

Podcasts | February 22, 2021

EpiPen RICO Ruling Opens Door for Private AKS Enforcement

SPEAKERS

[Callan G. Stein](#) | [Allan A. Thoen](#)

A federal district court recently decided that private litigants may proceed in a Racketeer Influenced and Corrupt Organization Act (RICO) lawsuit predicated on violations of the Anti-Kickback Statute (AKS). The plaintiffs allege that rebates paid by EpiPen manufacturer Mylan to various pharmacy benefit managers violate the AKS and increase list prices for wholesale purchasers. Although violations of the AKS do not constitute “racketeering activity” under RICO, the court allowed the plaintiffs’ case to proceed on the theory that the AKS violations constituted “bribery” in violation of the Travel Act (which constitutes “racketeering activity”). Despite no private right of action under the AKS itself, this case opens the door for private lawsuits to enforce the AKS.

Listen to Troutman Pepper Partners [Callan Stein](#) and Allan Thoen as they discuss the case and its potential impact on the health care industry.

RELATED INDUSTRIES + PRACTICES

- [Health Care + Life Sciences](#)
- [Litigation + Trial](#)
- [White Collar Litigation + Investigations](#)