

Civil RICO: Points to Remember

by

Paul Andrew Mitchell, B.A., M.S.
Private Attorney General, Federal Witness
and Qualified Criminal Investigator

1. The *Civil* RICO statute at [18 U.S.C. 1964](#) expressly authorizes civil remedies, in addition to any criminal remedies that also exist to prosecute organized crime.
2. State courts have original jurisdiction to enforce the Civil RICO statute at [18 U.S.C. 1964](#). See [Tafflin v. Levitt](#) and [Lou v. Belzberg](#), [Rice v. Janovich](#) and [Village at Camelback v. Carr](#).
3. The Civil Case Cover Sheet for the Superior Court of California shows "RICO" as a standard case category.
4. A pattern of racketeering is expressly defined to mean only two (2) RICO "predicate acts" during any given 10-year period. See [18 U.S.C. 1961\(5\)](#).
5. The federal statute at [18 U.S.C. 1961](#) itemizes all RICO predicate acts. The most common are mail fraud, extortion, obstruction of justice, obstruction of a criminal investigation, and witness tampering or retaliation.
6. Violations of State and federal laws both qualify as RICO predicate acts. [18 U.S.C. 1961\(1\)\(B\)](#) itemizes a long list of federal offenses that qualify as predicate acts.
7. Any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, obscene matter, controlled substances or extortion is also a RICO predicate act, if it is chargeable under State law and punishable by imprisonment for more than one year. See [18 U.S.C. 1961\(1\)\(A\)](#).
8. The [Supremacy Clause](#) in the [U.S. Constitution](#) elevates all RICO statutes to the status of supreme Law, and resolves any conflicts with State laws in favor of the RICO statutes. Whenever conflicts occur, State laws and State constitutional provisions have no standing ("*notwithstanding*").
9. Congress intended the RICO statutes to be *liberally* construed. See [84 Stat. 947](#), Sec. 904, Oct. 15, 1970. However, this [liberal construction rule](#) was never codified *anywhere* in [Title 18](#) of the U.S. Code, even though Title 18 *has* been enacted into positive law by Act of Congress.

10. A specific Congressional objective is encouraging civil litigation to supplement government efforts to deter and penalize the practices prohibited by the RICO statutes.
11. Another objective of Civil RICO is to turn victims into prosecutors, "private attorneys general", dedicated to eliminating racketeering activity. See [Rotella v. Wood](#).
12. Civil RICO specifically has a further purpose of encouraging potential private plaintiffs to *investigate* diligently. [Rotella v. Wood](#).
13. Organized crime is a serious national problem for which public prosecutorial resources are deemed inadequate. See [Agency Holding Corp. v. Malley-Duff & Associates](#).
14. Civil RICO authorizes triple damages (3x) to be awarded to successful private plaintiffs. See [18 U.S.C. 1964\(c\)](#).
15. The provision for triple damages is justified by the expected benefit of suppressing racketeering activity, an object pursued the sooner the better. [Rotella v. Wood](#).
16. The "private attorney general" concept holds that a successful private party plaintiff is also entitled to recovery of his legal expenses, including attorney fees, if he has advanced the policy inherent in public interest legislation on behalf of a significant class of persons. [Dasher v. Housing Authority of City of Atlanta](#).
17. A private attorney general may appear in court without the license to practice law that is required of all State Bar members. See sections [6067](#) and [6068](#) of the California Business and Professions Code.
18. A private attorney general may appear in court "ex rel." on behalf of the "United States" (*i.e.* the federal government), the State of California, the People of California or the People of the United States of America. Confer at "Ex relatione" in [Black's Law Dictionary](#), Sixth Edition.
19. Civil RICO statutes are supplemented by 2 [Human Rights Treaties](#) -- the [Universal Declaration of Human Rights](#) and the [International Covenant on Civil and Political Rights](#) -- both of which are rendered supreme Law by virtue of the [Supremacy Clause](#) (just like the [Bill of Rights](#)).
20. The latter Covenant's [Reservations](#) enacted by Congress expressly reserve original jurisdiction to State and local governments, to the end that their competent authorities may take appropriate measures for the fulfillment of the Covenant.

