injury. See 579 U.S. at 354.

The Third District Court of Appeal purported to apply those precedents, but it contorted this Court's decisions to allow a foreign nation to bring a wholly foreign dispute against its own citizen in Florida. In holding that the Republic had suffered a domestic injury in Florida under Florida RICO, the Third District Court first reiterated that "Florida's Civil RICO Act is patterned after its federal counterpart," exclusively citing to *Yegiazaryan* as providing the standard, but then it turned this Court's precedent on its head. App., *infra*, 3a-4a. Rather than considering the "circumstances surrounding the injury," as this Court has instructed, *Yegiazaryan*, 599 U.S. at 545, the Florida appellate court focused only on the wrongful *acts* and affirmed the Republic's $130 million Florida RICO verdict solely on the ground that some of those allegedly wrongful acts occurred in Florida. See App., *infra*, 3a-4a. The Third District Court's narrow focus on acts is fundamentally inconsistent with *Yegiazaryan* and *RJR Nabisco*, and it threatens to transform Florida into a courthouse for the

world, inviting foreign plaintiffs to vindicate foreign injuries in Florida courts under Florida law merely because some acts occurred in Florida.

The Third District Court is not alone in its misapprehension. At least one other court has conflated RICO predicate acts and injuries, concluding that, because most of the defendant's alleged "racketeering activities occurred in the United States," the alleged injury necessarily "arose in the United States." *Digilytic Int'l FZE* v. *Alchemy Fin., Inc.*, No. 20-cv-4650, 2024 WL 4008120, at *16 (S.D.N.Y. Aug. 30, 2024). In contrast, other courts have properly interpreted *RJR Nabisco* and *Yegiazaryan* to hold that domestic predicate activity does not transform a foreign plaintiff's otherwise foreign injury into a domestic one. See, *e.g.*, *Yerkyn* v. *Yakovlevich*, 164 F.4th 224, 229-232 (2d Cir. 2026); *Percival Partners Ltd.* v. *Nduom*, 99 F.4th 696, 702-704 (4th Cir. 2024). That conclusion is even stronger when that plaintiff's home courts have already reacted unfavorably to the plaintiff's claims. See *Yerkyn*, 164 F.4th at 226 (where plaintiff "pursued legal action in [foreign country] to no avail" before bringing federal RICO claim).

This case provides this Court an unparalleled opportunity to resolve the lower courts' confusion. Because the circumstances of this case create connections with both the U.S. and Trinidad and Tobago, this Court can clarify that domestic predicate acts do not automatically give rise to a domestic injury—a question three Justices believed *Yegiazaryan* left unresolved. See 599 U.S. at 551 (Alito, J., dissenting). This case also provides the Court an opportunity to reiterate its international-comity jurisprudence. The decision of the Third District Court—the first state court to apply *Yegiazaryan* to a

state RICO law—threatens to upset the careful balance that this Court has struck, not only with respect to federal RICO jurisprudence, but also concerning the federal government's exclusive role in managing foreign affairs. This Court has warned that it "should not lightly give foreign plaintiffs access to U.S. remedial schemes that are far more generous than those available in their home nations," *id.* at 552 (Alito, J., dissenting), and it has held unequivocally that Congress did not intend through civil RICO to "create a private right of action for injuries suffered outside of the United States," *RJR Nabisco*, 579 U.S. at 349. The Third District Court's decision, however, would permit plaintiffs to use Florida RICO to pursue recovery for foreign injuries that this Court has already decided Congress did not make redressable in U.S. courts under federal law. In so doing, the Third District Court would impermissibly entangle state courts in international relations and foreign affairs, see *American Ins.* v. *Garamendi*, 539 U.S. 396, 413 (2003) ("[A]t some point an exercise of state power that touches on foreign relations must yield to the National Government's policy * * * ."), and it would "illustrate the dangers which are involved if each State, speaking through its * * * courts, is permitted to establish its own foreign policy," *Zschernig* v. *Miller*, 389 U.S. 429, 441 (1968). The Court need not confront those preemption concerns here, however, because the Florida legislature has not expressed any intent for Florida's RICO statute to create the types of international friction that the Third District Court's decision threatens to engender. As Florida courts have repeatedly acknowledged, and the Third District Court reiterated, Florida RICO is patterned on its federal counterpart, and if constrained to the same

limits as the federal statute, no concerns about international comity would arise.

The writ of certiorari should be granted and the decision below should be reversed and remanded.

STATEMENT OF THE CASE

A. Legal Framework

1. Congress enacted the federal RICO statute in 1970 as part of the Organized Crime Control Act. See 18 U.S.C. 1961 *et seq.* Its civil enforcement provision, Section 1964(c), authorizes "[a]ny person injured in his business or property by reason of a violation of section 1962" to bring suit in federal court and to "recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee."

In *Morrison* v. *National Australian Bank Ltd.*, 561 U.S. 247 (2010), this Court clarified the contours of the "presumption against extraterritoriality"—the longstanding principle that, absent Congressional intent to the contrary, federal laws "apply only within the territorial jurisdiction of the United States." *Id.* at 255 (citation omitted). *Morrison* rejected competing lower courts' analyses (which applied federal law extraterritorially based on either domestic "conduct" or "effects"), describing them as "unpredictable in application." *Id.* at 256. Instead, this Court taught that the presumption against extraterritoriality applies "in all cases" absent explicit Congressional intent to the contrary; if only domestic application is permitted, the statute's "focus" will guide its domestic application. *Id.* at 261, 266.

In *RJR Nabisco, Inc.* v. *European Community*, this Court confirmed the presumption's application to RICO. 579 U.S. 325, 335 (2016). Although there are "several

reasons" for this presumption, this Court made clear that "[m]ost notably, it serves to avoid the international discord that can result when U.S. law is applied to conduct in foreign countries." *Ibid.* Because RICO's private right of action "does not overcome the presumption against extraterritoriality," a private RICO plaintiff "must allege and prove a *domestic* injury to its business or property." *Id.* at 346. This Court ultimately found no domestic injury in *RJR Nabisco*, despite the lower court's acknowledgement of numerous instances of U.S.-based racketeering conduct. See *European Cmty.* v. *RJR Nabisco, Inc.*, 764 F.3d 129, 141 (2d Cir. 2014) (finding "sufficient domestic conduct" to apply RICO based on predicate acts including money laundering through a U.S. bank and "travel[ing] from and to the United States in furtherance of their schemes"), rev'd and remanded *sub nom.*, 579 U.S. 325 (2016).

In *Yegiazaryan* v. *Smagin*, this Court expounded on *RJR Nabisco*, explaining that to determine "whether there is a domestic injury," courts "should engage in a case-specific analysis that looks to the circumstances surrounding the injury." 599 U.S. 533, 545 (2023). "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." *Ibid.* Using this "contextual approach," this Court determined that the plaintiff in *Yegiazaryan* had pleaded a domestic injury because "the nature of the alleged injury, the racketeering activity that directly caused it, and the injurious aims and effects of that activity" all evinced an injury that "arose in the United States." *Id.* at 544. Justices Alito, Thomas, and Gorsuch dissented, noting that, because of *Yegiazaryan*'s facts, the Court's "all-factors-considered approach * * *

provide[d] no guidance on how to weigh competing considerations that do not all point toward the same result." *Id.* at 551 (Alito, J., dissenting).

2. Florida enacted its own civil RICO statute (Florida Statutes Section 772.104) which closely tracks the language of federal RICO. Like federal RICO, Section 772.104 provides that any person injured by reason of a violation of the criminal state RICO statute may sue in state court and "shall have a cause of action for threefold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of $200, and reasonable attorney's fees and court costs." Fla. Stat. Ann. § 772.104(1).

Florida courts have made clear that the state RICO statute is "patterned after its federal counterpart." *Lugo* v. *State*, 845 So. 2d 74, 96 n.39 (Fla. 2003); see, *e.g.*, *O'Malley* v. *St. Thomas Univ., Inc.*, 599 So. 2d 999, 1000 (Fla. Dist. Ct. App. 1992). Accordingly, "[g]iven the similarity of the state and federal [RICO] statutes, Florida courts have looked to the federal courts for guidance in construing RICO provisions." *Gross* v. *State*, 765 So. 2d 39, 42 (Fla. 2000); see *Palmas Y Bambu, S.A.* v. *E.I. Dupont De Nemours & Co.*, 881 So. 2d 565, 570 n.1 (Fla. Dist. Ct. App. 2004).

"For the reasons that the [Supreme Court and other federal courts] decline[]" to do so, including "[t]he possibility of international discord," Florida courts "decline to extend Florida statutory or common law to reach" foreign disputes absent express legislative intent. *Young* v. *Norwegian Seafarers' Union*, 138 So. 3d 1189, 1191-1192 (Fla. Dist. Ct. App. 2014) (citations omitted and brackets in original). As a consequence, Florida courts have held that, like federal RICO, Florida RICO

requires domestic injury, which the Third District Court of Appeal acknowledged, App., *infra*, 3a.

B. Factual And Procedural History

1. Petitioner Steve Ferguson, appellant in the case below, is a private citizen of Trinidad and Tobago.

Trinidad and Tobago is a sovereign nation in the Caribbean with its own civil and criminal courts with full jurisdiction over matters arising within Trinidad and Tobago. Tr. 250:5-17; Tr. 3681:9-16. The Republic of Trinidad and Tobago is that nation's government and is the appellee below.

This litigation arises out of events that largely occurred in Trinidad and Tobago nearly three decades ago. For almost 30 years, the People's National Movement (PNM) held nearly uninterrupted political power in Trinidad and Tobago. Yet despite the PNM's political dominance, it had long tried—but consistently failed—to revitalize the country's tourism infrastructure. But from 1996 to 2001, a rival political party—the United National Congress (UNC)—briefly took power and embarked on a government initiative to redevelop the Piarco International Airport, a key hub for tourism in Trinidad, upon which the nation's economy heavily relies. The UNC-led government commenced an airport redevelopment project and, after five years of work, a new airport was successfully constructed, in part due to contracts with various local financiers and companies. Tr. 152:7-23, 1575:21-1576:1, 1628:4-13, 3202:5-19.

Seeking to regain influence, the PNM launched a campaign accusing the UNC and its supporters of corruption and defrauding the Republic, promising to jail former UNC cabinet ministers. Tr. 246:24-247:11,

3579:5-3580:6. That strategy worked: the PNM regained power, and then immediately commenced prosecutions and lawsuits against various UNC supporters—including petitioner—alleging misconduct related to the airport's construction. Tr. 155:9-22, Tr. 3578:21-3579:4, 3580:10-3585:1. While initial efforts by the PNM-led government to secure criminal convictions against petitioner and others in Trinidad and Tobago either failed or dragged on (some still unresolved to this day), Tr. 253:7-14, the Republic pursued litigation in Florida, seeking treble damages under Florida RICO (a remedy unavailable in the Republic's own courts), Tr. 291:17-292:1.

Separately, in 2006, the United States filed criminal charges in the United States District Court for the Southern District of Florida against petitioner and other participants in the airport's construction, seeking to seize their assets. Tr. 233:17-234:24 (discussing R. 52253-52301). Although those charges were related to the airport, they were not focused on Trinidadian injuries, but instead on alleged wire transfers and money laundering directed at or taking place in Florida of supposedly unlawfully obtained funds. See R. 52253-52301. Because of these charges, petitioner was involved in extensive proceedings before the High Court of Trinidad and Tobago addressing whether he should be extradited to the United States.

In a detailed written decision, the Trinidadian High Court refused to extradite petitioner, quashed the extradition order, and concluded unequivocally that "the core conduct [of the alleged conspiracy] was aimed at Trinidad and Tobago" and that such conduct "had [its] primary impact in this jurisdiction." App., *infra*, 72a. As a result, the High Court concluded that Trinidad and

Tobago had "the greater national concern and interest in prosecuting its own citizens," and that any action against the accused parties arising out of the alleged conduct should occur in the courts of Trinidad and Tobago. App., *infra*, 73a.

2. In 2004, the Republic filed a bill of discovery in the Florida trial court, seeking information about a purported scheme to "manipulate the award of consulting, construction and maintenance contracts by the Republic of Trinidad and Tobago with respect to the construction of the Piarco International Airport located in Trinidad and Tobago." R. 236-237; Tr. 453:1-19; Tr. 3496:13-3497:13. After extensive motion practice, the Republic filed a complaint alleging that Mr. Ferguson and many others violated Florida's civil RICO statute and committed common law fraud. R. 2436, 2441-2458, 2527-2538.

Petitioner and co-defendants moved to dismiss, including for lack of standing, lack of domestic injury, and failure to state a claim, but that motion was denied. R. 2561-2616, 2643-2661, 2676-2690, 3847-3883; R. 4042, 8416-8417. For the next 15 years, the case wound its way through discovery. When discovery closed, petitioner moved for summary judgment on the Republic's Florida RICO claims. He argued (among other grounds) that the Republic could not possibly demonstrate any domestic injury by asserting that a Trinidadian citizen had participated in a scheme in Trinidad to overcharge the Trinidadian government for a Trinidadian airport. R. 36418.

The trial court denied Mr. Ferguson's motion. R. 43283. The trial court likewise denied Mr. Ferguson's motions *in limine* to prevent the Republic from discussing the criminal proceedings and co-defendants' convictions in the Southern District of Florida, R. 51203;

denied Mr. Ferguson's *Daubert* motion to exclude the opinions of the Republic's damages expert, R. 21664; and granted the Republic's motion to take "judicial notice" of Mr. Ferguson's fugitive status and criminal charges and of the existence of a so-called Piarco Conspiracy, R. 51206. Trial began on March 8, 2023.

The trial was plagued with numerous evidentiary and procedural irregularities, which likely would not have arisen but for the fact that this Trinidadian-based case was being litigated in Florida. For example, the trial court: permitted the Republic to present deposition designation testimony of absent individuals (over petitioner's objections) while prohibiting petitioner from doing the same (see Tr. 467:14-472:4; Tr. 2106:20-2108:5; Tr. 2883:23-2896:23, 4051:5-4055:25); permitted the Republic to expressly reference that petitioner "is not here at the trial" (Tr. 3101:10-17); and denied petitioner's renewed *Daubert* motion challenging the Republic's expert witness who used non-peer reviewed methodologies based on snow plows in Minnesota to determine Trinidadian airport equipment maintenance costs (Tr. 2512:17-2513:21; Tr. 2634:14-25). Many, if not all, of these irregularities would have been mooted had the trial transpired in Trinidad, where many of the fact witnesses were based, where Mr. Ferguson (whose passport had been confiscated) could have appeared in court, where local experts could have testified based on comparable situations, and where an American court would not have had to determine matters of Trinidadian law—particularly where the Florida trial judge admitted he "kn[e]w nothing" about "Trinidad law." Tr. 2886:14-17.

The jury entered a verdict for the Republic. Petitioner raised all of the aforementioned (and other)

procedural and evidentiary issues in his post-trial motion, along with the domestic injury argument, but the trial court denied his motion, trebled damages, and entered a judgment on May 15, 2023 for $131,318,840.87. App., *infra*, 35a-37a.

3. Mr. Ferguson appealed the jury verdict to the Third District Court of Appeal, raising multiple grounds for reversal including the fundamental issue that the Republic's foreign injury was not "domestic" for purposes of invoking Florida's civil RICO statute and the various procedural and evidentiary irregularities that transpired at trial.

On September 10, 2025, the Third District Court affirmed the jury verdict and the trial court's judgment. Judge Lobree, writing for herself and Judge Gordo, addressed only whether the Republic demonstrated a domestic injury. See App., *infra*, 18a-21a. Judge Lobree's majority opinion prefaced its analysis by noting that "Florida courts look to federal cases for guidance" when interpreting Florida's RICO statute, citing *Palmas Y Bambu, S.A.* v. *E.I. Dupont De Nemours & Co.*, 881 So. 2d 565, 570 n.1 (Fla. Dist. Ct. App. 2004) (collecting cases). App., *infra*, 19a. On that basis, the majority turned to the sole substantive question addressed in its decision: whether the Republic's injury was sufficiently "domestic" under *Yegiazaryan*. *Id.* at 19a-21a. The Third District Court relied exclusively on *Yegiazaryan* (citing no state court decisions) in evaluating whether a domestic injury occurred. *Ibid.*

The majority's domestic injury analysis recited this Court's requirement that courts must "look to the circumstances surrounding the alleged injury to assess whether it arose in the United States." App., *infra*, 20a

(quoting *Yegiazaryan* v. *Smagin*, 599 U.S. 533, 543-544 (2023)). But the majority focused only on *acts* incidental to the purported bid rigging, not the alleged *injury* to Trinidad and Tobago. The court noted allegations that petitioner "executed parts of the conspiracy in Miami," "met with conspirators" in Miami, and "transferred over $1 million to Miami accounts held by" a co-defendant, and that some of petitioner's co-defendants "lived in and orchestrated the scheme from Florida" and destroyed an incriminating hard drive there. *Id.* at 20a-21a. Based on those alleged acts, the court concluded that, because "many parts of the conspiracy and racketeering activity occurred in Florida," "domestic injury was shown." *Id.* at 20a. The majority did not consider the "nature of the alleged injury" or where the "injurious effects of the racketeering activity largely manifested." *Yegiazaryan* v. *Smagin*, 599 U.S. 533, 543-544, 546 (2023). With respect to all other issues petitioner raised on appeal, the majority affirmed the trial court without analysis or explanation. The opinion did not address petitioner's evidentiary challenges or procedural objections, instead summarily affirming on all those grounds.

Judge Logue concurred. Believing that Florida's courts had not yet applied this Court's two-step extraterritoriality framework from *RJR Nabisco* to Florida RICO, he wrote separately to do so, concluding that the "Florida Civil RICO statute does not extend extraterritorially." App., *infra*, 15a, 32a. Judge Logue then, like the majority, relied only on this Court's precedents to find domestic injury, agreeing that "[*Yegiazaryan*] also applies to the Florida statutes." *Id.* at 33a (citing no Florida appellate decisions on point). Like the majority, Judge Logue acknowledged that *Yegiazaryan* requires courts to "look[] to the nature of the alleged injury, the

racketeering activity that directly caused it, and the injurious aims and effects of that activity." *Ibid.* (citation omitted). Like the majority, Judge Logue focused on the supposed domestic acts, including a "letter of credit" that was supposedly "an asset of Trinidad and Tobago located in Miami," *id.* at 34a, but which was ultimately funded by the Republic with money from Trinidad, see Tr. 1630-1632, 1680-1681. And like the majority, Judge Logue conflated domestic acts and domestic injury, concluding that, because "major acts to advance the conspiracy" transpired in Florida, "the injury at issue did not 'rest entirely on injury suffered abroad.' " App., *infra*, 33a-34a (quoting *RJR Nabisco, Inc.* v. *European Cmty.*, 579 U.S. 325, 354 (2016)). But Judge Logue went further. He emphasized that, because "Florida is a world destination for finance, business, and construction," Florida has a "clear interest in preventing, punishing, and providing a remedy for those damaged in part in Florida and in part abroad, as occurred here." *Ibid.* Judge Logue did not address petitioner's other arguments.

Petitioner filed a motion for rehearing, rehearing en banc, and certification to the Florida Supreme Court, arguing that the majority opinion presented a question of great public importance warranting Florida Supreme Court review, and that the Third District Court should certify the question to the state's highest court. See pp. 1-3, *supra*. On November 5, 2025, the Third District Court denied the motion in its entirety, declining to certify any question and refusing to grant en banc review. The Third District Court withdrew its previous opinion and issued a new opinion, which corrected Judge Logue's incorrect reference to petitioner as a U.S. citizen (compare App., *infra*, 22a, with App., *infra*, 6a) but which was otherwise identical to the court's initial decision.

Because of the Third District Court's misapprehension of *Yegiazaryan*, a plaintiff can now invoke Florida's RICO statute for any predominately foreign injury so long as the plaintiff can allege that *some* conduct incidental to the conspiracy occurred in the United States, even if the injury (here, the purportedly inflated contract prices for the Trinidadian airport) occurred entirely abroad.

REASONS FOR GRANTING THE PETITION

The Court should grant the writ of certiorari because the Third District Court of Appeal of Florida misinterpreted federal law, creating a conflict with other appellate courts in the application of this Court's jurisprudence. The Third District's decision also creates a needless risk of international friction and interference with foreign policy. This case is the ideal vehicle to both correct the Third District Court's misapprehension and provide clear guidance to courts about applying RICO's domestic injury requirement, finally resolving a question that three Justices noted *Yegiazaryan* left unaddressed.

I. The Florida Appellate Court's Decision Fundamentally Misapprehends Federal Decisional Law, Warranting This Court's Review

The Court's intervention is warranted here to correct the Third District Court's misapprehension of federal law. In its decision, the Third District Court expressly and exclusively based its construction of Florida's civil RICO statute upon its interpretation of this Court's decision in *Yegiazaryan*. App., *infra*, 3a-4a. But the Third District Court misapprehended *Yegiazaryan* and *RJR Nabisco* by focusing exclusively on the fact that certain (but by no means the bulk) of the alleged racketeering *acts* took place in Florida, while ignoring

the "circumstances surrounding the alleged *injury*." *Yegiazaryan* v. *Smagin*, 599 U.S. 533, 544-545 (2023) (emphasis added). *Yegiazaryan* held that, although courts must engage in a "case-specific analysis" of "factors" and "circumstances," civil RICO's "focus" is still "on the injury." *Id.* at 545. By erroneously conflating racketeering acts and racketeering injuries, the Third District Court misapplied *Yegiazaryan* and arrived at the wrong outcome. This Court's review and remand is warranted so that the state court may have the opportunity to reconsider the issue "free of misapprehensions about the scope of federal law." *Three Affiliated Tribes of the Fort Berthold Rsrv.* v. *Wold Eng'g, P.C.*, 467 U.S. 138, 152 (1984). In so doing, this Court can also "[b]ring[] clarity to this area of the law" on how lower courts should properly weigh domestic acts when assessing whether injuries are foreign or domestic. *Yegiazaryan*, 599 U.S. at 550 (Alito, J., dissenting).

1. The Third District Court's analysis of Florida RICO relied exclusively on federal decisional law. First, the court recognized that "Florida courts look to federal cases for guidance" because "Florida's Civil RICO Act is patterned after its federal counterpart." App., *infra*, 3a. Next, the court determined that, because "[f]ederal civil RICO claims require a 'domestic injury,' " this Court's "domestic injury" requirement also applies to Florida RICO. *Ibid.* (quoting *Yegiazaryan*, 599 U.S. at 543-544). Finally, the court cited only *Yegiazaryan* to analyze whether the Republic had established domestic injury. App., *infra*, 3a-4a.

But the Third District Court misapprehended that federal precedent. In *Yegiazaryan*, this Court instructed that, when applying the "case-specific

analysis," a plaintiff has only "alleged a domestic injury" if the "circumstances surrounding the injury" "sufficiently ground the injury in the United States." 599 U.S. at 545. Although "no set of factors can capture the relevant considerations for all cases," *Yegiazaryan* reaffirms *RJR Nabisco*'s teaching that a court's "focus" should always be "the injury." *Ibid.*

While the Third District Court acknowledged *Yegiazaryan*'s instruction, it fundamentally misunderstood this Court's standard. Rather than focusing on the Republic's asserted *injury*, the state court looked only at the alleged racketeering *acts*. It noted that "many parts of the conspiracy and racketeering activity occurred in Florida," and that certain "wrongful acts * * * were devised, initiated, and carried out through acts and communications initiated in and directed towards Florida." App., *infra*, 3a-4a (citing *Yegiazaryan*, 599 U.S. at 545-546). Based solely on those Florida *acts*, the Third District Court concluded that "domestic injury occurred in Florida." *Ibid.*

By focusing solely on some domestic acts, however, the Third District Court missed the mark. Had the Third District Court appropriately analyzed the Republic's *injury*, it would have concluded that it arose in Trinidad. The Republic is a foreign government, bringing suit over a foreign airport, based on allegedly rigged Trinidadian contracts for construction and maintenance in Trinidad, which the Trinidadian government "provid[ed] the funds" for using "the [Trinidadian] government's bank." Tr. 1630-1632, 1680-1681. Petitioner himself was and is a Trinidadian citizen and resident, allegedly met with other members of the alleged conspiracy in Trinidad, see, *e.g.*, Tr. 579:15-580:5, and

supposedly "mastermind[ed]" a scheme to rig bids delivered to, opened, and contracted in Trinidad, and those airport construction and maintenance contracts were expressly and by their own terms governed by Trinidad law. Tr. 3592:19-3593:1, 3879:7-14, 4251:2. Thus, the claimed conspiracy was allegedly "devised, initiated, and carried out" in Trinidad, primarily through acts and communications in Trinidad, directed toward the Trinidadian airport, with the central purpose of creating an effect (in the form of extracting profits through inflated contract prices) on a foreign plaintiff—Trinidad. In short, as the Trinidadian High Court already held, see App., *infra*, 72a-73a, the "injurious effects of the racketeering activity largely manifested" in Trinidad. *Yegiazaryan*, 599 U.S. at 546.

Comparing this case to *RJR Nabisco* aptly illustrates the Third District Court's error. In *RJR Nabisco*, domestic *acts* were unquestionably "committed in the United States" by an American defendant. *RJR Nabisco, Inc.* v. *European Cmty.*, 579 U.S. 325, 345 (2016); see *European Cmty.* v. *RJR Nabisco, Inc.*, 764 F.3d 129, 141 (2d Cir. 2014). Yet the parties and the Court agreed that those acts were not a sufficient basis to find a domestic *injury*. See *RJR Nabisco*, 579 U.S. at 354. The correct application of *RJR Nabisco* and its progeny cannot be that the Republic's RICO claim here—even *more* grounded in foreign circumstances than *RJR Nabisco* itself—somehow constitutes domestic injury simply because *some* domestic activity occurred in Florida (as was also true in *RJR Nabisco*).

2. The Third District Court is not alone in its misapprehension. To the contrary, the Third District Court's decision reflects growing "confusion" among

lower courts that threatens to spread if unchecked by this Court's intervention. *Yegiazaryan*, 599 U.S. at 549 (Alito, J., dissenting). Already, at least one other court has also misinterpreted *Yegiazaryan*'s ruling in the same way. In *Digilytic International FZE* v. *Alchemy Finance, Inc.*, the Southern District of New York applied *Yegiazaryan* and concluded that "the domestic injury requirement is met" on the grounds that plaintiffs "allege[d] that most of [defendants'] racketeering activities occurred in the United States." No. 20-cv-4650, 2024 WL 4008120, at *16 (Aug. 30, 2024). The *Digilytic* court and the Third District Court both rested their findings of domestic injury entirely on the same pre-*Morrison* basis—that certain *acts* allegedly occurred in the United States—but, in doing so, missed the core inquiry of *RJR Nabisco* and *Yegiazaryan*: whether the *injury* is domestic.

Other federal courts have properly applied *Yegiazaryan*'s injury-focused analysis. For example, in *Percival Partners Ltd.* v. *Nduom*, the Fourth Circuit concluded that there was no domestic injury under *Yegiazaryan* despite the "transfer of * * * foreign funds" between U.S. companies and although "some of [defendants'] racketeering acts" occurred domestically. 99 F.4th 696, 702 (2024). Similarly, the most recent federal appellate court to apply *Yegiazaryan* considered a Kazakhstani businessman's civil RICO claims against other Kazakhstani citizens (following unsuccessful litigation in Kazakhstan). *Yerkyn* v. *Yakovlevich*, 164 F.4th 224, 225-226 (2d Cir. 2026). The Second Circuit found no domestic injury because the scheme to detain the plaintiff in Kazakhstan and coerce him into signing unfavorable contracts under Kazakhstan law "was conceived in Kazakhstan, carried out by Kazakhstani citizens in

Kazakhstan under Kazakh legal authority, and felt primarily in Kazakhstan." *Id.* at 231-232. The court reached this conclusion notwithstanding the fact that the use of U.S. bank accounts to misappropriate foreign funds and bribe foreign officials formed "the heart of the injury." *Id.* at 230.

The facts of *Percival Partners* and *Yerkyn* precisely parallel the Third District Court's recitation of the facts here, including the alleged transfer of funds "to Miami accounts," the use of "a business located in Miami" to funnel funds, and defendants' meetings "in Miami." App., *infra*, 3a-4a. But unlike the Third District Court, these other courts have noted the critical component of *RJR Nabisco* and *Yegiazaryan*'s domestic injury requirement: "[I]t cannot be the case that a RICO injury necessarily arises wherever RICO conduct occurs," as whether conduct "inflict[s] a domestic *injury*" is a "distinct and independent inquiry" from where the racketeering *acts* took place. *Percival Partners*, 99 F.4th at 702. Because those courts have avoided "conflat[ing] the two inquiries that *RJR Nabisco* took pains to keep apart," *ibid.*, those courts have correctly recognized that the mere occurrence of s*ome* domestic activity does not a domestic injury make.

This growing conflict between courts attempting to apply this Court's rationale in *Yegiazaryan* threatens to proliferate, thus undermining the clarity that this Court sought to provide through that decision. Left unchecked, it also threatens to revive the pre–*Morrison* "conduct"-based analysis, which could potentially undo this Court's direction to refocus RICO on domestic injury. Cases like *Liquidation Commission of Banco Intercontinental, S.A.* v. *Renta*, 530 F.3d 1339, 1343-1344

(11th Cir. 2008), should no longer be difficult to decide. In *Liquidation Commission*, a foreign government brought RICO claims against a dual U.S./Dominican Republic citizen, alleging that he and insiders in a foreign bank "wrongfully diverted millions" from the bank, which the foreign government eventually had to take over following the foreign bank's collapse. *Ibid.* Although recognizing that no U.S. person was "harmed by this scheme," and that "[t]he effects were felt predominately in the Dominican Republic," the Eleventh Circuit applied the then-common "conduct test" and applied RICO simply because *some* predicate acts (*e.g.*, money transfers amongst "American banks" for the benefit of an American entity) occurred domestically. *Id.* at 1352. See also, *e.g.*, *Concern Sojuzvneshtrans* v. *Buyanovski*, 80 F. Supp. 2d 273, 278 (D.N.J. 1999) (applying conduct test to extend RICO extraterritorially where foreign defendants defrauded foreign plaintiffs of funds based on "key fraudulent *acts*" which "emanated from" the United States). Under *RJR Nabisco* and *Yegiazaryan*, those thoroughly foreign RICO injuries should not be cognizable in U.S. courts. Uncorrected, however, the holdings here and in *Digilytic* would reopen the courthouse doors to plaintiffs asserting injuries this Court has, since *Morrison*, clarified are not "domestic."

3. Under the "adequate and independent state grounds" doctrine, this Court can and should correct the Third District Court's misapprehension. *Michigan* v. *Long*, 463 U.S. 1032, 1040-1041 (1983). This Court has consistently exercised its certiorari jurisdiction when, as in this case, a state court decision "appears to rest primarily on federal law, or to be interwoven with federal law," and "when the adequacy and independence of any possible state law ground is not clear from the face of the

opinion." *Id.* at 1040-1041, 1043-1044 (reversing and remanding state court decision which "relied *exclusively* on its understanding of * * * federal cases," and cited no grounds that were "in any way *independent* from the state court's interpretation of federal law"); see *Pennsylvania* v. *Labron*, 518 U.S. 938, 941 (1996) (reversing and remanding even though state court "did discuss several of its own decisions" because key cited cases themselves "relied on an analysis of [U.S. Supreme Court] cases" such that state court opinion was "interwoven with federal law") (citation omitted). This Court has also granted certiorari to review a state court's misconstruction of a state statute based on federal (rather than state) law. See *Three Affiliated Tribes of the Fort Berthold Rsrv.* v. *Wold Eng'g, P.C.*, 467 U.S. 138, 151-152 (1984); *St. Martin Evangelical Lutheran Church* v. *South Dakota*, 451 U.S. 774, 774 & 780 n.9 (1981) (reversing and remanding state court decision construing state statute that was "complementary" to a federal statute based on state court's understanding of federal statutory, constitutional, and decisional law); *United Air Lines, Inc.* v. *Mahin*, 410 U.S. 623, 630 (1973) (vacating state court decision in which judges "deemed themselves bound" by a U.S. Supreme Court decision when interpreting state statute, and remanding to "avoid the risk of 'an affirmance of a decision which might have been decided differently' " but for state court's misunderstanding of U.S. Supreme Court jurisprudence) (citation omitted). It should do so here as well.

II. The Third District Court's Decision Misapplies This Court's International-Comity Jurisprudence And Federal Law

This Court's intervention is especially warranted because the Third District Court's decision raises significant international comity concerns. "[E]ven where nations agree about primary conduct," they may "disagree dramatically about appropriate remedies." *F. Hoffmann-La Roche Ltd.* v. *Empagran S.A.*, 542 U.S. 155, 167 (2004). That is the situation in this case. Florida RICO offers a treble-damages remedy that is unavailable under Trinidadian law. Tr. 291:12-292:5. This Court's concern about international "friction" and "discord" that arises from extraterritorial projection of RICO's treble damages remedy, *RJR Nabisco, Inc.* v. *European Cmty.*, 579 U.S. 325, 335, 348 (2016), therefore "applies in spades here," *Yegiazaryan* v. *Smagin*, 599 U.S. 533, 552 (2023) (Alito, J., dissenting). That concern is especially heightened because the Republic's own High Court has already concluded that the "core conduct" involved in petitioner's alleged conspiracy "was aimed at Trinidad and Tobago," had its "primary impact" in Trinidad and Tobago, and should be litigated in Trinidad and Tobago's courts. App., *infra*, 72a-73a. The Third District Court's decision to the contrary disregards this Court's warnings about international friction and opens state courthouse doors to the very cases this Court has instructed should be litigated elsewhere. This case thus presents questions of exceptional importance that, left unaddressed, will entangle state courts and state laws in foreign disputes.

1. This Court emphasized in *RJR Nabisco* that "providing a private civil remedy for foreign conduct

creates a potential for international friction beyond that presented by merely applying U.S. substantive law to that foreign conduct." 579 U.S. at 346-347. That potential is "at its apex," the Court explained, when there is a "risk of conflict between [an] American statute and a foreign law." *Id.* at 348 (quoting *Morrison* v. *National Austl. Bank Ltd.*, 561 U.S. 247, 255 (2010)). The Third District Court's decision not only ignores that risk of conflict, but instead invites it by disregarding Trinidad's law and Trinidad's High Court.

To start, RICO treble damages are not available under Trinidadian law. The Republic's representative agreed at trial that "Trinidad could not bring [a] RICO claim" in "a civil court[] of Trinidad against Mr. Ferguson," and that, "as a result [the Republic] could not get damages in Trinidad that [it was] seeking in [Florida] under the [Florida] RICO statute." Tr. 291:12-292:5. The Third District Court thus should have been extremely reluctant to permit the Republic to pursue "U.S. remedial schemes that are far more generous than those available in their home nations." *Yegiazaryan*, 599 U.S. at 552 (Alito, J., dissenting); see *RJR Nabisco*, 579 U.S. at 348; *Empagran*, 542 U.S. at 167.

Worse, the Trinidadian High Court already expressly determined that this dispute belongs in Trinidad and Tobago, not the United States. In its written decision refusing to extradite petitioner, the Trinidadian High Court concluded unequivocally that "the appropriate forum to try [Mr. Ferguson] in relation to the award of contracts for the construction of the Piarco Airport * * * is Trinidad and Tobago" because the "[core] conduct giving rise to offences had their primary impact" in, and was "aimed at," Trinidad and Tobago. App., *infra*,

72a, 111a. The Trinidadian court further explained that because the conduct had its "primary impact" there, Trinidad and Tobago had "the greater national concern and interest in prosecuting its own citizens." *Id.* at 73a; Tr. 278:20, 279:21. Some of those efforts have faltered, as one Trinidadian prosecution relating to the airport was discontinued in March 2023. Tr. 267:1-22. By allowing the Republic to instead pursue a $130 million Florida RICO verdict that would not have been available under Trinidad law, the Third District Court put itself directly at odds with the Trinidadian High Court.

2. The fact that the international friction in this case arises from a state court applying state law does not ameliorate those concerns, it exacerbates them. This Court has made it unquestionably clear that "at some point an exercise of state power that touches on foreign relations must yield to the National Government's policy," *American Ins.* v. *Garamendi*, 539 U.S. 396, 413 (2003), and it has warned of the "dangers which are involved if each State, speaking through its * * * courts, is permitted to establish its own foreign policy." *Zschernig* v. *Miller*, 389 U.S. 429, 441 (1968). This Court has made clear that Congress did not explicitly override the presumption against extraterritoriality in 18 U.S.C. 1964(c), meaning that plaintiffs cannot invoke federal RICO to redress foreign injuries, even if some of the RICO predicate acts were committed domestically. See *RJR Nabisco*, 579 U.S. at 345, 354 (no domestic injury despite fact that "alleged enterprise also has a sufficient tie to U.S. commerce, as its members include U.S. companies, and its activities depend on sales" using "U.S. mails and wires," among other things). The Third District Court held the opposite, (mis)interpreting federal law to permit the Republic to invoke Florida RICO to

pursue foreign injuries merely because some of the predicate acts occurred in Florida. App., *infra*, 3a-4a. Left uncorrected, the Third District Court's decision will erroneously construe state law to "stand[] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Crosby* v. *National Foreign Trade Council*, 530 U.S. 363, 372-373 (2000).

If the Florida legislature had affirmatively voted to create a state law treble damages remedy for injuries to foreign governments within their own territory, where Congress had declined to do so, a significant question of preemption would arise. See *Crosby*, 530 U.S. at 372-373 (holding state law projecting state penalties into foreign affairs, which were not subject to control by the President, preempted for undermining federal law). While the Florida legislature has not elected to inject state law into foreign governments' affairs, a state court has done so unilaterally, under the guise of misapplying federal law.

III. This Case Presents An Ideal Vehicle To Clarify *RJR Nabisco* And *Yegiazaryan's* Standard

In addition to presenting important questions of federal law, this case is an ideal vehicle for the Court to address them. This case's extreme facts would allow the Court to create and enforce additional guardrails around *Yegiazaryan*'s admittedly "nuanced" approach by providing more fully foreign circumstances which *RJR Nabisco* and its progeny have lacked. *Yegiazaryan v. Smagin*, 599 U.S. 533, 545 (2023); see also *id.* at 549 (Alito, J., dissenting) (criticizing *Yegiazaryan* for "offer[ing] virtually no guidance to lower courts"). The Court should address these issues now, before additional courts resurrect the pre-*Morrison* "conduct test" (*i.e.*, a

sole focus on domestic *acts*) to determine domestic injury based on a misapprehension of federal law, as several courts have already seemingly done.

1. The issue has been fully briefed and considered by the Florida courts, and there are no factual or procedural obstacles that would prevent the Court from focusing on the legal issue now. The question is simply whether, in applying Florida RICO, the Florida Third District Court of Appeal was incorrect both in how it applied *Yegiazaryan*'s framework and in its conclusion that the circumstances surrounding the Republic's injury demonstrated that it arose in the United States. That question has been squarely presented throughout this litigation: Petitioner raised the non-domestic nature of the Republic's injuries in his motion to dismiss before the trial court and in his post-trial motions following the jury's verdict. Petitioner raised the issue again on appeal to the Third District Court, specifically framing the issue as revolving around the correct application of this Court's domestic injury analysis. And he raised it in his petition for rehearing and certification to the Florida Supreme Court.

2. This case involves unique facts in that, unlike both *RJR Nabisco* and *Yegiazaryan*, *all* of the focus of the injury is foreign, and the *only* domestic ties are some alleged racketeering activity. That unique factual posture presents an ideal vehicle for this Court to further clarify how lower courts should evaluate a RICO plaintiff's injury. As this Court acknowledged, *Yegiazaryan*'s approach is "nuanced" because "no set of factors can capture the relevant considerations for all cases," 599 U.S. at 545, but these facts here would enable the Court to plainly and cleanly clarify the crucial distinction between

racketeering *acts* and racketeering *injuries* when evaluating domestic injury and to reaffirm *RJR Nabisco*'s key holding: that civil RICO remains focused on injuries. It would allow the Court to explain whether and how concerns about international friction and controversy require U.S. courts to consider foreign judges' decisions about the proper forum for addressing a foreign dispute with foreign injuries. And to the extent that lower courts have misinterpreted *Yegiazaryan* to suggest that "the plaintiff's residence may play no role *at all* in the civil RICO extraterritoriality inquiry," *id.* at 552-553 (Alito, J., dissenting)—as the Third District Court of Appeal appears to have done—this case offers the Court a clear opportunity to correct that misapprehension.

3. The Court should act now. The Third District Court is the first state court to apply *Yegiazaryan*, yet its decision already underscores the risk that state courts will undercut this Court's careful international-comity jurisprudence. If other state courts follow the Third District Court's lead—conflating racketeering activity with injury, disregarding rulings from a foreign plaintiff's own courts, and allowing foreign plaintiffs to collect treble damages for foreign injuries, as courts were doing before this Court intervened in *Morrison*—then state RICO acts will afford backdoor access to remedial schemes that this Court has already concluded Congress did not clearly intend to offer. The Court should intervene now to prevent state courts from further interfering with foreign affairs and increasing the risk of international friction.

CONCLUSION

The petition for a writ of certiorari should be granted and the decision of the Third District Court of Appeal of Florida reversed and remanded.

Respectfully submitted,

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