SUPREME COURT OF THE UNITED STATES

No. 02–682

VERIZON COMMUNICATIONS INC., PETITIONER *v.*
LAW OFFICES OF CURTIS V. TRINKO, LLP

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[January 13, 2004]

JUSTICE STEVENS, with whom JUSTICE SOUTER and JUSTICE THOMAS join, concurring in the judgment.

In complex cases it is usually wise to begin by deciding whether the plaintiff has standing to maintain the action. Respondent, the plaintiff in this case, is a local telephone service customer of AT&T. Its complaint alleges that it has received unsatisfactory service because Verizon has engaged in conduct that adversely affects AT&T's ability to serve its customers, in violation of §2 of the Sherman Act. 15 U. S. C. §2. Respondent seeks from Verizon treble damages, a remedy that §4 of the Clayton Act makes available to "any person who has been injured in his business or property." 15 U. S. C. §15. The threshold question presented by the complaint is whether, assuming the truth of its allegations, respondent is a "person" within the meaning of §4.

Respondent would unquestionably be such a "person" if we interpreted the text of the statute literally. But we have eschewed a literal reading of §4, particularly in cases in which there is only an indirect relationship between the defendant's alleged misconduct and the plaintiff's asserted injury. *Associated Gen. Contractors of Cal., Inc.* v. *Carpenters,* 459 U. S. 519, 529–535 (1983). In such cases, "the importance of avoiding either the risk of duplicate recoveries on the one hand, or the danger of complex appor-

tionment of damages on the other," weighs heavily against a literal reading of §4. *Id.,* at 543–544. Our interpretation of §4 has thus adhered to Justice Holmes' observation that the "general tendency of the law, in regard to damages at least, is not to go beyond the first step." *Southern Pacific Co.* v. *Darnell-Taenzer Lumber Co.,* 245 U. S. 531, 533 (1918).

I would not go beyond the first step in this case. Although respondent contends that its injuries were, like the plaintiff's injuries in *Blue Shield of Va.* v. *McCready,* 457 U. S. 465, 479 (1982), "the very means by which . . . [Verizon] sought to achieve its illegal ends," it remains the case that whatever antitrust injury respondent suffered because of Verizon's conduct was purely derivative of the injury that AT&T suffered. And for that reason, respondent's suit, unlike *McCready*, runs both the risk of duplicative recoveries and the danger of complex apportionment of damages. The task of determining the monetary value of the harm caused to respondent by AT&T's inferior service, the portion of that harm attributable to Verizon's misconduct, whether all or just some of such possible misconduct was prohibited by the Sherman Act, and what offset, if any, should be allowed to make room for a recovery that would make AT&T whole, is certain to be daunting. AT&T, as the direct victim of Verizon's alleged misconduct, is in a far better position than respondent to vindicate the public interest in enforcement of the antitrust laws. Denying a remedy to AT&T's customer is not likely to leave a significant antitrust violation undetected or unremedied, and will serve the strong interest "in keeping the scope of complex antitrust trials within judicially manageable limits." *Associated Gen. Contractors,* 459 U. S., at 543.

In my judgment, our reasoning in *Associated General Contractors* requires us to reverse the judgment of the Court of Appeals. I would not decide the merits of the §2

claim unless and until such a claim is advanced by either AT&T or a similarly situated competitive local exchange carrier.