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## SEVENTH CIRCUIT UPHOLDS INJUNCTION AGAINST PRO-LIFE GROUPS FOR VIOLATION OF RICO

By Rebecca Mattison

On October 2, 2001, the Seventh Circuit Court of Appeals upheld the first ever nation-wide injunction based on the Racketeer Influenced and Corrupt Organizations Act (RICO) against Joe Scheidler and the Pro-Life Action League for their violent pro-life activities. *NOW v. Scheidler*, 267 F.3d 687 (7<sup>th</sup> Cir. 2001). The injunction does not impede the right to peacefully protest allowed under the First Amendment. Rather, the injunction only curtails protests that go beyond peaceful demonstrations and turn violent.

Plaintiffs were the National Organization for Women (NOW), the Summit Women's Health Organization (Milwaukee), and the Delaware Women's Health Organization. Defendants were the Pro-Life Action Network, which includes Joseph Scheidler, the Pro-Life Action League, and Operation Rescue.

***The ruling in this case is especially significant because the case has been in the federal court system for 15 years.***

RICO bans persons from engaging in an interstate "enterprise" that conducts the enterprise's affairs through a "pattern of racketeering activity." 18 U.S.C. § 1962(c) (2001). "Racketeering activity" refers to any act or threat of violation of several, enumerated felonies or any act punishable under several statutes. 18 U.S.C. § 1961(1)

(2001).

The ruling in this case is especially significant because the case has been in the federal court system for 15 years. Starting in the District Court of Illinois, the case went to the Seventh Circuit Court of Appeals, to the U.S. Supreme Court and then back to the District Court and Seventh Circuit again.

This is the first time the Supreme Court unanimously applied RICO to defendants with a non-economic motive. Further, this is the first time the Court has recognized this sort of class. The class consists of representatives from women's clinics that perform abortions, and NOW, which represents both members and non-members who have the right to an abortion without interference from the defendants' activities.

The Supreme Court only held that defendants like those in this case, who had no economic motive for their actions, could be held liable under RICO. *NOW v. Scheidler*, 510 U.S. 249, 256 (1994). The plaintiffs argued that the defendants' activities under RICO mandated a "permanent, nationwide injunction," as well as treble damages against violent, anti-abortion groups.

After the Supreme Court ruled that RICO could apply to non-profit organizations, the case was remanded to the District Court of Illinois. Judge David Coar held that a nationwide injunction was applicable to the defendants, without violating their First Amendment rights. *NOW v. Scheidler*, 1997 WL 610782 (N.D. Ill. 1997).

On appeal, Circuit Judge Diane

P. Wood held that the defendants' "goal is frankly to prevent abortions from taking place." *NOW v. Scheidler*, 267 F.3d 687, 693 (7<sup>th</sup> Cir. 2001). The methods the defendants used to achieve that goal included protestors lying in doorways to block patients' entrance, destroying medical equipment, chaining themselves to operating tables, forcing staffers against a glass wall until it shattered, and physically assaulting a woman who had just had ovarian surgery to the point where her incisions were reopened.

Wood stated that the government may regulate non-expressive activities that serve an important government interest and the plaintiffs' right to "seek and provide medical care free from violence, intimidation, and harassment is such an important government interest." *Id.* at 702.

Even so, the Seventh Circuit emphasized that the defendants may continue peaceful protest under the First Amendment. This would include "labeling abortion as murder, urging the clinics to get out of the abortion business, and urging clinic patients not to seek abortions..." *Id.* at 701. However, the Seventh Circuit further emphasized that the First Amendment does not protect the violent conduct these defendants used to further their goals.

With all the controversy and legal questions at issue in this case, it is not surprising that after 15 years in the court system, an end to the controversy still may be a long time away.