No. 26A

IN THE

Supreme Court of the United States

ROOSEVELT ROAD RE, LTD., TRADESMAN PROGRAM MANAGERS, LLC,

Applicants,

v.

HERBERT S. SUBIN, ERIC D. SUBIN, JORGE ARTURO GONZALEZ LUPI,

Respondents.

ON APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI TO THE HONORABLE SONIA SOTOMAYOR, CIRCUIT JUSTICE FOR THE U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT

APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of this Court, Applicants Roosevelt Road Re, Ltd. and Tradesman Program Managers, LLC provide the following Corporate Disclosure Statement.

Roosevelt Road Holdings, Ltd., a Bermuda limited liability company, is the parent corporation of Applicant Roosevelt Road Re, Ltd.

Tradesman Program Managers Holdings, U.S.A., LLC, a New York limited liability company, is the parent corporation of Applicant Tradesman Program Managers, LLC.

No publicly held corporation owns 10 percent or more of any of the Applicants' stock. No Applicant or parent corporation of an Applicant has an active stock ticker symbol.

Pursuant to Rules 13.5 and 30.2 of this Court, Applicants Roosevelt Road Re, Ltd. ("Roosevelt") and Tradesman Program Managers, LLC ("Tradesman") (collectively "Applicants"), hereby move for an extension of time of 45 days, to and including Thursday, January 14, 2027, within which to file a petition for a writ of certiorari to review the judgment in this case. The United States Court of Appeals for the Second Circuit denied rehearing *en banc* on August 31, 2026. *Roosevelt Road Re, Ltd. v. Subin*, No. 25-2560 (2d Cir. 2026), Dkt. 54.1; App., *infra*, 11. Unless extended, the deadline to file a petition is Monday, November 30, 2026. This Application is filed more than ten days before that deadline consistent with Rules 13.5 and 30.2. This Court has jurisdiction to review the decision under 28 U.S.C. § 1254(1).

In support of their request, Applicants state as follows:

1. This case raises important questions regarding standing under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1962(c) & 1964(c). It arises from a years-long racketeering scheme orchestrated by Respondents, who own and work with or for law firms. This scheme included directing construction workers to stage worksite accidents, inflating the value of claims for the staged injuries by referring the workers for and performing unnecessary medical procedures, and filing fraudulent lawsuits and workers' compensation claims based on the staged injuries. Applicants, a reinsurer and a management general agency, suffered direct injuries from this scheme. Specifically,

the scheme caused Applicants to incur expenses to investigate and defend against the fraudulent claims as well as to pay judgments in the fraudulent actions.

2. In 2024, Applicants brought suit in the United States District Court for the Eastern District of New York ("District Court"), including for violations of RICO. Respondents moved to dismiss the claims, arguing, among other things, that Applicants lacked standing because they suffered only "indirect" injuries.

3. The District Court ultimately granted Respondents' motions to dismiss Applicants' RICO claims, holding that Applicants "fail[ed] to adequately plead cognizable, direct injuries." *Roosevelt Road Re, Ltd. v. Subin*, No. 24-CV-05033, 2025 WL 1713109, at *1 (E.D.N.Y. June 19, 2025). Specifically, the District Court concluded that Applicants were not the "intended targets" of Respondents' scheme and that their injuries were "doubly contingent" upon the harms suffered by primary insurers and construction employers. *Id*. at *4, *6.

4. Applicants appealed, and the United States Court of Appeals for the Second Circuit affirmed. App., *infra*, 1–10. The Second Circuit held that Applicants failed to demonstrate that Respondents' fraudulent scheme proximately caused their injuries. App., *infra*, 4–9. In reaching this holding, the Second Circuit explained that Applicants incurred injuries from the RICO scheme "only because (i) they had to pay and process claims for *another* insurance company, which (ii) had to cover for their insureds." App., *infra*, 6 (emphasis in original). Despite acknowledging the "harm" to Applicants, the Second Circuit explained that under its precedent, Applicants

cannot recover under RICO because their injuries "derive wholly from the injuries sustained by the third party." App., *infra*, 8 (citation omitted).

5. Applicants then sought rehearing, which the Second Circuit denied on August 31, 2026. App., *infra*, 11.

6. Applicants anticipate filing a petition for a writ of certiorari regarding an important issue dividing the courts of appeals: whether a party in Applicants' position is harmed "by reason of" unlawful "racketeering activity" such that they have standing to sue under RICO. 18 U.S.C. §§ 1962(c) & 1964(c).

7. The Second Circuit's decision is a departure from this Court's precedent. Under *Holmes v. Securities Investor Protection Corp.*, 503 U.S. 258 (1992), and its progeny, a plaintiff must show that its injury bears a sufficiently direct relationship to the alleged predicate act to establish standing under RICO. *See id.* at 271; *Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 457–58 (2006); *Bridge v. Phx. Bond & Indem. Co.*, 553 U.S. 639 (2008); *Hemi Grp., LLC v. City of New York*, 559 U.S. 1, 9–12 (2010). Rather than examining the relationship between Applicants' injuries and the alleged predicate acts, however, the Second Circuit misapplied this Court's precedent by looking to whether any intermediaries come between the predicate act and injured third-party payor, holding that a third-party payor's RICO claim will fail when "some harm to third parties" is involved in the "harm to the plaintiff." App., *infra*, 5. This is contrary to established law. *See Bridge*, 553 U.S. at 639 (holding plaintiffs who are injured as a proximate result of misrepresentations can recover under RICO regardless of whether they or a third party was the one deceived).

8. There is a well-established circuit split on this issue. The First, Third, and Ninth Circuits have correctly held that the presence of intermediaries between the alleged predicate act and a third-party payor does not constitute an intervening cause that severs the chain of proximate causation under this Court's direct relation requirement. *See In re Neurontin Mktg. & Sales Pracs. Litig.*, 712 F.3d 21, 38–40 (1st Cir. 2013) (holding third-party payor injured by drug manufacturer's fraudulent marketing scheme satisfied RICO's proximate cause requirement despite presence of intermediary prescribing physicians); *In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 804 F.3d 633, 645–46 (3d Cir. 2015) (same); *Painters & Allied Trades Dist. Council 82 Health Care Fund v. Takeda Pharms. Co. Ltd.*, 943 F.3d 1243, 1257–59 (9th Cir. 2019) (same). In contrast, the Second and Seventh Circuits have misapplied this Court's precedent and held that the presence of intermediaries prevents third-party payors from establishing proximate causation under RICO. *See UFCW Loc. 1776 v. Eli Lilly & Co.*, 620 F.3d 121, 134–36 (2d Cir. 2010) (holding third-party payors did not establish proximate cause because "independent actions of" intermediary prescribing physicians severed the causal chain); *Sidney Hillman Health Ctr. of Rochester v. Abbott Lab'ys*, 873 F.3d 574, 576–78 (7th Cir. 2017) (same).

9. Not only does the Second Circuit's decision place the court on the wrong side of the circuit split, but it is also contrary to RICO's plain language and its "object" of "encouraging prompt litigation to combat racketeering" that "supplement[s] Government efforts to deter and penalize" prohibited conduct. *Rotella v. Wood*, 528 U.S. 549, 557 & 557 n.3 (2000).

10. Applicants' undersigned counsel of record respectfully requests a 45-day extension of time, to and including Thursday, January 14, 2027, within which to file a petition for a writ of certiorari. Applicants retained undersigned counsel to represent them here on November 4, 2026—less than one month before the current deadline for filing the petition—and undersigned counsel did not participate in the proceedings below. The requested extension would allow newly retained counsel time to evaluate the case and prepare a petition that effectively presents the important questions at issue here. Additionally, several major holidays fall within the period during which the petition will be prepared, including Thanksgiving Day, Hanukkah, Christmas Day, and New Year's Day, each of which will reduce the time available to counsel, Applicants, and others whose input is needed to prepare the petition.

For the foregoing reasons, the Applicants request that a 45-day extension of time, to and including Thursday, January 14, 2027, be granted within which Applicants may file a petition for a writ of certiorari.

November 13, 2026

Respectfully submitted,

/s/ Mary Grace W. Metcalfe

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APPENDIX

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Roosevelt Road v. Subin

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 22nd day of July, two thousand twenty-six.

PRESENT:

RICHARD C. WESLEY,
RICHARD J. SULLIVAN,
JOSEPH F. BIANCO,
Circuit Judges.

ROOSEVELT ROAD RE, LTD., TRADESMAN PROGRAM MANAGERS, LLC,

Plaintiffs-Appellants,

v. No. 25-2560

HERBERT S. SUBIN, ERIC D. SUBIN, JORGE ARTURO GONZALEZ LUPI, JOHN DOES 1-50,

Defendants-Appellees,

v.

SUBIN ASSOCIATES, LLP, PAULINA HURTADO, GARY S. PARK, MCDONALD WORLEY,

Defendants.

For Plaintiffs-Appellants:	JAMES J. MAHON (Kenneth Lambert, William J. Clay, Nathan W. Shackelford, Bret D. Walsh, *on the brief*), The Willis Law Group, Garland, TX.
For Defendants-Appellees:	ERIK A. GOERGEN (Joseph J. Ortego, Nixon Peabody LLP, New York, NY, *on the brief*), Nixon Peabody LLP, Buffalo, NY.

Appeal from a judgment of the United States District Court for the Eastern District of New York (Hector Gonzalez, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the October 3, 2025 judgment of the district court is **AFFIRMED.**

Roosevelt Road Re, Ltd. ("Roosevelt"), a reinsurance company, and Tradesman Program Managers, LLC ("Tradesman"), a management agency that provides services to insurers and reinsurers (collectively, "Plaintiffs"), appeal from

the district court's judgment (i) dismissing their first amended complaint ("FAC"); and (ii) rejecting the second amended complaint ("SAC") and denying leave to amend.

In a nutshell, Plaintiffs allege that Defendants – personal-injury lawyers and their purported accomplices – "recruited construction workers" to "stag[e] . . . fake construction accidents at various construction sites throughout New York" and obtain "fraudulent medical documentation." App'x at 64–65. Defendants and their accomplices then sought to "profit" by filing bogus workers' compensation claims with the New York State Workers' Compensation Board against the construction workers' employers and phony general liability claims in New York State courts "against . . . various parties involved with the construction project[s]," including "owner[s], general contractor[s], [and] construction manager[s]." *Id.* According to Plaintiffs, this conduct violated the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1962(c) & 1964(c).

"We review *de novo* a district court's grant of a motion to dismiss, accepting as true all factual allegations in the complaint and drawing all reasonable inferences in favor of the plaintiffs." *Muto v. CBS Corp.*, 668 F.3d 53, 56 (2d Cir. 2012). Meanwhile, "[w]e review a district court's denial of leave to amend for

abuse of discretion, unless the denial was based on an interpretation of law, such as futility, in which case we review the legal conclusion *de novo*." *Pyskaty v. Wide World of Cars, LLC*, 856 F.3d 216, 224 (2d Cir. 2017) (internal quotation marks omitted). Because *both* the FAC and SAC failed to adequately allege that Defendants' purported racketeering activity was the proximate cause of Plaintiffs' injuries, we affirm the judgment of the district court. *See Yerkyn v. Yakovlevich*, 164 F.4th 224, 225 (2d Cir. 2026) ("[W]e are free to affirm an appealed decision on any ground [that] finds support in the record, regardless of the ground upon which the trial court relied." (internal quotation marks omitted)).

I. The FAC Fails to Plead Proximate Causation Under RICO.

RICO "provides a private cause of action" – and treble damages – "for 'any person injured in his business or property *by reason of*'" unlawful "'racketeering activity.'" *Hemi Grp. v. City of New York*, 559 U.S. 1, 6 (2010) (plurality opinion) (alteration adopted and emphasis added) (first quoting 18 U.S.C. § 1964(c); and then quoting *id.* § 1962(c)). But the statute does not empower just anyone who has suffered the consequences of a RICO scheme to sue. As the Supreme Court has recently reiterated, "[section] 1964(c)'s 'by reason of' language demands 'some *direct relation* between the injury asserted and the injurious conduct alleged.'" *Med.*

Marijuana, Inc. v. Horn, 604 U.S. 593, 612 (2025) (emphasis added) (quoting *Holmes v. Sec. Inv. Prot. Corp.*, 503 U.S. 258, 268 (1992)). A RICO plaintiff thus must allege "proximate cause," *Holmes*, 503 U.S. at 268, and "whenever [a] plaintiff's theory of causation requires moving 'well beyond the first step'" in the causal analysis, "it 'cannot meet RICO's direct relationship requirement,'" *Med. Marijuana*, 604 U.S. at 612 (quoting *Hemi Grp.*, 559 U.S. at 10). In other words, if a plaintiff's RICO arguments rely on several "step[s] in the causal chain," *Empire Merchants, LLC v. Reliable Churchill LLLP*, 902 F.3d 132, 142 (2d Cir. 2018) (internal quotation marks omitted) – *i.e.*, alleging that the defendant caused some harm to third parties, which in turn caused follow-on harm to the plaintiff – then its claims will fail.

Plaintiffs assert that they were harmed by the alleged scheme here in various ways. In particular, Roosevelt contends that it had to "reimburse[] . . . primary insurers" at higher rates and pay litigation expenses, while Tradesman maintains that it "sustained significant damage in connection with its management of the policies" because it had to devote resources to administering and investigating illegitimate claims. App'x at 82–84. Plaintiffs further argue that although the entities against whom the workers' compensation and general liability claims were made (*i.e.*, the employers, owners, general contractors, etc.) might *seem* to be the

parties most affected by fraudulent claims, "insurers and claims administrators are the ultimate source for payment and approval of [those] claims" and thus are the most directly injured by the fraud scheme. Pls. Br. at 54–55.

We are not convinced. While the alleged RICO scheme might have "ultimate[ly]," *id.* at 54, harmed Plaintiffs, "[m]ultiple steps . . . separate the alleged fraud from the asserted injury," *Hemi Grp.*, 559 U.S. at 15. Plaintiffs incurred expenses only because (i) they had to pay and process claims for *another* insurance company, which (ii) had to cover for their insureds, *i.e.*, the employers, owners, general contractors, and other entities named by Defendants and their associates in the workers' compensation claims and general liability lawsuits.

Such daisy chains of causation are "'too remote'" to establish RICO standing. *Id.* at 9 (alteration adopted) (quoting *Holmes*, 503 U.S. at 271). After all, Plaintiffs were injured not only because of the fraud scheme, but also because they decided to enter a complex series of contracts that left them on the hook for harms to third (or even fourth) parties. *See Laborers Loc. 17 Health & Benefit Fund v. Philip Morris, Inc.*, 191 F.3d 229, 236 (2d Cir. 1999) ("[W]here a plaintiff complains of injuries that are wholly derivative of harm to a third party, plaintiff's [RICO]

injuries are generally deemed indirect and as a consequence too remote, as a matter of law, to support recovery.").

Furthermore, "the less direct an injury is, the more difficult it becomes to ascertain the amount of a plaintiff's damages attributable to the violation, as distinct from other, independent, factors." *Holmes*, 503 U.S. at 269. Plaintiffs allege a "drastic[] escalati[on] . . . of construction[-]related claims" that led to an "increase[]" of Roosevelt's "net outstanding liability" and "damage to Tradesman's business." App'x at 83, 85. But it is difficult to imagine how a court could untangle the impact of Defendants' purported fraud from other factors that may have harmed Plaintiffs' bottom line. *See Laborers Loc. 17*, 191 F.3d at 240.

Finally, Plaintiffs assert that "they are better situated and have more incentive to sue" than either the primary insurance company or the insured parties. Reply Br. at 25–26. In analyzing whether a RICO injury is sufficiently direct, courts have considered "whether better situated plaintiffs would have an incentive to sue." *Hemi Grp.*, 559 U.S. at 11–12. But Plaintiffs' argument that they are best situated to bring suit rests – in circular fashion – on their unsupported insistence that they were most directly injured. Precedents from both the Supreme Court and this Court, however, require us to analyze which party was injured at

the "first step," not to pore over the chain of causation speculating about slight differences in incentives until we reach the party that seems to have the greatest motivation to sue. *See, e.g.*, *id.* at 10, 12.

II. The SAC Also Fails to Plead Proximate Causation Under RICO.

The SAC's allegations do not change this analysis. Its new paragraphs allege that Plaintiffs entered "agreements" with the primary insurer of the entities against which the workers' compensation and general liability claims were made, and that those agreements "substituted" Plaintiffs into "a primary [insurance] role." App'x at 329. Plaintiffs provide few details about the nature of this substitution and the agreements that created it. But even accepting those allegations as true, the harm suffered by Plaintiffs is still "well beyond the first step." *Med. Marijuana*, 604 U.S. at 612.

We have previously explained that insurers "who are obligated to pay the . . . expenses of another may [generally] not recover [under RICO] against the [party] who caused the damage, because their injuries are indirect since they derive wholly from the injuries sustained by the third party." *Laborers Loc. 17*, 191 F.3d at 237. Here, Plaintiffs' claims are "purely contingent" *both* "on harm to third parties," *id.* at 239, and on Plaintiffs' side-deal, through which they purportedly

switched roles with the primary insurer. *See Holmes*, 503 U.S. at 271 (finding "the link . . . too remote" to support RICO claim by Securities Investor Protection Corporation ("SIPC") against defendant whose alleged stock manipulation caused broker-dealers to go bankrupt and thus to fail to pay their customers, who subsequently received reimbursement from SIPC).[1]

Thus, for the reasons explained above, neither the FAC nor the SAC pleaded sufficient facts to establish RICO standing, and the district court did not err in dismissing both pleadings.[2]

---

[1] This calculus might change, of course, if the insurer were the *direct* target of the fraud – such as when (i) an insured party conspires with others to receive unnecessary medical services, *see, e.g.*, *Allstate Ins. Co. v. Plambeck*, 802 F.3d 665, 671 (5th Cir. 2015) (cited in Reply Br. at 22); or (ii) a RICO defendant directly deceives an insurance company by submitting claims for services that it never performed, *see, e.g.*, *Allstate Ins. Co. v. Seigel*, 312 F. Supp. 2d 260, 263 (D. Conn. 2004) (cited in Reply Br. at 18). In such cases, the defendant defrauds the insurance company itself – not a third party who then recovers from the insurance company. That is not the situation here.

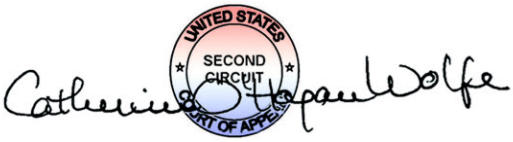
[2] Plaintiffs also asserted claims for RICO conspiracy, *see* 18 U.S.C. § 1962(d), declaratory judgment, and violations of state law. But the fate of these claims, as the district court found and Plaintiffs concede, depends on whether the underlying substantive RICO claim survives. While the declaratory-judgment and RICO-conspiracy theories piggyback directly on that claim, the state-law claims relied on the district court's discretionary decision about whether to invoke supplemental jurisdiction over them. And "because all of [Plaintiffs'] federal claims were properly resolved, the district court did not err in declining to exercise supplemental jurisdiction over any [of their] state[-]law claim[s]." *Russo v. Patchogue-Medford Sch. Dist.*, 129 F.4th 182, 187 (2d Cir. 2025); *see also* 28 U.S.C. § 1367. Nonetheless, the district court properly dismissed the state-law claims without prejudice, meaning that Plaintiffs can still pursue those claims in state court.

* * *

While Plaintiffs allege a disturbing pattern of fraud, RICO does not create a universal cause of action that permits parties to turn state-law claims – which Plaintiffs also asserted here – into federal suits seeking treble damages. *See Holmes*, 503 U.S. at 274 ("Allowing suits by those injured only indirectly would open the door to massive and complex damages litigation, which would not only burden the courts, but would also undermine the effectiveness of treble-damages suits." (alterations adopted and internal quotation marks omitted)). By design, "RICO's direct-relationship requirement" constrains civil RICO claims and may "present an insurmountable obstacle" even to parties that have suffered real harms. *Med. Marijuana*, 604 U.S. at 612–13; *see Desiano v. Warner-Lambert Co.*, 326 F.3d 339, 348 (2d Cir. 2003) ("[O]ur cases have held RICO plaintiffs to a more stringent showing of proximate cause than would be required at common law." (internal quotation marks omitted)). Put simply, if Plaintiffs want relief, they must look to sources other than RICO.

We have considered Plaintiffs' remaining arguments and find them to be without merit. Accordingly, we **AFFIRM** the judgment of the district court.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court.



UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 31st day of August, two thousand twenty-six.

Roosevelt Road Re, Ltd., Tradesman Program Managers, LLC,

Plaintiffs - Appellants,

v.

Herbert S. Subin, et al.

Defendants - Appellees,

v.

Subin Associates, LLP, et al.

Defendants.

ORDER

Docket No: 25-2560

Appellants, Roosevelt Road Re Ltd., and Tradesman Program Managers, LLC, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc.*

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

